



OFFICE OF THE
AUDITOR GENERAL
MANITOBA

Department of Infrastructure

**Public Interest Disclosure Investigation
Manitoba East Side Road Authority**

September 2016

Our vision

The Office of the Auditor General is an accessible, transparent and independent audit office, serving the Manitoba Legislature with the highest standard of professional excellence.

Our mission

To provide the Legislative Assembly with high quality audits and recommendations, and to focus our resources on areas of strategic importance to the Assembly.

Our values

- Respect
- Honesty
- Integrity
- Openness

Our priorities

- Strengthen the management systems and practices of government organizations
- Provide Members of the Legislative Assembly with relevant and useful information on the performance of government entities
- Support the Public Accounts Committee in its efforts to improve the performance of government organizations
- Manage our internal business efficiently, effectively and economically

Our critical success factors

- Independence from government
- Reliable audit opinions and conclusions
- Relevance of audit work performed
- Knowledge, skills and abilities of our staff



September 2016

The Honourable Myrna Driedger
Speaker of the House
Room 244, Legislative Building
450 Broadway
Winnipeg, Manitoba R3C 0V8

Honourable Ms. Driedger:

It is an honour to present my report titled *Public Interest Disclosure Investigation Manitoba East Side Road Authority*, to be laid before members of the Legislative Assembly in accordance with the provisions of Sections 14(4) and 28 of *The Auditor General Act*.

Respectfully submitted,

Norm Ricard, CPA, CA
Auditor General

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Auditor General's comments

On March 25, 2015 the Ombudsman referred a disclosure under *The Public Interest Disclosure (Whistleblower Protection) Act* (PIDA) to my Office. The disclosure contained allegations concerning the Manitoba East Side Road Authority (ESRA). PIDA allows the Ombudsman to refer matters to the Auditor General to be dealt with in accordance with *The Auditor General Act* (Act). Unfortunately, the Act does not include any provisions dealing with PIDA disclosure referrals.

In the absence of specific provisions I was guided by Section 16 of the Act which provides for the performance of a special audit upon request. Under this section, the Auditor General may, at his discretion, issue a public report if it is in the public interest to do so. Similarly, the Ombudsman may publish a report relating to a disclosure where it is in the public interest to do so. We note, however, that PIDA does not define the circumstances under which issuing a report would be in the public interest. Given the Whistleblower's public statements regarding the disclosure, I believe it is in the public interest to release a report.



A handwritten signature in black ink that reads "Norm Ricard". The signature is fluid and cursive.

Norm Ricard, CPA, CA
Auditor General

Background

Section 21(2) of *The Public Interest Disclosure (Whistleblower Protection) Act* allows the Ombudsman to refer matters to the Auditor General to be dealt with in accordance with *The Auditor General Act*. On March 25, 2015 the Ombudsman referred a disclosure concerning the Manitoba East Side Road Authority (ESRA) to my Office. The letter contained the Ombudsman's summarized account of the allegations. I accepted the request on April 10, 2015.

The disclosure contained allegations in the following subject areas: delegated financial signing authority, segregation of duties, allocating overhead costs to capital, providing MIT with required information about the East Side Road Project, and submitting progress claims for federal funding.

We reviewed the original disclosure and the Ombudsman's summarized account of the allegations, and met with both the Whistleblower and staff from the Ombudsman's office. On the basis of our review and meetings we further clarified and focused the allegations.

The disclosure also included a concern about internal controls related to Community Benefits Agreements. East Side Road Authority's management of Community Benefits Agreements was examined as part of our performance audit, entitled "Manitoba East Side Road Authority."

Audit approach

Our audit objective was to determine the validity of the allegations included in the disclosure. We examined administrative and financial records, accounting policies, internal control procedures, conducted audit procedures on a sample of expenditures, and interviewed staff. Our audit covered the period from January 2013 to May 2015, which is the period noted in the disclosure.

Our examination was performed in accordance with Investigative and Forensic Accounting (IFA) standards as established by the Chartered Professional Accountants of Canada. IFA standards are designed for engagements that "involve disputes or anticipated disputes, or where there are risks, concerns or allegations of fraud or other illegal or unethical conduct."

Subsequent Event

On May 27, 2016 the Manitoba Government announced the dissolution of the East Side Road Authority and the transfer of its operations to Manitoba Infrastructure. Effective May 30th, the Deputy Minister of Manitoba Infrastructure was appointed the Chief Executive Officer. As noted in the government's press release, operations will be continued on a "business as usual basis while an integration plan is established."

Findings

The allegations and findings included in this report are organized under the following topics: delegated financial signing authority, segregation of duties, allocating overhead costs to capital, providing MIT with required information about the East Side Road Project, and submitting progress claims for federal funding.

1. Delegated financial signing authority chart

Allegation: That the chart for delegated signing authorities has not been updated despite the changes to the organization when East Side Road activities were added to the original Manitoba Floodway Authority.

What we found

While financial signing authority charts were in place for the former Manitoba Floodway Authority, a delegated financial signing authority chart was not produced when the new entity entitled Manitoba Floodway and East Side Road Authority was created in 2009. At a minimum updated financial signing authority charts should have been produced annually and when there was a ministerial change. Also, specimen signature cards were not completed as required.

An approved chart of delegated financial signing authority ensures authorities are clearly defined and communicated within the organization. Clearly defined authorities help ensure accountability for financial transactions.

2. Segregation of duties

Allegation: That the major signing authority was restricted to one position. That one individual approved requisitions and purchase orders and also authorized spending and payment.

What we found

We reviewed a sample of 30 payments to determine if signing authority was restricted to one position. Our sample included payments for ongoing/major construction contracts, and other payments for administration, expense claims, and miscellaneous expenditures.

ESRA had two processes for the approval of expenditures:

- The first was typically used for major contract payments such as construction; the second was for all other payments. The process to approve major contract payments included signoffs for sufficient funding available, goods/services received, spending authority, and payment authority.
- The process to approve other payments included an accounts payable stamp to document approvals by the “requisitioning authority” and the “spending authority.”

Signoffs for both processes were not restricted to one position. We further examined the signoffs on the supporting documentation to determine if the person approving the requisitions and/or purchase orders was also approving payments. We found no instances of this within our sample.

3. Allocating overhead costs to capital

Allegation: That ESRA's operating costs are allocated to the cost of the East Side Road (capital cost) based on arbitrary decisions by senior management, and not in accordance with government procedures.

What we found

The tangible capital asset accounting policy in the Financial Administration Manual allows for the inclusion of any overhead costs that are directly attributable to the road construction or that are incremental as a result of the construction activity. However, we found that senior management's approach to allocating overhead costs was based on a percentage rate without any justification for the percentage chosen or analysis of the nature of the expense. ESRA has historically used 90% of all overhead costs as the amount capitalized. ESRA did not have documentation supporting the extent to which their operating costs were directly attributable or incremental to the road construction.

4. Providing MIT with required information about the East Side Road project

Allegation: That ESRA was late in providing the required monthly report on the capital asset values to Manitoba Infrastructure and Transportation (MIT).

What we found

From September 2013 to September 2014, ESRA did not submit the required financial information to MIT within 30 days of month end for 10 of the 13 months. The number of days past the deadline ranged from 17 to 103.

5. Submitting progress claims for federal funding

Allegation: That there was a lack of timely reporting of financial results to the Federal Government in relation to the Government of Canada/Government of Manitoba joint agreement for the Manitoba Floodway. The ESRA Finance team prepared monthly financial claim reports, which are then forwarded to senior management for review and submission. Senior management kept the reports for months before submitting them.

What we found

The Manitoba/Government of Canada Joint Agreement (agreement) requirements include Manitoba submitting progress claims for reimbursement at least every 6 months.

We found that ESRA was preparing progress claims each month but they did not submit the progress claims to the Federal Government within the 6 month deadline about 50% of the time. We were unable to determine why there were delays in submitting the progress claims.

The agreement does not include any penalties for the late filings of claims. The agreement requires the Federal Government to pay "promptly" but does not define what this means.

The agreement details the eligibility of expenditure claims and sets a maximum amount to be transferred from the federal government at \$332.5 million. ESRA's internal reconciliations show the Federal Government had reimbursed the Province \$306.8 million as at March 31, 2015.

The agreement also has a requirement for an annual audit of progress claims submitted. The annual audit of progress claims is to be completed within 6 months of the year end. We examined fiscal years 2013/14 and 2014/15 and found that the annual audits of progress claims were completed within the required 6 month timeframe.

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