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of the
Legislative Assembly of Manitoba
Standing Committee
on
Public Accounts

Chairperson
Mr. Leonard Derkach
Constituency of Russell

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Ninth Legislature

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**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON PUBLIC ACCOUNTS**

Wednesday, November 17, 2010

TIME – 7 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Leonard Derkach (Russell)

VICE-CHAIRPERSON – Mr. Gregory Dewar (Selkirk)

ATTENDANCE – 11 QUORUM – 6

Members of the Committee present:

Hon. Mr. Gerrard, Hon. Ms. Wowchuk

Mr. Borotsik, Ms. Braun, Messrs. Derkach, Dewar, Mrs. Driedger, Messrs. Jha, Martindale, Nevakshonoff, Mrs. Stefanson

APPEARING:

Mr. Stuart Briese, MLA for Ste. Rose

Ms. Carol Bellringer, Auditor General

WITNESSES:

Hon. Theresa Oswald, Minister of Health

Mr. Milton Sussman, Deputy Minister of Health

Ms. Linda McFadyen, Deputy Minister of Local Government

MATTERS UNDER CONSIDERATION:

Auditor General's Report–Special Audit: Rural Municipality of La Broquerie, dated March 2008

Auditor General's Report on the Winnipeg Regional Health Authority–Administration of the Value-Added Policy, dated May 2010

* * *

Mr. Chairperson: Good evening. Will the Standing Committee on Public Accounts please come to order.

This meeting has been called to consider the following auditor's reports: Special Audit: Rural Municipality of La Broquerie, dated March 2008; Winnipeg Regional Health Authority–Administration of the Value-Added Policy, dated March–or May 2010.

I think it was agreed by the committee that we would sit until 10 o'clock if we needed to. Are there any suggestions as to how we proceed in this regard?

Mr. Doug Martindale (Burrows): I recommend, as usual, that at 9 o'clock we review it. If we're still sitting at 9 o'clock, and if we can pass all the reports earlier, that we endeavour to do so.

Mr. Chairperson: That sounds like a good suggestion. Agreed? *[Agreed]*

Mr. Rick Borotsik (Brandon West): Yes, I wonder, Mr. Chairman, if we couldn't deal with the May 2010 Value-Added Policy of the WRHA first.

I'm sorry; Heather was going to say that.

An Honourable Member: No. No, you, please.

Mr. Borotsik: First, as opposed to the RM of La Broquerie, if we could just change the order on the agenda.

Mr. Chairperson: Thank you, Mr. Borotsik. What is the will of the committee? *[Agreed]*

So therefore we will deal with the Winnipeg–*[interjection]* Are there any objections to that?

An Honourable Member: No.

Mr. Chairperson: Seeing none, we will proceed then with the Winnipeg Regional Health Authority, and I'm going to ask the deputy minister and minister to come forward and any other staff that the deputy minister may wish to bring forward to the table.

All right, we'll begin by asking the Auditor General if she would like to make an opening statement.

Ms. Carol Bellringer (Auditor General): I'll go right into what we found with this audit of the Administration of the Value-Added Policy.

The value adds that WRHA received took the form of cheques, as well as product equipment and education. We found no evidence that anyone benefited personally from value adds. The cheques were received in the form of unrestricted or restricted funding and our audit confirmed that all such funding was properly recorded by the WRHA.

There was no indication that there was ever any cash in brown envelopes, which was the trigger from the report, basically from a media report. The controls around the value adds for product equipment and education were weak but this control weakness was isolated to those items.

The tendering for the goods and services and for construction contracts was well controlled and it included a competitive bidding process, except for the project consultants for construction contracts which were not tendered.

* (19:10)

Mr. Chairperson: Thank you, Madam Auditor General.

I will turn it over to the deputy minister and ask him or the minister if you would first of all like to introduce the members of the table, and then we'll ask for an opening statement from the deputy minister.

Hon. Theresa Oswald (Minister of Health): I'm accompanied this evening by Deputy Minister Milton Sussman and also by Ms. Karen Herd, the chief financial officer for Manitoba Health.

Mr. Chairperson: Thank you very much.

Mr. Sussman, we'll turn it over to you, then, for an opening statement.

Mr. Milton Sussman (Deputy Minister of Health): Manitoba Health and the Winnipeg Regional Health Authority accepts the findings and the recommendations of the Auditor General in the report on the administration of the value-added policy. The department was pleased that the audit findings confirmed that there was no evidence that anyone benefited personally from the value adds, that all such funding was properly recorded by the WRHA, that there was no indication that there was ever any cash in brown envelopes and that tendering for goods and services in construction contracts was well controlled and included a competitive bidding process.

The department does note that the WRHA has not received or accepted any value adds from any bids submitted after April 2007. Since value adds are no longer accepted, the value-add policy was deleted by the WRHA board in May 2010. This move by the WRHA has resulted in many of the audit recommendations being addressed.

The department noted that the audit found two areas of weakness, namely, that project consultants for construction contracts were not tendered, and control weaknesses were isolated to the value add for product equipment in education.

The first area is being addressed through the introduction of a Manitoba Health province-wide capital project policy requiring that project consultants be tendered. This policy is planned to be finalized by the end of the fiscal year 2010-2011.

The second weakness has already been addressed because the WRHA no longer accepts value adds and has deleted their policy.

Regarding the audit recommendations, the department, in conjunction with the regional health authorities, is working to address them. Following the release of the audit on June 14th, 2010, Manitoba Health established a value-adds working group to review the findings and recommendations from the audit and determine the feasibility of implementing the recommendations province-wide. The working group was established with representation from several RHAs—Central, Brandon, Winnipeg—CancerCare Manitoba, Diagnostic Services of Manitoba, and the regional health authorities of Manitoba Purchasing Program, at the WRHA Logistic Services, and representation from Manitoba Health. The working group has met three times over the summer and fall. Manitoba Health is utilizing their expertise on the working group and the existing network of CEOs from the RHAs, DSM and CancerCare to implement the recommendations province-wide. Progress has been made on the audit recommendations and we will continue to keep working to address them.

Thank you.

Mr. Chairperson: Thank you, Mr. Sussman.

The floor is now open for questions.

And I just want to remind members, again, as we always do, that questions are placed to the deputy minister of an administrative nature, and that policy questions will not be entertained and are better left for another forum. However, if there is a question that borders on policy and the minister would like to answer that question or the deputy wants to defer it to the minister to respond to, that is something that we would consider.

Okay, the floor is now open for questions.

Mrs. Myrna Driedger (Charleswood): I'd like to ask the Auditor General to tell us if, during her investigation of this, if she found out why the CFO of the WRHA might have referred to this as a brown envelope practice because that's where this all started. It wasn't invented by any politician. It was actually the CFO of the WRHA who was the one to call it a brown envelope practice, and it was also he that said there could be cash in the envelopes.

So that's where all of this came from in the first place. So would this just be language that might be used by an accountant, or was this just a bad choice of language because it certainly is the catalyst for where this has ended up?

Ms. Bellringer: I can't speak for him specifically, but certainly—and one of the reasons why we mentioned that the value adds that received—that took the form of cheques, we actually looked to see, when we were looking through the samples that we selected—well, we looked through everything that was on the value-add lists and then we did a sample to make sure we had everything. We didn't find any indication anywhere that anything was other than in the form of a cheque. And I would suggest that, yes, the term "cash" was used to reflect an amount of funding that took the form of those cheques but that was, you know, if you will, cash in the bank, and so it probably was accountant speak.

The envelope element of it—again, I can't speak to, you know, what phrase was used but, at the end of the day, there was actually—when value adds as something that was outside of the request for proposal for a certain item that was being purchased, if there was anything outside of that, it was put into a separate envelope that was not considered during the bid evaluation process, and it was actually an envelope. The terminology of "envelope" is not something that was just casually used; it was—it usually was put into an envelope.

The inference that it was like a brown envelope which then, of course, opens up all kinds of other discussion, certainly was—again, I don't know where they—where it actually stemmed from, but it was, in my view, if that term was used, a poor choice of words.

Mrs. Driedger: When the media's story was out there on this, there were a lot of experts commenting on this process and being very critical of this process, calling it unethical. Someone went even so far as to say that one would be naive to think it didn't

influence a situation. The Auditor General, herself, has said she did find it to be an unusual practice.

Can the auditor just explain why she feels that this was an unusual practice and why some of the others—you know, there were policy experts in Edmonton that said it was unethical. There was a Dr. Bell in British Columbia that indicated that there was a lack of ethics to something like this. I believe even here in Manitoba there were actually many comments made around this issue, and it was all comments that basically were not in favour of the practice and were very harsh, actually, about the practice.

What is the, you know, auditor's comments about how this was, you know, taking place here and why it might have been an unusual practice.

Ms. Bellringer: My use of the word "unusual" is because I had never seen anything like that, and so did one understand exactly what was going on. We did survey other jurisdictions to find out if this was unusual in the context of were other people dealing with the same thing. We found that, indeed, it is—it's not unique to Manitoba; it is something that other jurisdictions have dealt with in a variety of ways. We didn't get into all the details of what others were doing, but the same thinking was going on elsewhere as to whether it was a practice that should continue or not.

We didn't look at the ethics of it—a little bit too soft, I guess, for an accountant and an audit group to get into. It's a much more subjective and qualitative kind of an assessment, but we did look at the extent to which it may or may not influence the decisions that were being made and to the extent that the comparison of bids, when there was something else that was being—you knew it was there in an envelope, but you didn't know exactly what it was.

*(19:20)

And we didn't think that that influence could be eliminated. I mean, you knew there was something happening and just didn't see that there was anything wrong with just a practical comparison of bids with all in, so that you would compare all of the things that might be provided by a particular supplier, eliminate that influence by just putting it all on the table when you're comparing the different bids that come in.

Mrs. Driedger: Can I ask the deputy minister why the decision was made to get rid of value-add policy? Because if there was a general feeling that there

wasn't anything wrong with it, there was a decision made in '07 to eliminate the policy.

Can the deputy give us an indication of why the policy itself was eliminated?

Mr. Sussman: There was a lot of discussion within the WRHA about how value add should work. I think, from the WRHA's perspective, the notion of keeping it separate was to try and eliminate any influence on the evaluation of the bid. But there was a growing uncomfortableness about the process. I think there was—it had been discussed within the senior management and within the board for a long period of time. There was, I think, significant wrestling because, to some extent, you were leaving either product or education services. You potentially were eliminating some things that could be of benefit to the region so it warranted a significant review and consideration.

I think there was also growing evidence that other jurisdictions were also starting to examine it, and I think the organization increasingly became uncomfortable with it. And, certainly, I think, once there was the kind of attention that was paid to it, I think—frankly, I think the decision was made that the pressure and the—when you combine the pressures that the organization was feeling and that people, personally, were feeling. Because it did get very personal for a number of the leadership within the WRHA. I think the feeling that it wasn't worth it, that it was a distraction from the work that had to be done. And I think that's the decision why the board ultimately—I think based on the recommendation from senior management to eliminate the policy.

Mrs. Driedger: There was a specific part in the policy that actually talked about value adds benefiting individuals and it talked about, you know, various individuals at various different levels. But it actually almost highlighted the whole issue as there are individuals out there that actually benefit from value adds and it—then it went on to say it could be money, it could be this and it could be that. So I guess maybe my comment would be that perhaps that maybe poorly worded component of the policy might have helped to distract from some of this or actually put people on the path to thinking that. You know, you start layering everything together and it almost starts to point a finger. Well, if you have value adds and the policy says individuals can benefit, then, you know, some of this just may be—just fell into place and played out the way it did

because that sort of got people thinking in that direction.

So I'm assuming now that that policy is no longer in place so that's not a concern anymore. Is that correct?

Mr. Sussman: Yes, the policy has been eliminated, and I think the auditor, in her report, alluded to that it was a poor choice of wording and certainly I would agree with that. I think it took people down a path that was unfortunate.

Mrs. Driedger: We've been very fortunate as a PAC committee to be able to have some support and suggestions for questions, which I think the deputy is probably aware of, from Geoff Dubrow. And he has indicated that there are some outstanding questions that probably do need to be asked and answered in relation to this particular audit.

And the first one is related to page 9 at the bottom, where it's the first observation, and the Auditor General's report noted that interviews with WRHA staff revealed cases where staff learned of suppliers contacting members of a committee and telling them of value adds being offered. During our interviews with the PRES committee—P-R-E-S for *Hansard*—committee chairs, we asked if vendors had tried to circumvent the procurement process by directly contacting PRES committee members. We were told that this does happen, although infrequently. While both staff and PRES committee chairs indicated to us that they told the suppliers that this was inappropriate, committee members would still have been aware of the existence of the value add despite its separation from the bid package.

Can the deputy indicate whether the WRHA has determined if there are any contracting decisions that might have been influenced because of this particular situation?

Mr. Sussman: I think the WRHA has provided us that they did investigate and there was no evidence that any contracting decision was influenced by those, and I think it was clearly identified that it was inappropriate behaviour, and I think, with the elimination of the policy, that that really is taken out of the equation in any event. But the review didn't see any contracts or any way that there was any influence on the decision made.

Mrs. Driedger: The issue of value adds, the way they had been offered is no longer in place, as you

say, so now, when there are projects or anything tendered, how is that part done now? Is it—is—are they—is nothing accepted now? It's just a straight-up bid? *[interjection]* Okay.

Mr. Sussman: Yes.

Mrs. Driedger: Okay, that—that's great.

The next question is that for the 110 value adds that were listed, the auditor found that 22, or 20 per cent, had no evidence of senior management approval as required, and that totalled about \$2.5 million. Can the deputy tell us, has the WRHA determined why senior management approval was not obtained in the cases as mentioned?

Mr. Sussman: The 22 that were identified as not having senior management approval were—are all introduced prior to the development of the policy, so there hadn't been a policy requiring of—requiring that there be approval by senior management up until that point. It came into effect—was—in 2003 was when, and as—from what I'm told, the 22 were from the inception of the WRHA from 1999 to 2003.

Mrs. Driedger: Did the WRHA look at all into any of those 22, or they weren't that significant at that point in time—although it was \$2.5 million. Did they look into the process or how that came about and why there hadn't been any senior management approval for such a large amount of money?

Mr. Sussman: It's my understanding that the Auditor General looked at those, but, as a result, I don't think the WRHA has looked at them again.

Mrs. Driedger: Yeah, that's fine.

The Auditor General's report noted that there is no formal process in place to ensure that all value adds that WRHA accepts or actually received, or to contact vendors when promised value adds are not received and, over time, there's no verification that the equipment is still in place. The auditor recommended that the WRHA develop a formal documented policy for capital project tendering, and WRHA's response was that the WRHA currently follows its general procurement policy for all capital projects and also follows the Province of Manitoba's Treasury Board capital construction authorization policy, but recognizes the value of developing a formal separate policy for capital project tendering because of the nature, size and scope of these projects.

So my question is: Has the WRHA, in fact, developed a formal separate policy for capital project tendering?

* (19:30)

Mr. Sussman: Sorry, could you repeat the last—just the last part?

Mrs. Driedger: The question is: Has the WRHA developed a formal separate policy for capital project tendering?

Mr. Sussman: Rather than the WRHA develop its own separate one, our value-added working group has recommended, and it is going to the Health senior execs, that there would be a province-wide policy. So Manitoba Health in conjunction with regional health authorities' CancerCare is in the final process of developing a province-wide capital tendering process—policy, sorry.

Mrs. Driedger: And I think the deputy might have indicated—but I will ask again: Is there a time frame on which that policy might be put into place?

Mr. Sussman: It will be in place before the end of this fiscal year.

Mrs. Driedger: In the interim, are the tendering practices then the same as they've always been?

Mr. Sussman: Yes. Right now any capital item of over \$250,000—all capital items require—are required to be tendered, and anything over \$250,000 we have to seek Treasury Board approval.

Mrs. Driedger: It was a question I had asked earlier in our pre-meeting and I would put it forward. Perhaps the minister can tell us—and it's specifically related to—oh, sorry, to the deputy minister—it's specifically related to the WRHA headquarters. And they had been, I guess, deciding where they were going to end up and then decided to lease a building, and what they did was, I guess, worked with CentreVenture to design the building and have their requirements met in the design of that building so that it met WRHA's, you know, needs.

When a process like that is in place, is anything like that tendered or would the WRHA just go out and look for any buildings out there and if they can get a good lease price they would lease it, and if they can't get a good lease price they would build something? How—is there a tendering process for leases, I guess, is my question.

Mr. Sussman: For the lease on the Main Street site, which you were talking about initially, there was an

RFP that was issued through CentreVentures and the responses were evaluated by a joint committee, or a joint evaluation committee that had both CentreVentures and the WRHA on that committee. Typically there are RFPs that are issued when looking for lease—large lease space.

Mrs. Driedger: Could the deputy indicate why the WRHA didn't put out a tender for the lease themselves in order to get the best price for that need? Why would they have allowed CentreVenture to do the tender?

Mr. Sussman: It's my understanding that there had been ongoing discussions between CentreVentures and the WRHA on locating in the area and CentreVentures had the expertise in the area, and I think that was part of the decision to do the RFP through CentreVentures.

Mrs. Driedger: Can the deputy tell us why they would have taken that route, though, when, in fact, the WRHA may not have been getting the best price? Because it was CentreVenture that made the determination to build, so it was CentreVenture that was getting the tenders for itself, and I'm not sure that I see an advantage to the WRHA in there. I wonder why the WRHA wouldn't have tendered it themselves because they basically gave the project then to CentreVenture without going out there and seeing if they could get a better deal for taxpayers' money. So I'm still not clear as to why the WRHA might have made that decision.

Mr. Sussman: I think there was a decision that it was important for the WRHA to move its headquarters into the Main Street area. I think it was seen as an important message to Manitobans and to Winnipeg that they felt they wanted to be part of revitalizing that community and that, in effect, many of the services we provide are—the WRHA provides are provided to people who lived—who have health impacts or health disparities, and downtown is an area that has a significant number of health disparities.

So I think it was a part of a message to the community and to help in the revitalization of the area. And I think CentreVenture's mandate was similar, and I think that was really the deciding factor in the two working together.

Mrs. Driedger: I don't dispute the need for, you know, a health-care service offered in that area at all. In fact, it is a very needy area. But, in fact, the process then that was followed would seem to me

that it was not necessarily the—a process that was in the best interests of taxpayers because there was no building built. There could have been another company out there—if a tender was put out there with the specifics that the WRHA was looking for, there could have been, you know, who knows? Just another company that might have given WRHA and the government a better deal. But, instead, there wasn't that option. The government, basically, decided that they were going to do this with CentreVenture and really had no bargaining power and, basically, what was left in place was that the government just had to go along then with whatever, you know, CentreVenture was going to come up with. Is that not how the deputy sees it?

Mr. Chairperson: I think I'd ask the member to reword her question. It's seeking an opinion. So I would ask that the—Mrs. Driedger, if you would try to reword your question. Go ahead.

Mrs. Driedger: Okay. In rewording my question so that I am not seeking an opinion, does the deputy minister feel that by—but I guess if I'm asking "feels by" that I'm still going down the same road of an opinion.

Does the deputy feel that they got the best—and again, it's going to be the same thing.

I think a lot of my questions have been related to opinion, though, in one way or another but, basically, the WRHA, I guess, in recapping some of this, did not put out an RFP on this. Instead, basically, the WRHA was working with CentreVenture. CentreVenture put out the RFP, but the government had already made the decision that they were going to work with CentreVenture. So, in fact, I guess it would appear that there wasn't a competitive process, which is what tenders are really all about, so that, in fact, perhaps taxpayers didn't get the best bang for their buck on this issue.

* (19:40)

But what we have is a building, a WRHA corporate headquarters, that is now housed on Main Street. There are some good services offered out of it to the public, but I guess I would just indicate from my own perspective, I guess, that we may not have had a proper process followed by the WRHA in the way they chose to go about this.

So is there a policy in place that says that projects like this have to be leased, and was there a breach in policy, then, or is there the freedom by the

WRHA to have gone down the road they went down?

Mr. Chairperson: Mr. Sussman. Mr. Sussman, go ahead.

Mr. Sussman: First, I'd just like to—there was a competitive bid process. The CentreVenture issued the RFP, but it was jointly evaluated for its value by CentreVenture and the WRHA. So I think there was a process that ensured that we were getting value for and we were being able to compare against other proposals.

To my knowledge, there is not a policy that dictates that you have to lease or have to buy. I think it's based on a business case.

Mrs. Driedger: Can the deputy indicate whether or not there might have been an MOU in place between the WRHA and CentreVenture related to this project prior to the tendering process?

Mr. Sussman: I'd have to—I don't have that information in front of me. I can find that out and provide it.

Mrs. Driedger: I'd like to thank the deputy for that.

Another question, the Auditor General's report indicated that of the amounts received \$9.5 million was cash in the form of cheques payable to the WRHA. It was verified that the WRHA properly recorded those amounts. The remaining \$1.7 million was received in the form of product equipment or education, and the auditors that were looking at this were able to verify 100 per cent of education, 95.4 per cent of product and 87.3 per cent of equipment, but they also found that the WRHA had weak controls over these items and did not record them.

As opposed to education, where the auditor was able to verify 100 per cent, why was it not possible to verify 100 per cent of the product and equipment received?

Mr. Sussman: The reason that there was an inability to identify the \$28,800 of product is because these items were initially not included in the purchasing system and have since been consumed. The \$306,682 in equipment was not entered into existing capital assets systems, again because it wasn't procured via the normal circumstances.

We do—there was additional information that was provided, but I don't think it met the requirements of the audit as sufficient.

And so I think we were—the WRHA was able to show the equipment but certainly didn't have the adequate controls and paperwork showing that it came from a different source.

And I think to the extent that the policy no longer exists, I think that that issue will be moot in the future, but it certainly did identify a weakness.

Mr. Chairperson: Mrs. Driedger, I will move on after this question.

Mrs. Driedger: In terms of vendor payments, can the minister indicate, or, sorry, can the deputy minister indicate whether or not there has been any movement towards addressing the Auditor General's recommendation that the WRHA publicly disclose vendor payments?

We certainly see with core government that this is all public knowledge and because this is taxpayers' money, is there any movement afoot by the government to ask RHAs to set a certain amount after which all of these vendors would be identified?

Mr. Sussman: Manitoba Health has explored the recommendations of publicly disclosing vendor payments, and we've been looking at the practices that are in place with Manitoba Finance with public accounts reporting.

The SAP technology that the government utilizes I think is really an enabler that allows that to happen. We don't have that kind of technology, and we don't, frankly, have the technology in place to make it an easy task within the regional health authority system.

So we are working with the regional health authorities on how we might be able to move this forward, so it is part of the work that the working group has been exploring, and certainly all new technology related to certain financial accounting systems that are being developed in the health-care system will have that capacity.

Mr. Chairperson: Thank you, Mr. Sussman. We'll go to Mrs. Stefanson. *[interjection]* Oh, I'm sorry, before we go to Mrs. Stefanson, I would like to go to the Auditor General, please.

Ms. Bellringer: I just wanted to clarify one of the questions Mrs. Driedger asked around the management approval, and it's just to get the right information on the record, and I actually have the answer that she was asking the deputy minister, which he probably wouldn't have a reason to—have the answer to, but we happen to have asked it.

And it was around—you mentioned 22 of the sample having no evidence of senior management approval, and the deputy commented on there not being a requirement for the management approval. They're actually—out of our sample, 16 were accepted before there was a requirement, but the 22 referred to items that should have had senior management approval. I mean, we're getting down to some pretty fine details here. But when we noted that when we were going through the sample and we asked them why, it was very much a matter of nobody knew. It just—what we observed was, it wasn't there but nobody knew why it had not been approved. It may have been just a lack of documentation or it may have been that they didn't look at it. We have no idea of knowing.

Mrs. Heather Stefanson (Tuxedo): I just have a couple of quick questions around the recommendation from the Auditor General that the WRHA select project consultants using a competitive tendering process, and I know the deputy minister, in his opening statement, indicated that the department agrees with this and will be implementing this recommendation and finalizing it by the end of this year; I believe 2010-2011, he mentioned.

I wonder if the deputy minister could indicate what criteria will be used to choose the project consultants.

Mr. Sussman: I think that is part of the process that we are developing with the regions. Right now, I should note that the WRHA, in anticipation of a policy that will require the tendering for project consultants, is currently tendering for project consultants. But I think that is part of the work that the working group is going to develop in the policy, and that's a piece that is being fine-tuned with the regional health authorities.

Mrs. Stefanson: If it's currently practice to tender for project consultants, what criteria is being used now?

* (19:50)

Mr. Chairperson: Go ahead.

Mr. Sussman: It's very much dictated by the project and by things like location, what type of health-care facility it might be. So, if we were looking at something in a heritage building, we might have to—we—part of the criteria might be someone who has expertise in dealing with heritage buildings. If it was in relation to a—something at Health Sciences or

St. Boniface, which are tertiary facilities, we would want to make sure that the consultant had skills and experience related to tertiary type of facilities. So I think it's very much project specific and I think as each project would be developed, the RFP or the tender would develop what the criteria that each project was looking for.

Mrs. Stefanson: Is it, in fact, now—is there an invitation? Is it an invitational tender or is it something that is openly advertised for?

Mr. Sussman: We'll double-check, but right now the WRHA is using its regular tendering process that it uses for all capital projects. It's also using the same type of process for the consultants. My understanding is that that is a public—but we'll double-check.

Mrs. Stefanson: Is it regular practice on most tenders with the WRHA to have an open tender process or is it more of an invitational tender, in general?

Floor Comment: Open.

Mr. Chairperson: I'm sorry, Mr. Sussman.

Mr. Sussman: Sorry. Most often, it's open.

Mrs. Stefanson: And just a couple of last questions here. I mean, all things being equal, of course, as Manitobans we like to look at supporting our businesses here in Manitoba who are in the tendering process. All things being equal, with a company that's perhaps outside of Manitoba and one that is here, is there a priority that would be placed on giving that tender to a Manitoba company over one that is outside the province?

Mr. Sussman: We're bound to follow the Agreement on Internal Trade, which may mean that the consultants might be from—or a tender may be from someone outside of Manitoba.

Mr. Chairperson: Thank you. We follow in order here.

Mr. Bidhu Jha (Radisson): Well, on this page 16, as the member from Charleswood asked, I'd like to really look at this particular separate policy of capital project tendering.

As an example, let's say a big capital project comes for equipment of—worth \$20 million and they say, well, we'll give you the software with that which is worth \$5 million, so that means the value is actually \$15 million and \$5 million is software. If you compare, another vendor perhaps could give you

the exact software for \$2 million so the benefit to the WHRA would be 15 plus the difference. So is this separate policy that you've been evaluated would literally break down the components of a supplier who tried to lump everything and then either give you a discount or as—you know, value added was literally, I kind of feel there was a discount given, but in form of a cheque. If you look at some of these credit card companies, they say if you loan from—take a loan from us, I'll give you 1 per cent cash back. That's obvious—obvious. It's not something illegal or fishy, that brown envelope type.

So this particular separate policy that is being recommended, I'm just curious to know if it will look in details of when a vendor gives proposal—it will be detailed?

Mr. Sussman: So any RFP that the region or Manitoba Health would issue must state everything that we want to get from the vendor in the requirement, and I think that's the basis of the RFP. These are the things that we want and then we'll evaluate the bids that are provided.

Mr. Jha: That's it.

Hon. Jon Gerrard (River Heights): First, to the Auditor General. Just a point of clarification.

When you were doing the audit, as to what falls under the WRHA and what doesn't—CancerCare Manitoba, the Mount Carmel Clinic, the St. Boniface Research Centre, personal care homes, range from public to private—what falls under the scope of the audit and what doesn't?

Ms. Bellringer: The procurement services are administered centrally by logistics within WRHA. And so all of those organizations that you mentioned, I believe—I actually didn't listen to every name you mentioned, but in general—and we mention the facilities in a general way on page 5 of the report that were captured within the context of the procurement that we looked at. So it did—it does include the hospitals and the personal care homes and so on where there is central purchasing.

Mr. Gerrard: Just for clarification from the deputy minister. Does that fit with what is currently, in terms of procurement policy?

Mr. Sussman: Yes.

Mr. Gerrard: So the St. Boniface Research Centre and all personal care homes would fall under the general procurement policy, or certain personal care homes which are private would not fall under?

Mr. Sussman: So the St. Boniface Hospital Foundation I don't think would fall in within the scope. The hospital would, but I don't think the foundation. The personal care homes—the not-for-profit personal care homes would be part of this system.

The capital components of for-profit personal care homes, I think, are taken care of by the corporation. So I don't think they participated in the capital plan.

Mr. Chairperson: Madam Auditor General, you have something to add?

Ms. Bellringer: And with regards to the foundations, if there's a couple of organizations within the group where I believe the foundation is fully integrated into the operation itself, but for the most part, they're quite separate and no, they would not have been included.

Mr. Gerrard: Now, let me take you to page 21—to the Auditor General.

Usually when you're thinking of brown bag editions, you're thinking of relatively small additions to what was the base purchase contract. If you look at the Mead Johnson contract of \$1.252 million, there were brown bag additions of \$2.807 million. It seems to me rather extraordinary that you would have a brown bag component so much larger than the contract itself. Can you explain that?

Ms. Bellringer: I probably can, around the nature of that particular purchase. I think the department might be in a better position to describe it to you around what was purchased because it does get into a description of what that—what the nature of the actual—the product was. I'm—hang on, just one second.

I'll go as far as saying I believe that's the contract around baby formulas supplied in the hospitals.

Mr. Gerrard: Now, I mean, why would a company give benefits on the side in brown envelopes which are so much larger than the base contract?

Mr. Chairperson: Madam Auditor General, is that something you have an answer to?

Ms. Bellringer: Well, I do. We didn't include that information in the report, so we're always a little bit cautious about what we talk about outside of the report if we chose not to put it in. We didn't choose to put that information around the individual

contracts, some of that being an issue around proprietary information for particular suppliers.

* (20:00)

I think this is a fairly innocent answer. I'd be a little bit more comfortable if the department answered it, but my understanding is that something like baby formula—and I'll talk about it in general terms—would be something that most firms would want to offer in effect for nothing and have that product available within all of the institutions so that those in the hospital, for example, would be exposed to their product. So there—I think for the most part all suppliers were quite happy to provide the response to that particular RFP at a very low or no cost.

What I—what we did become aware of in that particular case, which I want to share with you because it was something that did come to our attention as well, was that the WRHA actually went out of their way to summarize all of the various products that were available to new parents, so that they did not actually give the particular supplier who was providing the baby formula any undue influence over any of the other suppliers who a new parent may choose for their new child.

Mr. Chairperson: Mr. Sussman, did I see your hand up for this?

Mr. Sussman: Sorry.

Mr. Chairperson: No? Okay.

Mr. Gerrard: Yes, maybe I will ask the deputy minister. I mean, that's a very large sort of side component, compared to the original contract. Was that because the supplier wanted to try and make sure that the parents were using the infant formula as opposed to—instead of, for example, breastfeeding?

Mr. Chairperson: Well, I'm going to throw it open to Mr. Sussman, if you'd like to take it.

Mr. Sussman: I can't speak to the vendor's motivation, as far as certainly trying to compare it to try and stop some—a woman from breastfeeding. I think I would certainly agree with the auditor's assessment that it—there are a significant number of mothers who still—while we try and support breastfeeding, there's still a significant number that don't and who use formula, and I think the auditor's assessment that this was an attempt to ensure that their product was in every hospital and that was the formula that a family started with, I think that's really the motivation.

Mr. Gerrard: So I mean, it seems pretty clear by the large amount of the side benefit that the company may have come in with its own motives. One of the things about that contract—and I'll ask the Auditor General—was that some \$430,000 was in unrestricted funding. What was that unrestricted funding spent on?

Ms. Bellringer: When the amount goes into unrestricted funding it is into, in effect, a general pool and then spent along with any other source of revenue. It's the restricted funding that would be allocated to something specific and we gave a list of that on the next page of the report.

Mr. Gerrard: So the money that went into this pool of unrestricted funding, were you able to trace where it went and what it was spent on?

Ms. Bellringer: No. We would've seen that it was recorded into a general fund and then we—you can't trace it, any of the amounts in those general accounts as to which expenditure it would've been related to.

Mr. Gerrard: Can you provide some details about what sort of expenditures might've been included in the general accounts?

Ms. Bellringer: No. I'm trying to think of a comparison so I can explain. I mean, it's in effect like general tax revenue. I mean, it's just that it comes in as revenue and there's a total and then there's every expenditure that—I mean, and then you can add that to all the other sources of revenue, including grants and so on, and it's a global budget. So there's a total amount coming in from the Province as well, and then there's various expenditures, everything from the salaries all the way through to individual administrative costs. I mean it's just not allocated that way, and I don't know, I don't believe that there's an internal allocation of that that management would do either. We wouldn't normally expect to see that, so it wasn't an unusual situation where an unrestricted source of revenue would be recorded that way. That's just kind of just the way it is.

Mr. Gerrard: And, you know, who would make the decisions as to how the money would be spent in that fund?

Mr. Chairperson: Are you asking the deputy minister or—

Mr. Gerrard: Well, I can ask the deputy minister.

Mr. Sussman: The senior management within the authority would ultimately determine what the

budgets within the authority are and where funds would be spent.

Mr. Gerrard: And that would be similar in the case of the Baxter Corporation, million dollars of unrestricted funding, is that correct?

Mr. Sussman: Yes.

Mr. Gerrard: Can you tell us any more details about the Baxter funding? What was the nature of the contract?

Mr. Sussman: I'd have to get that information and actually the auditor might.

Mr. Chairperson: Dr. Gerrard. Please repeat your question, Dr. Gerrard.

Mr. Gerrard: To the Auditor General, the nature of the contract for the Baxter Corporation.

Ms. Bellringer: We'll leave that for the department to provide you with the details because we have some informal recollection, but I don't want to go with that because we didn't include that in the report either.

Mr. Gerrard: Could he provide us the details of that at a later date then?

Floor Comment: Sure.

Mr. Chairperson: Mr. Sussman?

Mr. Sussman: Yes.

Mr. Chairperson: Thank you.

Madam Minister, do you have a question?

Ms. Oswald: Yes, at the risk of getting myself in trouble with the Chair, so I'll apologize in advance. If the auditor is saying it was not included in the report, does that constitute a question that may be considered out of scope or is it because there—there's a portion of it in there? Is it within the scope? I'm legitimately asking.

Mr. Chairperson: I would rule it in scope because it's listed in the report, but it's the detail that is not listed. So we're asking—I think Dr. Gerrard is asking for the detail of what is listed in the report, so I would rule that it is in scope.

But there's nothing wrong with taking that question as notice and then providing that information at a later time. We've done this in—on previous occasions, and it's certainly acceptable in this case. Thank you for the question, though.

Now, was there—that was a question to the Chair.

An Honourable Member: Yes, just a clarification on—oh, sorry.

Mr. Chairperson: Yes, go ahead, Madam Minister.

Ms. Oswald: Yes, just for clarification and, you know, further understanding of proceedings of this committee, and we'll take the Chair's advice and do so at a later time. Thank you.

Mr. Chairperson: Thank you very much.

Mr. Gerrard: Do the Auditor General—appendix B is the restricted funding allocation, but it's not broken down. For instance, where we're talking Janssen-Ortho, restricted funding of \$448,000, is it possible to match that up with any particular allocation?

Ms. Bellringer: No, we didn't link the amounts in this report.

Mr. Gerrard: Now, just for example, where we're talking about \$262,000 for surgery, can you tell us what those funds would have been used for in surgery?

* (20:10)

Ms. Bellringer: I don't have that information. We may or may not have it in our files and I could check, but I think it is something more appropriately—look, you know, which—well, really it's information that the department—we didn't think that that was relevant to the nature of this audit and so we—you know, one of the things that I have to be cautious of is our working papers are protected. And, while I don't mind to answer the question where it's relevant to the context of our audit, if it's further information about what the department is doing, I do believe it's just more appropriate to get that information directly from the department rather than from our working papers.

Mr. Gerrard: Perhaps I can ask the deputy minister if you have information as to, you know, what sort of things the funding—the restricted funding for surgery might've been used for, for example.

Mr. Sussman: I don't have that in front of me, but I—we will provide it.

Mr. Chairperson: Thank you very much.

Mr. Gerrard: Thank you. That's my questions. Thank you.

Mr. Chairperson: Thank you, Dr. Gerrard.

We now move to Mr. Borotsik.

Mr. Borotsik: Very, very quickly, to the deputy minister. You had mentioned that all of the value-added receipts were properly recorded by the RHA. Can you tell me where and how they were properly recorded by the RHA? You did say that all of the value adds were recorded. Was there any that you had identified that weren't recorded? And then I'll ask the Auditor General the same question.

Mr. Sussman: They'd be recorded within the financial systems within the WRHA, and then that's my understanding that the auditor was able to see those.

Mr. Chairperson: Mr. Borotsik.

Floor Comment: In relation to the—

Mr. Chairperson: Oh, I'm sorry, Mr. Sussman, I interrupted you.

Mr. Sussman: —not the product that was already discussed.

Mr. Chairperson: Okay, Mr. Borotsik.

Mr. Borotsik: All right, that does answer my question to a point. Perhaps the Auditor General could just expand on that. Cheques are easy to record; gift in kind or product in kind, perhaps, isn't quite as easy to record. And what, Madam Auditor General—did you find that all of the value adds were properly recorded at the WRHA?

Ms. Bellringer: I think the report actually lays it out quite clearly. The cheques were accurately recorded, completely reflected within the accounts of the WRHA. The other value adds for the product equipment and education was not. There was a spreadsheet that was available.

I mean, one of the things, from a tracking perspective, it was not as formal as we would've liked to have seen.

Mr. Borotsik: And I do appreciate it's a moot point because you no longer are accepting value adds. I just didn't know whether gift in kind or product could, in fact, be recorded properly. I mean, like that's a little bit more difficult than a cheque that's written and then recorded and obviously cashed.

I guess the last question, and I promise it will be very brief. The process itself added value to the WRHA, make no mistake about it, when you went out to a tender process. And there were other advantage to accepting that particular tender. There was value there. Are you finding now, to the deputy minister, that the prices are being reduced

accordingly without having those value adds as part of the tender process or the request for proposals?

Mr. Sussman: We'd have to ask the WRHA to do a more fulsome analysis. Certainly, from my time at the WRHA, there was a process that took place from going to no value adds—at one point, there was a policy that it would be only unrestricted value adds would be accepted so that it wasn't—so that it really gave additional—even more benefit to the region. Once it became much more restrictive, the amounts of value adds virtually dried up, but, at that point, and we'd have to do a further analysis, it didn't reflect a significant drop in prices initially. But I'd have to do a review—or we'd have to ask for a review if there's been subsequent savings as a result of no value adds. Typically, what vendors would report to the region was it came from a different part of their corporate budget.

Mr. Borotsik: Okay, last question, I promise.

Tender processes are very difficult, and that you set—or whoever the organization is—sets the specifications that are required for that particular product or service.

Does the WRHA have a statement or a policy, if you will, that when they put out an RFP or if they put out a tender process that the lowest price is not necessarily the one that will be accepted because of different variables within the tender?

Mr. Sussman: Price would be one of the factors that would be used in the analysis. I think the—and there would be a weighting to all of the different factors.

Mr. Borotsik: Well, I assume your answer is that the lowest price is not necessarily always accepted because of the other variables within the tender. That would be a "yes" then, would it, Mr. Sussman?

Mr. Sussman: It would always be the sole determinant, yes.

An Honourable Member: Thank you.

Mr. Chairperson: We come back now to Mrs. Driedger. Do you have any further questions?

Mrs. Driedger: Just one, Mr. Chair, and I'll ask the auditor first. In terms of the restricted funding, there was \$132,000 that was earmarked for corporate. Does the auditor have any idea of what that money was meant for?

Ms. Bellringer: No, I'm sorry, I don't.

Mrs. Driedger: Then I'll ask the deputy if the deputy has any sense of where the \$132,000 in corporate was spent.

Mr. Sussman: I don't have that information in front of me, but we will provide it to you.

Mrs. Driedger: Thank you.

Mr. Chairperson: Okay. Seeing no other questions, Auditor General's Report on the Winnipeg Regional Health Authority—Administration of Value-Added Policy, dated May 2010—pass.

I want to thank the deputy, the minister and the deputy's staff for their attendance and participation. Thank you so much.

We will now move to the—[interjection]—we'll move to the Special Audit: Rural Municipality of La Broquerie, dated March 2008, and we will take a two minute recess while staff and minister come forward.

The committee recessed at 8:18 p.m.

The committee resumed at 8:22 p.m.

Mr. Chairperson: I'll call the meeting back to order, and we are going to be considering the Special Audit: Rural Municipality of La Broquerie, dated March 2008.

And I'm going to, first of all, ask the Auditor General for an opening comment.

Ms. Bellringer: I neglected to introduce my staff before the other report, and so I will do so now.

Jack Buckwold is here, who is the director of special audit, and he was responsible for both the audits. So I'm somewhat saved on that one, and Brian Wirth, who worked—who is an audit principal in that area, who worked on the La Broquerie audit. And James Wright was with us for the WRHA report, sporting his Movember, as I believe what you call it, which is in respect to prostate cancer fundraising this month. So forgive him for the not-quite-so-full moustache. But he's now left, so the other gentlemen are still with us.

I actually don't have any introductory comments on the report because we've—we—it has been to this committee twice. I'll just mention the follow-up period for the information of the members that because the report was issued in March of 2008, it

will be followed up in our 2011 follow-up process next year.

Mr. Chairperson: Thank you, Madam Auditor General.

I welcome the minister, the deputy minister and staff.

I'm going to ask the deputy minister if she has an opening statement?

Ms. Linda McFadyen (Deputy Minister of Local Government): I do.

First of all, I'd like to take the opportunity to introduce my staff. I have with me tonight Laurie Davidson, who is the assistant deputy minister responsible for provincial and municipal support. I have Denise Carlyle—I can't remember the title—and Lynne Nesbitt, who is the head of Policy and Legislation.

I'd like to—

Mr. Chairperson: Ms. Carlyle—excuse me, Ms. McFadyen. Perhaps Ms. Carlyle could give us her position and title in the department.

Ms. McFadyen: Director of Municipal Finance and Advisory Services.

Mr. Chairperson: Thank you so much.

Ms. McFadyen: You're welcome.

Mr. Chairperson: Proceed.

Ms. McFadyen: I'd like to thank the committee for the opportunity to provide a further update on the Department of Local Government's action to implement the recommendations directed to the department in this report, which was issued in March 2008.

The department supported and accepted all five recommendations of the Auditor General that were directed to the department. The recommendations generally relate to improving monitoring processes, such that municipalities are complying with their legislative obligations and operating in an open, transparent and accountable manner.

I'm pleased to advise the committee that we fully implemented four of the five recommendations. The one outstanding recommendation related to reviewing supplementary audit report requirements

to ensure that appropriate information and assurances about the administration and operations of municipalities is provided have been partially completed. We have a plan in place for full implementation in a practical and in a cost-effective manner.

I'd like to take you through what the department has done on each of the recommendations. The first recommendation was that the department ensure all municipalities develop and implement conflict of interest policies for their administration. This recommendation has been implemented. The municipal conflict of interest and campaign finance act was passed in October 2009, amending The Municipal Act and the City of Winnipeg Charter to require all municipalities to adopt a code of conduct for its employees which must contain specific conflict of interest rules.

The department has provided support to municipalities to assist them in implementing their employee code of conduct. In December of 2009, the department distributed a comprehensive municipal act procedures manual section to all municipalities that includes a template municipal employee code of conduct. The department is monitoring the implementation by municipalities and, to date, about 90 per cent of the municipalities have adopted a policy. The remaining municipalities have all indicated their intention to do so as soon as possible, and the department is continuing to follow up to ensure compliance.

In future the department will continue to emphasize the importance of the code of conduct for municipal employees in its training and education program, including the importance of ensuring municipalities review this on a regular basis and make sure that it's up-to-date.

The second recommendation was that the department implement changes to the municipal conflict of interest act to provide a process for the independent review of council members' statements of assets and interest and establish a process to provide assurance that its disclosure and withdrawal during council meetings is being met. The recommendation has been implemented.

Municipal conflict of interest and campaign finance act, which was passed in October 2009, require council members' annual statements of assets and interest to be available to the public on request. This change applied to the 2009 statements. With this change, citizens will know that the statements

have been filed as requested by the legislation, and, also, by seeing that the information has been disclosed, citizens can better assess if they believe a council member has a conflict. And in reviewing this recommendation, the department thought, in practical terms, that it really is the citizens of the municipality who are in the best position to be able to assess whether or not those conflict of interest statements are accurate. The department is examining and ongoing monitoring of this requirement to ensure compliance.

Within its capacity-building role, the department works with elected and non-elected officials to ensure they're aware of the importance of council accountability and transparent decision making and, specifically, the obligations for council members under the municipal conflict of interest act. Key activities that the department has undertaken include presenting at the municipal officials' seminars and also at the AMM convention in 2009, posting question and answers about municipal conflict of interest on the department's website, sending two bulletins to all municipalities in October 2009 about conflict of interest, and the new requirements for the availability of the statements of assets and interests for public inspection. The timing of that is, of course, under the act the statements are required to be filed in November.

We've included comprehensive information on conflict of interest in the reference guide for elected municipal officials. The department is updating the guide for distribution for elected officials following the 2010 election so that it will be in a more user-friendly format. We provide seminars for newly elected officials at the AMM 2010 convention, so next week, and, in January, regional seminars will be held January through March that will also focus on conflict of interest and the importance of public accountability and transparency in decision making.

* (20:30)

We've worked with the Manitoba Ombudsman to develop an understanding fairness guide for municipalities. It's a handbook on fairness for municipal officials, and as well the Ombudsman did a presentation at all of the 2009 AMM June district meetings—actually, yes, the 2009 June district meetings—to provide information to elected officials on fairness in their municipalities, what that means, how they should address those issues.

In the future, the department will continue to emphasize its education and training program, the

importance of council accountability and transparent decision making, and specifically the obligations for council members under the municipal conflict of interest act. The department is considering the development of a conflict of interest handbook for municipal elected officials as well.

The third recommendation was that the department implement procedures to better review and analyze the financial information provided by municipalities to identify reasons for deficits and the corrective action to be taken by the municipality. This recommendation has also been implemented. The department has formalized and documented a monitoring action response and follow-up framework. More focus is now being placed on the historical analysis to identify systemic issues in municipalities. The formalized monitoring framework includes monitoring of receipt of the unaudited financial statements in March; receipt of financial plans in May; receipt of tax levy bylaws in June; receipt of audited financial statements, auditor's opinions and auditor's supplementary report in June; and receipt of the appointment of the municipality's auditor on October the 10th. Bulletins are routinely sent to municipalities prior to the deadline dates to remind them of their legislative obligation.

As financial reports are submitted to the department, the date of receipt is entered on a spreadsheet for monitoring purposes. Weekly updates on the status of various reports is prepared for management. Action is then taken, starting with another bulletin followed by emails and telephone calls to prompt a response. In the case of financial plans, also, we remind municipalities that if the plan is going to be late, a formal request for extension with a reason is required.

Monitoring of financial statements is more rigorous. About half of the 2008 financial statements were submitted within a month of the deadline. Follow-up on financial statements generally takes place starting in the third week of July, starting with phone calls to both the CAO and the auditor querying when-where a statement is and when it can be expected to be submitted. At this point, statements are generally with the auditor and have been delayed, either because the auditor is behind or has requested additional information. Department officials remind municipalities of the deadline date, record reasons for non-compliance; however, it is up to the municipality and their auditor to complete the statements. This is ongoing practice.

If financial statements are not received by the end of October, then the November gas tax payment to the municipality is withheld until the statement is submitted. A letter to the municipal council is sent to the council to this effect. We have one 2008 statement that remains outstanding, and the next set of gas tax payments will not be paid to this municipality until the statements have been received.

Financial statements are now being reviewed by the supervisor of municipal accounting, who has a CA, the municipal finance officer, who has a CGA, and the PSAB project manager, who is also a CA. A checklist has been developed to review statements to ensure consistency of review between the three staff. Aside from checking the PSAB statements for completeness and consistent application standards, the reviewers are also checking the reported surplus or deficit on the statement of operations to ensure compliance with the act. Auditors are individually notified of any issues or corrections that are made to the statements.

In the future, monitoring and analysis of municipal financial information is an ongoing process, and the process is subject to continuous improvement processes. With the introduction of PSAB reporting-PSAB is the Public Sector Accounting Board-financial monitoring processes will continue to be reviewed in the future.

The fourth recommendation, the department to implement appropriate processes to monitor serious citizen complaints and to follow up compliance with The Municipal Act by municipalities. This recommendation has two parts. Monitoring the complaints has been implemented. Follow-up for compliance with The Municipal Act has been significantly implemented, and a plan is in place for completion linked with a review of the supplementary audit report requirements.

So what has the department done?

With respect to monitoring, actions to date include up-to-date chronologies on municipalities with ongoing issues, as well as the implementation of a new electronic monitoring system that provides database to better co-ordinate, record and track information about queries received, issues raised, and follow-up actions taken.

The system expedites the sharing of information between staff and enables the department to quickly identify systemic issues and concerns. Periodic reports are generated from the system to ensure a

co-ordinated response to address specific situations that may be occurring.

These reports also assist the department to target the development of future education and support resources towards the most pressing challenges that citizens, elected officials and administrators face.

With respect to the compliance with The Municipal Act, the department has taken several actions on a routine basis to ensure municipalities are complying with their legislative obligations including electronic bulletins in advance of legislated deadlines and specific Municipal Act requirements. Education and training targeted and timed to specific Municipal Act requirements, and surveys to determine compliance on specific items when follow-up is required. In the future, municipal compliance with the act will be linked to the review of the supplementary audit report requirements that's addressed in the next recommendation.

The last recommendation is the department review the supplementary audit report requirements in consultation with municipalities and external auditors to ensure that appropriate information and assurances about the administration and operations of municipalities are provided. This recommendation has been partially implemented and there is a plan in place for its completion.

The department anticipates recommendations to be in place or in time for municipalities to appoint their auditor for the 2012 year, and that would be the 2011 financial audit. Given the magnitude of the changes occurring in the municipal system due to public sector accounting board rules and gas tax reporting, the department believed that earlier implementation was not feasible or advisable.

Municipalities are implementing PSAB accounting and reporting standards. This will continue to require substantially more effort by municipalities for the upcoming year. Municipalities are also required to do considerably more reporting on outcomes related to projects undertaken with federal gas tax funds during 2009.

The department has completed a general review of the issues surrounding the supplementary audit reports and the range of options available to change the report. The review included a survey of other provinces, a review of the process put in place by the Department of Education for school board audits, and a review of the new auditing standards for auditors including the effect of these standards.

With the new auditing standards that are now in place, in order for an auditor to express an opinion on the matters included in the supplementary audit, a significant amount of work at a large additional expense would be required.

Following this general review, the department has concluded that further detailed work is required to thoroughly examine all the options. Before involving a committee to review the supplementary report, the department, as proposed, is hiring a consultant to examine the supplementary report requirements, present options with costs and associated risks for fulfilling these requirements and provide alternatives to the supplementary report that will provide an appropriate level of assurance on the adequacy of the internal and controls and procedures as well as provide assurance on the compliance with the act.

In the future, requests for proposals is being drafted—actually that's happening right now and is being finalized to be released within the next couple of months to provide options and an implementation plan to address the issues of the supplementary report. Following this, the committee will be, with representation from municipal organizations and municipal auditors, will be established to review the results of the consultants report and provide recommendations on the option to be chosen and the plan of implementation.

So, in conclusion, the Department of Local Government remains committed to building the capacity of both elected and non-elected municipal officials, to govern and administer Manitoba's municipalities in a fair, open and accountable manner through continuous improvement of our education and training programs, information supports and monitoring and analysis processes and procedures.

* (20:40)

The general municipal elections were held on October 27th with a significant number of new mayors and reeves and councillors in our 196 municipalities. We have always provided newly elected officials with education, training and resource supports. At the upcoming AMM convention, we will be presenting a newly elected official seminar in partnership with AMM, as well as regional seminars beginning in the new year. I'd be pleased to answer any further questions.

Mr. Chairperson: Thank you, Ms. McFadyen. The floor is now open for questions.

Mr. Borotsik: I'll be very brief, and I must simply say thank you very much for such a wonderful report and update of the recommendations. I can just simply say outstanding. It was well done and certainly you probably answered all of the questions that I'd written down in the first place, so I'm a little disappointed about that.

I—you did—I have a couple of very brief questions. You had indicated that if some of the councillors with respect to conflict of interest or asset declarations don't comply with the legislation, that it's really up to the constituents and then the courts under the legislation to then take it to the next level.

If it's brought to your attention that a councillor, for whatever reason, does not wish nor would put in his asset—his or her asset declaration or conflict of interest, what would your department do at that point?

Ms. McFadyen: Referring back to the act, the act is very clear in what the act provides to happen in those kinds of situations. We would certainly make the council aware of the concerns. The CAO has a requirement, under the act, to provide the councillor with notice that his statements have—or his or her statements have not been filed, and the court—and the council is to make a recommendation to the court if there is a conflict or that there has not been a—there has not been a statement filed. So we would certainly bring it to their attention and make them aware of the consequences of the action.

Mr. Borotsik: Last question: You did indicate that you do and have contracted a consultant to examine the requirements for a supplementary audit, and we recognize that that can be very expensive—can be very onerous to some of the smaller municipalities particularly. Not one size fits all. There are some large municipalities that can certainly comply with any types of requirements for a supplementary audit. Other smaller municipalities—and there are quite a number of them, obviously, that don't have the wherewithal nor the, I suspect, the ability to put forward all of the—what we would like to see in a supplementary audit.

Has the—has your consultant been directed to look at all the different requirements for the different sizes and scopes of municipalities or is your

consultant simply, by terms of reference, to come back with one option that fits all municipalities?

Ms. McFadyen: Just be clear, we have not yet hired the consultant. We are just developing the terms of reference at this point for the consultant. Right now what we've done is, to date, is to do a review of what's happening everywhere else and other legislation—those kinds of things. So we're just putting together that terms of reference right now.

I need to be clear that the requirements in the act are the same for all municipalities regardless of the size, so there is that basic level of requirement that is the same for all municipalities. However, the terms of reference will take into consideration—I think that this has to be cost-effective for municipalities; it has to be possible to do that. It also has to take into consideration the requirements of the—for the auditors because, as I understand it, there are some very specific rules for what auditors can and cannot comment on in their audits now, which have changed in the period of time since the act was written. So we need to take those kinds of things into consideration as well.

Once the terms of reference is developed and our consultant has developed a clear set of options, we also will be consulting with municipalities and with auditors to try and ensure that those kinds of concerns are taken into consideration, for sure.

I have here the draft of what we're sort of looking at. So what we want—we're saying that the supplementary reports have to be able to provide an appropriate level of assurance on the adequacy of the internal accounting controls and procedures of the municipality beyond what is normally performed, provide an appropriate level of assurance of the municipality's compliance with key provisions of the act and provide reports to the department that are in compliance with auditing and insurance boards. So that's the auditor's requirements. So we need to make sure that these things can actually be done and we can rely on them.

Mr. Borotsik: Last question: I'm sorry, I thought from your comments that the consultant had already been chosen, but your explanation with respect to the terms of reference in going forward are acceptable.

When do you see this process completed? As I understand it, it's the one area right now that has not really been dealt with in the auditor's recommendations. What's your timeline going forward with respect to the consultant—hiring the

consultant and having that report come back to the department?

Ms. McFadyen: So we're working on this—we'll be working on this over the coming year with our—with the consultants, and it's going to be a two-phase process. The first phase will be looking at the analysis of the requirements and the—and recommendations and then the options for actually implementing it. So we'll be working with the consultant over the next year and with the committee. We want to have this process in place in time for the 2011 financial statements be coming forward.

So I think if you go backwards, they're due in June of 2012. Municipalities need to understand what the requirements are and auditors need to understand the requirements by the beginning of 2012.

Mr. Chairperson: Thank you.

Mr. Stuart Briese (Ste. Rose): Just curiosity here a little bit, but you said if a municipality doesn't meet the legislative requirements, and financial issues, I think that's the way I understood you, the gas tax is withheld.

Floor Comment: Yes.

Mr. Briese: That gas tax is the federal gas tax. It's kind of flow-through money. I was wondering how the department was able to hold that.

Ms. McFadyen: Actually, that's very easy. We have an agreement with the federal government that the money is passed through us in accordance with agreements. We have an agreement with the federal government and we have an agreement, a parallel agreement, with each and every municipality, and it is under the terms of those agreements that we provide the dollars. So there are very, very clear requirements for reporting in the federal gas tax program. And we're—we as a department are responsible for ensuring that there's compliance there.

Mr. Briese: And I believe I heard you say you've done that in one case.

What becomes of the withheld money? Where does it go?

Ms. McFadyen: The money's held in trust. It's not general revenue. And it's paid once they comply.

Mr. Briese: The one other part that I would like to question on is—that was on the financial issues. Now,

on some of the other requirements of The Municipal Act, such as organizational and procedural bylaws and those types of things, if a municipality did not do that or refused to do it, what actions does the department take in those cases?

Ms. McFadyen: I think that's a real hypothetical kind of question. Municipalities don't generally refuse to put in place their organizational bylaws, you know. I know that La Broquerie had not done it in the past, but when it was brought to their attention and when this was brought forward they have since put their procedures bylaw in place.

So the question for us is, you know, are we attempting to ensure that municipalities are, in fact, putting those bylaws in place, and that's part of that monitoring procedure that we have.

So the act does not contain any ability for us to go in and fire the councillors, withhold their dollars. And, in fact, if you think about the whole idea of withholding funding from municipalities because the municipality doesn't act, the council doesn't act, you are really punishing the citizens of the council, not the councillors. So that doesn't, actually, to me, seem to be the most appropriate way to deal with this kind of situation. But municipalities by and large comply with these things when things are brought to their attention.

* (20:50)

Mr. Chairperson: Thank you.

Mr. Gerrard: One of the aspects that was of interest to me was the involvement in the community development corporation and the link with the municipalities. How many community development corporations are there in the province currently?

Ms. McFadyen: I actually cannot answer that question. We don't have anything to do with municipalities developing community development corporation. They are incorporated under The Corporations Act and under a regulation to the Department of Agriculture, Food and Rural Initiatives, I believe, with—who is responsible for rural economic development.

Mr. Gerrard: I mean, in this instance, as I read this, the board of directors of the community development corporation were all appointed by the council of the RM so that there is a very close link between the two, and when you're looking at many of these aspects of conflict of interest and so on, isn't it important to be looking at the, you know, the

community development corporations as well as the municipality?

Ms. McFadyen: We don't have responsibility for that under the act. The act, though, our act, does talk about procedures, bylaws for the entities that are part of—that are considered part of the municipality, requirements for those kinds of things.

Mr. Chairperson: Mr. Gerrard.

Floor Comment: And they are subject to the—

Mr. Chairperson: I'm sorry, Ms. McFadyen. Proceed.

Ms. McFadyen: They are subject to the conflict of interest act as well.

Mr. Gerrard: My question to the Auditor General, because, I mean, the role of the community development corporation was very closely tied in to the reeve and council of the municipality in terms of what needs to be done to make sure that there's consistency among community development corporation and municipality, given that they're in two different departments, I'm just wondering what your recommendations are to make sure that the community development corporations are, you know, adequately—issues related to what emerged in this report related to community development corporations are adequately addressed.

Ms. Bellringer: We didn't look at the system. We—the recommendations of the report are directed specifically to the CDC board. I haven't actually given—I haven't contemplated that, so I don't even have an informal comment for you but I'll give that some thought.

Mr. Gerrard: My question to the deputy minister: I mean, have there any—been any discussions between the departments of how—I mean, because these are so closely tied together in operations like this, of making sure that there's some consistency and there's not duplication in how municipalities and CDCs are looked at?

Ms. McFadyen: Not every CDC is incorporated in the same way. Each CDC is different. In this particular case, they were appointed by the municipal council. In other municipalities, my understanding is that they have different incorporating things and it's done under that—under The Corporations Act. So it's closely linked to the economic development—rural economic development program.

Oh, yes. Okay. CDCs are also now part of the municipal reporting entity so that they are now subject to that public sector accounting board rules as well and have to be reported on by municipalities. That was not in place previously.

Mr. Gerrard: Okay, so you're now telling me that there is a responsibility for the department of infrastructure and local government because there's a reporting of CDCs through municipalities.

Ms. McFadyen: That would be the budget for any money that the municipality is passing through the CDC, okay?

Mr. Chairperson: It's financial.

Mr. Gerrard: So, but, I mean, what I'm trying to understand here is that the CDC was almost a subsidiary of the council. I mean, in circumstances where it's completely separate and it's got a completely separate board, it would be very different, but, in this case, because the members of the CDC were appointed by the council, that it's almost a subsidiary of the council.

Ms. McFadyen: They are not, however, appointed by the council under The Municipal Act. The Municipal Act does not make any mention of CDCs or any of that type of thing, so they are not appointed under The Municipal Act.

Mr. Gerrard: I'd like to ask the Auditor General, in terms of, you know, having optimum accountability, you know, not overlap and duplication but consistency of how things are applied, whether the Auditor General would have any thoughts moving forward about what might be done here.

Ms. Bellringer: The board of directors has the primary responsibility, and—which is why we directed our recommendations to that board. If anything, and I'm—really haven't given this much thought and we really didn't get into a systemic review of this, we just looked at it specifically in this case, but I'd say that the answer is probably found more around the kind of things that the department does in terms of the coaching and so on and the educational end of things around, in this case, improving board governance more so than a strict monitoring solution. I think what we find in a number of areas right across the board that with, you know, there are so many—in not-for-profits as well as something like this where boards don't necessarily understand what their responsibilities are, as the safeguard, the—you know, the real—the—it's really on

their watch that things are happening and that the real source of the, you know, the solution to it is to have strong board governance.

In the event that it's not taking place, I mean, there may be some—you know, if there's a number of concerns around board governance in a particular sector, you might want to strengthen your monitoring, but my first line of attack would be to make sure that the people who are supposed to be doing the job are doing so, as I say, which is why we directed the recommendations to them, in which case we'll be able to follow up next year to see if the board did those things that we recommended that they should have done in the first place.

Mr. Gerrard: I mean, in this case, what is striking is the interrelationship of what was happening at the community development corporation and what was happening at the municipality. Is that not correct?

Ms. Bellringer: Yes, that's true. In fact, I would suggest that that was the case throughout the entire audit, just the overlap of different activities, which I think is reflective of the fact that a municipality of this size is going to have a certain amount of challenge in making sure that things are completely separated, and you're going to have a lot of the same people doing a lot of different things within all kinds of community activities, and so it—we didn't find that to be something unusual, but that certainly is the case that there was all kinds of overlap within the two.

Mr. Chairperson: The hour being 9 o'clock, what is the will of the committee?

Mr. Martindale: I think we should allow Mr. Gerrard to complete answering his questions—or asking his questions and then see if we can pass this report.

Mr. Chairperson: Agreed? *[Agreed]*

* (21:00)

Ms. McFadyen: In this case, the department has followed up with the municipality to find out what was happening around the recommendations with the CDC. We understand that the CDC is implementing a system that will aid in understanding whether their loans are in place specific to the recommendations. CDC chairman is also requesting the department of agriculture and rural initiatives to provide training to the CDC board and RM staff according to—to talk about their roles and responsibilities. They have

made efforts to do the collecting that was required. They have reviewed the conflict of interest policy. The department of agriculture and rural development also works with us and with AMM to provide training around CDCs at municipal conferences. So those kinds of things are happening.

Mr. Gerrard: So now we have—I mean one of the responsible departments for municipalities here but not the one for CDCs. I'm not asking that we go back and get the other department, but I do think that it's important in terms of the long term that, it was only because the Auditor General here was able to look at both in parallel and see that there were some significant entanglements between what was happening in the municipality and the CDC. And I would like to give the Auditor General one more sort of opportunity moving forward, or perhaps to come back, an opportunity, not necessarily to this committee, but when you do the review, to give some thought to this interaction and interrelationship between the CDC and the municipality and how one might optimally provide for, you know, some insurance to the public that you're not going to have this sort of interaction happening again.

Mr. Chairperson: Thank you, Mr. Gerrard.

Madam Auditor General, do you have a comment?

Ms. Bellringer: No, other than I think that's a valid point and appreciate the suggestion because one of the things we are giving thought to in addition to the follow up to this is how we can help provide the department with assurances in a systemic way across the board around the extent to which municipalities are complying with, you know, the major areas. And that would be certainly one that we would consider including in an across-the-province kind of an audit and it would probably be scheduled for 2012.

Mr. Gerrard: Thank you and thank you.

Mr. Chairperson: Seeing no other questions, Auditor General's Report—Special Audit: Rural Municipality of La Broquerie, dated March 2008—pass.

I wish to thank the minister, the deputy minister and her staff for—I have to say, this was an enlightening session, and I want to say thank you to the deputy minister for her opening comments because she was very thorough and I think that

helped us immensely in the process. So thank you so much and so kindly.

The hour being 9:03, what is the will of the committee?

Some Honourable Members: Rise.

Mr. Chairperson: Committee rise.

COMMITTEE ROSE AT: 9:03 p.m.

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