



[This is an English version of the report originally transmitted in French to the mayor of Montréal and then submitted to Montréal City Council and Agglomeration Council on March 26, 2017]

Annual Report of the Inspector General of *Ville de Montréal*

Filed with the City Council and the Agglomeration Council

For the year ended December 31, 2017

(Section 57.1.23 of the *Charter of Ville de Montréal, metropolis of Québec*)



MESSAGE FROM THE INSPECTOR GENERAL OF MONTRÉAL

Mayor Valérie Plante, Members of the City Council and the Agglomeration Council, and citizens of Montréal,

It is an honour and a privilege for me to present the Annual Report of the Inspector General of *Ville de Montréal* for the year ended December 31, 2017, pursuant to section 57.1.23 of the Charter of *Ville de Montréal, metropolis of Québec*.

As I was appointed in February 2014, I am going into the fifth - and last - year of my tenure as the first Inspector General of *Ville de Montréal*. Indeed, the legislation provides that the Inspector General is appointed for a five (5)-year non-renewable mandate. The City Council will have to designate the person who will succeed me and assume my duties by a resolution adopted by a two-thirds majority vote, as prescribed by sections 57.1.1 to 57.1.6 of the Charter of *Ville de Montréal, metropolis of Québec*. I take this opportunity to emphasize that the non-renewable mandate granted to the Inspector General is fundamental and necessary for the proper

exercise of this function, since it is one of the safeguards to ensure its independence, both in appearance and in fact.

Notwithstanding, the multidisciplinary team that I have created together with my deputies is now complete. I'm convinced this team will ensure the mission's permanence and continuity in the actions undertaken so far. I am proud of the structure, working methods, and processes we established within the Office, which will enable my successor to fulfil, in turn, his or her mandate with rigour and efficiency.

I am also proud of our achievements since my nomination as Inspector General. This report will highlight actions taken by the Office in 2017, as well as guidelines set for 2018.

For the past four (4) years, we have intervened with several bodies of the City and its para-municipal organizations, whether through

decisions to rescind contracts or cancel calls for tenders, recommendation reports or upstream interventions. We have denounced unacceptable situations either resulting from actions taken by the City or due to shortcomings of existing policies or actions of contractors. We have also raised elected officials and City employees' awareness of their role as guardians of the contractual processes' integrity with the roll-out of training courses in 2017. These courses aim to provide participants with tools to prevent and detect breaches of integrity and applicable rules. Built around the Office's experience, they rely on a competency-based approach and practical scenarios.

Throughout my tenure, and especially in 2017, we have developed partnerships and memoranda of understanding with other monitoring, control and law enforcement agencies operating at the municipal, provincial and federal level, and in the United States and Europe. These collaborations aim to coordinate each other's efforts, to create a knowledge hub, to regulate the sharing of information, and to ensure an even more effective presence on the ground. The Office thus positions itself as a complementary tool integrated into the arsenal of the levers available to the State to fight collusion, corruption and the use of fraudulent tactics in public procurement.

The innovative measures put in place regarding contractual processes and the support provided to City employees responsible for awarding and managing contracts have made it possible to quickly achieve outstanding results. Particularly, we have created a coordination unit with the City business units, and established a mentoring program with the City various boroughs and departments and its para-municipal organizations, in order to lead by example and provide employees with means to address cases of irregularities or integrity risks.

All the actions taken by the Office have helped to implement a new integrity culture within the City and to restore citizens' trust in their municipal institutions, but also to bring accountability back to the forefront. The interventions carried out have been a driver of change, regarding as much customs and practices as more comprehensive policies.

Despite the progress made, however, we must never lose sight of the circumstances that led to the creation of the Inspector General of Montréal, a first in Québec. Since then, similar positions have been developed in other cities in Québec. Notably, the cities of Laval, Saint-Jérôme and Longueuil announced the creation of Laval's Office of integrity and ethics (*Bureau d'intégrité et d'éthique de Laval* (BIEL)), the Office of professional and administrative integrity (*Bureau de l'intégrité professionnelle et administrative* (BIPA)), and the Office of contract verification (*Bureau d'inspection contractuelle* (BIC)), respectively.

For its part, the National Assembly of Québec undertook a detailed consideration of Bill 108 establishing the *Autorité des marchés publics*, an organization in charge of overseeing all public procurement for public bodies, including municipal bodies, and applying the provisions of the *Act respecting contracting by public bodies* regarding ineligibility for public contracts, prior authorization to obtain public contracts or subcontracts, and contractors' performance reports in relation to the performance of contracts. This bill, introduced in response to the Charbonneau Commission's first recommendation, was eventually passed and assented to on December 1, 2017.

Over the past years as Inspector General, I have been able to observe the added value that an independent body for administrative monitoring of contractual processes can offer, if it is granted investigative and intervention powers in keeping with its mandate, and if it protects appropriately those who denounce irregular situations.

Therefore, it is advisable that entities created have sufficient scope to be able to play a real and efficient role in extrication from practices condemned by the Charbonneau Commission.

However, one must bear in mind that the added value of an organization like the Inspector General's Office does not always translate into figures or financial gain, but into short, medium and long-term impacts on contractors' practices, clients' rigour and policies, and contractual processes' integrity. Integrity is priceless. Several sporadic interventions that went unmentioned over the years have had undeniable impacts on contractual relations between the City and its contractors, and have prevented serious breaches. The creation of the Preliminary Investigations team within the Office in 2017 has allowed us to react even more rapidly toward the City's different bodies. The Office's presence on construction sites and the support provided to employees have also had a positive impact, particularly on contract execution's monitoring. Employees have thus been encouraged to apply contractual clauses and to demand the quality the City is entitled to expect from its contractors.

Each year, one section of the Annual Report is dedicated to the files addressed by upstream intervention or during the preliminary investigation phase. With a view to provide an even more timely public account of these files, the Office will examine in 2018 the relevance of issuing a biannual report on the actions taken, rather than waiting for the Annual Report published by March 31, the next year.

Finally, I wish to emphasize the importance of public procurement's constant monitoring. Indeed, the investigations conducted have allowed me to note new schemes and the emergence of related entities created and/or used to circumvent the rules put in place and the sanctions imposed on offenders. It is therefore essential to maintain at all times an increased oversight of contract award and execution processes.

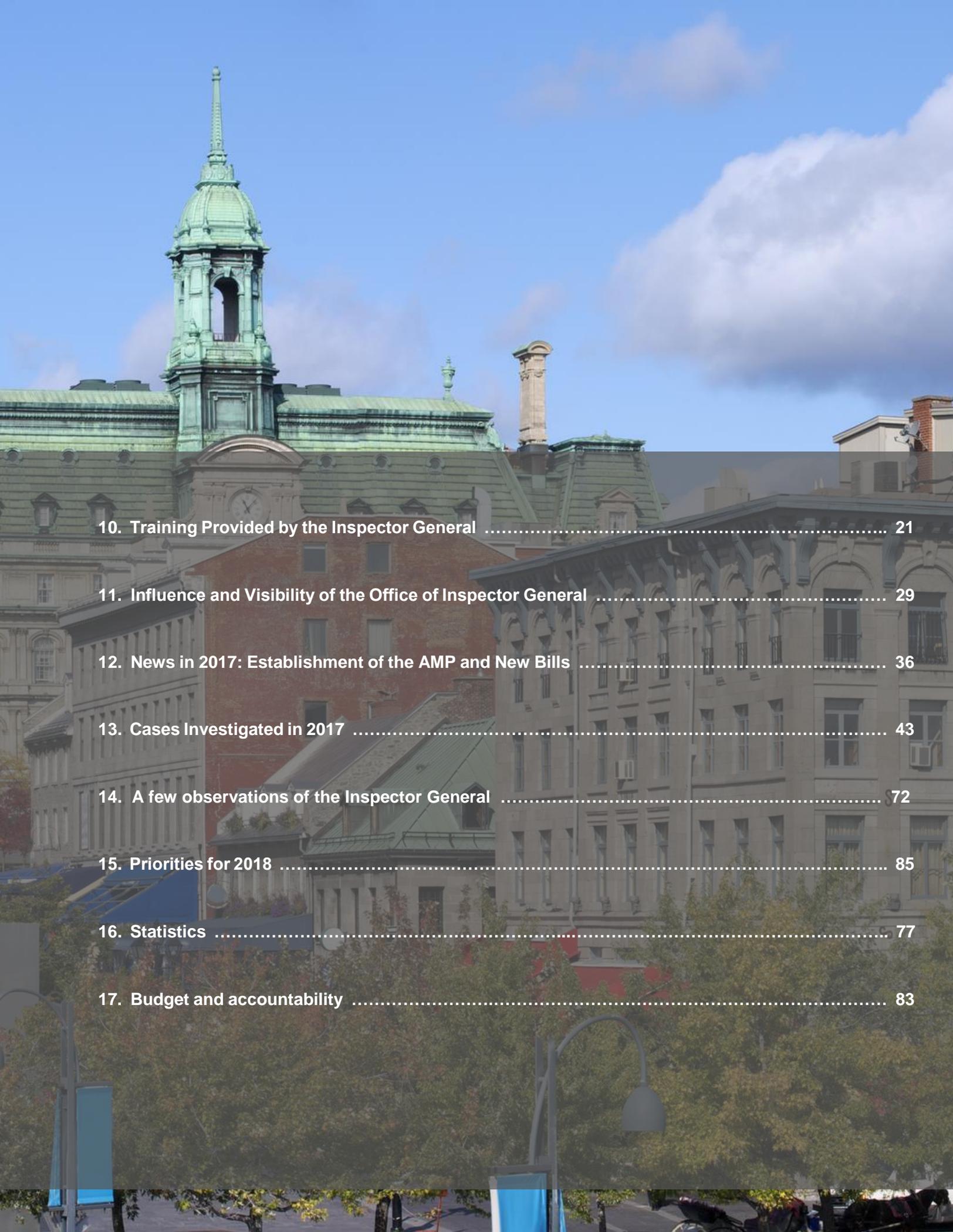
The Inspector General,

Denis Gallant, Ad. E.

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BUREAU DE L'INSPECTEUR GÉNÉRAL

de la
Ville de
Montréal

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(514) 280-2800



By online form:
www.bigmtl.ca



By email:
BIG@bigmtl.ca



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(514) 280-2877



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1550 Metcalfe Street
12th floor, Suite 1200
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H3A 1X6

1. HIGHLIGHTS – INVESTIGATIONS IN 2017



269

denunciations received

20

investigation files opened on the initiative of the Inspector General



+480

witnesses interviewed or contacted



127

surveillance operations

27*

requests for production of information

9

inspections

8

access orders

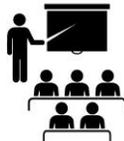
2

requests for assistance



4

public reports
(2 decisions to rescind existing contracts and 2 recommendation reports)



24

training sessions

845

people trained

All the reports and decisions of the Inspector General are available online at www.bigmrtl.ca

MARCH 2017

Rescinding of contracts for the rental of tow trucks for snow removal operations, due to contractors' fraudulent tactics used to allow contractors penalized by a decision of the Inspector General to continue to obtain contracts.

APRIL 2017

Recommendation report presenting an overall picture of the Montréal towing industry, which demonstrates territory division between contractors and involvement of organized crime, in the absence of City contracts covering towing activities.

SEPTEMBER 2017

Rescinding of a contract for the reconstruction of lookouts, as the winning bidder formed - without informing the City - a joint venture agreement with a contractor who did not hold authorization from the AMF, enabling him to obtain a contract contrary to public policy rules.

Recommendation to rescind a contract due to serious breaches contrary to the fundamental requirements of good faith by City stakeholders during the contracting process.

* The preference given to informal requests and voluntary remittance explains the decrease of requests for production of information (see p.10).

2. THE INSPECTOR GENERAL AND HIS TEAM



The Inspector General
Denis Gallant, Ad. E.

Denis Gallant holds a law degree from the University of Sherbrooke and a Master's Degree in law from the University of Québec in Montréal (UQAM). He has been a member of the Québec Bar since 1990.

Appointed unanimously by the members of City Council on February 24, 2014, as the first Inspector General, Mr. Gallant's mandate is to oversee contracting processes and the carrying out of contracts by the City or by a legal person related to the City. He also works to prevent breaches of integrity and foster compliance with the applicable legal provisions and with the City's requirements regarding contracting or the carrying out of contracts.

Prior to assuming this position, he was deputy chief counsel of the Commission of Inquiry into the Granting and Administration of Government Contracts in the Construction Industry (*Commission d'enquête sur l'octroi et la gestion des contrats publics dans l'industrie de la construction* (CEIC)).

Mr. Gallant also served as a crown prosecutor for many years. Specialized in the criminal prosecution of narcotic offences and organized crime, he worked in the Québec Justice Department's organized crime unit (*Bureau de lutte au crime organisé*). In 2007, he joined the Public Prosecution Service of Canada, where he served as a federal prosecutor and team leader. Mr. Gallant began his career as a lawyer at Montréal's Legal Aid, where he practiced for several years, mostly in criminal law.

He has appeared before all the courts of criminal jurisdiction in Québec. As a prosecutor, he worked on a number of complex organized crime cases at the trial and appeal levels.

He taught criminal law for several years, in particular, criminal evidence and procedure, at the Faculty of Political Science and Law at the University of Québec in Montréal (UQAM) and at the Québec Bar School. He also taught criminal law at the Faculty of Law of the University of Sherbrooke and the Faculty of Permanent Education of the University of Montréal. Mr. Gallant is often invited to speak at conferences and study days.

In 2011, the Québec Bar awarded him the distinction of *Advocatus Emeritus* (Lawyer Emeritus).

In 2015, Mr. Gallant earned the designation of Certified Inspector General (CIG) from the Association of Inspectors General.

– Deputy Inspectors General –

The Inspector General is assisted in his functions by Deputy Inspectors General who he himself appointed based on their qualifications, experience and professional accomplishments.



First Deputy Inspector General

Brigitte Bishop

A member of the Québec Bar since 1989, Ms. Brigitte Bishop holds a law degree from the University of Ottawa and a postgraduate degree (DESS) in financial crime from the University of Sherbrooke.

Ms. Bishop served as a crown prosecutor for more than 27 years. She worked in several teams specialized in criminal prosecution, in particular fighting criminal biker gangs and proceeds of crime. She also acted as legal counsel to the Directorate of the Québec Provincial Police.

Ms. Bishop has appeared before all the courts of criminal jurisdiction. She took part in various round tables for the development of municipal, provincial, and federal bills, and she also participated in the creation of memoranda of understanding between several ministries and governmental organizations.

Ms. Bishop holds the position of First Deputy Inspector General. She manages the Legal Affairs team, and holds by way of delegation all the powers of the Inspector General of *Ville de Montréal*.



**Deputy Inspector General –
Inspections and Investigations**

Michel Forget

Mr. Forget was a police officer with the Québec Provincial Police for 26 years. He spent most of his career in the Criminal Investigation Division of the force, where he was lead investigator in many major criminal cases, mostly involving corruption and organized crime.

Mr. Forget also occupied key management positions, where he supervised groups ranging from 6 to 900 investigators. In particular, he held the following positions: manager responsible for the Financial Crime Division, Deputy Director of the Organized Crime Unit, Senior Officer of the Anti-Corruption Unit and Director of Communications.

Mr. Forget holds a degree in Business Administration from the University of Québec at Trois-Rivières and is also a graduate of the FBI National Academy in Quantico, Virginia. Named an Officer of the Order of Merit by the Governor General of Canada in 2012 for his exceptional contribution to the police community throughout the country, Mr. Forget joined the Office of Inspector General in June 2015 as an Inspection and Investigation Officer. In November 2016, he was appointed Deputy Inspector General – Inspections and Investigations.

In 2016, Mr. Forget earned the designation of Certified Inspector General (CIG) from the Association of Inspectors General.



**Deputy Inspector General –
Analysis and Preliminary Investigations**

Pierre Egesborg

Mr. Egesborg holds a bachelor's degree in Civil Engineering from McGill University and is a member of the Québec Order of Engineers.

Mr. Egesborg has worked for the City for over 25 years and has served as Head of the Engineering Division and Interim Director of Public Works for the borough of Saint-Léonard. His most recent position was Division Head, Contract Management and Technical Analysis, at the City's Office of Comptroller General.

Through this experience, he acquired extensive knowledge of municipal engineering activities and in procurement and contract management and analysis. In 2016, Mr. Egesborg earned the designation of Certified Inspector General (CIG) from the Association of Inspectors General.



**Interim Deputy Inspector General –
Analysis and Preliminary Investigations**

Freddy Foley

Mr. Foley holds a bachelor's degree in Business Administration from the University of Québec in Rimouski, and completed a postgraduate program at the University of Public Administration (*École nationale d'administration publique* (ENAP)). Recently, Mr. Foley earned qualification as Lead implementer ISO 37001 (Management Anti-Corruption) and attended a course on procurement fraud offered by the Association of Certified Fraud Examiner.

He joined the Office of Inspector General in September 2014 as an Inspection and Investigation Officer, and in October 2016, he was appointed Interim Deputy Inspector General – Analysis and Preliminary Investigations in order to allow Mr. Egesborg to dedicate himself to the development and roll-out of the Office's training program.

Previously, he was a police officer with the Québec Provincial Police for 32 years, where he worked as investigator and manager of investigations in the Major Crimes and Organized Crime Units. Upon his retirement, he was acting as lead investigator in criminal investigations and State protection matters. Mr. Foley also served on the executive boards of various organizations.

– The Office of Inspector General’s Team –

As of December 31, 2017, the Office of Inspector General’s team consisted of thirty-one (31) members, including the Inspector General.

A Multidisciplinary Team

The Office of Inspector General of *Ville de Montréal* is a multidisciplinary office.

The Office thus benefits from the varied expertise of professionals from a host of fields, a major asset considering the Inspector General’s legal mandate.

The Office’s staff members have expertise in the following areas, inter alia:

- Legal
- Investigative methods and procedures
- Accounting
- Auditing
- Procurement
- Engineering
- Municipal works
- Information technology
- Analysis and research

Training

To keep their knowledge up to date and maintain the highest level of professionalism, expertise and competency, the staff members of the Office of Inspector General have completed several courses of varying length relating to the Inspector General’s legal mandate.

In particular, the employees attended trainings and workshops on the subjects of procurement, audit, and accounting, as well as on preventing and fighting fraud, cartels, and corruption.

In 2017, the Office of Inspector General renewed its partnership with the Québec Provincial Police School (*École nationale de police du Québec (ÉNPQ)*). As in 2015, the ÉNPQ provided training to the staff members who were not employed by the Office at the time of the first training session to hone their investigative and interview methods, through lectures and simulations activities.

Moreover, two (2) staff members earned the designation of Certified Inspector General (CIG) from the Association of Inspectors General, following an intensive one (1)-week training.

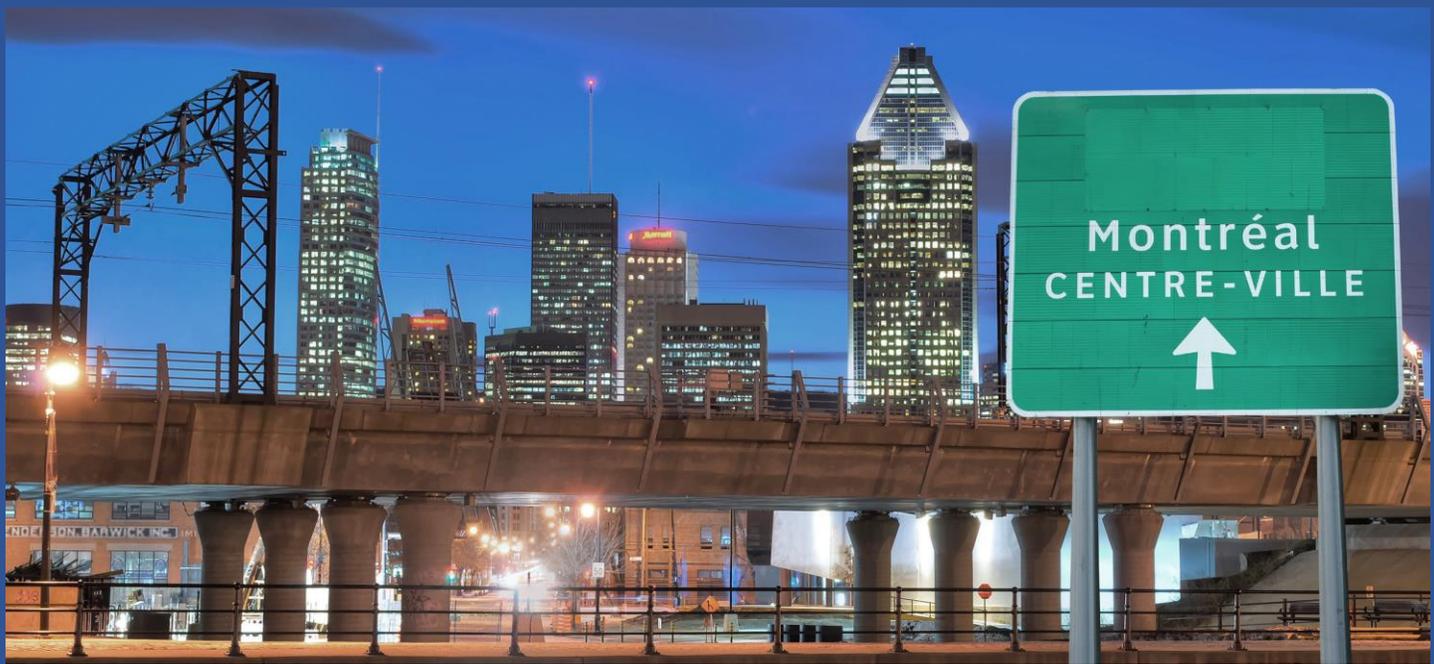
Equal Access to Employment

The following table illustrates the staff breakdown at the Office of Inspector General as of December 31, 2017, according to the groups targeted by the *Act respecting equal access to employment in public bodies*.

Category	Number	Percentage (%)
Men	16	53 %
Women	15	47 %
Aboriginal peoples*	0	0 %
Visible minorities*	4	13 %
Disabled persons*	0	0 %

* These groups include both men and women





3. MANDATE OF THE INSPECTOR GENERAL

The Inspector General of *Ville de Montréal* is the only Inspector General in Québec created and governed by a statute adopted by the National Assembly. The legislator granted him the following mandate:



1. Oversee

contracting processes and the carrying out of contracts by the City or by a related legal person.



2. Recommend

to the council any measure aimed at preventing a breach of integrity in contracting by the City or the carrying out of such contracts.



3. Recommend

to the council any measure designed to foster compliance with the applicable legal provisions and the City's requirements regarding contracting or the carrying out of contracts.



4. Verify

within the City, the implementation of such measures adopted by any council.



5. Train

council members as well as officers and employees to recognize and prevent any breach of integrity or violation of the applicable rules concerning contracting by the City or the carrying out of contracts.

4. JURISDICTION OF THE INSPECTOR GENERAL

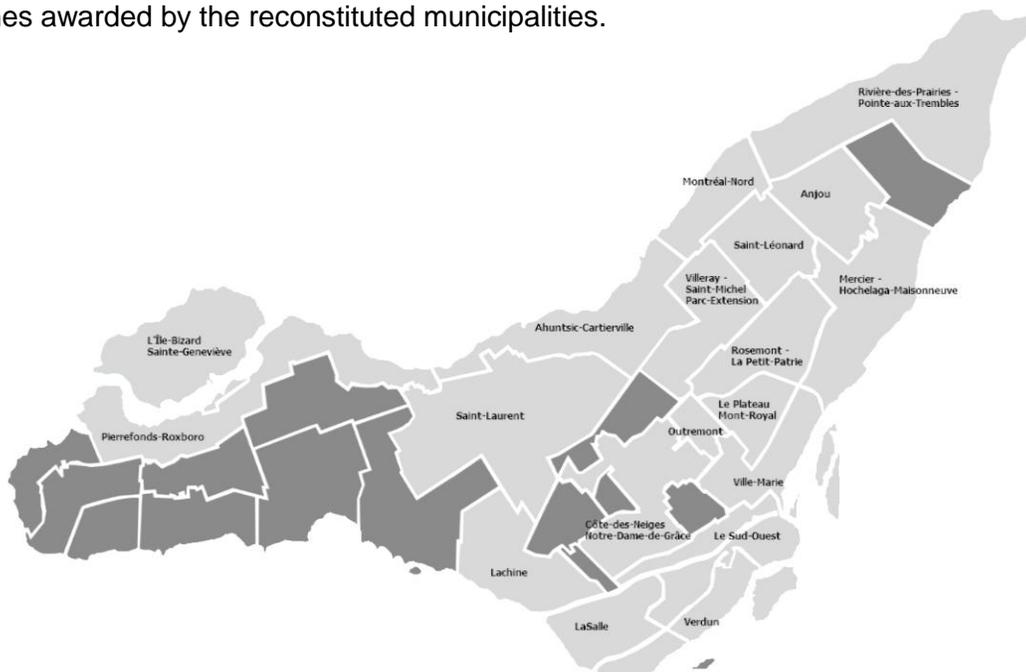
The Inspector General has jurisdiction over more than eighteen (18) agencies*, including the City and para-municipal organizations, notably Montréal's Subway and Bus Service (*Société de transport de Montréal*) (STM), Montréal's Taxi Bureau (*Bureau du taxi*), Montréal's Public Consultation Office (*Office de consultation publique de Montréal*), Montréal's Housing and Development Society (*Société d'habitation et de développement de Montréal*), Jean-Drapeau Park Society (*Société du parc Jean Drapeau*) and Montréal's Technoparc.

The Inspector General has jurisdiction over all the contracts awarded by these entities, regardless of the amount, procuring method, and nature.

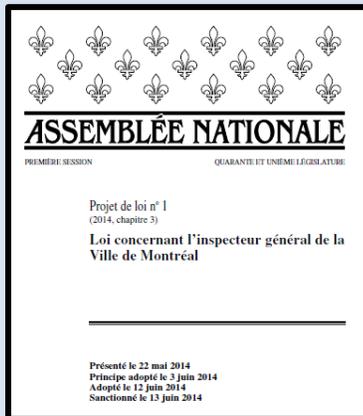
Over \$6,000,000,000	Annual Budget
More than 50,000	Suppliers
More than 38,000	Employees
More than 18	Agencies, including the City

1 Inspector General

Concerning the City, the Inspector General has jurisdiction over all the contracts awarded by the Executive Committee, the City Council, the Agglomeration Council, and each of its boroughs, but not over the ones awarded by the reconstituted municipalities.



5. POWERS OF THE INSPECTOR GENERAL



To enable the Inspector General to effectively perform his duties and fulfil his mandate, the legislator granted him many powers under sections 57.1.9, 57.1.10 and 57.1.23 of the *Charter of Ville de Montréal, metropolis of Québec*.

The Inspector General has extensive powers and various means of intervention, in keeping with his mandate. As a result, he is able to address problematic situations upstream and to intervene in contractual processes when major irregularities are noted.

– Investigative Powers –

A cautionary note regarding the nature of the investigations conducted by the Inspector General

The Inspector General and his team do not conduct criminal investigations, but investigations of an **administrative** nature. Consequently, in this Annual Report, the term “investigation” refers to an administrative investigation and should in no way be interpreted as referring to a criminal investigation.



Power to require information and documents

The Inspector General is entitled to examine any book, register or record, or obtain any information relevant to his mandate.

The Inspector General now opts for informal requests by email and voluntary remittance with City employees and elected officials, as well as contractors who collaborate with his investigations, rather than the systematic use of formal requests for production of information, which explains the decrease in the number of requests compared to 2016.

Inspection Powers



The Inspector General may, at any reasonable hour, enter a building to examine any book, register or record. The Inspector General may require the owner, occupant or any other person on the premises visited to give him reasonable assistance.

The Inspector General may also use any computer or material or any other thing found on the premises visited to access data relevant to his mandate and contained on an electronic device, computer system or other medium or to inspect, examine, process, copy or print out such data.

– Intervention Powers –

Power to cancel, rescind and suspend



The Inspector General may cancel any contracting process involving a contract of the City or any related legal person, or rescind or suspend the carrying out of such a contract if the following two conditions are met:

- if the Inspector General finds that any of the requirements specified in a document of a call for tenders or a contract has not been met or that the information provided in the contracting process is false; and
- if he is of the opinion that the seriousness of the breach observed justifies the cancellation, rescinding or suspension.

Power to make recommendations



The Inspector General may, at any time, send the council or any decision-making body of the City any report presenting findings or recommendations that, in his opinion, warrant being brought to its attention.

The Inspector General favours recommendations that **impact customs and practices** rather than individually oriented solutions.

– Delegation of Power of the Inspector General –

All the Office's staff members involved in the investigations hold powers delegated to them by the Inspector General pursuant to section 57.1.19 of *Charter of Ville de Montréal, metropolis of Québec*.

Therefore, they can meet with or contact employees, elected officials, members of selection committees or boards of directors, bidders and anyone who is bound by contract to the City and its para-municipal organizations.

Staff members are authorized as needed and in writing by the Inspector General or the First Deputy Inspector General to:

- formally require the production of a document or information; and
- in the context of an inspection, to:
 - access premises or a building;
 - access data on a computer; and
 - order any person on the premises to provide reasonable assistance.

This delegation does not, however, confer the power to cancel a call for tenders, rescind a contract or suspend the carrying out of a contract.

Only the First Deputy Inspector General holds a delegation of power allowing her to cancel a call for tenders, rescind a contract or suspend the carrying out of a contract under section 57.1.19 of the *Charter of Ville de Montréal, metropolis of Québec*.





6. MISSION OF THE INSPECTOR GENERAL

Ville de Montréal is a major client with substantial budgets to carry out its work.

“Accountability is key to maintaining public trust in our democracy. **Inspectors general at all levels of government are entrusted with fostering and promoting accountability and integrity in government.** While the scope of this oversight varies among Offices of Inspectors General (OIGs), the level of public trust, and hence public expectation, embodied in these offices remains exceptionally high. **The public expects OIGs to hold government officials accountable for efficient, cost-effective government operations and to prevent, detect, identify, expose and eliminate fraud, waste, corruption, illegal acts and abuse.** This public expectation is best served by inspectors general when they follow the basic principles of integrity, objectivity, independence, confidentiality, professionalism, competence, courage, trust, honesty, fairness, forthrightness, public accountability and respect for others and themselves. **Inspectors general are granted substantial powers to perform their duties. In exercising these powers, inspectors general regard their offices as a public trust, and their prime duty as serving the public interest.**”*

* The function of Inspector General, as described by the AIG.

ASSOCIATION OF INSPECTORS GENERAL, *Principles and Standards for Offices of Inspector General*, p. 3
<http://inspectorsgeneral.org/files/2014/11/AIG-Principles-and-Standards-May-2014-Revision-2.pdf>

Three values deemed to be at the core of the mission of the Office of Inspector General of *Ville de Montréal* are incorporated in the official logo.



TRUST

The Inspector General oversees the awarding and carrying out of contracts and works to improve practices so citizens can have **trust** in their municipal public institutions where contractual matters are concerned.

INTEGRITY

The mandate given to the Inspector General aims to ensure **integrity** in the awarding and carrying out of contracts.

TRANSPARENCY

One of the purposes of the investigations conducted by the Office of Inspector General is to improve the **transparency** of municipal activities and decisions by shedding light on certain issues and bringing forward recommendations or other courses of action.



7. STATEMENTS OF PRINCIPLES

– Independence –

The Inspector General carries out his work in a **fully independent** manner. Nothing and no one can influence his investigations, decisions, opinions, and recommendation reports. They are objective, impartial and free from conflict of interest.

This independence is both **fundamental and essential** to the role of Inspector General. Independence, in appearance and in fact, must be ensured through **protection, autonomy and freedom of action**.

Several guarantees of independence are provided to the Inspector General under the *Charter of Ville de Montréal, metropolis of Québec*:

Non-partisan appointment

- Appointment protected for a five (5)-year term.
- Non-renewable mandate.
- A two-thirds majority vote of the City Council is required to appoint, dismiss or suspend the Inspector General.
- Appointment free from conflict of interest.

Position enshrined in the law

The Inspector General cannot be removed based on the political will of the municipal administration in power.

Hierarchical autonomy

- Neither the mayor nor the City manager has authority over the Inspector General.
- The Inspector General reports directly to the City Council; however, there is no relationship of subordination between the City Council and the Inspector General.

Independent budget

- The Inspector General's budget is set by law.
- It represents a fixed percentage (0.11%) of the City's operating budget.
- The Office of Inspector General cannot be subjected to budget cuts that could affect its activities and operations.

– High Standards –

The Office of Inspector General handles all denunciations it receives in a **confidential, objective and impartial** manner.

The Inspector General is committed to producing **reports of exceptional quality that are objective, accurate, and timely** and that are presented in such a way as to enable the persons and organizations over which he has jurisdiction to take action on the basis of the information they contain.

The Inspector General sets as burden of proof in his public reports the standard of a preponderance of evidence. This is used by civil courts and has a reasonable degree of probability (section 2804 of the *Civil Code of Québec*).

– Protection of Denunciators –

It is thanks to the courage of people who report or expose situations that the Office of Inspector General can conduct investigations.

The Inspector General **has the duty and obligation** to take all necessary measures to protect the anonymity of any person who provides information or exposes a situation (section 57.1.14 of the *Charter of Ville de Montréal, metropolis of Québec*).



In his public reports, the Inspector General protects the anonymity of the persons who provided him with information and enabled him to further his investigation.

Anyone who communicates, reports or exposes a situation to the Inspector General is protected. It is forbidden by law to retaliate against or threaten a denunciator, and stiff fines are imposed for violating these rules.

The following acts are presumed to be reprisals

- Demotion
- Suspension
- Termination of employment
- Transfer
- Any disciplinary or other measure that adversely affects employment or working conditions.

Fines applicable in case of reprisals

- \$2,000 to \$20,000 in the case of a natural person;
- \$10,000 to \$250,000 in other cases;
- For any subsequent offence, the amounts are doubled.



8. DENUNCIATION HOTLINE

Denunciation hotlines are a key success factor for offices of inspectors general.

Handling denunciations will always remain a priority for the Inspector General.

Since his appointment, the Inspector General has received numerous denunciations: **a total of one thousand thirty-four (1134) denunciations have been received, including two hundred sixty-nine (269) in 2017.**

A telephone hotline was introduced soon after the creation of the Office of Inspector General of *Ville de Montréal* and the appointment of Denis Gallant as Inspector General.

The Website of the Office of Inspector General, launched on December 4, 2014, is also a favoured means of communication among citizens, elected officials, City employees, suppliers and the media. It is intended to be a single point of contact for the collection of various types of denunciations.

Anyone, including citizens, City employees or related legal persons, City suppliers or even elected officials can contact the Inspector General to provide him with any information they deem relevant to the Inspector General's legal mandate.

A person who communicates information to the Inspector General may do so despite the *Act respecting access to documents held by public bodies and the protection of personal information*, the *Act respecting the protection of personal information in the private sector*; any other communication restrictions under other laws of Québec; and any duty of loyalty or confidentiality that may be binding on the person, in particular with respect to an employer or client (with the exception, however, of information on a person's health and information protected by professional secrecy between attorneys or notaries and their clients).

The denunciation hotline demonstrates the attention given to the fundamental role of denunciators and calls out to citizens' monitoring role. The identity of denunciators is protected.

9. A NEW ORGANIZATIONAL STRUCTURE

The Office of Inspector General has a new organizational structure. The new organizational chart of the Office of Inspector General still includes two (2) teams that work together to ensure investigations are conducted efficiently and with integrity and professionalism. These teams are the Analysis and Preliminary Investigations team and the Inspections and Investigations team.

The new organizational structure was adopted when the investigation process was reviewed in order to increase preventive intervention.

– New Investigation Process –

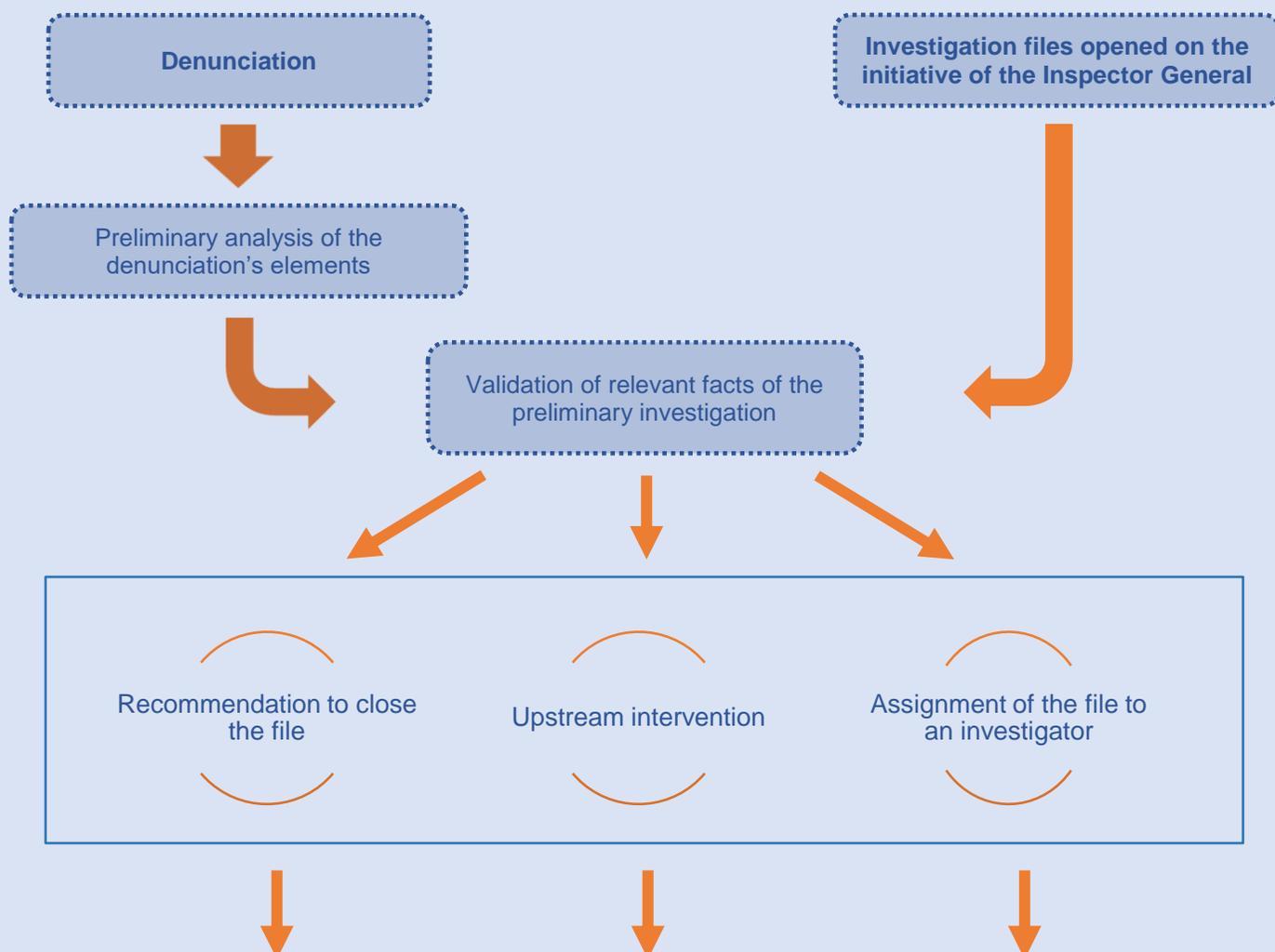
After nearly four (4) years in operation, the Inspector General and his team handle more and more cases by intervening directly with the City business units or para-municipal organizations before such a situation arise where the Inspector General would have no other choice than to cancel the tender process or to rescind or suspend the carrying out of a contract.

The new investigation process allows the Inspector General and his team to intervene in due course in the contractual processes and to quickly resolve issues that could prove disastrous to the contract if left unaddressed.

The Inspector General's reports, the presence of members of his team on the field, awareness promoted on a continuous basis by the Office within the City and its para-municipal organizations relating to integrity and rules violations, as well as the training provided by the Office are all elements that have, over time, put tools in the hand of the employees in charge of the award and management of public contracts. Similarly, employees, as well as citizens, have been made aware of the importance to communicate to the Inspector General any issue as soon as it appears.

The increase in upstream interventions is consistent with the Inspector General's intention to bring elected officials and City employees' accountability back to the forefront, so that breaches of integrity and non-compliance with rules can be prevented and detected before awarding of a contract.

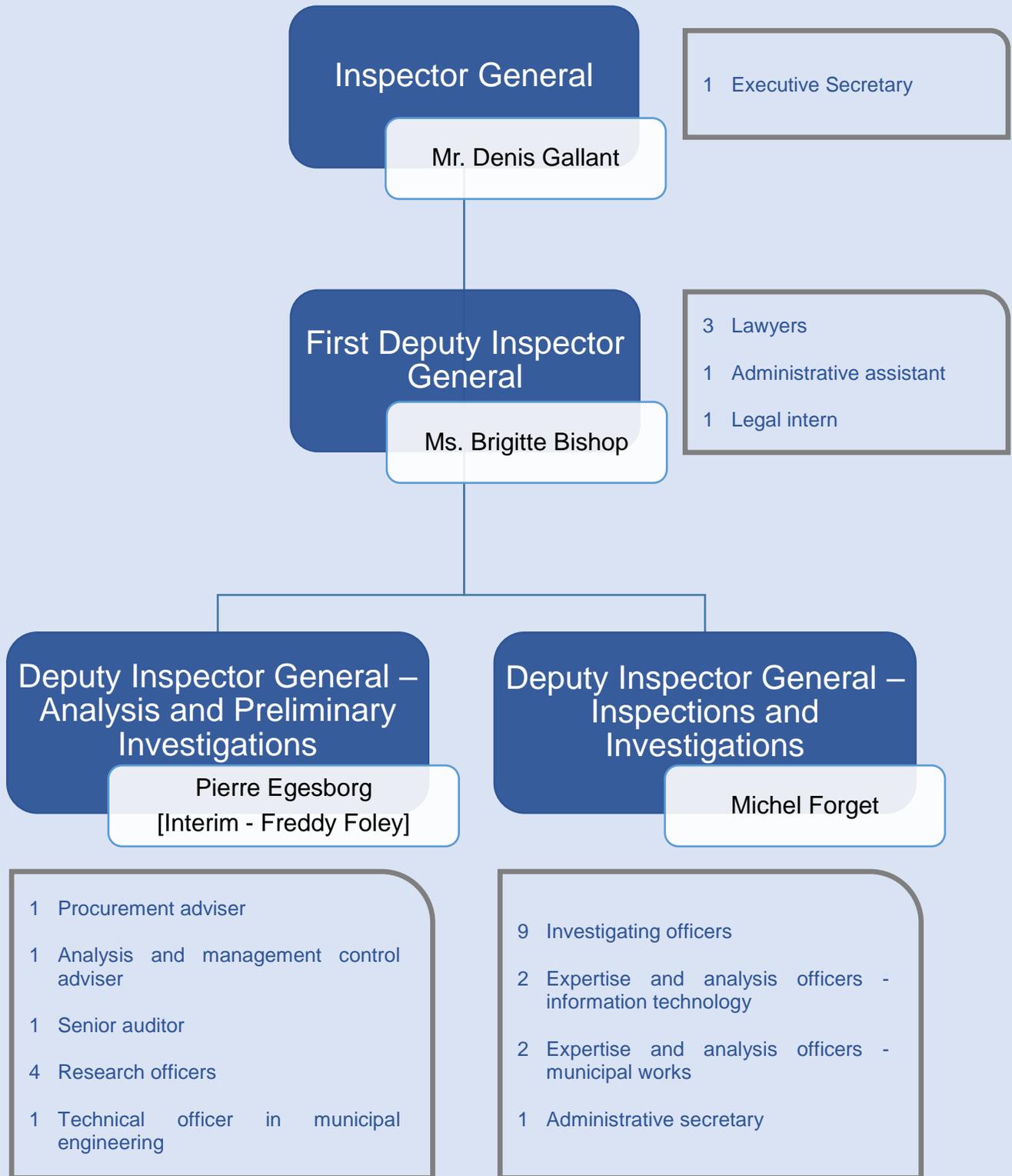
Cases are first submitted to a number of verifications by a team of professionals and research officers during the preliminary investigation phase, to ensure that the ones that qualify for intervention upstream are processed rapidly.



PRESENTATION OF REPORTS AND ANALYSIS TO THE EXECUTIVE COMMITTEE FOR DECISION

- In case of upstream intervention by the Office, the case is closed once corrective measures have been taken.
- When in-depth investigation and analysis show the case to be well-founded, the Inspector General may, if he deems it appropriate, file a public report with a decision-making body. The Inspector General then either issues a recommendation report or renders a decision pronouncing the cancellation of a contracting process, the rescinding of a contract or the suspension of the carrying out of a contract.
- Case closed because it was transferred to be processed by an external organization.
- Case closed because the denunciation proves to be unfounded.
- Case closed because there is insufficient information to pursue the investigation and additional information cannot be obtained from the denunciator.
- Case closed because it does not constitute a priority, considering the high number of denunciations received by the Office of Inspector General and its limited resources.

– New Organizational Chart –



10. TRAINING PROVIDED BY THE INSPECTOR GENERAL

The legislator granted the Inspector General the mandate **to train council members and City employees to identify and prevent** integrity and rules violations in the contracting process and the carrying out of contracts.

This section of the report will present a summary of the actions taken since the creation of the Office of Inspector General and give an overview of the training program being rolled-out in 2017, which will continue to be developed in 2018.



Actions taken before 2017

Between 2014 and 2016, members of the Office of Inspector General - including Mr. Gallant and his Deputies - gave several presentations and participated in numerous symposia and conferences in order to make the role of the Inspector General of *Ville de Montréal* known through various fora, be it for City managers, control and monitoring bodies, professional associations, contractors or academics. The objective of these presentations was to raise these actors' awareness of the existence of the Office of Inspector General, as well as of its mandate and powers granted by the legislator.

On September 22 and 23, 2016, the Office of Inspector General held its first symposium titled "The Added Value of an Inspector General" at the Montréal Convention Centre (*Palais des Congrès*). Organized in collaboration with the Association of Inspectors General, this symposium offered an opportunity to promote the inspectors general's essential role and to highlight their added value in the fight against fraud, waste, corruption, collusion and other abuses, especially in public contracts.

Finally, the decisions, opinions and reports submitted by the Inspector General to councils have played, to some extent, an educational role and encouraged actors to reflect on their actions and behaviours.

– Roll-out of the Training Program –

2017 has marked the beginning of the roll-out of the Office of Inspector General's training program for elected officials and City or para-municipal organizations' employees.

Designated as a priority of the Inspector General in 2017, the development of the training's outline and content has been a significant task requiring to free up several staff members to concentrate on it full-time. The Deputy Inspector General - Analysis and Preliminary Investigations, Pierre Egesborg, was assigned exclusively to this mandate to set up a team and coordinate, supervise, and provide the training.

The team responsible for developing and delivering the training was able to take advantage of the experience gained by the Office of Inspector General since its creation in 2014. Indeed, after three (3) years of verifications, investigations, and analysis in several sectors covered by contracts with the City and its para-municipal organizations, the Office of Inspector General has been able to gather enough information to build a training program based on favoured business practices and concrete and contemporary examples from investigation files.

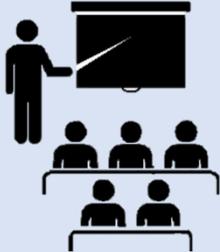
– Need for Training of Elected Officials and Employees –

The training provided is intended to allow City and para-municipal organizations' stakeholders to identify, detect, and prevent schemes that affect the contractual processes' integrity, and to understand the role of the Inspector General in this context.

The creation of the position of Inspector General in Montréal was an important first step to ensure the integrity and transparency of the contractual processes since the revelations of the Commission of Inquiry into the Granting and Administration of Government Contracts in the Construction Industry (better known as Charbonneau Commission). However, in order to create a context of integrity and compliance in the long term, it is necessary to train the individuals in charge of awarding and managing public contracts so that they become guardians of the processes.

Indeed, this need was confirmed by participants in training sessions held in 2017. At the beginning of each session, specific questions were asked to participants to know their perception about the current situation. Their answers reveal that more than 99% believe that collusion still exists in the City public market or that it will return. More than 85% also recognize that prevention of collusion or integrity breaches is at the forefront of City employees' responsibility.

– Training Provided in Class –



In 2017, classroom-based training was aimed primarily at City managers. Training was also provided to elected members of the Standing Commission on the Inspector General and the Standing Commission on the Examination of Contracts.

In 2017, the program was composed of two (2) classroom-based training courses lasting two (2) to three (3) hours each, to which a new three (3)-hour course will be added in 2018. Below is the description of the training courses developed.

Role and Responsibilities of the Inspector General

This two (2)-hour course presents the mandate granted to the Inspector General in June, 2014 following the adoption of an *Act respecting the inspector general of Ville de Montréal*, his jurisdiction, his powers, and the terms of the law guaranteeing his independence and his operating mode.

Training Objectives

- Role and obligations of the Inspector General;
- Impacts stemming from the Inspector General's powers;
- Consequences of interfering with the performance of duties of the Inspector General;
- Knowledge of when to use the denunciation hotline.

Topics Covered

- Mandate, mission, and jurisdiction;
- Appointment and independence;
- Powers;
- Authority;
- Delegation of power;
- Type of reports issued by the Office of Inspector General.



Identification and Prevention of Integrity Breaches

Recent history has taught us that the gangrene of corruption and collusion affected some municipal governments. Even in the past few years, some investigations by the Office of Inspector General of *Ville de Montréal* have revealed once again the presence of collusion, particularly in the snow-removal and towing industries. Therefore, it is possible that similar situations will occur in the future, and even in other industries.

Employees or elected officials could witness integrity breaches or illegal acts, or be in doubt that such a situation could arise.

This course lasts three (3) hours and thirty (30) minutes.

Training Objectives

- Identify vulnerability factors for integrity breaches and collusion;
- Develop skills to detect more easily integrity breaches and collusion.

Skills looked-for at the end of training

- Understand and differentiate between corruption, collusion, and integrity breaches;
- Identify vulnerability factors for integrity breaches;
- Detect integrity breaches and collusion;
- Use cost estimates as a tool to prevent collusion;
- Know when and how to report an integrity breach.



Lessons from the Investigation Files of the Office of Inspector General

Decisions, opinions, and reports of the Inspector General expose situations and shed light on integrity breaches, poor business practices and schemes used, such as collusion.

Decisions, opinions and, reports of the Inspector General are supported by court decisions and generally apply the principles of fairness, objectivity, and good faith needed to restore a climate of trust in municipal authorities and to ensure a competitive market.

This three (3)-hour course will be made available in the fall of 2018.

Training Objectives

- Presentation of the facts and situations which contributed to the Inspector General's intervention;
- Explanation of the reasons behind the Inspector General's intervention.

Topics covered

- Reminder of legal concepts to know and observe when launching a call for tenders, awarding a contract and managing a contract;
- Employee awareness and consciousness-raising regarding consequences stemming from the inclusion of special clauses in a call for tenders;
- Explanation of the distinctions between a condition of eligibility and a conformity criterion, and measure of their impacts in bids evaluation.

– Training Provided Online –



In 2018, five (5) training webisodes will be added to the program. These webisodes address specific topics.

Aimed at a wide audience, the training webisodes are simple, interactive, user-friendly, and stimulating for users. They will be released throughout 2018 and made available to all employees, elected officials, contractors, and citizens via the Office of Inspector General's website.

First five (5) training webisodes

Introduction to the activities of Montréal's Inspector General

Communicating with the Office of Inspector General

Bids' evaluation

Collusion in Montréal's public market

Estimates of contract costs



– Training Provided Externally –

Although the training program was designed for elected officials and employees of the City and its para-municipal organizations, it has attracted a lot of interest from other cities and organizations outside of the Inspector General's jurisdiction.

Some organizations have joined training sessions given to City employees. Representatives of Laval's Office of Integrity and Ethics (*Bureau d'intégrité et d'éthique de Laval* (BIEL)), of the Royal Canadian Mounted Police (RCMP), and of the Québec Department of Transport (*Ministère des Transports du Québec* (MTQ)), were included in these groups.

Recognizing its innovative role, the Office of Inspector General also provided training externally to representatives of cities outside its mandate or jurisdiction, with the course entitled "Lessons from the Investigation Files of the Office of Inspector General". Apart from representatives of Joliette, Saint-Paul de Joliette and Saint-Charles-Borromée, training was provided to representatives of the City of Laval's Procurement Department during the fall of 2017.

In June 2017, the course "Identification and Prevention of Integrity Breaches" was presented to representatives of the reconstituted municipalities of Dorval, Baie-D'Urfé, Dollard-des-Ormeaux, Beaconsfield, Sainte-Anne-de-Bellevue, Mount-Royal, Hampstead, Pointe-Claire, Kirkland, and Côte Saint-Luc. It is worth reiterating here that the Inspector General has no jurisdiction over contracts awarded by these cities.

Two (2) external agencies also approached the Office of Inspector General about training. First, the Union of Québec's municipalities (*Union des municipalités du Québec*) requested a presentation on concrete examples from the investigation reports as part of the 4th Municipal Procurement Officers' Day. Finally, the Office of Inspector General introduced a training course entitled "Lessons from the Investigation Files of the Office of Inspector General Regarding the Procurement Process" during the 4th edition of the French-language Symposium of Canadian Universities' Financial Services (*Colloque francophone des services des finances des universités canadiennes*), co-hosted by the Office of Inter-University Cooperation (*Bureau de coopération interuniversitaire* (BCI)), the Canadian Association of University Business Officers (CAUBO), and the Network of Québec Universities' Procurement Managers (*Regroupement des gestionnaires d'approvisionnement des universités québécoises* (RGAUQ)).

– Statistics –

In 2017, eight hundred forty-five (845) people took part in the Office of Inspector General's training activities, including:

- 16 elected officials;
- 584 employees; and
- 245 people outside the City or its para-municipal organizations.

In total, the Office of Inspector General provided twenty-four (24) training sessions in 2017, five (5) of which were given externally.

The Office of Inspector General wishes to emphasize the enthusiasm expressed by City employees and elected officials concerning the training. Indeed, as soon as the sessions are announced, they are almost immediately fully booked, so much so that in the spring of 2018, it was necessary to double the number of sessions initially planned. The Inspector General is proud of the success of the training provided by his team.





11. INFLUENCE AND VISIBILITY OF THE OFFICE OF INSPECTOR GENERAL

The Office of Inspector General's influence is important in that it is likely to have a positive impact on the number of denunciations received. The more it becomes known, the more individuals will be prone to transmit to the Office information relevant to its mandate. Similarly, the more its presence is felt, the more citizens will trust the institution.

Various means aim at ensuring the Office of Inspector General's influence, including filing of public reports (which are available to the public via publication on the Office's website), continuous monitoring of certain activities, as well as various actions taken to publicize the Office's responsibilities, mandate, activities and achievements.

– Partnership Role with Similar Offices in Québec –

Since the establishment of Montréal’s Inspector General, other Québec municipalities have created similar positions.

The Office of Inspector General of *Ville de Montréal* is the only one which was created and which is governed by a statute adopted by the National Assembly of Québec. It does not report to the mayor, nor to Montréal Police Department (*Service de police de la Ville de Montréal* (SPVM)) or another City Department.

CITY OF LAVAL

The City of Laval was the first to follow suit, as early as 2014, with Laval’s Office of Integrity and Ethics (*Bureau d’intégrité et d’éthique de Laval* (BIEL)), under the responsibility of Laval Police Department. The BIEL’s mandate is to protect the integrity and ethics of the City of Laval and of its employees, by tackling collusion, embezzlement, political interference for partisan purposes, and any misconduct in the administration and management of public funds in all municipal services.

CITY OF SAINT-JÉRÔME

In 2017, the City of Saint-Jérôme created the Office of Professional and Administrative Integrity (*Bureau de l’intégrité professionnelle et administrative* (BIPA)), which reports to Saint-Jérôme Police Department. The mission of the BIPA, headed by Mr. Jacques Duchesneau, is to monitor the awarding and management of all public contracts, to recover sums unduly paid as a result of fraud or fraudulent tactics at the contractual level, and to strengthen employees and citizens’ vigilance through training and awareness to prevent any act or practice prohibited by ethics and integrity.

CITY OF LONGUEUIL

In 2017 was also announced the creation of the Office of Contract Verification (*Bureau d’inspection contractuelle* (BIC)) by the City of Longueuil. The Inspector General of *Ville de Montréal* welcomes this initiative which aims at ensuring contractual processes’ integrity, and hopes it will be implemented.

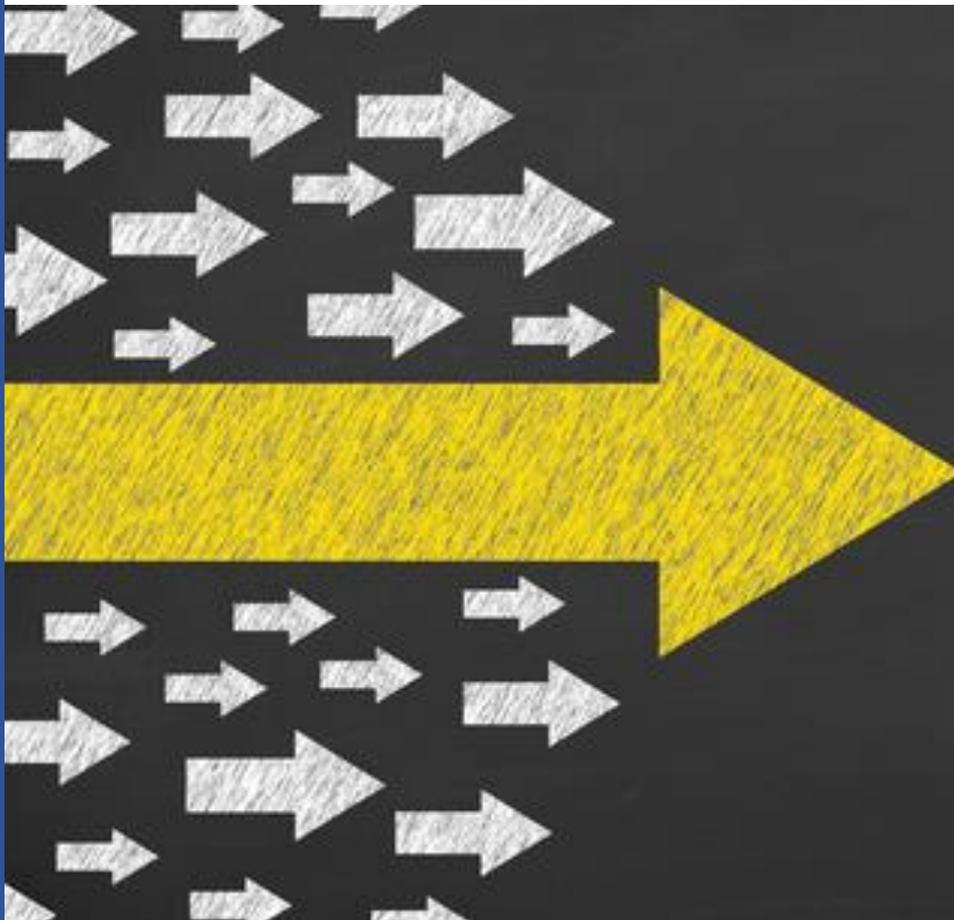
Although these offices differ in several aspects, particularly concerning their mandate, the body they report to, and the powers granted to them, their creation shows the will to act to restore public procurement after the practices denounced by the Charbonneau Commission.



It has been only natural for the Office of Inspector General of *Ville de Montréal* to form a partnership role along with these new institutions.

Notably, the Office has presented its activities and its investigation tools to representatives of the City of Longueuil and to Mr. Jacques Duchesneau, Inspector General of Saint-Jérôme (BIPA), in order to foster thought on the possible structures for their respective agencies.

Similarly, coordination meetings were held with the BIPA and the BIEL in order to facilitate the exchange of best practices.



– International Visibility of the Office of Inspector General –

ASSOCIATION OF INSPECTORS GENERAL

In 2017, the Inspector General, Mr. Denis Gallant, was appointed member of the Board of Directors of the Association of Inspectors General (AIG).

The American Association, founded in 1996, includes most of the offices of inspectors general and serves to promote accountability and integrity. The association sets professional qualifications applicable to its members and issues guidelines to the attention of its members on applicable quality standards.

The Office of Inspector General of *Ville de Montréal* has been a member of the AIG since June 9, 2014. Many members of the Office's staff have completed the certification programs provided by the AIG.

Mr. Denis Gallant's appointment to the AIG Board of Directors will allow for sharing of information and tools with the American community of inspectors general. A true international showcase, this appointment will further promote the concept of inspector general in Québec and Canada, as well as ensure visibility of the programs and activities established on our side of the border with our southern neighbours.

CENTER FOR THE ADVANCEMENT OF PUBLIC INTEGRITY

In 2017, the Office of Inspector General continued to work with the Center for the Advancement of Public Integrity (CAPI), an academic research center affiliated with the Faculty of Law at Columbia University (New York) that aims to improve professionals' ability to prevent, detect, and fight against corruption of public officials by making available a large network of tools and information.

On June 8 and 9, 2017, the Office participated in the conference Global Cities II organized by CAPI, during which Mr. Denis Gallant presented the significant powers granted to the Office in monitoring contractual processes. Representatives of the Office also took part in workshops and discussion forums with representatives of various agencies of control and surveillance from around the world (South Africa, Brazil, France, England, Australia, and Colombia).

In August 2017, the Office of Inspector General published an article made available to CAPI community members. It presents the investigations conducted by the Office in the towing and snow removal industries, the powers and means used, and the changes brought about by its actions, while reiterating the importance of constant oversight in the fight against collusion and fraudulent tactics in contractual processes.



DEPARTMENT
OF
INVESTIGATION
NEW YORK

In the same vein as previous years, the Office of Inspector General pursued its collaboration with New York City's Department of Investigation (DOI). Meetings were held at the offices of the Inspector General in Montréal, as well as at the offices of the DOI in New York.

A round table was created, bringing together representatives of the Office of Inspector General, the DOI, the Ontario Provincial Police (OPP), the Royal Canadian Mounted Police (RCMP), and the Competition Bureau of Canada (Canada), in order to coordinate each others' efforts in the fight against collusion, corruption and other fraudulent tactics.



TRANSPARENCY
AGENCY
BARCELONA

For the second consecutive year, the Inspector General was invited to present the Office's achievements in November 2017 in Barcelona, Spain, as part of an international seminar on municipal transparency organized by the Barcelona metropolitan Area (*Àrea Metropolitana de Barcelona* (AMB)). All travel and accommodation expenses were paid by the AMB.

This event, titled "2^d International Seminar on Transparency: The Promotion of Good Governance", brought together various academics, researchers, managers, professionals, and elected representatives from all circles in Europe, and in Central and Latin America.

The participation of Mr. Denis Gallant contributed to develop strong networks of contacts.

Following this event, a memorandum of understanding was signed between the Office of Inspector General and organizations working in Europe, and in Central and Latin America in the areas of transparency, good governance, and public integrity. It will come into force in the course of 2018 and will aim to promote information sharing, exchange of good practices and initiatives, and the creation of a knowledge hub.

INTERNATIONAL
BAR
ASSOCIATION

In December 2017, together with representatives of the World Bank and the Inter-American Development Bank, the Office of Inspector General participated in the establishment of the Working Group on Contractual Integrity Regimes in the International Bar Association Anti-Corruption Committee.

Through a questionnaire being developed, the Working Group will ask a variety of experts (government, private sector, and civil society stakeholders) to identify and compare the different legal systems regarding contractual integrity worldwide. The goal is to produce a report that will attempt to identify common traits and best practices in this area. The knowledge acquired by the Office of Inspector General will certainly benefit its future work.

TV INTERVIEW
TO FRANCE 2

The Inspector General, Mr. Denis Gallant, gave an interview to the journalist Claude Deschênes, which aired on December 2, 2017 in TV show *Télématin*, on France 2 television channel.

The episode, dedicated to the fight against corruption, dealt with situations experienced not only in Brazil and Greece, but also in Canada, with the constitution of the Charbonneau Commission and the subsequent creation of the Office of Inspector General of *Ville de Montréal*.



– Collaborative Networks –



Aware that it does not work in a vacuum, the Inspector General is working with several control, monitoring, and law enforcement agencies whose mandates and powers are complementary to his.

The added value of the development of a partners' network is that, informed of the presence and activities of the Inspector General, these organizations will tend to forward denunciations to the Office when the files before them fall within the Inspector General's mandate. To illustrate, **since its creation, the Office has received seventeen (17) denunciations from its partners.**

Besides control and monitoring bodies, the Inspector General also relies on the collaboration of the City different boroughs, departments and employees, as well as of various entities under its jurisdiction.

Moreover, since 2017, the Office of Inspector General has established a coordination table with the City business units, and a mentorship program in which each borough, department, and para-municipal organization is assigned an investigator from the Office. The aim is to ensure a continuous presence with the City various entities and its para-municipal organizations, to promote a trusting relationship and to encourage denunciations.

These partnerships with the City, its para-municipal organizations, and the employees responsible for awarding and managing contracts will continue the Office's work with the aim to lead by example. The vision is to be present on the ground with frontline employees and stakeholders and to provide them with means to address cases of irregularities or integrity risks.

– Presentations to Organizations –

The presentations by the Inspector General and his team to organizations related to his mandate help to raise awareness of his existence, mandate and powers. It is also an opportunity for the Inspector General to have an effective presence within these institutions.

In 2017, the Inspector General, Mr. Denis Gallant, introduced the Office and its activities to professional associations, academics, police services and various control and monitoring agencies, through symposia, conventions, conferences, seminars, and informal presentations.



12. NEWS IN 2017: ESTABLISHMENT OF THE AMP AND NEW BILLS

During 2017, several bills affecting municipalities and contract monitoring have been adopted by the National Assembly of Québec.

As part of his legislative monitoring, the Inspector General of *Ville de Montréal* has primarily identified two (2) laws enacted in 2017 that will have an impact on his authority and normative framework:

- the *Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics* (Bill 108); and
- the *Act mainly to recognize that municipalities are local governments and to increase their autonomy and powers* (Bill 122).

This section of the Annual Report will present these new legislations and their impacts on the Office of Inspector General of *Ville de Montréal*.

– Bill 108 –

Sanctioned on December 1, 2017, Bill 108, entitled *Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics*, is a response of the Government of Québec to the Charbonneau Commission's first recommendation.

The bill introduces the *Autorité des marchés publics* (AMP), an organization in charge of monitoring all contracts by public bodies, including municipal organizations, and applying the provisions of the *Act respecting contracting by public bodies* regarding ineligibility to public contracts, pre-authorization to the award of a public contract or subcontract, and contractors' performance reports on contract execution. This aspect of its mandate had, so far, been vested in the *Autorité des marchés financiers* (AMF).

The AMP has a large and broad mandate. The Office of Inspector General of *Ville de Montréal* welcomes the creation of this organization, which will seek to improve transparency in public contracts' award in Quebec.

AMP'S POWERS AND DUTIES

The public contracts' monitoring duties assigned to the AMP are exercised under certain conditions, in respect of:

- tendering and contracting processes;
- carrying out of contracts, when a public body appears not to be acting in accordance with the contractual process;
- contract management of public bodies designated by government or the AMP;
- monitoring of public contracts for the purpose of analysis of markets and contractual practices' evolution, and identification of problematic situations affecting competition.

Monitoring by the AMP aims to ensure that contractual processes are performed according to the regulatory framework to which a public body is subject.

In order to fulfil its mission, the AMP holds specific powers of verification and investigation, similar to the power to require information and documents and the power of inspection held by the Inspector General under the *Charter of Ville de Montréal, metropolis of Québec*.

The AMP has power to issue orders with respect to public bodies within its jurisdiction. However, regarding municipal organizations, the AMP's decisions are issued as recommendations to the council of the organization in question.

Finally, the *Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics* requires any interested party to file a complaint directly with the client when it relates to contracting or awarding of a contract. Municipalities will thus have an obligation to establish a procedure to receive and examine complaints filed by an interested person or group.

IMPACT OF THE BILL ON THE INSPECTOR GENERAL

Certain provisions of Bill 108 add responsibilities to the mandate initially entrusted to the Inspector General under the *Charter of Ville de Montréal, métropolis of Québec*.

From the outset, it is important to note that the *Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics* provides that, with respect to *Ville de Montréal* and its para-municipal organizations, the duties and powers granted to the AMP will be fully exercised by the Inspector General of *Ville de Montréal*, which will therefore be substituted to the AMP for the application of the Act's provisions.

Moreover, people who feel they are victim of reprisal at the time they communicate with the Inspector General will be able to file a complaint to the Inspector General, who will determine if it is well-founded.

Despite the new powers and responsibilities granted to the Inspector General, he retains his powers under the *Charter of Ville of Montréal, métropolis of Québec*. The exercise of his duties and powers provided by the *Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics* will not, therefore, prevent the Inspector General from performing, regarding the same contractual process or the same contract, the duties and powers granted by the *Charter of Ville de Montréal, métropolis of Québec*.

The intervention powers of the Inspector General of *Ville de Montréal* are wider than those of the AMP regarding Québec municipalities. Indeed, the AMP only has a power of recommendation when the Inspector General has the authority to cancel a contracting process, to rescind an ongoing contract or to suspend the carrying out of a contract.

As of now, the Inspector General will be able to exercise his contractual oversight mandate based both on the parameters enacted by the *Charter of Ville de Montréal, metropolis of Québec* and on those now provided under the *Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics*. The Inspector General will ensure that his internal procedures meet the new law's requirements and respect the limits imposed for processing time.

The *Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics* requires that the Inspector General and the AMP maintain consistency in their decisions and recommendations, and provides mechanisms for communication of information between the two entities. The Inspector General wishes to emphasize that this will not affect the importance placed on confidentiality of the denunciations he receives, and that procedures for the exchange of information will be implemented in order to continue to ensure anonymity of the people who communicate with him.

– Bill 122 –

Sanctioned on June 15, 2017, Bill 122, entitled *Act mainly to recognize that municipalities are local governments and to increase their autonomy and powers*, is intended to increase municipalities' autonomy through modification of municipal law.

Among several modifications affecting the Inspector General's regulatory framework are new modalities regarding contracting rules, para-municipal organizations' liability to these rules, and transformation of contract management policies into **contract management regulations**.

CHANGES MADE TO CONTRACT MANAGEMENT POLICIES

Introduced in 2010, section 573.3.1.2 of the *Cities and Towns Act* created an obligation for every municipality to adopt a contract management policy applicable to all contracts in order to provide, in particular, measures to promote compliance with applicable laws fighting against bid rigging and with the *Lobbying Transparency and Ethics Act*, as well as measures designed to prevent intimidation, influence peddling or corruption, conflict of interest or any other situation that could compromise impartiality and objectivity of the call for tenders' process and of the resulting contract's management.

Bill 122 now requires municipalities to adopt a contract management regulation (CMR) providing the same type of measures. In doing so, it establishes rules hitherto provided in simple municipal policies into regulations, giving them greater legal status, that of a regulatory measure. In particular, the CMRs will provide for penalties and fines, which was not possible under contract management policies.

The requirement to adopt a CMR entered into force on January 1, 2018, and, as a transitional measure, contract management policies in place then are considered to be CMRs.

HIGHER THRESHOLDS FOR AWARD OF CONTRACTS BY MUTUAL AGREEMENT

Since January 1, 2018, municipalities may raise in their CMR the monetary threshold for a contract to be awarded by mutual agreement from \$ 24,999.99 to \$ 99,999.99, while contracts included in this price range were previously awarded through calls for tenders by invitation.

A municipality will be able to conclude contracts by mutual agreement for an amount less than \$ 100,000 insofar as its CMR sets circumstances in which this method is applicable. In this regard, the law requires that the CMR includes measures to ensure rotation of potential co-contractors.

The Inspector General considers that with the imposition of co-contractors' rotation for contracts by mutual agreement, one will need to be careful to not encourage indirectly and to guard against splitting of contracts to take advantage of the new contractual rules.

EXCEPTIONS CREATED FOR SOLIDARITY COOPERATIVES

Previously, only non-profit organizations could benefit from the exception under section 573.3 of the *Cities and Town Act* and conclude certain contracts by mutual agreement even if the value exceeded the thresholds applicable to call for tenders.

A similar exception will now apply, under specific conditions, to solidarity cooperatives; however, only for contracts valued below \$ 100 000.

The Inspector General has investigated processes of contracts concluded by mutual agreements, detailed in particular in his report on contracts awarded to the organization *Montréal en histoires* within the context of the 375th Anniversary of Montréal and his report on contracts awarded to *Quartier international de Montréal* by the Jean-Drapeau Park Society (*Société du parc Jean-Drapeau*). It will be necessary to be on the lookout for contracts concluded by mutual agreement with solidarity cooperatives to prevent this new exception from being diverted from its purpose.

CHANGES MADE TO CALL FOR TENDERS METHODS AVAILABLE

Bill 122 also provides some modifications to contracting methods of certain contracts. In particular, professional services contracts, which had to be absolutely granted according to a two (2) envelopes method, in which the envelope containing the bid price was sealed and opened only if the bid had reached the minimum threshold of 70/100 in terms of quality, will now also be granted with a one (1) envelope method. Thus, the bid price may be included in the criteria evaluated by the selection committee. However, it is important to mention that professional services contracts will still not be granted according to the method of the lowest compliant bidder.

Other changes regarding the one (1) envelope method: tender documents may provide that for all types of contracts, the bid opening will be followed by individual discussions with each of the bidders to clarify the technical or financial aspects of the project and allow them to file a final submission in light of the discussions' outcome. Previously, this alternative was only available in a limited number of cases.

Finally, the two (2) envelopes method will remain available for all types of contracts, as was the case previously. However, the municipality will have the discretion to establish the value of the factor added to the score given according to the bids' qualitative evaluation grid, while this value was fixed before. The municipality will be able to choose whether to give more weight to the quality of submissions or to the price submitted.

LIABILITY OF SOME ORGANIZATIONS TO RULES UNDER THE *CITIES AND TOWNS ACT*

Some organizations are now subject to the provisions of the *Cities and Towns Act* establishing contractual rules of municipalities, as well as to the obligation to adopt a contract management policy. This is the case for organizations qualified as representatives or agents of a municipality, those whose board of directors is composed mainly of members of a municipal council or appointed by a municipality, bodies whose budget is adopted or approved by a municipality or whose financing is covered, by more than 50%, by funds from a municipality if their income is at or above \$ 1 million, and specifically designated bodies by the Minister of Municipal Affairs and Land Occupancy.



13. CASES INVESTIGATED IN 2017

The Inspector General's primary role is to conduct investigations on his own initiative or in response to a denunciation received, and to render decisions and issue recommendation reports.



PUBLIC REPORTS ISSUED IN 2017

In 2017, the Inspector General of *Ville de Montréal* issued four (4) public reports to the decision-making bodies, including two (2) to rescind contracts in progress (pursuant to section 57.1.10 of the *Charter of Ville de Montréal, metropolis of Québec*) and two (2) recommendation reports (pursuant to section 57.1.23).

Thanks to public reports, the Inspector General can highlight some schemes used in the tendering and contract management process. Making such situations involving collusion, corruption, wrongdoing, integrity or rules violations, or fraudulent tactics public is the best way to prevent and fight their occurrence. It is also an opportunity to make recommendations aiming to consolidate the current customs and practices within the City, whether that of specific individuals or more common ones. The Inspector General's recommendations seek in particular to implement tools to detect, prevent, and fight various schemes.

The Inspector General's public decisions and reports of are available in their entirety on the Office's website at the following address: www.bigmtl.ca

OTHER INTERVENTIONS OF THE INSPECTOR GENERAL IN 2017

In 2017, several investigation files were closed without it being necessary to issue a public report. As part of these cases, however, the Inspector General and his team intervened upstream of irregular situations. These interventions helped to improve current practices and to raise awareness of employees in charge of awarding and managing contracts, regarding contractual process' different components.

The Annual Report is an appropriate forum to provide a summary of some of these interventions and of subsequent corrective actions, unknown to the public until then.

– Feedback on the last year's Annual Report –

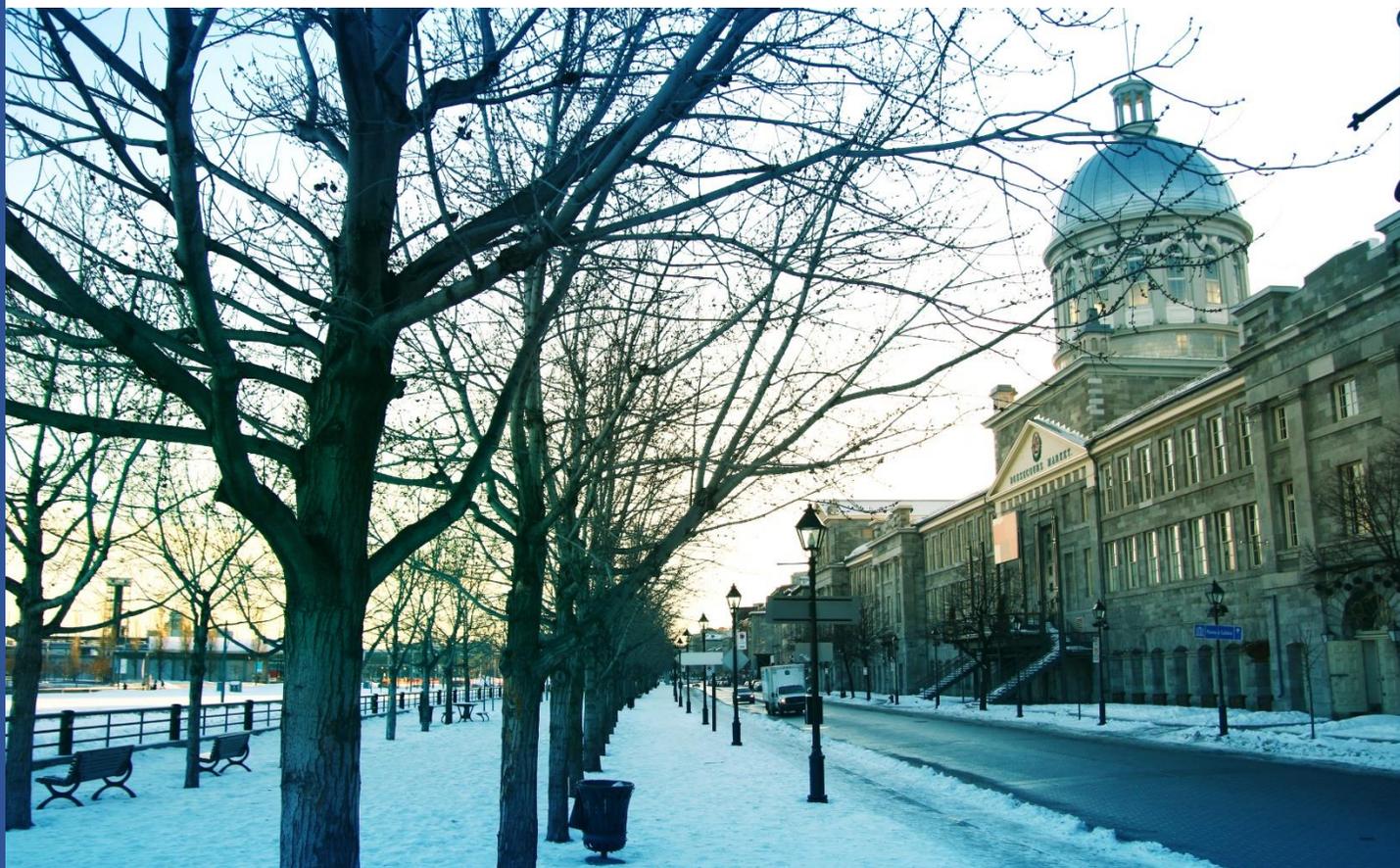
After the Inspector General's 2016 Annual Report was filed, the Standing Committee on the Inspector General submitted a report to Montréal's City Council and Agglomeration Council on June 12 and 15, 2017, respectively. This report discusses the Committee's observations and recommendations regarding the activities of the Inspector General and his Office in 2016.

Excerpts from the Committee's analysis and recommendations:

[TRANSLATION] "In the Committee's view, this Annual Report shows the scope of the Office team's work in 2016. In just three years of existence, the Office has become essential and indispensable in regard to contract management at *Ville de Montréal*. "

[TRANSLATION] "Its reports, analysis, and thoughts call on the administration's different levels. The Committee sees the need to strengthen or even, in several places, to set up an organizational culture based on public funds' responsible management in service of Montréal's population. "

[TRANSLATION] "The Committee notes that the Office started in 2016 to develop training activities designed for municipal elected officials and employees, according to his mandate. This represents a step in the right direction and the Committee cannot but encourage this initiative. "



– Follow-up on 2016 files –

Rescinding of the contract for the acquisition of 14 pump sets for the Atwater plant – call for tenders 14-12725 (p. 54-56 of the 2016 Annual Report).

Background: The investigation showed that a contract worth nearly twenty-five (25) million dollars for the acquisition of pump sets was awarded to Xylem, which was not the lowest bidder and did not comply with several requirements specified in the tender documents. Moreover, the investigation revealed numerous shortcomings in the bid analysis performed by the City's Drinking Water Division (*Direction de l'eau potable* (DEP)) and SNC-Lavalin (the firm mandated by the City to prepare the specifications and supervise the work). Only Xylem's submission was found to be compliant, whereas it did not meet the basic technical eligibility criteria set out in the tender documents, thereby undermining the principle of bidders' fair and equal treatment and the tendering process' integrity. In light of these facts, the Inspector General had rescinded the contract on his own accord.

Follow-up: Since Xylem had undertaken major manufacturing for the pump sets' supply, a settlement agreement was reached between the City and the company whereby the City undertook to accept a maximum of 6 pumps (while the contract awarded was for the acquisition of 14 pumps), provided that they meet the City's requirements.

Recommendation Report Regarding Various Contracts or Proposed Contracts (or Planned to be Awarded) to the Non-Profit Organization *Montréal en histoires* Within the Context of the 375th Anniversary of Montréal (p. 62-64 of the 2016 Annual Report).

Background: The Office of Inspector General conducted an investigation of the process used by the Lachine and Sud-Ouest boroughs to award contracts by mutual agreement to the non-profit organization *Montréal en histoires* (MEH). The investigation revealed that these contracts, worth close to one (1) million dollars each, had been awarded despite the public policy rules governing contract awards. MEH had thus been awarded contracts by mutual agreement due to its status as a non-profit organization, when the services required were not actually going to be provided by MEH but by business ventures with which it did business and that were acting as suppliers or consultants. In addition, the administrative management and executive production projects obtained by MEH had been entrusted to a private company (Torrentiel), which was contractually linked to MEH and owned by MEH's officers. An analysis of the documentary evidence and the testimonies gathered had allowed the Inspector General to highlight the confusion between the two (2) entities. The Inspector General had concluded that MEH was a front for Torrentiel, and that the latter was able to obtain public funds from contracts concluded by mutual agreement with MEH, which presented itself as a non-profit organization. The City

and the boroughs believed they were dealing with a non-profit organization, unaware that it was actually controlled by a private company. After completing his investigation, the Inspector General made a recommendation to rescind the contracts awarded to MEH, which the concerned decision-making bodies followed.

Follow-up: Since the work required under the contract awarded by Lachine borough was at a very advanced stage, a settlement was concluded between the City and MEH, particularly so that the organization would finalize the lights' installation, present a rendering of accounts, and perform the equipment's annual maintenance.

– Municipal Administration's Accomplishments following the Inspector General's interventions –

In the 2016 Annual Report, the Inspector General mentioned the investigation conducted on the contracting process for professional services in information technology resources regarding the municipal assets management project. This project was a multi-million dollars contract, and only one (1) submission had been received by the City in response to the call for tenders.

The experience criteria in the tender documents regarding professionals' required profiles were restrictive and had greatly limited the number of potential bidders. Besides, the investigation had showed that the resources offered by the sole bidder to answer the call for tenders had been under a mandate of the City Department responsible for the call for tenders in the period before its publication and had provided some inputs used in preparation of the specifications, including the profiles sought for the project. Resources had thus directly contributed or influenced the call for tenders' preparation.

Moreover, the investigation had revealed that the City stakeholders wanted the only bidder to be the one to win the call for tenders and the resources hired beforehand to remain. The experience criteria set out in the call for tenders for one of the required profiles were restrictive and had greatly limited the number of potential bidders, so that only the resources that had previously worked on the project in its first phase were admissible.

Finally, the Inspector General had observed that several City employees responsible, to varying degrees, for the call for tenders did not know the Contract Management Policy (now, the Contract Management Regulation). Following the Inspector General's intervention, the contract had not been awarded, and the City returned to tenders.

Follow-up: In 2017, the Office of Inspector General received a denunciation involving the same bidder as part of another call for tenders for professional services regarding information technology projects. The denunciation came from a City business unit covered by the call for tenders. The investigation revealed a similar situation to that reported in last year's Annual Report. Indeed, a company resource had worked under a mandate for the City on the project's support services, which were the object of the call for tenders, and the company had been awarded the highest score in qualitative evaluation of its bid. The investigation also showed that a City employee had been in contact with a consultant of the

company and had confessed to his superior that they saw each other outside of the office and discussed the project during the tender period.

The superior in question immediately reported the situation to their manager and suggested to their employee to contact the Office of Comptroller of Montréal to declare their relationship.

The Inspector General wishes to highlight the promptness with which the stakeholders in the file took action. Indeed, the superior moved quickly to denounce the situation to the director of the administrative unit. The administrative unit also made a denunciation to the Office of Inspector General, and following its intervention, the director made the decision to cancel the call for tenders.

In view of the massive investments in the field of information technology, the Inspector General recommended that business units concerned continue to exercise increased vigilance.



– Public and non-public reports in 2017 –

The following pages present thematically the Inspector General's public reports and interventions in cases that were not made public. The Annual Report covers only investigation files closed as of December 31, 2017. However, some of these files will not be addressed here, but will be presented in specific reports to be issued in 2018.

PRELIMINARY INVESTIGATION FILES

The creation of a Preliminary Investigations Unit within the Office of Inspector General represents one of the real added values of such an office to monitor the contracting process, as it allows to react even more rapidly toward the City's different bodies. This team of research officers and professionals with diverse vocational backgrounds perform verifications to identify the files that qualify for upstream intervention, so that they are processed rapidly. The other files are referred to the Inspections and Investigations team for processing.

Verifications concerning the cancellation of a tender to acquire salt mixture for the Gulf of St. Lawrence's basin at the *Biodôme* (Non-public file)



FACTS OF THE CASE

The Office of Inspector General's Preliminary Investigations Unit undertook verifications regarding the cancellation of call for tenders 16-15577 for the acquisition of salt mixture for the reproduction of salt water of the Gulf of St. Lawrence's basin at the *Biodôme de Montréal*. Testimonies collected during the preliminary investigation helped to show that the City had decided to cancel the call for tenders and to

relaunch the process as a result of questions raised in connection with the fact that only one (1) bid had been received.

In fact, the documents of call for tenders 16-15577 were written in French only and required that any communication initiated by the bidders, whether verbal or written, be in French, in accordance with the provisions of the *Charter of the French Language*. In addition, any entry on a product, its container or packaging, or on a document accompanying the product had to be written in French.

The verifications conducted by the Office of Inspector General revealed that the City had decided that, since the market was very limited, it was possible to accept submissions in English, and considered it justified returning to tenders including both languages.

However, the Office of Inspector General found that the market study conducted by the Procurement Department had identified only two (2) potential suppliers for the services required by the City, which included the company that had submitted a bid. Moreover, this company had filed a submission in line with the tender documents' requirements, had translated the tender documents at its own expense, had taken the trouble to submit a bid in French, and had submitted a bid below the City's estimate. Incidentally, its price was unveiled and displayed in the S.É.A.O. following the bids' opening.



INTERVENTION OF THE INSPECTOR GENERAL

Wording of the tender documents and its posting met the applicable standards. Although an exception could have been granted to open up the market, it appears that only two (2) potential suppliers had been identified and that one of them had submitted a bid in compliance with the requirements.

In the opinion of the Inspector General, it was not appropriate to cancel the call for tenders and to restart the process in the specific circumstances of this case, without causing harm to the company which had observed the standards and whose price had been published.

Following the Office of Inspector General's intervention, the City went back on its decision to relaunch the process and eventually awarded the contract to the lowest bidder of call for tenders 16-15577.

Verifications concerning the authorization of additional expenditure for a sewer construction contract (Non-public file)



FACTS OF THE CASE

The Office of Inspector General's Preliminary Investigations Unit examined the approval of additional expenditure for a contract awarded following call for tenders ST-16-06, which was for the construction of a sanitary sewer in the borough of Pierrefonds-Roxboro. The additional expenditure was such (\$ 1,986,549.16) that the total amount was twice the contract's initial value, namely increasing from \$ 2,001,706.54 to \$ 3,988,255.70, including taxes, contingencies, and ancillary works.

The verifications conducted by the Office of Inspector General with the borough revealed that, during performance of the work, field conditions proved to be different than those stipulated in the contract and indicated in the laboratory report. Pounding the rock was difficult, so that the only option, given the impacts on services close to the construction site and traffic, was for the contractor to use blasting to excavate the rock.

Blasting, however, was not anticipated in the tender documents and resulted in soaring costs, which led to the additional expenditure's approval and the increase of the contract's original value.



INTERVENTION OF THE INSPECTOR GENERAL

Following questions raised by the Office of Inspector General, the Legal Department was asked to examine the additional expenditure granted, who advised to terminate the contract unilaterally since the additional work altered the initial contract awarded to the contractor.

The borough thus terminated the contract, revoked the resolution authorizing the additional expenditure, and relaunched a new tendering process to complete the work.

Verifications concerning failure to respect bids' opening time in a call for tenders for services related to trailer valves (Non-public file)



FACTS OF THE CASE

The Office of Inspector General's Preliminary Investigations Unit undertook verifications regarding respect of bids' opening time in a call for tenders for the acquisition of three (3) trailer valve operators and three (3) portable valve manipulators, and upgrading services for two (2) hydraulic valve operators.

The City launched a first call for tenders (16-15724) in November 2016. Tender documents indicated at that time that bids should be received by 2 pm on December 14, 2016. Subsequently, several addenda were issued and the submission deadline was pushed back two (2) times, respectively to January 11 and 18, 2017. The addenda in question, however, continued to indicate the deadline was at 2 pm, which created some ambiguity as from January 1, 2017, the submission deadline set by the City in its call for tenders was established at 10:30 am, and no longer at 2 pm.

On January 18, 2017, the City Clerk, who had not been advised to proceed otherwise, started the bids' opening at 10:30 am. Subsequently, a company tried to file its submission with the City Clerk at 11 am the same day and was turned down, given that the deadline had passed. This company complained to the City Procurement Department on the basis that the addenda indicated that the deadline was at 2 pm. Recognizing the error that occurred, the Procurement Department decided to cancel the call for tenders and to restart the process.

It is in this context that call for tenders 17-15892 was launched on January 25, 2017, in all respects identical to the former. The Procurement Department Section Head then obtained an opinion from the City Legal Department that a possible solution was to award the contract according to the results of the first call for tenders (which had not been cancelled yet), and to cancel call for tenders 17-15892, if the bid submitted under the first call for tenders was conform from an administrative and technical standpoint. That being the case, the procurement officer proceeded to cancel call for tenders 17-15892 and came back to the first call for tenders (16-15724).



INTERVENTION OF THE INSPECTOR GENERAL

Following the Office of Inspector General's intervention in the file, the Procurement Department and the requesting service decided - in fairness to all bidders - to cancel the first call for tenders (16-15724) and to relaunch a third process, while taking this opportunity to redefine needs regarding valve operators.

Verifications concerning bids' conformity assessment in a call for tenders for the redevelopment of a skateboarding area (Non-public file)



FACTS OF THE CASE

The Office of Inspector General examined call for tenders DCSLPDS54-17-14, which was for the redevelopment of a skateboarding area in the borough of Plateau-Mont-Royal. The contract had been awarded to a company that was not the lowest bidder. In total, four (4) companies had submitted a bid and the successful bidder was the only one whose submission had been declared compliant.

The areas of non-compliance identified in the lowest bidder's offer pertained to RBQ licenses and company's experience required by the tender documents' specifications. Verifications conducted by the Office of Inspector General revealed that some specifications were ambiguous, particularly regarding RBQ licences.

In fact, the tender documents required bidders to provide a list of all RBQ licences, including that of the general contractor and subcontractors, lest their bid be rejected if this eligibility clause was not respected. However, all the bidders understood that they needed to provide a list of the general contractor's licenses only.

The borough finally declared the successful bidder's submission to be compliant, although it did not include one of the requested licenses (electrical contractor), claiming that this omission was less important than the other bidders' omissions. Yet, when it comes to an eligibility clause in tender documents, the client cannot interpret compliance: the bid is either compliant or not.

The verifications conducted by the Office of Inspector General also showed that no market studies were done by the City prior to the publication of the call for tenders, which would have allowed to check whether the clause requiring experience in similar projects would restrict the market.

In particular, the tender documents required that bidders identify in their submission three (3) contracts realized over the past five (5) years of a similar nature to the contract under tender and of a minimum value of \$ 500,000. Subsequently, an addendum changed the required value of the contracts identified, reduced to \$ 300,000.

The verifications revealed that it was the first time the project officer with the borough had to manage this type of contract.



INTERVENTION OF THE INSPECTOR GENERAL

Following questions raised by the Office of Inspector General in this file, the borough decided to cancel the contract. At the end of the new tender process, the same companies presented a bid and the contract was awarded to the lowest bidder, which also turned out to be the lowest bidder of the cancelled call for tenders.

Verifications concerning respect of the contractual clauses in a contract for street levelling (Non-public file)



FACTS OF THE CASE

The Office of Inspector General was informed that a contractor was not performing specific corrections after street levelling, a situation similar to that which had led, in 2015, to the suspension of the contract for street levelling work, laying of asphalt and reconstruction of borders and sidewalks in the boroughs of Montréal-Nord and Anjou.



INTERVENTION OF THE INSPECTOR GENERAL

After having visited the construction site and found that contractual requirements were not met, the Office of Inspector General notified the City Department of Infrastructure, Road and Transport (*Service des infrastructures, de la voirie et des transports de la Ville de Montréal (SIVT)*) of the situation. The SIVT then immediately suspended work, which resumed the next day after adjustments have been made. For some limited defects deemed major enough, specific repairs were carried out before laying the correction layer.

LE PORTRAIT D'UNE INDUSTRIE

Report on the Towing Industry in Montréal, filed with the City Council and the Agglomeration Council on April 24, 2017



BACKGROUND

The purpose of the Office of Inspector General's investigation was to provide an overview of the towing industry in the City and to identify any issues that might adversely affect free competition between contractors.

Regarding rental of tow trucks with operators to remove vehicles during snow clearing operations, the investigation revealed that some contractors working in this field engaged in collusion at the time of bid submission in calls for tenders. Several contractors would communicate with each other, before and during the submission period, to enquire about their intention to bid, the number of tow trucks they would offer, and the price at which they were planning bid. Sometimes, contractors would even agree not to bid against each other ("pacts of non-aggression"), or to bid at a fixed price. The schemes used deny the City and boroughs the possibility of obtaining the best price, which represents a significant impediment to the free market and diverts the tendering process from its core mission, which is to generate the most competition. Indeed, the pool of contractors bidding for the rental of tow trucks for vehicle removal during snow clearing operations has decreased considerably through the years.

Regarding towing of accident vehicles obstructing traffic and vehicles linked to criminal activity, the investigation revealed the absence of homogeneous and systematic contract award throughout the City's territory.

For towing of accident vehicles, a sharing agreement between contractors has been in place for more than ten (10) years in areas not subject to an exclusive contract with the City. However, the investigation allowed to ascertain that, through the years, the City has not granted contracts in a systematic way, and that certain areas have never even been covered by exclusive contracts.

The situation exposed by the Inspector General is worrying. It appears that the City's territory is divided into zones that are, in fact, small kingdoms where some contractors are sovereign and have a stranglehold on the market. Contractors "respect each other" and do not conduct towing activities in areas which they consider to belong to their competitors, even if those do not hold a valid exclusive contract with the City. Furthermore, the investigation showed that a climate of violence and retaliation prevails in the industry, and that contractors use threats, intimidation, and acts of violence against competitors in order to acquire or to "protect" the areas they consider to be theirs.

The investigation also helped to uncover the presence and influence of organized crime in the industry. Almost all of the areas are now controlled, in whole or in part, by at least one company connected to organized crime. Members of criminal organizations, or individuals close to influential members, operate on the City's territory, and, worse still, some areas "belong" to criminal organizations, so that a contractor wishing to tow an accident vehicle obstructing traffic in such an area must pay a fee (or "cut") to the criminal organization. Organized crime thus takes control of towing areas, and will even coordinate distribution and territory division between contractors.

"The Inspector General notes that the towing industry of accident vehicles has evolved under the guise of being a regulated activity. Practices for market control and territory division were thus able to develop into [TRANSLATION] "normality", to have now become common practice legitimated by the contractors themselves."
Extract from the Decision



The Inspector General deplored the absence of exclusive contracts in force for the whole City's territory regarding towing of accident vehicles and vehicles linked to criminal activity. This situation has contributed to the division of territory between contractors becoming an established system over time.

The Inspector General thus recommended that contracts be awarded for the whole City's territory regarding towing of accident vehicles and vehicles linked to criminal activity, via a tendering process, and that security screening investigations of companies winning a bid, and of their administrators, executives, shareholders, and employees, be systematically carried out prior to each contract award.

Regarding rental of tow trucks, the Inspector General's recommendations to curb any attempt at collusion were to combine all contracts expiring the same year into one call for tenders and to explore any measure to make it harder for contractors to take control the market.



FOLLOW-UP

- In its report submitted to the City Council and the Agglomeration Council, respectively on June 12 and 15, 2017, the Standing Committee on the Inspector General considers that [TRANSLATION] "measures must be taken to bring the industry back into line" and so that [TRANSLATION] "the City develops an approach to contract management for this industry that takes into account its nature and characteristics". The Committee is of the view that the recommendations made by the Inspector General [TRANSLATION] "are going in the right direction".
- In addition, the Standing Committee on the Inspector General considers that security screening investigations of the administrators, executives, shareholders, and employees of companies to be awarded towing contracts should be extended to their subcontractors.
- For its part, the City Executive Committee, in response to the Standing Committee on the Inspector General's report, agreed with the idea to extend security screening investigations to subcontractors of the contracting companies. The Executive Committee indicated that the Montréal Police Department (*Service de police de la Ville de Montréal (SPVM)*) makes every effort to rigorously manage towing activities on the territory.

- Since publication of the report, many actions have been taken by the City and the SPVM to implement the Inspector General's recommendations, including:
 - Since September 21, 2017, towing has been under the Agglomeration's jurisdiction. As for the Vehicle Towing Regulations (*Règlement sur le remorquage des véhicules (03-098)*), modifications to make the SPVM in charge of its application were presented to the decision-making bodies for adoption.
 - Exclusive contracts for towing of vehicles linked to criminal activities entered into force on May 8, 2017 for the North, West and South sectors, and on December 7, 2017 for the East sector. Security screening investigations were conducted for each of the sectors.
 - As of February 5, 2018, call for tenders for exclusive contracts for towing of accident vehicles are being drafted, as 13 sectors have been identified to cover the whole territory. They should be launched in the spring of 2018. Security screening investigations will be conducted at that time.
 - Security screening investigation's levels were reviewed.
 - Random verifications are planned by the Towing Inspection Unit (*Module Inspection du Remorquage (MIR)*), newly created to monitor changes relating to the list of administrators, executives, shareholders, and employees of companies awarded contracts. The SPVM will ensure their compliance, as appropriate.
 - From March 30, 2018, the SPVM will take charge of exclusive contracts and contractual clauses' monitoring, through patrols and inspections.
 - The SPVM stations, the Montréal Fire Department (*Service de sécurité incendie de Montréal (SIM)*) and the Road Safety Department will now be informed of new exclusive contract awardees and will receive a copy of the specifications to ensure follow-up.
 - A Task Force team was created within the SPVM to support steps taken by stakeholders on the territory, and a partnership will be developed with the SPVM Organized Crime Unit.
 - A working committee bringing together City stakeholders will be implemented to take charge of the industry.

COMPANIES' ATTEMPTS TO CIRCUMVENT PUBLIC POLICY REQUIREMENTS OR SANCTIONS IMPOSED

Rescinding of Contract for the Reconstruction of Lookouts, Footbridges and Paths in the Bois-de-l'Île-Bizard Nature Park (call for tenders 16-6853), decision issued on September 13, 2017



BACKGROUND

The Inspector General's investigation showed that the winning bidder of a contract worth over 11 million dollars (*Construction Généphi inc.*) was not the company performing work on the site, and had rather entered into a joint venture agreement with *Congeres inc.*, which does not have authorization from the *Autorité des marchés financiers* (AMF) required due to the value and nature of the contract. Moreover, *Congeres inc.*'s president and sole shareholder was facing criminal charges in the Faubourg Contrecoeur case.

Consistent with the joint venture agreement concluded in 2014, *Congeres inc.* was in charge of the operational part of the contract, including the search for call for tenders, bid preparation, and supply of manpower and necessary equipment. Its president and sole shareholder, Pascal Patrice, assumed leadership of the work on site and served as a primary interlocutor of *Construction Généphi inc.* with the City. For his part, Daniel Lefebvre, president and sole shareholder *Construction Généphi inc.*, took care of the financial part of the contract, providing the surety bond and necessary funding, and paying the invoices issued by *Congeres inc.*

The issue in this case was the fact that *Construction Généphi inc.* had filed a submission in its name alone, not revealing the existence of the joint venture agreement to the City. This false information given in the tendering process, combined with the use of *Construction Généphi inc.*'s email account and electronic signature by *Congeres inc.* employees, generated some confusion as it concealed the real role played by *Congeres inc.* in executing the contract and the real identity of the City's contracting party.

"Accepting that *Généphi* would submit a bid knowing that the contract would be executed by the *Généphi-Congeres* joint venture and that *Congeres* does not have authorization from the AMF would undermine the usefulness and credibility of such authorization in the Government's fight against corruption and the use of fraudulent tactics."
Extract from the Decision



In the Inspector General's opinion, the breach observed was objectively serious and justified rescinding of the contract awarded to *Construction Généphi inc.* Indeed, by filing a submission in its name alone, rather than on behalf of the joint venture, *Construction Généphi inc.* exempted *Congeres inc.* from its obligation to obtain authorization from the AMF, and prevented the City and the public from being assured of the winning bidder's integrity. It is important to note that the joint venture did not hold authorization from the AMF either.



FOLLOW-UP

- The Agglomeration Council took note of the Inspector General's decision at its regular meeting on September 28, 2017 (CG17 0411).
- In its report submitted to the City Council and the Agglomeration Council, respectively on November, 27 and 30, 2017, the Standing Committee on the Inspector General considers that the facts of the Inspector General in the file [TRANSLATION] "leave no doubt as to the relevance of the decision to rescind the contract." The Committee also recognized the individuals who denounced the situation to the Office of Inspector General.
- The Inspector General's decision to terminate the contract awarded to *Construction Généphi inc.* took effect on November 6, 2017, pursuant to section 57.1.11 al. 3 of the *Charter of Ville de Montréal, metropolis of Québec*. The Standing Committee on the Inspector General had indeed recommended to the elected officials not to overturn the Inspector General's decision.

Rescinding and Recommendations Concerning Various Contracts Awarded by Boroughs for the Rental of Tow Trucks with Operators During Snow Removal Operations – decision issued on March 23, 2017 following monitoring of the September 26, 2016 decision.



BACKGROUND

Monitoring by the Inspector General following delivery of his decision to rescind some rental contracts for tow trucks allocated to snow-removal operations allowed him to note that the targeted contractors engaged in fraudulent tactics to continue to obtain City contracts, despite the sanctions imposed.

In his first decision issued on September 26, 2016, the Inspector General concluded that Jean-Marc Lelièvre, president of *Remorquage Taz Inc.*, Steve Lenfesty, president of *Remorquage Mobile* and Real Tourigny, president of *Auto Cam 2000*, were involved in agreements of a collusive nature as part of several calls for tenders for tow trucks rental contracts during snow-removal operations. The investigation had then revealed that these contractors had divided some contracts between them and had submitted bids after communicating with each other, and with other contractors, to find out about their respective intentions regarding contracts under calls for tenders and the prices at which they wanted to bid.

The Inspector General had terminated the contracts obtained by these contractors which were still ongoing and had recommended they be excluded from any call for tenders and denied the possibility to conclude contracts by mutual agreement with the City for a period of five (5) years, in accordance with the provisions of the Contract Management Policy in effect at the time. On November 21, 2016, the City Council added Jean-Marc Lelièvre, Steve Lenfesty, Real Tourigny and their respective companies to the Register of people excluded from the City contractual processes, until September 25, 2021.

Monitoring by the Inspector General since then has revealed that companies who had never operated in the towing industry obtained a series of contracts from various boroughs, namely *Excavation Anjou inc.* (whose president is Yvan Dubé), *9499237 Canada inc.* (whose Chairman is Raymond Lizotte) and *Remorquage BL* (whose President is Brigitte Lévesque).

Evidence showed that these companies bid on calls for tenders 16-15650 and 16-15716, and that their respective agreements with Jean-Marc Lelièvre (*Remorquage Taz Inc.*), Steve Lenfesty (*Remorquage Mobile*) and Real Tourigny (*Auto Cam 2000*) were intended to allow the latter to continue to obtain City contracts, despite their exclusion. Worse still, these tactics allowed them to regain towing areas they had been granted and for which contracts had been rescinded following the Inspector General's decision of September 26, 2016.

“The actions taken by the contractors are a real affront to the Inspector General's decisions, but also to the measures put in place by the City.” -
Extract from the Decision



In the opinion of the Inspector General, the agreements made were truly fraudulent tactics aiming to hide the real identity of the people performing City contracts. The agreements were intended to allow contractors on the Register of persons excluded from the City contractual processes, under the Contract Management Policy, to continue their towing operations with the City through new companies, as if nothing had happened.

The Inspector General judged that the facts uncovered during the investigation justified, without a doubt, rescinding all the contracts awarded by the City to *Excavation Anjou Inc.*, 9499237 Canada Inc. and *Remorquage BL*, but also that these companies, as well as Yvan Dubé, Raymond Lizotte and Brigitte Lévesque and all related entities be excluded from any call for tenders and denied the possibility to conclude contracts by mutual agreement with the City for a period of five (5) years.

In addition, the Inspector General deplored the fact that the Contract Management Policy did not stipulate extra sanctions when a person already denied the possibility to conclude contracts with the City engages, during the exclusion period, in new tactics contrary to the policy's provisions. He thus recommended that the City undertake further review of the Contract Management Policy.



FOLLOW-UP

- The Inspector General's decision was not reversed by the decision-making bodies concerned, therefore termination of the contracts awarded to *Excavation Anjou Inc.*, 9499237 Canada Inc. and *Remorquage BL* took effect on the 46th day following the decision, pursuant to section 57.1.11 al. 3 of the *Charter of Ville de Montréal, metropolis of Québec*.
- Moreover, in accordance with the recommendation made by the Inspector General, *Excavation Anjou Inc.*, 9499237 Canada Inc. and *Remorquage BL*, as well as their respective presidents (Yvan Dubé, Raymond Lizotte and Brigitte Lévesque) were added to the Register of persons excluded from the City contractual processes for a period of five (5) years, preventing them from entering into a contract with the City until March 23, 2022.
- Also, exclusion periods for contractors covered by the Inspector General's first decision of September 26, 2016, initially valid until September 26, 2021, were extended until March 23, 2022.
- In its report submitted to the City Council and the Agglomeration Council, respectively on April 24 and 27, 2017, the Standing Committee on the Inspector General considers that the fraudulent practices described in the report are disturbing and [TRANSLATION] "convey the portrait of an industry where one makes little case of established rules and endeavours to bypass those in not overly subtle ways".

- Considering the facts exposed by the Inspector General were serious, the Committee is of the view that the Inspector General acted appropriately in deciding to rescind the contracts.
- For his part, the City Executive Committee, in response to the report of the Standing Committee on the Inspector General, agreed with the idea that a supplier contravening a second time to the Contract Management Policy be sanctioned again.
- Lastly, *Excavation Anjou Inc.* was added to the *Registre des entreprises non admissibles aux contrats publics* (RENA) on January 11, 2018, following a decision of the *Autorité des marchés financiers* (AMF). *Excavation Anjou Inc.* will therefore be unable to obtain a public contract or subcontract, or to continue an ongoing public contract from the moment of its addition to the RENA.

CLIENT'S INFORMATION OBLIGATION

Recommendation Report Concerning the Awarding of a Contract for the Supply of Vehicle Storage Batteries (Call for Tenders 15-14023 and 16-15500), filed in the City Council and the Agglomeration Council on September 25, 2017



BACKGROUND

The Inspector General's investigation revealed several serious breaches by City representatives when awarding the contract resulting from call for tenders 16-15500.

Indeed, the City's Procurement Department (*Service de l'approvisionnement de la Ville de Montréal*) launched an initial call for tenders (15-14023) on November 25, 2015, for which the lowest compliant bidder was Power Battery Sales Ltd. (East Penn), and as early as January 2016, the company was informed that it would be recommended as the winning bidder. However, after a conference call held in mid-April 2016, during which representatives of the requesting department indicated to the Procurement Department representatives that they had reservations about the technical specifications of the call for

tenders and the bid submitted by East Penn, it was unanimously decided to terminate call for tenders 15-14023 and to restart the bidding process.

Yet, the investigation showed that the Procurement Department did not cancel call for tenders 15-14023 and decided instead to launch in parallel a new call for tenders (16-15500), without informing East Penn. The company remained awaiting a contract pursuant to call for tenders 15-14023, and the Procurement Department led it to believe that the decision-making bodies would award the contract to the company, requesting, on two (2) occasions, an extension of its bid's validity period. Worse still, the company representative was misled and kept in the dark about the situation until November 4, 2016, and was only officially informed on December 12, 2016 that the decision-making bodies had decided to proceed with call for tenders 16-15500.

“a client may not allow itself to behave in such a manner by misleading bidders who have invested time, money and effort to develop a bid in response to a call for tenders”.
Extract from the Decision

In all, East Penn's bid, which was originally valid for a period of one hundred and twenty (120) days, to mid April 2016, was ultimately maintained for more than nine (9) months—to September 30, 2016—without the company ever being informed that the tendering process had been interrupted.

It appears that call for tenders 15-14023 had not been cancelled because it was deemed preferable to maintain the option of awarding the contract to East Penn in case the lowest price tendered in response to call for tenders 16-15500 was too high and did not suit the requesting department.



In the opinion of the Inspector General, the Procurement Department misled East Penn in its legitimate expectations, and it acted contrary to the most fundamental requirements of good faith and failed in its obligation to inform by not keeping the bidder apprised of major developments concerning the file, which permanently compromised awarding of the contract.

Considering that free rein could not be given to the contract stemming from call for tenders 16-15500, as the circumstances in which it was launched seriously undermined the integrity of tendering process 15-14023 and were not commensurate with the behaviour expected of a municipality, the Inspector General recommended termination of the contract and the launch of a new tendering process, although the winning bidder did not commit any reprehensible act.



FOLLOW-UP

- In its report submitted to the City Council and the Agglomeration Council, respectively on November 27 and 30, 2017, the Standing Committee on the Inspector General considers that this case is a [TRANSLATION] "painful example of a muddle where the City's interests and an honest bidder's legitimate rights have been violated" and, without a doubt, the administration will need to look seriously at this issue to prevent such a situation from happening again.

EVALUATION OF BIDS' CONFORMITY AND SELECTION COMMITTEES

Investigation on the winning bidder's compliance regarding a contract for the supply of self-contained breathing apparatus (SCBA) for Montréal Fire Department (*Service de sécurité incendie de Montréal* (SIM)) (Non-public file)



FACTS OF THE CASE

The Office of Inspector General examined the process of call for tenders 15-14691 for the purchase of self-contained breathing apparatus (SCBA) by Montréal Fire Department (*Service de sécurité incendie de Montréal* (SIM)). Some irregularities had been alleged regarding the tendering process.

It appears that the contract was awarded to a company whose submission should have been declared non-compliant, but to whom the selection committee granted a grace period to obtain the required certificates.

Specifications of call for tenders 15-14691 required the equipment offered by bidders to have some certifications attesting that they meet safety standards. Indeed, the call for tender covered the supply of SCBAs to be used by firefighters during their fire-fighting interventions.

Following questions submitted by lessees, an addendum was issued to require bidders to have obtained said certifications before the date of the selection committee's meeting. Specifically, the addendum stated that [TRANSLATION] "should a device be awaiting certification [...], certification must be obtained no later than the selection committee stage to be considered."

It is important to note here that a first call for tenders for the same purpose had to be cancelled in part due to the fact that none of the bidders had managed to obtain the certifications in time, and therefore, none was compliant with the tender documents. It is in this context that call for tenders 15-14691 was launched.

A total of three (3) companies submitted a bid. The company which scored the highest in the selection committee's evaluation, however, had not yet gotten the official document confirming that the certifications required in the specifications had indeed been obtained.

It appears that members of the selection committee allocated the company an additional two (2) weeks to receive proof of its certification; After this period, the bid would be declared non-compliant and the City would consider the bid with the second highest score. In fact, members of the selection committee relied on the letter sent by the company the day before their meeting, indicating that the tests had been completed and that the results should be known within the next two (2) weeks.

According to a SIM witness who met with the Office of Inspector General, receipt of the official certification was only a formality. However, verifications conducted by the Office show that, at the date of the selection committee's meeting, analysis of the tests on the product offered by the company was still not complete. Although the tests had been performed, certification had not been issued, nor was it confirmed that it would be.

Since the letter confirming certification of the company's product was obtained within the two (2)-week period, the contract was awarded to the company.



INTERVENTION OF THE INSPECTOR GENERAL

The investigation showed that the company's bid was not in compliance with the specifications, but that the selection committee chose to grant an additional delay, while the tender documents specified the certification had to have been received at the time of the selection committee's meeting. In doing so, the selection committee allocated a competitive advantage to the company, and one may ask whether other companies would have perhaps decided to bid if they had known that an extension would be granted to obtain the certification.

The Inspector General is of the view that the selection committee's decision could have compromised fairness of the bidding process, and that the City should have conducted more in-depth verifications and established more precisely in the tender documents the exact deadline for certification to be obtained, relating to a date rather than an event which date was not known (in this case, the selection committee's meeting).

The Inspector General wishes to emphasize that were it not for the extremely special circumstances surrounding the case, he would probably have rescinded the contract. Indeed, the situation that took place meets the first criterion of section 57.1.10 of the *Charter of Ville de Montréal, metropolis of Québec*; however, the second criterion - the opportunity to intervene - was not met.

The legislator provided a framework regarding the Inspector General's power to rescind an ongoing contract by stipulating for such to be in the presence of non-compliance with one of the tender documents' requirements, and by also imposing a balancing exercise to the Inspector General, who must be convinced that the severity of breaches observed justifies rescinding the contract.

The submission filed by the company did not meet a requirement of the tender documents. Nonetheless, if the Inspector General had terminated the contract awarded to the company, this would have represented a high risk in terms of public safety. Indeed, the Inspector General deems important to highlight the fact that the winning bidder did actually obtain the required certification within the additional two (2)-week delay it was granted. Regarding execution of the contract stemming from call for tenders 15-14691, the product supplied to the City therefore met the requirements of safety and certification. If this had not been the case, the Inspector General would then have used his power to rescind the contract.

At the end of the investigation, the Inspector General, accompanied by the Deputy Inspector General - Inspections and Investigations, as well as the investigator in the case, met with the SIM Director to present his findings.

**Investigation regarding partiality of a selection committee member
in the evaluation of bids received for “ecocentres”
management contracts (Non-public file)**



FACTS OF THE CASE

The Office of Inspector General conducted an investigation after receiving a denunciation from the Office of Auditor General of *Ville de Montréal* regarding the “ecocentres” management contracting processes. Among the aspects raised was the fact that the winning bidder for all the “ecocentres” sites was the same since 2011 and that a bidder was considered undesirable by some stakeholders at the Environment Department, which would compromise impartiality of bidders' evaluation.

The investigation revealed a serious issue regarding selection committees formed as part of call for tenders 14-14069 to award “ecocentres” management contracts. A Section Head of the Environment Department did, in fact, appropriate the role that ought to be fulfilled by the project manager. He took care of the selection committee entirely and admitted to have relieved the project manager of this responsibility. In addition to suggesting the committee members, the Section Head even served himself as a member. It is useful to recall that the [TRANSLATION] *Evaluation and Weighting Systems Reference Guide for Selection and Technical Committees* developed by the City Procurement Department states that a project manager must not sit on the selection committee of the call for tenders for which they are responsible to avoid any conflict of interest. The Section Head admitted to have been aware of the rules prescribing that it is for the project manager to form the selection committee and that they should not be entitled to be part of it.

Moreover, the investigation showed that the concern raised by the Office of Auditor General that this Section Head might be biased was well-founded. The other members of the selection committee confirmed that this Section Head had made negative comments against one bidder, indicating that they were not appreciated. These remarks were intended to discredit the company. In the end, the selection committee, in its assessment, declared the submission filed by this company to be non-compliant and granted all the contracts to another bidder.



INTERVENTION OF THE INSPECTOR GENERAL

The Inspector General was assured that the bids' evaluation process that took place was not affected by the Section Head's interventions. When questioned on this matter, the other members of the selection committee stated that their evaluation was not influenced by the comments made by the Section Head, and that the scores they attributed would have been the same without the attempts to discredit the company.

At the end of the investigation, the Inspector General thus transferred his findings with regard to the Section Head's actions to the Office of Comptroller General.

The Inspector General noted that the Office of Comptroller General of *Ville de Montréal* had already recommended to the Procurement Department to take the necessary measures so that the [TRANSLATION] *Evaluation and Weighting Systems Reference Guide for Selection and Technical Committees* would provide a clear definition of the function of "project manager", to avoid any confusion or interpretation when setting up a selection committee. To date, the Inspector General has been informed that the Procurement Department has already implemented steps to follow up on that recommendation.

**Investigation on the evaluation of administrative compliance
of the winning bidder of a contract for the supply of technological
support service (Non-public file)**



FACTS OF THE CASE

The Office of Inspector General received a denunciation about irregularities allegedly committed in awarding of the contract resulting from call for tenders 17-15845 for the provision - in view of the municipal election of November 2017 - of professional services in expertise and technological support (technological applications, geomatics and cartographic, etc.) necessary for the subdivision of the fifty-eight (58) electoral districts' territory. The denunciation alleged that the selection committee had declared a company's bid compliant when it did not have the number of years of experience required in the specifications.

In fact, the tender documents indicated, as a criterion of administrative compliance, that the bidder had to demonstrate a minimum of five (5) years of experience deemed relevant. However, witness statements revealed that the selection committee members had not based their rating of the experience criterion on the documents provided by the company in its 2017 bid, but rather on the basis of other criteria or considerations.

It appears that this company had already been awarded a contract for similar services in 2013 and that, in the call for tenders under investigation, the selection committee members decided to rely on contracts executed in the past to evaluate the criterion of relevant experience. They decided that, since in 2013 it was felt that the company had the required experience and was found to be compliant, it was not necessary to re-evaluate the company. Nevertheless, the submission filed by the company did not mention the experience required by the technical documents of call for tenders 17-15845.

Finally, the Office of Inspector General's investigation also highlighted the fact that the selection committee members had a very short time to analyze the bids submitted. The procurement officer in charge of the case sent them the analysis documents on the eve of the meeting and failed to pass on the instructions to guide them as to how evaluate the bids, on the pretext that they had already participated in selection committees.



INTERVENTION OF THE INSPECTOR GENERAL

Despite these findings, the Inspector General could not intervene in the case as the contract was completed by the end of the investigation.

In the opinion of the Inspector General, the criterion of [TRANSLATION] "experience deemed relevant" was worded broadly and opened to interpretation. It would be advisable that tender documents be clarified so that there is no ambiguity on the applicable criteria.

The Inspector General also considers that the Procurement Department of *Ville de Montréal* must ensure to provide selection committee members with clear instructions to help the qualitative evaluation of bids.

Furthermore, it should not be allowed for the same individuals to sit, year after year, on the selection committees of call for tenders that are repeated over time. This measure would prevent selection committee members from relying on their earlier evaluation of companies and ensure that they rather rely on the elements included in the bids received, out of fairness to the bidders in the decision-making process.

TENDER DOCUMENTS' SPECIFICATIONS AND FORECLOSURE EFFECT ON THE MARKET

Investigation on the requirements of a call for tenders for the Park Marcelle-Barthe redevelopment project (Non-public file)



FACTS OF THE CASE

The Office of Inspector General examined the requirements contained in the documents of call for tenders VMI-17-001 for professional services in landscape architecture for the redevelopment of the Park Marcelle-Barthe in the borough of Ville-Marie, to determine if they were too restrictive and had the effect of closing off the market.

Technical specifications provide for a two (2)-step evaluation of the offers: a qualitative evaluation of the bid according to a grid of pre-defined criteria, and for companies getting at least 70% in the qualitative evaluation, a weighting system of the score values according to the price bid.

In the bids' qualitative evaluation, 30% is attributed to the firm's experience and expertise in similar projects. A minimum of three (3) projects completed in the last five (5) years, comparable in nature and scope to the work is required. The firm is also required to have executed, in the last five (5) years, at least one (1) park development project for *Ville de Montréal*.

Another 30% is attributed to the expertise and experience of the project manager, who must have been admitted to the roll of the *Ordre des architectes du Québec* for at least ten (10) years.

Among the six (6) firms invited to bid, only two (2) filed a submission. Two (2) firms who did not bid indicated as a reason for withdrawal that the tender requirements were too high.

The investigation revealed that the person in charge of the project at *Ville de Montréal*, who set the requirements, had never done a call for tenders before and did not know how to proceed to draft the tender documents. It was even the first time that their Division was awarding a professional services contract, since previously, the borough of Ville-Marie provided all professional services in-house.



INTERVENTION OF THE INSPECTOR GENERAL

In the opinion of the Inspector General, the requirements for the firm and project manager's expertise and experience were not justified and were disproportionate to the budget and complexity of the work. It should be noted that the total budget for the redevelopment work's execution was \$ 400,000.

The situation, in addition to closing off the market, created a barrier to entry for any new firm seeking contracts.

The Office of Inspector General met with the Director of Public Works of the borough of Ville-Marie to raise awareness of the findings from this investigation. Despite the fact that the borough has decided to continue with the contracting process, the Director of Public Works undertook to form a working group with the boroughs of Plateau-Mont-Royal, Rosemont-La-Petite-Patrie and the Southwest to establish a formal guide including procedures to follow and specific criteria depending on the contract type, with the overall goal to ensure that the eligibility criteria and requirements are truly necessary and allow for market opening. To this date, the working group has not yet been created, but upon follow-up by the Office of Inspector General, the Director of Public Works of the borough of Ville-Marie indicated that working sessions would be taking place in the following weeks. The Inspector General will thus monitor this file in 2018 to ensure that this commitment is implemented.

Investigation on the administrative compliance of the only bidder in a call for tenders to acquire automated sanitary units (Non-public file)



FACTS OF THE CASE

The Office of Inspector General opened an investigation to verify the conformity of call for tenders 16-14122 process, regarding the award of a three (3) million dollars contract for the acquisition, delivery and installation of twelve (12) self-cleaning public toilets for the borough of Ville-Marie. The fact that one (1) company only submitted a bid in this process called into question market opening. In addition, some criteria in the tender documents might appear restrictive, such as the requirement of a five (5)-year guarantee period for the automated sanitary units' functioning, even after acts of vandalism.

Witness statements showed that *Ville de Montréal* had done its homework: it proceeded to do a market study before publication of the call for tenders, and the plans and specifications had been designed with a view to market opening. Indeed, when drafting the tender documents, the project manager ensured that the architect and engineering firms had considered the two (2) potential suppliers in their work, to open up the market and to allow each supplier to make a service offer. As well, the project manager produced an estimate of the costs associated with the acquisition of self-cleaning sanitary units on the basis of the bids received from a supplier in a similar project in the borough of Rosemont-La-Petite-Patrie and on information produced in another similar project, the one concerning Park Emilie-Gamelin (pilot project 2014).

The investigation revealed that the submission deadline was postponed twice and that the security bond initially required by the tender documents was revised downward.

It appears that the project cost was dependent on the technical and architectural requirements requested in the tender documents, which were intended to customize the project to the image of Montréal. These requirements made the cost for acquisition of self-cleaning sanitary units higher than the 'standard' unit value. However, this increase in costs had been taken into consideration by the project manager in his budget.

Despite these precautions, *Ville de Montréal* only had two (2) lessees, and only one (1) submission was filed in response to the call for tenders 16-14122.

Representatives of the two (2) lessees both agreed that the tender documents were open to the technologies offered by the companies, and confirmed that representatives of *Ville de Montréal*, including the project manager, contacted them in the year before the launch of the call for tenders, without involving them in the drafting or writing of the tender documents. The companies' representatives also reported that requirements for lighting and casing of the sanitary units had a significant impact on the value of the contract, but that their product was able to meet the City's requirements. Yet, it truly is the requirement of a five (5)-year guarantee on the automated sanitary units' functioning, even after acts of vandalism, that was a risk to consider for companies when submitting a bid. In fact, the lessee who did not present an offer said that, due to this clause, he had been advised by partners not to bid.

Another point revealed by the investigation was that the offer presented by the winning bidder was not compliant with some specifications. In fact, it appears that, following a first analysis, the Procurement Department of *Ville de Montréal* declared the offer compliant from an administrative standpoint. However, after the publication of an article in a Montreal daily newspaper, a review of the file took place and several administrative irregularities and technical elements of non-compliance were noted.

The Procurement Department then consulted the City Legal Department.

The article published in the Montreal daily newspaper alleged that an individual linked to the winning bidder had admitted to having produced false billing to be used for the payment of bribes. However, since the wrongdoing in question had occurred between 2007 and 2010, the City Legal Department indicated to the Procurement Department that the acts did not allow to preclude the company from the possibility of concluding a contract with the City. Indeed, the Contract Management Policy applicable then (now the Contract Management Regulation) allowed to exclude a company when the wrongful acts were committed after August 23, 2011.

With regard to the elements of non-compliance in the bid filed, the Legal Department indicated to the Procurement Department that, considering only one (1) offer had been received, one option available to them was to proceed with the contract award if a written commitment to respect the contractual requirements was obtained from the bidder **without price change**.

The Procurement Department received the company's commitment to comply with the tender documents' requirements and the contract was awarded to the single bidder.

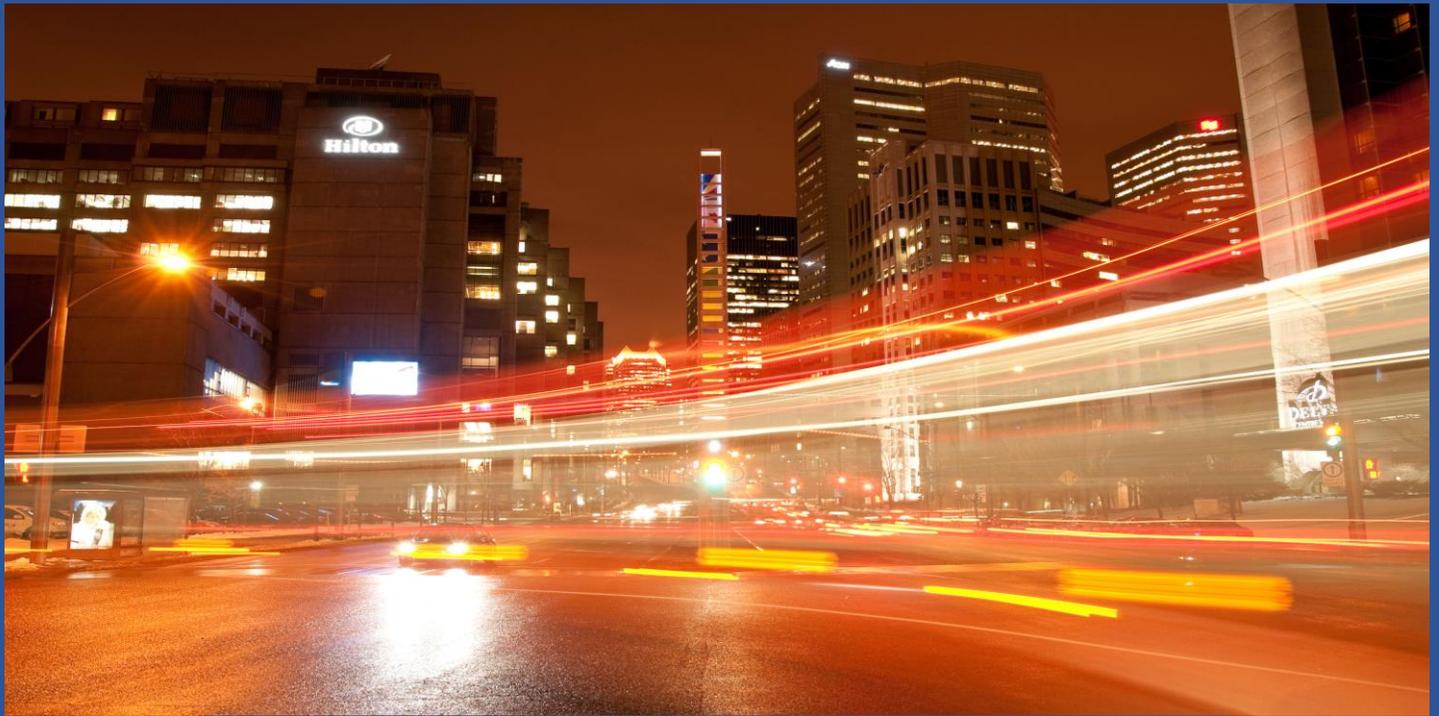
It is important to note that the decision-making summary prepared for presentation to the elected officials was transparent and referred to these facts. It follows, then, that the elected officials approved awarding of the contract arising from the tender 16-14122 in light of all the facts.



INTERVENTION OF THE INSPECTOR GENERAL

The Inspector General is of the view that the second analysis process regarding compliance was in accordance with the normative framework. Indeed, this was not a situation where the winning bidder executed a contract offering a product non-compliant with the tender documents' requirements. *Ville de Montréal* ensured that the elements of non-compliance in the bid were addressed so that, in the end, the contract was carried out in accordance with the tender documents. The bidder was forced to respect the requirements, without changing its price. Consequently, the winning bidder was not granted a competitive advantage compared to another contractor.





14. A FEW OBSERVATIONS OF THE INSPECTOR GENERAL

THE ISSUE OF LATE PAYMENTS AT THE CITY

In the 2016 Annual Report, the Inspector General had addressed the issue of late payments at the City. Considering the potential side effects of this situation, including the risk of foreclosure effect on the market and price inflation, the Inspector General had indicated that by falling behind on many payments with regard to goods and services suppliers, the City was putting itself at risk in its role as manager of public funds.

During 2017, the City took steps to tackle the problem. A project, piloted by the Finance Department in collaboration with the Procurement Department, was set up to ensure timeliness of payment to City suppliers. Digitization and automation of invoice processing was the chosen technological tool.

In addition to reducing delays in payment to suppliers, this tool allows to save time and manipulations for all stakeholders, facilitates and accelerates access to archived invoices, and centralizes invoices' reception, scanning and archiving.

The Inspector General will continue to monitor this file in 2018, and will examine the actual impacts and results of this pilot project.

COST INCREASE ASSOCIATED WITH SOME INDUSTRIES TARGETED BY THE INSPECTOR GENERAL'S INTERVENTION

The Inspector General of *Ville de Montréal* wishes to address another issue: the costs associated with his interventions.

Some have raised the fact that, following filing of reports and decisions of the Inspector General denouncing contractual practices, a cost increase has been observed in subsequent contracts. This is expected particularly in the areas of snow removal and towing, two (2) industries that have been covered by in-depth reports and decisions to rescind ongoing contracts.

The Inspector General is of the opinion that market stabilization is priceless, and that his interventions should not be reduced to costs incurred by the City in the short term, be that associated with the repeat of call for tenders' processes, possible delays on construction sites or prices tendered in subsequent contracts.

Under section 57.1.10 of the *Charter of Ville de Montréal, metropolis of Québec*, the Inspector General must be of the opinion that the breaches of contractual processes' requirements observed are serious enough to justify the cancellation, rescinding or suspension of a contract. This constitutes a balancing exercise prescribed by law, which the Inspector General takes seriously when evaluating the opportuneness to use his powers.

In this regard, the Inspector General's public interventions aim to denounce situations affecting competition, mismanagement of public funds, as well as cases of collusion between contractors, deceptive and fraudulent tactics used against the City, and bad contractual practices.

Following a public intervention of the Inspector General, several factors can lead to an increase in prices tendered by contractors, including sidelining some contractors via the Register of people excluded from the City contractual processes.

The Inspector General remains confident that, over time, strict compliance with contractual regulations, in particular those concerning integrity and probity, will facilitate new entrants on the City's territory, which will in turn generate more competition between contractors and open the market. The prices tendered will be more competitive.

The Inspector General believes that public market stabilization in the mid- and long-term will compensate for cost increase in the short-term. Indeed, it is important never to forget the circumstances which led to the creation of the Inspector General of *Ville de Montréal*. Besides, it is useful to remember that witnesses revealed during the Charbonneau Commission's public hearings that contractors' control of the market and collusion generated inflated tendered prices, that they considered to be about 30% higher. All of that is not to mention the impact that such collusive situations can have on citizens' confidence in their institutions and in City contractors.



15. PRIORITIES FOR 2018

– Insuring field presence –

Treatment of denunciations and investigations will always be the first priority of the Inspector General. It is thanks to a strong presence with City contractors through monitoring operations on construction sites and with City employees through training or business units' mentorship that the Inspector General is able to build trust in these relationships conducive to denunciations.

Presence in the field also allows the Office of Inspector General to inquire about situations that have not been denounced, and even to encourage different stakeholders to rigorously apply the City's contractual clauses.

– Issuing biannual reports –

Outside of the investigation files covered by specific recommendation reports or decisions, the Office of Inspector General conducts many interventions upstream or at the preliminary investigation stage, without issuing a specific report dedicated to them.

These files are presented in the Annual Report in a section detailing some interventions and analysis performed by the Office during the year.

With a view to provide a more timely public account of these files, the Office will examine as soon as 2018 the relevance of issuing a biannual report on the actions taken, rather than waiting for the Annual Report published by March 31, the next year. Therefore, this will be a capacity of the Inspector General which he can elect to use, if he considers it appropriate.

– Continuing the training program's roll-out –

In 2018, the Inspector General and his team will continue to provide training to elected officials and City employees, as well as to the para-municipal organizations under his jurisdiction, in order to help them recognize and prevent integrity and rules violations as part of contracts' award or execution.

The target audience in 2018 will be elected officials and their staff, City managers, executives and professionals, and boards of directors and representatives of para-municipal organizations.

In addition, five (5) training webisodes will be launched online in 2018.

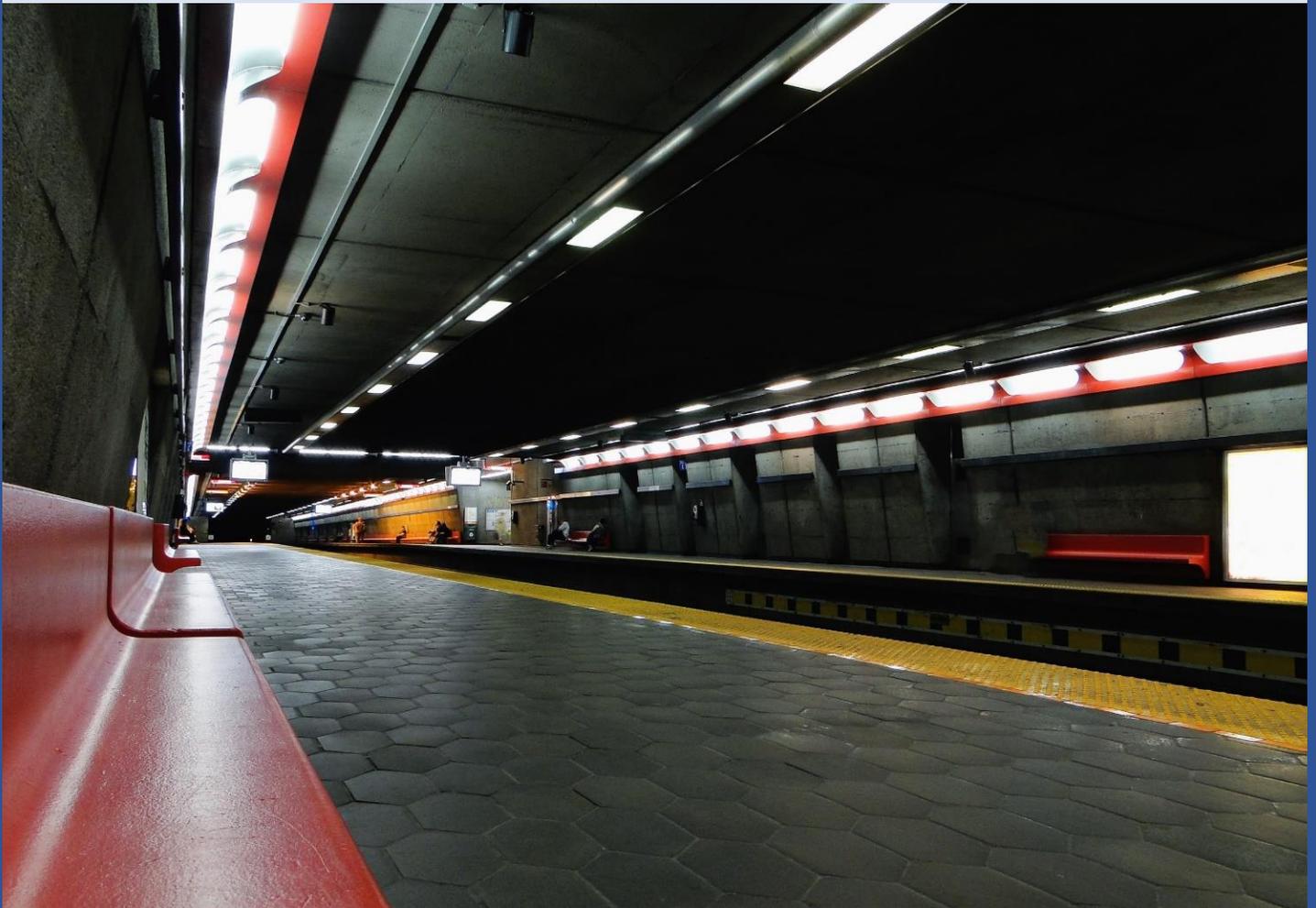
As previously mentioned, the demand for training was so important in the spring of 2018 that the Office of Inspector General had to double the number of sessions initially planned to accommodate participants who wished to attend. The Office already lists more than a thousand (1000) registrants to its training calendar.

– Adapting operational processes to coordinate with the AMP –

Lastly, 2018 will mark the establishment of the *Autorité des marchés publics* (AMP) and the start of its activities.

Due to the powers granted to the Inspector General of *Ville de Montréal* by the *Act to facilitate oversight of public bodies' contracts and to establish the Autorité des marchés publics* and the communications prescribed by the Act between the AMP and the Inspector General, certain mechanisms will be put in place within the Office of Inspector General of *Ville de Montréal* to meet this new law's provisions, including the time limits imposed concerning complaints' processing.

The Office of Inspector General will continue to fulfil its original mission, but will have to prepare for the entry into force of provisions creating new obligations.





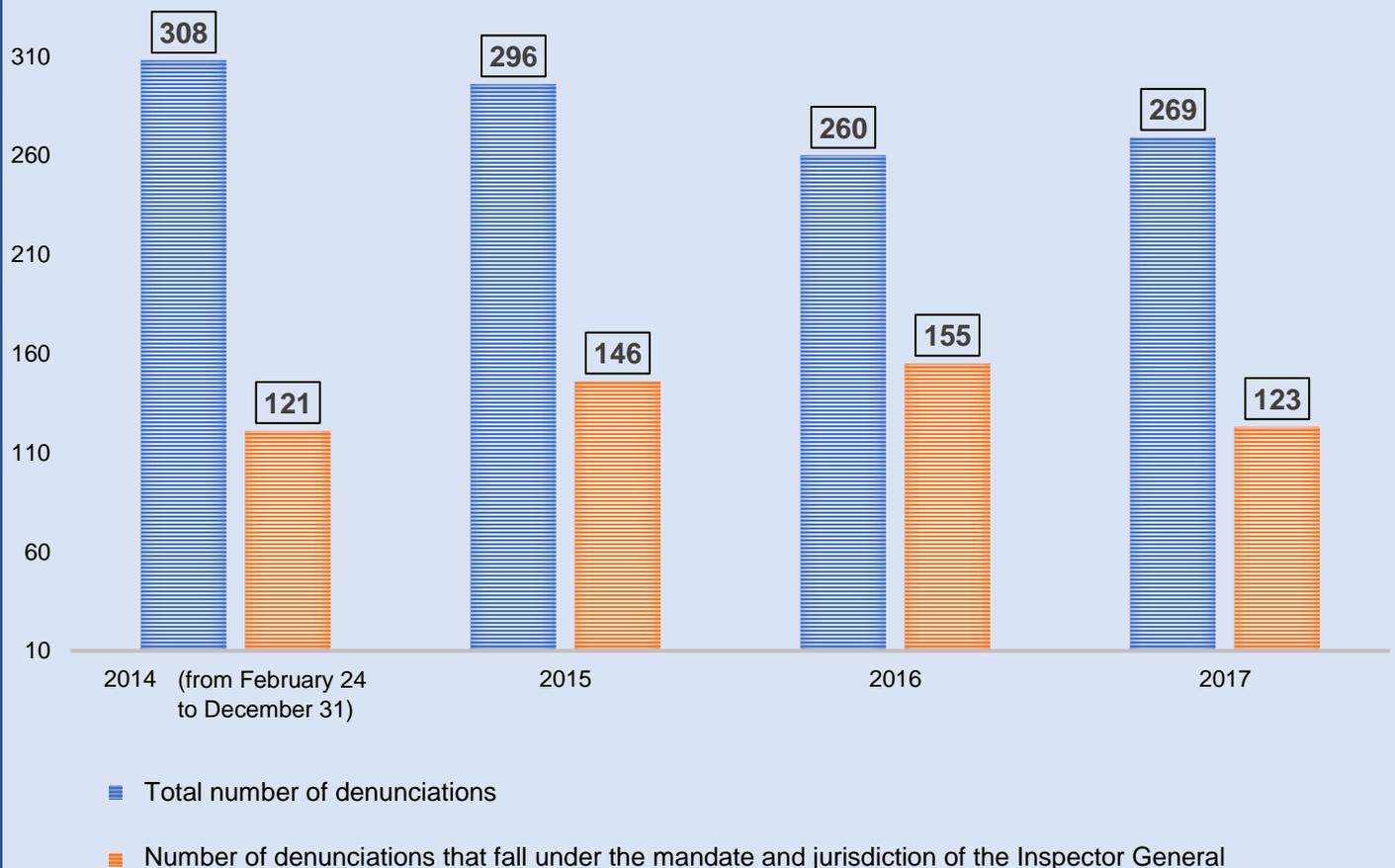
16. STATISTICS

– Statistics relating to the denunciations received –

From January 1 to December 31, 2017, the Office of Inspector General received two hundred sixty-nine (269) denunciations, a number equivalent to the previous year.

The following graph illustrates the evolution of the number of denunciations received annually since the creation of the Office of Inspector General. It is important to note that part of the denunciations received by the Inspector General fall outside of his mandate, as the City entrusted him with the management of the ethics hotline so as to become a single point of contact.

EVOLUTION OF THE NUMBER OF DENUNCIATIONS RECEIVED ANNUALLY SINCE THE CREATION OF THE OFFICE OF INSPECTOR GENERAL ON FEBRUARY 24, 2014



When a denunciation is received, a preliminary analysis is performed to determine whether it falls under the mandate and jurisdiction of the Inspector General. When a denunciation does not fall under the mandate or jurisdiction of the Inspector General, it is sent, with the person's consent, to the appropriate body or they are invited to contact the appropriate department or organization directly.

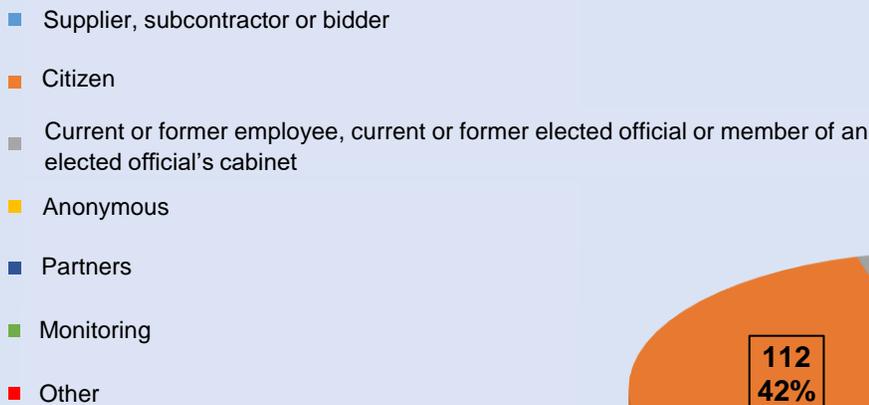
In 2017, eighty-eight (88) denunciations received by the Office of Inspector General were referred to another body. The following graph illustrates the breakdown of denunciations referred to other bodies. It should be noted that the data includes cases where the denunciator was invited to contract another department or organization directly. However, for these cases, the Inspector General is unable to confirm whether the denunciator effectively contacted the department or organization they were referred to.

DENUNCIATIONS REFERRED TO ANOTHER BODY

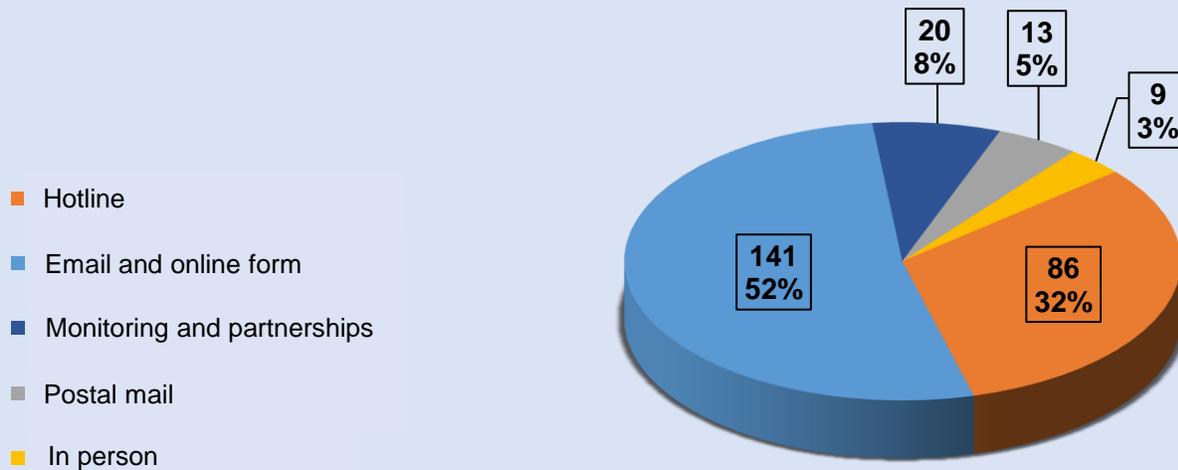


The following graphs provide more detailed statistics on the denunciations received in 2017, whether or not they fell under the mandate or jurisdiction of the Inspector General: They present the categories of people who made denunciations and the means used to communicate with the Inspector General.

DENUNCIATIONS BY SOURCE



DENUNCIATIONS BY POINT OF CONTACT



– Statistics relating to the investigation files –

The Inspector General may launch an investigation on his own initiative or in response to a denunciation received. When a denunciation falls under the mandate and jurisdiction of the Inspector General, an investigation file is opened.

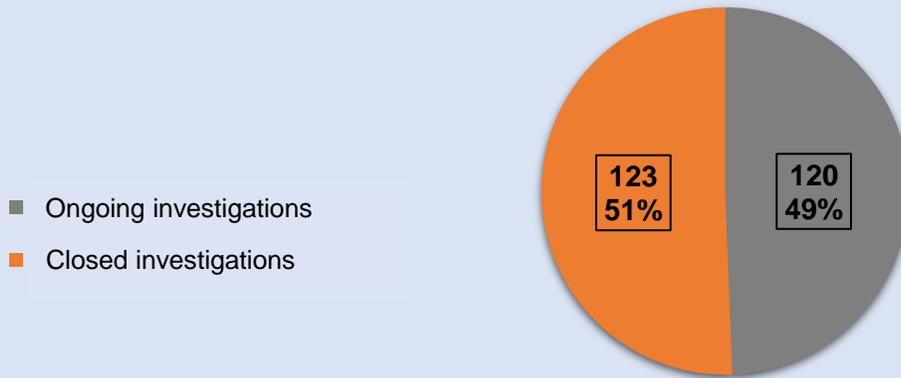
Through his investigations, the Inspector General is able to intervene in contractual processes.

All files undergo a rigorous analysis and investigative process involving many verifications and the corroboration of information.

In 2017, the Office of Inspector General opened one hundred twenty-three (123) investigation files and closed the same number of active files. Among the files closed, five (5) dated back to 2014, nineteen (19) to 2015, and thirty-four to 2016. Thus, only sixty-five (65) investigation files were opened and closed in 2017.

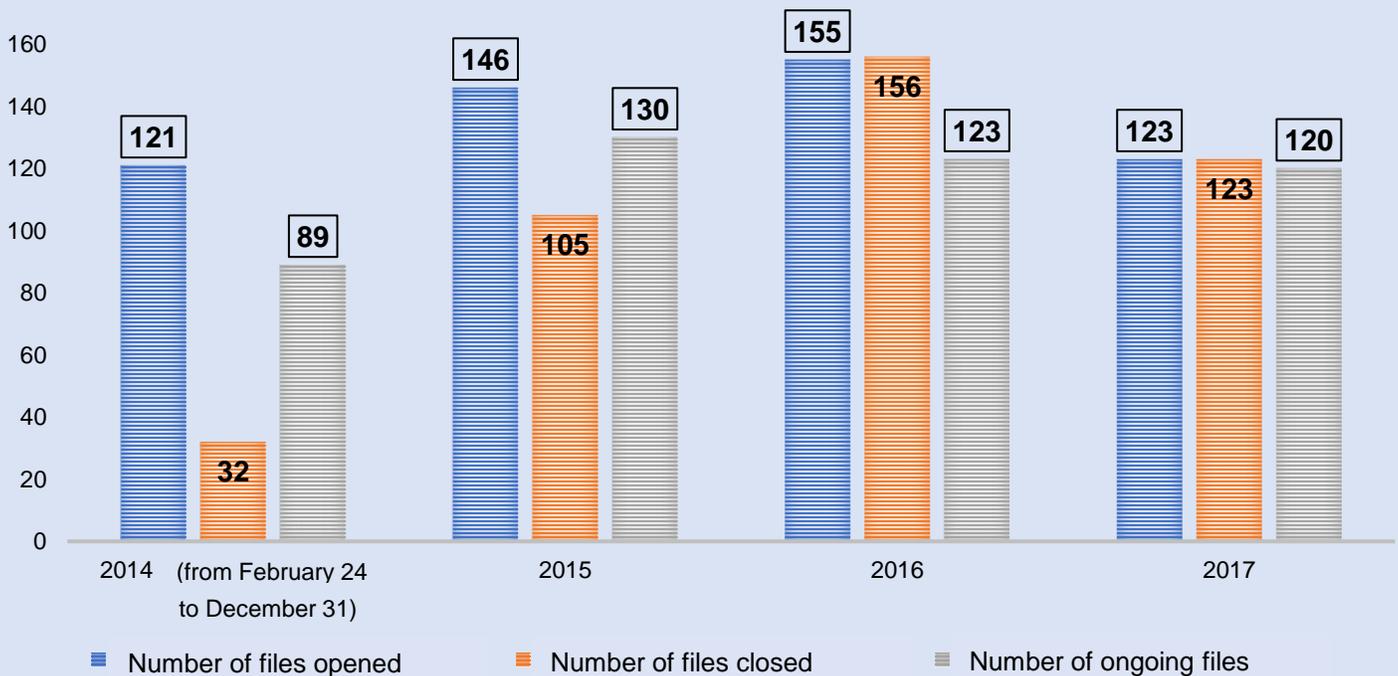
As of December 31, 2017, **one hundred twenty (120) files were still being investigated**, including fifteen (15) that had been opened in 2015 and forty-six in 2016.

CLOSED VERSUS ONGOING INVESTIGATIONS AS OF DECEMBER 31, 2017



The following graph illustrates the progress of the cases handled by the Office of Inspector General since its creation.

PROGRESS OF INVESTIGATION FILES HANDLED BY THE OFFICE OF INSPECTOR GENERAL SINCE ITS CREATION IN 2014

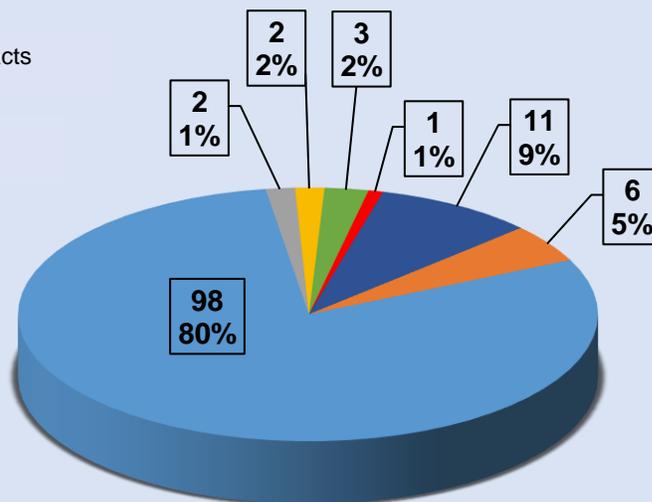


It is important to mention that a few investigation files opened under the mandate and jurisdiction of the Inspector General are eventually revealed to be non-pertinent to them. The denunciator is then invited to contact another service or organization.

The following graph provides details on the denunciations received which fell under the mandate and jurisdiction of the Inspector General. In other words, they represent the denunciations for which an investigation file was opened in 2017, according to the nature of the alleged breach.

TYPE OF BREACH ALLEGED IN DENUNCIATIONS FALLING UNDER THE MANDATE AND JURISDICTION OF THE INSPECTOR GENERAL

- Collusion, corruption or extortion
- Irregularity in the contracting process or the carrying out of contracts
- Irregularity in a staffing process or other human resources cases
- Breach of ethics or conflict of interest
- Mismanagement or violation of the applicable rules
- Zoning issues, irregularity in real estate management or the granting of permits
- Other miscellaneous cases



17. BUDGET AND ACCOUNTABILITY

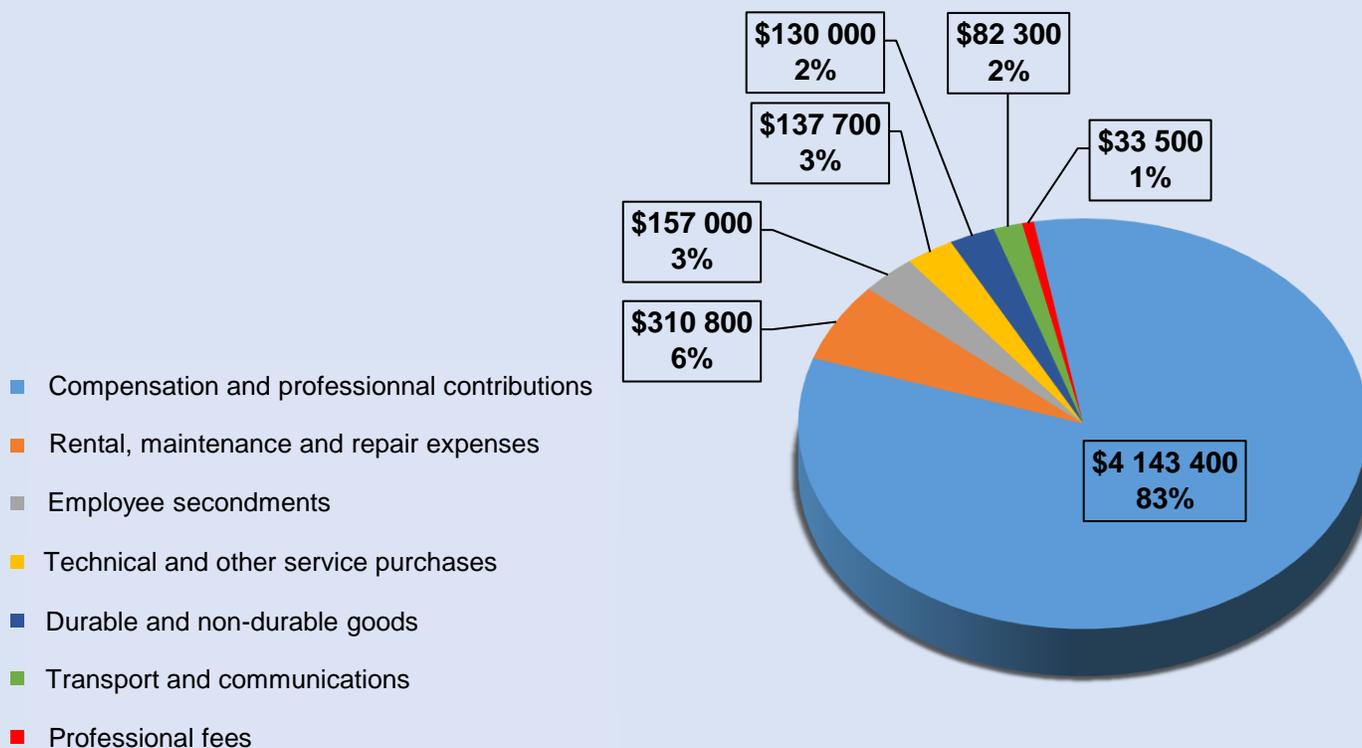
In 2017, the original budget of the Office of Inspector General of *Ville de Montréal* was five million six hundred and four thousand two hundred dollars (**\$5,604,200**). This budget consists of a fixed percentage (0.11%) of the City's total operating budget, plus additional funds of eighty-six thousand two hundred dollars (**\$86,200**) granted to fund the repatriation of IT equipment to ensure the security and confidentiality of investigations conducted by the Office of Inspector General.

Aware of the economic context in which he operates, the Inspector General spends public funds wisely and always makes sure to leave room for specific needs in terms of human or material resources, special investigations and/or to strengthen the structure. As a result, the Inspector General did not spend the entire budget allocated to him in 2017. An amount of six hundred and nine thousand five hundred dollars (**\$609,500**) was therefore not spent and was returned to the City surplus.

Operating Budget and Expenses for the Year Ended December 31, 2017 (in thousands of dollars)

ORIGINAL BUDGET	5,604.2
TOTAL EXPENDITURES	4,994.7
Compensation and employer contributions	4,143.4
Employee secondment	157.0
Rental, maintenance and repair expenses	310.8
Technical and other service purchases	137.7
• <i>Employee training fees</i>	50.0
• <i>Translation and other services</i>	40.0
Durable and non-durable goods, including:	130.0
• <i>Appropriations from the surplus - purchase of IT equipment</i>	30.2
• <i>Appropriations from the surplus - purchase of IT licences</i>	51.0
Professional fees	33.5
• <i>Appropriations from the surplus - Analyst's Note Book Training</i>	5.0
Transport and Communication	82.3
% VAR.	609,5
% VAR.	11.0

OPERATING EXPENSES OF THE INSPECTOR GENERAL IN 2017



CENTRAIDE / RED CROSS FUNDRAISING CAMPAIGN



Since its creation, the Office of Inspector General has participated in the City's fundraising campaign for Centraide of Greater Montréal and the Canadian Red Cross in Québec.

The Inspector General is proud to report that thanks to employee donations, the Office raised \$4,436.40, of which \$3,601.40 was given to Centraide of Greater Montréal and \$835 to the Canadian Red-Cross in Québec.

CONFIANCE • INTÉGRITÉ • TRANSPARENCE



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