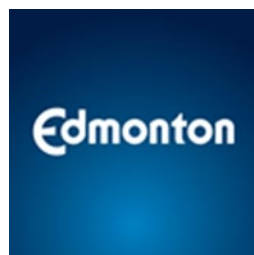




City of Edmonton Office of the City Auditor

Conflict of Interest Program Audit

December 6, 2019



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REPORT SUMMARY

Conflict of Interest Program Audit 2019

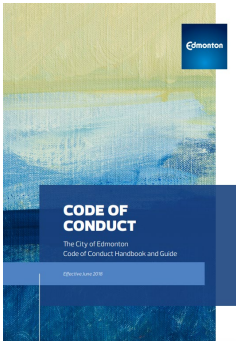
Governance Framework

The definition, principles, and roles and responsibilities in the Code of Conduct related to conflicts of interest need to be enhanced to provide additional processes and accountabilities to ensure conflicts of interests are understood, prevented, detected, and remediated appropriately.

Recommendation: Update the corporate conflict of interest governance framework.



Guiding Documents



Conflict of interest guidance is embedded in the Code of Conduct guiding documents. These documents do not provide clear guidance on how to manage the conflict of interest risks to which the City is vulnerable.

Recommendation: Develop clear guiding documents specific to conflict of interest that are tailored to the City's needs and risks.

Training and Communication

Conflict of interest training is included in Code of Conduct training. Current records show that 67% of City of Edmonton employees have completed mandatory Code of Conduct training. Conflict of interest information and tools are difficult to find.

Recommendations:

- Ensure all employees have completed the Code of Conduct training upon hiring.
- Provide on-going conflict of interest communication, and accessible information and tools.



Report Highlights

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Objectives

The audit had four objectives:

- 1. To determine if the City of Edmonton has a governance framework to manage conflict of interest.
- 2. To determine if the City of Edmonton provides clear guidance for employees when faced with potential, perceived, or actual conflict of interest.
- 3. To determine if the City of Edmonton’s conflict of interest guiding documents are clearly communicated to employees.
- 4. To determine if City of Edmonton employees are applying conflict of interest controls.

Scope

This is a corporate audit; therefore all City employees that report to the City Manager were in scope.

The Office of the City Auditor recently completed a project to assess the effectiveness of the City’s processes for fraud detection, allegation investigation, and corrective action. Since conflict of interest allegation investigations follow this process, we will not include the assessment of the investigation process in this audit.

Methodology

- We surveyed Deputy City Managers and Branch Managers. We received 30 responses out of the 45 surveys sent out (67% response rate).
- We reviewed the City’s conflict of interest guiding documents, researched best practices, and looked into conflict of interest programs in other municipalities and organizations.
- We met with employees from seven City branches. They provided us with their insights about the current conflict of interest program and opportunities for improvement.

Statement of Professional Practice

This project was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing.



Background

Introduction

According to City's Code of Conduct, conflict of interest arises whenever an employee's personal activities or professional activities conflict with work-related duties and negatively impact the best interests of the City. A conflict of interest may exist even if no improper acts result from it. Conflicts of interest **are not** considered violations of the City's Code of Conduct, as long as they are properly disclosed and managed.

A conflict of interest program includes a coordinated governance framework, clear guiding documents, and effective communication strategies to assist employees in the prevention, detection, and remediation of actual, perceived, and potential conflict of interest.

City employees hold significant public trust. Risks of conflict of interest exist in their line of work. It is therefore important for the City to periodically assess if an effective program is in place to properly manage conflict of interest.

Current State

The City's corporate conflict of interest program is embedded in its Code of Conduct program.

The Code of Conduct Program includes the following guiding documents:

- *Administrative Directive A1100C – Employee Code of Conduct*
- *The City of Edmonton Code of Conduct Handbook and Guide*

The *Employee Code of Conduct Administrative Directive* defines conflict of interest as:

A situation whenever an employee's personal or professional activities negatively impact the best interest of the City.

The City also has the following Administrative Directives and Procedures that relate to specific types of conflict of interest:

- *Administrative Directive A1465B - Procurement*
- *Administrative Procedure – Conflict of Interest of Employees Participating in City Procurements*
- *Administrative Procedure – Conflict of Interest after*

City Employment

- *Administrative Procedure – Conflict of Interest related to Members of Civic Agencies*

There are some branches within the City - such as the Employee Services Branch and the External and Intergovernmental Relations Branch - that also have their own informal process and procedures to manage conflicts of interest in their business areas.

Potential Vulnerability

Branch Managers felt their branches were the most vulnerable to the following three scenarios:

- An employee or a member of their family receives a fee, gift or other benefit from a person other than the City.
- An employee uses information or contacts acquired while working for the City to benefit themselves, or others, after they leave the City.
- An employee participates in a decision making process knowing that the decision might benefit themselves and/or a related person.



Governance Framework

Summary of Findings

“It needs a full program of education/training, disclosure.”

Deputy City Manager & Branch Manager Survey Comments

The City does not have a clear and coordinated governance framework to manage conflict of interest that includes:

- A clear definition of conflict of interest addressing potential, perceived, and actual conflict of interest.
- Principles for conflict of interest that are clearly distinguishable from those in the Code of Conduct.
- Clear corporate conflict of interest program roles and responsibilities.

Without an effective conflict of interest governance framework, the risk of unresolved or badly managed conflicts of interest can lead to fraud, misconduct, abuse of professional positions, or the perception of fraud, misconduct, or abuse. This could reduce citizen trust in the integrity of City employees.

Definition and Principles

“Make it simple to understand.”

“One clear standalone process, not buried in other conduct documents.”

“There should be a formal way to seek consistence guidance and a consistent manner of addressing actual conflicts so it is fair.”

Deputy City Manager & Branch Manager Survey Comments

A conflict of interest involves a potential, perceived, or actual conflict between employees’ duties and their private interest.

The City’s definition of conflict of interest is not clear, in that it does not help employees to identify **potential**, **perceived**, and **actual** conflict of interest.

The principles that define the expected behavior from City employees are very broad and are not specific to conflict of interest. However, they include some areas relating to conflict of interest such as personal gain, benefit, or favouritism, and gifts and gratuities. As well, the Code of Conduct booklet provides some examples of conflict of interest.

As the Code of Conduct does not cover all situations, it is hard for employees to identify whether a situation is a potential or actual conflict of interest or could be perceived as one. Without clear linkages to conflict of interest principles, it creates confusion when employees have to assess whether they are in a conflict of interest situation. Consequently, it impacts an employee’s ability to make the appropriate decision on how to manage the potential or perceived conflict of interest.



Leading Practice

Definition of conflict of interest by Government of Canada:

A situation in which the public servant has private interests that could improperly influence the performance of his or her official duties and responsibilities or in which the public servant uses his or her office for personal gain.

*A **real** conflict of interest exists at the present time;*

*An **apparent** conflict of interest could be perceived by a reasonable observer to exist, whether or not it is the case; and*

*A **potential** conflict of interest could reasonably be foreseen to exist in the future.*

Program Roles and Responsibilities

Roles and responsibilities should be clearly defined in relation to the following components of the conflict of interest program:

- **Corporate Program Owner(s)** – These are the people who make the final decisions about the administration, investigation, interpretation, and application of the program. **There is no formal corporate program owner for conflict of interest.** Each business area manages the piece that is relevant to them. For example, the Corporate Procurement and Supply Services Branch (CPSS) manages conflict of interest related to procurement. The Talent Management and Support Services Branch manages conflict of interest related to hiring.
- **Oversight Structure** – This is the accountability structure to ensure the program is achieving the defined outcome. **Currently, the oversight structure at the corporate level for conflict of interest is not clear.** The Code of Conduct indicates that the oversight responsibilities are shared amongst Employee Services, the City Auditor, and the City Manager. However, CPSS has developed an oversight structure specifically for procurement processes, where the Procurement Conflict of Interest Advisory Group provides recommendations and the Branch Manager of CPSS will make the final decision.

"Annual reporting to management."

"Identification of conflicts that should be monitored at a higher level. "

Deputy City Manager & Branch Manager Survey Comments

- **Reporting Structure** – This is the structure for management to report on alleged conflicts of interest in their business areas. This allows program owners to analyze the types of conflict of interest risks each business area is most vulnerable to. It also helps the program owners to identify areas for improvement. **Management is currently not following the reporting process included in the Code of Conduct Administrative Directive.**
- **Guiding Document Updates** – Clear responsibility for updating guiding documents ensures ongoing reviews are in place, and information is up-to-date and relevant. It also ensures information in different guiding documents is consistent. **The City has not updated the Code of Conduct Administrative Directive since 2002. Information such as the department names and titles are outdated.** CPSS developed conflict of interest guiding documents relating to the procurement processes. However, the new documents have information that is not consistent with the information in the Code of Conduct guiding documents.
- **Program Evaluation** – This helps management to identify areas of the program that are working well and to identify areas for improvement. **The City does not have a clearly defined role to assess the current conflict of interest program.**

Clearly defining conflict of interest program roles and responsibilities at the corporate level will ensure that all areas of the City are using consistent definitions, principles, processes and procedures relating to conflict of interest. It also helps employees to follow the proper processes and procedures when managing conflict of interest situations. As well, it assists management with evaluation of the conflict of interest program.

Recommendation 1

Update the conflict of interest program governance framework.

Recommendation

Update the conflict of interest program governance framework to include:

- A definition of conflict of interest and the related principles that help employees identify potential, perceived, and actual conflicts of interest.
- Clearly defined roles and responsibilities to ensure conflicts of interest are prevented, detected, and remediated appropriately.



Responsible Party

City Solicitor, Law Branch and Branch Manager, Employee Relations and Compensation



Accepted by Management

Management Response

Administration will appoint and communicate the name of a Code of Conduct/Conflict of Interest Specialist to oversee management of the Program, which will include:

Updating the Program documents regularly, including the definition of conflict of interest to help employees identify potential, perceived, and actual conflicts of interest

Leading the Code of Conduct/Conflict of Interest Advisory team to assess the City's needs and risks to guide ongoing evolution of and improvements to the Program

Centralizing components of the Program, including: monitoring, tracking and reporting to the Executive Leadership Team on code of conduct and conflict of interest complaints and issues

Evaluating the effectiveness of the Program and regularly reporting this to the Executive Leadership Team

Creating a matrix to identify the lead to investigate (i.e. Employee Services, Safety, etc.) code of conduct or conflict of interest issues.

While the final implementation date is one year out, work began in November 2019 and will be sequenced throughout 2020. The final implementation date reflects the completion of the revisions to the Code of Conduct/Conflict of Interest Program as a whole.



Implementation by:

February 28, 2021



Guiding Documents

Summary of Findings

Conflict of interest guiding documents should provide guidance for employees when faced with potential, perceived, and actual conflict of interest. They should establish expectations for ethical behaviour and provide rules, procedures and guidance for identifying, disclosing, managing, and resolving conflicts of interest. They should also be clear, easy to follow, and tailored to the City's needs and risks.

At this time we found that:

- The City does not have a formal process and guidelines in place to facilitate the conflict of interest risk assessment process.
- The Code of Conduct guiding documents do not provide clear and easy to follow guidance when employees are faced with a conflict of interest situation.

There are three guiding documents to address conflict of interest risks in the procurement process; however, there are no guiding documents that are tailored to the specific needs and risks of other business areas or activities.

Without clear guidance and processes, it is difficult for employees and supervisors to identify, disclose, and manage conflicts of interest consistently.

Risk Assessment

Branch Manager Survey Result

About half of branch managers that completed survey perform conflict of interest risk assessment.

The frequencies for those who performed the risk assessment varied from one time to ongoing.

The City does not have a formal guideline in place to ensure business areas are assessing conflict of interest risks on an ongoing basis. Since a formal corporate risk assessment guideline is not in place, management does not identify, assess, or monitor conflict of interest risks consistently.

A formal conflict of interest risk assessment evaluates the City's vulnerability to different types of conflict of interest risks. It helps the City to identify which business areas or business activities are most vulnerable to conflicts of interest. It is also a proactive tool for management to recognize the main causes of conflict of interest risks, and take the necessary actions to resolve them.

Without a formal assessment of conflict of interest risks, management might not be aware of all the conflict of interest risks to which the City is vulnerable. This impacts the City's ability to allocate sufficient resources to manage those risks.



Leading Practice

Conflict of Interest Risk Assessment Framework according to Association of Certified Fraud Examiners:

1. Identify the risks
2. Evaluate and prioritize the risks
3. Identify and evaluate existing controls
4. Respond to the risk

Clarity

"A start to finish process with steps to disclose, templates, FAQs, best practices, etc."

"Better information on process to address with offending staff; reporting and expected record-keeping."

"Provide additional resources and situational awareness guidelines to help employees understand Conflict of Interest and how to act in those situations."

"Ensure we have a solid, clear process to follow and resources to help work through situations as they arise."

Deputy City Manager & Branch Manager Survey Comments

The Code of Conduct is the primary guiding document City employees follow when faced with a conflict of interest. However, the Code of Conduct is general and does not provide sufficient detailed procedures for employees regarding a conflict of interest.

We compared the City's practices to best practices suggested by the Association of Certified Fraud Examiners and found the following gaps:

- **The duties and responsibilities** for each business activity are not clear and are outdated. The information is also only at the corporate level. Only the procurement process has detailed duties and responsibilities relating to conflict of interest.
- The **disclosure procedures** do not include to whom employees should disclose, how they should disclose conflicts of interest, what information they should include in the disclosure, and who should keep the records.
- There are no detailed **conflict of interest management procedures** that address how employees should manage conflicts, including resolving or addressing disclosed conflicts. There is no guidance on when to avoid, reduce, manage, or accept the conflict of interest risks. There are also no

recordkeeping obligations. Therefore, due to a lack of documentation, we were unable to determine if City employees are disclosing conflict of interest situations and applying conflict of interest controls consistently.

- The **guidelines for identifying conflicts of interest** do not provide sufficient information for assessing whether a situation is a potential or perceived conflict.

Conflict of interest guiding documents establish rules and educate employees. They also demonstrate the City's commitment to ethical behaviour. A good guiding document is simple, consistent, and easy to use. It should provide clear guidance to employees on what to do when they are facing potential, perceived, and actual conflicts of interest.

Without clear guiding documents, employees may not be aware of the appropriate processes and procedures to follow when faced with potential, perceived, and actual conflicts of interest. This includes appropriate disclosure and conflict management processes.

Branch Manager Survey Result

About half of branch managers believe the guiding documents are clear.

Recommendation 2

Develop clear guiding documents tailored to needs and risks.

Recommendation

Provide clear guidance for employees when faced with actual, perceived, or potential conflicts of interest by developing conflict of interest guiding documents that are tailored to the City's needs and risks.



Responsible Party

City Solicitor, Law Branch and Branch Manager, Employee Relations and Compensation



Accepted by Management

Management Response

Administration will conduct a risk assessment to ensure appropriate content in the Program documents to address City needs and risks. As well, to use the risk assessment to set the frequency of training on conflict of interest by department. The Code of Conduct, handbook/guidelines, related administrative

directives and training materials will be updated to reflect greater clarity and guidance in relation to perceived, potential and/or actual conflicts of interest and the processes to use to disclose and manage conflicts of interest. Although some departments are using various conflict of interest training and disclosure documents, Administration will coordinate a consistent set of documents to ensure all employees receive consistent information on conflict of interest.

Administration will complete a risk assessment on each branch to ensure the appropriate training requirements are implemented. This work began in November of 2019.



Implementation by:

January 31, 2021



Training and Communication

Summary of Findings

"In person training. Have someone available to staff to talk to confidentially about potential conflicts."

"Information training sessions regularly to increase awareness."

"Make information on the City's conflict of interest program easier to find."

Deputy City Manager & Branch Manager Survey Comments

Educating employees about conflicts of interest is a significant component in building an ethical culture. It can make employees aware of conflicts of interest in their day-to-day activities, and teach them how to identify, disclose, and resolve conflicts of interest in a consistent manner.

The City communicates conflict of interest expectations to employees through:

- Mandatory Code of Conduct training when the employee starts working for the City.
- Online videos providing guidance and recommended actions in certain situations.
- The Code of Conduct handbook providing some detailed information and guidance to employees. It includes examples, questions & answers, etc.
- The City's website providing information on conflict of interest procedures related to procurement.

However:

- Training records shows that 67% of City of Edmonton employees have completed the mandatory Code of Conduct course. There is no process to ensure all employees have taken the mandatory training. Therefore, management is unsure if this percentage is due to incomplete training records or if 33% of employees have not taken the mandatory Code of Conduct training.
- There is no mandatory refresher training required for long term employees unless they move into a supervisory role. Therefore, employees are not regularly reminded of conflict of interest processes and procedures.
- Conflict of interest guiding documents and tools are not easily accessible. When searching for "conflict of interest" on the City's internal website, results are limited. There is no central location where employees can easily search for disclosure and approval processes, procedures and forms, etc. Without easily accessible information on conflicts of interest, it can

create a barrier for employees to voluntarily disclose a conflict of interest.

Training and communication are tools to share conflict of interest information and bring awareness to employees.

The City is a large and complex organization with different business areas and activities. Without a strategic approach to training, the City might not bring conflict of interest awareness to all employees efficiently, effectively, and continuously.

Communication brings transparency to conflict of interest practices. When information and tools are difficult to locate, employees seeking assistance may get frustrated and not follow the proper processes and procedures. Awareness of the City's expectations when managing conflicts of interest can help employees prevent violations.



Leading Practice

Key Attributes of Conflict of Interest Training according to Association of Certified Fraud Examiners:

1. Ongoing
2. Tailored
3. User friendly
4. Based on the realities of the organization

Recommendation 3

Ensure all employees have completed the Code of Conduct training.

Recommendation

Ensure that employees have completed the Code of Conduct training by keeping accurate training records and implementing a process to monitor Code of Conduct training course completion.



Responsible Party

Branch Manager, Organizational Design and Development, Employee Services



Accepted by Management

Recommendation 4

Provide ongoing conflict of interest communication and easily accessible information and tools.

Management Response

Currently, several areas across departments (particularly, larger, front-line areas) deliver, monitor and track Code of Conduct training for their employees. Organizational Design and Development has contacted areas to gather their records and upload them into the Learning Management System (LMS), so that numbers can be tracked and monitored corporately. To date, both Edmonton Transit Service and Fire Rescue Services branches have submitted their records, which have been uploaded into the LMS. Both sets of records contained approximately 1,000 employees, which would increase the organization's overall completion rate to approximately 70 percent.

Organizational Design and Development will continue to work with departments to ensure current records are complete and create processes for the ongoing monitoring and centralized tracking of Code of Conduct training completion as new employees join the City.



Implementation by:

March 31, 2020

Recommendation

Ensure that employees are aware of their responsibilities in managing conflict of interest risks by providing ongoing communication and easily accessible information and tools.



Responsible Party

City Solicitor, Law Branch and Branch Manager,
Employee Relations and Compensation



Accepted by Management

Management Response

Currently the Code of Conduct is available to all employees on OneCity. Additionally, some specific tools, such as the Toolkit of resources available to managers and supervisors are available on OneCity. This Toolkit provides online Code of Conduct Training for Supervisors. As well, a number of videos (Theft & Fraud; Conflict of Interest & Misuse of City Information; Gifts & Gratuities, etc.), that highlight different types of code of conduct violations and conflicts of interest are available to all employees on OneCity.

Administration will use various means to communicate regularly with employees about the tools and their responsibilities and processes to manage conflicts of interest (email, OneCity, and offline communication methods to reach employees who work in the field). Administration will ensure this material is easily accessible to employees.

Administration will use a risk based approach to ensure existing employees receive appropriate training. Additionally, Administration will ensure all new employees receive appropriate training.

Although some departments are using various conflict of interest training and disclosure documents, Administration will coordinate a set of City-level governance documents to ensure all employees receive consistent information on conflict of interest.



Implementation by:

March 31, 2020



Conclusion

What did we find?

The City has a conflict of interest governance framework, but improvements are required to distinguish it from the Code of Conduct program.

The City does not provide clear guidance on conflict of interest to employees.

The conflict of interest guiding documents are not clearly communicated to employees.

The objectives of this audit were to review the City's conflict of interest program and assess:

1. If the City has a governance framework to manage conflict of interest;
2. If the City provides clear guidance to employees;
3. If conflict of interest guiding documents are clearly communicated to employees; and
4. If employees are applying conflict of interest controls.

The conflict of interest program is embedded in the City's Code of Conduct. The current guiding documents for the Code of Conduct Program are outdated. The definition for conflict of interest does not align to leading practice. The principles, roles, and responsibilities specific to the conflict of interest program are unclear. This impacts the City's ability to manage conflicts of interest effectively and efficiently. We recommend the City review and update the governance framework for the conflict of interest program.

Current guiding documents do not address all the types of conflict of interest risks City employees face during their day-to-day work. Disclosure and conflict management procedures should be more specific to the types of the conflicts of interest employees are likely to encounter, and clearer for employees to follow. This impacts the employee's ability to identify conflict of interest, as well as their ability to follow appropriate procedures when faced with potential, perceived, and actual conflicts of interest. We recommend the City develops clear guiding documents that are tailored to City's needs and risks.

Conflict of interest training is a part of the Code of Conduct training. It is a mandatory training only when employees are first hired or at the time of promotion to a supervisory role. There is no refresher training required. Current records show that 67% of City employees have completed mandatory Code of Conduct training.

Conflict of interest information and tools are difficult to find on the City's website. This impacts the City's ability to bring conflict of interest awareness to employees. We recommend the City ensures all employees have completed the Code of

Conduct training and have access to on-going conflict of interest communication.

Conflict of interest records are not kept consistently, so we could not determine if employees are applying controls.

The current disclosure and record keeping requirements are not clear. Therefore, due to a lack of documentation, we were unable to determine if City employees are disclosing conflict of interest situations and applying conflict of interest controls consistently.

We would like to thank the employees, supervisors, and managers for their cooperation and support during this audit.