



## Action Required

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Date: February 15, 2018

To: TTC Audit & Risk Management Committee

From: Auditor General

Subject: Auditor General's Report: Review of Toronto Transit Commission Procurement Policies and Practices: A Case Study to Improve Future Wheel-Trans Accessible Taxi Services Procurement

The report is being forwarded to the TTC Audit and Risk Management Committee for review and consideration, and forwarding to the next TTC Board meeting.

**Original signed by Chrisanne Finnerty for**

Head of Commission Services

Attachment: Auditor General's Report: Review of Toronto Transit Commission Procurement Policies and Practices: A Case Study to Improve Future Wheel-Trans Accessible Taxi Services Procurement

**AUDIT  
AT A GLANCE****WHY THIS AUDIT MATTERS**

TTC's Wheel-Trans provides specialized accessible transit services to persons with mobility difficulties. Contracted accessible taxis provide more than 40% of all Wheel-Trans service. The average annual contract costs for accessible taxi services was about \$31.5M. The current accessible taxi contract expires in 2019. This audit identifies lessons learned from the last procurement process, and areas that can be improved upon for the upcoming procurement process.

**BACKGROUND**

In January 2014, the TTC Board approved the award of a five-year contract for accessible taxi service to four taxi brokerages (contractors), scheduled to begin on July 6, 2014. The contractors were required to pay drivers a minimum rate of \$2.5/km in 2014, with yearly increases. Two days before the start of the contract, contractors advised TTC staff that a large contingency of their drivers gave notice that they would not report for work. Shortly after the contract began, the Board voted to add HST to the minimum driver rate, equivalent to an additional \$0.33/km. In 2015, the TTC Audit Committee requested the Auditor General to review the contract change decision and comment on its financial impact and possible implications for future TTC procurement processes.

**BY THE NUMBERS**

- \$3.4M: annual cost to TTC due to minimum driver rate amendment
- \$82,183 - \$119,539: estimated range in driver annual gross income at the amended rate

***Review of Toronto Transit Commission Procurement Policies and Practices: A Case Study to Improve Future Wheel-Trans Accessible Taxi Services Procurement***

**The focus of this review was to identify lessons learned that can help improve future Wheel-Trans accessible taxi services procurement.**

**What We Found****Financial impact of rate amendment**

The Board's decision to add HST to the minimum driver rate means drivers would receive a fixed increase of \$0.33/km. Based on the contract administration data for the first three years (July 2014 to July 2017), we project that this will result in \$16.8 million of additional cost over the five-year contract, averaging \$3.4 million a year.

**TTC Board decision post-award**

According to TTC and City legal staff we consulted, the TTC Board's decision to amend the minimum driver rate after awarding the contracts was within its jurisdiction. However, both TTC staff and the Fairness Commissioner for the last contract procurement process raised some concerns about the transparency and fairness of the procurement process.

**Competitive bidding**

The stipulation of a minimum driver rate does not allow for a completely competitive process, even though TTC staff had good intentions in setting this rate. In attempting to protect driver compensation in order to ensure service quality, the TTC inserted itself into a role that is normally between the contractors and the drivers. In preparing for the next procurement process, TTC staff should explore the alternative options suggested by the Fairness Commissioner and other strategies that maintain quality of services without needing to stipulate a minimum driver rate.

**Other improvement opportunities**

- Ensuring the financial estimates are accurate and complete in determining whether driver income is reasonable
- Thoroughly reviewing the draft call document to minimize confusion and changes during the bidding process
- Involving finance and risk management staff to review the accuracy of breach of contract provisions and other procurement requirements

**How Recommendations will Benefit the City**

The implementation of the four recommendations in this report will help improve the upcoming procurement process and maintain the stability and quality of accessible taxi services, while allowing for a fully competitive procurement process.

## **Review of Toronto Transit Commission Procurement Policies and Practices: A Case Study to Improve Future Wheel-Trans Accessible Taxi Services Procurement**

**Date:** January 31, 2018

**To:** Toronto Transit Commission Audit and Risk Management Committee

**From:** Auditor General

**Wards:** All

### **SUMMARY**

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The Toronto Transit Commission's (TTC) Wheel-Trans provides specialized accessible transit services to persons with mobility difficulties. Specifically, more than 40 per cent of all Wheel-Trans services is provided by contracted accessible taxis.

On January 28, 2014 the TTC Board approved the award of a five-year contract for accessible taxi service to four contractors, scheduled to begin on July 6, 2014. The contract required the contractors to pay drivers a minimum rate of \$2.5 per kilometre. Two days before the start of the contract, contractors advised TTC staff that a large contingency of their drivers gave notice that they would not report for work. Shortly after the contract began, the Board, at its meeting on August 19, 2014, voted to amend the contracts by adding HST to the minimum driver rate, equivalent to an additional \$0.33 per kilometre.

In 2015, the TTC Audit Committee requested the Auditor General to review the contract change decision and provide comments and recommendations on the value for money issues raised by the Board's decision, and the implications for future TTC procurement processes.

The objective of this review was to identify lessons learned that can help improve future Wheel-Trans accessible taxi services procurement.

A key issue in the last procurement process was the stipulation of a minimum driver rate by the TTC. We recognize the intent of this was to balance service quality to customers, fairness to drivers, and fiscal responsibility to taxpayers. However, stipulating a minimum driver rate does not allow for fully competitive bidding, which is a cornerstone of a fair and transparent procurement process. Furthermore, the addition of HST to the minimum driver rate will likely increase the TTC's cost by \$16.8 million over the five-year period, or \$3.4 million annually.

As the current accessible taxi contracts will expire in July 2019, a new call document will be issued in 2018 to continue the contracted services beyond 2019. In our view, in preparing for the upcoming accessible taxi services procurement process, TTC staff should review the necessity of stipulating a minimum driver rate and explore strategies that will maintain service quality and ensure a competitive bidding process.

We also identified areas where the quality of the call document could have been improved with additional review and consultation with subject matter experts during the planning and final review stages.

## **RECOMMENDATIONS**

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The Auditor General recommends that:

1. The Board request the Chief Executive Officer, Toronto Transit Commission, to review the necessity and the risks associated with stipulating a minimum driver rate in the upcoming accessible taxi services procurement. Financial, operational, legal and procurement risks should be considered, in consultation with legal and procurement experts.
2. The Board request the Chief Executive Officer, Toronto Transit Commission, in the event that a minimum driver rate is included in the upcoming accessible taxi services procurement, to ensure that the appropriate financial staff assess the accuracy, completeness, and reasonableness of the financial estimate of driver income.
3. The Board request the Chief Executive Officer, Toronto Transit Commission, to ensure that draft call document for accessible taxi services, and other Wheel-Trans contracted services, is sufficiently and thoroughly reviewed to minimize the need for addendums and changes.
4. The Board request the Chief Executive Officer, Toronto Transit Commission, to ensure that the appropriate subject matter experts, including finance and risk management staff, are involved at the planning stage of the upcoming accessible taxi services procurement process and the final review of the call document.
5. The Board forward this report to City Council for information through the City's Audit Committee.

## **FINANCIAL IMPACT**

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This audit identifies the lessons learned and areas for improving future accessible taxi services procurement. The implementation of the four recommendations in this report will improve future Wheel-Trans accessible taxi service procurement and allow for a fully competitive process. The precise extent of any resources required or potential cost savings resulting from implementing the recommendations in this report is not determinable at this time.

## DECISION HISTORY

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At its January 28, 2014 meeting, the TTC Board authorized the award of a five-year contract to four taxi brokerages (contractors) for accessible taxi service. The Board authorization is available at:

[http://www.ttc.ca/About the TTC/Commission reports and information/Commission meetings/2014/January 28/Reports/Procurement Authoriz.pdf](http://www.ttc.ca/About%20the%20TTC/Commission%20reports%20and%20information/Commission%20meetings/2014/January%2028/Reports/Procurement%20Authoriz.pdf)

At its August 19, 2014 meeting, the TTC Board moved and adopted a motion to amend the accessible taxi contracts by adding HST to the minimum driver rate. The Board decision is available at:

[https://www.ttc.ca/About the TTC/Commission reports and information/Commission meetings/2014/August 19/Supplementary Reports/Decisions/Staff Response to ATA O Letter.pdf](https://www.ttc.ca/About%20the%20TTC/Commission%20reports%20and%20information/Commission%20meetings/2014/August%2019/Supplementary%20Reports/Decisions/Staff%20Response%20to%20ATA%20Letter.pdf)

On February 19, 2015, the TTC Audit Committee (currently the TTC Audit and Risk Management Committee) made the following motion:

*“Be it resolved that the TTC Audit Committee, through the TTC Board:*

*Request the City of Toronto Auditor General to review the recommendations in the staff report approved by the Board at the January 28, 2014 meeting and the TTC Board decision made at the August 19, 2014 meeting in which TTC approved a motion to amend the accessible taxi service Contract to add HST to the minimum driver rate; and comment and provide recommendations on the following:*

- 1. The value for money issues raised by the decision*
- 2. The implications for TTC procurement processes in future and any recommendations flowing therefrom.”*

At its May 27, 2015 meeting, the Board received the TTC Audit Committee's request. The motion is available at:

[https://www.ttc.ca/About the TTC/Commission reports and information/Commission meetings/2015/May 27/Reports/Audit Committee Motion re Accessible Taxi Contract.pdf](https://www.ttc.ca/About%20the%20TTC/Commission%20reports%20and%20information/Commission%20meetings/2015/May%2027/Reports/Audit%20Committee%20Motion%20re%20Accessible%20Taxi%20Contract.pdf)

The Auditor General included the TTC Audit Committee's request in her 2016 Audit Work Plan as part of a broader audit of the TTC's procurement processes. The 2016 Audit Work Plan is available at:

<https://www.toronto.ca/legdocs/mmis/2015/au/bgrd/backgroundfile-84582.pdf>

The results of our audit of the TTC's procurement processes are provided in a report entitled "Review of Toronto Transit Commission Procurement Policies and Practices: Improving Materials Management and Purchasing Policies Can Potentially Result in Significant Savings". The report was provided to the TTC Board in June 2017.

<https://www.toronto.ca/legdocs/mmis/2017/au/bgrd/backgroundfile-105264.pdf>

The audit results specifically relating to the Wheel-Trans accessible taxi contract are provided in this report.

## **COMMENTS**

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Over the five-year contract term (July 2014 to July 2019), we project that the driver fees will amount to \$150.1 million. Our projection includes \$107.3 million in base fees, \$26.0 million to meet higher service kilometre demand, and \$16.8 million due to the addition of HST to the minimum driver rate.

The additional costs to meet the higher than expected service demand would have been paid, regardless of the driver rate change. However, the impact from amending the minimum driver rate will cost the TTC an additional \$16.8 million over the five-year period, or \$3.4 million annually.

Our review identified lessons learned that we believe can help improve future accessible taxi services procurements.

As the current accessible taxi contracts will expire in July 2019, a new call document will be issued in 2018 to continue the contracted services beyond 2019. In preparing for the upcoming procurement process, we recommend that:

1. Staff explore strategies that will help maintain the stability and quality of driver services without needing to stipulate a minimum driver rate.
2. Finance staff should review financial assumptions for accuracy, completeness, and reasonableness.
3. A thorough review of draft call document should be done to minimize confusion and changes during the bidding process.
4. Finance and risk management staff should review breach of contract provisions and other procurement requirements to ensure they are correctly drafted.

## **CONTACT**

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**SIGNATURE**

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Beverly Romeo-Beehler  
Auditor General

**ATTACHMENTS**

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Attachment 1: Auditor General's Report, Review of Toronto Transit Commission Procurement Policies and Practices: A Case Study to Improve Future Wheel-Trans Accessible Taxi Services Procurement

# **AUDITOR GENERAL'S REPORT**

## **Review of Toronto Transit Commission Procurement Policies and Practices: A Case Study to Improve Future Wheel-Trans Accessible Taxi Services Procurement**

**January 31, 2018**

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**Beverly Romeo-Beehler, CPA, CMA, B.B.A., JD, ICD.D, CFF**  
**Auditor General**





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## EXECUTIVE SUMMARY

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**Wheel-Trans provides door-to-door transit services to persons with mobility difficulties**

The Toronto Transit Commission's (TTC) Wheel-Trans provides specialized accessible transit services within the City of Toronto to persons with mobility difficulties. Specifically, more than 40 per cent of all Wheel-Trans services are provided by contracted accessible taxis.

**The TTC Board awarded four contracts for accessible taxi service to begin in July 2014, that included a \$2.5 minimum driver rate**

On January 28, 2014, the TTC Board approved the award of four contracts for accessible taxi service, scheduled to begin on July 6, 2014. The contract required the contractors to pay the drivers a minimum rate of \$2.5 per kilometre.

In early July 2014, the contractors advised TTC staff that the drivers were "not happy" with the new rate. Two days before the start of the contract, contractors advised TTC staff that a large contingency of their drivers gave notice that they would not report for work on July 6, 2014. One contractor was able to provide service, but the others had little service due to the drivers' refusal to work.

**After the contract began, the Board added HST to the driver rate**

At its August 19, 2014 meeting, the Board voted to amend the contracts by adding HST to the minimum driver rate, equivalent to an additional \$0.33 per kilometre.

**In 2015, the TTC Audit Committee requested the Auditor General to review the contract change decision**

At its May 27, 2015 meeting, the Board carried a motion by the TTC Audit Committee requesting that the City of Toronto Auditor General review the contract change and provide comments and recommendations on the value for money issues raised by the Board's decision, and the implications for future TTC procurement processes.

**Auditor General's 2016 Audit Work Plan included this request as part of a broader procurement audit**

The Auditor General included the TTC Audit Committee's request in her 2016 Audit Work Plan as part of a broader audit of the TTC's procurement processes.

The results of our audit on the TTC's procurement processes were reported to the TTC Board in June 2017. The report focused on the TTC's procurement activities.

**This report addresses the specific request**

The audit results specifically relating to the current Wheel-Trans accessible taxi contract are provided in this report.

## **Key findings**

Our key findings and recommendations are highlighted as follows:

### **Financial Impacts of the Driver Rate Amendment**

**The rate amendment will increase annual costs by \$3.4 million**

We project the addition of HST to the minimum driver rate will likely increase the TTC's costs by \$16.8 million over the five-year period, or \$3.4 million annually.

**At the amended rate, estimated driver gross income ranged from \$82,183 to \$119,539 in 2014/2015**

The income a Wheel-Trans accessible taxi driver makes will depend on the number of service kilometres driven, and the driver rate they receive from a contractor.

The estimated annual gross income of a driver ranged from \$82,183 to \$119,539 using the amended rate in the first year of the contract.

### **Implications for Future Accessible Taxi Service Procurement**

**According to TTC Legal, the Board's decision to change the contract was within its jurisdiction**

According to TTC and City legal staff, the legal liability related to the Board's decision to increase the contract price is minimal and the decision to change the contract was within the jurisdiction of the Board.

**However, some procurement-related concerns were raised**

However, the Board's decision to vote on amending the payment terms of a contract after it was awarded through a public procurement process could have raised some concerns about the transparency and fairness of the procurement process.

**Lessons learned to help improve the upcoming procurement process of accessible taxi service**

As the current accessible taxi contracts are expiring in July 2019, a new call document will be issued in 2018 to continue the contracted services beyond 2019.

Our review identified several lessons learned that we believe can help improve the upcoming procurement process.

A key issue in the last procurement process was the stipulation of a minimum driver rate in the call document by TTC staff. This was similar to the structure of the previous contract.

**Including a minimum driver rate presented certain risks to the TTC and should be avoided**

We recognize the intent of this was to balance service quality to customers, fairness to drivers, and fiscal responsibility to taxpayers. However, stipulating a minimum driver rate does not allow for fully competitive bidding, which is a cornerstone of a fair and transparent procurement process. In its attempt to protect driver compensation in order to ensure customer service quality, the TTC inserted itself into a role that is normally between the contractors and the drivers.

**Strategies that maintain service quality and allow for a fully competitive process should be considered**

Given the issues arising from the last procurement process, TTC staff should review the necessity of stipulating a minimum driver rate and explore other strategies that will maintain service quality and ensure a competitive process in future Wheel-Trans accessible taxi service procurement.

**A thorough review of financial estimates and other procurement requirements is needed**

Our review also identified areas where quality of the call document could have been improved with additional review and consultation with other subject matter experts during the planning and final review stages, including:

- Finance staff should review financial assumptions for accuracy, completeness, and reasonableness
- A thorough review of the draft call document should be done to minimize confusion and changes during the bidding process
- Finance and risk management staff should review breach of contract provisions and other procurement requirements to ensure they are correctly drafted

## **Conclusion**

**The Wheel-Trans accessible taxi service procurement process is complex**

We acknowledge that the Wheel-Trans accessible taxi service procurement process is complex because it involves providing an essential service to a vulnerable population. We also appreciate the intent of TTC staff to balance high-quality accessible service to customers, fairness to drivers, and fiscal responsibility to taxpayers.

**Our review identifies the lessons learned and areas for improving future accessible taxi services procurement**

The current accessible taxi contracts expire in July 2019. We believe our review provides value by identifying the lessons learned and areas that can be improved upon in the upcoming accessible taxi services procurement process.

We express our appreciation for the co-operation and assistance we received from management and staff of the TTC Wheel-Trans Division, TTC Legal Department, TTC Materials and Procurement Department, and TTC Insurance and Risk Management Section, as well as City legal staff and the external Fairness Commissioner.

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## BACKGROUND

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### **Wheel-Trans provides door-to-door transit services to people with mobility difficulties**

Wheel-Trans, a division operated by the Toronto Transit Commission (TTC), provides specialized accessible transit services within the City of Toronto to persons with mobility difficulties. Wheel-Trans services include accessible buses, contracted accessible taxis and sedan taxis. Currently, Wheel-Trans provides over three million door-to-door trips each year to over 30,000 registrants.

Specifically, more than 40 per cent of all Wheel-Trans services are provided by contracted accessible taxis.



Accessible taxis (mini-van) are capable of transporting small wheelchairs and scooters

### **2012 Auditor General's report on Wheel-Trans Services**

In December 2012, the Auditor General's Office provided a report entitled "Review of Wheel-Trans Services - Sustaining Level and Quality of Service Requires Changes to the Program" to the TTC Board.

The report is available at:

[https://www.ttc.ca/About the TTC/Commission reports and information/Commission meetings/2012/December 19/Reports/Auditor General's Re.pdf](https://www.ttc.ca/About%20the%20TTC/Commission%20reports%20and%20information/Commission%20meetings/2012/December%2019/Reports/Auditor%20General%27s%20Report%20on%20Wheel-Trans%20Services.pdf)

**Five recommendations related to contracted taxi services**

The 2012 report contained 22 recommendations, five of which were intended to improve future procurement of contracted taxi services and to reduce future contract costs without impacting customer services.

At that time, the TTC's accessible taxi contracts were expiring at the end of 2013.

**The new contract reduced the driver rate and would save the TTC \$2.1 million per year**

At the January 28, 2014 Board meeting, TTC staff provided their recommendation to the Board to award the accessible taxi service contracts. In that report, staff explained that the five audit recommendations related to contracted taxi services were implemented in the latest accessible taxi service procurement process. Staff also projected annual savings of \$2.1 million from a reduction of \$0.3 per kilometre in the driver rate compared to the previous contract. Under the new contract (July 2014 to July 2019), drivers would be paid a minimum rate of \$2.5 per kilometre in 2014, with incremental increases in each subsequent year during the five-year term.

**Four taxi brokerages were awarded a five-year accessible taxi contract**

At that meeting, the TTC Board authorized the award of a five-year contract to four taxi brokerages (contractors) for accessible taxi service, scheduled to begin on July 6, 2014.

The staff report entitled "Procurement Authorization – Accessible Taxi Service Contract P34PN13755" to the Toronto Transit Board is available at:

[http://www.ttc.ca/About\\_the\\_TTC/Commission\\_reports\\_and\\_information/Commission\\_meetings/2014/January\\_28/Reports/Procurement\\_Authoriz.pdf](http://www.ttc.ca/About_the_TTC/Commission_reports_and_information/Commission_meetings/2014/January_28/Reports/Procurement_Authoriz.pdf)

**Drivers were unhappy with the new minimum driver rate**

In early July 2014, the contractors advised TTC staff that the *"TaxiWorkers Association [was] pressuring drivers not to come to work"* and that the drivers were *"not happy at [sic] the new driver rate"*.

**At the start of the new contract, three contractors did not have required number of drivers**

Each contractor was required to provide a minimum of 40 vehicles daily dedicated exclusively to Wheel-Trans services. However, two days before the start of the contract, contractors advised TTC staff that a large contingency of their sub-contracted drivers gave notice that they would not report for work on July 6, 2014. Only one contractor was able to provide service. The remaining three contractors had little service due to drivers' refusal to work.

**Interim measures taken to minimize impact to Wheel-Trans customers**

As an interim measure, TTC staff diverted more customer pick-ups to the sedan taxi contractors and TTC Wheel-Trans buses to minimize the impact to customers.

**TTC Board requested staff to meet with stakeholders to resolve contract-related concerns**

At its July 23, 2014 meeting, the Board received a letter from the Accessible Transportation Association of Ontario (an industry association comprised of accessible taxi contractors) requesting staff to meet with the appropriate stakeholders in order to find a solution to the current job action. The Board requested staff to review and report back to the August 19, 2014 Board meeting.

The letter from the Association is available at:

[https://www.ttc.ca/About the TTC/Commission reports and information/Commission meetings/2014/July 23/Reports/C-5 S. Bastas Wheel - Trans Accessible Taxi Contract.pdf](https://www.ttc.ca/About%20the%20TTC/Commission%20reports%20and%20information/Commission%20meetings/2014/July%2023/Reports/C-5%20S.%20Bastas%20Wheel%20-%20Trans%20Accessible%20Taxi%20Contract.pdf)

**Drivers returned to work by the end of July 2014**

By the end of July 2014, drivers had returned to work and the contractors were able to provide the required number of vehicles under the contracts.

Staff provided a report entitled “Staff Response to ATAO Letter” to the Board at its August 19, 2014 meeting. The report is available at:

[https://www.ttc.ca/About the TTC/Commission reports and information/Commission meetings/2014/August 19/Supplementary Reports/Staff Response to ATAO Letter.pdf](https://www.ttc.ca/About%20the%20TTC/Commission%20reports%20and%20information/Commission%20meetings/2014/August%2019/Supplementary%20Reports/Staff%20Response%20to%20ATAO%20Letter.pdf)

**In August 2014, staff reported back to the Board but did not recommend changing the contract terms**

Staff reported that they met with representatives from the Association and the four contractors to discuss the matter of the driver rate, as well as the changes to the taxi plate licensing system. The report also included the financial impact of increasing payment terms (i.e. driver rate) to the operating budget, as well as procurement issues to consider. The report stated that *“TTC staff does not recommend increasing the payment terms in the initial contract or starting a new procurement process in order to increase the payment terms”*.

**The Board amended the minimum driver rate by adding 13 per cent**

The Board, however, at its August 19, 2014 meeting, moved and adopted a motion to amend the accessible taxi contracts by adding HST to the minimum driver rate.

The Board decision is available at:

[https://www.ttc.ca/About\\_the\\_TTC/Commission\\_reports\\_and\\_information/Commission\\_meetings/2014/August\\_19/Supplementary\\_Reports/Decisions/Staff\\_Response\\_to\\_ATAO\\_Letter.pdf](https://www.ttc.ca/About_the_TTC/Commission_reports_and_information/Commission_meetings/2014/August_19/Supplementary_Reports/Decisions/Staff_Response_to_ATAO_Letter.pdf)

**In 2015, the TTC Audit Committee, through the Board, requested the Auditor General to review the contract change decision and comment on its financial impact and possible implications for TTC procurement processes in future**

On February 19, 2015, the TTC Audit Committee (currently the TTC Audit and Risk Management Committee) requested the Auditor General to review the TTC Board motion that amended the accessible taxi service contract.

*“Be it resolved that the TTC Audit Committee, through the TTC Board:*

*Request the City of Toronto Auditor General to review the recommendations in the staff report approved by the Board at the January 28, 2014 meeting and the TTC Board decision made at the August 19, 2014 meeting in which TTC approved a motion to amend the accessible taxi service Contract to add HST to the minimum driver rate; and comment and provide recommendations on the following:*

- 1. The value for money issues raised by the decision*
- 2. The implications for TTC procurement processes in future and any recommendations flowing therefrom.”*

Submitted together with this motion, TTC staff included a chronology on the Wheel-Trans accessible taxi contracts. The chronology is provided in Exhibit 1 of this report.

At its May 27, 2015 meeting, the TTC Board received the TTC Audit Committee’s request. The motion is available at:

[https://www.ttc.ca/About\\_the\\_TTC/Commission\\_reports\\_and\\_information/Commission\\_meetings/2015/May\\_27/Reports/Audit\\_Committee\\_Motion\\_re\\_Accessible\\_Taxi\\_Contract.pdf](https://www.ttc.ca/About_the_TTC/Commission_reports_and_information/Commission_meetings/2015/May_27/Reports/Audit_Committee_Motion_re_Accessible_Taxi_Contract.pdf)



**Auditor General’s 2016 Audit Work Plan included this request as part of a broader audit**

The Auditor General included the TTC Audit Committee’s request in her 2016 Audit Work Plan as part of a broader audit of the TTC’s procurement processes.

The Auditor General’s 2016 Audit Work Plan is available at:

<https://www.toronto.ca/legdocs/mmis/2015/au/bgrd/backgroundfile-84582.pdf>

**The first report focused on TTC’s procurement activities**

The results of our audit of the TTC’s procurement processes are provided in a report entitled “Review of Toronto Transit Commission Procurement Policies and Practices: Improving Materials Management and Purchasing Policies Can Potentially Result in Significant Savings”. The report was provided to the TTC Board in June 2017. The report focused on the TTC’s procurement activities.

<https://www.toronto.ca/legdocs/mmis/2017/au/bgrd/backgroundfile-105264.pdf>

**This report focuses on the accessible taxi contracts, which will expire in July 2019**

The audit results specifically relating to the Wheel-Trans accessible taxi contract are provided in this report.

The current accessible taxi contracts expire in July 2019. In mid-2018, staff will begin drafting procurement requirements for the next contract.

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## **AUDIT RESULTS**

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### **A. VALUE FOR MONEY ISSUES RAISED BY THE DECISION TO INCREASE MINIMUM DRIVER RATE**

**Contractors are required by the TTC to pay taxi drivers a prescribed minimum driver rate**

Under the accessible taxi contracts awarded in January 2014, the TTC pays contractors a fee per kilometre of service provided. The contractors in turn are required by the TTC to pay the taxi drivers a minimum driver rate. The minimum rate, as stated in the final call document, was set at \$2.5 per kilometre, inclusive of HST, in the first year, and rising to \$2.7 per kilometre in the fifth year.

**Minimum driver rate for each contract year was increased by \$0.33**

The Board subsequently amended the accessible taxi service contract by adding HST to the minimum driver rate. Specifically, a fixed increase of \$0.33 per kilometre, equivalent to 13 per cent of the awarded year 1 rate of \$2.5 per kilometre, was added to the minimum driver rate for each of the contract years.

The awarded and amended minimum driver rates (inclusive of HST) for each year of the contract are shown below:

	<b>Awarded Rate*</b>	<b>Amended Rate</b>
<b>Year 1</b>	\$2.50	\$2.83
<b>Year 2</b>	\$2.55	\$2.88
<b>Year 3</b>	\$2.60	\$2.93
<b>Year 4</b>	\$2.65	\$2.98
<b>Year 5</b>	\$2.70	\$3.03

\*Source: Bid No. P34PN13755, Appendix F Price Schedule, Addendum 3

### **A.1. Financial Impact to the TTC and the City**

We analyzed the TTC’s contract administration data for the first three years of the contract, from July 2014 to July 2017. Also, based on the yearly increase in service demand, we developed five-year projected costs for the contracts.

Our analysis is summarized in Table 1 as follows:

**Table 1: Cost Breakdown of 3-Year Actual and 5-Year Projection**

<b>Cost Breakdown:</b>	<b>3-Year Actual</b>		<b>5-Year Projection</b>	
	<b>\$</b> (in millions)	<b>%</b>	<b>\$</b> (in millions)	<b>%</b>
<b>Driver fees:</b>				
Original cost based on awarded rate and estimated km	57.5	70%	107.3	72%
Increased cost due to higher actual service km demand	15.6	19%	26.0	17%
Increased cost due to rate amendment	9.4	11%	16.8	11%
<b>Subtotal:</b>	<b>82.5</b>	<b>100%</b>	<b>150.1</b>	<b>100%</b>
<b>Other fees &amp; charges</b> (including management fees)	12.1			
<b>Total Invoiced Costs:</b>	<b>94.6</b>			

**Accessible taxi service has cost \$94.6 million in the first three years**

In the first three years of the contract, accessible taxi services totaled \$94.6 million. Of this total, we determined that \$82.5 million were the driver fees. This amount included \$57.5 million in base fees, \$15.6 million as a result of higher demand for services, and \$9.4 million due to the rate amendment.

**Driver fees are projected to amount to \$150.1 million over the five-year contract period**

Over the five-year contract term, we project that the driver fees will amount to \$150.1 million, excluding other fees and charges. Our projection includes \$107.3 million in base fees, \$26.0 million to meet higher service kilometre demand, and \$16.8 million due to the rate amendment.

**Service demand has grown faster than expected**

According to staff, the demand for Wheel-Trans service had grown at a faster pace than expected since the contract began, due to the expanded eligibility criteria mandated under the Accessibility for Ontarians with Disabilities Act (AODA), as well as a rapidly aging population.

**Costs based on actual demand would have been paid regardless of the driver rate change**

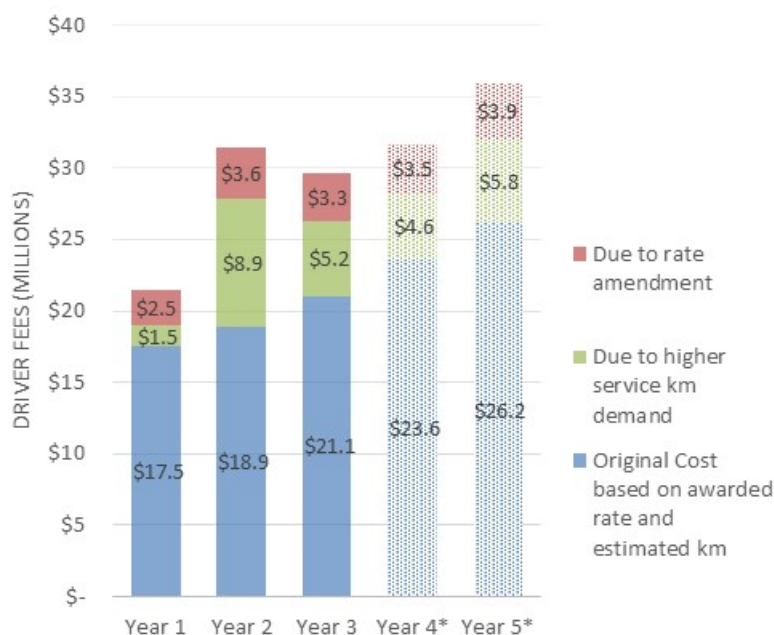
The increase in actual service demand is reflected in Table 1 above. The additional costs to meet the higher than expected service demand represent approximately 17 per cent of the overall driver fees. The TTC would have paid these amounts, regardless of the driver rate change.

**Because of higher service demands, the cost impact of the driver rate amendment became more significant, averaging \$3.4 million annually**

However, as service demand increases, the rate amendment will further increase the TTC's costs. Specifically, we project that the impact of the rate amendment will cost the TTC an additional \$16.8 million over the five-year period, or averaging \$3.4 million annually.

A yearly view of the financial impacts from the increased service demand and rate amendment is shown in Figure 1.

**Figure 1: Financial Impacts from Increased Service Demand and Rate Amendment on Driver Fees by Year**



\*Years 4 and 5 projections are based on 11.5% Wheel-Trans ridership growth rate indicated in the proposed 2018 operating budget (November 2017)

## A.2. Financial Impact to Accessible Taxi Drivers

**Income is dependent on service kilometres driven and the per kilometre rate**

The income of an accessible taxi driver will depend on the number of service kilometres they provide for Wheel-Trans service and the rate per kilometre received from the taxi contractor.

**Daily service kilometres per driver ranged from 110 to more than 160**

Based on our analysis of the information provided by the TTC, the number of daily service kilometres per driver has ranged from approximately 110 to more than 160 during the first three years of the contract. The average daily service kilometres per driver was 144 during the first three years of the contract.

Applying this range, the estimated annual gross income of a driver at both the awarded and amended Year 1 rates (inclusive of HST) is shown in Table 2. The estimated annual gross income of a driver ranged from \$82,183 to \$119,539 in year 1 of the contract using the amended rate.

**Table 2: Estimated Annual Gross Income in 2014, Year 1 of the Contract (Note 1)**

<b>Number of Service Kilometres per day</b>	<b>Awarded Rate \$2.5 / km</b>	<b>Amended Rate \$2.83 / km</b>
110	\$72,600	\$82,183
120	\$79,200	\$89,654
130	\$85,800	\$97,126
140	\$92,400	\$104,597
150	\$99,000	\$112,068
160	\$105,600	\$119,539

Note 1: Estimated annual gross income is based on 264 working days per year.

**TTC has no control over how contractors distribute shifts among drivers under contract**

It should be noted that while each accessible taxi contractor is required to provide a daily minimum of 40 drivers, the contractors are responsible for distributing the shifts as they see fit. The TTC has no control over how contractors distribute service kilometres among drivers. In other words, the contractors may use more than 40 individual drivers to ensure the service is fulfilled. In that situation, a driver may be assigned fewer shifts, thus receiving less income.

**A.3. Financial Impact to Accessible Taxi Contractors (Brokerages)**

**Contractors used to receive \$1.1 million per year in management fees**

During the previous five-year contract (2009 to 2013), each contractor was paid approximately \$89,000 per month, or \$1.1 million annually in management fees. This amount was determined by Wheel-Trans staff in the call document. At the time, there were questions about whether the management fee was achieving value for money for the City. Our 2012 audit pointed out the need to ensure competitive bidding in the next contract procurement process.

**Under the current five-year contracts and kilometre volume, each contractor was paid approximately \$1 million per year**

The fee structure in the latest five-year contract was changed to allow contractors to bid on an all-inclusive fee up to a maximum of \$3.0 per kilometre, including a minimum of \$2.5 per kilometre driver rate in Year 1. The difference represents the management fee. In the first three years of the current contracts, each contractor was paid approximately \$1 million per year in management fees.

The driver rate amendment did not alter the payment term for contractors.

## **B. IMPLICATIONS FOR FUTURE TTC PROCUREMENT**

### **B.1. TTC Board Decision was within its Jurisdiction**

We discussed with TTC legal staff, a City procurement legal expert and the Fairness Commissioner for the last accessible taxi service procurement, the legal and procurement implications of the Board's decision to change the contract terms after it was awarded.

**Minimal legal risk resulting from the Board's decision to change the contract terms**

According to them, the legal liability related to the Board's decision to increase the contract price is minimal. TTC legal staff explained that the contract changes were made post-award and do not create liability associated with an unsuccessful bidder. The City's legal expert we consulted concurred with this assessment.

**According to TTC Legal, the Board's decision was within its jurisdiction**

TTC Legal further noted that *"the power exercised by the Board in electing to change the contract was a decision that was properly within the jurisdiction of the Board"*.

**TTC staff raised a concern that changing initial contract terms does not follow a fair and open procurement process**

However, in their report that went before the TTC Board on August 19, 2014, TTC staff had expressed concerns about the fairness and transparency of the process. In that report, staff noted:

*"In addition to the impacts to the budget, there are significant procurement issues to consider. Specifically, opening up the contract and increasing the payment terms changes the initial contract without following a fair and open procurement process... TTC staff does not recommend increasing the payment terms in the initial contract or starting a new procurement process in order to increase the payment terms."*

We also asked the Fairness Commissioner whether there are any procurement issues in general when changes are made post-award.

**Fairness Commissioner also cautioned that amendments made post-award should withstand public scrutiny**

The Fairness Commissioner advised that, generally speaking, when amendments are made during the contract period that provide more generous terms, caution needs to be exercised to ensure that modification of contract terms can withstand public scrutiny and that no other contract management actions were realistic or practical.

**However, some procurement-related concerns were raised**

While, according to TTC Legal, there is minimal legal risk from the Board's decision, both the TTC staff and the Fairness Commissioner retained to monitor the accessible taxi service procurement process raised some concerns about the transparency and fairness of the procurement process.

## **B.2. Including Competitive Bidding on All Price Components**

**Previous procurement process did not ask proponents to bid on prices**

At the time of our 2012 Wheel-Trans audit, the price components in the existing accessible taxi contracts were not determined by a competitive bidding process. In fact, pricing was excluded from the evaluation process altogether.

**Auditor General identified the need for competitive bidding**

Our 2012 Wheel-Trans audit included a recommendation to seek competitive bidding on price components in order to obtain the best overall value for the TTC.

**As a result, competitive bidding on certain components was introduced within an all-inclusive rate, but not on the minimum driver rate**

As a result, the 2014 accessible taxi service procurement asked proponents to bid on an all-inclusive rate per kilometre. Within this rate, proponents could competitively bid on the management fee component. While competitive bidding was introduced to a certain extent, the driver fee was not determined by a completely competitive process. Specifically, TTC staff prescribed a minimum driver rate of \$2.5 per kilometre.

**Competitive bidding is fundamental for fair procurement**

As also noted by the Fairness Commissioner in his report:

*"It did not fully responded [sic] to Recommendation 16, in that, it maintained a minimum base price for the cost of taxi drivers. ... One of the hallmarks of fairness in public sector procurement is that goods and services be acquired competitively. For public procurement to be defensible, goods and services need to be acquired from the vendor(s) that can provide the highest level of service at the lowest cost."*

**TTC staff prepared a business case for not moving to a fully competitive process**

The Fairness Commissioner recommended that the TTC allow proponents to determine the amount to be paid to drivers. In order to justify not moving to a fully competitive process as recommended by the Auditor General, TTC staff prepared a business case, which was acceptable to the Fairness Commissioner.

**Ensuring service quality was a primary concern**

According to staff, a primary reason for prescribing a minimum driver rate at the time was to ensure service quality for Wheel-Trans customers while being fiscally responsible to the taxpayer. Staff pointed to past concerns regarding the contractors' inability to retain qualified drivers, thus defaulting on their contracts. Staff prescribed a minimum driver rate in the previous contract to address those concerns. According to staff, this resulted in improved service quality and decreased customer complaints.

**Fairness Commissioner highlighted strategies to manage the risk of contractor default without stipulating a driver rate**

In his report, the Fairness Commissioner highlighted six different strategies to manage this risk, without stipulating a minimum driver rate, such as:

- requiring contractors to enter binding agreements with drivers for the life of the contract, and
- using a highly weighted ranked criteria on a contractor's ability to ensure driver retention and continuity of service.

These strategies were aimed to ensure competitive bidding and mitigate the risks arising from unreliable service delivered by drivers. The Fairness Commissioner asked staff to explain why these strategies were inadequate in managing the risk of contractor default.

**Staff submitted a business case to support the minimum driver rate requirement**

In response, TTC staff submitted a business case to support the need for stipulating a minimum driver rate. In the business case, staff indicated that they had considered many factors in setting a minimum driver rate, such as accessible taxi supply and demand, experience from previous contracts, overall industry view, and reliance on breach of contract provisions.



**Staff determined that a minimum rate of \$2.5 was appropriate**

In addition, staff stated in the business case that they undertook a financial analysis to determine a reasonable amount to be paid to drivers, taking into account the approximate costs to operate an accessible vehicle. TTC staff determined that *“the minimum amount of \$2.5 provides fair compensation and will reduce the risk of loss of service and is fiscally responsible”*.

**Business case demonstrated the justification and intent of the minimum driver rate**

The Fairness Commissioner reviewed the TTC staff business case and concluded, *“that staff intent was to act in the best interests of the public in making the judgments involved and were the ones best placed to make these judgments based on their technical knowledge of this particular marketplace”*. Essentially, TTC staff in its business case demonstrated to the Fairness Commissioner that the decision to not implement a fully competitive bid was justified and intended to protect the quality of service.

**Requiring a minimum driver rate did not assure the best overall value**

While we appreciate the intent of TTC staff to balance quality service to customers, fairness to drivers, and fiscal responsibility to taxpayers, the requirement of a prescribed minimum driver rate did not ensure that the services were procured at the best overall value for the Commission.

**TTC inserted itself between the contractors and its drivers**

Furthermore, we believe that the TTC, in its attempt to protect driver compensation in order to ensure customer service quality, inserted itself into a role that is normally between the contractors and the drivers.

As noted in our 2012 audit, as well as by the Fairness Commissioner, competitive bidding on price components is a hallmark of a fair and transparent procurement process.

**Strategies that maintain service quality and allow for a fully competitive process should be considered**

Given the issues arising from the last procurement process, in our view, in developing the procurement requirements for the upcoming accessible taxi services contract, TTC staff should re-visit the strategies suggested by the Fairness Commissioner, and consult with other procurement experts to identify additional strategies that maintain the stability and quality of services and allow for a fully competitive process.

**Recommendation:**

- 1. The Board request the Chief Executive Officer, Toronto Transit Commission, to review the necessity and the risks associated with stipulating a minimum driver rate in the upcoming accessible taxi services procurement. Financial, operational, legal and procurement risks should be considered, in consultation with legal and procurement experts.**

**B.3. Ensuring Accurate, Complete and Reasonable Financial Estimate of Driver Income**

**\$2.5 inclusive of HST means a driver receives \$2.21 after remitting HST**

When the accessible taxi service call document was first issued, the minimum driver rate was worded as \$2.5, “exclusive of HST”, for a total of \$2.83 per kilometre paid to a driver. This means that drivers would receive a full \$2.5 per kilometre, after remitting the 13 per cent HST.

The wording was subsequently changed in an addendum such that the awarded rate was \$2.5, “inclusive of HST”. In simplified terms, drivers would receive \$2.21 per kilometre after remitting HST, instead of the full \$2.5 per kilometre.

**Staff’s financial analysis to determine the minimum driver rate does not appear to factor in HST remittances**

We reviewed the staff’s financial analysis used in determining a reasonable minimum driver rate. The staff’s analysis was based on a \$2.5 per kilometre rate, not \$2.21 per kilometre as indicated in the final call document.

Based on the \$2.5 per kilometre rate, TTC staff estimated the potential driver income to be approximately \$58,000, after operating expenses. However, the analysis does not appear to factor in HST remittances that drivers would have to make to the Canada Revenue Agency.

**The difference is a \$11,400 reduction in potential annual driver income**

Using a \$2.21 per kilometre rate, we calculated that the potential driver income is \$46,611, after operating expenses. Table 3 shows an \$11,400 reduction in annual driver income when a driver receives \$2.21 per kilometre instead of \$2.5 per kilometre, after remitting HST.

**Table 3: Comparison of Estimated Annual Driver Net Income Between Receiving \$2.5 and \$2.83 per Kilometre**

	Amount Driver Receives	
	\$2.5 / km (\$2.21 after HST)	\$2.83 / km (\$2.5 after HST)
<b>Gross income*, including HST</b>	<b>\$99,000</b>	<b>\$111,870</b>
Less: HST remittance**	(\$11,389)	(\$12,870)
<b>Gross income, after HST remittance</b>	<b>\$87,611</b>	<b>\$99,000</b>
Less: annual expenses***	(\$41,000)	(\$41,000)
<b>Net income</b>	<b>\$46,611</b>	<b>\$58,000</b>
Difference	\$11,389	

\*Calculation based on 150 kilometres per day as described in the call document and 264 working days per year

\*\*According to TTC staff, Canada Revenue Agency is solely responsible for enforcing and verifying HST remittance

\*\*\*TTC staff estimate of the annual operating expenses of an accessible taxi driver

**Financial estimates should be accurate, complete and reasonable**

The difference is not insignificant. TTC staff should ensure the financial estimates are accurate and complete in order to determine whether driver income is reasonable. Additionally, financial staff could perform a secondary review of the financial assumptions used in the analysis of driver income for reasonableness.

**Recommendation:**

- The Board request the Chief Executive Officer, Toronto Transit Commission, in the event that a minimum driver rate is included in the upcoming accessible taxi services procurement, to ensure that the appropriate financial staff assess the accuracy, completeness, and reasonableness of the financial estimate of driver income.**

#### **B.4. Minimizing Confusion in the Procurement Process**

The TTC issued the call for accessible taxi services on October 8, 2013. The call was to close on November 7, 2013.

**The pre-bid meeting foretold issues about the minimum driver rate**

On October 22, 2013, TTC staff held a pre-bid meeting for interested bidders. During that meeting, questions and concerns were raised regarding the fairness of setting a minimum driver rate, as well as the amount itself. TTC staff answered that they *“feel that the price as set out in the Price Schedule is competitive and fair...[and the driver rate] is a minimum that a Contract must pay”*. On the rate, TTC staff responded that, *“As stated in Price Schedule F, the \$2.5 is exclusive of HST”*.

**Nine addendums were issued**

Nine addendums were issued, including two addendums to extend the closing date to November 12, 2013 and then finally to November 19, 2013. A list of the addendums is provided in Exhibit 2.

**Addendum 3 changed the rate to be “inclusive of HST”**

Specifically, addendum 3, issued on October 30, 2013, changed the rate to be “inclusive of HST” and extended the closing date to November 12, 2013, at the same time. While the change to the driver rate was issued following proper procedures, it could be nonetheless confusing, particularly after TTC staff had affirmed to the interested bidders that the \$2.5 was exclusive of HST at the pre-bid meeting.

**The Fairness Commissioner had no issue with the addendums**

The Fairness Commissioner had no issue with the addendums. He reported that he had *“received assurance from the Project staff that these changes and responses to proponent questions were based on business need and not made simply to accommodate a particular proponent’s participation”*.

**The Board was advised that the addendum was issued to correct an error in the wording**

At the May 27, 2015 Board meeting, the then-TTC CEO confirmed that the addendum to change the wording related to the driver rate from “exclusive” to “inclusive” of HST was made to correct an error.

**A more thorough review could minimize addendums and changes**

Issuing addendums is not an uncommon procurement practice. However, it is the staff's responsibility to make every effort to avoid confusion during the bidding process and to minimize the number of addendums issued. A more thorough review of the draft call document should be conducted to detect and correct material errors before being issued.

**Recommendation:**

- 3. The Board request the Chief Executive Officer, Toronto Transit Commission, to ensure that draft call document for accessible taxi services, and other Wheel-Trans contracted services, is sufficiently and thoroughly reviewed to minimize the need for addendums and changes.**

**B.5. Involving Necessary Subject Matter Experts in Procurement Planning**

The procurement team for the current accessible taxi services contracts included representatives from TTC Wheel-Trans, the TTC Project Procurement Section, TTC Legal, and the Fairness Commissioner.

**Composition of procurement team should include additional subject matter experts**

While we recognize the procurement team's expertise, the team's composition could have further benefitted from consultation with additional subject matter experts during the procurement planning stage to minimize unforeseen risks associated with a contract of this magnitude and complexity.

For example, the accessible taxi contract contained a liquidated damages clause to address situations where a contractor fails to provide a minimum of 40 vehicles per day.

As it happened, at the start of the contract, when three of the four contractors did not have the required minimum number of drivers to perform the services. The TTC staff exercised the liquidated damages clause to seek compensation.

However, there were difficulties in enforcing this clause due to issues in the liquidated damages formula. The TTC claims were settled in April 2017. TTC Legal advised that the details of the settlement are part of a confidential agreement between the parties.

**Finance and risk management staff were not involved in reviewing the liquidated damages formula**

According to our discussion with TTC staff, neither the TTC finance nor risk management staff were involved in either drafting or verifying the liquidated damages formula in this instance.

**Subject matter experts should be involved to help improve the overall quality of the call document**

To this end, involving the appropriate subject matter experts in the planning stage will help refine procurement requirements, ensure the accuracy of claim calculations, and improve the overall quality of the call document.

**Recommendation:**

- 4. The Board request the Chief Executive Officer, Toronto Transit Commission, to ensure that the appropriate subject matter experts, including finance and risk management staff, are involved at the planning stage of the upcoming accessible taxi services procurement process and the final review of the call document.**

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## **CONCLUSION**

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As the current accessible taxi contracts are expiring in July 2019, a new call document will be issued in 2018 to continue the contracted services beyond 2019.

In response to the request by the TTC Audit Committee, we conducted a review of the last accessible taxi contract procurement process. Our review identified lessons learned that we believe can help improve the upcoming procurement process.

In preparing for the upcoming procurement process, we recommend that:

1. Staff explore strategies that will help maintain the stability and quality of driver services without needing to stipulate a minimum driver rate.
2. Finance staff should review financial assumptions for accuracy, completeness, and reasonableness.
3. A thorough review of draft call document should be done to minimize confusion and changes during the bidding process.
4. Finance and risk management staff should review breach of contract provisions and other procurement requirements to ensure they are correctly drafted.

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## AUDIT OBJECTIVES, SCOPE AND METHODOLOGY

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We conducted this review in response to a specific request from the TTC Audit Committee. The Board, at its meeting on May 27, 2015, carried the motion by The TTC Audit Committee requesting our Office to review the recommendations in the staff report approved by the Board at the January 28, 2014 meeting and the TTC Board decision made at the August 19, 2014 meeting in which the TTC approved a motion to amend the accessible taxi service contract to add HST to the minimum driver rate.

The objectives of this review were to comment on the following:

1. The value for money issues raised by the decision
2. The implications for TTC procurement processes in future and any recommendations flowing therefrom.

Our audit methodology included the following:

- Reviewed the recordings of the January 28, 2014, August 19, 2014, and May 27, 2015 TTC Board meetings
- Interviewed TTC staff, including TTC Legal Department staff responsible for procurement areas
- Interviewed the Fairness Commissioner hired to monitor the procurement process
- Interviewed a City legal expert specialized in procurement matters
- Reviewed and analyzed documents, reports, and operational data for the first three years of the contract

### **Compliance with generally accepted government auditing standards**

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.



## APPENDIX 1: Management’s Response to the Auditor General’s Report Entitled: “Review of the Wheel-Trans Accessible Taxi Services Contract Change”

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**Recommendation 1:** The Board request the Chief Executive Officer, Toronto Transit Commission, to review the necessity and the risks associated with stipulating a minimum driver rate in the upcoming accessible taxi services procurement. Financial, operational, legal and procurement risks should be considered, in consultation with legal and procurement experts.

**Management Response:**  Agree  Disagree

**Comments/Action Plan/Time Frame:** Staff will review and explore business requirements to ensure that all risk factors are considered and assessed; and will consult with various subject matter experts to assist in this matter.

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**Recommendation 2:** The Board request the Chief Executive Officer, Toronto Transit Commission, in the event that a minimum driver rate is included in the upcoming accessible taxi services procurement, to ensure that the appropriate financial staff assess the accuracy, completeness, and reasonableness of the financial estimate of driver income.

**Management Response:**  Agree  Disagree

**Comments/Action Plan/Time Frame:** Staff will carefully review and examine all costing and engage Finance staff to review for accuracy.

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**Recommendation 3:** The Board request the Chief Executive Officer, Toronto Transit Commission, to ensure that draft call document for accessible taxi services, and other Wheel-Trans contracted services, is sufficiently and thoroughly reviewed to minimize the need for addendums and changes.

**Management Response:**  Agree  Disagree

**Comments/Action Plan/Time Frame:** Staff will engage a third party Consultant to assist in scope writing and review for accuracy, and a Fairness Monitor to monitor the procurement process for transparency.

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**Recommendation 4:** The Board request the Chief Executive Officer, Toronto Transit Commission, to ensure that the appropriate subject matter experts, including finance and risk management staff, are involved at the planning stage of the upcoming accessible taxi services procurement process and the final review of the call document.

**Management Response:**  Agree  Disagree

**Comments/Action Plan/Time Frame:** Staff will engage the appropriate subject matter experts to assist with the planning and final review of the (call) document.

**EXHIBIT 1: “WT CHRONOLOGY ON WHEEL-TRANS ACCESSIBLE TAXI (AT) CONTRACTS” (as submitted together with the TTC Audit Committee’s February 19, 2015 motion)**

**WT CHRONOLOGY ON WHEEL-TRANS ACCESSIBLE TAXI (AT) CONTRACTS**

Below is a Summary of the Chronology of the AT Contracts divided into three distinct time periods:

- 1. Prior to Issue of WT AT Contract January 2012 – July 2013**
- 2. Immediately Prior to Issue and Award of Contracts August 2013 – July 6, 2014**
- 3. After Award of Contracts – Service Disruption July 6, 2014 – September 2014**

**1. Prior to Issue of WT-Accessible Taxi Contract Request for Bid (RFB) January 2012 – July 2013**

- January – May, 2012 – Investigate alternative service models for delivery of Wheel-Trans Accessible Taxi service
- June 2012 – August 2012 – Public consultation with Taxi Industry,
- January 2013 – Issue RFP to engage a Fairness Monitor to ensure transparent process as per Auditor general’s recommendation,
- February 2013 – Award of a Fairness Monitor –JD Campbell and Associates,
- Auditor General Recommendations reviewed and incorporated as follows:
  1. Retain a Fairness Commissioner to oversee the procurement process (Completed);
  2. Structure of RFB to seek ‘Competitive Bidding on Price component as well as non-financial factors’ (Completed);
  3. Structure the monthly management fee to obtain the best overall value for the Commission (compensation tied to service provided) (Completed),
  4. Replace Bonus entitlement with a financial penalty (Completed);
  5. Include drivers rights, responsibility and reporting process (Completed)
- September – July 2013 – Finalize RFB for the provision of Accessible Taxi Contract with Fairness Monitor’s involvement

**2. Immediately Prior to Issue and Award of AT Contracts August 2013 – July 6, 2014**

- August 29, 2013 -Public Consultation for Accessible Taxi Contract
- October 8, 2013 – RFB for Provision of Accessible Taxi Contract Issued on MERX,
- October 22, 2013-Pre-bid Meeting with entities (approximately 23) that picked up copies of the Contract, the Industry and various City Staff representatives,
- November 19, 2013 – Closing date (Original closing was November 7, 2013)
  - Nine (9) Proponents submitted a Bid;
  - Three (3) of which were non-compliant and not reviewed,
  - Six (6) Proponents were evaluated,

- January 28, 2014 – Recommendation to Board to award a contract to four (4) Proponents and Board Approved,
- February to June – Implementation Period,
- July 6, 2014– Start of Service for the AT Contracts,

### **3. After Award of Contract – Service Disruption July 6, 2014 – September 2014**

- AT Contractors acknowledged full understanding of the Terms and Requirements, all 4 of the Contractors submitted Bid (Offer) knowing the Contract terms
- Three of the four (4) AT Contractors (Co-Op Accessible, Royal Taxi and Scarborough City Cab) were ready for the commencement of the Contracts on Sunday July 6, 2014.
  - Contractors demonstrated they had signed agreements with their AT Drivers to start working under the new terms however there was a general displeasure expressed by their Drivers that their level of compensation was being reduced by approximately 15%,
    - Requirement was to provide a minimum of forty (40) AT Drivers and vehicles,
  - One Contractor (Checker Taxi) experienced issues recruiting AT Drivers as a result of the Municipal Licensing and Standards (ML&S) Taxi reform (February 2014),
- Early July 2014 – AT Contractors advised the TTC of the following:
  - Itaxi Workers Association pressuring drivers not to come to work,
  - Drivers not happy at the new Driver rate being offered by the Contractors of \$2.50, a \$0.36 reduction from the previous rate,
  - The TTC terms in the Contract were that Contractors were to pay the Drivers a minimum of \$2.50/km;
- July 3, (Thursday) 2014 – Received Letter that Itaxi Workers Association sent the Chair of the TTC, Councillor Augimeri
  - Explained the Driver's loss of income due to new Rate,
  - Requested an extension to the current contracts until issue can be passed at the next TTC Committee,
- July 4 (Friday), 2014 two (2) Contractors Scarborough City Cab and Co-Op Accessible advised WT that a large contingency of their AT drivers gave notice that they would not report for work on Sunday July 6, 2014.
  - WT Staff reacted by diverting more customer pick-ups to the Sedan contractors to minimize the impact to Customers,
- One (1) AT Contractor (Royal Taxi) provided AT Service at the start of service, Scarborough and Co-Op and Checker Taxi had very little service available due to drivers refusal to work,
- July 23, 2014 Board Meeting– Board received letter from the ATAO (4 Accessible Contractor's).
  - Commissioners asked WT staff to review and report back at the August Board Meeting.
- July 20 – 29, 2014 – On-going discussion with the AT Contractors revealed that additional political assistance was being given to AT Drivers to not report to work,
- ITaxi Workers Association, Drivers and Contractor's appeared to be lobbying the Board (according to various discussions, letters and tweets).

- August 19, 2014 Board Meeting – WT staff presented a report and various deputations from Drivers and Contractors were heard by the Board. After a lengthy discussion the Board passed a motion that the Contracts be amended to add HST to the minimum driver rate.
  - Staff raised concerns on how the TTC would come up with the additional funds to cover the increase of 13% expense to the City of Toronto
  - The increase in the AT Budget of approximately \$2 million annually be included in subsequent budgetary processes,

**EXHIBIT 2: List of Addendums to the TTC Accessible Taxi Services Request for Bids**

<b>DOCUMENT</b>	<b>DATE ISSUED</b>	<b>MAIN PURPOSE(S) OF ADDENDUM</b>
Request For Bids	October 8, 2013	n/a
Addendum 1	October 16, 2013	<ul style="list-style-type: none"> <li>• Corrected the year of pre-bid meeting date</li> </ul>
Addendum 2	October 25, 2013	<ul style="list-style-type: none"> <li>• Corrected Appendix footer labels</li> <li>• Removed proposal submission page restriction</li> <li>• Corrected weighting of one evaluation criteria</li> <li>• Added Premium Trip rate</li> </ul>
Addendum 3	October 30, 2013	<ul style="list-style-type: none"> <li>• Revised pricing from “excluding” to “including” HST</li> <li>• Extended Closing Date from November 7, 2013, to November 12, 2013</li> <li>• Added Estimated Monthly KM, # Months, and Extended Price columns in Price Schedule</li> </ul>
Addendum 4	October 31, 2013	<ul style="list-style-type: none"> <li>• Clarified excluded charges to Operator</li> <li>• Clarified Operator requirements</li> <li>• Other minor wording changes</li> </ul>
Addendum 5	November 5, 2013	<ul style="list-style-type: none"> <li>• Clarified a tied score</li> <li>• Clarified performance bond term requirements</li> <li>• Other minor wording changes</li> </ul>
Addendum 6	November 6, 2013	<ul style="list-style-type: none"> <li>• Clarified joint venture requirement</li> </ul>
Addendum 7	November 8, 2013	<ul style="list-style-type: none"> <li>• Extend Closing Date to November 19, 2013</li> </ul>
Addendum 8	November 12, 2013	<ul style="list-style-type: none"> <li>• Added that pricing be rounded to two decimal places</li> </ul>
Addendum 9	November 13, 2013	<ul style="list-style-type: none"> <li>• Removed the word “Dedicated” dispatch centre</li> </ul>