



MANITOBA

ORDER IN COUNCIL

DATE: **February 5, 2025**

ORDER IN COUNCIL No.: **26/2025**

RECOMMENDED BY: **Minister of Justice**
Minister of Municipal and Northern Relations

ORDER

Commissioner

1. Garth Smorang, K.C. is appointed as commissioner to inquire into the ability of the City of Winnipeg to implement large-scale publicly funded construction projects in a manner consistent with the public interest.

Terms of reference and completion date

2. In the context of the replacement of the Winnipeg Police Headquarters, the commissioner is to inquire into the affairs of the City of Winnipeg and determine any measures that are necessary to restore public confidence in the ability of the City to implement large-scale publicly funded construction projects in a cost-effective, timely, efficient and ethical manner.

The terms of reference for doing so are as follows:

- (a) The commissioner must inquire into the current and previous governance, decision-making, accountability and risk management structures of the City of Winnipeg for the implementation of large-scale publicly funded construction projects to determine whether they are in accordance with best practices to minimize construction cost increases and delays and to prevent dishonest practices or the acceptance of inducements.
 - (b) In particular, the commissioner must inquire into the City of Winnipeg's current and previous policies, processes and procedures for
 - i. the planning, approval, procurement, contract management and project management of large-scale publicly funded construction projects, and
 - ii. the conflict of interest and disclosure obligations for the mayor and other elected officials and the chief administrative officer and other senior employees of the City of Winnipeg as they relate to the implementation of large-scale publicly funded construction projects.
 - (c) In doing so, the commissioner is to consider
 - i. the dealings of previous elected officials, including the mayor, and senior employees of the City of Winnipeg, including the chief administrative officer, that occurred in respect of large-scale publicly funded construction projects, and
 - ii. the current and previous legislative framework for oversight of municipal planning for large-scale publicly funded construction projects, including the role of the Municipal Board.
 - (d) The commissioner may also advise on whether the findings on any of the matters within the scope of the inquiry give rise to the need for further study, review or investigation and, if so, by whom.
3. The commissioner must complete the inquiry by January 1, 2027.
 4. The commissioner may request the Lieutenant Governor in Council to expand the terms of reference to deal with any matter that the commissioner considers necessary because of information that arises during the inquiry.

5. The commissioner must conduct the inquiry and make the commissioner's findings and recommendations without expressing any conclusion or recommendation about the civil or criminal liability of any person or body.
6. The commissioner must avoid duplication of effort and therefore may rely on findings, recommendations and reports already made in relation to matters that fall within the scope of the inquiry.

Reports

7. The commissioner must deliver a final report containing the commissioner's findings and recommendations to the Minister of Justice and the Minister of Municipal and Northern Relations by January 1, 2027.
8. The commissioner must deliver to the Minister of Justice and the Minister of Municipal and Northern Relations one or more interim reports to indicate progress made in the inquiry. The commissioner may also deliver to them one or more interim reports to address urgent matters that fall within the scope of the inquiry.
9. Subject to *The Freedom of Information and Protection of Privacy Act* and other relevant laws, every report delivered by the commissioner must be in a form that is appropriate for public release.

Proceedings and assistance

10. The commissioner may hold proceedings in public or private as the commissioner considers advisable for the purpose of the inquiry.
11. If the commissioner is satisfied that an individual has a substantial and direct interest in matters that fall within the scope of the inquiry, the commissioner may provide the individual with an opportunity to give evidence and to examine or cross-examine witnesses personally or by counsel on evidence relevant to that individual's interest. The commissioner may approve funding at reasonable rates set by the Minister of Justice for the costs incurred by the individual for this purpose.
12. The commissioner may request the assistance of government departments, government agencies, the City of Winnipeg, other municipalities and any other body established under the authority of the Manitoba Legislature for the purpose of the inquiry. The department, agency, City of Winnipeg, municipality or body must promptly comply with the request to the fullest extent permitted by law.

Obligations re information

13. The commissioner must ensure that information is adequately protected if the disclosure of that information may reasonably be expected to cause undue financial harm to or significantly harm the competitive position of the City of Winnipeg or the parties with whom the City negotiates or contracts.
14. The commissioner must ensure that information reviewed by the commissioner that is subject to subsection 19(1) (Cabinet confidences) of *The Freedom of Information and Protection of Privacy Act* remains confidential and is not further disclosed to another person. This obligation does not apply to information that is summarized for context in a report.

Budget

15. The maximum budget for the conduct of the inquiry is \$2 million. The Minister of Justice may, in consultation with the commissioner, revise the budget to accommodate any change in circumstances that arises during the inquiry.
16. At the request of the Minister of Justice, the Minister of Finance may pay the following costs and expenses from the Consolidated Fund for the purpose of the inquiry:
 - (a) reimbursement of costs incurred by an individual referred to in paragraph 11;
 - (b) remuneration and expenses of technical advisors or other experts and assistants retained for the purpose of the inquiry;
 - (c) travel and other incidental expenses that the commissioner incurs in conducting the inquiry;
 - (d) any other operational expenses necessary to conduct the inquiry.

Effective date

17. This Order is effective immediately.

AUTHORITY

The Manitoba Evidence Act, C.C.S.M. c. E150, states:

Appointment of commission

83(1) Where the Lieutenant Governor in Council deems it expedient to cause inquiry to be made into and concerning any matter within the jurisdiction of the Legislature and connected with or affecting

...

(e) the affairs of any municipality, municipal district, or corporation, existing for any municipal purpose; or

...

he may, if the inquiry is not otherwise regulated, appoint one or more commissioners to make the inquiry and to report thereon.

...

Power to make rules

96 The Lieutenant Governor in Council may make provision, either generally in regard to all commissions issued and inquiries held under this Part, or specially in regard to any such commission and inquiry, for

(a) the remuneration of commissioners and persons employed or engaged to assist in the inquiry, including witnesses;

(b) the payment of incidental and necessary expenses; and

(c) all such acts, matters, and things, as are necessary to enable complete effect to be given to every provision of this Part.

BACKGROUND

In 2009, the City of Winnipeg purchased the former Canada Post building located at Smith Street and Graham Avenue in Winnipeg as a replacement for the Winnipeg Police Headquarters then located on Princess Street.

The Canada Post building required extensive renovations. The original estimate of the renovation project was \$135 million. The project's final cost was \$214 million.

Two external audits regarding the project were conducted at the request of the City of Winnipeg. Two civil proceedings were brought in relation to the project, one regarding construction deficiencies (2018) and the other related to civil fraud (2020).

The City of Winnipeg requested that the Province of Manitoba call a public inquiry.