



**City of Kingston
Report to Council
Report Number 15-164**

To: Mayor and Members of Council
From: Gerard Hunt, Chief Administrative Officer
Resource Staff: Cynthia Beach, Commissioner of Corporate and Strategic Initiatives, and
Susan Nicholson, Director Legal Services and City Solicitor
Date of Meeting: January 27, 2015
Subject: Integrity Commissioner – Update on RFP Process

Executive Summary:

Pursuant to Report Number AP-14-004, Council directed staff to undertake the review and hiring of the City of Kingston Integrity Commissioner. As part of that direction, the Chief Administrative Officer and the Director of Legal Services were delegated authority to hire an Integrity Commissioner for the City of Kingston through a Request for Proposals process. That Request For Proposals was issued in the fall of 2014. The closing date for submission of proposals was 19 November 2015.

Two proposals were received in response to the Request For Proposals (RFP). While those making a submission were each clearly professionally qualified for the position, the nature of the responses indicated that the desired focus for the position of Integrity Commissioner may have not been appreciated. The RFP as issued highlighted the preference for (i) provision of general advice on appropriate conduct based upon applicable ethical and legal principles; (ii) provision of reports providing education on the Code of Conduct and developments in the applicable ethical and legal principles; and (iii) assistance to the Chief Administrative Officer and Director of Legal Services and the City Solicitor in the development of the policies and processes for the work of the Integrity Commissioner. These requirements were not highlighted in the responses received. The requirement for a retainer fee each submitted effectively restricted the role of the Integrity Commissioner to those of an investigator as opposed to an educator and consultant.

As a result, it is the intention of the Chief Administrative Officer and the Director of Legal Services and City Solicitor to restart the RFP process through a restatement of requirements

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which would be presented to the marketplace including the two proponents whose submissions were received.

Recommendation:

This Report is provided for information purposes only.

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Authorizing Signatures:

ORIGINAL SIGNED BY COMMISSIONER
**Cynthia Beach, Commissioner,
Corporate & Strategic Initiatives**

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER
Gerard Hunt, Chief Administrative Officer

Consultation with the following Members of the Corporate Management Team:

Lanie Hurdle, Community Services	Not required
Denis Leger, Transportation, Facilities & Emergency Services	Not required
Jim Keech, President and CEO, Utilities Kingston	Not required
Desiree Kennedy, Chief Financial Officer & City Treasurer	Not required

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Options/Discussion:

i. Background

Pursuant to Report Number AP-14-004, on 7 January 2014, Council directed staff to undertake the review and hiring of the City of Kingston Integrity Commissioner pursuant to the following:

THAT the roles, responsibilities and selection process set out in Report Number AP-14-004 for the position of the City of Kingston Integrity Commissioner, be approved; and

THAT the Chief Administrative Officer and the Director of Legal Services and City Solicitor be delegated authority to hire an Integrity Commissioner for the City of Kingston through a Request for Proposals process; and

THAT an annual budget of \$50,000 be allocated from the working fund reserve to establish the position of Integrity Commissioner with the budget administered by the Chief Administrative Officer.

On October 21, 2014 a Request for Proposals (“RFP”) was issued through the Office of the City Solicitor seeking applications from qualified and experienced professionals for the position of an Integrity Commissioner who shall work with senior municipal staff and report to the Council as described in the RFP. The role of the Integrity Commissioner to be appointed pursuant to the RFP was described as having the following primary duties:

- *Provide general advice to Members of Council on appropriate conduct based upon applicable ethical and legal principles;*
- *Through a process of reporting as described in this RFP, provide education to Members of Council on the substance and application of the Code of Conduct for Members of Council and Committee Members as well as updated best practices based upon developments in the applicable ethical and legal principles;*
- *Assist the Chief Administrative Officer and Director of Legal Service and the City Solicitor in collaboration with the City Clerk in the development of the policies and processes for the work of the Integrity Commissioner including any recommended amendments of the Code of Conduct for Members of Council and Committee Members;*
- *Receive complaints and conduct investigations with respect to alleged contraventions of the Code of Conduct for Members of Council and Committee Members;*
- *Provide specific investigation reports to City Council setting out findings and recommendations related to complaints of breach by Councillors of the Code of Conduct for Members of Council and Committee Members;*
- *Provide an annual report summarizing complaints, investigations, new developments and advice provided as well as new developments in the field provided. The report shall also summarize any recommendations for any changes to the approved process and the Code of Conduct for Members of Council and Committee Members; and*
- *Act as the City’s Meetings Investigator in accordance with established duties.*

The closing date for the RFP for an Integrity Commissioner was Wednesday, 19 November 2014.

ii. Evaluation Standards

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The RFP set out two classes of evaluation standards: (i) a description of a minimum level of content required in an acceptable proposal and (ii) weighted scoring including a number of elements. The minimum level of content required for proposals required that proponents demonstrate a clear understanding of the scope of work and services required as well as a clear statement as to the actual, total price including:

- A properly signed Irrevocable Offer form
- Contact Information and References
- A Certificate of Insurance
- A Financial Proposal
- Confirmation of any Addenda
- Proof of WSIB coverage

In addition to these mandatory requirements, the weighted elements for evaluation were divided into the following four categories:

Professional Profile, Personnel, Experience & Client References	55%
Methodology	15%
Price	27%
Accessibility	3%

Scoring under each of these categories can be summarized as follows:

- a. Professional Profile, Personnel, Experience & Client References: qualifications candidates should possess including:
 - Previous experience which including significant practical experience in the areas of governance, procedure and ethics;
 - Particular familiarity with applicable law;
 - Understanding and interest in municipal governance structures;
 - Ability to provide services on a part-time, flexible and as-needed basis, without competing employment demands;
 - Ability to develop professional credibility with City Council, staff, and media; and
 - Freedom from any conflict of interest.
- b. Methodology: submissions should describe anticipated activities of the Integrity Commission as well as methods which may be undertaken as part of the exercise of responsibilities. This should include a description of circumstances under which a delegation of authority might be considered.
- c. Price proposals should state the requested hourly per diem fees for the Commissioner and delegates of the Commissioner; all anticipated classes of disbursement related to the provision of services including pro-rated WSIB and insurance costs; and any other costs each proponent considers related to position of Integrity Commissioner

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- d. Accessibility standards required meeting applicable law as demonstrating in their proposal how services and deliverables shall be broadly accessible and useful to persons with disabilities.
- iii. Proposal Evaluation

Two proposals were received at the closing of the RFP on 19 November 2014. Both proponents were clearly professionally qualified for the position of Integrity Commissioner. Upon review, it was determined that both proposals met the minimum mandatory requirements though in some areas each proposal was not as responsive as expected. Any deficiencies were in matters which would be clarified through the negotiation process were one of the proponents selected at this stage of the process. Evaluation of the weighted elements, however, gave rise to concerns that the intention of the RFP may not have been stated clearly enough. These concerns related to the intended role of the Integrity Commissioner and also the structure of the proposals as they related to price.

As set out in the RFP, three of the key elements sought through the creation of the Integrity Commissioner were (i) provision of general advice to Members of Council on appropriate conduct based upon applicable ethical and legal principles; (ii) reports providing education to Members of Council on the current Code of Conduct and developments in the applicable ethical and legal principles; and (iii) assisting the Chief Administrative Officer and Director of Legal Service and the City Solicitor in collaboration with the City Clerk in the development of the policies and processes for the work of the Integrity Commissioner. Neither proposal gave sufficient weight of attention to the areas of educational support and ethical advice giving. The focus of the proposals was related more to the investigatory processes. Each of the financial proposal further placed tasks related to educational support and ethical advice giving at risk by seeking a flat retainer fee which would be paid in addition to an hourly rate for any work done for the City.

- iv. Conclusion

As a result, while each proponent is recognized as being qualified in the field, it is not recommended that the City proceed with the proposals as submitted. Staff will continue the process to restart the RFP process through a restatement of requirements which would be presented to the marketplace including the two proponents whose submissions were received. After cancellation of the present process, a new RFP will be prepared which will provide greater detail related to the areas of required educational and advice giving services. The RFP as redrafted will also state that the City of Kingston will not be paying a periodic retainer for the services of an Integrity Commissioner.

Existing Policy/By-Law:

None

Notice Provisions:

None

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Accessibility Considerations:

None

Financial Considerations:

The direction of Council included an annual budget of \$50,000 to be allocated from the working fund reserve to establish the position of Integrity Commissioner with the budget administered by the Chief Administrative Officer.

Contacts:

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Susan Nicholson, Director Legal Services and City Solicitor	extension 1293

Other City of Kingston Staff Consulted:

John Bolognone, City Clerk
Alan McLeod, Senior Legal Counsel

Exhibits Attached:

None