



STAFF REPORT ACTION REQUIRED

REOI 9134-11-7028, Supplementary Legal Services For Insurance Claim Defence

Date:	March 10, 2011
To:	Government Management Committee
From:	Deputy City Manager and Chief Financial Officer
Wards:	All Wards
Reference Number:	P:\2011\Internal Services\Cf\Gm11008cf (AFS #13492)

SUMMARY

The purpose of this report is to obtain authority to enter into retention agreements with nine recommended respondents based on the results of the Request for Expression of Interest (REOI) No. 9134-11-7028, for insurance claim defence legal services to supplement City Legal Services.

RECOMMENDATIONS

The Deputy City Manager and Chief Financial Officer recommends that City Council grant authority to:

1. Enter into retention agreements for a period of three years from April 1, 2011 to March 31, 2014 with the following recommended nine legal firms having achieved the highest overall evaluation scores that are consistent with the terms, conditions and hourly rates of the REOI submissions in a form and content that is satisfactory to the Deputy City Manager and Chief Financial Officer and the City Solicitor:
 - a. Boghosian + Associates Professional Corporation
 - b. Borden Ladner Gervais LLP
 - c. Forbes Chochla LLP
 - d. Gowling Lafleur Henderson LLP
 - e. Loopstra Nixon LLP
 - f. McCague Borlack LLP
 - g. Miller Thomson LLP
 - h. Paterson, MacDougall LLP

- i. Shibley Righton LLP.
2. The appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

Financial Impact

There are no immediate financial implications arising from this report. Costs of insurance claim defences are ultimately reflected in corporate insurance charges to Divisions and applicable insured Agencies, Boards and Commissions. The 2011 Non-Program Operating Budget for Insurance Premiums & Claims of \$47.7 million includes \$12.5 million for external legal firm billings. The same amount will be included in the 2012 and 2013 Non-Program Operating Budget submission. In 2010 the total fees billed by the eight external legal firms retained for insurance claims defence was \$10.5 million. On average, at any given time, external legal firms handle 1,500 litigated insurance claim files for the City of Toronto. Litigated claim files are assigned to City approved external legal firms pursuant to the City's Claims Legal Procedures as adopted by City Council. External legal firms retained by the City are utilized to supplement the City's Legal Services. Work amongst the external firms will be assigned on the basis of several factors including particular individual expertise, the nature of the claim and simple rotation.

DECISION HISTORY

City Council on January 31, February 1 and 2, 2006, adopted Administration Committee Report 1, Clause 3 thereby approving the results of the Request for Proposals 9134-05-7098 for the retention of legal firms to supplement the work of the City's Legal Services for the defence of insurance claims, including the terms and conditions and recommended successful legal firms. The City entered into retention agreements with eight legal firms for periods of three years with a two year extension which expired on December 31, 2010.

(<http://www.toronto.ca/legdocs/2006/agendas/council/cc060131/adm1rpt/cl003.pdf>)

City Council on August 25, 26 and 27, 2010, authorized to extend the agreements with eight external legal firms to provide insurance claim defence on the same terms, conditions and fee structures for a further 3 month period, from December 31, 2010 to expire on March 31, 2011.

(<http://www.toronto.ca/legdocs/mmis/2010/gm/bgrd/backgroundfile-32837.pdf>)

ISSUE BACKGROUND

City Legal Services provides defence for litigated insurance claims. In addition, Insurance & Risk Management utilizes external legal firms directly related to:

- Specific expertise needed not found within the City's Legal Services;
- Complexities of the claims;
- Severity and frequency of claims;
- City Legal Services' capacity to accept claims defence work; and
- Conflict of Interest matters.

It is important to ensure that adequate supplementary external legal services are available to the City when it cannot be provided by members of the City's Legal Services. This report recommends that the City enter into retention agreements with the nine highest scoring respondents as a result of the REOI evaluation.

COMMENTS

A Request for Expression of Interest (REOI) issued by Purchasing and Materials Management Division (PMMD) on February 17, 2011 for supplementary legal services for insurance claim defence was available for download from the City's internet website. In addition, thirteen external legal firms were notified of the REOI when it was issued and available for purchase from the City.

Responses were received from 12 firms and were opened by PMMD at its public opening on March 3, 2011.

The REOI included the selection criteria to be used for evaluation. Insurance & Risk Management and representatives from City Legal Services formed a selection committee and proceeded with the evaluation stages of the REOI as required. The nine recommended firms met the requirements of the REOI and met the threshold score for inclusion on a roster for provision of insurance related legal services.

Effort will be made to distribute work equally among firms on the roster, however, work assignments will not necessarily be awarded simply on a rotational basis. The complexity of the project, current work load, expertise, value and work load of previous work assignments of each firm will be taken into consideration when awarding a work assignment. The number of insurance claims work assignments which will be sent to the firms on the roster list is not known. There is no guarantee of the volume or regularity of claims, which will be assigned to the recommended firms. It is understood that the legal firm roster provides supplementary services to City Legal Services.

The selection committee followed the prescribed three-stage REOI evaluation process.

Stage 1: Mandatory Requirements

Respondents were required to meet all of mandatory requirements in order to move forward to Stage 2.

Stage 2: Detailed Evaluation of Technical Response

The criteria selected for the technical evaluation reflect the City's need for qualified legal firms to provide a variety of insurance-related legal services and to assist the City in implementation of its claims and risk management programs. Respondents were expected to demonstrate a substantial history and established practice in the defence of municipalities in Ontario and have an established and proven track record in the defence and management of insured claims.

The evaluation of Responses was completed in accordance with the parameters set out in the REOI. The following lists the key criteria against which each response was evaluated:

- Company Profile
- Experience and Qualifications
- Proposed Staff Team and Resources
- Service Approach

Respondents were required to meet a minimum threshold of 75% (67.5 points out of 90) in Stage 2 to be further evaluated for cost.

Stage 3: Costs of Services

Cost evaluations considered the hourly rates by the seniority level of individual service providers calculated by the formula provided in the REOI.

Respondent's scores by criteria, price comparison and a staff analysis of the evaluation results can be provided staff in an in-camera presentation if requested by Committee Members.

The Fair Wage Office has reported that the recommended firms have indicated that they have reviewed and understand the Fair Wage Policy and Labour Trades requirements and have agreed to comply fully.

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SIGNATURE

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