



CITY OF HAMILTON
FINANCE AND CORPORATE SERVICES DEPARTMENT
Financial Services and Taxation Division

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| TO: | Chair and Members Audit, Finance and Administration Committee |
| COMMITTEE DATE: | January 16, 2020 |
| SUBJECT/REPORT NO: | Use of External Services for Tax Assessment & Appeals (FCS20005) (City Wide) |
| WARD(S) AFFECTED: | City Wide |
| PREPARED BY: | Maria Di Santo (905) 546-2424 Ext. 5254 David Janaszek (905) 546-2424 Ext. 4546 |
| SUBMITTED BY: | Rick Male Director, Financial Services and Taxation and Corporate Controller Corporate Services Department |
| SIGNATURE: | |

RECOMMENDATIONS

- (a) That staff be directed to proceed with a modified Request for Proposals, in adherence to By-law 17-064, Procurement Policy #5.4, for consultancy firms specializing in Tax Assessment and Appeals;
- (b) That the General Manager of the Corporate Services or designate be authorized to negotiate and execute all agreements and any ancillary documents required in a form satisfactory to the City of Hamilton (City);
- (c) That staff report back on actual consulting costs incurred in 2020, to determine if a sustainable funding source is required for 2021 and future;
- (d) That the consulting costs incurred in 2020 be funded from the Tax Stabilization Reserve. (Account number 110046).

EXECUTIVE SUMMARY

The purpose of this Report is to request Council's approval to proceed with a modified Request for Proposals (RFP) for consultancy firms specializing in tax assessment and appeals functions. The recommended modified RFP would be in adherence to By-law 17-064 "A By-law to Adopt and Maintain a Procurement Policy for the City of Hamilton", specifically Policy #5.4 - Request for Proposals.

The proposed modified RFP is an efficient way to secure qualified tax assessment and appeals consultants that can be utilized to complete work related to such functions as:

- Identification of assessment at risk
- Participation in the appeal process (with varying degrees of involvement, depending on the appeal)
- Review and analysis of assessment roll to identify properties with incorrect values and/or incorrect property tax class classifications
- Monitoring development to ensure that the Municipal Property Assessment Corporation (MPAC) promptly and accurately makes the addition to the assessment roll
- Assessment and taxation estimates for development proposals

The intent is that the use of these consultants, when required, would be to complement Taxation staff's existing role. Due to on-going staff vacancies, increasing development activity and the continued challenges to MPAC's values, these firms would allow for additional resources when needed. The extent to which these consulting firms would be engaged would depend on staff's current workload, the potential for significant revenue loss or gain, and the number of appeals the City wishes to be an active participant.

The modified RFP being proposed would be issued similar to the Request for Rostered Candidates for Consulting and Professional Services, in that multiple consulting firms would be pre-qualified based on their technical expertise and proposed hourly rates to complete the work. In situations where existing Taxation complement requires additional resources in the areas of tax assessment and appeals, consulting assignments can then be assigned directly to pre-qualified firms on a rotational or "best fit" basis. For larger, more complex appeals, an informal request for quotation of the pre-qualified firms may be required.

As some of these functions have a limited window of opportunity (i.e. strict deadlines under the new Assessment Review Board (ARB) rules if the City wishes to be an active participant in an appeal, time limitations in capturing new or additional assessment or corrections through the issuance of supplementary and omitted assessments as per the *Assessment Act*, etc.), the ability to assign specific tax assessment and appeals tasks to pre-qualified firms, when existing staff resources are not sufficient, would assist in mitigating potential revenue losses and/or enhance revenue growth. As identified in staff Report FCS19030 “Annual Assessment Appeals as of December 31, 2018”, the five-year average municipal tax revenue loss due to the combined impacts of ARB appeals, requests for reconsideration and municipal tax applications equates to approximately \$8.1 million per year. The report also identified 2016 Current Value Assessment under appeal totalling \$8,943,989,251 solely for the 2017 and 2018 taxation years.

Alternatives for Consideration – See Page 5

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Staff will report back on 2020 actual consulting costs incurred to determine if a sustainable funding source is required for future years.

Staffing: The use of consulting firms qualified in tax assessment and appeals functions will be used to complement existing staff resources within the Taxation Section. The establishment of a shortlist of consultants will also reduce the administrative burden on staff since individual RFP’s would not be required to complete each sub-project. Dependent on the number or complexity of appeals in which the City chooses to be an active participant, additional Legal resources would be required.

Legal: Legal and Risk Management Services will provide support as required in the procurement process and in the development of contracts.

HISTORICAL BACKGROUND

Property taxation is the City’s main source of revenue to fund its operations. As a property’s assessed value and tax classification are important factors used in the calculation of property taxes, protecting and growing the assessment base is of upmost importance. As reported annually by means of the Annual Assessment Appeals Report, challenges to assessed value continue to exist and ultimately result in a negative impact on the Municipality’s property tax revenues. Any reduction in a property’s assessment or classification (primarily a class change to a lower taxed property class) will have a direct impact to property tax revenues.

As legislation permits the challenge of a property's assessment, and as there are several highly trained appraisal consultants, it is inevitable that adjustments will be made to property values that inevitably reduce the City's property tax revenues, regardless of the City's participation. A more active role by the City will not eliminate losses, however would assist in mitigating such losses.

Assessment appeals for large commercial and industrial properties continue to be a concern. Recognizing the need for the City to be a more active participant in the appeal process, as well as being more proactive in ensuring favourable assessment growth, the Taxation Section was restructured in late 2017 to accommodate more resources to these functions. Unfortunately, attracting qualified candidates with the required skill set has been difficult. One of the two Tax Assessment and Appeals Advisor positions has been vacant for over a year. The vacancy has been posted multiple times, with the hopes that it will be filled by early 2020.

Due to significant backlog as a result of the prolonged vacancy, the intent of the proposed Roster would be to complement existing staff functions and be an additional resource, when required.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Should Council give its approval to proceed with the modified RFP, the RFP will be issued and awarded in compliance with the following:

- The Canada – European Union Comprehensive Economic and Trade Agreement (CETA) and the Canadian Free Trade Agreement (CFTA) are applicable to municipal procurement initiatives for goods or services of a certain value (CETA: \$365,700 and above, CFTA: \$101,100 and above); and
- By-Law 17-064, City's Procurement Policy.

RELEVANT CONSULTATION

Financial Services, Procurement Section and Legal and Risk Management Services staff were consulted on and support the recommendations in this Report.

ANALYSIS AND RATIONALE FOR RECOMMENDATIONS

The use of a Roster for prequalified consulting firms would be used to complement existing staff resources within the Taxation Section, with the goal of maximizing municipal property tax revenue through assessment growth, while mitigating loss of

municipal tax revenue and protection of the assessment base through involvement in the appeal process.

The ARB introduced new Rules of Practice and Procedure which came into effect on April 1, 2017. The changes impact all parties in the process, including Municipalities, and were introduced to streamline the property tax appeal process and promote fairness and efficiency. The new rules will help to ensure that appeals, both old and new, will commence within the current four-year cycle and be completed on a timely basis. Under the new rules, a commencement date is assigned to each appeal. This commencement date is when work is expected to begin as the appeal proceeds through the schedule of events, spanning up to two years. This is a robust and rigid schedule that must be complied with and, as such, requires adequate resources, should the City wish to be an active participant in an appeal. More recently, the ARB has made changes to expediate appeals filed prior to 2017 by adapting a new shortened 18-week timeline for the Schedule of Events to ensure the appeals are dealt with by 2021, being the first year of the upcoming four-year assessment cycle. The ARB will also be implementing additional changes beginning in 2021 for the next assessment cycle, including a reduction to the appeal timelines from 66-104 weeks to 40 weeks. It is expected that these changes would make it even more difficult for staff to become involved, considering the limited resources that currently exist.

Taxation staff also work closely with the City's Planning & Economic Development Department and MPAC to ensure developments are picked up through MPAC's supplementary/omitted assessment process or updated for inclusion on the assessment roll for the following tax year. Taxation staff's role is to ensure that large developments are picked up as quickly as possible, while also looking for areas where the tax classifications and values for new developments may be incorrect. Due to ongoing vacancies, the extent of staff's involvement has been limited.

Although the City cannot actively participate in all appeals, nor does the City's active participation guarantee that the City will not experience Municipal tax revenue losses, by actively participating in more significant, higher risk appeals, the City is in a better position to mitigate losses. One such example is the City's active participation in the Flamboro Downs appeal, which resulted in a \$550,000 Municipal property tax benefit to the City. The City has also filed an appeal as a result of MPAC's significant reduction to Stelco's assessed value for the 2018 taxation year. MPAC's reduction to Stelco's 2018 assessed value translated into Municipal tax revenue losses of over \$2 million.

ALTERNATIVES FOR CONSIDERATION

An alternative to the recommended approach would be the status quo, whereby the City's involvement in analysing the assessment roll for errors and omissions be limited

to what existing resources can accommodate, which tend to be more reactive than proactive. The City's involvement as an active participant to an appeal would also be reserved for unique appeals (i.e. Flamboro Downs, Stelco).

Not proactively monitoring the assessment roll places a lot of reliance on MPAC to promptly and accurately captured growth and be able to defend their values when challenged. For larger properties, the awarding of a 5% to 10% reduction in assessed value can translate into significant tax revenue losses. For example, a 5% to 10% reduction in Limeridge Mall's assessment equates to an annual loss of approximately \$400,000 to \$800,000 in municipal property tax revenue.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

None

MD/rw/dw