



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
 City Clerk's Office

TO:	Chair and Members of Governance Review Sub-Committee
COMMITTEE DATE:	March 27, 2023
SUBJECT/REPORT NO:	Integrity Commissioner Contract Extension (FCS22074 (a)) (City Wide)(Outstanding Business List Item)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Andrea Holland (905) 546-2424 Ext. 5409
SUBMITTED BY:	Andrea Holland City Clerk
SIGNATURE:	

RECOMMENDATION

- (a) That Council approve the extension to Contract C2-06-19, Provision of Services of an Integrity Commissioner and Lobbyist Registrar for the City of Hamilton from June 1, 2023 until May 31, 2027 and that the City Clerk be authorized to negotiate, enter into and execute the extension and any ancillary documents required to give effect thereto with Principles Integrity, in a form satisfactory to the City Solicitor.

EXECUTIVE SUMMARY

Under the current Contract, C2-06-19, the City has the option to renew the contract for one additional term of council based on the same terms and conditions, subject to satisfactory performance to date of renewal and price negotiations. Staff have had preliminary discussions with Principles Integrity, and they are willing to extend the contract and are open to further negotiations. Staff are seeking approval and authority to proceed with negotiation and an extension.

On September 28, 2022, Council approved the extension of contract C2-06-19 for Council's Integrity Commissioner, Principles Integrity until May 31, 2023 to allow staff to report back with a recruitment selection process option for future appointments for the Integrity Commissioner position, as well as the option to further extend the current

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

contract C2-06-19 past May 31, 2023. During the discussion at the September Standing Committee meeting, staff were asked to review the City of Ottawa model.

Alternatives for Consideration – See Page 6

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Currently, the annual costs for the Integrity Commissioner and Lobbyist Registrar are funded through IC-Lobbyist Registrar (Account Number 300400). The annual costs from the previous five (5) years is listed below in chart 1.

Chart 1: 5 Year History of Integrity Commissioner Costs

Dept ID 300400					
	2018	2019	2020	2021	2022
PRINCIPLES INTEGRITY	9,950.96	30,715.62	66,475.36	64,846.69	39,768.28

Staffing: N/A

Legal: The current contract C2-06-19 includes an option to renew for one further term of Council based on the same terms and conditions subject to price negotiations.

HISTORICAL BACKGROUND

On November 25, 2019, the City Manager, Executive Director of Human Resources, City Solicitor and City Clerk, with the assistance of Procurement staff, issued a Request for Proposals ("RFP"), C2-06-19, to select and retain an Integrity Commissioner and Lobbyist Registrar. The City received three proposals in response to the RFP. All of the proposals were evaluated and as a result, two proposals met the benchmark and were eligible to have their costing proposal opened and evaluated in accordance with the RFP with Principles Integrity approved as the Successful Proponent in 2020.

In September of 2022, the City Clerk reported with a recommendation to Audit, Finance and Administration Committee ("AF&A") to extend Contract C2-06-19 for an additional term of Council as per the contract. During the discussion at AF&A, Committee expressed an interest to explore recruitment options that other municipalities, expressly the City of Ottawa, utilize to contract their Integrity Commissioners. Committee and Council approved the following direction to staff:

Integrity Commissioner and lobbyist Registrar Contract (FCS22074) (City Wide)
(Item 10.2)

- (a) That Council approve the extension to Contract C2-06-19, Provision of Services of an Integrity Commissioner and Lobbyist Registrar for the City of Hamilton until May 31, 2023 and that the City Clerk be authorized to negotiate, enter into and execute the extension and any ancillary documents required to give effect thereto with Principles Integrity, in a form satisfactory to the City Solicitor;
- (b) That the City Clerk inform Council on the results of the negotiation; and,
- (c) That the City Clerk report back to Governance Review Sub-Committee by March 31, 2023 with a recruitment selection process option for future appointments for the Integrity Commissioner position, as well as the option to further extend the current contract C2-06-19 past May 31, 2023.

The extension of the current contact has been completed as per the direction (a) above.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Bill 68, the Modernizing Ontario's Municipal Legislation Act, 2017, which received Royal Assent on May 30, 2017, expanded the responsibilities of Integrity Commissioners and required that all municipal governments provide for an Integrity Commissioner by either appointing an Integrity Commissioner to perform the functions set out in subsection 223.3(1) of the *Municipal Act, 2001* (the "Act"), or where Council has not appointed a Commissioner, by making arrangements for the responsibilities set out in subsection 223.3(1) of the Act to be provided by an Integrity Commissioner of another municipality, or through a combination of the two, by March 1, 2019.

Part V.1 Accountability and Transparency, subsections 223.2 to 223.12 (Appendix "B") of the Act outlines the requirements for City Council "to appoint an Integrity Commissioner who reports to council and who is responsible for performing in an independent manner the functions assigned by the municipality". Council has expressed their intent to retain their own Integrity Commissioner and Lobbyist Registrar and to not provide that service through another municipality.

Subsection 223.9 of the Act authorizes a municipality to establish and maintain a Lobbyist Registry which is a publicly accessible accountability and transparency tool that records and regulates the activities of those persons who lobby public office holders.

Subsection 223.11 of the Act authorizes a municipality to appoint a Lobbyist Registrar who is responsible for performing, in an independent manner, the functions assigned to it by the municipality with respect to its Lobbyist Registry.

The City of Hamilton By-Law 16-288 To Establish and Govern the Office of Integrity Commissioner and Provide for the Resolution of Allegations of Contravention of the Code of Conduct by Members of Council (the "By-Law") provides as follows:

2. Council's appointment of an Integrity Commissioner pursuant to the Act and this By-law, shall be for a fixed term, such term to be established by Council at the time of such appointment.

7. The appointment of an Integrity Commissioner may be terminated by Council for cause, before the expiration of her or his term of office.

The current authority to appoint and remove the Integrity Commissioner, under the By-Law rests with Council only and does not provide delegation of authority.

RELEVANT CONSULTATION

Following the Council direction, staff reached out to other municipalities to obtain information on their Integrity Commissioner recruitment strategies. All Municipalities who responded, with the exception of the City of Ottawa, recruit using an application or RFP method to select their Integrity Commissioner with the appointment confirmed by Council.

The City of Ottawa was the only respondent that had a Council that provided delegated authority to a staff recruitment team to select and appoint the Integrity Commissioner. The rationale from the City of Ottawa was that, with a recognition that the Integrity Commissioner oversees the conduct of Members of Council, the recruitment and contract administration process is undertaken by the City Clerk, while the selection and appointment process is overseen by an interview panel comprised of the City Clerk, Deputy City Clerk and Auditor General.

Staff consulted with the City Manager and Manager of Procurement to inform the report and recommendations.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Under the current agreement with Principles Integrity, Council has an option to renew the contract for one additional term of Council based on the same terms and conditions, subject to satisfactory performance to date of renewal and price negotiations. Staff are seeking direction from Council to enter into negotiations with Principles Integrity to

extend the current Contract. If negotiations with Principles Integrity are unsuccessful, staff would then proceed with an RFP process for a new Integrity Commissioner.

The recruitment completed in 2019 resulted in 3 proposals, with only two proposals meeting the benchmark for evaluation. Staff are recommending a contract extension as there was little response in the last recruitment for an Integrity Commissioner and the current contract provides Council with the ability to extend through negotiation.

Principles Integrity has acted as the Integrity Commissioner for the City of Hamilton for since 2018. Historically they have provided timely advice, guidance and investigation services in accordance with the terms of their contract. Principles Integrity currently acts as the Integrity Commissioner for over 50 municipalities, including Peel Region, York Region, Halton Region, County of Simcoe, and the City of Windsor. They have an excellent reputation among municipalities and possess the expertise, network of resources and necessary skill set to enable them to successfully perform the responsibilities set out in their contract.

As there is a very small pool of qualified and experienced Integrity Commissioners available to bid on provision of this service to the City, staff do not believe that issuance of an RFP will result in more options for the City than the search produced back in 2019.

Staff recommend that the renewed term to be negotiated with Principles Integrity be set to expire on or about May 31, 2027 rather than on November 14, 2026, to enable sufficient opportunity for the new Council (2026-2030 Term) to determine a mechanism for appointing its Integrity Commissioner and Lobbyist Registrar.

ALTERNATIVES FOR CONSIDERATION

Recruitment Selection Process for Future Appointments

An alternative to the recommended approach of extending the City's existing contract with Principles Integrity would be to conduct a competitive procurement process to secure the services of an Integrity Commissioner and Lobbyist Registrar in accordance with the City's Procurement Policy By-Law 20-205, as amended.

Attached as Appendix "A" to this report FCS22074(a) is an Integrity Commissioner Appointment and Contract Administration Procedure which provides delegated authority to staff to issue an RFP, with all proposals received evaluated by the City Manager, Executive Director of Human Resources, City Solicitor and the City Clerk. Using the prescribed method, set out in the RFP, any eligible proposals would have their costing proposal opened and evaluated only if they meet the required benchmark. Following

selection of the preferred candidate, the City Clerk would be authorized to place a By-law for Appointment of the preferred candidate on the Council agenda for consideration and enactment by Council. Following formal appointment by Council, the Clerk would hold delegated authority for contract administration, including the execution of a contract with the candidate appointed.

The Procedure attached as Appendix "A" is similar to the process followed for the previous appointment of the City of Hamilton's Integrity Commissioner and similar to the Ottawa procedure reviewed by staff except that staff propose that Council retain the appointment authority.

FINANCIAL – STAFFING – LEGAL IMPLICATIONS FOR ALTERNATIVES FOR CONSIDERATION

Financial: Currently, the annual costs for the Integrity Commissioner and Lobbyist Registrar are funded through IC-Lobbyist Registrar (Account Number 300400). The annual costs from the previous five (5) years is listed below in chart 1.

Staffing: N/A

Legal: Legal staff will be involved in the review of any contract extension.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Our People and Performance

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

APPENDICES

Appendix A – Integrity Commissioner Appointment and Contract Administration Procedures

Appendix B – Municipal Act, 2001, sections 223.2 to 223.12, as amended

REFERENCES

Municipal Act, 2001, as amended

Council Code of Conduct, By-Law 16-290

Lobbyist Registry, By-Law 14-244

Establish and Govern the Office of Integrity Commissioner, By-Law 16-188