

CITY OF HAMILTON

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Parking and By-law Services Division

TO: Chair and Members Planning Committee	WARD(S) AFFECTED: CITY WIDE
COMMITTEE DATE: March 19, 2013	
SUBJECT/REPORT NO: Municipal Law Enforcement (MLE) Contractor Services Administration Staff Resource Report (PED13056) (City Wide)	
SUBMITTED BY: Tim McCabe General Manager Planning and Economic Development Department	PREPARED BY: Joe Xamin (905) 546-2424 Ext. 6656 Shawn De Jager (905) 546-2424 Ext. 4721
SIGNATURE:	

RECOMMENDATION

- (a) That an additional one FTE, at 100% cost recovery, for corrective measures in the administration and oversight of the use of private contractors as a long standing enforcement practice, be approved, subject to the approval of recommendation (b) outlined below;
- (b) That the following revised administration fees be approved and added to the User Fees and Charges By-law to fund the one FTE at 100% cost recovery:
 - (i) \$85 Administration Fee for invoices less than or equal to \$600 (before tax);
 - (ii) \$190 Administration Fee for invoices greater than \$600 (before tax);
 - (iii) \$30 Administration Fee for requests for file review.

EXECUTIVE SUMMARY

When property owners fail to comply with City By-laws such as the Fence By-law, the Property Standards By-law and the Yard Maintenance By-law, the Municipal Law Enforcement (MLE) Section utilizes a pool of private contractors to complete work on

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behalf of the City with all the costs related to this work added to the property owner's tax roll. Currently this work is carried out under the existing Contractor Services Contract C2-04-07 which commenced in late 2007 and is set to expire at the end of April 2013. This Report recommends additional fees and one FTE in order to provide proper oversight and to correct deficiencies in using private contractors to undertake this work on behalf of the City.

Alternatives for Consideration – N/A

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial/Staffing: An additional one FTE is required to correct deficiencies in the administration and oversight of the use of private contractors as a long standing enforcement tool when the improved contract comes into force in May 2013. The fees recommended in this Report reflect full cost recovery for the position based on the approximately 700 invoices issued in 2011 for work completed under the current Contractor Service Contract C2-04-07.

Legal: N/A

HISTORICAL BACKGROUND (Chronology of events)

The existing Contract C2-04-07 commenced in October 2007 and is set to expire at the end of April 2013. This contract was a joint agreement between Building Services and Municipal Law Enforcement (MLE) staff to utilize a pool of private contractors to complete work on behalf of the City when property owners failed to comply with orders issued by the City.

POLICY IMPLICATIONS/LEGISLATED REQUIREMENTS

Request for Tenders fall within Section 5.3 of the City's Procurement Policy.

RELEVANT CONSULTATION

Corporate Services (Procurement and Finance staff).

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

Since 2007, the amount of work completed under the existing contract has grown significantly. In 2008, approximately 385 invoices were issued generating approximately \$300,000 worth of work completed by private contractors, while in 2011,

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approximately 700 invoices were issued generating \$700,000 worth of work. The work ranges from mowing long grass and weeds or removing waste to more extensive undertakings like repairing a roof or demolishing a building.

The increase of work being completed by private contractors is directly linked to the increased enforcement activities and initiatives being performed by the Municipal Law Enforcement (MLE) Section. In 2007, an Operational Review identified serious deficiencies in the City's By-law Enforcement Program and the resulting comprehensive corrective measures have resulted in increased enforcement activity within the Division. Further, new Council approved initiatives such as Project Compliance (2010) and Vacant Buildings (2010) have also increased enforcement action and a corresponding increase in the use of contractors to obtain compliance.

In relation to the volume of work being completed by private contractors, the number of concerns received from property owners has also increased significantly, specifically about the quality of work and value for services provided. In 2011 alone, one management staff member dealt with 115 (+) individual requests for file reviews concerning the cost of the work and the quality of the services provided. These concerns generate a significant demand on MLE Management staff in terms of reviewing documents, responding to accusations of gouging, and making determinations as to fee reversals. MLE Management staff on occasion have devoted close to 60% of their weekly workload to dealing with such concerns including attending on-site meetings with the property owner. This type of involvement of Management staff in administrative related work impedes the effective performance management of the By-law Enforcement Division's day-to-day operations and activities.

A consequence of this demand on MLE Management staff time is that in some instances the City ends up paying for work completed on behalf of non-compliant property owners. In 2012 this amounted to approximately \$31,700 which includes occurrences when non-compliant properties changed ownership before the cost was added to the tax roll.

The addition of one FTE at 100% cost recovery is necessary and designed to reduce concerns about impartiality, quality of work and value for services. The approval of the role will also allow MLE Management staff to focus on the performance management of staff and the day-to-day operations in by-law enforcement activities.

The revised Administrative Fees Structure reflects the level of effort required to effectively carry out the improved administration and oversight mechanisms built into the contract. It also reflects the structure of the new contract in terms of how work orders are issued, how work is priced (quote vs. set price) and how work is completed.

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OLD FEE STRUCTURE		REVISED FEE STRUCTURE	
Invoice Amount	Current Fees	Invoice Amount	Revised Fees
0 - \$150	\$50 admin fee	0-\$600	\$85 admin fee
\$150 - \$300	\$75 admin fee		
\$300 - \$400 +	\$100 admin fee	\$600 +	\$190 Admin Fee

In addition to revising the Administration Fee Structure to better reflect how the new contract is administered and structured, staff are recommending a new \$30 administrative fee for all requests for a file review in determining whether a fee reversal is warranted. This file review involves retrieving and reviewing all relevant property information, including the investigation details, the original Order to Comply and contractor work. This new fee is being recommended based on the growing trend of non-compliant property owners challenging the work that was completed. The new fee does not reflect the actual amount of administrative time required to complete a file review, however, it is staff's opinion that such a fee will deter frivolous requests which consume significant time. This is another critical and time consuming job function that the new role will be responsible for.

Appendix "A" to this Report sets out in greater detail the improved contract to supply private Contractor Services to MLE staff.

ALTERNATIVES FOR CONSIDERATION

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

N/A

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN:

Strategic Priority #2

Valued & Sustainable Services

WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.

Strategic Objective

2.3 Enhance customer service satisfaction.

APPENDICES / SCHEDULES

Appendix "A" to Report PED13056 – MLE Contractor Services Overview
SDJ/dt

OUTLINE ~ Municipal Law Enforcement (MLE) Contractor Services:

Within the new improved contract the work being delivered has been broken up into two contracts with yard maintenance related work under one contract, and property standards related work under a second contract. Each contract is unique and reflective of the type of work being performed and the required effort of administrative oversight.

Key benefits of the improved contract:

- better oversight and administration of work being carried out on behalf of the City;
- promoting of the competitive bid process;
- separating standard yard maintenance type work from more complex property standards type work;
- establishing competitive rates;
- better quotation and invoicing requirements; and,
- better definition of roles, deliverables and responsibilities.

Revised Administrative Fees:

The revised fees being recommended reflect the level of effort required for effective administration and oversight of the improved contract based on three revised fee categories, those being:

- A.** \$85 for invoice amounts less than or equal to \$600 (before tax);
- B.** \$190 for invoice amounts greater than \$600 (before tax); and,
- C.** \$30 administrative fee charged to all requests for fee reversals.

A) The \$85 administration fee is charged when the invoice is less than or equal to \$600, based on:

- Nature of work is typically minor i.e.) cutting grass or garbage and debris removal;
- Requires minimum staff interaction i.e.) reviewing and meeting onsite not always required; and,
- Generally the price per job is set in the contract by lowest bid – reducing staff administrative time.

B) The \$190 administration fee is charge when the invoice is more than \$600 based on:

- Nature of work is more complex i.e.) general property repair, roofing etc.;

- Requires more staff interaction i.e.) reviewing work with a potential for multiple onsite meetings; and,
- May require reviewing multiple quotations – requiring more staff oversight and time to ensure value of service.

C) A \$30 administration fee will be charged to all individual's requesting a fee reversal. This amount will not be returned regardless of the outcome of the request as the individual or party was found to be in violation of a by-law requiring Municipal Law Enforcement involvement.

These three fees cover staff time relating to the following:

- Issuing the work request to the contractors;
- Completing the necessary paperwork;
- Reviewing and approving quotations;
- Increased interaction with the contractor i.e.) onsite meetings;
- Ensuring the work is completed – onsite check in most circumstances;
- Dealing with any follow up via the property owner or the contractor;
- Receiving and confirming payment of all invoices;
- Facilitating entry to dwellings; and,
- Determining fee reversals (only charged if a fee review is requested).

Yard Maintenance Contract Summary:

For the most part the work performed under this contract includes:

- Mowing long grass and weeds;
- Removing waste (debris and bulk);
- Trimming trees or shrubs;
- Other work potential including snow removal and graffiti removal if required; and,
- Any combination of the above.

This contract has set rates as defined by the successful contractor with the lowest complaint bid, with a special circumstance option built in to deal with complex cases as they arise. Invoices will be typically \$600 or less unless a higher amount is approved.

Property Standards Contract Summary:

Typical work that will be completed under this contract includes:

- Repairing structures (fences, retaining walls, etc.);
- Repairing buildings (roofing, plumbing, painting, windows, doors, railings etc);

- Repairing or replacing heating systems;
- Removing trees; and,
- Any combination of the above.

This contract requires multiple quotations for all work assigned, ensuring value for service. This requires an increased level of oversight by staff reviewing and approving quotations and will become one of the primary job functions of the new FTE. This position will be the primary point of contact throughout the entire process from start to finish including being instrumental in determining fee reversals.