

City of Mississauga

Corporate Report



Date: October 30, 2020

Originator's files:

To: Chair and Members of Governance Committee

From: Andra L. Maxwell B.A., LL.B., CIC.C, City Solicitor

Meeting date:
November 16, 2020

Subject

Integrity Commissioner Request for Proposals

Recommendation

1. That the mandate of the Integrity Commissioner shall be to act as an advisor to members of Council and local boards on matters relating to ethics, their respective codes of conduct and the *Municipal Conflict of Interest Act*, to act as an educational resource in this respect, and to independently receive and investigate complaints regarding a possible breach of the code of conduct or *Municipal Conflict of Interest Act* by a member of Council or a local board;
2. That the qualifications of an Integrity Commissioner, beyond being independent and impartial, as set out in this report be affirmed;
3. That staff be authorized to issue a request for proposals (RFP) seeking applicants for the position of Integrity Commissioner for a four-year non-renewable term, to carry out this mandate and any additional duties that may be placed upon the Integrity Commissioner by legislation;
4. That direction be provided on the appropriate individuals to be responsible for evaluating proposals and making a recommendation to City Council on a new Integrity Commissioner; and
5. That the new Integrity Commissioner be appointed for a four-year non-renewable term commencing July 2021 and ending June 2025.

Report Highlights

- The City's contract with the current Integrity Commissioner, Principles Integrity, has a four-

year non-renewable term and expires June 30, 2021.

- It is proposed to issue an RFP to retain the services of a new Integrity Commissioner, with the same mandate as the current Integrity Commissioner.
- It is recommended that the appointment of the new Integrity Commissioner remain at a four-year non-renewable term, so that it would fall to the outgoing Council to make the appointment and confirm the mandate of the Integrity Commissioner going forward.

Background

Section 223.3 of the *Municipal Act, 2001* authorizes municipalities to appoint an Integrity Commissioner who reports to Council. The Act requires that the Integrity Commissioner be independent and perform the function identified in the legislation and as assigned by the municipality. The Integrity Commissioner must be independent and impartial, and best practices indicate that they should not be employed by the municipality and should be appointed on a part-time basis for a tenure that is non-renewable. Remuneration should be fixed at a reasonable level to avoid concerns about undue influence. If a municipality does not appoint an Integrity Commissioner, it must make arrangements for the function to be provided by an Integrity Commissioner of another municipality.

Effective March 1, 2019, the Integrity Commissioner's responsibilities were expanded. In addition to application of the code of conduct and rules regarding ethical behaviour for members of council and of local boards, responsibilities now also include:

- application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* to members of council and of local boards.
- requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member
- requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behaviour of members.
- requests from members of council and of local boards for advice respecting their obligations under the *Municipal Conflict of Interest Act*.
- provision of educational information to members of council, members of local boards, the municipality and the public about the municipality's codes of conduct for members of council and members of local boards and about the *Municipal Conflict of Interest Act*.

As well, the *Municipal Act, 2001* has expanded the category of persons who can file a complaint under the *Municipal Conflict of Interest Act* beyond those who are electors in the municipality to a broader "person demonstrably acting in the public interest".

The *Municipal Act, 2001* sets out rules and time restrictions in the conduct of inquiries by the Integrity Commissioner.

Comments

It is recommended that an RFP be issued to select a new Integrity Commissioner. It is also recommended that the term of the appointment remain at four years, ending June 2025, in order that the outgoing Council may, prior to the municipal election in 2026, make the appointment and confirm the mandate of a new Integrity Commissioner going forward.

Best practices indicate that the term of the Integrity Commissioner should be non-renewable, to ensure that the Integrity Commissioner remains independent and does not become too familiar with members of City Council and staff.

The mandate of the current Integrity Commissioner includes the responsibilities as expanded by the *Municipal Act, 2001* in 2019, and it is recommended that the mandate of the new Integrity Commissioner remain the same.

The qualifications of an Integrity Commissioner, beyond the need to be independent and impartial, as approved by City Council in previous appointments, include:

- proven impartiality and neutrality, comparable to that of a judge;
- ability to provide services on a part-time, flexible and as-needed basis without competing employment demands;
- no involvement in political campaigning/endorsements, no political party membership and no related conflict of interest;
- no financial interest in the work undertaken by the City;
- an independent person known to have high ethical standards;
- experience managing sensitive inquiries, conducting investigations and making appropriate recommendations;
- excellent communication skills;
- familiarity with investigatory procedures and applicable legal principles, particularly as they relate to evidence, legal interpretation and natural justice;
- general knowledge and appreciation of municipal government;
- ability to interpret and apply the provisions of various statutes, regulations, policies and other enabling documents;
- impartiality, wisdom, sound judgment combined with an ability to inspire trust and confidence;
- at least 10 years of senior-level management, legal, tribunal or judicial experience with preference given to those with judicial experience.

When the City last issued an RFP to select an Integrity Commissioner, the City Solicitor and City Clerk served on the evaluation committee to assess applications. Members of Council

were invited to attend interviews in the recruitment process. Direction is sought in respect of the composition of the evaluation committee for this new RFP.

Financial Impact

\$100,000 annually has been budgeted for the services of an Integrity Commissioner. Based on invoices received over the last three years and the current mandate, this is an appropriate budgeted amount.

Conclusion

The current Integrity Commissioner's contract has a four-year non-renewable term and expires in June 2021. Effective March 2019, the role of the Integrity Commissioner was expanded in the *Municipal Act, 2001*. The purpose of this report is to seek authority to issue a new RFP to retain an Integrity Commissioner and determine the qualifications and an evaluation committee, as set out in this report.



Andra L. Maxwell B.A., LL.B., CIC.C, City Solicitor

Prepared by: Eleonora Filippone, Legal Counsel