

Report to Corporate Services Committee

To: Chair and Members
Corporate Services Committee
From: Barry R. Card
Managing Director, Corporate Services and City Solicitor
Subject: New Council Policy - Contracting for Legal Services
Meeting on: July 23, 2019

Recommendation

That, on the recommendation of the Managing Director, Corporate Services and City Solicitor, the attached proposed by-law BE INTRODUCED at the Municipal Council meeting on July 30, 2019 to enact a new Council Policy entitled “Contracting for Legal Services”.

Previous Reports Pertinent to this Matter

None

Background

The City Solicitor’s Office is expected to provide all legal services to the Corporation, with a few exceptions. The exceptions include matters which require expertise and experience which is not available in-house and those matters that give rise to conflicts at any level. The lawyers employed by the City offer wide expertise in “municipal” matters, however, from time to time, the City becomes involved in matters outside the scope of this expertise.

Service areas have been able to engage outside legal services at will, provided that funding is available. This approach has several disadvantages: the expense to the City for legal services is increased, control over spending for legal services is reduced, total expenditures have been difficult to monitor and the results have been uneven. The factors giving rise to the practice have been addressed internally: in-house expertise has been expanded, “wait times” have been reduced and services have been made more accessible.

The City Manager, as a “Management and Organizational Support” initiative, has requested that a policy be developed to identify the circumstances under which outside legal services will be engaged by the Corporation.

Consistent with these expectations, the draft policy intends that outside legal services not be engaged without the approval of the City Solicitor, in the absence of specific Council authorization. The term “Legal Services” is defined to include any contracting with a law firm.

Conclusion

Most legal matters can be handled in-house. When, for any reason, outside legal services are requested by a service area, the appropriateness of the request should be evaluated by the City Solicitor, on the basis of the criteria set out in the policy.

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| <p>Prepared and Recommended by:</p> | <p>Barry R. Card Managing Director, Corporate Services and City Solicitor</p> |
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July 15, 2019

Bill No. _____ 2019

By-law No. CPOL.-_____

A by-law to enact a new Council policy entitled
“Contracting for Legal Services”.

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides a municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS the Council of The Corporation of the City of London wishes to enact a new Council Policy entitled “Contracting for Legal Services”;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The policy entitled “Contracting for Legal Services”, attached hereto as Schedule “A” is hereby adopted.
2. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading –
Second Reading –
Third Reading –



Policy Name: Contracting for Legal Services

Legislative History: Enacted July 30, 2019 (By-law No. CPOL.-_____)

Last Review Date: July 23, 2019

Service Area Lead: Managing Director Corporate Services & City Solicitor

1. Policy Statement

The objective of this Policy is to identify the circumstances under which outside counsel may be engaged to assist with the delivery of legal services.

Contracting for legal services is intended to respect the spirit of the budget process and the City's Procurement of Goods and Services Policy, while considering the practical realities of the legal system and the environment in which the City operates.

The Policy intends that the City be able to contract for legal services with knowledgeable, skilled and motivated private sector law firms and law practitioners, in a manner that effectively and efficiently meets the City's operational requirements.

2. Applicability

This Policy applies whenever a contract for services is contemplated with a law firm, practicing lawyer or paralegal, whether or not the intention is to contract for conventional legal services.

This Policy applies to all contracts for legal services between the City and private sector law firms and law practitioners, unless the Council directs otherwise.

3. The Policy

3.1 Role of City Solicitor

- a) This Policy requires that the City Solicitor determine whether any request by a Service Area for the outsourcing of legal services should be approved.
- b) No Service Area is permitted to enter into a contract with a law firm, practicing lawyer or paralegal, without first having obtained the approval of the City Solicitor.

3.2 Decision Concerning Outsourcing Request

- a) The City Solicitor, in consultation with the Service Area that bears responsibility for payment of the expense of contracted legal services, is to decide whether such work should be outsourced.
- b) The decision to outsource must be duly justified on the basis of the following factors, as applicable:
 - capacity within the City Solicitor's Office
 - timelines and level of urgency
 - level and impact of risk to the City
 - experience and expertise requirements
 - whether funding for the expenditure has been approved

- statutory requirements
- security considerations
- conflict of interest considerations
- public interest considerations; and
- unique considerations associated with the work

3.3 Appointment and Contracting

Once the outside legal work is approved, the authority to formalize the appointment and enter into a contract with the approved firm or practitioner is exercised by the City Solicitor.

3.4 Instructing, Monitoring and Assessment of Accounts

The City Solicitor instructs the firm or practitioner and monitors the work performance in light of the requirements of the contract for legal services. Assessment may be required at the discretion of the City Solicitor.

3.5 Accountabilities

The City Solicitor is accountable to Council for contracting for legal services with private sector law firms and law practitioners.

Service Area Leads are accountable to Council for ensuring that contracting for legal services with private sector law firms and law practitioners is referred to the City Solicitor for sourcing, selection, appointment and contracting of Legal Services, in accordance with this policy.

Service Area Leads are also responsible for ensuring that all accounts for legal services are funded through an approved source.

July, 2019