

Clause 8 in Report No. 10 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on May 21, 2015.

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Insurance Program Support Services

Committee of the Whole recommends adoption of the recommendation contained in the following report dated April 29, 2015 from the Commissioner of Finance:

1. Recommendations:

It is recommended that:

1. The firms:

- Georgian Claim Services Inc.
- RGM Claim Services Inc.
- DSB Claims Solutions

be retained to provide adjusting services for insured claims on a fee-for-service basis for the period July 1, 2015 to June 30, 2018;

2. The firms:

- Borden Ladner Gervais, LLP
- Clyde & Co. Canada, LLP
- Hughes Amys, LLP

be retained to provide legal services for insured claims on a fee-for-service basis for the period July 1, 2015 to June 30, 2018; and

3. Contingent on services being provided satisfactorily, the Commissioner of Finance be authorized to extend the appointment of any of these firms for up to a further two additional one year terms.

2. Purpose

The purpose of this report is to seek approval for the selection of external firms to provide adjusting and legal services associated with insurance claims.

3. Background

The Region obtains adjusting and legal services for insurance claims from a number of external firms.

The adjusting and legal firms currently used by the Region were appointed as a result of a Request for Proposal (RFP) completed in 2010. The final one year term for the four current adjusting firms and the four current legal firms will end on June 30, 2015.

The number of firms selected during the 2010 RFP process was based on a forecast of the number of claims, claim type, duration of claim and complexity. The engagement of multiple firms ensures timely access to service and specialized expertise. Each firm has staff who specialize in specific aspects of municipal liability and fraud control. Table 1 shows the current service providers.

Table 1
Current Service Providers

Adjusting	Legal
Crawford & Company (Canada) Inc.	Blaney McMurtry, LLP
Cunningham Lindsay Canada	Borden Ladner Gervais, LLP
Georgian Claim Services Inc.	Clyde & Co. Canada, LLP
RGM Claim Services Inc.	Paterson MacDougall, LLP

A new Request for Proposal process was initiated to secure these services for the next three years, with an option to extend at the Region’s discretion for a further two one year terms using the same rate structure.

Claim investigation services are provided by adjusting firms

The Region uses the services of independent claim adjusters to investigate insured claims brought against the Region. Treasury Office staff manage the claim, conduct internal investigations, and engage adjusters to conduct any required external investigations. Adjusting services may include accident site investigation, photographs, statements from claimants or witnesses, verification

of information, collection, submission and administration of specific accident benefit coverages, and assessment of liability. The Financial Services Commission of Ontario (FSCO) issues licenses authorizing companies to conduct business as an adjusting company. Regional employees are therefore not licensed to perform these adjusting services and must rely on external adjusting firms for these services.

Adjusting services are requested on a claim by claim fee-for-service basis as required. Adjusters need to be familiar with municipal claims, including transit, police and road liability issues.

Litigation defence services are provided by external legal firms

The Region uses external legal firms to provide litigation defence for insured claims brought against the Region. These claims are often complex and require specialized expertise. As is customary in the industry, the Region's insurance company requires the use of external legal firms for all work above the deductible.

Legal services are requested on a claim by claim fee-for-service basis as required. As with adjusters, familiarity with municipal claims is necessary.

4. Analysis and Options

Lower accident benefits claim activity reduces number of adjusting providers needed

A change in provincial legislation in May 2011 has reduced the number of accident benefit claims from transit riders under the Automobile Policy. This change requires a collision to have occurred in order for passengers to have access to accident benefit coverage under the automobile policy. An injury that has resulted from a "hard brake" is no longer eligible for accident benefits; however, claims of this nature must be opened, investigated and determined not to qualify for accident benefits before they can be denied and closed. Claimants can pursue a tort claim if they so choose, but the increase in tort claims has been less than originally expected.

With the reduction in access to accident benefits by transit passengers due to the change in regulations, adjuster time and involvement in these claims has been reduced. The volume of other types of claims has been fairly constant over the last 5 years and is expected to remain stable. As a result of the change in transit claims volume, it is recommended that the number of adjusting firms be reduced

from four to three for the period of this award. Table 2 shows the history of new claims requiring adjusting and the associated fees over the past five years.

**Table 2
Adjusting Fees Paid Based on Year of Occurrence**

Occurrence Year	No. of New Claims	Adjuster Fees Paid since occurrence
2010	224	612,870
2011	237	624,815
2012	307	647,872
2013	206	350,619
2014	190	385,452

It is anticipated that only three firms will be needed to provide the required services based on a forecast of the number of claims, claim type, duration of claim and complexity. The continued engagement of three firms will ensure the availability of service and allows for access to specialized expertise when required.

Table 3 provides the results of the procurement process; the top three firms are recommended. It should be noted that the firms previously handling files will remain active with their files until they are ultimately concluded. The cost to transfer these open files to a new firm would be prohibitive.

**Table 3
Final Evaluation Results of the Adjusting Services RFP**

Firm	Technical & Interview Score (80)	Financial Score (20)	Overall Score
Georgian Claim Services Inc.	65.4	19.2	84.6
RGM Claim Services Inc.	64.0	18.2	82.2
DSB Claims Solutions	59.5	20.0	79.5
Cunningham Lindsay Canada	55.8	18.2	74.0
Crawford & Company (Canada) Inc.	57.1	non-compliant	non-compliant

The number of providers for legal services will decrease

Council approved an increase to the deductible amount for each liability claim from \$100,000 to \$500,000 effective July 1, 2014. With this increase, staff will be directly involved for a longer period of time with external legal firms in developing settlements and claim resolutions, before files are transferred to the insurance carrier when the deductible level has been reached. The assigned legal firm continues to remain on the file but acts under the direction of the insurer once the deductible has been reached.

Table 4 shows the new claims that were assigned to external legal firms and the associated fees over the past five years. Even though 2013 and 2014 are not fully developed, there appears to have been a significant drop in litigated claims; it is therefore appropriate to reduce the number of firms from four to three to ensure an adequate case load can be assigned to each firm.

It is anticipated that only three firms will be needed to provide the required service based on a forecast of the number of claims, claim type, duration of claim and complexity. The continued engagement of three firms will ensure the availability of service and allows for access to specialized legal expertise when required.

Table 4

Legal Services Fees Paid Based on Year of Occurrence

Occurrence Year	No. of New Claims	Legal Fees Paid since occurrence
2010	71	1,169,969
2011	64	926,719
2012	49	510,828
2013	12*	170,410
2014	9*	24,549

***These numbers will increase as claimants have two years from occurrence in which to launch a lawsuit**

Table 5 provides the results of the procurement process; the top three firms are recommended. It should be noted that the firms previously handling files will remain active with their files to conclusion. The cost to transfer these open files to a new firm would be prohibitive.

**Table 5
Final Evaluation Results of Legal Services RFP**

Firm	Technical & Interview Score (80)	Financial Score (20)	Overall Score
Borden Ladner Gervais, LLP	70.9	13.7	84.6
Clyde & Co., LLP	63.8	15.6	79.4
Hughes Amys, LLP	57.8	20.0	77.8
Blaney McMurtry, LLP	59.4	18.0	77.4
Paterson MacDougall, LLP	61.3	15.5	76.7
Miller Thomson, LLP	57.2	16.2	73.4
Loopstra Nixon, LLP	52.4	18.3	70.6
McCague Borlack, LLP	60.7	-	Non-compliant
Will Davidson, LLP	39.6	-	Achieved minimum score but did not attend interview
Torkin Manes, LLP	45.1	-	Did not meet minimum score
Duncan Linton, LLP	36.5	-	Did not meet minimum score
Heal & Co., LLP	26.7	-	Did not meet minimum score

*Cost per technical point is not applicable when a roster is being selected.

Link to key Council-approved plans

The 2015 to 2019 Strategic Plan promotes good government as one of its strategic priority areas. Through the stringent RFP process used for selecting external insurance service providers, the Region engages professional, experienced firms at the best price, supporting the Region’s strategic objective of being fiscally prudent and efficient.

5. Financial Implications

Annual cost for both adjusting and legal services associated with insurance claims is expected to remain stable

Table 6 shows the annual cost of adjusting and legal services over the past 5 years for insured claims (including new and existing claims). The table shows the actual payments made by year regardless of the date of the loss. For example, costs paid in 2010 could be for a claim opened in 2007 that had payment activity in 2010.

It is anticipated that overall adjusting expenditures for insurance claims will remain relatively stable for the next few years. The fees depend on both time spent on each claim and the hourly fee. For adjusting, the number of claims is expected to remain stable, but there will be less time involved, so the total fees paid are expected to remain approximately the same, even though rates have increased slightly.

For legal services, the number of files has declined over the past few years. However, legal fees are increasing slightly with this RFP and due to higher deductibles legal involvement directly with the Region will increase. As a result, legal fees are expected to increase over the next five years.

**Table 6
Annual Adjusting & Legal Costs Paid (new & existing claims)**

Year	Adjusting Costs To Date	% of Total Annual Claim Costs	Legal Costs To Date	% of Total Annual Claim Costs
2010	\$606,922	13	\$1,639,288	34
2011	\$600,961	17	\$1,738,680	50
2012	\$711,199	14	\$ 1,775,628	35
2013	\$688,296	18	\$1,689,911	40
2014	\$648,426	22	\$1,493,468	51

The cost associated with both legal and adjusting services for insurable claims has been included in the 2015 Budget as a component of the insurance expense.

6. Local Municipal Impact

There is no local impact with respect to these services.

7. Conclusion

This report recommends the retention of external service providers required to assist with the management of insurance claims.

For more information on this report, please contact Edward Hankins, Director, Treasury Office, ext. 71644.

The Senior Management Group has reviewed this report.

April 29, 2015

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