



**SUBJECT: City of Burlington recommended governance framework changes/Integrity Commissioner RFP**

**TO: Corporate Services, Strategy, Risk & Accountability Cttee.**

**FROM: City Manager's Office**

Report Number: CM-08-22

Wards Affected: Not applicable

File Numbers: 155-03-01

Date to Committee: March 2, 2022

Date to Council: March 22, 2022

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### **Recommendation:**

Direct the City Manager to proceed with recommended changes as outlined in city manager's office report CM-08-22 to enhance the alignment and effectiveness of the City of Burlington's governance accountability framework as follows:

1. Direct the City Clerk to proceed with a request for proposal (RFP) for a new five-year contract retainer for an independent City of Burlington Integrity Commissioner effective August 1, 2022 to July 31, 2027;
2. In conjunction with the above noted RFP process, include the following additional policy-related advisory services to be completed by the Integrity Commissioner:
  - a. Update of the City of Burlington Code of Good Governance to align with and achieve compliance with anticipated future changes to Province of Ontario legislation governing Municipal Codes of Conduct (target date for completion to be confirmed based on completion of province-wide review);
  - b. Update of City of Burlington Council/Staff Relations Policy including integration with an updated City of Burlington Code of Good Governance (target date to be confirmed);
  - c. Update of City of Burlington Respect in the Workplace Policy to fully integrate and align with the role and function of the Integrity Commissioner (target date for completion – Q3 2022);
3. Direct the Chief Financial Officer to allocate one-time funding for completion of the above-noted additional policy development advisory services in the upset amount of \$75,000 with funding provided from the contingency reserve fund; and

Direct the City Clerk to report back to the Corporate Services, Strategy, Risk and Accountability Committee on July 4, 2022 with the recommended award of the five-year retainer for the Integrity Commissioner; and

Direct the City Clerk to work with the Chief Financial Officer to include the estimated funding to cover the ongoing cost for the Integrity Commissioner contract retainer directly within the 2023 and future operating budgets for the Office of the City Clerk.

## **PURPOSE:**

### **Vision to Focus Alignment:**

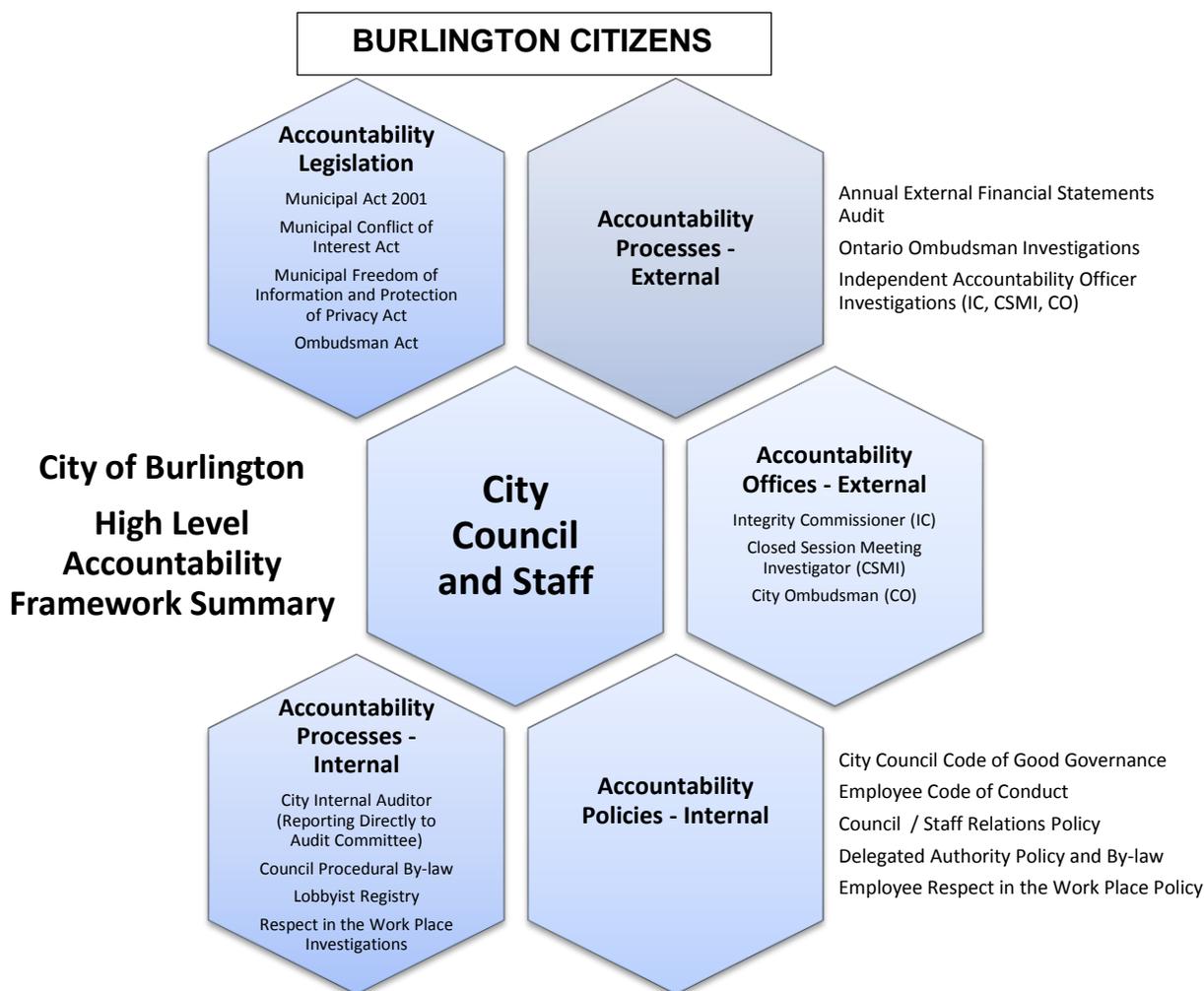
- Increase economic prosperity and community responsive city growth
- Improve integrated city mobility
- Support sustainable infrastructure and a resilient environment
- Building more citizen engagement, community health and culture
- Deliver customer centric services with a focus on efficiency and technology transformation

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### **Background and Discussion:**

As Committee is aware, the City of Burlington operates under an integrated and robust governance accountability framework. Brought about largely by recent changes to Provincial legislation including the *Municipal Act, 2001*, Burlington City Council is committed to conducting City business in an open and transparent manner. While collectively the governance framework involves many components, Figure 1 below depicts the high-level relationship that exists between applicable provincial legislation, key external and internal accountability offices/functions and the various policies, business processes and procedures that set out clear expectations.

**FIGURE 1**



**Strategy/process**

This report focuses on the ongoing role of the independent, external Integrity Commissioner as a key element of the framework, specifically the need for a new five-year contract. The current contract expires on July 31, 2022.

In June 2018, City Council appointed *Principles Integrity* to act as its Integrity Commissioner providing independent and external accountability services to the City. The important role of the Integrity Commissioner is to support the City’s ethical framework by providing advice and education on:

- a) the application of the Council’s Code of Good Governance on City policies, procedures, protocols and rules relating to the ethical conduct of Members of Council and members of the City’s local boards; and
- b) matters relating to the Municipal Conflict of Interest Act.

As Committee is aware, the firm *Principles Integrity* has served the corporation well over the past four years and has also reported publicly on an annual basis to Council on their activities. Council has also received training and education on municipal governance, as part of the orientation program, at the start of the new 2018-2022 Council term.

The previous Request for Proposal (RFP) and award process for Integrity Commissioner services were managed by Halton Region, with all lower tier municipalities operating in a cooperative buy. The rationale was to have one integrity commissioner for both upper and lower tier requests. For this contract, the City will be doing this RFP on its own and it is anticipated that this will help ensure a made in Burlington solution.

With the need to commence the RFP process for the Integrity Commissioner early in Q2, staff are bringing this report forward at this time for a number of reasons:

- Notwithstanding the award of the Integrity Commissioner contract would normally be well within the delegated authority approval limit of the City Manager, the decision to appoint the Integrity Commissioner must reside with Council rather than staff.
- For Committee's information, the previous Integrity Commissioner selection in 2018 was through a joint RFP process with Halton Region and the four local municipalities. For this process, we are recommending the RFP be a separate process, administered through the City, in accordance with our normal procedures to procure through competitive bids.
- For reasons outlined below, staff believe the opportunity exists within an RFP process to expand on the normal retainer contract to consider additional and optional services to be provided by the Integrity Commissioner.

The City of Burlington's governance accountability framework has many inter-dependencies as outlined in Figure 1. Recent discussions with the City Clerk, Executive Director of Legal Services and Corporation Counsel and Executive Director of Human Resources, identified that the upcoming Integrity Commissioner RFP process provides the opportunity to enhance the effectiveness of the City's governance accountability framework.

The opportunity could include both additional policy development services and optional governance & accountability services which would be outlined in the RFP as separate and distinct services from that of the normal five-year Integrity Commissioner services contract retainer.

### **Additional Policy-Development Related Services**

- Update of the City of Burlington Code of Good Governance to align with, and achieve compliance with, anticipated future changes to Province of Ontario legislation governing Municipal Codes of Conduct.
- Update of City of Burlington Council/Staff Relations Policy including integration with an updated City of Burlington Code of Conduct.
- Update of City of Burlington Respect in the Workplace Policy to fully integrate and align with the role and function of the Integrity Commissioner (*Target Date for completion – Q3 2022*).

In addition to the above additional services, the RFP will also seek details from the bidders related to the ongoing delivery of integrity commissioner services including:

- Overall approach and detailed methodology of the Integrity Commissioner related to performing their functions under the retainer; and
- Addressing the challenge of the Integrity Commissioner both in advising Council on potential conflict of interest matters and also investigating related Code of Good Governance and/or municipal conflict matters.

### **Optional Integrity Commissioner Related Services**

- Lobbyist Registry - Consideration of potentially contracting the Integrity Commissioner as the City's future Lobbyist Registrar including:
  - assisting with the development and implementation of an independently administered City Lobbyist Registry; and
  - potential development of a Lobbyist Code of Conduct for the City of Burlington.

Bidders will outline the overall approach, define clear roles and responsibilities, and provide an annual cost estimate for the administration of the registry and any related policy work. **Note:** The City of Ottawa and the City of Hamilton both currently deploy this dual role model for their Integrity Commissioner.

- Council/Staff Governance Training and Education Program (4 Years) – In addition to the new Council orientation program, the RFP would request that each RFP proponent outline options for a more comprehensive training and education program related to municipal governance and accountability over the full four-year term of Council. Recognizing the dynamic nature of municipal governance today, and also the impact of anticipated future legislation and other changes, staff recommend consideration in the RFP be given to a multi-year

integrated approach to governance training and education for both Council and staff.

### **Overview of RFP Process – Key Activities and Timing**

The RFP will define key deliverables, some as described above, and will request that bidders submit their qualifications, resources, methodology, approach and pricing based on set evaluation criteria that will be described in further detail within the RFP document. The RFP evaluation process will be facilitated by the Manager of Procurement Services, and the evaluation team will be comprised of the City Manager, City Clerk and Executive Director of Legal & Corporation Counsel.

The following outlines key milestones and dates of the RFP process. Description	Date
Issue Date	Tuesday, April 19, 2022
Deadline for questions	Wednesday, May 4, 2022
Closing date	Wednesday, May 11, 2022
Evaluation and Interviews	May 12, 2022 – May 30, 2022
CSSRA Award Recommendation	July 4, 2022
Contract Start Date	Monday, August 1, 2022

### **Options Considered**

In addition to the RFP process, the other option considered for the five-year Integrity Commissioner contract would be a renewal of the retainer with the existing service provider. As indicated, while the City is very satisfied with the work completed to date by Principles Integrity, the City's normal business practice is to procure multi-year services of this nature through a competitive bid process, in this case a Request for Proposal.

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## **Financial Matters:**

### **Total Financial Impact**

Currently the ongoing cost for the Integrity Commissioner services is funded directly from the Contingency Reserve and since commencement of the contract in July 2018, the City has expended a total of \$12,916.84 for this service. The role of the Integrity Commissioner is an essential component of the City's governance accountability framework and the contract for the retainer is directly administered by the Office of the City Clerk. For that reason, on a go forward basis this report recommends that the City Clerk work with the Chief Financial Officer to include the estimated funding to cover the annual ongoing cost for the Integrity Commissioner retainer directly within the 2023 and future operating budgets for the Office of the City Clerk. The future budget requirements to cover the cost of the Integrity Commission will be informed by the RFP process and will be outlined in the report presented to CSSRA at their meeting of July 2, 2022.

In addition to the on-going operating budget requirement, staff are recommending a one-time allocation of funds for completion of the additional policy development advisory services in the upset amount of \$75,000. This one-time allocation is considered an upset amount and although subject to confirmation through the RFP process, staff view the provision as more than adequate for the scope of work outlined under "additional services". As noted in the recommendation, the timing for these additional RFP services is anticipated in Q3/Q4 2022 at the earliest and specifically related to the update of the Council's Code of Good Governance. An update potentially extending into the next term of Council, given the Province has yet to complete their province-wide legislative review of municipal code of conduct.

### **Source of Funding**

Ongoing funding for the Integrity Commissioner services related to the new five-year contract retainer is recommended to be incorporated into the 2023 operating budget for the Office of the City Clerk following the approval of the RFP award by Committee and Council.

Staff are recommending that a one-time allocation of funds for completion of the additional policy development advisory services in the upset amount of \$75,000 be funded from the Contingency Reserve Fund which currently has an uncommitted balance of \$9.1M as at December 31, 2021.

### **Other Resource Impacts**

Staff are not recommending any changes in the administration of the ongoing Integrity Commissioner contract retainer which currently falls under the responsibility of the Office of the City Clerk and specifically the City Clerk. Related to the additional policy development recommended in this report, the responsibility to complete and implement the work of the Integrity Commissioner would also primarily reside with the City Clerk. As Council is aware, the City Clerk is currently in the recruitment process for two senior manager positions and, given the significant workload facing the Office of the City Clerk these positions have been assigned priority by Human Resources. Recognizing the priority of completing the RFP for the Integrity Commissioner, leadership and support for the RFP completion is also being provided directly by the Executive Director of Legal Services and Corporation Counsel and the Manager of Procurement Services.

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### **Climate Implications**

Not applicable

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### **Engagement Matters:**

The RFP process for selection of the Integrity Commissioner will be completed with appropriate due diligence based on the City's internal procurement process. This public report serves to provide the community with information on the City's overall governance accountability framework including the fundamental role of the Integrity Commissioner.

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### **Conclusion:**

The purpose of this report is to advise Committee of the need to proceed with recommended changes to enhance the alignment and effectiveness of the City of Burlington's governance accountability framework. Specifically, the report addresses the need to proceed in Q2 2022 with a Request for Proposal process for a new five-year contract retainer for the City's Integrity Commissioner. In so doing, as part of the RFP, the inclusion of other additional and optional services for the Integrity Commissioner will be addressed, as outlined in this report.

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Respectfully submitted,

Tim Commisso

City Manager

**Report Approval:**

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.