



SUBJECT: Appointment of Ombudsman

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

FROM: Office of the City Clerk

Report Number: CL-15-23

Wards Affected: numbers, all or not applicable

Date to Committee: June 26, 2023

Date to Council: July 11, 2023

Recommendation:

Re-appoint ADR Chambers Inc. ("ADR Chambers") as Ombudsman for The Corporation of the City of Burlington ("City of Burlington") and its local boards pursuant to section 223.13(1) of the Municipal Act, 2001 for a term of up to six years, with the initial term commencing August 1, 2023 to July 31, 2024, and subsequent up to five additional one year renewal terms subject to reaching mutual agreement; and

Approve the award of a single source contract for Ombudsman Services to ADR Chambers for \$13,560 (includes 13% HST) plus investigation costs per annum; and

Authorize the Manager of Procurement Services to issue a purchase order and/or sign the service agreement and any associated documents, including contract extensions, between the City of Burlington and ADR Chambers respecting the appointment of ADR Chambers as Ombudsman, subject to the satisfaction of the Clerk as to content and the Executive Director of Legal Services and Corporation Counsel as to form; and

Authorize the Manager of Procurement Services to extend the contract for up to five additional one year terms subject to mutual agreement; and

Enact an appointing by-law to appoint ADR Chambers as the Ombudsman for the City of Burlington and its local boards.

PURPOSE:

To appoint an Ombudsman pursuant to section 223.13(1) of *the Municipal Act, 2001*, S.O. 2001, c. 25 (the Act).

Vision to Focus Alignment:

- Building more citizen engagement, community health and culture

Background and Discussion:

The Public Sector and MPP Accountability and Transparency Act came into effect on January 1, 2016. This legislation expanded the function of the provincial Ombudsman to include investigation of decisions or recommendations with respect to the administrative acts of a municipality. Sections 223.13 through to 223.18 of the Act establishes the Office of an Ombudsman, outlines their authority, and allows a municipality to appoint an Ombudsman with the responsibility for conducting investigations on behalf of the municipality.

In accordance with the legislation, complaints may be forwarded to the Ombudsman, after it has been put through the municipality's own formal and informal processes of review. The Ombudsman has the authority to review any decision or recommendation made or act done or omitted through the administration of the municipality.

ADR Chambers was appointed as the Ombudsman for the City of Burlington in 2016 through report L-31-15 and By-law 114-2015 for a two-year period concluding December 31, 2017. Since 2016, the agreement has been renewed in two-year increments with no disruption to the service.

In March 2023, Report CL-5-21 recommended a short-term extension of the current Ombudsman services contract to July 31, 2023. Through an internal review it was recommended that staff go to market for Ombudsman Services, as it has been several years since the initial contract was executed. Staff committed to go to market, and return to Committee with a recommendation based on the results of the procurement process.

Strategy/process

A Request for Proposals (RFP) was developed, and issued on April 26, 2023, and closed May 19, 2023. The RFP closed with no proposals received. Procurement reached out to ADR Chambers, the sole plan taker. ADR Chambers expressed interested in continuing to work for the City of Burlington but did not have the capacity to complete the RFP submission. ADR Chambers provided their proposed rates, and there were no changes. Upon review with Procurement, staff are confident in recommending entering a single source contract with ADR Chambers for the provision of Ombudsman Services.

Strategy/process/risk

ADR Chambers have been providing Ombudsman service since January 1, 2016. The service has been satisfactory to date. Securing the firm would ensure continuity of the existing service and that the current service levels are maintained. ADR Chambers also provides Ombudsman services for Halton Region, which provides continuity to residents when accessing each branch of local government.

Options Considered

Council could direct staff to investigate using the Ontario Ombudsman as a service. Staff have reviewed the Ontario Ombudsman option and at this time recommend continuing with ADR Chambers, as a third-party investigator.

Financial Matters:

ADR Chambers is paid a monthly retainer fee, the annual cost of which is approximately \$12,000.00. If ADR Chambers commences an investigation, additional fees for service may incur. Through recent discussions with ADR Chambers no fee increases were proposed.

Total Financial Impact

There are additional costs to the municipality when an investigation occurs. An investigation and report to Council could cost several thousand dollars. In the past few years there have two to three investigations per year. Currently, as of writing this report, there have been no investigations conducted for 2023.

Source of Funding

Ombudsman services is a budgeted expense through the Office of the City Clerk operating budget.

Climate Implications:

N/A

Engagement Matters:

No outside groups were consulted. This is an administrative decision in nature.

Conclusion:

Extending the current agreement with ADR Chambers will ensure continuity of Ombudsman services. The appointment of an Ombudsman is an essential feature to our governance model and is mandated through the Act. The Ombudsman allows for residents to have a third party review their experience. Ombudsman reports and recommendations serve as a check and balance for the municipality.

Respectfully submitted,

Kevin Arjoon

City Clerk

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.