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ADJUSTING AND LEGAL SERVICES FOR INSURABLE CLAIMS

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report dated May 10, 2010, from the Commissioner of Finance, as amended to include Tables 1 and 2, as revised.

1. RECOMMENDATIONS

It is recommended that:

1. The firms RGM Claims Services Inc., Georgian Claims Services Inc., Crawford & Company (Canada) Inc. and Cunningham Lindsay be retained and to provide claims adjusting services as required on a fee for service basis for the period July 1, 2010 to June 30, 2013, with an option by the Region to renew annually for two additional years.

2. The firms Borden Ladner Gervais LLP, Nicholl Paskel-Mede LLP, Blaney McMurtry LLP and Paterson McDougall LLP be retained to provide claims legal services as required, on a fee for service basis for the period July 1, 2010 to June 30, 2013, with an option by the Region to renew annually for two additional years.

3. The Regional Treasurer be authorized to execute the retainer agreements on behalf of the Region.

2. PURPOSE

This report recommends the appointment of insurance claim adjusting and legal services for the period of July 1, 2010 to June 30, 2013.

3. BACKGROUND

The Region uses outside adjusting firms to investigate and assist in settling complex insurable claims as needed, on a fee for service, basis. In addition, outside legal firms are used for complex insurance claims for claims that exceed the Region’s insurance deductibles. The use of these service providers is subject to the consent of the Region’s broker, BFL Canada and York Region’s insurer, Traveler’s /St Paul Canada. Both of the current service providers’ contracts will expire June 30, 2010 and a full review has now been completed.

Recommend increased number of adjusting and legal service providers

Currently the Region uses three providers each for adjusting and legal services however this report recommends expanding to four of each.

Several factors were considered including population growth, fleet growth, kilometres of roadway managed by the Region, police growth as well as number of transit trips. Each of these factors is showing a steady growth within the Region that is forecasted to continue. This growth also increases the Region's volume of potential claims.

Legislation changes may lead to more claims

Soon to be enacted changes to the auto insurance legislation will likely add to the number of claim investigations required to ensure only valid claims are pursued. Changes to the Accident Benefits legislation will increase the amount of effort required to handle each individual claimant.

4. ANALYSIS AND OPTIONS

Six firms responded to the RFP for claims adjusting services, which closed on March 25, 2010. These firms were:

a) Claimspro, an SCM Company
b) Crawford & Company (Canada) Inc.
c) Cunningham Lindsey
d) Georgian Claims Services Inc.
e) McLarens Canada
f) RGM Claims Services Inc.

In addition to a written submission and a financial submission each firm made an oral presentation to an evaluation panel consisting of staff from the Policy, Risk and Treasury Branch and a representative from our broker, BFL Canada.

Six firms responded to the RFP for legal services, which closed March 25, 2010. These firms were:

a) Blaney McMutry LLP
b) Borden Ladner Gervais LLP
c) Gowlings Lafleur Henderson LLP
d) Nicholl Paskel-Mede LLP
e) Papazian Heisey Myers LLP
f) Paterson, McDougall LLP

In addition to a written submission, and a financial submission, each firm made an oral presentation to an evaluation panel consisting of staff from the Policy, Risk and Treasury Branch and Legal Services.

RFP Evaluation Process

The criteria used to evaluate the proposals consisted of: qualifications and experience of the firm and personnel, including direct municipal experience (30 pts); quality and completeness of the submission (10 pts); proposed work plan (20 pts); value-added services (10 pts); oral presentation (10 pts); and pricing/financial considerations (20 pts).

While the evaluations resulted in several highly qualified firms being identified, Tables 1 and 2 below show the four representing the best value to the Region.

Table 1 − Revised
Adjusting Firms Evaluation Scores

	Overall Score	Cost per Point
RGM Claims Services *	83.6	1.57
Georgian Claims Services	79.4	1.67
Crawford & Company*	80.4	1.82
Cunningham Lindsay*	78.9	1.86
McLarens Canada	74.6	1.89
Claimspro, an SCM Company	70.9	2.14

*incumbent

Table 2 − Revised
Legal Firms Evaluation Scores

	Overall Score
Borden Ladner Gervais LLP*	87.7
Nicholl Paskel-Mede LLP*	84.7
Blaney McMurtry LLP	79.9
Paterson McDougall LLP*	77.5
Papazian Heisey Myers LLP	74.5
Gowling Lafleur Henderson LLP	72.5

* incumbent

5. FINANCIAL IMPLICATIONS

Adjusting expenses have increased

Adjusting fees for insurable claims are paid directly by the Region and are not reimbursable by the insurance company. With the growth in claims volume noted earlier, there has been a corresponding increase in adjusting expenses. Table 3 illustrates the trend in adjusting expense.

The Region anticipates handling approximately 1800 claims in 2010, with approximately 15% requiring adjusting services. The number of claims will continue to increase over the duration of the contract due to the factors outlined in the analysis section of this report. Adjusting costs form part of the overall insurance and risk management costs.

Table 3
Adjusting Fees 2005 – 2009

	2005	**2006**	**2007**	**2008**	**2009**
No of assigned Claim files	133	137	119	108	176
Adjusting costs	$191,700	$362,800	$292,300	$356,000	$237,600

The use of internal staff claims analysts to direct claims and conduct internal investigations minimizes the overall claims costs. The Region utilizes (external) claims adjusters primarily for external investigations and Accident Benefits files.

Legal fees are paid directly by the Region

Legal fees for insurable claims are paid directly by the Region from the insurance reserves and are reimbursable by the insurance company once a claim has exceeded the Region’s deductible. With the growth in claims volume noted earlier, there has been a corresponding increase in legal expenses. Table 4 below illustrates the trend in assigned legal files.

Table 4
Legal Fees 2005 – 2009

	2003	2004	2005	2006	2007	2008	2009
No of assigned claim files	38	34	34	53	58	39**	26**
Legal expenses	$1,109,800 *	$820,900	$760,300	$830,100	$442,400	$212,400	$108,200

*** serious cases proceeded to pre-trial/trial therefore expenses increased.**
**** need for legal involvement in these years has not yet fully developed. (There is a limitation of two years to issue a statement of claim.)**

It is important to note that each legal file assigned is open for greater than two years on average. Therefore a firm's number of open claims cumulates over time. The addition of another firm would ensure no one firm is overwhelmed by our caseload.

6. LOCAL MUNICIPAL IMPACT

There is no local municipal impact.

7. CONCLUSION

This report recommends that the Region retain the services of RGM Claims Services Inc., Georgian Claims Services Inc., Crawford & Company (Canada) Inc. and Cunningham Lindsey to provide claims adjusting services as required.

This report recommends that the Region retain the services of Borden Ladner Gervais LLP, Nicholl Paskel-Mede LLP, Blaney McMurtry LLP and Paterson McDougall LLP to provide legal services as required.

For more information on this report, please contact Tina Gardiner, Manager, Insurance and Risk at ext. 1656.

The Senior Management Group has reviewed this report.