

**Report to
Rapport au:**

**Auditor General Hiring Panel
Comité d'embauche pour le poste de vérificateur général**

13 August 2020 / 13 août 2020

**Submitted on July 31, 2020
Soumis le 31 juillet 2020**

**Submitted by
Soumis par :
M. Rick O'Connor, City Clerk / greffier municipal**

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Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE File Number: ACS2020-OCC-GEN-0024

**SUBJECT: External Search Firm, Overall Timeline and Auditor General Job
Description and Salary Range**

**OBJET : Agence de recrutement externe, échéancier général et échelle
salariale et description du poste de vérificateur général**

REPORT RECOMMENDATIONS

That the Auditor General Hiring Panel:

- 1. Approve the appointment of Odgers Berndtson to assist the Hiring Panel in undertaking an executive search for a new Auditor General, as described in this report;**
- 2. Establish the overall general timeline for the Auditor General recruitment and appointment process, as described in this report; and**

3. Receive the Auditor General job description and salary range, as described in this report and attached as Document 4, for information.

RECOMMANDATIONS DU RAPPORT

Que le Comité d'embauche pour le poste de vérificateur général :

1. approuve la nomination de l'agence Odgers Berndtson au sein du Comité d'embauche afin qu'elle participe au recrutement d'un nouveau vérificateur général, comme le décrit le présent rapport;
2. établisse l'échéancier général pour le recrutement et le processus de nomination du vérificateur général, comme le décrit le présent rapport;
3. reçoive à titre informatif l'échelle salariale et la description du poste de vérificateur général, comme le décrit le présent rapport, qui sont présentées en pièce jointe comme document 4.

BACKGROUND

The seven-year term of the City of Ottawa's Auditor General, Ken Hughes, will expire on December 31, 2020.

On May 13, 2020, City Council approved Motion No. 33/3, as amended, which began the recruitment and appointment process for a new Auditor General in accordance with the Council-approved [Statutory Officer Recruitment, Appointment and Contract Administration Policy and Procedures](#). Motion No. 33/3 provided as follows:

WHEREAS Subsection 223.19(1) of the *Municipal Act, 2001* authorizes a municipality to appoint an Auditor General "who reports to council and is responsible for assisting the council in holding itself and its administrators accountable for the quality of stewardship over public funds and for achievement of value for money in municipal operations"; and

WHEREAS on October 23, 2013, City Council approved the appointment of Ken Hughes as the City's Auditor General, effective December 15, 2013, and continuing for a fixed term of seven years that is set to expire on December 31, 2020, as set out in Subsection 3(2) of the Auditor General's By-law [By-law No. 2013-375, as amended by By-law No. 2015-11]; and

WHEREAS the City is required by the *Employment Standards Act, 2000* and regulations to give a minimum of eight weeks' notice to an employee in this

position that the employment will terminate on the expiry of the fixed term;
and

WHEREAS recruitment, appointment and contract administration for the City's Auditor General is conducted in accordance with the City's Statutory Officer Recruitment, Appointment and Contract Administration Policy and Procedures approved by Council on April 8, 2020, which incorporate Council's past practices and include provisions with respect to objectivity, impartiality, equity and diversity in the staffing and recruitment process while setting out the roles of staff and hiring panels and their accountability to Council;

THEREFORE BE IT RESOLVED that, pursuant to the process set out in the City of Ottawa's Statutory Officer Recruitment, Appointment and Contract Administration Policy and Procedures, City Council:

1. Thank Mr. Hughes for the valuable auditing work that he has undertaken for the City of Ottawa over his tenure;
2. Provide Mr. Hughes with written notice in compliance with the *Employment Standards Act, 2000* and regulations;
3. Approve the Mayor (Chair), the Chair and Vice-Chair of the Audit Committee, and the Deputy Mayors to be the Hiring Panel to interview candidates for the position of City Auditor General, and that the Mayor also seek input from all other Members of Council on their expectations of the desired qualifications for same;
4. Approve the Terms of Reference for the Hiring Panel attached to this motion as Appendix A;
5. Approve the engagement of an external search firm from the City's Standing Offer list to assist the Hiring Panel in undertaking an executive search for a new Auditor General, to an upset limit of \$50,000;
6. Direct the Office of the City Clerk to provide the required administrative support to the Hiring Panel; and

7. Direct the Hiring Panel to report back to Council by Q4 of 2020 with a recommended candidate for Council's approval as the new Auditor General.

Council also approved Motion No. 33/4, which amended the above-noted motion and included direction for the City Clerk to establish, in consultation with the Chair and Vice-Chair of the Audit Committee, the City Solicitor (or delegate) and the Director, Human Resources (or delegate), the framework for a voluntary exit interview with Mr. Hughes to be conducted by the Chair and Vice-Chair of the Audit Committee, including the interview's structure, questions, timing (schedule) and confidential reporting out mechanism.

On June 29, 2020, the City Clerk issued a memo to Members of Council that provided details of the exit interview framework that was established in accordance with Council's direction. A copy of the City Clerk's memo is attached as Document 1.

Statutory Officer Recruitment, Appointment and Contract Administration Policy and Procedures

As noted in Motion No. 33/3, the Auditor General recruitment and appointment process is being conducted in accordance with the [Statutory Officer Recruitment, Appointment and Contract Administration Policy and Procedures](#). The policy and procedures were approved by Council on April 8, 2020, through Council's consideration of the staff report titled, "[Recruitment, Appointment and Contract Administration for Statutory Officers who report directly to City Council.](#)"

As described in the above-noted staff report, the policy and procedures provide for a consistent approach as well as improved accountability and transparency, by setting out specific requirements and administrative measures with respect to the recruitment, hiring and contract administration for statutory officers who report directly to Council, including the Auditor General. The policy and procedures also incorporate best practices and other recommendations identified by the Ontario Ombudsman, whose mandate includes investigating decisions made by municipalities and making recommendations based on the findings.

The Statutory Officer Recruitment, Appointment and Contract Administration Policy provides that the City of Ottawa "is committed to fair, transparent and equitable practices for recruiting, appointing and administering the contracts of statutory officer positions that report directly to City Council." The policy further states that, "All employment-related matters, including hiring and contract administration, shall be

undertaken in an objective and impartial manner and in accordance with the Code of Conduct for Members of Council, the Employee Code of Conduct, the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), as well as principles of the *Accessibility for Ontarians with Disabilities Act* (AODA), the City's Accessibility Policy and the City's Equity and Diversity Policy."

The policy also addresses matters such as impartiality, stating:

"There shall be no acts of favouritism, bias, undue influence or discrimination in the statutory officer recruitment process. Individuals participating in the recruitment and appointment process shall not attempt to influence the hiring of any applicant in a manner that is inconsistent with this policy. Participants shall not engage in any behaviour that provides an unfair advantage to a candidate during the statutory officer recruitment process. This includes assisting any candidate by providing inside information including, but not limited to interview questions and suggested answers, presentation materials, information about other candidates, and/or any information gathered in meetings, conversations, email or any other form of communication or discussion."

Furthermore, the policy and procedures require that all participants in the process adhere to strict confidentiality provisions. This includes a requirement for all participants to sign a mandatory confidentiality agreement at the outset of the process, as described in more detail in the Discussion section of this report.

Auditor General Hiring Panel Terms of Reference

Council's approval of Motion No. 33/3 established the Auditor General Hiring Panel composed of the Mayor (Chair), the Chair and Vice-Chair of the Audit Committee, and the Deputy Mayors. Council also approved the Terms of Reference for the Hiring Panel through that motion.

The Terms of Reference provide that the Hiring Panel has the general responsibility to, "Facilitate the recruitment and appointment process in accordance with the Statutory Officer Recruitment, Appointment and Contract Administration Policy and Procedures, and any direction from City Council." The Hiring Panel also has the following specific responsibilities:

1. Consider the approval of the external search firm (if Council has approved the engagement of an external search firm), and establish timelines to meet Council's direction;

2. Review any list(s) of candidates prepared by the executive search firm and to select those to be interviewed for the position; and
3. Interview candidates, select a recommended candidate for Council's consideration, and make any other recommendations to Council with respect to matters such as terms and conditions that the Hiring Panel deems appropriate.

The Terms of Reference for the Auditor General Hiring Panel are attached as Document 2.

DISCUSSION

Further to the process set out by Council on May 13, 2020, this report addresses matters relating to the approval of an external search firm from the City's Standing Offer list. The report also recommends an overall general timeline for the recruitment and appointment process and provides the draft Auditor General job description and salary range for the Hiring Panel's consideration.

In addition, the report provides information regarding next steps that will be required in order to meet Council's direction with respect to the hiring process such that the Hiring Panel can report back to Council by Q4 of 2020 with a recommended candidate for Council's approval.

Appointment of an external search firm to assist the Hiring Panel in undertaking an executive search for a new Auditor General

Through Motion No. 33/3, Council approved "the engagement of an external search firm from the City's Standing Offer list to assist the Hiring Panel in undertaking an executive search for a new Auditor General, to an upset limit of \$50,000." The search firm's responsibilities will include, but not be limited to, conducting a candidate search, presenting the Hiring Panel with a long list of candidates, making arrangements for a short list of candidates to be interviewed by the Hiring Panel, and assisting as required with the employment offer and negotiations.

The [Statutory Officer Recruitment, Appointment and Contract Administration Procedures](#) provide that, "If applicable, on behalf of the Hiring Panel and in accordance with Council's direction, the City Clerk may issue a request for submissions on the recruitment process to qualified search firms on the City's Standing Offer list." Pursuant to the policy and procedures, and further to Council's direction, on June 25, 2020 the City Clerk initiated a call-up on behalf of the Hiring Panel against the City's Standing offer list for Executive Search and Specialized Recruitment Services.

The call-up was circulated to five firms on the Standing Offer list. Five proposals were submitted by the deadline of July 10, 2020. The five proposals are held on file with the City Clerk and were made available to the Hiring Panel Members, upon request, prior to the Hiring Panel meeting of August 13, 2020.

After reviewing the proposals, the Office of the City Clerk is recommending the Hiring Panel appoint Odgers Berndtson to assist in undertaking an executive search for a new Auditor General. The redacted Odgers Berndtson proposal is attached as Document 3.

Establishing an overall general timeline to meet Council's direction

In order to achieve Council's direction for the Hiring Panel to report back to Council by Q4 of 2020 with a recommended candidate for Council's approval, staff have developed the following draft overall general timeline.

While the Hiring Panel may establish the general timeline to achieve Council's direction, it should be noted that the Mayor (Chair) and City Clerk will have flexibility to schedule meetings as required to meet Council's directions and address any procedural requirements.

The proposed general overall timeline is as follows:

	Event/Task	Timeline
1	Hiring Panel meeting No. 1	August 13, 2020
2	<p>Hiring Panel meeting No. 2</p> <p>To consider:</p> <ol style="list-style-type: none"> List of candidates prepared by the recruitment firm and to select those to be interviewed; and Confirmation of draft interview questions. <p>Information Previously Distributed:</p> <ol style="list-style-type: none"> Memo from City Clerk re: input received by the Mayor from Members of Council (as described in more detail in this report). Memo from City Clerk re: Chair/Vice-Chair's informal discussion with current Auditor General (as described 	<p>October 2020</p> <p>Proposed meeting date: On or about Thursday, October 8, 2020</p>

	in more detail in this report).	
3	Hiring Panel meeting No. 3 To interview candidates and select a recommended candidate following the interviews.	October 2020 Proposed meeting date on or about Monday, October 19, 2020
4	Hiring Panel report back to City Council Council to consider appointment of Auditor General.	October 28, 2020, or November 12, 2020

Members of the Hiring Panel should be aware that although the Panel is an ad hoc Committee of Council, Members are acting as a Hiring Panel and hiring panels must observe several practices and procedures that may be – and in some cases are – inconsistent with how Committees of Council conduct their routine business.

Specifically, Hiring Panel members must agree to attend all of the meetings related to the hiring. In general, and barring unavoidable circumstances, this means:

- Only Members of the Hiring Panel should be viewing the list of candidates and their confidential CVs or resumés;
- Only Members who hear the search firm’s presentation *in camera* at a future meeting may participate in the selection of candidates to be interviewed;
- Barring any individual issues of conflict of interest – which can be identified and for which there are specific processes – Members must be present for all of the interviews;
- Members cannot be late for the interviews and ‘step in’ when they arrive; and
- Members who were absent for the interview process cannot participate in the recommendation process.

In other words, should the Hiring Panel establish the overall general timeline as recommended above, members of the Hiring Panel who are not able to commit fully to adjusting their schedule in October to accommodate the interview process should not

participate in *in camera* portions of future meetings in which candidates are discussed, or the remainder of the hiring process.

The Auditor General job description and salary range

In preparation for the recruitment and appointment process, staff in the Office of the City Clerk and Human Resources reviewed and made minor updates to the Auditor General job description, such as changes to reflect current by-laws and formatting. The current Auditor General was also asked to review the job description, and his comments regarding matters such as current designations and standards were incorporated in the job description that is attached as Document 4.

With respect to the salary range, the Auditor General position is not rated like other jobs. The salary is negotiated but is considered under the Management and Professional Exempt (MPE)-9 pay grade. The negotiated salary forms part of the employment contract. The MPE-9 pay scale is as follows:

Pay Grade		Minimum	Standard Maximum	Advanced Maximum
9	Annual (35)	\$190,617.70	\$224,225.82	\$241,080.84

Furthermore, the employment is subject to a memorandum of agreement of employment that contains the terms and conditions.

The Office of the City Clerk will provide this information to the external search firm.

Next steps required to meet Council's direction

1. Addressing matters relating to confidentiality

The Statutory Officer Recruitment, Appointment and Contract Administration Policy and Procedures include strict requirements with respect to confidentiality and require all participants in the recruitment process to sign a mandatory confidentiality agreement, as follows [emphasis added]:

“All City staff and Members of Council involved in the recruitment process are required to hold in strict confidence all confidential information concerning matters dealt with by Council, the Hiring Panel and/or the Interview Panel. City staff must abide by confidentiality provisions of MFIPPA, the Employee Code of Conduct and applicable contract provisions relating to confidential and/or personal information. Members of Council are also subject to MFIPPA, as well as

provisions of the Code of Conduct for Members of Council relating to confidentiality.

All participants in the recruitment and appointment process will be required to sign a mandatory confidentiality agreement with respect to their involvement in the process. The confidentiality agreement must be signed at the outset of the process, before the participant receives any confidential information.”

The policy also provides for certain City staff to access confidential information, as follows [emphasis added]:

“The following City staff, and/or their respective designate(s), may be involved by the Hiring Panel in the recruitment process and may be permitted to access related confidential information, subject to the above-noted provisions:

- Director, Human Resources and/or delegate(s) as set out in writing;
- City Clerk and/or delegate(s) as set out in writing;
- City Solicitor and/or delegate(s) as set out in writing; and
- **Other staff as approved by the Hiring Panel and/or City Council.”**

The City Clerk is responsible under the procedures for ensuring that all Hiring Panel Members and City staff with access to confidential hiring process information sign the mandatory confidentiality agreement in relation to the process. As noted above, the confidentiality agreement must be signed at the outset of the process, before the participant receives any confidential information.

To address requirements relating to confidentiality, on July 24, 2020 the City Clerk issued a memorandum to Hiring Panel Members requesting that each Member identify staff in their offices, as those staff may have access to confidential materials related to the hiring process through their employment duties and office features such as shared email inboxes, folders, etc. The memo from the City Clerk requested that each Hiring Panel Member and their staff sign and return the mandatory confidentiality agreement with respect to the Auditor General recruitment process.

Senior City staff listed in the policy as being permitted to access recruitment-related confidential information (being the Director, Human Resources, the City Clerk and the City Solicitor) were also asked to sign the confidentiality agreement, provide any written

delegations and identify any members of their staff who may similarly have access to confidential information during the recruitment process.

A motion will be prepared for the Hiring Panel meeting of August 13, 2020, which will provide the list of those staff identified by Members and senior staff to be approved by the Hiring Panel in accordance with the Statutory Officer Recruitment, Appointment and Contract Administration Policy and Procedures. The participation of any of the staff on the list will be subject to those staff signing the confidentiality agreement and adhering to other policy provisions.

2. Receiving information from Members of Council and the current Auditor General

Part of Motion No. 33/3, approved by Council on May 13, 2020, provided as follows [emphasis added]:

Approve the Mayor (Chair), the Chair and Vice-Chair of the Audit Committee, and the Deputy Mayors to be the Hiring Panel to interview candidates for the position of City Auditor General, and that the Mayor also seek input from all other Members of Council on their expectations of the desired qualifications for same;

To address the requirement emphasized above, on July 30, 2020, the City Clerk, on behalf of the Mayor, issued an email to Members to seek input regarding Members' expectations of the desired qualifications. Input received from Members will be themed by Human Resources and provided by way of a memorandum issued by the City Clerk to the Hiring Panel and the external search firm. The City Clerk's memo will be listed on the agenda as Information Previously Distributed for the second meeting of the Hiring Panel, which this report proposes be held in October 2020.

In addition, the exit interview framework developed by the Office of the City Clerk in consultation with the Chair and Vice-Chair of the Audit Committee, the City Solicitor and the Director, Human Resources, pursuant to Council's approval on May 13, 2020, of Motion No. 33/4, provides as follows [emphasis added]:

"... that information from the current Auditor General regarding suggested key skills, qualities and qualifications of a successor may be sought through an informal discussion between the Chair and Vice-Chair and the Auditor General, with the key points of this consultation provided through the Office of the City Clerk to the search firm to form part of the information provided to the Hiring Panel and integrated into the interview questions."

Staff advise that on July 24, 2020, the Chair of the Audit Committee issued an email to the Auditor General to seek the above-noted informal discussion. Should the discussion proceed, input received from the Auditor General will also be themed by Human Resources and provided by way of a memo issued by the City Clerk to the Hiring Panel and the search firm in August 2020. The City Clerk's memo is also to be listed on the agenda as Information Previously Distributed for the Hiring Panel's second meeting.

RURAL IMPLICATIONS

There are no rural implications associated with this report.

CONSULTATION

This report is administrative in nature and therefore no public consultation was required.

COMMENTS BY THE WARD COUNCILLOR(S)

This is a city-wide report.

LEGAL IMPLICATIONS

There are no legal impediments to the implementation of the recommendations in this report.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications associated with this report.

FINANCIAL IMPLICATIONS

Costs associated with the recruitment process will be absorbed within existing resources.

ACCESSIBILITY IMPACTS

There are no accessibility impacts associated with this report.

TERM OF COUNCIL PRIORITIES

This report has no direct impacts on the City's strategic priorities or directions.

SUPPORTING DOCUMENTATION

Document 1 – City Clerk Memo regarding the Auditor General Exit Interview Framework

Document 2 – Auditor General Hiring Panel Terms of Reference

Document 3 – Proposal from Odgers Berndtson dated July 10, 2020 (redacted to remove confidential information in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*)

Document 4 – Auditor General Job Description

DISPOSITION

If the Hiring Panel approves the recommendations set out in this report, the Office of the City Clerk will take the necessary steps to formalize the contract with the appointed search firm and facilitate the search process as necessary. Future meetings of the Hiring Panel will be scheduled in accordance with the overall general timeline. As noted in this report, while the Hiring Panel may establish the general timeline for the process to meet Council's direction, the Mayor (Chair) and City Clerk have flexibility to schedule meetings as may be required to meet Council's directions and address any procedural requirements. Furthermore, the Office of the City Clerk will provide information regarding the Auditor General job description and salary range to the external search firm and conduct other administrative duties as described in this report.