

NOTICE OF MOTION

Integrity Commissioner Report on Awarding of City Contract for Market Research Services to Northstar Research Partners

Moved by: Deputy Mayor Feldman

Seconded by: Deputy Mayor Pantalone

“**WHEREAS** City Council appointed David Mullan as the Integrity Commissioner for the City of Toronto to provide independent and consistent complaint prevention and resolution, advice, opinion and education respecting the application of the Code of Conduct for Members of Council, and other by-laws/policies governing the ethical behaviour of members, including general interpretation of the *Municipal Conflict of Interest Act*; and

WHEREAS the Integrity Commissioner has submitted a report (January 31, 2006) in response to a request for report on whether the award of a contract for research services breached any City policies or procedures;

NOW THEREFORE BE IT RESOLVED THAT City Council consider the report (January 31 2006) from the Integrity Commissioner, and that the report be received for information;

AND BE IT FURTHER RESOLVED THAT, in accordance with the provisions of Chapter 27 of the City of Toronto Municipal Code, leave be granted to introduce and debate this Notice of Motion at the meeting of Council on January 31, 2006.”

January 31, 2006

Attachment

According to Chapter 27 of the Municipal Code, the foregoing Notice of Motion:

Notice was previously given	
Meets Municipal Code provisions and only requires a simple majority to introduce and debate – Integrity Commissioner Reporting Protocol	(√)
Requires two-thirds to waive notice	
Requires two-thirds to re-open	
Fiscal Impact Statement provided	*
Should have Fiscal Impact Statement prior to debate Requires two-thirds to waive requirement if Council wishes to debate	*
Should be referred to the Committee/Community Council Requires two-thirds to waive referral if Council wishes to debate	
Recommendations are time sensitive	

* Deputy City Manager and Chief Financial Officer to advise

Date: January 31, 2006

To: City Council

From: David Mullan, Integrity Commissioner

Subject: Report on Awarding of City contract for Market Research Services to Northstar Research Partners

Purpose:

To report to Council at the request of the Mayor on whether the award of a contract for market research services to Northstar Research Partners breached any City Policies and Procedures

Financial Implications and Impact Statement:

There are no financial implications arising from this report.

Recommendations:

I recommend that Council receive this report.

Background:

The Basics of the RFP

On September 7, 2005, the Purchasing and Materials Management Division issued a Request for Proposal ("RFP") for the provision of research services for the operating divisions in Cluster B and potentially other divisions throughout the City of Toronto. The contract was an open one in the sense that it was intended to cover all such services required of the successful bidder during 2006 and potentially for two more years, on the basis of two one year options to renew subject to mutual agreement. This contrasted with the situation that had prevailed to that point. Previously, the City of Toronto had issued RFPs for its research projects on an individual basis. This new initiative was seen as a cost-saving measure.

In submitting bids, those responding to the RFP were not asked to provide a price for providing services under such an open contract. That would make no sense. Rather, they were asked to provide costing information for two hypothetical but typical research projects of the kind contemplated by the RFP. This information would be used in the assessment of the bids on the basis of price.

Eight companies responded to the RFP. They included Northstar Research Partners (“Northstar”). Northstar had provided similar services to the City of Toronto in the past. Brian Potts, the Senior Research Director signed the bid on behalf of Northstar. The bid also identified eight persons within the company as members of the team that would be providing the contracted services if the company’s bid prevailed. Those included Brian Potts, Stephen Tile, the President of Northstar, and Sherri Hamilton, a Research Director.

The evaluation team consisted of three Staff members. They evaluated the eight bids on the basis of a standardized scoring process and the three most highly ranked bidders advanced to the second phase of the bid process – a presentation to the three members of the evaluation panel in response to a hypothetical research project. At the conclusion of that process and the aggregation of all the various scoring components, Northstar emerged with the highest evaluation points and was recommended for the award of the contract. This was on November 8, 2005.

Subsequently, there was consultation among various Department Communications Leads that might be consumers of the services Northstar would be contracted to provide. That produced a number of indications of interest from various divisions. As a consequence, the budgeted research needs of those divisions were aggregated and this produced a contract “price” of \$400,000 for 2006. This represents an upset limit and it may not all be spent. In any event, because the price was under \$500,000, the contract did not have to go before the Bid Committee. Of course, any exercise of the renewal option under the contract has the potential to take the overall value of the contract above \$500,000. I understand that this will probably lead to the City not attempting to take advantage of the renewal option but rather treating the contract as terminated as of the end of 2006 and putting out another RFP for 2007.

The Mayor’s Campaign Manager

John Laschinger is a Senior Associate at Northstar. He does not have an ownership interest in the company. He is paid a monthly retainer and beyond that receives additional payment on the basis of work that he brings into the company. In addition to working as an employee of Northstar, Mr. Laschinger regularly enters into contracts to manage election and political leadership campaigns. He does this through his own personal corporation and, beyond paying Northstar overhead on a cost basis as part of his work on those contracts, he is not accountable to Northstar for that work. He does, however, consult with Stephen Tile, the President of Northstar before entering into any such contract and there is an understanding that, if polling services are required as part of any campaign that Mr. Laschinger is managing, he will endeavour to secure the contract for those services for Northstar.

In January 2003, Mr. Laschinger became a co-chair of David Miller’s campaign committee. He was part of a “rainbow coalition” of persons from the spectrum of political parties, a state of affairs that was thought essential if David Miller’s mayoral candidacy was to be successful. In June of that year, Mr. Laschinger became David Miller’s campaign manager on a fee for service basis and he served in that capacity until the successful conclusion of the campaign. David Miller and Mr. Laschinger did not have a written contract. It was entered into on a handshake. Mr. Laschinger billed for his services through his personal corporation, Laschinger Management Inc. In addition, during the campaign, a limited amount of polling was needed and the contract for that work went directly to Northstar.

Since the successful conclusion of the 2003 campaign, Mr. Laschinger has continued to be one of a number of informal advisors to the Mayor. In that capacity, Mr. Laschinger does not charge for his services and he estimates that he has seen the Mayor on no more than two or three occasions in the past twelve months. However, though a formal arrangement has yet to be made, it is now accepted on both sides that Mr. Laschinger will play a key role in the Mayor's 2006 campaign for re-election, once again on a fee-paying basis.

Mr. Laschinger tells me that he has not worked on any of Northstar's contracts with the City of Toronto. His name does not appear on the list of the eight persons who are identified in the bid as Northstar's team for the contract. However, his name does appear in the RFP as someone who was the member of the Northstar team on three of thirty-two listed relevant public opinion work projects for the public sector.

The Raising of Concerns

In early January, Works Committee had before it a contract with Northstar for the provision of polling work for the City entered into in the latter part of 2005 for some \$4000. This contract was awarded to Northstar after it had been successful in the RFP process detailed above. This was done on the basis that, as Northstar was about to become the City's agency of record for the provision of research services in 2006 under a blanket or open contract, it was appropriate to give it this small contract right at the end of 2005. At that meeting, Councillor Minnan-Wong, who is not a member of the Works Committee, while not alleging any wrongdoing, raised questions about the propriety of the City doing business with a company, one of whose principals¹ was John Laschinger. Since then and particularly after he learned of the amount potentially available under the blanket or open contract, Councillor Minnan-Wong has continued to express these concerns.

My involvement began when the Mayor wrote to me on January 17, 2006. He asked me to review the matter to determine whether there has been "any breach of any city policies or procedures" in the letting of the contract to Northstar and to report on the matter to Council as soon as possible. This was in the context of an assertion that, as far as the Mayor was able to ascertain, the awarding of the contract "was handled in the normal course of business without any impropriety whatsoever".

I indicated to the Mayor that I was willing to undertake this project and to in effect treat his letter as a complaint against himself, a process that I have used on one previous occasion. I did, however, inform the Mayor that I might not be able to complete an investigation to my satisfaction in time to submit a report to Council for its January meeting. In fact, subject to the reservations that I have not done anything like a forensic audit of the relevant RFP process (something I am not personally qualified to do in any event) and my acceptance of most of what I was told at face value, I am satisfied that I am in a position to report to Council on this matter.

¹ I am not sure whether this term was correctly attributed to the Councillor. In any event, Mr. Laschinger, while an important and well-known member of Northstar is not a "principal" in the technical sense of that term but rather a Senior Associate.

My Investigations

The Mayor informed me that he played no role in this RFP. Neither Mr. Laschinger nor anyone else from Northstar contacted him about the RFP and Northstar's bid. Indeed, the first he knew of the contract was when Councillor Minnan-Wong raised concerns in early January.

Mr. Laschinger also said that at no point during the RFP process did he raise this matter with the Mayor. He also stated that the first he knew about Northstar obtaining this contract was the day he came to City Hall to meet the Mayor and discuss with him the formal announcement of the Mayor's intention to seek reelection. Someone at Northstar had told him that morning.

Mr. Potts, the Senior Research Director at Northstar and the signatory on the bid stated neither he nor any member of his team lobbied anyone at City Hall, be they Members of Council or Staff on this matter. Stephen Tile also stated that he and his company do not engage in lobbying at City Hall and that he did not do so on this occasion. Mr. Potts also told me that, aside from the fact that the awarding of the contract took longer than he had anticipated, the RFP process in this case had no unusual features as far as he was concerned. He also learned for the first time that the upset limit on the contract was \$400,000 from the recent media coverage of this matter. Both he and Mr. Tile were skeptical as to whether, given historic patterns, the City's needs under the contract would come to anything like \$400,000 in fees during 2006.

All three members of the evaluation team stated that they had not been lobbied in connection with this RFP. Aside from the fact that it marked a departure from the way in which the City had contracted previously for research services, they also were of the view that this was a standard RFP process with no unusual features. Albeit that Mr. Laschinger's name appeared three times in Northstar's response to the RFP, none of the three claimed to have noticed it. (It was in smaller typeface though bold as part of a list of some thirty-two projects.) They also stated that they were unaware of who Mr. Laschinger was and, in particular, that he had been the Mayor's campaign manager in 2003. The first they knew of this was when Councillor Minnan-Wong raised his concerns.

While it is not my mandate to comment on the way in which the price was set for this contract, I did consider the possibility that the fixing of the price at \$400,000 might have been part of a deliberate attempt to avoid Bid Committee scrutiny and, in particular, to evade any hard questions about Northstar and the connections between one of the senior associates of that company and the Mayor. This always seemed a stretch to me and, in the face of a very plausible explanation of how that sum was arrived at (as detailed above), I no longer have any cause for suspicion on this front.

More generally, I would reiterate that, while many of the statements from relevant personnel do not have independent corroboration, I have no reason to doubt the word of anyone with whom I spoke. I received total cooperation from the Mayor, the Staff members whom I interviewed, and also personnel at Northstar. On all fronts, there appeared to be a very strong desire to clear the air on this issue.

Conclusions:

On the basis of my investigation, I have not found any breach of City policies or procedures in the conduct of the RFP process that resulted in the award of an open contract to Northstar Research Partners for the provision of market research services for 2006 (and potentially two more years). More particularly, as Integrity Commissioner, I focused my inquiries on whether there was any impropriety on the part of the Mayor (or Staff for that matter) given the political relationship that existed and continues to exist between the Mayor and John Laschinger, a senior associate at Northstar. I did not detect any such impropriety. In my judgment, there was no violation of the Code of Conduct on the Mayor's part.

There is, however, a broader dimension to this matter that merits examination. In the Bellamy Commission Report, there are strong recommendations for revising the Code of Conduct for Members of Council "to include broader ethical considerations" and to take an expansive view of the meaning of the term "conflict of interest" including greater recognition of the need to avoid apparent or perceived conflicts of interest. Those recommendations not surprisingly beg the question whether the Mayor should be using as his paid campaign manager someone who plays a prominent role in a company that is doing significant business with the City.

The Bellamy Report of course makes many specific and detailed recommendations for creating regimes within the City that will prevent any real, potential or apparent conflicts from occurring. In particular, the recommendations with respect to regulation of lobbying and the creation of barriers between Members of Council and the procurement process have this as their objective. Given that, in this instance, there was no lobbying of Members of Council or Staff and given that there was no political or other illegitimate interference in the RFP process, is that enough to address any concerns? Does it provide a sufficient assurance that there was no conflict of interest here in even an extended sense and that anyone cognizant of the relevant facts would not see an appearance of possible conflict? I do believe that the way this process was conducted meets those concerns as well.

However, these considerations do suggest the need for vigilance and caution. While I would not go as far as recommending that the Mayor not use as a paid campaign manager someone whose company does significant work with the City, I do accept that there is a need to take care in the way in which that relationship is established or exists. In particular, I suggest strongly that the Mayor enter into a formal contract with Mr. Laschinger for any services that he will be providing as part of the Mayor's 2006 reelection campaign. To ensure transparency and allay concerns, the terms of that contract should ideally be made available as a public document (save as to the fees charged and provisions, if any, on campaign strategies). The contract should also contain a clause to the effect that Mr. Laschinger not participate in any Northstar contract with the City or RFP process for City work during the campaign and for six months thereafter, as well as appropriate assurances for a process within Northstar of creating a wall between Mr. Laschinger and any contractual work with the City being undertaken at Northstar both during the campaign and for six months thereafter.

David Mullan
Integrity Commissioner

Contact:

David Mullan
Integrity Commissioner
Tel: 416-397-7770/Fax: 416-392-3840
Email: dmullan@toronto.ca