



## STAFF REPORT ACTION REQUIRED

### Improvements to Insurance Claim Management for Potholes, Sewer and Water Backups, and Tree Limbs

<b>Date:</b>	January 11, 2012
<b>To:</b>	Government Management Committee
<b>From:</b>	City Manager Deputy City Manager and Chief Financial Officer
<b>Wards:</b>	All
<b>Reference Number:</b>	P:\2012\Internal Services\Cf\Gm12004cf (AFS#14847)

#### SUMMARY

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This report is to accompany City Council's referral to Government Management Committee of the letter (October 25, 2011) from the City Manager together with Council's requests in response to the (October 17, 2011) Ombudsman Report on an investigation into the processing of third party liability claims under \$10,000.

Included in this report is a progress report on implementing the work plan for addressing the Ombudsman's recommendations as outlined in the City Manager's letter. Also addressed are two motions referred to Government Management Committee regarding establishing one window for Councillor enquiries regarding constituents concerned over insurance claims and the adjuster's fee for desktop claims.

There are five main claim process improvements being implemented as noted in Attachment 1: (i) adjuster service standards, (ii) clear language explanations, (iii) claim report management, (iv) claims involving contractors and (v) adjusting services RFP.

#### RECOMMENDATIONS

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**The City Manager and the Deputy City Manager and Chief Financial Officer recommend that:**

1. The General Manager, Transportation Services conduct an Organizational Change Approval Authority and Process, in 2012, to create one analyst position in each

of the four districts to be offset by vacancies for the dedicated purpose of managing the claims report request process with no financial impact.

2. The City Clerk' Office 2012 operating budget be adjusted to reflect the transfer of two staff and associated budgets from other divisions in order to set up an integrated claims registry and report request unit in 2012 to receive all insurance claims to the City and direct report requests to Parks, Forestry and Recreation, Toronto Water and Transportation Services at the same time as the claim is forwarded to the City's insurance adjuster, with no net financial impact on the City's 2012 operating budget.

### **Financial Impact**

There are no immediate funding implications relating to this report for 2012. Costs of insurance adjusting services are paid from the Insurance Reserve Fund. Since the Insurance Reserve Fund is funded from contributions from the operating budget, any costs ultimately are reflected in corporate insurance charges. The total cost of insurance adjusting services over the next five years is estimated at approximately \$13 million. The funding reflected in the 2012 preliminary operating budget is adequate to cover the anticipated costs in 2012 of \$2,566,500.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

### **DECISION HISTORY**

City Council on October 24 and 25, 2011, adopted the following:

1. City Council endorse the findings of the Ombudsman in her Investigation Report (October 17, 2011).
2. City Council refer the letter (October 25, 2011) from the City Manager [CC13.1a] together with the following motions by Councillor Paula Fletcher, to the Government Management Committee for consideration:

Moved by Councillor Paula Fletcher:

That:

- a. City Council direct the City Manager to review the contract with the "contracted service provider" to determine if the adjuster's fee of \$195 per desktop claim is an industry standard that ensures claimants are treated fairly.
- b. City Council direct the City Manager to establish one window for Councillor enquiries regarding constituents concerned over insurance claims.

3. City Council request the City Manager to report to the Government Management Committee on progress implementing the work plan to address the Ombudsman's recommendations, as outlined in the letter (October 25, 2011) from the City Manager [CC13.1a].
4. City Council request the City Manager to consider the Ombudsman's recommendations when scoping the terms of reference for the next Request for Proposals for Adjusting Services and to place appropriate weight to customer service in scoring and evaluating the responses to the Request for Proposals.

(October 17, 2011) Covering Report from the Ombudsman, submitting an Investigation Report, headed "Potholes, Floods and Broken Branches: How the City handles your Claims" (CC13.1)

<http://www.toronto.ca/legdocs/mmis/2011/cc/bgrd/backgroundfile-41749.pdf>

(October 17, 2011) Investigation Report from the Ombudsman, headed "Potholes, Floods and Broken Branches: How the City handles your Claims" - REVISED

<http://www.toronto.ca/legdocs/mmis/2011/cc/bgrd/backgroundfile-41751.pdf>

(October 25, 2011) Letter from the City Manager (CC13.1a)

<http://www.toronto.ca/legdocs/mmis/2011/cc/bgrd/backgroundfile-41963.pdf>

City Council on November 29, 30 and December 1, 2011 authorized an extension for a further three months, from December 31, 2011 to March 31, 2012, of the existing agreement with Granite Claims Solutions to provide insurance claims adjusting services to allow sufficient time for staff to re-issue a formal Request for Proposals in order to place appropriate weight to customer service as requested by Council, item 4, of CC13.1 at its meeting on October 24 and 25, 2011.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.CC14.5>

## **ISSUE BACKGROUND**

At its meeting on October 24 and 25, 2011, City Council considered a report dated October 17, 2011 from the Ombudsman (CC13.1) on an investigation into how the City handles third party liability claims under \$10,000 and referred the City Manager's October 25, 2011 letter (CC13.1a) to Government Management Committee.

The City Manager's letter assured City Council that the Ombudsman findings are taken seriously and identified a work plan for immediate implementation.

## **COMMENTS**

Insurance & Risk Management (IRM) is committed to providing customer service excellence in the changes to the City's insurance claims process. Five main claim process improvements are noted in Attachment 1 to this report which respond to the Ombudsman Report recommendations, Council's requests and the City Manager's work plan. These

are, (i) adjuster service standards, (ii) clear language explanations, (iii) claim report management, (iv) claims involving contractors and (v) adjusting services RFP. Attachment 2 lists the recommendations from the Ombudsman's report.

Since receiving the Ombudsman's report, City staff have been aggressively implementing all of the report's recommendations. A number of action items in the work plan have been completed and timelines have been met or exceeded. The remainder of the items will be completed as outlined in the work plan and communicated as appropriate to the Ombudsman by the January 31, 2012 due date recommended in the Ombudsman's report.

The City is now in compliance with the Ombudsman's first recommendation. Claims are no longer automatically denied. An investigation is required on all claims and the wording of claim letters used by the adjusters to correspond with claimants has been changed to clarify the process.

The Ombudsman's sixth recommendation will be implemented as recommended in this report. The claim report request process has been examined with Parks, Forestry and Recreations, Toronto Water and Transportation Services. The examination has resulted in two recommendations. First that in 2012 Transportation Services permanently establishes designated district contact analyst positions to replace the interim use of Field Investigators to receive and respond to claim report requests. Secondly, that the City Clerk's Office establishes a new integrated claims registry and report request unit in 2012 to function as a "clearing house" to receive all claims to the City and direct report requests to Parks, Forestry and Recreation, Toronto Water and Transportation Services divisions at the same time as the claim is forwarded to the City's adjuster. These improvements will achieve process efficiencies through streamlining, coordinating and standardizing claim report management.

Claims process improvements will ensure fairness in the investigation of claims, claims resolved based on facts in a timely and informative process for claimants. The changes provide a transparent, clear and obvious process for claimants to follow, with clear language explanations. Adjusting services will be provided at competitive fees and monitored to ensure compliance with the City's customer service standards. Councillors now have a window to the IRM Manager for immediate assistance with all claims concerns.

## **CONTACT**

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## **SIGNATURE**

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Joseph P. Pennachetti  
City Manager

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Cam Weldon  
Deputy City Manager and  
Chief Financial Officer

## **ATTACHMENTS**

Attachment 1 - Insurance Claims Management Improvements  
Attachment 2 - Recommendations from the Ombudsman report on "An Investigation into how the City handles Third Party Liability Claims Under \$10,000"

## **ATTACHMENT 1**

### **Insurance Claims Management Improvements**

The City Manager's work plan submitted to City Council on October 25, 2011 (Item CC 13.1a) outlined steps that would be taken to implement all of the recommendations in the Ombudsman's report as shown in Attachment 2. Below is a summary of the improvements made or in progress.

#### **Adjuster Service Standards**

In order to achieve a fair, open and transparent administrative process for claims handling, service standards for the City's third party insurance adjusters are required.

Staff are amending the City/adjuster written claims manual to include a set of standards that require a proper and thoughtful review of claims so that decisions can be clearly explained to claimants. As outlined in the work plan, adjusters have been assigned a reporting responsibility to designated IRM staff on all claim files to ensure service standard compliance.

The written service standard will impose time frames for claims handling, define an escalation process to address administrative issues as they arise, provide consistency among the numerous adjusters who handle City claims and set out clear accurate step by step written instructions for desktop adjusters on how to handle pothole, tree limb and sewer backup claims. Service standards define the level of investigation required for the facts needed to make decisions. When finalized, adjusters will communicate this information to claimants and no longer close files unless notification is provided to the claimant. Most importantly, service standards will ensure that the public can access an easy to understand, clear and transparent claims process.

Implementation of these improvements will continue throughout January, 2012 and be finalized for the Ombudsman's January 31, 2012 due date.

#### **Clear Language Explanations**

The City's internet website is under development so that information and policies about the City's claims process are accurate, clear and understandable. Staff have also revised the wording of written correspondence that adjusters send to claimants to ensure that the wording is clear and is fully consistent with the City's and third party adjustments claims management processes.

The City's website will provide clear plain language explanations to explain third party liability claims, negligence, the legal criteria for pothole, tree limb and sewer/water main flood claim types, time frames and the claims process. The website will outline in plain language the "claim tests" so the claimant knows what they have to prove when making their claim.

Implementation of these improvements continues throughout January, 2012 and will be finalized for the Ombudsman due date of January 31, 2012. When complete, a clear language explanation of the City's claims process will be at [http://www.toronto.ca/finance/insurance\\_claims.htm](http://www.toronto.ca/finance/insurance_claims.htm) . Revised claimant communication letters will form part of the adjuster's manual.

## **Claim Report Management**

The Ombudsman investigation identified numerous current City claims practices that require changes in order to make the administrative process fair. Changing these practices is primarily dependent upon the timeliness of divisional response to report requests. If the adjuster receives the required reports from the relevant divisions in response to a claim in a timely manner, then a confident, objective, fact based, assessment of the claim can be made and a timely accurate response can be provided to the public claimant. As an example, inspection records can be used to verify road conditions which will provide support to the treatment of a pothole claim.

It is important to note that an adjuster's assessment of legal liability is often viewed as unfair by a claimant. This highlights the importance of achieving customer service excellence in the claims process to allow claimants the opportunity to understand the rationale for decision making so that a clear distinction exists between a claimant's subjective view of a fair decision and a fair process to arrive at making that decision.

Through the City Manager's work plan, IRM convened working group meetings with Legal Services Division and divisions affected by the Ombudsman Report to review the current system of requesting reports and establish service standards appropriate to the type of claim to achieve streamlining, coordination, standardization and efficiencies.

Working group meetings have been held with staff from Transportation Services, Technical Services, Toronto Water, Forestry, City Legal Services, City Clerk's Office, Policy, Planning, Finance & Administration (PPF&A), and 311 Toronto. From the information gathered at these working group meetings, the following changes to the administrative process of requesting claims reports from divisions were recommended and will be implemented:

- templates have been developed to guide adjusters and divisional staff in the information required for each claim type (potholes, tree limbs and sewer backup/water main break floods);
- each affected division (Transportation, Forestry and Water) has assigned designated contact staff at each of the four districts to receive and respond to claim report requests, as well, each division has designated one staff person to oversee the claim report management process;
- an integrated claims registry and report request unit be set up in the City Clerk's Office which would function as a "clearing house" to receive all claims to the City and direct report requests to Parks, Forestry and Recreation, Toronto Water and Transportation Services divisions at the same time as the claim is forwarded to the City's adjuster; and,

- service standards for the timely response to claim report requests have been established for each affected division along with monitoring and reporting of all outstanding report requests. Parks, Forestry and Recreation and Toronto Water have committed to a standard to return report requests within 30 days, with allowance for extensions in storm conditions and Transportation Services have committed to a 30 day standard to be met 90% of the time.

The revised claim report management process will ensure that sound monitoring, tracking and follow up procedures are in place. Any report requests that exceed the divisional service standard time frame will be reported to the General Managers/Division Heads for action. A claim report request will be assigned one file number at source to ensure accurate tracking and follow up should claimants inquire about the status of their claim.

The new process will allow for greater communication between IRM & adjusters to detect process issues in timeliness of report response and quality of reports to ensure report matches claim type. It will allow adjusters to implement actions when divisions exceed response standards; adjusters will alert the designated divisional claims contact to become involved. Also, adjusters will be better equipped to handle claimant requests for information; timeliness of report response by divisions will allow adjusters to have information which they can share with claimants to keep claimants informed and assist with issuance and understanding of claim denials.

Forestry and Water have each permanently designated four staff as district points of contact to gather and provide claim reports and one staff to oversee the functions. Transportation Services, at this time, can only designate staff to these functions on an interim basis. Currently, Transportation Services relies on their Field Investigator staff to act as district contacts for claim report management. The report templates for pothole claims requires information to be extracted from the automated information systems Automated Vehicle Locator (AVL), Toronto Maintenance Management System (TMMS) and Road Allowance Control System (RACS). Generally, Field Investigator staff will receive the training required as district claims contacts to manage Transportation's three automated systems. While the interim measures implemented by Transportation Services will temporarily address the City's new claim report management process, more formalized staffing arrangements will be required in 2012. In 2012 the General Manager, Transportation Services will conduct an Organizational Change Approval Authority and Process to create four dedicated analyst positions, to be funded from position vacancies. One new analyst position in each district will be responsible for the management of claim report requests.

The revised claim report management process flow chart will be inserted into the revised claims manual.

### **Claims Involving City Contractors**

A number of changes have been made to the City's claims process to improve customer service in this area.



**a. General Conditions of Construction Contracts**

In consultation with Technical Services, City Legal Services and Purchasing and Materials Management divisions, a new clause is under development for the City's General Conditions of Construction Contracts. The new clause sets out service standards for contractors in dealing with third party claims which:

- reflect observations and recommendations from the Ombudsman report such as responding to claimants in a timely manner, not misleading claimants and notifying/updating claimants on relevant activity on their claim;
- identifies specific time frames for acknowledging, investigating and responding to claims;
- requires that the contractor or their insurer investigate claims based on a proper consideration of the facts; and,
- sets out protocols for communicating with the City's adjuster and project manager.

**b. Contractor Claims Process and Contractor Data Bases**

A written process and flow chart is in development in consultation with Technical Services. It will be inserted into the adjusters manual when finalized. Data bases are being organized and will be provided on a weekly basis to IRM and City adjusters to assist adjusters in identifying a contractor and City contract manager quickly and easily to ensure efficient handling of claim referrals to contractors. The claims process emphasises customer services and assures claimants that they will have City staff involvement in pursuing their claim against a City contractor. Claimants will not be left alone to pursue a City contractor.

**c. Claim Review Process**

It is understood from the Ombudsman report and as a fundamental principle of good customer service that a review process is needed for claimants. City Council directed the City Manager to establish one window for Councillor enquiries regarding constituents concerned over insurance claims. Also, claimants may need a process should they wish to discuss their claim if it has been properly considered by the City's adjuster and by the City's contractor and both deny liability.

The one window for Councillor enquiries is the Manager, Insurance & Risk Management, Jeff Madeley, [jmadeley@toronto.ca](mailto:jmadeley@toronto.ca), telephone: 416-392-6301.

IRM has established a claim review log process whereby each enquiry will be reviewed by the Manager, logged into a central data base and assigned to an IRM staff person to review the claim file and handle further communications as required. The appeals log will be reviewed and updated weekly. This new process is also intended to complement a new closer working relationship between IRM staff and the service provider's various

adjusters. Greater involvement and intervention by IRM staff in the overall claims process will ensure efficiencies and ensure that service standards are met.

### **Adjuster Services RFP**

In addition to endorsing the findings of the October 17, 2011 Ombudsman Report, City Council, on October 24 and 25, 2011 also requested the City Manager to consider the Ombudsman's recommendations when scoping the terms of reference for the next Request for Proposals (RFP) for Adjusting Services and to place appropriate weight to customer service in scoring and evaluating the responses.

The City's agreement with Granite Claims Solutions (formerly McLarens Canada) to provide insurance claims adjusting services expired on December 31, 2011. In August, 2011, staff issued an RFP for Insurance Adjusting Services in preparation for the December 31, 2011 expiry of the current service agreement. Prior to obtaining final approval of the successful proponent to the RFP, City staff issued notice of cancellation on the basis of a change in scope and staff will re-issue the RFP in accordance with Council's request.

City Council on November 29, 30 and December 1, 2011 authorized an extension for a further three months, from December 31, 2011 to March 31, 2012, of the existing agreement with Granite Claims Solutions to provide insurance claims adjusting services to allow sufficient time for staff to re-issue a formal Request for Proposals in order to place appropriate weight to customer service as requested by Council at its meeting on October 24 and 25, 2011.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.CC14.5>

City Council on October 24 and 25, 2011 referred a motion to Government Management Committee for its consideration, which directed the City Manager to review the contract with the "contracted service provider" to determine if the adjuster's fee of \$195 per desktop claims is an industry standard that ensures claimants are treated fairly. City Council also requested the City Manager to consider the Ombudsman's recommendations when scoping the terms of reference for the next RFP for Adjusting Services and to place appropriate weight to customer service in scoring and evaluating the responses.

The RFP has now been revised and will be issued in January, 2012 to include enhanced sections on the:

- City's Customer Service Expectations in Claims Handling;
- Required City Service Standards for Desktop Claims Handling;
- Required City Service Standards for Desktop Handling of Claims Referred to City Contractors; and,
- Evaluation of a flat fee to handle desktop claims through a process that now includes the application of customer service measures.

It is noted in the RFP that failure by the service provider to adhere to customer service standards as determined by the City may result in termination of the Claim Adjustment Agreement.

The RFP Process Controls and Quality Assurance section asks proponents to describe how they will achieve fourteen measures specifically identified by the Ombudsman as needing improved customer service over existing practices. The evaluation has been changed with greater weighting on customer service criteria.

IRM staff will continually monitor and regularly audit desktop adjuster claim files to ensure that customer service standards are met or exceeded.

Staff has confirmed that it is an insurance industry standard to pay adjusting firms a flat fee for handling desktop claims. The City's current five year adjusting service provider contract followed an RFP process in 2006 and set the adjuster's fee of \$195 per desktop claim through a competitive bid process. A review of that RFP process confirmed that it did not contain the level of customer service requirements noted by the Ombudsman to ensure that in all cases, claimants are treated fairly.

The revised RFP will require proponents to submit a flat fee quote for handling desktop pothole, tree limb and sewer/water main flood claims that allows them to deliver the City's defined customer service measures for every file. In reviewing the basis for RFP bidders to price desktop claims handling, staff considered the Ombudsman remarks about paying adjusters a sufficient amount to support them vigorously pursuing customer service measures. Cost control is also an important part of contract management. In balancing the needs for customer service and cost control staff examined alternative fee structures, however implementation of them would result in a more complicated contract with added contract management difficulties. Staff concluded to continue with the industry standard flat fee approach with the added requirement that customer service measures, standards and operational tasks are now part of the desktop claim definition which bidders must consider when setting their flat fee amount. The revised RFP now tells proponents the average time required to handle typical City desktop claim files. These changes to the RFP are intended to ensure that pricing for the service is adequate, competitive and meets the City's customer service requirements. IRM staff will monitor the adjuster's application of the fourteen customer service measures to ensure that they are compliant at the flat fee they have committed to.

## ATTACHMENT 2

### Ombudsman Report Recommendations

1. That if the City is going to continue the current process of denying claims automatically without an investigation, it inform the public, and stop providing claimants with misleading information.
2. That if the City informs claimants that their claims will be considered, it sets a service standard which requires that:
  - i. a proper review takes place;
  - ii. claimants are not misled;
  - iii. where appropriate, reports are requested and reviewed;
  - iv. decisions are made on a proper consideration of the facts;
  - v. clear explanation for decisions are provided to the claimant;
  - vi. claimants are notified of relevant activity on their files and provided with information;
  - vii. files are not closed without notification to the claimant, especially if there is delay on the part of the City;
  - viii. review of template letters sent to claimants to ensure that they are consistent with the above requirements.
3. That the City provide my office with a copy of the service standard by January 31, 2012, and send the service standard to McLarens adjusters by March 1, 2012.
4. That the City review the information it currently provides to the public to include clear language:
  - i. an explanation of third party liability and negligence;
  - ii. the criteria used to determine the three most common types of claims (potholes, sewer back-ups and trees) including the City's position and information on minimum maintenance standards;
  - iii. the timeframe for decision;
  - iv. the process where a contractor is involved.
5. That the City provide my office with the revised information by January 31, 2012, and post the information on its website by March 1, 2012.
6. That the City review the current system for requesting reports and establish service standards appropriate to the type of claim, with a view to achieving streamlining, coordination, standardization and efficiencies.
7. That the City review the template request forms and the way that data on report requests are collected, stored and tracked.

8. That the City provide my office with the results of the reviews in recommendations 6 and 7 by January 31, 2012.
9. That the City review its process of handling claims involving contractors to ensure that claimants receive contractor information promptly; that the City has increased involvement in ensuring contractor response; and that claims against contractors are tracked.
10. That the City provide my office with the results of the review by January 31, 2012.