



OTTAWA TAXPAYERS ADVOCACY GROUP

"The Silent Majority is Silent No More"

The Ottawa Taxpayer Advocacy Group Releases Detailed Plan for 2 Year Budget Freeze – No New Money

Consulting & Legal Services

This question is with reference to the outsourcing of services for skills that already exist within the City. In principle reducing the workforce and outsourcing should reduce costs, but the City did not reduce the workforce by 10% at amalgamation, nor did they remain stagnant. On the contrary, total compensation has grown from \$716 million in 2001 to 1.2 billion in 2010 or about 67%. The perception created by an increased use of consultants is that we are not getting value for the higher head count and compensation / benefits. Outsourcing should not be allowed unless it can be proven that the required skill does not exist within the City or the City's workforce is reduced by 10%. Staff with these skills simply have to prioritize their work load better, some private sector organizations have a 1 year back orders back log.

In 2009 the City spent about \$247 million on outsourced legal and consulting services. A 2 year budget freeze or 10% reduction in outsourcing will have limited or no impact on service. If you have a different opinion, please the appropriate level of detail to prove which service will be impacted and how?

We are questioning the rational for \$5.7 million in legal fees and \$3.9 million dollars in consulting services listed below. Please review each item, do the skills for services below exist within the City? If you had used city staff to do the work, what would be the opportunity cost?

Does the legal department have a financial risk / common sense cost benefit analysis before going to court? Or does the City have a cart Blanche to litigate all disputes? Does the City have a higher threshold for going to court in cases where they need to go outside for expertise?

Is there a reason we are spending \$75,000 on gym shorts for fire fighters and not other city employees and taxpayers?

With reference to the consulting cost for street furniture consultants, cow on roof top, marketing Ottawa consultant and the \$70,000 consulting fees on the types of transportation, is there no one in the City with the skills to do the work?

City Response

The procured items included in the above total included gym shorts, gear bags, turtle necks, T-shirts, caps and boot liners in accordance with the Ottawa Professional Fire Fighters Association collective agreement.

City Response

The following City Responses are provided to the four specific examples referenced by OTAG.

1. Street Furniture

As the City had not previously embarked on an Integrated Street Furniture study, the specific expertise was not available internally.

2. Cow on the Roof Top

Roof-top signs are prohibited throughout the City and have been prohibited since the early 1960's. Although the Council motion referred to the one sign at one specific location, an amendment to permit one roof-top sign would result in the repeal of the prohibition with the result of such signs being installed on roofs city-wide. Thus, a review to permit one roof-top sign requires reconsideration of the City's approach to regulating this type of sign, and requires staff to consider or identify all associated issues and impact of an amendment. In reviewing 2010 workload,

priorities and staffing availability (essentially one policy officer), the conclusion reached was that in order to comply with Council direction to report back by year end, the services of a consultant needed to be engaged.

3. Marketing Ottawa

Staff was unable to identify the referenced item from the list provided.

4. Transportation consultant (Cost of Travel Model)

This type of work requires a special expertise in transportation planning, economic and software developing. The consulting team who undertook the previous two studies was comprised of transportation engineers, system analyst and software developer.

City Response

To address the comments made in the preceding paragraph, the distinction between "consultants" and "professional Services" must be made. The City's purchasing by-law contains the following definitions:

- "Consulting Services" means assistance to management, including but not limited to the areas of strategic analysis, organizational design, change management, policy development, feasibility studies and other services intended to assist decision making within the organization;
- "Professional Services" means services requiring the skills of professionals for a defined service requirement or for a specific project related deliverable including but not limited to the areas of engineering, architecture, design, planning, information technology, financial auditing and fairness commissioners;

The use of professional services is an important budgetary requirement to ensure the successful and timely delivery of the numerous capital works approved by Council. These funds are required to purchase the various specialized services that the City does not have within the staff complement; in many instances because it is not economically feasible to keep a permanent complement of these specialized resources. In other instances, the funds are required to supplement existing staff resources in order that the projects can be completed.

At amalgamation the organizational model approved for the delivery of capital projects required the extensive use of external engineering services. This has proved cost effective for the city. In City Response to a Council inquiry, the General Manager of Infrastructure Services provided a presentation on the use of internal versus external resources in the delivery of capital works as part of the "Competitive Services Delivery Review" (CSDR) study for design and construction services.

A link to the minutes of the April 21, 2009 Corporate Services and Economic Development Committee meeting [along with the PDF \[396 KB \]presentation is](#) provided.

The results of this review concluded that the use of internal and external resources were competitive depending on the type of project, complexity and implementation timelines.

Question

In 2009 the City spent about \$247 million on outsourced legal and consulting services. In our opinion, a two-year budget freeze or 10 per cent reduction in outsourcing will have limited or no impact on service. We are questioning the rationale for \$5.7 million in legal fees and \$3.9 million dollars in consulting services. Do the skills for services below exist within the City? Please review each item, if you had used City staff to do the work, what would be the opportunity cost?

City Response

Many of the items listed by OTAG as “consultants” are for the purchase of goods, engineering services, training services or other specialized services that the City does not have within its own staff complement or that are required in order to address workload issues. The list as provided by OTAG which totals \$3,919,236 has been reproduced as Document 1. Each item has been identified by staff under the following six classifications:

5. Communication services (\$323,214)
6. Goods procurement (\$515,807)
7. Operational services (\$1,681,989)
8. Project engineering services (\$990,051)
9. Recruitment services (\$45,790)
10. Training services (\$362,385)

Document 1

Consulting Services		Value	Staff Comment
1	Supply and delivery of household starter kits for eligible clients of the Social Services Centres for two (2) years.	336,000	Goods procurement
2	Professional services to undertake project planning of the Enterprise Asset Management for the Integrated Infrastructure Management System Project (EAM-IIMS).	315,623	Operational services
3	Professional engineering services for Contract Administration for the Portobello Boulevard Widening Project.	255,946	Project engineering services
4	Project Management and Change Management Consulting including for the City's new Crisis Incident Management System (CIMS) at the Office of Emergency Management.	248,640	Operational services
5	Consulting services to undertake project management services for the Carlsbad Springs Recreation Centre.	167,464	Project engineering services
6	Professional services for various Employee Development Workshops in 2010.	156,745	Operational services
7	To perform comprehensive inspection services on the eighty (80) newly ordered diesel electric hybrid buses.	108,320	Operational services
8	Professional services for Phase II of the Economic Strategy Refresh Project.	102,522	Operational services
9	Professional services to conduct a Transportation Trend Study for the National Capital Region.	96,272	Operational services
10	Consulting services to conduct an assessment of the current Performance Management practices at the City of Ottawa, develop a Performance Management framework for consideration in supporting planning and performance monitoring processes, and develop an implementation roadmap.	95,238	Operational services
11	Professional services for Evaluation of the Supports in the Social Housing Initiative.	92,252	Operational services
12	Professional services for the Implementation Report for Phase 2 of the Lansdowne Park Partnership Plan.	79,000	Project engineering services
13	Professional project management services for various Water and Wastewater Services projects.	75,600	Project engineering services
14	Professional services for facility planning and design services for the Alta Vista Library, 2516 Alta Vista Drive.	74,218	Project engineering services
15	Professional services for the production of an Exhibit Design Plan for the Primary Exhibit of the Billings Estate National Historic Site (BENHS).	69,290	Project engineering services
16	Professional engineering services to undertake a detailed evaluation of permanently reducing King Edward Avenue from six lanes to four lanes between Rideau Street and Sussex Drive.	68,506	Project engineering services
17	Professional services for Media Monitoring (Print Media and Broadcast) for the City of Ottawa.	68,500	Operational services
18	Professional project management services for the Lead Pipe Replacement Program.	59,752	Project engineering services

19	Professional Fairness Commissioner services for the Rail Implementation Office.	50,000	Operational services
20	Professional Services for the Valuation of Post Employment Benefits.	48,000	Operational services
21	Consulting services to design and facilitate the City of Ottawa's Corporate Service Excellence Framework with the Senior Management Committee.	47,600	Communication services
22	Professional services to undertake the Disney Approach to Service Excellence One Day Workshop.	46,200	Training services
23	Supply of Sweatshirts, Mock Turtlenecks, T-Shirts and Boot Liners for Fire Fighters.	45,000	Goods procurement
24	Supply of Leather Gloves for uniformed employees.	45,000	Goods procurement
25	Professional engineering services for the Implement Public Consultation Plan, Ottawa River Resource Protection and Management.	43,766	Communication services
26	Professional services for Commodity and Tax Services.	40,000	Operational services
27	Implementation of an extranet online communities collaboration solution to support the Community Development Framework.	37,500	Communication services
28	Professional services for the Ottawa light rail transit plan.	35,970	Operational services
29	Professional services for the delivery of an estimated six (6) leadership workshops in support of management development for City of Ottawa supervisors and to develop a series of facilitator guides.	33,550	Training services
30	Professional services to undertake project planning of the Enterprise Asset Management for the Integrated Infrastructure Management System Project (EAM-IIMS).	32,762	Operational services
31	Professional services to undertake a safety, security and accessibility assessment of the City of Ottawa's surface and garage parking lots.	32,050	Operational services
32	Professional services for the English and French Project Management Training Workshops.	31,200	Training services
33	Purchase of alert and notification software for deployment within the Finance Department.	30,478	Goods procurement
34	Professional services to undertake the design of customer services training material.	30,184	Training services
35	Supply of Nylon Gym Shorts and Baseball Caps for Fire Fighters.	30,000	Goods procurement
36	Professional services to undertake twenty-five (25) days of computer training for City of Ottawa staff.	29,700	Training services
37	Consulting services for the Transit 2009 Summer Campaign.	28,845	Communication services
38	Consulting services for the Executive Search of the General Manager, Parks, Recreation and Culture Services.	27,000	Recruitment services
39	Professional services for the delivery of Career Development Workshops.	25,200	Training services
40	Professional services for return to work and ergonomics services for 2009.	25,000	Operational services
41	Professional services for a Business Plan for Transit Services.	24,965	Operational services
42	Professional services for the delivery of Conflict Resolution Workshops.	24,170	Training services
43	Professional services to provide the City of Ottawa with an Accreditation of Operating Authorities for Municipal Drinking Water Systems.	24,000	Operational services
44	Professional services for the Growing Leaders for Services Excellence Program on an as and when requested basis.	23,826	Training services
45	Consulting services for the 2009 Exhibition 'All Aboard a Century of Rail Transport' in Ottawa.	23,760	Operational services
46	Professional services to provide hosting and catering services for the Disney Workshop for the City of Ottawa Management Forum Conference.	23,675	Training services
47	Consulting services for the Services Excellence communications.	23,255	Communication services
48	Professional services to assist with the Tangible Capital Asset Reporting project.	23,000	Operational services
49	Professional engineering services of scope changes for the South Merivale Business Park Community Transportation Study.	21,148	Project engineering services

50	Professional services for the delivery of thirty-seven (37) Employee Development Workshops.	20,000	Training services
51	Professional services for the Public Outreach Green Bin Program.	19,750	Communication services
52	Professional services to undertake the development and delivery of courses pertaining to the Special Constables Training Program for five (5) Transit Law Enforcement Officers.	19,750	Training services
53	Consulting services for the Executive Search for Manager, Economic Development.	18,790	Recruitment services
54	Professional services for the Immigration Website review and update.	18,696	Communication services
55	Professional commissioning services for the Centrepointe Theatre expansion.	18,000	Project engineering services
56	Professional communications managements services for the Rail Implementation Office.	17,460	Communication services
57	Professional services to undertake operational analysis for a single and double roundabout on Prince of Wales Drive.	17,280	Project engineering services
58	Professional services to conduct a survey for the 2009 311 Contact Centre Customer Satisfaction Survey.	17,270	Communication services
59	Consulting services to design and deliver engagement strategies to aid the City of Ottawa in assessing the options for engaging employees with the results of the organizational-wide employee survey.	17,100	Communication services
60	Professional services to undertake the Para Transpo customers and ridership Eligibility Policy Review.	16,950	Operational services
61	Professional project management services for the Splash Wave Pool extension.	16,878	Project engineering services
62	Professional services for the residential water use survey.	16,390	Communication services
63	Professional engineering services for design and contract document preparation for the replacement of four culverts; Second Line Road (SN 648150), John Shaw Road (SN 430200), Prince of Wales (SN 118800) and Merivale Road (SN 118690).	16,246	Project engineering services
64	Supply of Cotton Gym Shorts, Gear Bags and Gym Bags for Fire Fighters.	16,000	Goods procurement
65	Professional Consulting Services for a two (2) day Strategic Planning Workshop for the Public Works Department.	16,000	Training services
66	Professional services for the Ottawa light rail public opinion research, (Fall 2009).	15,420	Communication services
67	Professional project management services for the rehabilitation of various transitway facilities.	15,312	Project engineering services
68	Professional services for the delivery of Career Development Workshops and Services.	15,300	Training services
69	One (1) year maintenance renewal for organizational charting software.	13,329	Goods procurement
70	Professional commissioning services for the Greenboro Community Centre Expansion.	12,450	Project engineering services
71	Professional commissioning services for the Overbrook Community Centre Expansion.	12,450	Project engineering services
72	Professional services to provide job specific approved training to remain in compliance with Ontario Regulations and Drinking Water Quality Management System Operator Competencies.	11,818	Training services
73	Professional services to provide executive strategic planning for the Transit Services Management Team.	11,812	Training services
74	Professional services to undertake a research project in support of the 2010 Temporary Exhibit at the Cumberland Heritage Village Museum.	10,920	Operational services
75	Project Management Services at the Ray Friel Complex.	10,511	Project engineering services
76	Professional services for the 311 Modular Mystery Caller Program.	10,500	Operational services
77	Professional services for the spring and summer 2010 recreation guide design and layout.	10,162	Communication services

78	Professional services to develop and implement surveys of employees to recommend measures to encourage the use of sustainable modes of transportation.	10,000	Communication services
	Total list per OTAG Website	3,919,236	

City Response

A comprehensive City Response has been provided by Legal services.

Looking first at the City's authority in litigation matters, this is derived from the Delegation of Authority By-law, being By-law 2009-231, which sets out the City Clerk and Solicitor's powers in such cases. In this regard, the broad authority of the City Clerk and Solicitor is as set out below:

27. The City Clerk and Solicitor shall be responsible for the conduct of all litigation before courts and administrative tribunals, subject to such instruction as may be issued by Council or the Corporate Services and Economic Development Committee from time to time and in the conduct of such litigation, the City Solicitor shall use the most efficient combination of staff and external legal services as required to represent and defend the interests of the City in the issue at hand.

This delegated authority reflects the original design of the City's Legal Services Branch, as contemplated in the Ottawa Transition Board's November 14, 2000, Detailed Design Report on Legal Services. That Report envisaged a Legal Services Branch built around the following mandate:

The goal of the Legal Services Branch is to provide timely, accurate and useful legal advice and services in the most efficient and cost-effective manner based on a "public-private partnership model", utilizing in-house and external legal resources.

Since amalgamation, this model has been refined to provide for the majority of typical legal services to be supplied by internal counsel, with matters of greater complexity (or those which might otherwise overextend the City's limited internal resources) or which are outside the expertise of in-house counsel, being referred to external lawyers. More recently, external counsel have been retained by means of a Strategic Standing Offer, which has had the effect of reducing the hourly cost of external counsel by nearly 20 per cent.

As for the analysis which is undertaken by the City in deciding whether to pursue litigation, I would note that the overwhelming majority of disputes involve the City as defendant, responding to claims brought against it by outside parties. For example, I note that the Legal Department (since November 2008 titled the City Clerk and Solicitor Department) has responded to more than 400 lawsuits since the beginning of 2006, but has commenced fewer than 10 in that same time, most of these latter cases being for the recovery of debts owing to the City. While the City Clerk and Solicitor Department defends all actions brought against the City, only a small proportion of them result in trials, with the vast majority being resolved by mutually-agreeable settlements. The Department's preference for pursuing settlement of litigation is well-explained in the following excerpt from its March 23, 2009 *Labour Relations Audit - Litigation Record* Report to the Corporate Services and Economic Development Committee:

[http://ottawa.ca/calendar/ottawa/citycouncil/csedc/2009/03-23/04 - ACS2009-CMR-LEG-0008 - Win Loss Report \(Mar 2009\).htm](http://ottawa.ca/calendar/ottawa/citycouncil/csedc/2009/03-23/04 - ACS2009-CMR-LEG-0008 - Win Loss Report (Mar 2009).htm)

A settlement contemplates that the litigation will be formally dismissed and a full and final release (typically with a confidentiality provision) will be executed. Unlike a settlement, litigation via the courts is a public process and, as a result, negative publicity/attention can result from the litigation/trial process. An unfavourable court decision, a costs award, or even a judicial comment (even as an aside) can result in unpredictable consequences and embarrassment for a litigant. It should also be remembered that, in cases where the City is sued alongside another defendant, the statutory rules of joint and several liability mean that the City need only be found 1% liable in order to have to pay the entire cost of the judgment.

The classification of settlements as successful outcomes also serves to reflect the proper role of Legal Services which, reduced to its simplest notion, it to protect the City's interests and

to seek just results. This is aptly outlined in the Branch's Mission Statement, which is, "[To] provide cost-effective legal services within a business-sensitive environment." Accordingly, in cases where there is little question of the City's liability at law, the City's interests are best served by avoiding costly proceedings and looking to achieve an equitable settlement. To focus on a characterization of "win" or "loss" tends to promote a dogmatic approach to litigation which, in the end, does not serve the ultimate goal of protecting the City's legal interests and limiting its financial exposure.

In summary then, I can advise that the conduct of litigation by the City is carried out in a manner that is in keeping with the authority delegated to the City Clerk and Solicitor, and which is the subject of regular reports to the Corporate Services and Economic Development Committee and City Council. The consistent aim of the City in litigated matters is to arrive at a just result that protects City Council's legal, policy and financial interests, using the most cost-effective blend of internal and external expertise.

Follow Up Question Consulting & Legal Services

In our opinion we compare the 12,786 figure at amalgamation to 14,550 in 2009. If the City reduced staff in 2004 and hired more staff later, that would not be a reduction. The figure below shows that the head count reduced by 1,573, this means the city has grown in staff size by about 20% since 2004.

We agree with that the use of consultants should increase, but only in conjunction with a decrease in staff size by natural attrition. Do we infer from your response that in all 78 cases, there is no one in the City with the skill sets?

For example on the issue of a cow on the roof top, your comment was: "Thus, a review to permit one roof-top sign requires reconsideration of the City's approach to regulating this type of sign, and requires staff to consider or identify all associated issues and impact of an amendment. In reviewing 2010 workload, priorities and staffing availability (essentially one policy officer), the conclusion reached was that in order to comply with Council direction to report back by year end, the services of a consultant..."

We infer from this comment that you have staff with the required skill, but due to "2010 workload, priorities" a consultant was engaged, our question is: list the contracts and amounts which was due to "2010 workload priority" and not a lack of skills within the organization. If the person with the skill was pulled off to do the work, please explain which jobs would have suffer?

On the issue of legal services, we are concerned about the process for actions that are initiated by the City.

We are also concerned that there are lawyers employed by the City that can handle a case, but due to "2010 workload priority" an outside law firm was hired. In all law cases handled by the City which of them does the City have the skill sets to handle in house? Why would the City engage outside Counsel for small claims court issues that have a very low liability cap?