
Subject: Chief Administrative Officer (CAO) Recruitment, Selection, Offer of Employment and Performance Management Policy and Procedures

Report to: Regional Council

Report date: Thursday, January 23, 2020

Recommendations

1. That the Chief Administrative Officer Recruitment, Selection, Offer of Employment and Performance Management Policy, attached to Report HR 01-2020 as Appendix 1, **BE APPROVED**;
2. That the corresponding Procedure Chief Administrative Officer Recruitment, Selection, and Offer of Employment, attached to Report HR 01-2020 as Appendix 2, **BE APPROVED**;
3. That the Chief Administrative Performance Management Procedure, attached to Report HR 01-2020 as Appendix 3, **BE APPROVED**.

Key Facts

- The purpose of this report is to obtain Council's approval of the CAO Recruitment, Selection, Offer of Employment and Performance Management Policy and Procedures.
- The Chief Administrative Officer Recruitment, Selection, and Offer of Employment Procedure includes a Terms of Reference for a CAO Recruitment Committee made up of the Regional Chair, specific members of Council, and applicable staff as noted therein.
- Council approval of the attached Policy and Procedures will satisfy the previous direction given to staff in Report CAO 17-2019 to take the necessary steps to implement the corresponding recommendations provided in the Ontario Ombudsman Report "Inside Job" dated November 2019 related to the CAO Recruitment process.
- The Policy and Procedures are newly created with research conducted of best practices and surveys of other municipal partners; if approved these would come into effect immediately upon Council approval.
- The approval of the Policy and associated Procedures will provide Council the mechanisms to move forward with the recruitment of a permanent CAO should they wish to do so and it will ensure any CAO Recruitment is undertaken in a way that will address the concerns raised as a result of the 2016 hiring process.

Financial Considerations

The recommendations, as a result of the Ombudsman Report, are primarily policy and procedure focused and do not have any direct financial implications, save and except staff time to undertake the work, members of Council time to sit on the noted Committee, and the future costs associated with the services of an external Executive Search Firm to undertake the CAO recruitment and selection process in the future.

Should Council wish to proceed with the recruitment of a permanent CAO, any costs related to CAO recruitment activities in 2020 will be funded through the existing, and Council approved, 2020 budget.

Analysis

On November 29, 2019, the Ontario Ombudsman released his report titled “Inside Job” respecting the investigation he conducted regarding the process Niagara Region undertook in the 2016 hiring of its Chief Administrative Officer (CAO); the administration of the CAO’s contract, including any extension and amendment; and Niagara Region’s response to concerns about the CAO’s hiring, including the municipal ombudsman’s investigation and the external governance auditor.

The Ombudsman put forward 15 recommendations within the report to address the issues that were identified as part of his investigation (and a 16th recommendation requiring Niagara Region to report back at six-month intervals on progress in implementation of the recommendations). This Report and the corresponding Appendices serve to directly address the following numbered recommendations from the Ontario Ombudsman Report:

3. *The Regional Municipality of Niagara should require all officials and staff with access to confidential hiring process information to sign a specific confidentiality agreement at the outset of the process.*
4. *The Regional Municipality of Niagara should ensure that the terms of reference it establishes for a recruitment committee provide for a complete list of the staff and officials permitted to access confidential information.*
6. *The Regional Municipality of Niagara should adopt a policy clarifying that employees should not engage in any behaviour that provides an unfair advantage to a candidate during a hiring process, including assisting candidates by providing inside information such as interview questions and suggested answers.*
9. *The Regional Municipality of Niagara should adopt a policy setting out the process for hiring a Chief Administrative Officer, including the appropriate roles of staff and their accountability to council or a committee of council charged with the hiring.*
12. *Before making changes to a contract affecting its legal interests, the Regional Municipality of Niagara should require staff to consult legal and human resources staff to ensure the terms are lawful and consistent with the municipality’s interests.*

13. The Regional Municipality of Niagara should adopt a policy governing the process for CAO performance appraisals.

The attached CAO Recruitment, Selection, Offer of Employment and Performance Management Policy and corresponding Procedures are entirely new; they were drafted in response to the recommendations contained within the Ombudsman Report. In accordance with the recommendations of this report, staff have reviewed what is currently in place, researched best practices, considered tools and resources suggested in the Ombudsman Report, including reached out to a number of upper and lower tier municipalities to ensure that any Policy and Procedures that are put in place, subject to Council approval, would satisfy the recommendations of the Ombudsman.

Regarding the Terms of Reference for the CAO Recruitment Committee, staff are recommending that this Committee be comprised of the 3 Chairs, and in the case of the Public Health and Social Services Committee 1 of the Co-Chairs, of each of the 4 Standing Committees (it also does include the process to select replacement members), plus the Regional Chair who will also assume the Chair of the CAO Recruitment Committee. The recommendation regarding the participation of the Chair's of the Standing Committee's is based primarily on how their respective roles work closely with the role of the CAO, and that in their role as Chair of their respective Committee are required to work within a mandate and make recommendations to be considered by Council.

Niagara Region currently has some other policies in place that are relevant to the aforementioned recommendations such as: Code of Ethics/Conflict of Interest, Accountability and Transparency, Delegation of Powers and Duties, Execution of Documents By-law, and Employment and Staffing. Staff will ensure, in light of the Ombudsman's recommendations, that those policies are strengthened and consistent with the attached Policy and Procedures and will be respectively brought back to Council at a future date.

The recruitment of a permanent CAO has been held in abeyance pending the completion of the Provincial governance review and the Ombudsman's Report into the 2016 CAO hiring process. Given that both of those matters have now been concluded, staff have created the Policy and Procedures as directed by Council in Report CAO 17-2019. The approval of these items will ensure that the corresponding Policy and Procedures, and the amended By-law that has been prepared under separate report, are in place prior to a CAO recruitment process being initiated. As a result, should Council approve this report, staff recommends proceeding with the recruitment of a permanent CAO in accordance with this Policy. Should Council provide such direction, a report outlining next steps in the CAO recruitment process will be brought to the next Corporate Services Committee meeting on February 12, 2020.

Alternatives Reviewed

Municipalities, both local and beyond, were contacted for information on their CAO recruitment practices, including requests for copies of any policies related to same. Although the existence of a policy specific to the recruitment of a CAO are not generally in place, there is a fairly consistent approach that Human Resources facilitate the engagement of an external executive search firm to guide any candidate search, and to form a committee of Council tasked to be a recruitment committee.

Consideration was given to have internal staff and resources from Human Resources conduct the CAO Recruitment process; this alternative is not recommended for a number of reasons; namely Human Resources currently reports to the CAO and the optics of hiring their own manager are not favourable to the corporation. The inclusion of an Executive Search Firm (ESF) as part of the Policy brings the objectivity, specialized skills, and ability to perform a broader search for optimal candidates and still allows the Region to set the scope of work any ESF would undertake in the CAO recruitment process.

Relationship to Council Strategic Priorities

This report is based on the recommendations of the Ontario Ombudsman and Council's prior confirmation of same; however, the implementation of this Policy and corresponding Procedures aligns with Council's Strategic Priority of Sustainable and Engaging Government.

Other Pertinent Reports

- CAO 17-2019 – Recommendations from the Ontario Ombudsman Report "Inside Job" November 2019

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Appendices

Appendix 1 – DRAFT Chief Administrative Officer Recruitment, Selection, Offer of Employment and Performance Management Policy

Appendix 2 – DRAFT Chief Administrative Officer Recruitment, Selection, and Offer of Employment Procedure

Appendix 3 – DRAFT Chief Administrative Officer Performance Management Procedure