

PUBLIC SERVICE COMPENSATION AND EXPENSE DISCLOSURE

EXECUTIVE SUMMARY

This report is a response to Council's request to present a City of Calgary (The City) compensation and expense disclosure program. As legislation governing compensation disclosure is specific to each jurisdiction, it is important to review The City's legal opinion (Attachment 1) to understand the rationale for the recommendations.

ADMINISTRATION RECOMMENDATION(S):

That the Priorities and Finance Committee (PFC) recommends that Council:

1. Direct Administration, following the acceptance of the Privacy Impact Assessment, to commence, in 2015, an annual City of Calgary compensation disclosure program for City positions (see Attachment #4 for exclusions) that includes:
 - a) position titles;
 - b) position salary range; and
 - c) general information about The City's benefit and pension programs.
2. Direct that Attachment 1 remain confidential pursuant to Section 27(1) of the *Freedom of Information and Protection of Privacy Act*;
3. Direct that Attachment 7 remain confidential pursuant to Section 27(2) of the *Freedom of Information and Protection of Privacy Act*;
4. Direct that Attachments 2 and 6 remain confidential pursuant to Sections 24(1)(a) and (b) of the *Freedom of Information and Protection of Privacy Act* until this report goes forward to the designated regular Council meeting; and
5. Direct that Attachment 4 remain confidential pursuant to Section 24(1)(a)&(b) of *Freedom of Information and Protection of Privacy Act*.

RECOMMENDATIONS OF THE PRIORITIES AND FINANCE COMMITTEE, DATED 2014 SEPTEMBER 30:

That Council:

1. Consider Report PFC2014-0638;
2. Direct that Attachment 1 remain confidential pursuant to Section 27(1) of the *Freedom of Information and Protection of Privacy Act*;
3. Direct that Attachment 7 remain confidential pursuant to Section 27(2) of the *Freedom of Information and Protection of Privacy Act*;
4. Direct that Attachment 4 remain confidential pursuant to Section 24(1)(a) & (b) of the *Freedom of Information and Protection of Privacy Act*.

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Opposition to Recommendations:

Opposed: D. Farrell

Excerpt from the Minutes of the Regular Meeting of the Priorities and Finance Committee, Held
2014 September 30:

“FORWARD LOST MOTIONS

Pursuant to Section 155 (7) (a) and (b) of the Procedure Bylaw 44M2006, as amended, Councillors Pootmans and Keating requested that the lost motions with respect to Report PFC2014-0638 be forwarded to Council for information, as excerpts from the Minutes.”

“AMENDMENT, Moved by Councillor Pootmans, that Administration Recommendation 1 b) contained in Report PFC2014-0638 be amended by adding the words “with a base salary range including \$100,000 and above”, following the words “position salary range”.

ROLL CALL VOTE

For:

D. Colley-Urquhart, D. Farrell, S. Keating, R. Pootmans

Against:

A. Chabot, P. Demong, W. Sutherland, N. Nenshi

MOTION LOST

APPROVE, Moved by Councillor Colley-Urquhart, that the Administration Recommendations contained in Report PFC2014-0638 be approved, as follows:

That the Priorities and Finance Committee (PFC) recommends that Council:

1. Direct Administration, following the acceptance of the Privacy Impact Assessment, to commence, in 2015, an annual City of Calgary compensation disclosure program for City positions (see Attachment #4 for exclusions) that includes:
 - a) position titles;
 - b) position salary range; and
 - c) general information about The City's benefit and pension programs.
2. Direct that Attachment 1 remain confidential pursuant to Section 27(1) of the *Freedom of Information and Protection of Privacy Act*;
3. Direct that Attachment 7 remain confidential pursuant to Section 27(2) of the *Freedom of Information and Protection of Privacy Act*;

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4. Direct that Attachments 2 and 6 remain confidential pursuant to Sections 24(1) (a) and (b) of the *Freedom of Information and Protection of Privacy Act* until this report goes forward to the designated regular Council meeting; and
5. Direct that Attachment 4 remain confidential pursuant to Section 24(1) (a) & (b) of the *Freedom of Information and Protection of Privacy Act*.

ROLL CALL VOTE

For:

D. Colley-Urquhart, P. Demong, S. Keating, R. Pootmans

Against:

A. Chabot, D. Farrell, W. Sutherland, N. Nenshi

MOTION LOST

TABLE SINE DIE, Moved by Councillor Sutherland, that the Priorities and Finance Committee recommend that Council table Report PFC2014-0638 sine die.

ROLL CALL VOTE

For:

W. Sutherland, N. Nenshi

Against:

A. Chabot, D. Colley-Urquhart, P. Demong, D. Farrell, S. Keating, R. Pootmans

MOTION LOST

FILE, Moved by Councillor Farrell, that the Administration Recommendations contained in Report PFC2014-0638 be filed.

ROLL CALL VOTE

For:

A. Chabot, D. Farrell, N. Nenshi

Against:

D. Colley-Urquhart, P. Demong, S. Keating, R. Pootmans, W. Sutherland

MOTION LOST"

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PREVIOUS COUNCIL DIRECTION / POLICY

On 2014 January 27, Council discussed the Notice of Motion (NM2014-03) concerning City of Calgary Public Service Compensation & Expense Disclosure. Council directed that Administration present a proposed reporting format and program design inclusive of the following items for Council's consideration:

- a) Best leading Canadian municipalities' practices relating to public sector compensation disclosure, also known as "Sunshine Lists,"
- b) Public service compensation, including expense accounts, salary, benefits and severance amounts for City employees with base salaries above \$100,000 or other measure indexed to inflation defined by the Alberta consumer price index. And where applicable, an employee's contract and termination agreement, along with former employees' consulting contracts with The City,
- c) Online data portal requirements for an easily accessible and user-friendly disclosure system,
- d) Requirements for agencies, boards, and commissions that receive funding from The City of Calgary to annually disclose names, position, salaries and total taxable benefits of employees paid more than \$100,000 or other measure in a calendar year,
- e) Risk Assessment of options including legal, business, financial, and privacy.

And further, that this report be received no later than September, 2014 through the Priorities and Finance Committee.

BACKGROUND

Public sector compensation disclosure in Canada originated in the mid 1990s in Saskatchewan and Ontario. In 2014 January, the province of Alberta implemented the Public Service Compensation Disclosure Policy which requires provincial government employers to disclose the salaries and severance payments of employees with base salaries more than \$100,000. The Province of Alberta's policy does not apply to municipalities. This policy has lead to public debate as to whether compensation disclosure should be adopted by other public sector organizations.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

The investigation addresses each of the items set out in the Notice of Motion:

- a) **Best leading Canadian municipalities' practices relating to public sector compensation disclosure, also known as "Sunshine Lists".**

Public service compensation disclosure is practised in most provinces in Canada. In the majority of these jurisdictions there is enabling provincial legislation mandating disclosure. Currently only British Columbia, Saskatchewan, Manitoba and Ontario have legislation that includes municipalities. The City of Fredericton is the only jurisdiction identified that discloses compensation information without legislation. See Attachment 3 for detailed information on each jurisdiction.

- b) **Public service compensation, including expense accounts, salary, benefits and severance amounts for City employees with base salaries above \$100,000 or other measure indexed to inflation defined by the Alberta consumer price index. And where**

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applicable, an employee's contract and termination agreement, along with former employees' consulting contracts with the City.

Canadian compensation disclosure legislation varies widely in scope, reporting requirements, and manner of disclosure. There is no standard practice. For example, when a salary amount is reported, depending on the jurisdiction, it could represent an employee's base pay only, T4 earnings which includes overtime, or could include other remuneration such as severance payments.

Currently, there is no legislation that requires the mandatory disclosure of employee compensation for The City. However, The City as a public body is subject to the Freedom of Information and Protection of Privacy (FOIP) Act. The FOIP Act controls the manner in which a public body may use, collect or disclose personal information. This is to ensure that public bodies properly protect personal information that is in their custody or control. The information sought to be disclosed as stated in the Notice of Motion is considered personal information under the FOIP Act. See Attachment 6 for complete analysis of options for compensation disclosure as per The City's FOIP Office.

Due to the legal and privacy risks associated with voluntarily disclosing employee personal information, The City's compensation disclosure program must comply with the FOIP Act. Refer to legal opinion in Attachment 1 for the complete risk assessment.

Administration recommends that The City's compensation disclosure program include all information allowable under the FOIP Act where the information provided is accurate, not administratively burdensome, can be produced using existing resources and budgets, and addresses allowable items from the Notice of Motion. The City's compensation disclosure program should include position title, the salary range associated with the title, and general information about employee pension and benefit programs. Including all positions ensures the equitable treatment of all employees while providing the greatest transparency to citizens. Calgary Police Services (CPS) employees will be excluded as CPS is considered to be a separate public body under the FOIP Act. As a separate body the disclosure of information concerning CPS employees can only be determined by the head of the CPS public body.

The FOIP Act expressly allows for position classification to be disclosed. However, classification is not defined in the FOIP Act. The City's Compensation Policy defines "classification" as "the assignment of a position to a pay rate or grade." Administration's recommendation includes disclosure of the positions' pay range therefore this information is included and does not require a separate line item.

With regard to expenses, General Managers are paid an annual executive business expense allowance. This information will be disclosed in the general information about City pension, benefit, and perquisite programs. All other City employees are not provided with a business expense allowance. The City Manager and General Managers also publicly disclose their dining and hosting expenses. This is currently posted on The City website at <http://www.calgary.ca/CA/fs/Pages/Plans-Budgets-and-Financial-Reports/Senior-Management-Expenses.aspx>.

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As part of the process to implement The City's compensation disclosure program, a Privacy Impact Assessment (PIA) must be completed as per City policy. The PIA would review the program's impact on individual privacy, its compliance with the FOIP Act, and would assess broader privacy implications to individuals.

c) Online data portal requirements for an easily accessible and user-friendly disclosure system.

The City's compensation disclosure program can be posted annually on The City's external website www.calgary.ca in a searchable, open-data compliant format using existing technology and resources.

d) Requirements for agencies, boards, and commissions that receive funding from the City of Calgary to annually disclose names, position, salaries and total taxable benefits of employees paid more than \$100,000 or other measure in a calendar year.

Each agency, board and commission that receives funding from The City has a unique relationship with The City. The impact on their organization to disclose compensation information is specific to their circumstances. These entities may be subject to privacy legislation such as FOIP or the Personal Information Protection Act (PIPA) and have considerations that may prevent disclosure. It is recommended that agencies, boards, and commissions not be included in The City's compensation disclosure program. See The City's legal opinion in Attachment 1 for more information.

In order to accurately communicate the risks associated with including other entities in The City's compensation disclosure program, the Civic Partners, Calgary Police Services and Enmax were contacted directly to get their feedback. The Civic Partner responses are included in Attachment 2. Calgary Police Services has provided their legal opinion in Attachment 7. Enmax declined to have their opinion included in this report.

e) Risk Assessment of options including legal, business, financial, and privacy.

See *Risk Assessment* section of this report.

Stakeholder Engagement, Research and Communication

There are very few published empirical studies on the affect of compensation disclosure on an organization's workforce. However, there is some evidence that indicates compensation disclosure results in salary increases. This is caused by peer-benchmarking as employees compare their salary with others in the organization and demand increases. There is also some support for the point of view that compensation disclosure actually controls salary increases. Furthermore, research has found that by increasing transparency and publicly disclosing financial information (e.g. budgets, salaries, and expenses) benefits may improve governance. See Attachment 5 for the supporting documentation of these contrasting opinions.

A survey of large Canadian municipalities that currently disclose employee compensation information revealed that the impact of disclosure on their workforce was minimal. However, no municipality had formally measured or monitored the effects. All responses were anecdotal and

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based on perceptions and comments. The most significant impact reported was the high amount of media attention created when the disclosure reports are posted and the effort and cost associated with preparing and responding to media inquiries.

Strategic Alignment

Disclosure of compensation information would align with The City's Transforming Government initiative by increasing transparency of The City's employee compensation programs.

Social, Environmental, Economic (External)

Social

Increase transparency of The City's employee compensation programs to citizens.

Environmental

N/A

Economic

N/A

Financial Capacity

Current and Future Operating Budget:

Based on the above research, there may be pressure to increase salaries in response to challenges to improve equality and to retain employees.

Current and Future Capital Budget:

N/A

Risk Assessment

Business

If employee personal information is publicly disclosed, employee morale and engagement may suffer. Some employees have expressed concern about having their names and exact salaries disclosed for a diversity of personal reasons. They feel it is an invasion of privacy and may consider leaving The City for the private sector where they would not be subject to having their compensation information disclosed.

Some union officials have been publicly supportive of salary disclosure. For instance, the past president of CUPE Local 37 said they could use the list as leverage to increase pay levels the next time the union is in contract negotiations.

The City operates in a highly competitive job market and workforce trends indicate the organization can expect increased competition over the next decade. Publishing position and salary information increases the likelihood that top talent and senior employees can be targeted and recruited away from the organization.

If The City's agencies, boards, and commissions are not supportive of The City's compensation disclosure program and they are included in the program, business relationships could be harmed and the operational capabilities of the partners negatively impacted, resulting in The City's corporate reputation being damaged.

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Legal

See Attachment 1

Privacy

See Attachment 6

Financial

If employees' names and exact salaries are disclosed, union and management salary/wage costs may increase as indicated in the above research.

If Administration is directed to disclose more information than what is proposed in this report, then additional resources will be required to establish tracking and reporting systems.

REASON(S) FOR RECOMMENDATION(S):

The City's compensation disclosure program needs to balance transparency to citizens with the right to privacy for City employees in accordance with privacy legislation. The recommendation attempts to disclose as much information as possible under existing legislation without exposing The City to risk while using existing resources and budgets.

ATTACHMENT(S)

1. The City of Calgary Legal Opinion
2. Letters from Third Parties
3. Public Sector Compensation Disclosure Practises in Canada
4. Draft Compensation Disclosure Program
5. Research
6. FOIP Office- Public Service Compensation Disclosure Opinion
7. Calgary Police Services Legal Opinion