

SUBJECT: Community Partners Insurance Program

File Number ACS2023-CMR-OCM-0010

Report to Finance and Economic Development Committee on 7 November 2023

and Council 22 November 2023

Submitted on October 27, 2023 by David White, City Solicitor, City Manager's Office

Contact Person: David White, City Solicitor

613-580-2424, ext. 21933, david.white@ottawa.ca

Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE

OBJET : Programme d'assurance des partenaires communautaires

Dossier : ACS2023-CMR-OCM-0010

Rapport au Comité des finances et du développement économique

le 7 novembre 2023

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Soumis le 2023-10-27 par Avocat général, Bureau du directeur municipal

Personne ressource : David White, Avocat général

613-580-2424, poste 21933, david.white@ottawa.ca

Quartier : CITY WIDE / À L'ÉCHELLE DE LA VILLE

REPORT RECOMMENDATION(S)

That the Finance and Corporate Services Committee recommend that City Council approve that:

- 1. The existing Community Partners Insurance Program (CPIP) be discontinued, as more particularly set out in this Report; and,**
- 2. Funding for the existing Community Partners Insurance Program be reallocated to programs comprising the City's Community Funding**

Framework, including Civic Events Funding, administered by the Community and Social Services Department; and,

- 3. That staff be directed to review the terms of the City's community grant funding and service agreements with community-based organizations to minimize the insurance burden imposed by these agreements on community organizations, without exposing the City to unreasonable risk.**

RECOMMANDATION(S) DU RAPPORT

Que le Comité des finances et des services organisationnels recommande au Conseil municipal d'approuver :

- 1. que le Programme d'assurance des partenaires communautaires (PAPC) soit interrompu, comme il est indiqué plus en détail dans le présent rapport;**
- 2. que les fonds du PAPC soient réaffectés aux programmes relevant du Cadre stratégique sur le financement communautaire de la Ville, comme le Programme de financement d'événements civiques, administré par la Direction générale des services sociaux et communautaires;**
- 3. qu'il soit demandé au personnel de revoir, avec les organismes communautaires, les conditions des ententes de prestation de services et de financement communautaire de la Ville pour limiter le fardeau des coûts d'assurance que ces ententes font peser sur ces organismes, sans exposer la Ville à un risque déraisonnable.**

EXECUTIVE SUMMARY

The recommendations contained in this Report seek to address concerns that have been raised regarding the two-tiered nature of the City's Community Partners Insurance Program, in which a limited group of community organizations receive City-paid Commercial and General Liability (CGL) insurance while others are required to fund their own premiums. The recommendations also respond to the direction to staff issued at the September 5, 2023, meeting of the Finance and Corporate Services Committee.

In order to provide equality of access to City funding for community-based organizations sponsoring events and activities, the Report recommends that the funding supporting the 124 organizations for which the City pays CGL insurance premiums, currently

\$234,000, be reallocated to enhance support for the Community Funding Framework, including the Civic Events Funding Program, which was approved by Council and is administered by the Community and Social Services Department.

The reallocation of CPIP funding to the Community Funding Framework will make financial support available to all community-based organizations on a common set of criteria, bring the funding within the standard accountability and transparency measures applicable to City funding programs, and enhance support for communities in a manner that aligns with Council's strategic priorities. Furthermore, the City has most recently been challenged to secure an insurer willing to underwrite the CPIP, leading to increased premiums and less favourable terms, ultimately endangering the viability of the Program.

The Report also recommends that City Council direct the City Solicitor, in consultation with the General Managers respectively responsible for the range of available City-sponsored events, projects and programs, to review the insurance requirements imposed by the City on the understanding that the City be prepared to accept a greater degree of risk in order to encourage community participation in those City-sponsored events and projects.

RÉSUMÉ

Les recommandations du présent rapport visent à répondre aux problèmes soulevés concernant le caractère à deux vitesses du Programme d'assurance des partenaires communautaires (PAPC), qui permet à un petit groupe d'organismes communautaires de bénéficier d'une assurance responsabilité civile générale payée par la Ville alors que les autres organismes doivent financer leur propre assurance. Elles répondent également à la directive donnée au personnel à la réunion du Comité des finances et du développement économique du 5 septembre 2023.

Pour garantir aux organismes communautaires qui commanditent des événements et activités un égal accès au financement municipal, le personnel recommande que l'enveloppe de 234 000 \$ servant actuellement à la Ville à payer une assurance responsabilité civile générale à 124 organismes soit réaffectée au Cadre stratégique sur le financement communautaire, notamment au Programme de financement d'événements civiques, approuvé par le Conseil et administré par la Direction générale des services sociaux et communautaires.

La réaffectation des fonds du PAPC au Cadre stratégique sur le financement communautaire permettra à l'ensemble des organismes communautaires de recevoir

une aide financière fondée sur un socle de critères communs, de respecter les mesures normalisées de transparence et de reddition de comptes applicables aux programmes de financement municipaux et de renforcer le soutien aux communautés tout en respectant les priorités stratégiques du Conseil. Par ailleurs, la Ville a récemment eu des difficultés à trouver un assureur souhaitant adhérer au PAPC. Cette situation a conduit à une hausse des primes d'assurance et à des conditions moins favorables, compromettant ainsi la viabilité du Programme.

Le personnel recommande également au Conseil municipal de demander à l'avocat général, de revoir, en concertation avec chacune des directions générales responsables des événements, projets et programmes commandités par la Ville, les exigences municipales en matière d'assurance, étant entendu que la Ville doit être prête à accepter un plus grand degré de risque pour encourager la participation communautaire à ces événements et projets.

BACKGROUND

The City of Ottawa's history of supporting community organizations takes many forms and extends well before the 2001 amalgamation of the Region of Ottawa-Carleton and the 11 former local municipalities into the current City.

Prior to amalgamation, a number of municipalities supported community groups through the provision of, or access to, commercial general liability insurance in order to mitigate the risk of legal claims, though practices varied amongst municipalities. As part of the work of the Ottawa Transition Board, established by the Provincial Government to oversee and coordinate the municipal amalgamation, an Insurance Project Team was created and was tasked with, among other things, conducting "a review of the insurance management programs in order to determine "best" risk management practices and to develop a guaranteed long-term risk financing strategy." As part of that Team's November 8, 2000 "Procurement of Property/Casualty Insurance Coverage, Broker Services and an Information Management Report", they reviewed what was then known as the Community Associations Liability program and determined that it would be insured within the new City's Integrated Risk Program and would be administered directly by the municipality's insurance broker, noting that the then-current premium costs for community associations ranged from nil to \$1,500 and that "eligibility parameters for the provision of coverage are inconsistent." The 2000 Report further committed that the "new City management will conduct a comprehensive review in order to determine a "fair" insurance cost recovery system and "consistent" coverage eligibility practices."

In keeping with the above commitment, staff in the post-amalgamation City of Ottawa brought forward in August 2001 recommendations for the new City's Third Party Insurance Program and Risk Management Policy Statement. Regarding the provision of insurance coverage for community associations, the 2001 Report noted the disparate practices that existed across the former municipalities, with some associations receiving free insurance and others reimbursing the municipality for premium costs. In order to address that disparity and to establish a "level playing field", the Report recommended that, effective January 1, 2003, "a consistent practice of recovering insurance costs from Community Associations be developed", along with defined parameters for acceptance "to ensure the City of Ottawa is providing insurance coverage to Community Associations that have a direct shared interest with the City of Ottawa", namely those that:

- Receive funding to run a City program; or,
- Operate on a regular basis from a City owned facility; or,
- Offer a program to the community in partnership with the City.

That such criteria were needed was evidenced by the fact that, at that time, there were "approximately 5,000 to 6,000 Community Groups operating in the new City of Ottawa and without defined "parameters for acceptance" the program will grow to an uncontrollable risk level and become an administrative burden."

During the Committee consideration of the report, the staff recommendation was amended as follows:

That the Corporate Services and Economic Development Committee recommend Council approve:

- 1. The third party insurance program, including eligibility, parameters for acceptance and recovery of insurance cost practices detailed in Attachment 2, as amended by the following: That the City's third party community association insurance program premium costs be covered by the City of Ottawa, and not be billed back to non-profit community associations as proposed in the staff report (reference page 2 of Attachment 2 – Insurance Cost Recovery Practices); and Further that staff report back on the operational issues related to this direction.**

2. The Risk Management Policy Statement, detailed in Attachment 4, be adopted.

On City Council's subsequent consideration of the item, and in response to concerns regarding the potential cost of a much-expanded insurance program, a further motion was passed stipulating that "groups which previously received insurance coverage from the City, be grandfathered for insurance coverage purposes."

It is by way of this history that the current Community Partners Insurance Program (CPIP) was established, wherein insurance is made available to the 124 grand-parented community groups currently making up the "Fixed Program" with premiums paid by the City, whereas those groups wishing to participate in the "Open Program" are required to pay their own premiums or meet their insurance needs independently.

More recently, the rising cost of liability insurance has prompted concerns by community groups as to this historical disparity and the desire to identify ways in which it might be rectified and, by extension, place all groups on a 'level playing field'.

At the September 5, 2023, meeting of the Finance and Corporate Services Committee, the below direction to staff was issued as the latest effort to address the prevailing concerns regarding the CPIP:

That, in advance of the tabling of the 2024 budget, staff be directed to bring forward a proposal for the Community Partnership Insurance Program that would preserve or enhance the City's financial support for the community-based groups that work with the City to deliver programs/events for residents and which would foster City Council's commitments to openness, accountability and transparency, equity and inclusion, and support for historically under-represented segments of the Ottawa population, and also help to minimize the City-imposed burden of insurance costs on these community-based groups.

This proposal will be circulated in advance of the Finance and Corporate Services Committee meeting on November 7, 2023, in order to give the community and Councillors' offices a chance to review and respond in advance of the 2024 legislative budget process, as outlined in the City Solicitor's previous memo.

DISCUSSION

At the outset, it should be noted that the City's insurance program for outdoor rink operators no longer forms part of the CPIP. As it now operates independent of the CPIP, the discussion below and proposed changes are of no application and the outdoor rink program would be unaffected, should Council approve the changes proposed in this Report.

Challenges of the Existing Program

Sustainability and Efficiency

The existing CPIP is an insurance program unique amongst large municipalities in Ontario, both in terms of its structure and its eligibility criteria. For that reason, as well as the prevailing trend in the insurance industry to limit exposures (particularly in respect of public authorities and related organizations), the renewal of the CPIP in recent years has been problematic and has not benefitted from competition amongst providers. The result has been a very limited interest in underwriting the program and, by extension, increasing premiums and less desirable terms, including increased deductibles. Should current trends continue, it is possible that the City will be unable to secure an insurer willing to participate in the CPIP. The existing CPIP is therefore at risk of being terminated by virtue of the City's inability to identify an underwriter for the Program.

In addition, the format of the CPIP – which requires participating organizations to be grouped within a fee structure based on their stated risk profile – is notably inefficient, in that it does not allow for a more tailored and individualized coverage and premium structure. An organization with a higher risk tolerance, or more robust risk management practices, might be prepared to accept a higher deductible in exchange for lower annual premiums, or *vice versa*. However, the existing CPIP does not provide for this kind of balancing, due to the common terms applied to all participating organizations. Furthermore, the absence of competitive market pressures means that those terms may be subject to little or no negotiation by the City. Such are the limitations that come with applying a common set of terms to a large number of organizations with varying risk profiles.

In short, the supply of an insurance package covering a range of organizations may result in the inefficient use of resources, recognizing the inability to more carefully tailor an insurance product to meet the specific needs and risk appetite of an individual organization. By way of example, the City may – for an organization that holds a limited number of public events at City facilities - be required to pay Commercial and General

Liability insurance premiums well in excess of those that might otherwise be payable on an event-by-event basis, perhaps as an extension of the City's Facility User CGL policy.

Transparency and Accountability

The criteria under which organizations may receive CGL insurance at taxpayer expense under the CPIP Fixed Program provide none of the accountability mechanisms normally attached to funding programs. While the specific groups captured within the "grandparenting" decision in 2001 are publicly available, the amount of funding required for the CPIP is not currently subject to Council scrutiny or review, as it does not form an identifiable part of the annual budget. Rather, the expenditure required to support the CPIP is determined solely based on the best available premium, which may vary considerably depending on the scope of competitive market pressures. In effect, the current CPIP operates as a community funding mechanism outside of City Council's established programs. As such, it does not provide for the application of the various Council-established priorities – such as efforts to support various equity-deserving groups and promote activities in economically disadvantaged communities – that might generally apply in the context of municipal funding programs.

Additionally, the need to bundle all groups within the umbrella of an overarching insurance policy exposes all participating groups, as well as the City, to the risk that the loss history of one or a small number of groups could heavily influence the availability, cost and/or terms of insurance. While an insurance deductible may serve to incentivize good risk management practices on the part of an insured and act as a measure to enhance accountability, the elimination or sharing of that risk may diminish the incentive to implement the kinds of risk management best practices increasingly expected – or even demanded – by the insurance industry.

Policy Terms

In addition to concerns regarding the disparity between groups receiving City-paid premiums and others, there have also been complaints centering around the amount or existence of a deductible for the CPIP, in addition to requests that the City expand the scope of insurance coverage to include such things as Directors and Officers Liability Insurance.

Devising an Alternate Program

A challenge central to any effort to identify an alternative to the existing CPIP is the creation of eligibility criteria that reflect the objectives set out in the September 5, 2023, direction to staff, while also being fiscally sustainable and administratively feasible. As was noted in the 2001 Report cited above, there were an estimated 5,000 to 6,000 community groups operating in the City of Ottawa following amalgamation, a number that has presumably grown significantly in the intervening years. While the focus of discussion has sometimes centered around “community associations”, it must be noted that the term is of no legal significance, as any group may adopt the term as part of their own identification. Any expansion of the existing Fixed Group captured by City Council’s 2001 grandparenting decision - or extension of the scope of coverage or revisions of terms, including the elimination of deductibles - may consequently give rise to a program that far exceeds the current cost of the CPIP and would pose an administrative burden on staff that could not be accommodated within existing resources.

The same factors that drove the 2001 recommendation that the new City of Ottawa move to discontinue the practice of City-paid insurance premiums, continue to apply and may serve to explain why the City’s CPIP is a program unique amongst Ottawa’s municipal comparators.

In view of these challenges, and in an effort to meet the aims of the prior staff direction, it is recommended that the City discontinue the CPIP and, in effect, standardize what is a form of community funding by reallocating the existing funding – currently \$234,000 - to grant programs that support civic events and emerging community needs through the Community Funding Framework approved by Council and administered by the Community and Social Services Department. The rationale for doing so is detailed below.

Rationale Underlying the Recommended Approach

As noted above, the existing CPIP effectively operates as an indirect funding mechanism, absorbing within the municipal tax base insurance costs for a limited collection of community groups, while other similarly-situated groups are required to bear these costs themselves. The reallocation of this funding to programs open to all community groups would operate to provide a common set of eligibility criteria against which funding requests might be assessed, as well as the following benefits:

- the Community Funding Framework (CFF) approved by Council in 2020 exists to contribute to a healthy social infrastructure and community well-being and, as such, aligns with the spirit and intent of the CPIP;

- funding through the CFF is available to all eligible community groups equally, based on a common set of criteria;
- Community Funding is subject to the standard accountability mechanisms applicable to other funding programs and, by extension, the recipients of that municipal funding; and,
- the amount of financial support for the CFF is as determined by the standard budget process, in the same manner as other funding programs.

The City's Community Funding Framework was most recently reviewed by City Council in 2019, with implementation of the new CFF anticipated to be in effect for 2021, as set out in the 2020 "Community Funding Framework Policy Statements and Next Steps Report" (ACS2020-CSS-GEN-0003). The Community Funding Framework approved by Council exists "to contribute to a healthy social infrastructure and community well-being". An included component of the CFF is the Civic Events Funding program, which provides support for "local not-for-profit organizations, such as community groups and associations to apply for up to \$3,000" which is to be directed at delivering "family-friendly events in local Ottawa communities and neighbourhoods." As noted on the City's website, the Civic Events Funding program is intended to:

- Promote neighbours meeting neighbours in their local community.
- Include multiple activities, family entertainment and attractions.
- Appeal to residents in a specific neighbourhood, district or ward.
- Promote community well-being by welcoming all community members.
- Promote equity and inclusion.

As such, this program most closely reflects the spirit and intent of the CPIP. The reallocation of existing CPIP funding to the Community Funding Framework and Civic Events Funding Program, is therefore recommended as a means by which the City might address the current inequity of the CPIP, in that Community Funding is available to all organizations that meet the eligibility criteria set out below:

- Be a non-profit organization
- Have been in existence for at least 2 years

- Have an organizational mandate that aligns to the Community Funding Framework priorities
- Demonstrate financial viability
- Operate in a non-discriminatory manner as set out by the Ontario Human Rights Code
- Be governed by a democratically elected Board of Directors or Steering Committee
- Be in Good Standing with the City of Ottawa
- Be located in Ottawa and serve residents of Ottawa

Ineligible organizations are those that are:

- Sponsored by another non-profit or charitable organization
- Faith-based organizations whose proposed services/activities include direct promotion and/or required adherence to a faith or religious practice
- For-profit organizations or ventures
- Organizations which act primarily as a funding source for other groups
- Hospitals, clinic-based services, or medical treatment programs
- Organizations of political affiliation or which have a mandate to conduct political activities
- Other levels of government or organizations proposing programs within the legislated mandate of other governments
- Provincial/national organizations unless a local chapter/branch exists to explicitly serve the residents of the City of Ottawa
- School boards, primary and secondary schools, or post-secondary institutions.
- Sports clubs

The recommended approach will also address the various elements of the September 2023 staff direction, as it may be noted that the purchase of insurance qualifies as an eligible expense under the Civic Events Funding framework. The reallocation of funding

to that program will therefore maintain or possibly enhance the City's existing support for community-based events, appreciating that the coverage provided under the existing CPIP - and consequently the cost of premiums - may exceed the insurance needs of some organizations, with the result that the same amount of municipal funding may allow a larger number of groups/events to purchase more individualized coverage, tailored to their specific needs. Furthermore, the change will also standardize the program, thereby bringing it within the standard accountability and transparency mechanisms applicable to municipal grant programs and provide the "level playing field" sought by community groups not currently receiving tax-funded insurance premiums.

Addressing the City-Imposed Insurance Burden

While not tied directly to the CPIP, one of the concerns frequently expressed by community organizations involved in City-sponsored events or projects is the rising cost of the insurance coverage mandated by the City. Such is this burden, that meeting these requirements may operate as a disincentive to the very community-building activities that the City is keen to support.

It is important that the City not impose on the community an unreasonable insurance burden and continue to demonstrate its support for the organizations with which it partners in delivering a range of desirable programs and events.

Staff therefore recommend that City Council direct the City Solicitor, in consultation with the General Managers respectively responsible for the range of available City-sponsored events, projects and programs, to review the insurance requirements imposed by the City on the understanding that the City be prepared to accept a greater degree of risk in order to encourage community participation in those City-sponsored events and projects. The objective of such a review would be to revise the risk/benefit balance in favour of fostering community engagement, rather than maximizing the mitigation of risk.

FINANCIAL IMPLICATIONS

Financial implications are as outlined in the report.

LEGAL IMPLICATIONS

There are no legal impediments to the approval of the recommendations set out in this Report.

CONSULTATION

The City has received ongoing feedback from community groups, either directly or through Members of Council, regarding the desire for more extensive insurance coverage or broader availability of City-funded insurance.

In February 2023, the City received feedback from 89 groups in response to a survey conducted through the Engage Ottawa portal. The focus of that survey was to better understand the range and number of activities/events sponsored by community organizations, as well as to solicit feedback on the current CPIP and desired changes. A number of groups indicated that they were challenged by increasing costs associated with their operations, including such things as “permits, printed flyers and publicity materials, website, membership fees such as for FCA”, as well as insurance premiums. On this latter element, groups asked that the City seek to ensure that insurance not be an impediment to volunteer-based activities and events.

Of the respondents, 84 indicated that they hold events, the majority of which take place on City-owned property.

It may also be noted that City Council’s adoption in 2019 of the Community Funding Framework was preceded by extensive consultation with community agencies and stakeholders.

ACCESSIBILITY IMPACTS

The City of Ottawa is committed to ensuring accessibility for persons with disabilities and older adults. City of Ottawa programs and services follow the City’s Accessibility Policy, the Accessible Formats and Communication Supports Procedure, the *Accessibility for Ontarians with Disabilities Act (2005)* and the *Integrated Accessibility Standards Regulation, O.Reg. 191/11*.

While this report is administrative and financial in nature, there are many positive impacts to persons with disabilities and older adults related to the recommendation of the reallocation of CPIP funding to the Community Funding Framework. This model follows a more equitable distribution of funding across all of Ottawa’s diverse communities, including people with disabilities and older adults, with a focus on projects that increase equity and inclusion, and remove barriers. As such, this reallocation would increase the amount of available funding issued to community organizations, thus increasing or improving the number of potential projects that could continue to provide accessible and barrier-free programs and services to people with disabilities and older adults.

RISK MANAGEMENT IMPLICATIONS

The adoption of the recommendations contained in this Report, notably the normalization of the City's financial support for community-based organizations, will serve to mitigate the risk that the City is unable to support the existing CPIP, due to the limited appetite within the insurance industry to underwrite the program. As noted elsewhere in this Report, only a single insurer expressed a willingness to support the latest renewal of the CPIP program. The lack of competitive pressure resulted in the fact that the City had little to no ability to negotiate more favourable terms for the Program, and similar market conditions are anticipated to continue for the foreseeable future. The reallocation of City funding from the CPIP to the Community Funding Framework also ensures that the City is not exposed to the financial risk of increasing insurance premiums driven by factors outside of its control.

RURAL IMPLICATIONS

The creation in 2001 of a fixed group of organizations eligible for City-paid liability insurance by necessary extension effectively excluded those organizations established after municipal amalgamation, including in those in the highest growth areas of the City. The recommendations contained in this report will serve to create a "level playing field" of funding eligibility, as well as increasing the total funding envelope supporting the Community Funding Framework.

TERM OF COUNCIL PRIORITIES

The reallocation of funding from the CPIP to the Community Funding Framework ensures that the provision of financial support to community-based organizations, based on a common set of eligibility criteria, aligns with City Council's Term of Council priorities, in that the funding allocation process is specifically intended to take account of, and support, the City of Ottawa's Strategic Priorities.

DISPOSITION

The reallocation of existing CPIP funding to the Community Funding Framework will be undertaken by the Treasurer/Chief Financial Officer as part of the 2024 City budget process. Communications will be issued to all groups currently participating in the CPIP advising them of the need to secure alternate insurance, in advance of the expiry of the current policy in June 2024, as well as the availability of funding – including for insurance costs – under the Community Funding Framework.

On the issue of reducing the City-imposed insurance burden on community groups taking part in City-sponsored initiatives, Legal Services staff, in consultation with affected operating departments, will conduct a review of the insurance terms contained in the agreements governing those initiatives with a view to ensuring an approach that favours community participation over risk mitigation, and acknowledges the City's acceptance of a greater share of risk in such initiatives.