

Clause 15 in Report No. 7 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on April 19, 2018.

15

Contract Award for Use of Video Testimony in Provincial Offences Courts

Committee of the Whole recommends adoption of the following recommendations contained in the report dated March 29, 2018 from the Regional Solicitor:

1. Council authorize the Region to enter into a contract with Justice Video Network to provide video testimony capabilities including maintenance and support for a term of five years, expiring on April 30, 2023 at a total cost of \$680,000 excluding applicable taxes.
2. The Regional Solicitor be authorized to execute the necessary agreements on behalf of the Region.
3. The Regional Clerk circulate this report to the Ministry of the Attorney General and the Chief of Police.

Report dated March 29, 2018 from the Regional Solicitor now follows:

1. Recommendations

It is recommended that:

1. Council authorize the Region to enter into a contract with Justice Video Network to provide video testimony capabilities including maintenance and support for a term of five years, expiring on April 30, 2023 at a total cost of \$680,000 excluding applicable taxes.
2. The Regional Solicitor be authorized to execute the necessary agreements on behalf of the Region.
3. The Regional Clerk circulate this report to the Ministry of the Attorney General and the Chief of Police.

2. Purpose

This report seeks Council approval to enter into an agreement with Justice Video Network for the professional technology and business design, solution implementation, and on-going maintenance and support for video testimony in the courtrooms. Under of the Purchasing Bylaw, Council may authorize any purchase or method of procurement despite any other provision of the Bylaw where to do so would be in the best interests of the Region.

3. Background

Responsibility for the administration and prosecution of certain charges under the *Provincial Offences Act* (POA) was transferred to the Region on July 12, 1999. The Ministry of the Attorney General retains overall responsibility for the integrity of the justice program. The program is subject to strict constraints through legislation, regulations, case law, and ministry directives.

York Region operates the second largest Provincial Offences Act court program in Ontario based on the number of charges filed. The majority of charges filed in the Region's courts are traffic offences filed under Part I of the Provincial Offences Act. It is our mission to provide timely, quality and cost-effective access to Justice

Increases in trial requests have resulted in more frequent York Regional Police appearances in court

In 2017, York Region suspended the Early Resolution program in response to direction from the Regional Senior Justice of the Peace to relocate all early resolution matters from the Intake Court to the trial docket. Currently courts are operating at maximum capacity and cannot accommodate additional early resolution matters. As a result there has been an increase in trial requests. In order to accommodate increased trials, matters have been redistributed between both court locations. This has improved access to justice; however it increased travel time for officers from the YRP districts in the south end of the Region.

York Regional Police officers currently spend a significant amount of time travelling to and from court to testify. This represents more than 20,000 'on duty' appearances at court in 2017, with approximately 5 per cent of matters proceeding to trial. Officers often spend an equal amount of time travelling to and from court as they do at the court facility itself resulting in a significant decrease of officer availability in the community. The issue is intensified when officers who work in the south end of the Region have to testify at the Newmarket court. The

additional travel time will increase YRP's operating budget by approximately \$300,000 annually.

Video technology will allow York Region Police officers to provide real-time testimony remotely from their district

Both York Region and York Regional Police strongly support remote testimony, as a means of leveraging technology to modernize the provincial offence court process related to police officers providing testimony. The use of technology will address inefficiencies and costs of providing police evidence in disputed traffic cases and allow greater flexibility in the scheduling of York Regional Police officers ensuring matter are brought before the justice system as expeditiously as possible.

The Province has successfully used video conferencing since 2000 to create efficiencies within the Justice System

The Government of Ontario Justice Video Network was introduced in the criminal courts in 2000 to ease the transportation burden of accused persons from Ontario correctional facilities to and from court appearances. The goal was to reduce the number of transportations by utilizing video technology for remand and bail appearances. The Justice Video Network has evolved over time to include a number of new services which includes remote and vulnerable witness testimony, evidence presentation, remote interpretation, telemedicine, access to defense and legal aid case work. York Region would be the first provincial offences court to use the technology for police testimony.

4. Analysis and Implications

Justice Video Network is the preferred solution for video conferencing

Court Services has complex business requirements and needs a solution that will integrate seamlessly and operate flawlessly in such a way that it will not compromise the integrity of the court proceedings. Basic video conferencing technology would not be sufficient for use in court proceedings. York Region explored various solutions for video testimony and identified Justice Video Network as its preferred solution. They are a full service provider whose solution has already been tested and proven in a court environment. Justice Video Network offers a justice-grade solution and provides professional technology and business design, solution implementation, and on-going maintenance and

support that meets the Region's business and Information Technology requirements.

If York Region is unable to contract the services of Justice Video Network, additional work and resources will be required to build a solution that meets all of our business requirements resulting in greater expense and increased time to implementation.

York Region requires sponsorship approval from the Ministry of Attorney General to partner with Justice Video Network

York Region engaged Justice Video Network in May 2017 to explore a potential partnership opportunity, who indicated an interest in developing the partnership, but had to first acquire approval from the Ministry of Attorney General who is their largest stakeholder. A formal request for sponsorship was made in June 2017 at which point court staff worked closely with the Ministry to answer questions and address concerns. In February 2018, in the absence of a decision, the CAO and the York Region Police Chief sent communication to the Assistant Deputy Attorney General affirming the importance of this initiative to the justice system and community. The Ministry provided a response in mid-February indicating their support in principle, but requested a formal business case. Court staff submitted the requested business case in the format required by the Ministry within two days of the request, a copy of which is Attachment 1, but still has not received a decision. The award to Justice Video Network will be contingent on final approval by the Ministry.

Court Services will phase in the use video testimony over a two year period commencing in late 2018

The video conference solution will be implemented into one courtroom at the Newmarket court and one video suite in York Region Police District Five. Pending the success of the project and subject to budget approval, Court Services will expand video technology to two additional districts and one additional courtroom when the Newmarket Court moves to the Annex in 2020.

The total cost for initial implementation and future expansion is included in the total cost of the \$680,000. All costs for this project will be shared equally between York Regional Police and the Region as partners in this initiative.

Video Testimony supports the "Good Government", "Living Sustainably" and "Liveable Cities and Healthy Community" of Vision 2051 and 2015-2019 Strategic Plan

The implementation of video testimony for police evidence will reduce operating costs associated with travel while minimizing carbon footprint and ensure that

York Regional Police is able to provide the best possible service to our community.

5. Financial Considerations

The total cost for the implementation of video testimony over the next five years is as follows:

- Capital Costs- one time cost that include equipment, professional and design services for two courtrooms and three video Suites: \$430,000
- Operating Costs- includes on-going maintenance and support for the term of the five year contract : \$250,000

All costs for this project will be shared equally between York Regional Police and Court Services and sufficient funding for this project has been allocated in the Court Services and York Regional Police budget. York Regional Police would avoid additional operating costs of approximately \$300,00 a year associated with increased travel time.

6. Local Municipal Impact

There are no direct municipal impacts as a result of this report.

7. Conclusion

Court Services is seeking authority to enter into an agreement with Justice Video Network for the professional technology and business design, solution implementation, and on-going maintenance and support for video conferencing in the courtrooms. Under section 3.3 of the Purchasing Bylaw 2017-30, despite any other provision of this bylaw, Council may authorize any purchase or method of procurement where to do so would be in the best interests of the Region.

It is in the best interest of the Region to contract with Justice Video Network as they are a full service provider whose solution has already been proven in a court environment.

For more information on this report, please contact Lisa Brooks, Director, Court Operations at 1-877-464-9675 ext. 73209.

Contract Award for Use of Video
Testimony in Provincial Offences Courts

The Senior Management Group has reviewed this report.

March 29, 2018

Attachments (1)

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Accessible formats or communication supports are available upon request

BUSINESS CASE FOR JUSTICE VIDEO NETWORK PROJECT

Please consider and answer the questions provided below when completing your business case. Assume the reader knows nothing of the rationale for your request. Provide as much detail as possible, particularly in sections 4, 5 and 6. Outline real scenarios.

- How would this project promote fairness, transparency and access to justice?
- How will this project benefit the adjudicative process and/or the administration of justice?
- What is the impact on your business and on the court/court proceedings?
- Would this project detrimentally affect the safety, security or privacy of any person or entity or impede the right to a fair adjudication?

1. Name of Organization: The Regional Municipality of York
Address: 17250 Yonge Street, Newmarket, ON

2. CONTACT PERSON

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3. TYPE OF ORGANIZATION

York Region is an upper tier municipality that offers a wide range of services to over 1.1 million residents and many visitors. York Region operates the second largest Provincial Offence court in the Province of Ontario, second only to City of Toronto. We operate two court locations (Richmond Hill & Newmarket), with six trial courts and two intake courts. There is over 30 law enforcement and

Regulatory Agencies filing charges within our jurisdiction however, York Regional Police accounts for 80 percent of all charges filed.

York Region continues to experience high dispute rates in excess of 50%, resulting in extended time to trial. We are continuously looking for innovative ways to modernize and streamline processes so we can effectively respond to workload pressures and improve access to justice.

This initiative aligns with “**York Region Vision 2051**” and “**2015 to 2019 Strategic Plan**” for:

- I. “Good Government” – reduce operating costs
- II. “Living Sustainably” – green initiative
- III. “Liveable Cities & Healthy Community” – more on-duty policing

In addition, the video testimony project aligns with MAG’s strategic priority of “creating an innovative, sustainable justice system that inspires public confidence and upholds the rule of law.”

4. PURPOSE

In 2017, York Region suspended the Early Resolution program in response to direction from the Regional Senior Justice of the Peace (RSJP) to relocate all ERM matters from the Intake Court to the trial docket. Currently, the courts are operating at maximum capacity and cannot accommodate additional early resolution matters. The result was an increase in trial requests that increased the trial time beyond the legislative timeframe at the Richmond Hill court. A decision was made to redistribute the workload and transfer some matters between the two court locations. This improved access to justice by reducing the trial time; however, had a negative impact on policing within York Region.

York Regional Police officers currently spend 45 minutes travelling to, and 45 minutes travelling from, Provincial Court to demonstrate they are available and prepared to testify if required. This represented more than 20,000 ‘on duty’ appearances at Court in 2017, with approximately 5 percent of matters proceeding to trial. In fact, officers spend an equal amount of time travelling to and from court as they do in the court facility itself; this has significant impact on officer availability in the community.

Court Services has a need to create and implement a video conferencing Solution that will allow York Region Police Officers to provide real-time testimony remotely from the districts for Part I trial matters. This initiative will allow greater flexibility in the scheduling of York Regional Police ensuring matters are brought before the justice system as expeditiously as possible.

The implementation of technology into the court is vital to improving access to justice by providing an innovative solution to manage increasing workload. It is critical to maintaining community safety and a key piece in the modernization of the court process. It also creates the opportunity to expand beyond prosecution witnesses and could give consideration to remote interpretation, agents and defence testimony in the future.

Identify why this project is necessary to achieve your purpose. Can you obtain the information from any other source?

The solution must integrate seamlessly and operate flawlessly in such a way that it will not impact existing courtroom trial proceedings. The solution must be designed and implemented with justice-grade quality sufficient to satisfy the scrutiny of the POA Courts system where it is expecting to face legal challenges. The solution must be scalable, extensible, reliable and implemented by June 30, 2018. All costs for the project will be shared between York Regional Police and Court Services as partners in this initiative.

York Region explored various options and identified The Justice Video Network (JVN) as its preferred solution. JVN is the only service provider that can provide professional technology and business design, solution implementation, and on-going maintenance and support. It is a proven solution that has been in use in Ontario courts since 1999.

If York Region is unable to contract the services of JVN, additional work and resources will be required to build a solution that meets all of our business requirements resulting in greater expense and increase time to implementation by approximately 50 percent.

5. SECURITY

The use of video conferencing technology will not result in the creation of additional systems or files. Court proceedings will continue to be captured by

the Liberty Recording System and managed in accordance with the policies and procedures outlined by the Ministry of Attorney General.

The video conferencing technology operates over a private network or secured line by Bell Canada. This will ensure that in the event of a breach access to the ICON database, court documents and audio proceedings will remain secure as they reside on a separate network managed by York Region. Its use in the Bail Remand hearings has proven that it has passed the security threshold. All POA court proceedings are public in nature and as such, in utilizing the JVN solution York Region is going above and beyond to mitigate any associated risks. Further, any proceeding ordered by the court to be closed to the public will not utilize the video conferencing solution. A clear process will be developed and communicated accordingly.

6. Risk Assessment

Description:

Identify any project risks that may relate to the project. A risk is a factor or event that may jeopardize the project from achieving the anticipated benefits or increase the cost of the project.

Checklist for Project Risk Assessment

Technical Failure– Identified as low risk.

Any failure for technology to work in court could disrupt proceedings and result in the withdrawal of charges or require multiple appearances by the defendant.

York Region will contract maintenance and support through JVN and standards will replicate the Ontario Court of Justice for video bail remand hearings. Best practice and training for staff will include testing of equipment in advance of court proceedings to minimize risk.

Judicial Acceptance–Identified as low risk

Recognizing that the judiciary must be satisfied that the use of video technology is not impacting the adjudicative process, we have engaged the Regional Senior Justice of the Peace HW Norton as well as Justice of the Peace Solomon in a local working group. All process and procedures will be developed in collaboration with the judicial bench.

The judiciary are familiar with the JVN solution and have not identified any concerns with implementing this solution for use in POA trials.

Legislative Requirements- Identified as low

This technology has not been utilized in POA court proceeding for the purpose of providing remote testimony. There is associated risk that cases with remote testimony could be appealed and subsequently withdrawn. Since section 83.1 (2) of the POA authorizes testimony of a witness by electronic method this risk is considered low and will be argued on appeal accordingly.