RE: URGENT: Deloitte's actuarial work

From:	"Petsche, Nadine (TBS)" <nadine.petsche@ontario.ca>
To:	"Veinot, Cindy (TBS)" <cindy.veinot@ontario.ca>, "Kaufman, Paul (TBS)" <paul.kaufman@ontario.ca>, "Tam, Nelson (TBS)" <nelson.tam@ontario.ca>
Cc:	"Virani, Shyrose (TBS)" <shyrose.virani@ontario.ca>, "Hatzis, Len (TBS)" <len.hatzis@ontario.ca>, "Kearney, Sean (TBS)" <sean.kearney@ontario.ca>, "Lo, Tom (TBS)" <tom.lo@ontario.ca>
Date:	Thu, 17 Nov 2016 16:49:57 -0500
Attachments:	RE_ Preparing for Pension Asset Expert Advisory Panel (Thanks in advance).msg (105.47 kB)

Just to clarify, the actuarial work was conducted under the July 21 SOW, and not under the Sept 19th amendment which covered the Section 7600 Report that was referenced in the extract in Tom's email below. While Deloitte is drafting a confidentiality agreement for the accounting opinion (sec. 7600 Report), we have received clearance from Martin Raymond to share the actuarial analysis (at least that is my understanding) in the email attached.
Nadine

From: Veinot, Cindy (TBS)
Sent: November-17-16 4:10 PM
To: Petsche, Nadine (TBS); Kaufman, Paul (TBS); Tam, Nelson (TBS)
Cc: Virani, Shyrose (TBS); Hatzis, Len (TBS); Kearney, Sean (TBS); Lo, Tom (TBS)
Subject: RE: URGENT: Deloitte's actuarial work

Deloitte is drafting a confidentiality agreement specifically related to the accounting opinion, which includes a restriction on distribution.

We are still waiting to see it.

Cindy

From: Petsche, Nadine (TBS)
Sent: November-17-16 4:06 PM
To: Kaufman, Paul (TBS); Tam, Nelson (TBS)
Cc: Virani, Shyrose (TBS); Hatzis, Len (TBS); Kearney, Sean (TBS); Lo, Tom (TBS); Veinot, Cindy (TBS)
Subject: RE: URGENT: Deloitte's actuarial work

Hi Tom.
It is my understanding that the Panel members did sign agreements. I see that Nelson has not yet responded, so I'm copying Cindy as I haven't been directly involved. Nadine

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From: Kaufman, Paul (TBS)
Sent: November-17-16 3:37 PM
To: Petsche, Nadine (TBS); Lo, Tom (TBS)
Cc: Virani, Shyrose (TBS); Hatzis, Len (TBS); Kearney, Sean (TBS); Tam, Nelson (TBS)
Subject: RE: URGENT: Deloitte's actuarial work

Hi Nadine – just to clarify one point – your email exchange with Martin said that the panel members have signed confidentiality agreements – is that true? We included confidentiality obligations in the panel members' appointment letters, and if we needed to would argue that those obligations are contractually binding, but to my knowledge we haven't had the panel members actually sign anything re: confidentiality (unless this happened as part of the appointment process and didn't go through LSB).

Copying Nelson as he was also asking about confidentiality agreements relating to Deloitte work last week.

If you want to have the panel members sign confidentiality agreements we can prepare those quickly.

Paul

Paul Kaufman
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From: Petsche, Nadine (TBS)
Sent: November-17-16 3:26 PM
To: Lo, Tom (TBS)
Cc: Virani, Shyrose (TBS); Hatzis, Len (TBS); Kearney, Sean (TBS); Kaufman, Paul (TBS)
Subject: RE: URGENT: Deloitte's actuarial work

Thanks Tom. Given that we have received the attached response from Deloitte, I think we should be able to share the analysis?
Nadine

From: Lo, Tom (TBS)
Sent: November-17-16 3:19 PM
To: Petsche, Nadine (TBS)
Cc: Virani, Shyrose (TBS); Hatzis, Len (TBS); Kearney, Sean (TBS); Kaufman, Paul (TBS)
Subject: RE: URGENT: Deloitte's actuarial work

PRIVILEGED AND CONFIDENTIAL

Nadine:

The original Statement of Work does not include an express provision restricting Ontario from sharing the work prepared by Deloitte under the Statement of Work. However, under the amendment (attached) entered into with Deloitte dated September 19, 2016, which amended the original Statement of Work to include, among other work, the accounting opinion, Ontario agreed to the following clause [relevant portions highlighted]:

"Inclusion of Deloitte reports in documents and public oral statements or references to Deloitte in other documents and on electronic sites
Subject to the obligations in Article 27 (Privacy) of the Master Agreement and as required by law by the Auditor General, you agree that any written work product of Deloitte will not be made available to any other persons or entities. However you may provide access to Deloitte's observations and an accounting opinion prepared under Section 7600 (if applicable) to the Office of the Auditor General solely for its informational purposes. Except as provided for in the preceding sentence, you agree to seek and obtain Deloitte' written consent before including our accounting opinion (if applicable) or referring to Deloitte in any document disclosed to third parties, including disclosure of a summary of the accounting opinion or publication of the opinion in documentation that may be accessible to or intended for the public. Deloitte may, in its own discretion, waive the requirement to obtain written consent. You agree that prior to or as part of providing the Office of the Auditor General with any written work product of Deloitte, including an

accounting opinion prepared under Section 7600, you will notify the Office of the Auditor General that it is Deloitte's desire to be notified of, and to consent to, the disclosure of any Deloitte written work product or reference to Deloitte in any materials to be disclosed to third parties. Deloitte agrees that the Client's obligation is only to notify its independent auditors of Deloitte's desire to be notified about, and to consent to, disclosure, and that the Client is not making any representation or warranty that the Office of the Auditor General will notify Deloitte or seek Deloitte's consent."

If the work being shared with the Panel pre-dates the entering into of the amendment, we can try to make the argument that this work was not intended to be covered by the restriction set out above. Also, we could try to argue that since the Panel is comprised of government advisors, disclosure to Panel members would not constitute a disclosure to another "person or entity". However, these are likely not strong arguments and since Deloitte has already expressed a concern with sharing the information, the course of action with the least amount of legal risk would be to seek Deloitte's consent to share the information with the Panel.

Regards,
Tom

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From: Petsche, Nadine (TBS)
Sent: November-17-16 2:36 PM
To: Lo, Tom (TBS)
Cc: Virani, Shyrose (TBS); Hatzis, Len (TBS); Kearney, Sean (TBS)
Subject: URGENT: Deloitte's actuarial work

Tom,
We don't have access to the master agreement, in case it is relevant to assessing the matter of disclosure. The Deloitte SOW is attached. We are planning to share the work with the Panel, as communicated to Deloitte in the attached email trail to which they are helping to compile the results in a user-friendly format.
Please advise on how to address this item as quickly as possible. The hope was to share the assessments as part of the package of materials to be provided to the Panel members tomorrow.
Thanks. Nadine

From: Veinot, Cindy (TBS)
Sent: November 17, 2016 11:32 AM
To: Petsche, Nadine (TBS)
Cc: Tam, Nelson (TBS); Virani, Shyrose (TBS)
Subject: Deloitte's actuarial work

Hi Nadine – on a call Nelson and I had with Deloitte yesterday re: their presentation to the panel tomorrow, they requested that their actuarial report and subsequent work not be provided to the panel. There is no restriction in the reports or any of their other work. What restrictions, if any, are in the SOW. The panel will need to understand that work, so my preference is to include it, but if we need permission to do that, we need to get that started.

Appreciate that you are off sick today, but if you get us the relevant excerpt from the SOW please (Shyrose – perhaps you can assist – this is the SOW with Deloitte related the actuarial work that Deloitte started in early August of 2016).

Thanks,

Cindy

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