

By JENNIFER COOMBES

At the November meeting, Council was asked to consider a one-year pilot to step up PEO's enforcement activities, with the overall goal of determining the extent of enforcement violations beyond those currently reported and investigated by PEO. Under the *Professional Engineers Act* (PEA), no person may engage in the practice of professional engineering unless that person holds a licence, a temporary licence, a provisional licence, or a limited licence. Similarly, no person may offer engineering services to the public unless they hold a certificate of authorization. The question at issue is: how extensive are violations of the PEA by unlicensed practitioners, and how best should they be detected and brought into compliance with the legislation?

Council approved the pilot, which increased the 2007 budget by \$215,000 to cover the pilot enforcement activities detailed in a discussion paper completed last June. This paper stemmed from a December 2005 request of the Enforcement Committee by Council to evaluate enforcement activities and to consider ways that PEO could be more proactive.

The additional funding will allow one new enforcement investigator and one support person to be hired. The program will focus on proactive ways to identify illegal practice or misleading title use. PEO's current mechanism relies on complaints from the public and other PEngs. The program will include:

- (a) *Enhanced communication to stakeholders:* will involve presentations at trade shows and meetings of industry associations, and to human resource professionals and building officials; articles in industry journals; breakfast and luncheon meetings and roundtable discussions with stakeholders; and production of an outreach video;
- (b) *Use of chapters as eyes and ears:* presentations will be made to 50 per cent of chapters in 2007 on enforcement activities, and chapters will be encouraged to provide local directories, ads and

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newspapers to help PEO identify potential offenders;

- (c) *Investigation:* the additional investigator will actively solicit leads and perform followup investigation; and
- (d) *Legal prosecutions:* if the proposed activities are successful in uncovering violations of the licensing or title requirements of the PEA, they will proceed to the prosecution stage if offenders cannot be brought into compliance.

Discipline processes

Council finalized its discussions on discipline processes, begun at the September meeting, with respect to seeking costs as part of penalty decisions, settlement discussions (plea bargains), and reduced-size discipline panels. At the September meeting, Council felt it needed more information and discussion to make an informed decision (*Engineering Dimensions*, November/December 2006, p. 32).

At the November meeting, Council directed that the Registrar will make a submission of costs to the discipline panel in all cases where there is a finding of guilt and penalty has been determined. Also, the Registrar will seek reasonable recovery costs incurred during both the complaint and discipline processes.

In addition, the Registrar will inform every practitioner referred to discipline that:

- (a) PEO prosecution counsel is interested in establishing an agreed statement of facts;
- (b) PEO prosecution counsel will entertain settlement discussions with respect to guilty pleas and penalty terms only if initiated by the practitioner;
- (c) PEO will make submissions for cost awards after there is a finding of guilt and penalty has been determined (not negotiable as part of any plea agreement);
- (d) PEO will request publication with names in all cases where there is a find-

ing of guilt (not negotiable as part of any plea agreement); and

- (e) the discipline panel remains independent of the prosecution, and will make its own decisions on guilt and penalty.

A panel of not fewer than three members will be used where there is an agreed statement of facts between the parties, there is an admission of guilt, and a joint submission as to penalty. The Registrar must assemble a full, five-member panel under any other conditions. The use of single-member panels, an option provided in the *Statutory Powers Procedure Act*, will cease. Such panels were used for a brief period starting in October 2005 where there were agreed facts, a guilty plea and a joint submission on penalty.

C of A implementation

At the September 2006 meeting, a number of motions were approved that support eight short- and long-term policy issues to make the Certificate of Authorization (C of A) a more effective instrument for offering engineering services to the public. These changes, which affect fee structure and administrative costs, the online membership directory, discipline-specific seals, scope of practice, and competency, were published on the PEO website and in *Engineering Dimensions* (November/December, p. 32) for comment. The Registrar was asked to prepare an implementation plan for approval at a subsequent meeting.

Council approved the plan at the November meeting. First steps will involve revising fees, and collecting information and making it publicly available on PEO's online member and C of A directories.

During Council's November discussion, it was deemed necessary that two of the motions initially approved at the Septem-

ber meeting be amended (indicated by italics in the following):

- All licence holders be identified on the online directory by the discipline (CEAB degree or PEO syllabus) in which they are *primarily* licensed.
- Discipline specific seals *may* be issued and additional seals be issued to licence holders.

Strategic plan transition

At its September 2006 meeting, Council directed the CEO/Registrar to develop a plan to identify and prioritize the ongoing strategic plan and Council-authorized improvement projects, so that they could be funded from surpluses in the annual operating budget instead of from a dedicated reserve fund.

Accordingly, at the November meeting, Council directed that no new strategic plan projects be initiated, and that:

- project steering committees involved with each of the original strategic plan projects provide recommendations to the Executive Committee at its December 2006 meeting, including estimated costs, to bring the active projects to completion;
- the Executive Committee review the strategic plan steering committees' recommendations on these projects at its December 2006 meeting and report back to Council at its January 2007 meeting;
- the Strategic Investment Fund be closed at the end of 2006 and all expenditures regarding strategic plan projects incurred beyond 2006 be drawn from the operating budget; and
- complete project charters be prepared for projects to be considered for funding for Council's 2007 spring planning session.

PEO finances

Council approved PEO's 2007 operating and capital budgets, as recommended by the Finance Committee. The operating and capital budget assumptions for 2007 were approved by Council at its June 2006 meeting, and drafts of both budgets were presented to Council for information at the September meeting.

The balanced operating budget approved by Council in November is identical to the draft presented in September and reflects an operating reserve of \$6.1 million. The operating budget includes expenditures for strategic plan and other improvement projects to be undertaken in 2007 (see "Strategic plan transition" above and *Engineering Dimensions*, November/December, p. 32). Strategic plan initiatives were previously funded from a five-year, \$5.4 million Strategic Investment Fund that Council approved in 2005. The budget does not include funds for the purchase of a PEO office building.

In approving the capital budget, Council amended it to total \$475,000.

Council approved the 2007 Operating Reserve Policy, which specifies the minimum funds restricted for specific purposes and those that can be expended at the discretion of Council to deal with uncertainties, future liabilities, opportunities, growth, and unknown, unplanned initiatives. The operating reserve is updated on an annual basis to reflect PEO's current conditions and meet PEO's planned future financial position. Changes to the operating reserve for 2007 include: (a) total capital asset purchases are increased to \$480,000 from \$310,000 due to an increased capital budget; (b) unspent funds for strategic initiatives are removed from the reserve and transferred to the operating budget; (c) internally restricted funds for specific long-term purchases increased from \$2.7 million to \$3 million.

Council also approved the 2007 Borrowing Resolution, which enables the borrowing of money upon the credit of the association by way of (a) an operating overdraft up to an amount not to exceed CAD \$250,000 and (b) the use of corporate credit cards with an aggregate limit not to exceed \$120,000. The borrowing resolution renews PEO's existing line of credit and corporate credit cards until January 31, 2008.

Presidential eligibility

Subject to a revision of Regulation 941, there will no longer be previous Council service requirements for candidates for President-elect and Vice President in future

PEO Council elections. Council approved a motion to remove the current requirements of two years of Council service for candidates for President-elect and one year of Council service for candidates for Vice President. Council also reversed a decision it made at its June meeting, which would have amended the regulation to require that the previous Council service be within the immediately preceding five years.

Key performance indicators

Council received a report recommending a set of key performance indicators (KPI) for PEO, which was one of the initiatives of the strategic plan approved by Council in 2005. Establishing KPIs for PEO is intended to help meet the strategic goal of maximizing "the reach and effectiveness of PEO's regulatory function within the *Professional Engineers Act* to better serve and protect the public interest, thus elevating the value of the licence" so as to "increase the public's confidence in PEO as a regulator."

The study leading to the set of recommended PEO KPIs was carried out for PEO by Cathy Taylor, P.Eng., an independent consultant with experience in strategic planning and key performance measurement for the Technical Standards and Safety Authority, and Beth James of EDJE Marketing and Management Services.

The resulting report recommends measuring five KPIs:

- competence programs;
- complaints about licence holders and non-licence holders;
- compliance action statistics;
- employee engagement; and
- public confidence survey score.

Council indicated it would like to have more information, including the results of a public confidence survey currently underway, before making a decision on whether the recommended KPIs are the best ones for PEO. To that end, Council tabled the item and formed a task group comprising Councillors John Vieth, P.Eng., Henry Hill, Rick Hilton, P.Eng., and Cliff Knox, P.Eng., to investigate further. ❖