TORONTO

STAFF REPORT
ACTION REQUIRED

Information Technology Proprietary Software Support & Maintenance Contracts Renewals and Amendments

Date:	August 29, 2012
To:	Government Management Committee
From:	Lan Nguyen, Acting Chief Information Officer and Michael Pacholok, Acting Director, Purchasing and Materials Management
Wards:	All
Reference Number:	P:\2012\Internal Services\PMMD\gm12008pmmd (AFS #15447)

SUMMARY

This report seeks authority to:

i) increase the contract amounts for 15 information technology proprietary system maintenance contracts approved by City Council in July 2010 for the five (5) year period of January 1, 2011 to December 31, 2015 in Attachment A of this report; and,

ii) renew 38 additional information technology proprietary system maintenance contracts listed in Attachment B of this report which have exceeded either the $500,000 cumulative threshold as per Municipal Code Chapter 195-Purchasing (the "Purchasing By-Law"), Section 9B and 9C or the five (5) year commitment limit under Section 1 of the Purchasing By-Law, up to December 31, 2015.

The contracts listed in Attachments A and B are for support and maintenance services for various software applications and hardware used throughout the City of Toronto which can only be provided by the vendors identified therein because of proprietary reasons.

RECOMMENDATIONS

The Acting Chief Information Officer and the Acting Director, Purchasing and Materials Management recommends that:

1. City Council grant approval, subject to Operating Budget approval in each year, to increase the value of those contracts in Attachment A of this report by an amount not to exceed $15,008,389.11, net of HST recoveries, for the period of January 1, 2012 to December 31, 2015, bringing the total value of all the contracts in Attachment A and previously approved in GM32.20 to $88,753,300.20, net of HST recoveries.

2. City Council grant approval, subject to Operating Budget approval in each year, to renew the contracts listed in Attachment B of this report, at a cost not to exceed $4,571,635.62, net of HST recoveries, for a period of four (4) years from January 1, 2012 to December 31, 2015.

3. City Council grant authority for City Divisions and Information & Technology Division to negotiate amendments or extensions to the contracts identified in Attachment A based on the increased contract amounts recommended under Recommendation 1, and to enter into agreements to renew or extend the contracts identified in Attachment B for a period of up to four (4) years from January 1, 2012 to December 31. 2015, all in accordance with this staff report, City Policies and Procedures, and in a form satisfactory to the City Solicitor.

Financial Impact

At its meeting held in July 2010, City Council authorized the renewal of various maintenance contracts that support proprietary software applications and hardware used throughout the City for a maximum period of five years ending December 31, 2015, at a total cost not to exceed $73,744,911.07 (net of HST recoveries). The recommendations contained in this report increase the total maximum (i.e. "not to exceed") amount for proprietary software and hardware maintenance contracts by $19,580,024.73 (net of HST recoveries) as follows:

a) $15,008,389.11 related to increases required for 15 out of 44 contracts approved by Council at its meeting in July 2010 (re: item GM32.20), in Attachment A of this report; and,

b) $4,571,635.62 related to 38 additional contracts identified in Attachment B, and not included in the list of contracts approved by Council in July 2010.

Table 1 below sets out the maximum contract amounts (net of HST recoveries) approved for 44 contracts in July 2010 (re: GM32.20) and the increases recommended in this report for the five (5) year period from January 1, 2011 to December 31, 2015.

Table 1
Proprietary Software Support & Maintenance Contract Renewals for 5 Years (2011 to 2015)

	2011	2012	2013	2014	2015	5 Year Total
Contract Amounts approved July 2010 (GM32.20)	$12,158,994.68	$12,122,441.62	$15,920,844.08	$16,421,773.50	$17,120,857.21	$73,744,911.07
Attachment A Adjustment	$0.00	$311,039.24	$2,529,482.71	$5,415,588.13	$6,752,279.03	$15,008,389.11
Attachment B Amounts	$0.00	$512,590.56	$922,970.42	$1,463,880.68	$1,672,193.96	$4,571,635.62
TOTAL (net of HST recoveries)	$12,158,994.68	$12,946,071.42	$19,373,297.21	$23,301,242.31	$25,545,330.20	$93,324,935.80

The contract amounts identified in Attachments A and B, and summarized in Table 1 above, represent estimates for maintenance and support only and will be funded by the respective Divisions' Operating Budget submissions each year. Spending from Capital, such as purchases of additional licenses and major hardware equipment, is not covered by this Staff Report. City Divisions are responsible for obtaining the proper commitment authority for any capital expenditure in accordance with existing City policies and procedures.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting held on July 6, 7 and 8, 2010, City Council authorized the renewal of maintenance contracts that support proprietary software applications and hardware within the City for a period of up to five (5) years from 2011 to 2015 for a total cost of up to $73.7 million (net of HST recoveries over the five (5) year period) for individual vendors listed in Appendix A of GM32.20 "Information Technology Maintenance Contracts Sole Source Renewal 2011 – 2015". Following is the link to the Council decision and staff report:

http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.GM32.20
http://www.toronto.ca/legdocs/mmis/2010/gm/bgrd/backgroundfile-31418.pdf
http://www.toronto.ca/legdocs/mmis/2010/gm/bgrd/backgroundfile-31424.pdf

ISSUE BACKGROUND

Pursuant to the Council authority granted with the adoption of GM32.20 "Information Technology Maintenance Contracts Sole Source Renewal 2011 – 2015", the Information & Technology Division and City Divisions negotiated and successfully secured multi-year agreements with 23 out of 37 proprietary vendors (or 15 out of 44 contracts) identified in Appendix A of GM32.20 in a form satisfactory to the City Solicitor and in accordance with City Policies and Procedures.

With respect to the remaining 14 vendors (involving 15 contracts), staff encountered difficulties in negotiating multi-year agreements and in settling vendor invoices because the total contract value maximum limits approved by Council in July 2010 (as identified in Appendix A of GM32.20) were less than the actual and projected annual maintenance costs required. These discrepancies mostly came about because of future requirements that were not anticipated or planned for when the GM32.20 staff report was prepared. Examples of these future yet unplanned requirements include additional licenses that need to be purchased from 2012 to 2015 in order to continue to support various City programs and services.

Additionally, the Information & Technology Division and Purchasing and Materials Management Division identified, after City Council approved GM32.20 in July 2010, similar maintenance contracts for software and / or hardware support which need to be renewed to ensure continued support of critical programs, services and day-to-day operations. These additional contracts are proprietary to the named vendors and, therefore, cannot be purchased through competitive bidding. Furthermore, since these contracts have exceeded either the $500,000 cumulative threshold or the five (5) year commitment limit under the City's Purchasing By-Law, Council approval is required to commit any funds for these purchases.

COMMENTS

Attachment A, attached, identifies the maintenance contracts approved by City Council in July 2010 (including the five year contract amounts approved for each contract) that requires an increase in amounts for years 2012 to 2015 that are largely related to operational requirements that were not anticipated or planned for when the GM32.20 staff report was prepared (such as the need for additional software licenses to support various City programs and services). Of the 44 contracts approved by Council in 2010 (re: GM32.20), 15 contracts (in Attachment A) need to be increased by a total of $14,748,810.05 (excluding HST) and $15,008,389.11 (net of HST recoveries) for the five (5) year period ending December 31, 2015.

Attachment B, attached, identifies additional contracts totalling $4,492,566.45 (excluding HST) and $4,571,635.62 (net of HST recoveries), which were not included in GM32.20, and need to be renewed in order to continue supporting software applications and/or hardware used by various City Division in the provision of City programs and services.

The maintenance contracts identified in Attachments A and B are contracts that support software applications and hardware within the City which are critical to day-to-day operations. These maintenance contracts allow the City to receive security patches and current versions of the software which are required in order to ensure compatibility with other software applications and hardware in the City's information technology environment. In addition, these contracts provide for technical support from the software and hardware vendors when problems occur to minimize any downtime of the City's software applications. Maintenance of these products is only available directly from the vendors identified in Attachments A and B as the software and hardware are proprietary to these vendors.

As maintenance contracts have come up for renewal, the Information & Technology Division has worked with the various Divisions within the City to consolidate contracts, and continues to do so. As much as possible, the Information & Technology Division includes renewal clauses with a set maximum percentage increase that cannot be exceeded. This makes it easier to manage and prevents vendors from increasing prices above the maximum percentage agreed to.

As previously done with the contracts under Appendix A to GM32.20, the Information & Technology Division and City Divisions will negotiate and find ways to limit any increases to support and maintenance contracts and leverage the ability to negotiate limited increases with multi-year renewal terms.

The requested amounts for 2012, 2013, 2014 and 2015 are estimated and represent "not to exceed" amounts over the four (4) year period for purposes of obtaining approval to negotiate the contracts in Attachments A and B and will be subject to Operating Budget approval in each year. The amounts are based on the current support and maintenance requirements, potential future requirements and previously negotiated inflationary increases.

With approval of up to four (4) years, the City will have more leverage to negotiate lower costs than those shown in Attachments A and B. At a minimum, the City will save administrative costs of preparing more frequent reports. By negotiating these contracts once, instead of annually, it would free staff time to do other work. While it is difficult to estimate, using an average of one month in staff time combined for each agreement involving multiple Divisions, the administrative cost savings could range between $5,000 to $15,000 per agreement.

The Information & Technology Division and Purchasing and Materials Management Division have decided to align the commitment approval period sought for the contracts listed in Attachment B with that of GM32.20, which is from January 1, 2011 to December 31, 2015, instead of seeking a different approval period, e.g., 2012 to 2016. Proceeding with this option will avoid overlapping of approval periods and will allow staff to consolidate any further renewal of all information technology systems sole source contracts into one staff report before the current approval period ends on December 31, 2015, thereby saving further administrative costs.

Upon approval of this report, the Information & Technology Division and City Divisions will be in a position to negotiate multi-year agreements with vendors listed in Attachments A and B with potential savings to be achieved. Contracts will also be reviewed to include renewal options subject to future City Council approval in 2015; however, the City will continue to pay maintenance and support on an annual basis as per current policies. Rights to terminate such contracts will be maintained in the event that the City elects to discontinue support on any of its software or hardware. The Information & Technology Division will continue to pursue opportunities to consolidate contracts and ensure cost controls are in place, and all contracts will be renewed or re-negotiated in accordance with City policies and procedures, and in a form acceptable to the City Solicitor.

The Fair Wage Office has reported that all the software and hardware support and maintenance services vendors indicated in this Staff report and on the attached Appendices have reviewed and understand the Fair Wage Policy and Labour Trades requirements and have agreed to comply fully.

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SIGNATURE

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ATTACHMENTS

Attachment A: Contracts Approved by Council in July 2010 (re: GM32.20), highlighting Contracts that Require Amendment
Attachment B: Additional Information Technology Maintenance Contracts Recommended for Approval