

**SOUND TRANSIT
STAFF REPORT**

MOTION NO. M2008-102

Contract for eDiscovery Application Suite Procurement & Implementation

Meeting:	Date:	Type of Action:	Staff Contacts:	Phone:
Finance Committee	10/16/08	Discussion/Possible Action	Desmond Brown, General Counsel Loren Armstrong, Legal Counsel	(206) 398-5017 (206) 398-5212

Contract/Agreement Type:	<input checked="" type="checkbox"/>	Requested Action:	<input checked="" type="checkbox"/>
Using other Agency Competitive Contracts	<input checked="" type="checkbox"/>	Execute New Contract/Agreement	<input checked="" type="checkbox"/>
Sole Source		Amend Existing Contract/Agreement	
Agreement with Other Jurisdiction(s)		Budget Amendment	

PROJECT NAME

eDiscovery Application Suite Implementation

PROPOSED ACTION

- (1) Authorizes the chief executive officer to execute a three-year contract with three one-year options with immixTechnology / Zylab for the purchase of eDiscovery software and related implementation and maintenance services for an electronic discovery and email archiving solution for a total authorized contract amount not to exceed \$669,000; and
- (2) Rescinds Motion No. M2008-64.

KEY FEATURES of PROPOSED ACTION

- An electronic discovery and document preservation solution is necessary for the Legal and IT departments to meet state and federal requirements. An electronic discovery solution will enable Sound Transit to:
 - Store and retrieve electronically stored information (ESI) from the current network environment;
 - Implement a legal hold on ESI as required by law;
 - Electronically identify and retrieve ESI responsive to discovery or public disclosure requests;
 - Manage and prepare the retrieved ESI for a legal case or public records request; and
 - Archive email and other critical documents in accordance with adopted retention policies and within a planned storage architecture, further facilitating retrieval of discoverable information.
- The proposed contract will be for a period of three years, plus three one-year options to extend. The price indicated above is for the entire six-year term. The first year cost is approximately \$276,000 and includes licenses, installation, implementation, and the first year maintenance fees. Each additional year will cost approximately \$56,000. As new

software applications are brought online during the lifecycle of this contract, additional consulting services may be required to ensure that all data is accessible to this system. Staff recommends a 15% contingency to cover any such costs, and is included in the total amount of \$669,000.

- The suite includes: electronic discovery support, electronic legal hold capabilities, case management, email archiving, and electronic data collection services.
- All bidders were asked to provide an hourly rate for ongoing consultant services. Past experience has shown that additional hourly services may be required during initial implementation to ensure thorough installation, implementation, and training.

BUDGET and FINANCIAL PLAN DISCUSSION

This action authorizes the chief executive officer to execute a contract with immixTechnology / Zylab for the purchase of the eDiscovery software and related implementation and maintenance services for an electronic discovery and email archiving solution for a total authorized contract amount not to exceed \$669,000.

Of this contract amount, software costs are \$219,000, taxes \$24,000, contingency of approximately \$87,000, for a total of approximately \$330,000 will be funded through the Administrative Capital program for software and \$339,000 from the FIT staff budget for maintenance over the life of the contract.

BUDGET TABLE

Summary for Board Action (Year of Expenditure \$000)

Action Item: eDiscovery Software Suite Implementation

Agency Administration Capital	2008 Lifetime Board Adopted Budget ¹ (A)	Committed To Date ² (B)	This Action (C)	Total Committed & Action (D)	Uncommitted (Shortfall) (E)
Office Furniture	\$ 2,271	\$ 2,271	\$ -	\$ 2,271	\$ -
Fleet - Automobiles	\$ 1,120	\$ 1,030	\$ -	\$ 1,030	\$ 90
Computer Equipment	\$ 4,657	\$ 4,494	\$ -	\$ 4,494	\$ 163
ERP System	\$ 4,432	\$ 4,432	\$ -	\$ 4,432	\$ -
Computer Software	\$ 3,570	\$ 2,547	\$ 330	\$ 2,877	\$ 693
Other Office Equipment	\$ 725	\$ 682	\$ -	\$ 682	\$ 43
Unallocated Budget	\$ 6,892	\$ -	\$ -	\$ -	\$ 6,892
Total	\$ 23,667	\$ 15,456	\$ 330	\$ 15,786	\$ 7,881

Budget Detail

eDiscovery	\$ 615	\$ -	\$ 330	\$ 2,877	\$ 2,262
Misc. Activity	\$ 2,955	\$ 2,547	\$ -	\$ -	\$ (1,569)
Total Computer Software	\$ 3,570	\$ 2,547	\$ 330	\$ 2,877	\$ 693

Finance & Information Technology Staff	Adopted 2008 Budget	Spent to date in 2008	Contract Expenditures	Remaining 2008 Budget
Salaries & Benefits	\$ 7,637	\$ 4,505	\$ -	\$ 3,132
Services	\$ 3,611	\$ 2,040	\$ 56	\$ 1,515
Material & Supplies	\$ 423	\$ 134	\$ -	\$ 289
Miscellaneous Expenses	\$ 270	\$ 653	\$ -	\$ (383)
Leases & Rental	\$ 0	\$ 0	\$ -	\$ 0
Other Expenses	\$ 1,286	\$ 930	\$ 0	\$ 356
Total Finance & Information Technol	\$ 13,228	\$ 8,263	\$ 0	\$ 4,909

Contract Spending Plan	Prior Year(s) Spending	2008 Spending	Future Expenditures	Total
Total Agency Administration	\$ -	\$ 56	\$ 292	\$ 348
0	\$ -	\$ -	\$ -	\$ -

Contract Budget

	Current Approved Contract Value (F)	Spent to Date (G)	Proposed Action (H)	Proposed Total Contract Value (I)
eDiscovery	\$ -	\$ -	\$ 330	\$ 330
Operations	\$ -	\$ -	\$ 252	\$ 252
Contingency	\$ -	\$ -	\$ 87	\$ 87
Total	\$ -	\$ -	\$ 669	\$ 669
Percent Contingency	0%	0%	15%	15%

M/W/DBE – SMALL BUSINESS PARTICIPATION

Prime Consultant/Contractor

Zylab is the prime consultant for this contract. Zylab is not a small business, and will self-perform all work under the contract.

EEO Commitment

Zylab has 119 employees, of which 46 are female and 24 are minorities.

PROJECT DESCRIPTION and BACKGROUND for PROPOSED ACTION

Pursuant to the Washington State Public Records Act (RCW 42.56 *et seq.*), the Federal Rules of Civil Procedure, and Sound Transit's record retention policy, Sound Transit must have the ability to perform the following with regards to electronically stored information (ESI):

- Identify and categorize all ESI to be preserved;
- Store and preserve ESI;
- Locate and identify responsive ESI across all applications in response to litigation discovery or public records requests;
- Produce responsive documents in native format as well as other industry-standard formats;
- Delete documents in accordance with Sound Transit's document retention policy;
- Institute a legal hold on all forms of ESI across all electronic platforms; and
- Demonstrate compliance with the agency's document retention policy.

These obligations apply equally to Public Records Act requests and discovery requests due to litigation. While discovery-intensive litigation cannot be predicted with certainty, Sound Transit receives about 140 public disclosure requests per year, and this number is likely to increase.

Because of the increasing volume of requests and electronic data, and the broad nature of many requests, it is no longer efficient or effective to manually locate, search, and identify potentially responsive electronic documents. Without software that can automatically search across all electronic platforms, staff would have to manually search and review documents, in addition to their normal workloads.

After a detailed review and interview process of various eDiscovery providers and a formal procurement process through Schedule 70 of the Federal GSA, Sound Transit staff determined that the proposed suite of products by Zylab represented the best value in terms of functionality and cost. It is capable of facilitating Sound Transit's compliance with all of the above requirements.

Staff also compared what other local governments (e.g., Port of Seattle, City of Seattle, King County, and local PUD's) in the state are doing with regards to ESI; they concluded that the proposed software provides the best value for the agency. The product can efficiently and effectively implement a legal hold across all ESI—a requirement that already exists and has resulted in several high-profile (and monetarily significant) sanctions in courts across the country for failure to comply.

The software has the following features:

- the ability to easily find relevant information across the entire organization's electronic records regardless of format (it supports over 100 file formats);
- enables staff to create, manage and organize electronically stored records before and during litigation;
- automatically search for and assess document responsiveness, privilege and issue relation before the manual review process begins, drastically reducing the amount of time required to organize and conduct document review and analysis while simultaneously increasing review accuracy and consistency;
- delivers up to 500 percent in storage savings over traditional e-mail archiving systems while substantially reducing litigation and discovery risk;
- intelligently and cost-effectively tackles records management, information lifecycle management and email archiving with a single product; and
- deduplicates all information to the lowest unique subpart resulting in substantial storage savings.

The software was selected through the US General Services Administration's procedures.

Rescission of Motion No. M2008-64

This action also rescinds Motion No. M2008-64. The Finance Committee previously authorized Sound Transit to enter into a contract with Recomind for an eDiscovery software suite. For various reasons, it was deemed necessary to reprocur the eDiscovery software. The result is a savings of approximately \$480,000 over the anticipated life of this contract (\$325,000 during the initial three-year term, and an anticipated savings of approximately \$50,000 - \$60,000 for each of the one-year options).

Prior Board/Committee Actions

Motion/Resolution Number and Date	Summary of Action
M2008-64 7/3/08	Authorized the chief executive officer to execute a contract with Recomind for the purchase of the Recomind eDiscovery Suite software and related implementation and maintenance services for an electronic discovery and email archiving solution for a total authorized contract amount not to exceed \$715,000, contingent upon Board approval of Resolution No. R2008-07.
R2008-07 7/10/08	(1) Amended the 2008 Administrative Capital lifetime and annual budget to provide an additional \$715,000 to procure eDiscovery software and related implementation services that will allow Sound Transit to meet state and federal electronic discovery and document preservation requirements; and (2) amended the 2008 Agency Staff budget to add \$100,000 to the Finance and Information Technology department for maintenance of the eDiscovery and associated infrastructure.

CONSEQUENCES of DELAY

To take advantage of immixTechnology / Zylab pricing, Sound Transit must execute the contract by November 2008, when this pricing expires. Earlier implementation of the software will benefit ongoing litigation and public disclosure matters.

PUBLIC INVOLVEMENT

Not applicable to this action.

ENVIRONMENTAL COMPLIANCE

SSK 10/10/08

LEGAL REVIEW

LA 10/9/08

SOUND TRANSIT

MOTION NO. M2008-102

A motion of the Finance Committee of the Central Puget Sound Regional Transit Authority 1) authorizing the chief executive officer to execute a three-year contract with three one-year options with immixTechnology / Zylab for the purchase of eDiscovery software and related implementation and maintenance services for an electronic discovery and email archiving solution for a total authorized contract amount not to exceed \$669,000; and 2) rescinding Motion No. M2008-64.

Background:

Pursuant to the Washington State Public Records Act (RCW 42.56 *et seq.*), the Federal Rules of Civil Procedure, and Sound Transit's record retention policy, Sound Transit must have the ability to perform the following with regards to electronically stored information (ESI):

- Identify and categorize all ESI to be preserved;
- Store and preserve ESI;
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Motion:

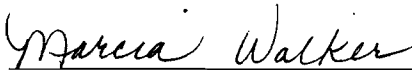
It is hereby moved by the Finance Committee of the Central Puget Sound Regional Transit Authority that 1) the chief executive officer is authorized to execute a three-year contract with three one-year options with immixTechnology / Zylab for the purchase of eDiscovery software and related implementation and maintenance services for an electronic discovery and email archiving solution for a total authorized contract amount not to exceed \$669,000; and 2) that Motion No. M2008-64 is hereby rescinded.

APPROVED by the Finance Committee of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on October 16, 2008.



Fred Butler
Finance Committee Vice Chair

ATTEST:



Marcia Walker
Board Administrator