

**SOUND TRANSIT
STAFF REPORT**

RESOLUTION NO. R2008-07 AND MOTION NO. M2008-64

eDiscovery Application Suite Procurement & Implementation

Meeting:	Date:	Type of Action:	Staff Contacts:	Phone:
Finance Committee	7/3/08	Discussion/Possible Action to Recommend Board Approval	Desmond Brown, General Counsel	(206) 398-5017
Board (R2008-07 only)	7/10/08	Action	Kevin Crawford, CIO	(206) 398-5137

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	<input type="checkbox"/>	Amend Existing Contract/Agreement	<input type="checkbox"/>
Agreement with Other Jurisdiction(s)	<input type="checkbox"/>	Budget Amendment	<input checked="" type="checkbox"/>

PROJECT NAME

eDiscovery Application Suite Implementation

PROPOSED ACTION

Resolution No. R2008-07

- (1) Amends the 2008 Administrative Capital lifetime and annual budget to provide an additional \$715,000 to procure Recommend Suite, software and related implementation services that will allow Sound Transit to meet state and federal electronic discovery and document preservation requirements.
- (2) Amends the 2008 Agency Staff budget to add \$100,000 to the FIT department for maintenance of the Recommend Suite and associated infrastructure.

Motion No. M2008-64

Authorizes the chief executive officer to execute a contract with Recommend for the purchase of the Recommend 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.

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 act request; and
- deliberately archive email and other critical documents in accordance with adopted retention policies and within a planned storage architecture, which further facilitates retrieval of discoverable information.
- The suite includes: electronic discovery support, electronic legal hold capabilities, case management, email archiving, and electronic data collection services.
- In order to fund the proposed action, staff is requesting that:
 - The lifetime and annual Administrative Capital budget be increased by \$715,000 to fund the acquisition of the Recommend Suite and associated infrastructure, and
 - The agency staff budget be increased by \$100,000 to fund maintenance of the system for the remainder of 2008.

BUDGET and FINANCIAL PLAN DISCUSSION

Resolution No. R2008-07

The Adopted Budget for Administrative Capital includes \$1.317 million for expenditures in 2008, and a lifetime budget of \$23.668 million. The budget for 2008 is already committed for other current projects. The Administrative Capital budget can be seen on page 226 of the Adopted 2008 Budget book.

The acquisition of \$100,000 for computer equipment and \$615,000 for computer software would be funded by an increase of \$715,000 to the Administrative Capital program budget, which will increase the lifetime budget to \$24,443,000; and the program budget for 2008 to \$2,032,000.

Maintenance for the system (approximately \$100,000) will be covered by an increase within FIT Staff Operating Budget. The proposed action would increase the Agency adopted staff budget to \$60,716,651. The agency staff budget can be seen on page 178 of the Adopted 2008 Budget book.

Funding for these budget amendments will come from the Regional Fund, which is funded proportionally from each subarea. Use of these funds will reduce future agency resources by \$815,000.

Motion No. M2008-64

This action also authorizes the chief executive officer to execute a contract with Recommend for the purchase of the Recommend 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.

Of this contract amount, \$615,000 will be funded through the Administrative Capital program for software and \$100,000 from the FIT staff budget for maintenance.

Infrastructure needed to support the software at a cost of approximately \$100,000 will be procured through other pre-existing authorized sources.

BUDGET TABLE

Proposed Amendment to the 2008 Sound Transit Budget (\$000)

001 Agency Administration

Cost Elements	2008 Annual Budget			Lifetime Budget		
	2008 Adopted Budget	Budget Increase	Revised Budget	2008 Adopted Budget	Budget Increase	Revised Budget
Office Furniture			\$ -	\$ 2,271	\$ -	\$ 2,271
Fleet - Automobiles	\$ 90		\$ 90	\$ 1,120	\$ -	\$ 1,120
Computer Equipment	\$ 162	\$ 100	\$ 262	\$ 4,657	\$ 100	\$ 4,757
ERP System			\$ -	\$ 4,432	\$ -	\$ 4,432
Computer Software	\$ 1,023	\$ 615	\$ 1,638	\$ 3,570	\$ 615	\$ 4,185
Other Office Equipment	\$ 43		\$ 43	\$ 725	\$ -	\$ 725
Unallocated Budget			\$ -	\$ 6,892	\$ -	\$ 6,892
Total	\$ 1,317	\$ 715	\$ 2,032	\$ 23,668	\$ 715	\$ 24,383

Agency Staff Budget

	2008 Annual Budget		
	2008 Adopted Budget	Budget Increase	Revised Budget
Sound Transit Staff Operations	\$ 60,612	\$ 100	\$ 60,712

M/W/DBE – SMALL BUSINESS PARTICIPATION

Prime Consultant/Contractor

Recommind is the prime consultant for this contract. Recommind is a small business, and will self-perform all work under the contract.

EEO Commitment

Recommind has 91 total employees, of which 12 (13%) are women (one executive) and 21 (23%) are minorities.

PROJECT DESCRIPTION and BACKGROUND for PROPOSED ACTION

Pursuant to the Washington Public Records Act (RCW 42.56 *et seq.*), the discovery obligations imposed by the Federal Rules of Civil Procedure, and Sound Transit's record retention policy, Sound Transit must have the ability to do all of 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. However, 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 this volume of requests, the ever-increasing volume of electronic data,

and the increasingly cumbersome and broad nature of many of the requests, it is no longer efficient or even effective to manually locate, search, and identify potentially responsive electronic documents. In the absence of software that can automatically search across all electronic platforms, this searching and reviewing of documents would have to be done manually by staff, in addition to their normal workloads. As requests become broader and the volume of electronically stored information increases, an increasingly onerous burden is placed on staff. It is further exacerbated when staff leave Sound Transit at the completion of a project or otherwise, and this burden then falls on other staff having to locate and review electronically stored information that was created by other employees.

After a detailed review and interview process of various eDiscovery providers by members of the IT and Legal Departments, Sound Transit staff determined that the proposed suite of products by Recommind represented the best value to Sound Transit in terms of functionality, as well as 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, and concluded that the Recommind software is the best value for the agency. Significantly, the Recommind product appears to be the only one that 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.

Specifically 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 150 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 tackle records management, Information Lifecycle Management (ILM) and email archiving with a single product; and
- deduplicates all information to the lowest unique subpart resulting in substantial storage savings.

The Recommind eDiscovery suite of products was selected through the U.S General Services Administration's procedures.

CONSEQUENCES of DELAY

Delay in the approval of this action could result in the loss of a \$60,000 discount in the initial license fee. The requested contract amount indicated above includes the discount.

PUBLIC INVOLVEMENT

Not applicable to this action.

ENVIRONMENTAL COMPLIANCE

SSK 6-30-08

LEGAL REVIEW

LGA 6-30-08

SOUND TRANSIT

MOTION NO. M2008-64

A motion of the Finance Committee of the Central Puget Sound Regional Transit Authority authorizing the chief executive officer to execute a contract with Recommind for the purchase of the Recommind 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.

Background:

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

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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, and concluded that the Recommind software is the best value for the agency. Significantly, the Recommind product

appears to be the only one that 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.

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- deduplicates all information to the lowest unique subpart resulting in substantial storage savings.

The Recommend eDiscovery suite of products was selected through the U.S General Services Administration's procedures.

Motion:

It is hereby moved by the Finance Committee of the Central Puget Sound Regional Transit Authority that the chief executive officer is authorized to execute a contract with Recommend for the purchase of the Recommend 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.

APPROVED by the Finance Committee of the Central Puget Sound Regional Transit Authority at a regular meeting thereof held on July 3, 2008.



Aaron Reardon
Finance Committee Chair

ATTEST:



Marcia Walker
Board Administrator