

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF EXPRESSING)	RESOLUTION NO. 94-2033
THE INTENT OF METRO TO ACQUIRE AN)	
AUTOMATED MANAGEMENT)	
INFORMATION SYSTEM IN FISCAL YEAR)	Introduced By Rena Cusma,
1995-96 USING, IN PART, THE FISCAL)	Executive Officer.
YEAR 1994-95 SUPPORT SERVICES)	
UNAPPROPRIATED FUND BALANCE.)	

WHEREAS, Metro relies upon in-house, automated support for the timely processing, reporting and access to financial, management and human resource information; and

WHEREAS, The existing management information system no longer meets Metro's requirements particularly in processing accounts receivable for solid waste and cemeteries, presentation of timely and flexible reports and access from desk top computers to management information; and

WHEREAS, The Finance and Management Information Department is reviewing its business processes to take advantage of new technology but the capability to make significant efficiencies and daily operations cost containment actions is dependent upon a new management information system; and

WHEREAS, The vendor of the existing management information system has stated that the system is no longer being marketed and has stated conditions under which the system will be supported only on a time and materials basis, subject to vendor availability; and

WHEREAS, The existing management information system is not supported by periodic releases that allows Metro to maintain a technology progression; and

WHEREAS, The process to acquire a new management information system takes approximately 11 months and two years to fully implement, and if postponed until

Fiscal Year 1995-96 would delay installation and implementation until 1996 with completion in 1998; and

WHEREAS, The quality and quantity of vendor response to Requests for Proposals is directly influenced by whether the acquisition is budgeted and that some vendors have stated that they did not respond to Metro's 1993 Request for Proposals because the project was not formally budgeted; now, therefore,

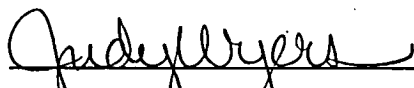
BE IT RESOLVED:

1. The Metro Council hereby declares its intent to include in its budget for Fiscal Year 1995-96 monies for the purchase, installation and implementation of an automated management information system.

2. That at least \$393,954 in the Fiscal Year 1994-95 Support Services unappropriated fund balance will be applied to the purchase of the management information system in Fiscal Year 1995-96.

3. Additional resources required for the purchase and implementation of the management information system will be allocated through the cost allocation plan in subsequent fiscal years.

ADOPTED by the Metro Council this 13th day of October, 1994.



Judy Wyers, Presiding Officer

FINANCE COMMITTEE REPORT

RESOLUTION NO. 94-2033 EXPRESSING THE INTENT TO ACQUIRE AN AUTOMATED MANAGEMENT INFORMATION SYSTEM IN FISCAL YEAR 1995-96 AND DEDICATING THE SUPPORT SERVICES FUND UNAPPROPRIATED BALANCE

Date: October 6, 1994

Presented By: Councilor Kvistad

COMMITTEE RECOMMENDATION: At its September 28, 1994 meeting the Committee voted 3 to 1 to recommend Council approval of Resolution No. 94-2033. Committee members voting in favor were Councilors Kvistad, Monroe and Washington. Councilor Van Bergen voted against and Councilors Buchanan, Devlin, Gardner and McLain were absent.

COMMITTEE DISCUSSION/ISSUES: Ann Clem, Information Services Manager, gave the Staff Report. Ms. Clem stated the purpose of the resolution is for the Council to express its intent to acquire a new automated financial system during FY 1995-96 and apply at least \$393,954 of the FY 1994-95 Support Services Fund Unappropriated Balance to the purchase of the management information system. She pointed out that Metro needs a new financial management system because the existing system is very inflexible thus is unable to be modified to meet changing business requirements; and the system vendor is withdrawing maintenance support for the system because of its age and type. Ms. Clem also indicated the resolution will be of help send a message to the industry that Metro is seriously considering such a purchase. In the fall of 1993 Metro sent out an RFP for a new fiscal management system and received limited response. Councilor Van Bergen expressed concern about this statement and indicated that such a resolution should not be necessary since Metro is a sufficiently large organization that should elicit adequate response from any proposal released.

Councilor Kvistad stated he has some concerns about this potential purchase. He stated he knows the limitations of Metro's existing system. It is technologically old and out dated. He further stated that if Metro acquires a new system it needs to have an operating system which is open and which will enable all the PC users to be connected and have access to the fiscal information in the system. Councilor Washington stated he was encouraged that Metro is interconnecting its information systems so that information is centrally available to all users.

In response to a question from Councilor Kvistad, Ms. Clem stated the Department hoped to issue the RFP in mid-December for the system software with responses back by late January. She said projected acquisition cost of the new system is approximately \$300,000 per year for five years. The operating costs will be approximately \$175,000.

In response to a question from Councilor Van Bergen, Ms. Clem stated the acquisition of the current financial management system cost approximately \$685,000 six years ago.

Councilor Van Bergen expressed concern that the current system vendor could unilaterally stop providing any support for the system. He asked General Counsel Cooper to investigate whether or not Metro has any cause of action against the vendor in this situation. Mr. Coopers response dated October 6, 1994 is attached as Attachment 1 to the Committee Report.

NOTE: Since the action of the Finance Committee on this resolution Councilor Van Bergen has requested additional information on the need for the new financial management system (See Attachment 2 to this Committee Report). The response is requested in writing prior to consideration of the matter at the October 13, 1994 Council Meeting.



METRO

ATTACHMENT 1
(Fin. Comm. Rpt/94-2033)

Daniel B. Cooper
Tele: (503) 797-1528
FAX (503) 797-1792

October 6, 1994

The Honorable George Van Bergen
12366 S.E. Guilford Drive
Milwaukie, OR 97222

Re: Status of Contractual Arrangement for Support of
Financial System Software

Dear Councilor Van Bergen:

At the September 28, 1994 meeting of the Metro Council's Finance Committee you asked me to investigate and respond to your concerns regarding the legal obligation of the successor in interest to the company that sold Metro a government accounting software package to continue to provide support (maintenance) of this software system. Your concern was raised by a statement made by Ann Clem that SCT Public Sector, Inc., the current provider of this service had informed her that beginning in two years from 1993 that SCT would no longer provide maintenance services for the software Metro currently owns and utilizes.

I have reviewed the contract documents and related files in this matter. The current contract between Metro and SCT for maintenance of the financial management system software provides that "the support will commence on * * * (January 1, 1993) and that the support termination date will be 12 months from the support commencement date (unless otherwise specified herein), then be automatically extended for annual periods to be known as support terms at the then current fees * * * *". The other terms and conditions of the contract do not give SCT the unilateral right to terminate support service. However, the contract clearly provides that SCT has the right on an annual basis to set the current support fee as defined therein and to bill Metro for it. Metro's option is to either pay the support fee for the annual period or terminate the agreement at the end of any support period by not making the payment and notifying SCT thereof.

On November 19, 1993, SCT sent a letter to Metro that states in pertinent part "our annual maintenance plan (including action line support and the annual regulatory releases) for Metro's versions of MONITOR will be provided only through release of 1.1 of MONITOR 2. MONITOR 2 is the new 'baseline' system to be released by summer 1994. At that time service will be provided for MONITOR customers only on a time and materials basis. This will probably happen within two years." Correspondence received by Metro since that time indicates that SCT has maintained that position that once the new version of the software is released, support for the original MONITOR product will be offered on a time and materials basis at the then current hourly rate.

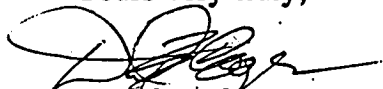
Councilor Van Bergen
October 6, 1994
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The contractual provisions clearly indicate that Metro has the right to have continuing support made available to it, and that the vendor has the right to establish the price for providing that support. I believe that there may be questions as to whether the vendor's attempt to shift the pricing mechanism from a flat annual fee to a time and materials basis is contrary to the contractual terms originally entered into in January of 1993. However, the question of what measure of damages Metro could obtain if SCT stuck to its position that it was willing and able to provide the service at a time and materials rate, and Metro sought to challenge the billing mechanism given SCT's ability to set a flat rate under the contractual terms high enough to guarantee itself a profit might make it difficult for Metro to establish that it has been damaged in any substantial degree by the shift in pricing mechanism.

My search of Metro files does not reveal any documented commitment by the original vendor to provide ongoing support. The original contract is a contract to supply the product and does not mention any commitment to provide ongoing support service. The original contract which expired in May 1993 contains a one year time limit on filing any suit or action alleging a breach of contract. The contract contains an integration clause that expressly disclaims any oral or written commitments not included in the contract documents. This means that Metro would face an expensive uphill battle if it brought a claim to seek damages based on the original contract.

Since the question you have asked me is solely the question of whether Metro has a cause of action against SCT at this time, my response is limited to that question. In summary, at this time, I believe Metro has no cause of action against SCT because SCT has not yet taken any final action to terminate its support services agreement and has not indicated its intention to actually terminate providing support. Instead SCT has given notice of its intent to change the pricing mechanism for providing service. This change may be within the rights of SCT under its current contract with Metro.

Yours very truly,



Daniel B. Cooper,
General Counsel

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1870

cc: Council Finance Committee
Donald Carlson ✓
Jennifer Sims
Ann Clem

**METRO**

ATTACHMENT 2
(Fin. Comm. Rpt/94-2033)

Date: October 5, 1994

To: Jennifer Sims, Finance and Management Information Director

From: *DEC*
Donald E. Carlson, Council Administrator

Re: Additional Information on Resolution No. 94-2033 Expression of Intent to
Acquire a New Financial Management System

Councilor Van Bergen has contacted me to express concern that the Finance and Management Information Department has not made its case for the need to spend \$1,500,000 over the next five years in capital costs and \$175,000 in operating costs for a new financial management system. Could you please provide in writing prior to the October 13, 1994 Council meeting financial information which justifies such expenditures. Please include information on the cost to the organization if we do not acquire a new system and continue to use the existing software and hardware. Please be as specific as possible as to the actual cost in financial terms.

I will be out of the office all of next week so please give your response to Casey Short or contact him, if you have any questions. Thanks for your assistance.

cc: Councilor Van Bergen
Metro Council
Dick Engstrom
Ann Clem
Casey Short

STAFF REPORT

IN CONSIDERATION OF RESOLUTION 94-2033 FOR THE PURPOSE OF EXPRESSING THE INTENT TO ACQUIRE AN AUTOMATED MANAGEMENT INFORMATION SYSTEM IN FISCAL YEAR 1995-96 AND DEDICATING THE SUPPORT SERVICES FUND UNAPPROPRIATED FUND BALANCE.

Date: September 28, 1994

Presented By: Jennifer Sims.

PROPOSED ACTION

Adoption of Resolution 92-2033 would express the Council's intent to budget the acquisition of a management information system in Fiscal Year 1995-96 and dedicate the Support Services fund Unappropriated Fund Balance to the acquisition.

FACTUAL BACKGROUND AND ANALYSIS

Since its creation Metro has relied on automated support for the timely processing and reporting of financial and human resource information. The search for the current management information system began in 1987. Installation of the system proceeded through 1988-89. Although the system has performed satisfactorily, its continued use is problematic due to:

- Its inability to meet changing business requirements due to inflexibility.
- Its inability to incorporate new technologies that would enable significant efficiencies and daily operations cost containment.
- Withdrawal by the system vendor of troubleshooting and maintenance support.

In the fall of 1993, Council approved release of a request for proposals (RFP) for a new management information system with the assumption of its inclusion in the Fiscal Year 1994-95 budget. Four responses were received in January to 1994. Shortly after their receipt, support for the project was withdrawn from the Fiscal Year 1994-95 budget and the project was postponed. A subsequent survey of system vendors discovered that:

- The number and quality of responses was limited by the lack of committed project funding.
- Metro's credibility in the marketplace would be compromised by future solicitations for proposals in advance of committed funding.

The statement of intent to budget the management information system in Fiscal Year 1995-96 and earmark the Support Services fund Unappropriated Fund Balance to cover project costs will provide vendors assurance that their response to any request for proposals will be given serious consideration. This creates the possibility of releasing an RFP for the management information system in advance of formal adoption of the FY1995-96 budget. An advanced start of the selection process will allow installation to begin eight to nine months earlier than would be possible if staff waits for Council budget action.

BUDGET IMPACT

A special cost savings effort was conducted from January through June 1994 in the Support Service fund functions. A target savings of \$200,000 was budgeted as unappropriated balance in the FY 1994-95 Support Services fund. The effort was more successful than anticipated, resulting in a carryover of \$393,954. This resolution dedicates those monies to the MIS acquisition project. Based on current estimates, this would cover over 25% of the total project costs.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 94-2033.