Minute No. 580
Report – Executive Policy Committee – June 21, 2006

Item No. 7 **Award of Contract for Provision of Credit/Debit Card Processing File GL-9**

COUNCIL DECISION

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That the proposals submitted by Global Payments Inc. and Moneris Solutions Corporation be determined to be non-responsive.

2. That the statement regarding the "right to adjust the fees" be considered a technicality and that the statement be waived in accordance with B19.2 of the Materials Management Policy.

3. That the contract for the provision of a credit/debit card processing system for the period of September 1, 2006 to August 31, 2010 be awarded to First Data/Paymentech Canada Partner Inc. and Dearborn Merchant Services Inc. dba Chase Paymentech Solutions, the responsible and qualified bidder submitting the most advantageous offer.

4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

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DECISION MAKING HISTORY:

Moved by His Worship Mayor Katz,
That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 21, 2006, the Executive Policy Committee concurred in the administrative recommendation and submitted the matter to Council.

RE: AWARD OF CONTRACT FOR PROVISION OF CREDIT/DEBIT CARD PROCESSING - BID OPPORTUNITY 82-2006

FOR SUBMISSION TO: Executive Policy Committee

ORIGINAL REPORT SIGNED BY: Acting Chief Financial Officer

REPORT DATE: June 12, 2006

RECOMMENDATION:

1) That the proposals submitted by Global Payments Inc. and Moneris Solutions Corporation be determined to be non-responsive.
2) That the statement regarding the "right to adjust the fees" be considered a technicality and that the statement be waived in accordance with B19.2.
3) That the contract for the provision of a credit/debit card processing system for the period of September 1, 2006 to August 31, 2010 be awarded to First Data/Paymentech Canada Partner Inc. and Dearborn Merchant Services Inc. dba Chase Paymentech Solutions, the responsible and qualified bidder submitting the most advantageous offer.

Report Summary

Key Issues:

This is a multi-year contract performed commencing September 1, 2006.

Implications of the Recommendation(s):

General Implications

( ) None

( ) For the organization overall and/or for other departments

( ) For the community and/or organizations external to the City

(x) Involves a multi-year contract

Comment(s):
This is a multi-year contract for the provision of credit/debit card processing.

Policy Implications

(x) No

( ) Yes

Comment(s):

Regulatory Implications

(x) None

( ) Eliminates or reduces regulatory impact

( ) Proposes regulatory impact

Comment(s):

Environmental Implications

(x) No

( ) Yes

Comment(s):

Human Resources Implications

(x) No

( ) Yes

Comment(s):

Financial Implications

(x) Within approved current and/or capital budget

( ) Current and/or capital budget adjustment required

Comment(s):
This contract is for 48 months and has a minimum monthly fee of $2,100 for all (72) payment terminals. This amount is a firm commitment by the City, based on the proposal of First Data/Paymentech Canada Partner Inc. and Dearborn Merchant Services Inc. dba Chase Paymentech Solutions.

Report

REASON FOR THE REPORT:

As the total conditional amount to be paid by the City pursuant to the contract is estimated to be approximately $740,050.12, plus GST and PST, and the contract is for a purchase that obligates the City to expenditures on future budgets ($100,800 of the $740,050.12), Council may approve the award of contract pursuant to B8.2.3 of the Materials Management Policy.

HISTORY:

This service has traditionally been part of the City's banking contract. However, the banking industry no longer provides these services, contracting out to service providers to perform these services. As part of the Red Tape Commission recommendations, the City issued a bid opportunity to determine if improvements could be derived in this area.

DISCUSSION:

Final receipt of proposals took place on March 31, 2006 with proposals being received from three (3) bidders.

The requirements for Bid and Performance Security were waived for this purchase in accordance with the authority delegated to the Manager of Materials pursuant to Administrative Directive FM-002.

Bidders were advised that the proposals received would be evaluated on the basis of the following criteria:

(a) compliance by the Bidder with the requirements of the Request for Proposal:
    (i) mandatory requirements (pass/fail);
    (ii) desirable features (25%);
(b) qualifications of the Bidder and the Subcontractors, if any, pursuant to B11:
    (i) mandatory qualifications (pass/fail);
    (ii) desirable qualifications and references (25%);
(c) Merchant agreement for credit/debit card processing (pass/fail);
(d) fees for service – estimated total cost (40%);
    – simplicity (type and number) (10%).

The Materials Management and Financial Services Branches of Corporate Finance evaluated the proposals in accordance with the above criteria.

The proposal from Global Payments Inc. should be determined to be non-responsive in accordance with clause B19.2 for several reasons, including the following:

> The proposal included a statement "… Unless and until a formal written agreement is executed between the parties neither Global nor the City shall be committed in any way with respect to the subject matter contained in this proposal" which conflicts with clauses 5 and 7 of Form A: Proposal.
>
> The proposal included an exception to the City's insurance requirements by stating that they would not provide insurance as required in D9.1 and D9.4.

The proposal from Moneris Solutions Corporation should be determined to be non-responsive in accordance with clause B19.2 because the proposal included the following statements:

> "…The information and/or responses contained herein shall not and do not create any obligation on Moneris and are not intended to create legally binding obligations …" which conflicts with clauses 5 and 7 of Form A: Proposal.
>
> "…Moneris cannot accept the strict application of the City of Winnipeg's General Conditions for Provision of Services" which conflicts with clause C1.1 and that their Terms and Conditions apply, which, for example, do not accept liability.
>
> The proposal included an exception to D9.1 of the City's insurance requirements by stating they would not provide insurance in accordance with the City's requirement.

The deviations in the proposals submitted by Global Payments Inc. and Moneris Solutions Corporation are significant and should not be waived.

The proposals of all three (3) bidders included statements that "… they reserve the right to adjust the fees if rate fees are imposed by Visa, MasterCard or Interac or if the volumes or ticket size (dollar per transaction) are not what were estimated." This statement should be considered a technicality that should be waived in accordance with clause B19.2 because it is an "industry standard" and would be a condition of any contract of this nature. This is a condition of our present contract for these services.

First Data/Paymentech Canada Partner Inc. and Dearborn Merchant Services Inc. dba Chase Paymentech Solutions did not acknowledge Addendum 2. That Addendum merely changed the Submission Deadline. Therefore, the informality is not material.

The recommended bidder has, by successfully performing previous work similar in nature, scope and value, demonstrated that they have the necessary qualifications and resources to perform the work of the contract. In the opinion of the department, the recommended bidder has the skills and resources to satisfactorily complete the Work.

The work under the contract has an estimated value of $740,050.12, plus GST and PST, over the term of the contract, based on present volumes, which should offer a $150,000 saving to the City over the term of the contract as the fees on the current contract are higher. Payment for services under this contract is through the various accounts of the departments.

Proposals are open for acceptance until August 5, 2006.

Financial Impact Statement **Date:** June 12, 2006

Funding for this contract is through the budgets of the various user departments.

This service is used by various City departments during the term of the contract.

The financial impact will have to be determined by the user departments on an individual basis.

Although there is a firm commitment to $100,800* over the term of the contract, the required annual payments are included in each departments annual budget.

***Minimum monthly fee of $2,100 x 48 months for all (72) payment terminals.**

Carrie Erickson
Manager of Finance & Administration

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

Legal Services Division, Corporate Services Department
Materials Management Branch, Corporate Finance Department
Financial Services Branch, Corporate Finance Department

External Consultation With: N/A

THIS REPORT SUBMITTED BY:

Department Corporate Finance
Division Corporate Controller
Branch Materials Management
Prepared by: Tony Roziere
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