



**Request for City Council Committee Action
From the City Attorney's Office**

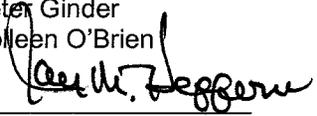
Date: April 17, 2007
To: Ways & Means/Budget Committee
Referral to:

Subject: Master Nondisclosure & Subscriber Agreement for Integration Services

Recommendation: That the Ways and Means/Budget Committee receive and file this report.

Previous Directives: On 1/26/07 the Ways & Means Committee recommended that the proper City officers be authorized to execute agreements with the State of Minnesota and Hennepin County for district court case records to provide complete historical and criminal history information in the Practice Manager System application used by the City Attorney.

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Approved by: 

Jay M. Heffern
City Attorney

Permanent Review Committee (PRC) Approval _____ Not Applicable X

Note: To determine if applicable see <http://insite/finance/purchasing/permanent-review-committee-overview.asp>

Policy Review Group (PRG) Approval _____ Date of Approval _____ Not Applicable X

Note: The Policy Review Group is a committee co-chaired by the City Clerk and the City Coordinator that must review all requests related to establishing or changing enterprise policies.

Presenter in Committee: Jay M. Heffern, City Attorney

Financial Impact (Check those that apply)

- No financial impact (If checked, go directly to Background/Supporting Information).
 Action requires an appropriation increase to the _____ Capital Budget or _____ Operating Budget.
 Action provides increased revenue for appropriation increase.
 Action requires use of contingency or reserves.
 Business Plan: _____ Action is within the plan. _____ Action requires a change to plan.
 Other financial impact (Explain):
 Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact (select only those category(ies) that apply and delete the others)

- Neighborhood Notification
City Goal(s): (include the applicable goal)
Comprehensive Plan
Zoning Code
Other

Background/Supporting Information

Earlier this year, BIS sought approval from the City Council for proper City officials to execute agreements with the State of Minnesota and Hennepin County to provide complete historical and criminal history information from district court and state records for the Practice Manager application system used by the City Attorney. In order to maximize the use of the Practice Manager system in the prosecution of cases handled by the City Attorney's Office, all related case records need to be available. This can be achieved through regular data flows of district court case records from the State of Minnesota and Hennepin County to the City of Minneapolis,

Beginning in July 2007, MNCIS will be the system which will provide the necessary records. In order to integrate with MNCIS, the State requires that the City of Minneapolis sign a Master Nondisclosure & Subscriber Agreement for Integration Services. The integration services will provide pre-defined, automated transmissions of data from the State's computer systems to the City's computer system, i.e., PM, on a periodic basis, triggered by pre-determined events. The data transmitted may include information that is not accessible to the public and which may not be disclosed without the prior approval of the appropriate court or record custodian.

Although the City Council has authorized the appropriate City officials to execute any necessary agreement with the State for the transmission of this information, the proposed Master Nondisclosure & Subscriber Agreement contains terms that are not normally included in City contracts or which otherwise should be reviewed by the City Council prior to execution. For example, the State has orally informed the City that no fees will be charged initially for the transmission of data. However, section 14 of the Master Agreement states that the subscriber (City of Minneapolis) shall pay the fees, if any, set forth in the Policies & Notices, together with applicable sales, use or other taxes. The Policies & Notices for Government Subscriptions to Court Integration Services, notes in section 4 that there are no currently no fees for Integration Services. However, the Policies & Notices document goes on to note that the Master Nondisclosure & Subscriber Agreement includes fee provisions in the event that fees may be introduced at a future date. Based upon the review of documents, it appears that at some undetermined future point, fees may be imposed for the transmission of this data. If fees are imposed, the City will be either faced with a choice of terminating the contract pursuant to termination provisions in the contract or funding the new costs. Since terminating the contract with the State will result in the loss of critical data transmissions, termination is not a viable option.

An additional element of concern is found in section 8 of the Master Nondisclosure & Subscriber Agreement entitled "Injunctive Relief; Liability". That section states that the subscriber (City of Minneapolis), shall be liable to the State for reasonable attorneys' fees incurred by the state and other named parties for obtaining any relief pursuant to this agreement. In its standard agreements, the City does not agree to be responsible for the opposing party's attorney's fees in enforcing the contract.

The Master Nondisclosure & Subscriber Agreement for Integration Services contains guarantees of confidentiality on the part of the City of Minneapolis with regard to certain information. Staff have identified concerns related to certain areas in the current PM and related Community Impact Online systems that could result in inappropriate disclosure of confidential information, for example, certain information contained in community impact statements and expungement records. Staff are working to minimize and remedy possible liability concerns in those areas.

We have attempted to have these provisions either deleted from the proposed agreement or modified. The State has refused to make any changes. While the State acknowledges that no fees are currently being assessed, it feels that it is necessary that the agreement and policy allow the flexibility and possibility for fees to be imposed in the future. Before any agreement is executed, the City Attorney's Office believes these issues should be brought to the attention of the City Council. After the Ways and Means/Budget Committee has reviewed the issues, the Office will move forward with the execution of the agreements if so directed by the Ways and Means/Budget Committee.