

TORONTO TRANSIT COMMISSION REPORT NO.

MEETING DATE: July 14, 2010

SUBJECT: Delegation of Authority for Contractual Amendments related to the Harmonized Sales Tax (HST)

ACTION ITEM

RECOMMENDATION

It is recommended the Commission delegate authority to the Chief General Manager to approve amendments exceeding \$2.5 million as a result of changes to the value of existing contracts arising from the impact of the new harmonized sales tax (HST), which took effect as of July 1, 2010.

DISCUSSION

The Government of Ontario introduced the HST that came into effect on July 1, 2010. The HST rate is 13% of which 5% will represent the federal portion (fully rebate able) and 8% the provincial portion (78% recoverable). In general, HST will apply to taxable supplies of property and services for which consideration becomes due, or is paid without having become due, on or after July 1, 2010.

Staff has made the required changes to bid documents for new contracts to accommodate the impact of the introduction of HST on July 1, 2010. However, the Commission currently has hundreds of contracts in place that were originally approved on the basis that PST (8%) was exempt and will now be impacted by the introduction of HST. In accordance with the Commission's General Terms and Conditions in all of its contracts, any change (increase or decrease) to Federal or Provincial tax rates will be to the Commission's account. As a result of the impact of the introduction of HST, contract amendments will be required to applicable contracts to apply an additional 8% to the contract value remaining on or after July 1, 2010 for contracts such as: construction, consultant, various services, etc. This additional tax amount is required to be part of the contract authority to the vendor; however, the net impact to the Commission is a net cost of 1.76% to the operating department or capital project where the expenditure was incurred (after the 78% Provincial recovery of 6.24%).

The introduction of HST and any cost impact is non discretionary and unavoidable and staff will be processing amendments to accommodate this cost as required on a case by case basis with authorization in accordance with the Authorization for Expenditures and Other Commitments policy. Staff is requesting an exception for those contracts with increases that may require Commission approval (i.e. greater than \$2.5 million) and request that

authorization of any such amendments related to the introduction of HST be delegated to the Chief General Manager to facilitate the processing of these amendments. Staff has determined that there are eleven contracts that will fall into this category in the estimated total amount of \$765M.

JUSTIFICATION

Delegating authorization to the Chief General Manager to approve amendments valued at greater than \$2.5 million that are required as a result of the introduction of HST on July 1, 2010 will facilitate the processing of amendments required to increase the applicable contract values by an additional 8%.

July 5, 2010

9-118-59