



CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Planning and Policy Division

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	November 16, 2016
SUBJECT/REPORT NO:	Court Security and Prisoner Transportation Program Agreement for 2017 & 2018 (FCS16088) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Ashley Bono (905) 546-2424 Ext. 4169
SUBMITTED BY:	Brian McMullen Director, Financial Planning, Administration, and Policy Corporate Services
SIGNATURE:	

RECOMMENDATION

That the Mayor and the City Clerk be authorized and directed to execute an agreement between the City of Hamilton and the Province of Ontario, attached as Appendix "A" to Report FCS16088, and all necessary associated documents, to provide the City its approved funding allocation under the Court Security and Prisoner Transportation Program administered by the Ministry of Community Safety and Correctional Services.

EXECUTIVE SUMMARY

The purpose of this report is to gain Council's approval to enter into an agreement with the Province that will provide continued funding to help offset court security and prisoner transportation costs that are eligible under the Court Security Prisoner Transportation (CSPT) Program.

Commencing in 2012, the Ontario government has uploaded CSPT costs to help municipalities fund the service in their jurisdictions. The program is being phased-in over seven years and will increase by 1/7 in each year to reach an annual maximum of \$125 M by 2018. Currently, the program is in its last years of the seven year phase-in with no official programming plans beyond 2018. Based on discussions with the Ministry of Community Safety and Correctional Services (MCSCS) staff, the program will

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continue beyond 2018, subject to MCSCS receiving the necessary appropriation from the Ontario Legislature, however no further details are available at this time.

Funding is allocated based on each municipality's relative share of the total CSPT costs across the province. There are three agreements with funding periods 2012-2014, 2015-2016, and 2017-2018 each with different expenditure years as the allocation base 2010, 2013, 2015, respectively. For the current funding period 2017-2018, the City of Hamilton's funding allocation totals \$7.8 M detailed in the following table.

CURRENT FUNDING ALLOCATION	
YEAR	FUNDING
2017	\$ 3,600,767
2018	\$ 4,200,895
Total	\$ 7,801,662

Although the funding per year continues to increase, the annual increment is lower than in previous years; the City is also receiving a smaller share of the total funding available as shown in the table below:

Phase	YEAR	COH FUNDING	DIFFERENCE	TOTAL FUNDING	SHARE
Phase 1	2012	\$ 704,948	\$ 704,948	\$ 17,800,000	4.0%
	2013	\$ 1,409,897	\$ 704,948	\$ 35,700,000	3.9%
	2014	\$ 2,114,845	\$ 704,948	\$ 53,500,000	4.0%
Phase 2	2015	\$ 2,545,791	\$ 430,946	\$ 71,300,000	3.6%
	2016	\$ 3,182,238	\$ 636,448	\$ 89,200,000	3.6%
Phase 3	2017	\$ 3,600,767	\$ 418,529	\$ 107,100,000	3.4%
	2018	\$ 4,200,895	\$ 600,128	\$ 125,000,000	3.4%

Staff at MCSCS has identified that the decline in share is due to more municipalities joining the CSPT Program and the fact that some municipalities have increased their base allocation costs for years, 2013 and 2015, at a higher rate than Hamilton, therefore less share of the funding is received by Hamilton.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

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Financial: By signing the agreement attached as Appendix “A” to Report FCS16088, the City will receive funding for 2017 and 2018 to help offset the cost of providing court security and prisoner transportation.

Staffing: None

Legal: By entering into the agreement, the Province of Ontario will provide funding to the City for the services and activities eligible under the Court Security and Prisoner Transportation Program, in accordance with the terms and conditions of the agreement, which is for a two year term beginning January 1, 2017. The agreement sets out the criteria for eligible services and activities.

The agreement is similar to the 2015-2016 agreement for the Program and contains provisions requiring the City to report to the Province on the use of funds, record-keeping requirements, audit and inspection powers of the Province, and also provides for the City to indemnify the Province for claims arising out of the Agreement, except for the Province’s negligence or misconduct. While there is some risk to the City in providing this indemnity, the risk is likely low given that this is a funding agreement. These terms are consistent with typical Provincial funding agreements.

HISTORICAL BACKGROUND

Ontario is the only province in Canada where legislation dictates court security be paid for with municipal property tax dollars and delivered through local police service boards via police chiefs.

In the fall of 2008, the Ontario government announced the upload of court security and prisoner transportation costs from municipalities beginning in 2012. This will fulfill a key element of the 2008 Provincial-Municipal Fiscal and Service Delivery Review agreement. The upload is phased in by an equal amount over seven years to a provincial maximum of \$125 million annually at maturity by 2018, with the intent to represent 100% of municipalities’ total CSPT costs.

The schedule below illustrates the original timing of the upload:

	2012	2013	2014	2015	2016	2017	2018
Phase-in % toward the provincial maximum	14%	29%	43%	57%	71%	86%	100%
Province-wide \$ of upload	\$17.8 M	\$35.7 M	\$53.5 M	\$71.4 M	\$89.2 M	\$107.1 M	\$125.0 M

Council has approved the first two funding agreements totalling \$9.9 M. The first funding agreement for period 2012-2014 (years 1, 2, 3) totalling \$4.2 M, was approved at its meeting on February 8, 2012, via GIC report 12-003 (Report FCS12021) and the second funding agreement for period 2015-2016 (years 4, 5) totalling \$5.7 M, was

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approved at its meeting on December 10, 2014, via GIC report 14-021 (Report FCS14079).

In October 2016, the Ministry of Community Safety and Correctional Services announced the funding allocation for 2017 and 2018 (years 6, 7). Similar to previous years, funding is allocated based on each municipality's relative share of the court security and prisoner transportation costs across the province with the current funding period based on 2015 expenditures. The allocation to be provided to the City over the next two years is detailed in the following table:

CURRENT FUNDING ALLOCATION	
YEAR	FUNDING
2017	\$ 3,600,767
2018	\$ 4,200,895
Total	\$ 7,801,662

Funding is conditional upon the execution of the agreement attached as Appendix "A" to Report FCS16088, between the Ministry and the City.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

N/A

RELEVANT CONSULTATION

Hamilton Police Service was consulted and did not express concerns in moving forward with the Agreement.

Corporate Services Department – Financial Services: Risk Management has provided proof of general liability insurance for \$5 M indemnifying "Her Majesty the Queen in Right of Ontario, her Ministers, Agents, Appointees and Employees", as per Article 11 of the agreement.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

Consistent with prior funding periods, funding is based on an expenditure model. The funding allocation is based on each municipality's relative share of the total CSPT costs across the province. For example, if a municipality's CSPT cost represents 1% of the total provincial CSPT cost, then it will be allocated 1% of the available funding.

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As noted in the table below, although the funding per year continues to increase, the annual increment is lower than in previous years and also, the City is receiving a smaller share of the total funding available as shown in the table below:

Phase	YEAR	COH FUNDING	DIFFERENCE	TOTAL FUNDING	SHARE
Phase 1	2012	\$ 704,948	\$ 704,948	\$ 17,800,000	4.0%
	2013	\$ 1,409,897	\$ 704,948	\$ 35,700,000	3.9%
	2014	\$ 2,114,845	\$ 704,948	\$ 53,500,000	4.0%
Phase 2	2015	\$ 2,545,791	\$ 430,946	\$ 71,300,000	3.6%
	2016	\$ 3,182,238	\$ 636,448	\$ 89,200,000	3.6%
Phase 3	2017	\$ 3,600,767	\$ 418,529	\$ 107,100,000	3.4%
	2018	\$ 4,200,895	\$ 600,128	\$ 125,000,000	3.4%

For the first funding phase, period 2012 to 2014, Hamilton received a total of \$4.2 M, with funding increasing by approximately \$700 K per year, based on its share of the total 2010 CSPT costs province-wide totalling \$4.9 M, representing a 4.0% average share of the total funding available.

For the second funding phase, period 2015-2016, the funding was based on its share of the total 2013 CSPT costs province-wide totalling \$4.9 M. This resulted in the City receiving an upload value totalling \$5.7 M, representing a 3.6% average share of the total funding available, a decrease of 0.4% over the prior funding agreement 2012-2014.

For the third and final funding phase, period 2017-2018, the funding was based on its share of the total 2015 CSPT costs province-wide totalling \$5.1 M. This resulted in the City receiving an upload value totalling \$7.8 M, representing a 3.4% average share of the total funding available, a decrease of 0.2% over the prior funding agreement 2015-2016 and 0.6% decrease over the 2012-2014 funding agreement.

Staff at MCSCS has identified that the continuing lower share increases is due to more municipalities joining the CSPT Program and the fact that some municipalities have increased their costs in base allocation years, 2013 and 2015, at a higher rate than Hamilton, therefore less share of the funding is received by Hamilton.

Below is a table highlighting the City's allocation base year and CSPT expenditures that drive the funding period allocation formula used to calculate the upload value.

Phase	Funding Period	Allocation Base Year and Expenditures		Change
Phase 1	2012-2014	2010	\$ 4,891,085	-
Phase 2	2015-2016	2013	\$ 4,870,753	-\$ 20,332
Phase 3	2017-2018	2015	\$ 5,066,856	\$ 196,103

Hamilton's CSPT expenditures used in the base allocation formula have remained fairly consistent with a minor decrease in 2013 over 2010 of \$20 K and a small increase in 2015 over 2013 of \$196 K.

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Hamilton Police Service has received an incremental benefit of its actual court security and prisoner transportation cost as shown in the below table.

Estimated Shortfall Based on Budget Assumptions

YEAR	ACTUALS	COH FUNDING	% OF ACTUALS	Government Original Timing of Upload	Shortfall	
					%	\$
2012	\$ 5,017,030	\$ 704,948	14%	14%	0%	\$ -
2013	\$ 4,870,753	\$ 1,409,897	29%	29%	0%	\$ -
2014	\$ 4,778,695	\$ 2,114,845	43%	43%	0%	\$ -
2015	\$ 5,066,856	\$ 2,545,791	50%	57%	-7%	\$ (360,000)
2016 (*)	\$ 5,277,278	\$ 3,182,238	60%	71%	-11%	\$ (570,000)
2017 (**)	\$ 5,372,269	\$ 3,600,767	67%	86%	-19%	\$ (1,000,000)
2018 (**)	\$ 5,468,970	\$ 4,200,895	77%	100%	-23%	\$ (1,268,075)
					Total projected shortfall	\$ (3,198,075)

(*) Based on budget

(**) Based on assumption year-over-year increase of 1.8%

Although, the percentage of actuals covered has increased year-over-year, the coverage it is not aligned to the original phase-in percentage towards the provincial maximum as expected. This is due to the fact that costs for CSPT across the province is greater than the available funding, therefore the City did not realize the full 57% in 2015 nor is it expected that it will realize the full 71% in 2016. In addition, the City will most likely not realize the full 86% in 2017 and 100% in 2018.

Instead, based on the City's relative share of the 2015 municipal costs, the upload value is estimated to be approximately 67% in 2017 and 77% for 2018 with a total estimated funding shortfall of approximately \$2.3 M, for the final funding period (used approved budget guideline of 1.8% increase for 2017 and kept consistent for 2018). The total projected overall shortfall for the entire program is approximately \$3.2 M.

The table below supports the theory that more municipalities have joined the CSPT Program and that some municipalities have increased their costs at a higher rate than Hamilton, therefore even if the actuals equalled the 2013 and 2015 base cost allocation amounts the City would still not have reached the original phase-in percentage toward the provincial maximum set by the Ontario government, resulting in an estimated shortfall of around \$2.2M.

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Calculated Shortfall Based on CSPT Cost Allocation Base

YEAR	ACTUALS	COH FUNDING	% OF ACTUALS	Government Original Timing of Upload	Shortfall	
					%	\$
2012	\$ 5,017,030	\$ 704,948	14%	14%	0%	\$ -
2013	\$ 4,870,753	\$ 1,409,897	29%	29%	0%	\$ -
2014	\$ 4,778,695	\$ 2,114,845	43%	43%	0%	\$ -
2015 (*)	\$ 4,870,753	\$ 2,545,791	52%	57%	-5%	\$ (250,000)
2016 (*)	\$ 4,870,753	\$ 3,182,238	65%	71%	-6%	\$ (300,000)
2017 (**)	\$ 5,066,856	\$ 3,600,767	71%	86%	-15%	\$ (750,000)
2018 (**)	\$ 5,066,856	\$ 4,200,895	83%	100%	-17%	\$ (865,000)
Total shortfall if actuals equalled cost allocation base						\$ (2,165,000)

(*) Based on 2013 CSPT cost allocation base

(**) Based on 2015 CSPT cost allocation base

The total projected program shortfall of \$3.2 M, is mainly driven by issues noted above however, a portion of the shortfall 32% or \$1.0 M (\$3.2 M - \$2.2 M) is due to actuals being higher than the cost allocation base used to calculate the funding received. In the City of Hamilton's case, it would be difficult to achieve the full benefit intended by the original phase-in percentage since the cost allocation base year used to allocate the funding does not align to the actual expenditure year which is subject to inflationary increases.

The intention of the Ontario government was to fully cover all court security and prisoner transportation costs from municipalities by 2018, however this has not been the case as demonstrated above. There is minimal information regarding the conditions of funding beyond 2018, however based on discussions with MCSCS staff, the program will continue beyond 2018, subject to MCSCS receiving the necessary appropriation from the Ontario Legislature. No further details are available at this time.

The funding allocated for 2017 will be included in the budget submission of the Hamilton Police Service.

ALTERNATIVES FOR CONSIDERATION

N/A

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

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Appendix "A" to Report FCS16088 - Agreement between HER MAJESTY THE QUEEN
IN RIGHT OF ONTARIO as represented by the Ministry of Community Safety and
Correctional Services and the City of Hamilton.