



## Board Report

File #: 2016-0807, File Type: Contract

Agenda Number: 7.

### FINANCE, BUDGET AND AUDIT COMMITTEE MARCH 15, 2017

**SUBJECT: P2000 LIGHT RAIL VEHICLE (LRV) OVERHAUL PROGRAM, RAIL VEHICLE CONTRACTOR**

**ACTION: AUGMENT THE LIFE-OF-PROJECT BUDGET AND APPROVE CONTRACT AWARD**

#### **RECOMMENDATION**

CONSIDER:

- A. AUGMENTING the Life-of-Project (LOP) Budget for the **P2000 Light Rail Vehicle Overhaul Program** (CP 206044) by \$30,000,000 adjusting the LOP Budget from \$130,800,000 originally established March 2013, to \$160,800,000;
- B. AUTHORIZING the Chief Executive Officer to award a firm-fixed price Contract No. OPP2000 Light Rail Vehicle Overhaul to Alstom Transportation Inc. in the amount of \$140,079,867, inclusive of taxes for a period of 50 months for the overhaul and delivery of the 52 P2000 LRVs, subject to resolution of protest(s), if any; and
- C. FINDING that the award to Alstom Transportation, Inc. is the proposer providing the best value and is the most advantageous to Metro.

#### **ISSUE**

The fifty-two Siemens P2000 vehicles are approximately 14-17 years old; having been delivered to Metro between 2000 and 2003. Many of the critical systems and components on the P2000 fleet are experiencing parts obsolescence issues, lack of vendor support and outdated technology. These deficiencies diminish the performance and maintainability of the fleet. A condition based assessment (CBA) was performed to identify the critical systems and components impacting performance. By overhauling and replacing these critical systems and components, this Overhaul Program will maintain the fleet's State of Good Repair (SGR) and ensure the continued safety, reliability, availability, and maintainability of the fleet for revenue service.

In July 2014, the Board authorized staff to issue a federally funded solicitation for a Best Value Request for Proposals (RFPs) as competitive negotiations pursuant to PCC § 20217 and Metro's procurement policies and procedures for the Overhaul Program. Staff's recommendation presents the firm that is most advantageous to Metro. Alstom Transportation Inc.'s offer represents the Best Value to Metro when all technical and price factors are considered in accordance with the approved

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evaluation criteria. The recommended price addresses all contract requirements and represents the best overall value when all RFP evaluation factors are considered, including clear advantages in experience, completing the project on time and providing the least amount of risk on Metro track, staff and facilities. The Procurement Summary of this report (Attachment A) further describes the evaluation results and detailed rankings for all Proposers, including the weighted scores associated with each evaluation criteria.

The recommended contract price includes \$3,519,880 of provisional sums for known unknown work that could arise during the term of the contract. The contract terms prohibit the Contractor from expending any portion of that amount until the Contracting Officer issues a written Task Order for that work.

## **DISCUSSION**

The primary objective of the project is to obtain safe, reliable, high quality overhauled LRVs on-time and within budget, and to create new jobs for Los Angeles County that can be tied directly to the Overhaul Program.

The Scope of Work for the P2000 LRV Overhaul Program is based on a CBA used to identify the critical systems and components impacting performance. The Scope includes the following critical systems and components: Vehicle Door Systems, Propulsion System Controllers, Friction Brake System Controllers, Trucks, Automatic Train Control (ATC)/Automatic Train Operation (ATO) System Controllers, Heating and Air Conditioning (HVAC) System, and Communication System Controllers.

Performing the Overhaul Program is in accordance with the Rail Fleet Management Plan FY2015-FY2040 (Draft, May 24, 2016, v.8). The plan outlines the anticipated program to expand rail fleets to accommodate anticipated growth in ridership; line extensions; and to overhaul or replace vehicles reaching mid-life or end of life, as appropriate.

Metro's Source Selection Committee (SSC) reviewed the proposals and evaluated four (4) key factors, weighted in descending levels of relative importance: 1) Experience and Past Performance, 2) Price, 3) Technical Compliance, and 4) Project Management. Metro also applied the US Department of Transportation's (US DOT) pilot Local Employment Program (LEP) as voluntary incentive evaluation criteria. The two proposals received were in compliance with the RFP requirements and determined to be within the Competitive Range.

Upon Board approval and after receipt of Contractor performance bonds and insurance certificates, a Notice-to-Proceed (NTP) will be issued to the vehicle contractor. Completion of the 52 overhauled base order LRVs is scheduled to be completed within 50 months following NTP. The required delivery dates have liquidated damage assessments that may be imposed for late deliveries.

The Diversity and Economic Opportunity Department (DEOD) did not recommend a Disadvantaged Business Enterprise (DBE) goal for this procurement as it is not applicable (please refer to Attachment E). This procurement falls under the Federal Transit Administration's (FTA) Transit Vehicle Manufacturer (TVM) goal in accordance with 49 Code of Federal Regulations (CFR) Part 26.49. Alstom Transportation Inc. reported 9.23% TVM goal and qualifies under the FTA's eligible

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list.

Metro's Transit Asset Management Team and Operations partners are currently reviewing draft asset condition reports from our contractor who has evaluated major component wear on all of our light and heavy rail fleets. While the review of the draft report is ongoing, the draft report strongly supports the need for a major recapitalization of P2000 vehicle fleet, particularly propulsion power. According to the draft report, The P2000 overall fleet score is 2.5 out of 5.0 which represents an overall marginal condition. Per the FTA Transit Asset Management rating scale a score below 3.0 indicates an asset has just passed its normal lifecycle and is in need of lifecycle extending components and rehabilitation. A marginal rating does not imply the P2000 fleet is unsafe to use; however, it does imply the need for increased inspections, with expectations of lower levels of fleet availability for daily service. Only 17% of the P2000 fleet achieved an adequate rating, which strongly supports the need for a mid-life overhaul to help ensure that the P2000 rail vehicles can reliably reach the end of their expected 30 year useful life. Our even older fleet, the P865 actually had higher levels of fleet reliability than the P2000 fleet and are scheduled for replacement by the P3010 fleet sometime this Spring. Newer fleet types had significantly better overall Transit Asset Management ratings. Upon completion of the final report, a Board Box will be issued that discusses all of the report's findings in detail.

#### US DOT Contracting Initiative Pilot Program

Metro created a new Local Employment Program (LEP) that was approved for use under the U.S. Department of Transportation's (DOT) Contracting Initiative Pilot Program. This pilot program allows for the use of geographical preferences in the evaluation of Construction and Rolling Stock projects. Metro's LEP was approved for use on the P2000 Light Rail Vehicle Overhaul Program on a voluntary basis, and established evaluation scoring preferences for Proposers that commit to creating new local jobs for Los Angeles County residents.

DOT and FTA determined that using a Los Angeles County geographical preference for a rail car overhaul project would not provide an unfair competitive advantage for any one Proposer. Metro's LEP is limited to new jobs created by the Proposers in Los Angeles County, provided that at least 10 percent of the jobs are targeted for defined disadvantaged populations in Los Angeles County. Metro's LEP incentivized Proposers to create new jobs in Los Angeles County as a function of the Best Value evaluation process, by providing preferential scoring points based on the committed wages and benefits for new Los Angeles County workers.

Staff's goal of creating meaningful new manufacturing jobs that are tied to Metro's Rolling Stock overhaul program was achieved, as evidenced by the fact that the recommended Awardee, Alstom Transportation Inc. has committed to creating new jobs in Los Angeles County totaling \$3,031,184 in wages and benefits

#### **DETERMINATION OF SAFETY IMPACT**

The approval of this Contract award will have a direct and positive impact to system safety, service quality, system reliability, maintainability and overall customer satisfaction. The P2000 Light Rail Vehicle Overhaul Program will permit Metro to maintain the SGR on the LRV fleet.

## **FINANCIAL IMPACT**

If recommendation A is approved, this action augments the LOP Budget for the P2000 Light Rail Vehicle Program (CP 206044) by \$30,000,000, adjusting the LOP budget from \$130,800,000 to \$160,800,000. The total not-to-exceed Contract amount to support the Overhaul Program is \$140,079,867.

The FY17 planned expenditure of \$11,881,000 is included in the FY17 budget for the Overhaul Program in Cost Center 3043, Rail Vehicle Acquisition, Account 50308, Service Contract (Non-Bus) Maintenance, under CP 206044, P2000 Light Rail Vehicle Overhaul Program.

Since this is a multi-year contract, the cost center manager will be responsible for dispersing the cost for subsequent years.

### **Impact to Budget**

The source of funds for this action is Federal Section 5337 State of Good Repair Funds provided under the Transportation Improvement Program (TIP). Other eligible source of funds include Proposition A 35% and Measure R 2% which is eligible for rail capital activities. At this time, staff is developing guidelines for the Measure M (MM) Ordinance which may allow for the utilization of MM 2%-State of Good Repair, MM 5%-Rail Operations and MM 20%-Transit Operations as Rail State of Good Repair efforts are eligible uses for these MM fund sources. These guidelines are planned for adoption approximately midyear 2017. Concurrently, staff is actively pursuing additional State and Federal sources such as FAST Act and other eligible federal sources to further supplement this project. Staff is also pursuing additional State and Local funding sources such as Cap and Trade and similar sources as they become available to meet the project funding needs.

## **ALTERNATIVES CONSIDERED**

Staff considered using in-house Metro resources to perform this work. This approach is not recommended as Metro does not have sufficient resources and Subject Matter Experts available to perform this work.

The Board of Directors may choose not to authorize the Contract award for this project; however, this alternative is not recommended by Metro staff because the Overhaul Program is critical to maintaining a SGR on the 52 Siemens P2000 LRVs and to enable the Maintenance department to effectively plan and schedule its work.

## **NEXT STEPS**

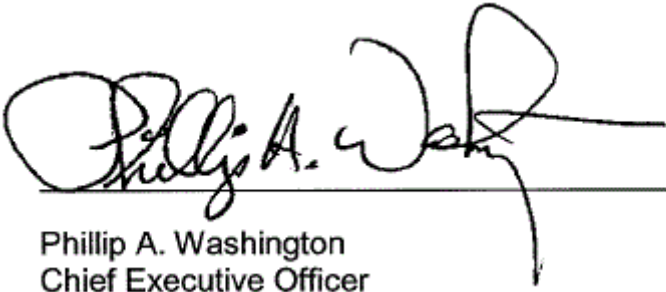
After Contract award and NTP, Metro will meet with Alstom Transportation Inc. for the Contract required Specification Review Meeting. During the same meeting, Metro will establish communication and reporting protocols. Key milestones and deliverables, through the shipment of the first two pilot vehicles and delivery of the production vehicles will be discussed to ensure understanding and agreement of requirements to ensure expedient reviews and approvals.

**ATTACHMENTS**

Attachment A - Procurement Summary  
Attachment B - Funding/Expenditure Plan  
Attachment C - Metro Board Report July 17, 2014  
Attachment D - FTA Local Hiring Program Ltr Dated 09 30 2015  
Attachment E - DEOD Summary

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Phillip A. Washington  
Chief Executive Officer

## PROCUREMENT SUMMARY

P2000 LIGHT RAIL VEHICLE OVERHAUL PROGRAM, RAIL VEHICLE  
CONTRACTOR / OPP2000

1.	<b>Contract Number:</b> OPP2000	
2.	<b>Recommended Vendor:</b> Alstom Transportation, Inc.	
3.	<b>Type of Procurement (check one):</b> <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP <input type="checkbox"/> RFP-A&E <input type="checkbox"/> Non-Competitive <input type="checkbox"/> Modification <input type="checkbox"/> Task Order	
4.	<b>Procurement Dates:</b>	
	<b>A. Issued:</b> July 9, 2015	
	<b>B. Advertised/Publicized:</b> July 22, 2015 and July 27, 2015	
	<b>C. Pre-Proposal Conference:</b> August 5, 2015	
	<b>D. Proposals Due:</b> March 18, 2016	
	<b>E. BAFOs Due:</b> October 12, 2016	
	<b>F. Second BAFOs Due:</b> December 23, 2016	
	<b>G. Pre-Qualification Completed:</b> March 3, 2017	
	<b>H. Conflict of Interest Form Submitted to Ethics:</b> Submitted 2/14/17	
	<b>I. Protest Period End Date:</b> March 20, 2017	
5.	<b>Solicitations Picked up/Downloaded:</b> 73	<b>Bids/Proposals Received:</b> 2
6.	<b>Contract Administrator:</b> Nicole Dang	<b>Telephone Number:</b> 213-922-7438
7.	<b>Project Manager:</b> Annie Yang	<b>Telephone Number:</b> 213-922-3254

**A. Procurement Background**

This Board Action is to approve the award of Contract No. **OPP2000** issued to support the overhaul of 52 Siemens P2000 Light Rail Vehicles (LRV). The intent of this solicitation was to procure a LRV overhaul program to achieve and maintain the LRVs state of good repair; where the overhaul and component replacement program prioritizes enhanced safety, availability, and reliability. Board approval of contract awards are subject to resolution of all properly submitted protests.

The RFP was issued in accordance with Metro's Acquisition Policy and the contract type is a firm fixed price contract.

Fifteen amendments were issued during the solicitation phase of this RFP:

- Amendment No. 1, issued on August 5, 2015, extended the proposal due date to January 6, 2016, and revised the Compensation and Payment Provisions, Pricing Forms PF 1-7, Proposal Submittal Requirements, Form PS-1, and Technical Specifications (TS-1: Consolidated CDRL List and TS-20: Requirements Management, Design Validation and Verification).
- Amendment No. 2, issued on October 19, 2015, revised Pricing Forms 1-7, Special Provisions, Instructions to Proposers, Submittal Requirements to

clarify the Federal Transit Administration (FTA) approved Local Employment Program.

- Amendment No. 3, issued on October 19, 2015, revised Pricing Forms 1-7 and Technical Specification (TS-13: Communications).
- Amendment No. 4, issued on November 17, 2015, revised Form TF-6 and Technical Specification (TS-12: Braking Equipment).
- Amendment No. 5, issued on December 4, 2015, extended the proposal due date to February 5, 2016, and revised Technical Specifications (TS-1: Introduction, TS-9: Electrical, TS-13: Communications and TS-6: Automatic Train Control).
- Amendment No. 6, issued on January 20, 2016, extended the proposal due date to March 4, 2016, and revised Proposal Forms TF 3-4 and Technical Specifications (TS-2: System, Level Design, Infrastructure, and Performance, TS-6: Passenger Doors, and TS-14: Automatic Train Control).
- Amendment No. 7, issued on February 2, 2016, revised Technical Specifications (TS-6: Passenger Doors and TS-14: Automatic Train Control).
- Amendment No. 8, issued on February 9, 2016, revised Technical Specification (TS-13: Communications).
- Amendment No. 9, issued on February 12, 2016, revised Pricing Forms 1-7 and Technical Specifications (TS-1: Introduction, TS-11: Trucks, and TS-14: Automatic Train Control).
- Amendment No. 10, issued on February 29, 2016, extended the proposal due date to March 18, 2016.
- Amendment No. 11, issued on March 7, 2016, revised Proposal Requirements and Proposal Submittal Checklist Form PS-1.
- Amendment No. 12, issued on September 23, 2016, after receipt of proposals, requested Best and Final Offers.
- Amendment No. 13, issued on December 5, 2016, to request the second Best and Final Offers.
- Amendment No. 14, issued on December 9, 2016, revised Pricing Forms 1-8, Special Provisions, Contract Document Article IV: Compensation, Instructions to Proposers, and Technical Specifications (TS-2: System Level Sign, Infrastructure, and Performance, TS-3: Carbody, TS-11: Trucks, and TS-12: Communications).

- Amendment No. 15, issued on October 19, 2015, revised the Proposal Submittal Requirements, Contract Documents: Statement of Work and Special Provisions.

A Pre-Proposal Conference was held on August 5, 2015, at the Metro Green Line Yard. Vehicle inspections were held for the proposers from August 5, 2015, through August 7, 2015.

Eight sets of questions and answers were issued during the solicitation phase of this RFP. Responses were posted to the project data repository site, accessible to all solicitation plan holders.

A total of two proposals were received on March 18, 2016. Subsequently, Metro received revised proposals on October 12, 2016, and December 3, 2016, in response to changes to program overhaul requirements and requests for Best and Final Offers.

## **B. Evaluation of Proposals**

A Proposal Evaluation Team (PET) consisting of staff from the Metro Rail Vehicle Acquisition department was convened to conduct a comprehensive technical evaluation of the proposals received. Additionally, technical advisors (TAs) from Metro's Rail Fleet Services department, Metro Rail Vehicle Engineering department, and consultants from CH2M Hill, Inc. augmented the PET as subject matter experts.

The proposals were evaluated based on the following evaluation criteria and weights:

- |                                        |            |
|----------------------------------------|------------|
| • Past Experience and Past Performance | 350 Points |
| • Price                                | 300 Points |
| • Technical Compliance                 | 250 Points |
| • Project Management Experience        | 100 Points |
| • Incentive Enhanced U.S. Content      | 50 Points  |
| • Incentive Local Employment Plan      | 50 Points  |

The evaluation criteria are appropriate and consistent with criteria developed for similar vehicle acquisition procurements. Several factors were considered when developing these weights, giving the greatest importance to past experience and past performance on rail vehicle overhaul, system integration, and on new rail vehicle acquisition.

Both proposals received were determined to be within the competitive range. The firms are listed below in alphabetical order:

1. Alstom Transportation, Inc. (Alstom)



## 2. Talgo, Inc. (Talgo)

The proposal evaluation kick-off meeting was conducted on March 18, 2016. Request for Clarifications were sent to both Proposers on May 2, 2016. The responses, received on May 27, 2016, sufficiently clarified each proposal and allowed the PET to compile an initial evaluation score.

Oral Presentations and interviews with each firm took place from June 23-28, 2016. Immediately after the Oral Presentations, the PET conducted facility site visits to each of the Proposer's overhaul sites from June 10-16, 2016.

The PET held additional Statement of Work discussions with the Proposers because the Proposer's price proposals exceeded Metro's Independent Cost Estimate (ICE), as well as the overall project budget. Discussions were conducted from September 8-16, 2016, to better understand each price proposal, technical elements, and cost drivers. At the conclusion of those discussions, a Best and Final Offer (BAFO) was requested, with revisions to the Technical Specifications and minor revisions to commercial terms. The BAFO request was issued on September 19, 2016, and responses were received on October 12, 2016. Despite the changes made to the Technical Specifications, both price offers received still exceeded the project budget and ICE. At this point alternatives such as further de-scoping, canceling the overhaul, and procuring new LRVs were given serious consideration. In conclusion, staff determined that further scope revisions and a second Best and Final Offer should be issued.

Before issuing the second BAFO request, the procurement and project team visited both Proposers for face-to-face discussions on price. With only minor changes to technical requirements and commercial terms Metro issued the second request for BAFO on November 18, 2016. Responses from both Proposers were received on December 23, 2016. Metro completed its evaluation of the second BAFO on January 5, 2017.

The RFP provided Proposers with the opportunity to augment their proposal scoring by voluntarily participating in two voluntary Evaluation Criteria elements: 1) Enhanced U.S. Content and 2) Locals Employment Program. These voluntary incentives were weighted at 50 points each.

### Locals Employment Program

The Local Employment Program is a Pilot Program created by the Department of Transportation (DOT) for a voluntary local hiring preference incentive in the evaluation of proposals. This voluntary program provides an opportunity for proposers that participate in the program to submit a qualifying Local Employment Plan, to earn additional points above and beyond all other evaluation criteria in the RFP. All new jobs and facility investments in a proposal, measured in dollars and created within Los Angeles County, would be eligible for the incentive points. Both firms proposed a level of participation in the Local Employment Plan.

	<b>Proposer Name</b>	<b>Local Employment Commitment</b>
1.	Alstom	\$3,031,184.00
2.	Talgo	\$3,254,217.00

#### Enhanced U.S. Content

The Enhanced U.S. Content awarded additional 50 incentive points to the highest overall percentage above 60% U.S. domestic content by cost in the LRV Overhaul program. Both Firms proposed U.S. content in excess of 60%. A Buy America Pre-Award Audit was conducted during the week of January 30, 2017 with the highest rated proposer, Alstom. The audit was conducted in accordance with FTA guidance stated in 49 CFR 663. Alstom's proposed Buy America content was found to far exceed the FTA's Buy America requirements.

	<b>Proposer Name</b>	<b>Proposed Content</b>
1.	Alstom	73.6%
2.	Talgo	75%

#### **Qualifications Summary of Firms within the Competitive Range:**

##### Alstom Transportation Inc.

Alstom Transportation, Inc. (Alstom) has proposed to perform this overhaul project out of its Mare Island, California facility. This dedicated manufacturing facility is located approximately 400 miles from Los Angeles and has been performing overhauls for the past six years. The firm proposed to perform the railcar stripping, final assembly, and testing at this facility, while engineering work would be generated out of its Naperville, Illinois site. Alstom has extensive experience in U.S. railcar overhaul work, having overhauled or modernized nearly 5,100 railcars for many of the major transit agencies.

##### Talgo, Inc.

Talgo, Inc. (Talgo) is headquartered in Seattle, Washington and has proposed to perform this overhaul project out of its Milwaukee, Wisconsin facility. Talgo intends to draw from its global engineering resources and relocate them to its Milwaukee facility for this project. Talgo is one of the world's leading suppliers of rolling stock, with a particular focus on extended lifecycle and service/reliability. While Talgo is primarily known globally as a railcar manufacturer, its experience also encompasses the U.S. market with new railcars, overhauls and maintenance work for Amtrak, Oregon DOT, and Washington State DOT.

		<b>Average Score</b>	<b>Factor Weight</b>	<b>Weighted Average Score</b>	
1	<b>Firm</b>				<b>Rank</b>
2	<b>Alstom Transportation, Inc.</b>				<b>1</b>

3	Past Experience and Past Performance	94.33	350.00	330.17	
4	Price (Base and Options)	89.84	300.00	269.52	
5	Technical Compliance	92.52	250.00	231.30	
6	Project Management Experience	93.83	100.00	93.83	
7	Incentive Enhanced U.S. Content	98.14	50.00	49.07	
8	Incentive Local Employment Plan	93.14	50.00	46.57	
9	Total		1,100.00	1020.46	
10	<b>Talgo, Inc.</b>				<b>2</b>
11	Past Experience and Past Performance	72.19	350	252.67	
12	Price (Base and Options)	100	300	300.00	
13	Technical Compliance	64.69	250	161.72	
14	Project Management Experience	62.00	100	62.00	
15	Incentive Enhanced U.S. Content	100	50	50.00	
16	Incentive Local Employment Plan	100	50	50.00	
17	Total		1,100	876.39	

### C. Cost/Price Analysis

The recommended price has been determined to be fair and reasonable based upon adequate price competition, technical evaluation, price analysis, Independent Cost Estimate, fact finding, and negotiations. Alstom's proposed price of \$140,079,867.00, inclusive of taxes, is (10%) higher than Talgo's proposed price of \$125,848,056.77. The PET determined that Alstom's proposal provides the best value and is most advantageous to Metro when considering all evaluation factors. Alstom's proposal provided clear advantages in past experience on LRV overhauls as well as a more comprehensive understanding of the level of effort involved in an extensive mid-life overhaul program. The LRV overhaul experience presented a clear benefit when evaluating project schedule risk, especially when considering the high level of vehicle float on this project. Alstom proposed a better systems qualification testing program, and Alstom also proposed a more experienced and qualified integration engineer. This gave Alstom a clear advantage in technical compliance. In addition, the recommended price is \$4,932,016.36 (3.4%) lower than Metro Independent Cost Estimate.

	Proposer Name	Proposal Amount	Metro ICE	Negotiated or NTE amount
1.	Alstom	\$191,986,779.32	\$145,011,883.36	\$140,079,867.00

2.	Talgo	\$166,973,954.57	\$145,011,883.36	\$125,848,056.77
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#### **D. Background on Recommended Contractor**

The recommended firm, Alstom, located in Naperville, Illinois, has been in business for 150 years and is a leader in manufacturing and servicing trains. Over the past 28 years, Alstom has overhauled or modernized nearly 5,100 passenger rail vehicles for customers including New York City Transit, Chicago Transit Authority, Metro-North Commuter Rail Road, New Jersey Transit, Chicago Metra, Southeast Pennsylvania Transit Authority, Massachusetts Bay Transit Authority, City of San Francisco, Northern Virginia Transportation Commission, Maryland Transit Administration, California Department of Transportation, Amtrak, O'Hare Airport Transit System, Rocky Mountaineer (Vancouver, Canada) and the Port Authority Transit Corporation. In 2012, Alstom was awarded a contract with MBTA to overhaul 86 LRVs. In 2013, Alstom was again awarded the midlife overhaul of 53 LRVs covering similar systems as this project. A reference check with MBTA regarding both LRV overhaul projects was satisfactory for Alstom.

# ATTACHMENT B

## CP 206044 SIEMENS P2000 LIGHT RAIL VEHICLES OVERHAUL FUNDING/EXPENDITURE PLAN

	ITD thru FY16	FY17	FY18	FY19	FY20	FY21	FY22	Total	% of Total
<b>Uses of Funds</b>									
Midlife Overhaul 52 Siemens LRVs	\$0	\$7,003,993	\$14,007,987	\$27,503,993	\$45,000,000	\$40,000,000	\$6,563,894	\$140,079,867	87.11%
Professional Services	\$838,961	\$84,120	\$1,387,200	\$1,956,133	\$1,974,333	\$1,460,933	\$268,000	\$7,969,680	4.96%
MTA Administration	\$999,379	\$265,000	\$420,000	\$450,000	\$450,000	\$450,000	\$390,000	\$3,424,379	2.13%
Contingency	\$0	\$0	\$0	\$0	\$0	\$0	\$9,326,074	\$9,326,074	5.80%
<b>Total Project Cost</b>	<b>\$1,838,340</b>	<b>\$7,353,113</b>	<b>\$15,815,187</b>	<b>\$29,910,126</b>	<b>\$47,424,333</b>	<b>\$41,910,933</b>	<b>\$16,547,968</b>	<b>\$160,800,000</b>	<b>100%</b>
<b>Sources of Funds</b>									
Federal 5337 SGR		\$7,353,113	\$15,815,187	\$29,910,126	\$18,173,034			\$71,251,460	44.31%
State / Local (PA Rail 35%) / Meas M **	\$1,838,340				\$29,251,299	\$41,910,933	\$16,547,968	\$89,548,540	55.69%
<b>Total Project Funding</b>	<b>\$1,838,340</b>	<b>\$7,353,113</b>	<b>\$15,815,187</b>	<b>\$29,910,126</b>	<b>\$47,424,333</b>	<b>\$41,910,933</b>	<b>\$16,547,968</b>	<b>\$160,800,000</b>	<b>100%</b>

\*\* Staff will pursue additional federal funds that may become available through FAST Act or other federal sources for this project to maximize availability of local fund sources for Operations use. Staff will also utilize other State and Local funding sources as opportunities arise such as Cap and Trade or other new sources. Measure M 2%, 5% and 20% fund source guidelines currently under development may also allow for future use of Measure M funds to support this effort.

**Metro**

Los Angeles County  
Metropolitan Transportation Authority

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**SYSTEM SAFETY, SECURITY AND OPERATIONS COMMITTEE  
JULY 17, 2014**

**SUBJECT: PURCHASE OF NEW HEAVY RAIL VEHICLES AND REFURBISHMENT  
OF A650 HEAVY RAIL VEHICLES & P2000 LIGHT RAIL VEHICLES**

**ACTION: AUTHORIZE REQUEST FOR PROPOSAL SOLICITATIONS FOR RAIL  
CAR PROCUREMENTS**

**RECOMMENDATION**

- A. The Board finds that rail vehicle procurements in compliance with Public Utilities Code (PUC) §130232 low bid requirement, does not constitute an adequate procurement method for LACMTA needs. Pursuant to Public Contracts Code (PCC) §20217, authorize procurement by competitive negotiation for the following: 1) Procurement of new heavy rail vehicles; 2) Refurbishment of existing A650 heavy rail vehicles; and 3) Refurbishment of existing P2000 light rail vehicles.

Requires Two-Thirds Vote

- B. Authorize the Chief Executive Officer (CEO) to solicit Best Value Requests for Proposals (RFPs) as competitive negotiations pursuant to PCC § 20217 and Metro's procurement policies and procedures, for contracts to purchase new rail vehicles and to refurbish existing rail vehicles.

**ISSUE**

Staff is developing the technical and quantity requirements for the new rail car procurement and the rail car refurbishment procurements. It has been determined that they constitute specialized rail transit equipment purchases. This determination renders it appropriate that the new heavy rail vehicles and the refurbishment of existing light and heavy rail vehicles, be procured by a competitively negotiated process in accordance with PCC § 20217. PCC § 20217 states that the Board, upon a finding by two-thirds vote of all members, may find that the competitive low bid procurement method is not adequate for the agency's needs and direct that the procurements be conducted through competitive negotiation.

## **DISCUSSION**

It is in the public's interest to utilize competitive negotiation rather than a sealed bid process to consider factors other than price in the award of contracts for vehicles and refurbishment of vehicles as allowed under PCC § 20217. The competitive negotiation process allows consideration of factors other than price that could not be adequately quantified or considered in a strictly low bid procurement.

Staff recommends the use of Best Value solicitations for all three rail car programs to allow for the consideration of technical and commercial factors, as well as price, in the contract award selection process.

By establishing explicit factors that identify Metro's definition of best value, the solicitation can use important evaluation criteria to augment price considerations; such as past performance related to schedule adherence, quality, reliability and vehicle performance.

In addition to the ability to evaluate key technical and schedule factors, the Best Value Request for Proposal process permits direct discussions and negotiations with proposers to clarify requirements and cost prior to an award recommendation. This process minimizes the risks associated with a complex specification and scope of work by allowing the parties to clarify ambiguities and correct deficiencies.

## **FINANCIAL IMPACT**

The requested action has no financial impact at this time. However, future activities associated with the respective procurements will be charged against the adopted Life of Project budgets for the affected heavy rail and light rail vehicle projects. Upon completion of the Request for Proposals, staff will present more detailed plan addressing financial impacts and impact to budget.

## **ALTERNATIVES CONSIDERED**

Procurement by a low bid process was considered but is not recommended. The sealed bid process does not adequately account for any technical superiority of performance, reliability, or system life cycle costs that on firm's equipment or solution may have over another since the process must award to the lowest responsive and responsible bidder. For these reasons, staff does not recommend this alternative. The competitively negotiated procurement process will provide for evaluation of critical non-price related factors in the selection process.

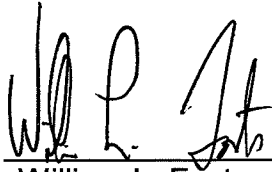
## **NEXT STEPS**

If this action is approved, staff would proceed with competitively negotiated best value solicitations for the new heavy rail vehicle and the refurbishment of the P2000 and A650 vehicles.

Prepared by: Richard Hunt, General Manager Strategic Vehicle &  
Infrastructure Delivery

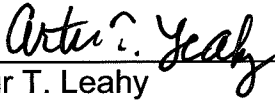
Questions: Carolyn Kreslake, Transportation Planning Manager IV  
213-922-7420





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William L. Foster  
Interim Chief Operations Officer



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Arthur T. Leahy  
Chief Executive Officer



U.S. Department  
of Transportation  
**Federal Transit  
Administration**

REGION IX  
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**SEP 30 2015**

Stephanie Wiggins  
Deputy Chief Executive Officer  
Los Angeles County Metropolitan  
Transportation Authority  
One Gateway Plaza  
Los Angeles, CA 90012-2952

Re: Application for Inclusion in  
U.S. Department of Transportation's  
Contracting Initiative Pilot Program

Dear Ms. *Stephanie* Wiggins:

Thank you for the application submitted by the Los Angeles County Metropolitan Transportation Authority (LACMTA) to the United States Department of Transportation (DOT) Contracting Initiative Pilot Program.<sup>1</sup> The Federal Transit Administration (FTA) accepts LACMTA's proposals for inclusion in the program with certain modifications, as described more fully below.

FTA understands that LACMTA has four contracting opportunities involving rolling stock that it would like to include in the Pilot Program. These contracting opportunities include contracts for (1) the purchase of 282 heavy rail vehicles; (2) the purchase of up to 600 new buses; (3) the mid-life overhaul of 74 heavy rail vehicles; and (4) the mid-life overhaul of 82 light rail vehicles. In support of its application, LACMTA submitted the following documents: April 13, 2015 Submittal to FTA for Admission into Local Hiring Pilot Program; Local Employment Program (Mandatory) & Local Employment Program (Voluntary); P3010 US Employment Value Summary Trade-off Analysis – Attachment 1; and May 8, 2015 Response to Supplemental Questions Regarding Application for Local Hiring Pilot Program.

LACMTA proposes a mandatory Local Employment Plan (LEP) for the heavy rail contract and voluntary LEPs for the bus purchase and overhaul contracts. The LEP in both circumstances would target new and existing jobs in Los Angeles County and would provide that at least 10 percent of the jobs be targeted at disadvantaged populations. The proposed mandatory LEP would make the inclusion of an LEP a requirement of responsiveness, and would constitute 10 percent of the total points available for all RFP evaluation factors. The proposed voluntary LEP would provide the bidder with additional "bonus" points that could be awarded if the bidder includes an LEP with its bid.

<sup>1</sup> The DOT Contracting Initiative is described in more detail in 80 FR 12257 (March 6, 2015).

In considering whether to approve a proposed contract requirement under the Pilot Program, FTA is guided by an August 2013 opinion of the Office of Legal Counsel (OLC) of the U.S. Department of Justice.<sup>2</sup> Under that opinion, FTA may approve a proposed contract requirement that is likely to have only an incidental effect on the pool of potential bidders, or that imposes reasonable requirements related to the performance of the necessary work. Or, if a proposed specification is likely to have more than an incidental effect on the pool of potential bidders and is unrelated to the work's performance, FTA still may approve the requirement if it "promotes the efficient and effective use of federal funds in the short or long run" or "safeguards the integrity of the competitive bidding process." The OLC decision leaves to FTA discretion the determination of what constitutes the "efficient and effective use of federal funds."

FTA is concerned that the proposed voluntary and involuntary programs both may have more than an incidental effect on the pool of potential bidders – at least with respect to the heavy rail car buy and the bus buy – because they could put at a disadvantage any manufacturer who does not already have a facility in the defined geographic area, and this competitive disadvantage is not relieved by the voluntary or involuntary nature of the program. However, an appropriate modification of LACMTA's proposed requirements will address our concerns.

Generally, FTA proposes modifications to the following provisions: the voluntary versus mandatory nature of the LEP requirement; credit given for new versus existing jobs; and the geographic area eligible for LEP participation. FTA is concerned with making the LEP mandatory, as well as awarding credit for existing jobs within Los Angeles County because both terms could give an undue advantage to potential bidders already located within Los Angeles County. Additionally, FTA examined the competitive markets within LACMTA's proposed geographic focus of Los Angeles County, and determined that for two of the contracts such a geographic limitation could afford an unfair competitive advantage.

FTA evaluated each proposed program and contracting opportunity and requests the following modifications.

#### **Purchase of 282 Heavy Rail Vehicles (Estimated Contract Cost: \$1.0558B)**

The LACMTA proposal is a mandatory LEP that includes as part of the bid evaluation criteria credit for new and existing jobs in Los Angeles County. The proposal also includes a requirement that 10% of the jobs be targeted for disadvantaged persons. The LEP would constitute 10% of the available points.

Currently, there is one rail vehicle manufacturer in Los Angeles County, Kinkisharyo. Limiting the LEP to Los Angeles County and including existing jobs could provide Kinkisharyo with an unfair competitive advantage and could be an exclusionary or discriminatory specification prohibited by 49 U.S.C. § 5334(h). FTA requests that LACMTA modify the LEP for the heavy rail vehicles to make it a voluntary program, expand the geographic market to the state of California, and provide credit only for new jobs created, with 10% of the jobs targeted for disadvantaged persons.

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<sup>2</sup> See *Competitive Bidding Requirements Under The Federal-Aid Highway Program*, 23 U.S.C. § 112 (August 23, 2013). The 2013 opinion is available at <http://www.justice.gov/olc/opinions>.

**Purchase of up to 600 new buses (Estimated Contract Cost: \$325M)**

The LACMTA proposal is a voluntary LEP that provides supplemental points for any proposer who includes an LEP. Bidders would receive credit for new and existing jobs in Los Angeles County. The proposal also includes a requirement that 10% of the jobs be targeted for disadvantaged persons.

Currently, there only is one bus manufacturer with a facility in Los Angeles County -- New Flyer. Accordingly, an LEP limited to the county could provide an unfair competitive advantage for that manufacturer, even if the program is voluntary. FTA requests that LACMTA modify the LEP for the 600 bus buy to expand the geographic market to the state of California, and provide credit only for new jobs created, and 10% of the jobs targeted for disadvantaged persons.

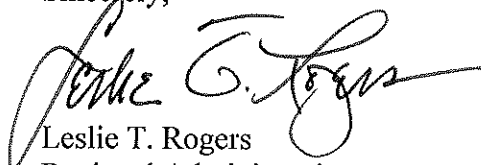
**Mid-life overhaul of 82 light rail vehicles (Contract Value \$100M) and mid-life overhaul of 74 heavy rail vehicles (Contract Value \$46M)**

The LACMTA proposal for the two mid-life overhaul contracts is the same: a voluntary LEP giving credit for new and existing jobs in Los Angeles County, and a requirement that 10% of the jobs be targeted for disadvantaged persons.

For overhaul contracts, the original vehicle manufacturer has an advantage for doing mid-life overhauls of its own vehicles. The original manufacturers for the vehicles subject to the contracts are not located in Los Angeles County, resulting in all potential bidders being similarly situated. Under these circumstances, limiting the geographic market to Los Angeles County does not provide an unfair competitive advantage for any one bidder. As with the other contracts, FTA requests that this LEP be limited to new jobs created and provide that 10% of the jobs be targeted for disadvantaged persons.

With the above modifications to LACMTA's proposed LEPs, FTA believes that inclusion of the four contracting opportunities in the Pilot Program would likely better promote the efficient and effective use of federal funds and safeguard the integrity of the competitive bidding process. Please let us know whether LACMTA is interested in participating in the Pilot Program under the proposed terms. If you have any questions, please contact Deputy Chief Counsel Dana Nifosi at 202-366-1643 or [Dana.Nifosi@dot.gov](mailto:Dana.Nifosi@dot.gov).

Sincerely,

  
Leslie T. Rogers  
Regional Administration

**DEOD SUMMARY**

**P2000 LIGHT RAIL VEHICLE OVERHAUL PROGRAM, RAIL VEHICLE  
CONTRACTOR / OPP2000**

**A. Small Business Participation**

The Diversity and Economic Opportunity Department did not recommend a Disadvantaged Business Enterprise (DBE) participation goal for this FTA-assisted rolling stock procurement. In compliance with the requirements of 49 Code of Federal Regulations (CFR) Part 26.49(a), only Transit Vehicle Manufacturers (TVMs) included in FTA's certified TVMs list are eligible to bid. Alstom Transportation, Inc. submitted an FY17 TVM Certification with their proposal, and is currently on FTA's list of eligible TVMs.

**Living Wage and Service Contract Worker Retention Policy Applicability**

The Living Wage and Service Contract Worker Retention Policy is not applicable to this Contract.

**B. Prevailing Wage Applicability**

Prevailing wage is not applicable to this Contract.

**C. Project Labor Agreement/Construction Careers Policy**

Project Labor Agreement/Construction Careers Policy is not applicable to this Contract.