



## Board Report

File #: 2019-0547, File Type: Contract

Agenda Number: 26.

### OPERATIONS, SAFETY, AND CUSTOMER EXPERIENCE COMMITTEE SEPTEMBER 19, 2019

**SUBJECT: METRO'S PHOTO ENFORCEMENT PROGRAM**

**ACTION: APPROVE RECOMMENDATIONS**

#### **RECOMMENDATION**

CONSIDER:

- A. AUTHORIZING the Chief Executive Officer to award an eight-year, firm fixed price Contract No. PS60032000, to Redflex Traffic Systems, Inc., for Photo Enforcement Program Services in an amount not to exceed \$25,385,196, effective October 1, 2019, subject to resolution of protest(s), if any; and
- B. TERMINATING Contract No. PS68103079 with Conduent State & Local Solutions, Inc. once all operations, maintenance and citation processing have been transitioned to the new awarded contractor Redflex.

#### **ISSUE**

In November 2013, the Board approved award of Contract No. PS68103079 with Conduent State & Local Solutions, Inc. (Conduent), formerly Xerox State and Local Solutions, Inc., for a period of eight years, inclusive of two, two-year options, starting July 1, 2014, for photo enforcement services. The Contract was executed for an eight-year term, inclusive of both options, expiring on June 30, 2022.

In June 2018, staff returned to the Board to exercise the first two-year option. During the June 2018 Executive Management Committee meeting, staff explained that while the project was 50% complete, Conduent's SBE attainment was only 12.55% (later corrected to 9.7%). This shortfall was attributed to Conduent self-performing the work of a listed and approved SBE subcontractor. Conduent conceded that the scope committed to its subcontractor had been self-performed for the first four years of the contract term by Conduent's own workforce without advisement or prior approval by Metro, as contractually required. Thus, a motion by Director Dupont-Walker to amend staff's recommendation and allow a six-month extension for this contract and re-evaluate Conduent's performance in six months on meeting the SBE commitment was approved. Subsequently at the Board Meeting, staff updated the recommended action to authorize the Chief Executive Officer to negotiate and execute necessary modifications to Contract PS68103079 with Conduent for Red Light Photo Enforcement installation and maintenance services and to return to the Board no later than

January 2019 with a recommendation to immediately re-procure if Conduent fails to substantially mitigate its SBE underpayments, or to recommend awarding the balance of the first two-year option if Conduent materially remediates its first four years of SBE payment shortfall.

In January 2019, staff returned to the Board to provide an update of the Metro’s Photo Enforcement Program. Conduent had shown improvements in the SBE participation from 9.71% in June 2018 to 12.14% in November 2018 against the overall contract commitment of 23.4%. The attributed factor to the shortfall of the SBE commitment is the pending issue of Conduent’s proposed SBE subcontractor substitution, which as of the date of this report has not been resolved. Metro staff have continued to work closely with the Contractor on this matter since June 2018.

Beginning in July 2018, staff has been meeting with Conduent monthly to monitor their SBE remediation plan for a period that extended beyond the planned end date of December 2018. The matrix below shows the Contract cumulative SBE participation through June 2019.

Jun-18 (BASE*)	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18
9.71%	9.83%	9.95%	10.61%	11.77%	12.14%	17.40%

Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19
17.30%	17.10%	17.70%	17.70%	18.10%	17.85%

\*Adjusted per Conduent’s August 2, 2018 correction

As of June 30, 2019, the last month for which data is available for this report, the overall Project-to-Date Small Business Utilization Rate is 17.85% up 8.14% from the adjusted participation of 9.71% on June 30, 2018.

However, staff is concerned, based on the departure of its original SBE subcontractor, LA Signal, that Conduent will not meet its SBE commitment of 8.1% to LA Signal. As of the date of this report, the proposed SBE subcontractor substitution has not been resolved, which will continue to impact Conduent’s overall compliance target (23.4%).

**Labor Wage and Retention Programs Update**

In addition to the on-going SBE participation shortfall, Metro’s Labor Wage & Retention Programs (LWRP) unit received a letter dated November 16, 2018, from Conduent stating that this photo enforcement contract is a service contract and is not subject to federal or state prevailing wages. LWRP had previously submitted the scope of work for this contract to the Department of Industrial Relations (DIR) for review. On November 21, 2018, Metro received a response from the DIR stating that work related to installation and maintenance of the photo enforcement cameras, and graffiti removal is subject to prevailing wage requirements. Citing the letter from the DIR, as well as the

---

solicitation documents for the contract, Metro responded to Conduent's letter on November 29, 2018, informing the firm that prevailing wages for the above type of work were applicable to the contract and that all certified payrolls and supporting documents are required to be submitted to Metro's Labor Wage & Retention Programs unit. Conduent failed to submit the requested documents.

As of the date of this report, Conduent acquiesced to the prevailing wage requirements and is in the process of making restitution payments to its workers and providing the requested documentation from November 2018.

Consequently, for the above reasons, staff initiated a re-solicitation effort in November 2018. Staff continues to work with and monitor Conduent and its existing subcontractors in resolving outstanding issues to avoid a disruption in photo enforcement services.

Also, as a result of the competitive procurement (RFP No. PS60032) process in January 2019, staff completed the evaluation of the proposals received and determined Redflex offers Metro the best value for photo enforcement services.

## **BACKGROUND**

Metro is a leader in the utilization of Intelligent Transportation Systems technologies aimed at mitigating train/vehicle and bus/vehicle accidents. Through support from Federal, State, and local programs, Metro has been able to develop and implement a successful safety improvement program. The safety program is made up of four elements: engineering, education, enforcement, and legislation. One of the prominent enforcement elements is the utilization of photo enforcement cameras at both rail grade crossings and Busway intersections. Citations are currently issued on the Metro Blue, Gold, Orange and Expo Lines.

## **DISCUSSION**

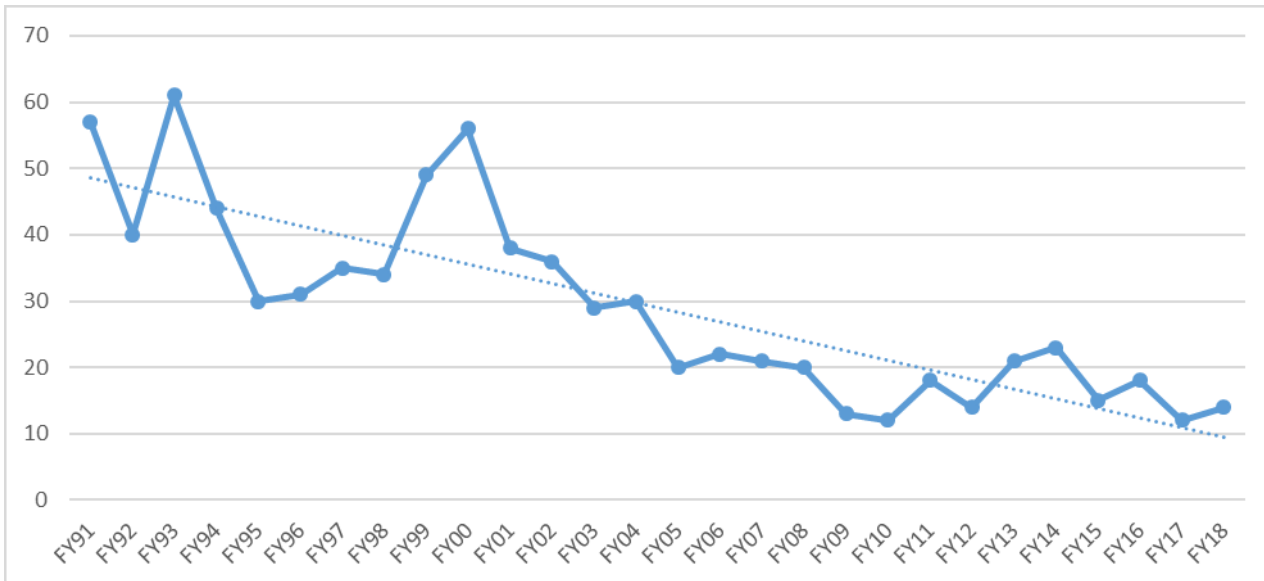
### **Findings**

The purpose of installing automated enforcement systems is to reduce dangerous driving behaviors and resulting collisions through deterrence and through the elimination of recidivism.

This program also supports our objectives to reduce collisions with our vehicles directly, reduce employee injuries and claims, and reduce the costs of litigation, damage to our real property and vehicles, reputation damage, disruption to our passengers and the opportunity costs of Metro employees and first responders who manage the incident and post-incident activities. The number of vehicular collisions on the MBL peaked in Metro's fiscal year 1993 at 61 collisions. For the fiscal year concluded in 2018, the number of vehicle collisions on the MBL fell to just 14, a 77% decline. This reduction in the aggregate number of vehicular collisions on the MBL is despite the addition of significantly more frequent service on the MBL since 1993, as well as substantially more vehicles crossing our rights-of-way driven by population growth. A graphical depiction of the MBL vehicular collision trend is shown below (Figure 1).

**Figure 1**

**MBL Gated and Non-Gated Intersection Accidents**



**DETERMINATION OF SAFETY IMPACT**

By continuing with the Photo Enforcement Program, Metro further enhances the safety of the public, patrons, and employees.

**FINANCIAL IMPACT**

The funding for nine (9) months of \$4.1 million for the new contract is not included in the FY20 budget. Funds required to cover these costs will be addressed by fund reallocations in FY20 to cost center 6810, Corporate Safety, under projects 300022 (Rail Operations - Blue Line), 300055 (Gold Line), 300066 (Rail Operations - Expo Line) and 301012 (Metro Orange Line). Since this is a multi-year contract, the Project Manager and the Chief Risk, Safety, and Asset Management Officer will be accountable for budgeting the cost in future years under the new contract. Approximately \$2.1 million was expended on photo enforcement services in FY19.

**Impact to Budget**

The current year funding for this action are bus and rail operations eligible and include fares and sales tax revenues. No other sources of funds were considered for this activity because the services exclusively support bus and rail operations under the new contract. This activity will result in an increase to operating costs from the prior fiscal year.

**IMPLEMENTATION OF STRATEGIC PLAN GOALS**

Recommendation supports strategic plan goal # 3. With the photo enforcement program in place,

Metro enhances community and lives by increasing safety awareness, minimizing potential accidents, and mitigating hazards associated with risky driving behavior at grade crossings.

### **ALTERNATIVES CONSIDERED**

Continue with the current contract through June 30, 2022. This alternative is not recommended since Conduent continues to struggle to comply with Metro's contractual requirements and Metro will be required to expend an extraordinary effort to monitor the firm's activities to ensure compliance.

### **NEXT STEPS**

Upon Board approval, staff will execute Contract No. PS60032000 with Redflex Traffic Systems, Inc. for photo enforcement services, effective October 2019 and will begin work on the transition to the new contractor including termination of the current Contract with Conduent State and Local Solutions, Inc.

### **ATTACHMENTS**

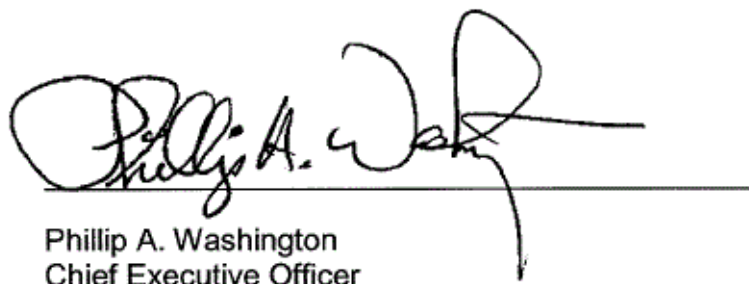
Attachment A - Procurement Summary

Attachment B - DEOD Summary

Prepared by: Abdul Zohbi, Manager, Systems Safety, (213) 922-2114

Reviewed by: Vijay Khawani, Interim Chief Risk, Safety and Asset Management Officer, (213) 922-4035

Debra Avila, Chief Vendor/Contract Management Officer, (213) 418-3051



Phillip A. Washington  
Chief Executive Officer

## PROCUREMENT SUMMARY

## PHOTO ENFORCEMENT PROGRAM/PS60032000

1.	<b>Contract Number: PS60032000</b>	
2.	<b>Recommended Vendor:</b> Redflex Traffic Systems, 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> January 16, 2019	
	<b>B. Advertised/Publicized:</b> January 16, 17, and 22, 2019	
	<b>C. Pre-Proposal Conference:</b> February 6, 2019	
	<b>D. Proposals Due:</b> April 4, 2019	
	<b>E. Pre-Qualification Completed:</b> May 23, 2019	
	<b>F. Conflict of Interest Form Submitted to Ethics:</b> April 10, 2019	
	<b>G. Protest Period End Date:</b> September 23, 2019	
5.	<b>Solicitations Picked up/Downloaded:</b> 41	<b>Bids/Proposals Received:</b> 2
6.	<b>Contract Administrator:</b> Victor Zepeda	<b>Telephone Number:</b> (213) 922-1458
7.	<b>Project Manager:</b> Abdul Zohbi	<b>Telephone Number:</b> (213) 922-2114

**A. Procurement Background**

This Board Action is to approve Contract No. PS60032000 issued in support of Metro's Photo Enforcement Program. Board approval of contract awards are subject to resolution of any properly submitted protest.

On January 17, 2019, staff provided an update to the Board on the existing Contract No. PS68103079, as requested by Director Dupont-Walker's motion, for an assessment of Conduent's efforts to remedy their SBE shortfall through December 2018. Staff reported that Conduent was still not meeting its SBE commitment and was not in compliance with the Labor Compliance/Prevailing Wage reporting requirements under the Contract. For these aforementioned reasons, staff initiated a re-solicitation effort in November 2018 resulting in the issuance of a Request for Proposals (RFP) in January 2019.

RFP No. PS60032 was issued in accordance with Metro's Acquisition Policy and the contract type is a firm fixed price. The RFP was issued with a DBE goal of 23%.

The period of performance is eight years from October 2019 to September 2027.

A Pre-Proposal Conference was held on February 6, 2019, with 15 attendees representing nine companies.

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

- Amendment No. 1, issued on January 23, 2019, clarified Prevailing Wages Requirements;
- Amendment No. 2, issued on February 13, 2019, extended the due date from February 27 to March 13, 2019;
- Amendment No. 3, issued on February 22, 2019, extended the due date from March 13 to April 4, 2019; and,
- Amendment No. 4, issued on April 30, 2019, requested from the Proposers an option cost proposal for physically inspecting equipment five days per week, instead of one day per week.

Metro received two proposals on the due date of April 4, 2019, as follows in alphabetical order:

1. Conduent State & Local Solutions, Inc. (Conduent)
2. Redflex Traffic Systems, Inc. (Redflex)

**B. Evaluation of Proposals**

A Proposal Evaluation Team (PET) consisting of representatives of law enforcement from the Los Angeles Sheriff Department and Metro’s Safety department were convened and conducted a comprehensive technical evaluation of the proposals received.

Proposals were evaluated based on the following minimum qualifications and evaluation criteria and weights. As stated in the RFP, only those proposers that met all the Minimum Qualification requirements progressed to the weighted criteria evaluation.

**Minimum Qualifications:**

1. Minimum of two years’ experience specific to rail road photo enforcement at gated crossings.
2. Minimum of five years’ general photo enforcement experience.
3. Experience enforcing a red light photo enforcement system in California and familiar with all applicable state laws and regulations.
4. Have or agree to have a local office in the Los Angeles County area or agreed to establish a local office within 60 days of Notice of Award.

**Evaluation Criteria:**

1. Firm (Prime) Experience	20 percent
2. Personnel Experience	20 percent
3. Work Plan and Project Master Schedule	20 percent
4. DBE Contracting Outreach and Mentoring Plan (COMP) Approach	4 percent
5. Price	<u>36</u> percent
Total	100 percent

The evaluation criteria are appropriate and consistent with criteria developed for other, similar program management services. Several factors were considered when developing these weights, giving the greatest importance to non-price factors.

Both proposals were determined to be within the competitive range and advanced for further evaluation.

The PET determined that proposals provided sufficient information to evaluate the firms without the need for interviews. The proposals demonstrated the firm’s experience relative to design, installation, and operations and maintenance tasks as required by the RFP.

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

**Conduent**

The photo enforcement division of Xerox, now Conduent, has provided services in California since 1994. Conduent has a local presence with an office in downtown Los Angeles, has worked with Metro since 1994, and has a nationwide presence with programs in Colorado, Delaware, Illinois, and Florida. As the incumbent operating 103 camera systems on Metro’s existing program, Conduent’s proposed management, technical, and maintenance personnel offer system continuity.

**Redflex**

Redflex is headquartered in Phoenix, Arizona and has been in business since 1987 with a long history of providing photo enforcement services in the US and internationally. Redflex has provided local photo enforcement services for over 21 years to the Cities of Culver City, Hawthorne, Commerce, and Montebello, as well as in other states such as Arizona and Texas. Redflex has a local office located in Culver City. Redflex proposed an experienced technical and project management team and its proposed system was deemed technically qualified.

Both firms were evaluated based on minimum qualifications and weighted criteria. Conduent and Redflex both demonstrated that they met or exceeded Metro’s minimum qualifications.

The following is a summary of the PET’s evaluation scores:

1	Firm	Average Score	Factor Weight (Points)	Weighted Average Score	Rank
2	<b>Redflex</b>				
3	Firm (Prime) Experience	93.33	20.00%	18.67	
4	Personnel Experience	93.33	20.00%	18.67	
5	Work Plan and Project Master Schedule	96.67	20.00%	19.33	



6	DBE COMP Approach	100.00	4.00%	4.00	
7	Price	100.00	36.00%	36.00	
8	<b>Total</b>		<b>100.00%</b>	<b>96.67</b>	<b>1</b>
9	<b>Conduent</b>				
10	Firm (Prime) Experience	90.67	20.00%	18.13	
11	Personnel Experience	95.56	20.00%	19.11	
12	Work Plan and Project Master Schedule	98.33	20.00%	19.67	
13	DBE COMP Approach	75.00	4.00%	3.00	
14	Cost	71.46	36.00%	25.73	
15	<b>Total</b>		<b>100.00%</b>	<b>85.64</b>	<b>2</b>

### C. Cost/Price Analysis

The recommended price has been determined to be fair and reasonable based upon adequate competition, technical evaluation, clarifications, price analysis, and ICE.

	<b>Proposer Name</b>	<b>Proposal Amount</b>	<b>Metro ICE</b>	<b>Negotiated or NTE amount</b>
1.	Redflex	\$25,517,634.26	\$24,641,400	\$25,385,195.51
2.	Conduent	\$35,708,986.45		N/A

### D. Background on Recommended Contractor

The recommended firm, Redflex, has been in business for 21 years and has provided local photo enforcement services to the Cities of Culver City, Hawthorne, Commerce, and Montebello, as well as in other States such as Arizona and Texas. Redflex's has a local office in Culver City where it serves as a processing center as well as a hub for field service technicians.

## DEOD SUMMARY

## PHOTO ENFORCEMENT PROGRAM/PS60032000

**A. Small Business Participation PS60032000**

The Diversity and Economic Opportunity Department (DEOD) established a 23% Disadvantaged Business Enterprise (DBE) goal for this solicitation. Redflex Traffic Systems, Inc. exceeded the goal by making a 29.61% DBE commitment.

<b>Small Business Goal</b>	<b>23% DBE</b>	<b>Small Business Commitment</b>	<b>29.61% DBE</b>
----------------------------	----------------	----------------------------------	-------------------

	<b>DBE Subcontractors</b>	<b>Ethnicity</b>	<b>% Committed</b>
1.	Full Traffic Maintenance, Inc.	Hispanic American	0.79%
2.	Morgner Construction Management	Hispanic American Female	23.90%
3.	V&A, Inc.	Hispanic American	4.92%
	<b>Total DBE Commitment</b>		<b>29.61%</b>

**Contracting Outreach and Mentoring Plan**

To be responsive, Proposers were required to submit a Contracting Outreach and Mentoring Plan (COMP), which included its plan to mentor two DBE firms for protégé development. The selected protégés are Morgner Construction Management and V&A, Inc.

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

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

**C. Prevailing Wage Applicability**

Prevailing Wage requirements are applicable to this project. DEOD will monitor contractors' compliance with the State of California Department of Industrial Relations (DIR), California Labor Code, and, if federally funded, the U S Department of Labor (DOL) Davis Bacon and Related Acts (DBRA).

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

Project Labor Agreement/Construction Careers Policy is not applicable to this Contract. Project Labor Agreement/Construction Careers Policy is applicable only to construction contracts that have a construction contract value in excess of \$2.5 million.