

October 25, 2000



A
Metropolitan
Transportation
Authority

One Gateway Plaza
Los Angeles, CA
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TO: BOARD OF DIRECTORS

FROM: COLONUS MITCHELL *Colonus Mitchell*
EXECUTIVE OFFICER, PROCUREMENT

**SUBJECT: ELEVATOR/ESCALATOR SERVICE (ITEM #61 ON
REGULAR BOARD AGENDA AND ITEM #1 ON SPECIAL
BOARD AGENDA)**

In an effort to provide you with enough information on which to make an informed decision on the item involving provision for elevator and escalator maintenance and repair services I offer the following summary of relevant events.

- MTA requires maintenance and repair of elevators and escalators at all transit facilities. The timely and effective maintenance and repair of this equipment is a safety sensitive service that requires highly qualified providers. The uninterrupted use of this equipment also satisfies ADA requirements for accessibility.
- The MTA issued the solicitation for the replacement of these services on November 30, 1999. Proposals were received from four proposers on January 13, 2000. After evaluation of all proposals, the Source Selection Evaluation Committee (SSC) could not reach a consensus for award. The SSC was reconstituted and minor modifications were made to scope of work requirements to improve the description of the requirements. An independent expert consultant was also hired to assist the committee. Revised offers were accepted from all proposers on August 1, 2000 and evaluated by the new SSC. The SSC reached a consensus and recommended award to Mitsubishi. The Award decision was based on determination of the responsible responsive proposer offering the most advantageous proposal when considering Price and Technical Qualifications.
- In order to facilitate the specification revision and subsequent addenda to extend the solicitation, a six month extension was issued to the current providers Fujitec and Millar on April 30, 2000. This would allow for safety sensitive service to be provided without interruption. Both Fujitec and Millar agreed to provide the service at the current contract rate for the entire extension.

- Protest filed by Fujitech on September 7, 2000, alleging Mitsubishi's subcontractor Plummer's Elevator Service ("Plummer") is acting as a front for a non-DBE firm.
- Staff's evaluation of the proposal from Mitsubishi including the Form 60 from Plummer does not support the allegation. The Form 60 from Plummer shows all work will be performed by that firm, as a certified DBE. Staff rejects the protest on October 5, 2000.
- Millar also protested the award recommendation on August 28, 2000. Their main protest centered on the fact that they were the lowest price offerer. This protest was rejected on October 5, 2000 because the basis of award was not determined on price alone. It was determined on the combination of price (40%) and technical qualifications (60%), including past performance.
- Fujitec submitted a protest appeal to the Chairperson of the MTA Board on October 17, 2000, which includes a sworn declaration (dated October 16, 2000) from Plummer that states that his work will be passed through to a non-DBE firm. The declaration includes an apparent new Form 60 that does not appear in any of Mitsubishi's offers.
- Staff decided to pull the item from the Operation's Committee agenda of October 18, 2000, to further investigate the allegation by Plummer.
- That same day, October 18, 2000, staff receives a second sworn declaration from Plummer that re-affirms the accuracy of the Form 60 to Mitsubishi. This is the same Form 60 that appears in Mitsubishi's formal offer to the MTA but is different the Form 60 in Plummer's first declaration. It states that the entire value of his offer in Mitsubishi's proposal will be performed by his firm.
- Based on staff's concern over this key DBE subcontractor for both Fujitech and Mitsubishi we attempt to extend the current contracts with Millar and Fujitec for a maximum period of six months.
- Staff determined that it would be in the MTA's best interest to make a timely determination concerning the conflicting representations provided by Plummer so as to be able to make a determination whether it could proceed with the Mitsubishi award or would have to seek other means of providing the service.
- On October 24, 2000 Fujitech rejects MTA's verbal offer to extend for a six month period under the same terms of their current contract. Fujitec states it would only be interested in an extension with the following conditions. 1) Reduced scope of work with a 60 percent price increase. 2) Minimum 6 month term with no right to terminate for convenience 3) Award to Fujitec of new contract if Mitsubishi is disqualified. 4) Guaranteed additional six month extension if the issues involved are not resolved.

- On October 24, 2000, Fujitec faxed a third declaration from Plummer reasserting that his firm would be used as a pass through by Mitsubishi. He included the same Form 60 that was executed by Plummer and is part of Mitsubishi's offer to the MTA. This Form 60 is the same document submitted with the second declaration. Again that Form 60 does not show any subcontracts.
- Staff telephoned Mitsubishi and received confirmation that they had no knowledge of the alleged pass through scheme, and were prepared to provide Plummer with all of the work identified and committed to in Plummer's Form 60. Mitsubishi provided staff with a sworn declaration to support their statements.
- MTA has assessed during the evaluation process that Plummer has the requisite ability to perform the work identified in Mitsubishi's proposal, and is a certified DBE.
- Based on staff's current assessment Mitsubishi has not provided the MTA with misleading offers and is prepared to honor its commitment to provide Plummer with the work necessary to meet the DBE goal.

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