



APRIL 2, 1996

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**TO: BOARD OF DIRECTORS**  
**FROM: STANLEY G. PHERNAMBUCO**  
**SUBJECT: CONTRACT NO. E0070**  
**ENGINEERING MANAGEMENT CONSULTANT (EMC)**  
**MTA CONTRACT OVERSIGHT**



**ISSUE**

Alternate Vivien Bonzo requested information on the changes to effect better control and improve accountability of the Engineering Management Consultant (EMC).

**BACKGROUND**

Several reviews of MTA's program management of the Metro Rail Project have been completed within the last year. Arthur Andersen reviewed the MTA Construction Division's management of the Rail Transit Program while Fluor Daniel and the Inspector General conducted reviews of MTA's and EMC's management of the Pasadena Blue Line project to identify systemic project management problems or deficiencies which warranted correction. These deficiencies have, in general, been in the area of communication and documentation of the services and costs in accordance with MTA's procedures. The reviews also contained recommendations to increase the MTA's contract administration staff to provide for proper contract oversight. In response to these reviews, MTA staff developed corrections for implementation which will improve oversight and accountability across all Metro Rail projects.

The EMC contract was reviewed and determined to be sufficient to hold the consultant accountable for contract performance and protect the taxpayers' interest. In general, it was found that the MTA needed to improve its oversight of the EMC contract to ensure adequate management and reporting of each project's cost and schedule and EMC accountability to cost, schedule and technical performance. The deficiencies stemmed from a number of factors: MTA staff not enforcing the contract terms and conditions; insufficient MTA staff for proper EMC oversight; an emphasis on schedule over other factors; poorly defined project baselines; untimely resolution of project issues; and unclear procedures relative to the Project Manager's authority to approve contract changes.

A list of the controls and actions which have been implemented to address the deficiencies identified and to improve EMC accountability are listed in the attachment.

Prepared by:

Frederick P. Origel, Contract Administrator  
Stanley Lotterman, Manager of Contracts

**Attachment**

## Attachment 1

To increase the EMC's accountability and correct MTA's management and oversight deficiencies identified in the Fluor Daniel and Inspector General reviews, the MTA is implementing the following:

- 1) MTA has assigned additional Contract Administrators to the EMC contract to increase contract oversight, ensure timely enforcement of contract terms and to hold EMC accountable for their areas of responsibility by timely documentation of all contractual and performance issues. The additional staff will also ensure timely resolution of issues raised under the contract.
- 2) MTA Policy CF-10, (Change Control: Consultant Contracts) has been revised to clarify the roles and responsibilities of all staff involved in processing contract changes. Effective implementation of this policy will improve the administration of changes and will identify immediately any potential cost changes so that they can immediately be resolved. It outlines a clear process for timely resolution and adequate evaluation of changes. Specifically it requires the following:
  - In accordance with AB 1869, changes must be reviewed for merit by the Contract Administrator and Legal Counsel before the consultant is given a notice to proceed with work.
  - A Certificate of Current Cost or Pricing Data be submitted by the consultant with all changes certifying that to the best of its knowledge and belief, the cost or pricing data provided are accurate, complete, and current as of the date of final agreement on price.
  - The MTA Chief estimator provide cost evaluations of all proposed changes.
  - MTA Staff authorization limits for approving contract changes are clearly established. All contract changes above \$100,000 must be approved by the Executive Officer. Construction and changes with Not-to-Exceed amounts above \$200,000 must be approved by the MTA Board prior to notice to proceed.
  - A Board approved expenditure limit ("change allowance") has been established with the Board to limit the cost of changes which are outstanding and unapproved by the Board at any one time.

- A change which may increase consultant contract cost, impact schedule, or require revisions to the consultant's contract must be approved in writing by authorized MTA staff before notice to proceed is issued.
  - All consultant changes in excess of \$100,000 must be audited by MTA audit staff.
- 3) Future section designer work will, in general, be provided under a firm fixed price contract to enhance cost control during the final design phases. There may be unique assignments that do not have well defined work scopes and will be contracted and performed under a cost reimbursement type contract.
  - 4) EMC has hired additional subcontract administrators to ensure adequate oversight of subconsultant contracts to include contract change administration.
  - 5) The Project Implementation Plan (PIP) for the Eastside Extension, Pasadena Blue Line Redesign as well as PIPs for future projects will be thoroughly reviewed to ensure cost realism, incorporation of lessons learned, and defined project baseline. The PIP will be the initial baseline for measuring the consultants' cost, schedule and technical performance.
  - 6) To improve cost monitoring of contract changes, the consultants will segregate cost on Consultant Change Notices and provide a breakout of these cost with the monthly submittal of invoices to ensure cost incurred on changes are within the not-to-exceed amounts prior to Broad approval.
  - 7) To identify any potential problems and ensure cost are appropriately accounted for, MTA internal audit has audited the EMC accounting and billing system.
  - 8) The MTA has recently established a Claims Management Branch which will establish an Errors and Omissions Review Board to ensure timely disposition of errors and omissions claims.
  - 9) The MTA Eastside Extension Project Staff evaluated the technical and management qualification of 15 candidates before selecting the present EMC Project Unit Managers to ensure they had the appropriate qualifications.
  - 10) The Contract Work Order Structure for the EMC Eastside Extension final design effort will be structured so responsibility and contract performance can be traced to the each EMC Project Unit Manager. This will be accomplished by grouping Contract Units by Project Unit Manager responsibility. MTA work authorization

for each grouping will clearly identify work authorization start date and finish dates, design submittal dates, budget in hours and dollars, and the EMC parties responsible for performance.

- 11) Contract Work Orders for design work on future projects will be for narrower well defined scope of services, with discrete budget and schedule requirements.
- 12) The MTA is reviewing alternative contract types to determine the best type to employ for professional services. The goal is to determine which contract type is best to ensure that quality professional services are acquired at a fair and reasonable price and provide the MTA with favorable terms and conditions to strictly hold the consultant accountable for contract performance. Both Cost Plus Fixed Fee and Cost Plus Incentive Fee are being considered.