



Los Angeles County
Metropolitan
Transportation
Authority

818 West Seventh Street
Suite 300
Los Angeles, CA 90017

213.623.1194

3

August 29, 1995

TO: Board of Directors

FROM: Judith Pierce *Richard J. Kunkell for.*

SUBJECT: PAYMENT DISPUTE BETWEEN L.A. FEDERAL COIN, INC.
AND EXCEL SECURITY SERVICES, INC.

Pursuant to the Board's request, we have looked into the circumstances surrounding the non-payment of invoices to L.A. Federal Coin, Inc. by Excel Security Services. The dispute appears to center around Excel's claim that the sub-contractor L.A. Federal Coin failed to be in compliance with the insurance requirements. The following are the issues presented to us:

- Excel has claimed that sub-contractor, L.A. Federal Coin did not have appropriate insurance to indemnify the prime.
- L.A. Federal Coin has claimed that Excel has not paid its invoices from April 1995 to May 1995.
- First Mercury Syndicate Insurance Company endorsed Excel as an additional insured as of August 19, 1994, however, Excel's certificate indicates an effective date of June 22, 1995.

On a prior agreement, L.A. Federal Coin was awarded a contract by the Authority for fare collection. That contract was subsequently terminated during the summer of 1994 because L.A. Federal Coin failed to demonstrate that it had obtained the approved licenses and certification to perform tasks required under the contract.

Typically it is not the policy or practice of staff to resolve disputes between prime contractors and sub-contractors regarding service agreements. Given the shortage of time, we have not been able to fully resolve the matter and in all fairness to both parties, we are requesting that this matter be carried over for 30 days so we can make a proper analysis and determination.

Enclosures



August 16, 1995

Ms. Tommye Williams
L. A. County Metropolitan
Transportation Authority
470 Bauchet Street
Los Angeles, CA 90012

Dear Ms. Williams:

Thank you for your letter of August 12, 1995. I was out of town Monday and Tuesday, but would now like to take this opportunity to respond to the issue raised in your correspondence.

After receiving information regarding our subcontractor's insurance coverage on our contract, we reopened an inquiry with our subcontractor's insurance carriers. These inquiries resulted in information from the insurance carriers that Excel was not listed as an additional insured, or the carriers had never issued the policies that our subcontractor had indicated that Excel was covered under. We were also able to ascertain there was no coverage at that time. Based upon Excel's contract requirements, we terminated our contract with our subcontractor.

As a courtesy to the MTA, I met with Art Kimball, the head of your department, and provided him with the documentation upon which we had based our decision. Following that meeting, I received a phone call from Carey Peck, a supervisor of the Procurement Department, requesting a review of the documentation. I complied with Mr. Peck's request and arranged for a meeting at his office. Mr. Peck reviewed the documents and advised me my subcontractor did not have any insurance.

Subsequent to our meeting, I received a phone call from Mr. Peck in which he stated he had talked with the subcontractor and determined that they now had insurance. I advised Mr. Peck that I had not received any such documents and I would review the documents if they were sent to me.

I also advised Mr. Peck of the letter from one of the alleged carriers stating that they had never issued such policy. This policy covered the 1993 - 1994 period. Mr. Peck advised me that he had been informed by the subcontractor that the information supplied to us and the MTA by the subcontractor on this policy was submitted in error and should never have been forwarded to us.

Ms. Tommye Williams
August 16, 1995

Page 2

I have a great deal of difficulty understanding this comment, however, since this was the insurance coverage that was submitted to us and the MTA. This same policy was presented to the Board of Directors of the MTA and verified by Pat Padillo, then head of the Equal Opportunity Department, that this was a valid policy in good standing with both the MTA and the prime contractor covered.

Mr. Peck also advised me that the subcontractor had valid insurance now. I explained to Mr. Peck that we are not concerned with current coverage, but with the coverage that was required under our contract.

Prior to attending a scheduled meeting out of town, I advised my administrative assistant, Linda Nelson, to check with the MTA Accounts Payable office regarding the delay of payment on our invoices. Since our determination that we were not covered under the subcontractor's insurance and the removal of the subcontractor from our contract, the payment of our invoices has been delayed. Mrs. Nelson contacted Ms. Axibal the morning of August 14th regarding our June invoice and was advised that the check was issued, but was being held. Ms. Axibal advised Mrs. Nelson to call Robert Vasquez. Mrs. Nelson left a message for Mr. Vasquez on August 14th and again on August 15th. Mr. Vasquez returned her call the afternoon of August 15th and advised her that she needed to talk to Tommye Williams because he did not know the situation and would rather not get involved.

Subsequent to this discussion, you called Mrs. Nelson who advised you that Mr. Hicks was out of town until August 16th and that she had received your fax. She told you that she was advised by Accounting that our check was being held. You informed Mrs. Nelson that it was embarrassing to the MTA that services have been rendered and paid to Excel but not passed on to the subcontractor and that you were concerned that someone is telling board members and supervisors of the situation that the subcontractor is not getting paid and there was a board agenda coming up regarding Excel's contract extension. You assured Mrs. Nelson that you would call Accounting to arrange for Mr. Hicks to pick up the check; however, you first needed to talk to Mr. Hicks regarding the situation.

I am concerned that the MTA is interceding in a private contract between Excel and its subcontractor. After receiving faxed copies of alleged coverage, we took steps to verify the insurance coverage. To this date, we have received verification of coverage from one carrier stating that Excel was covered from 6/22/95 until 7/8/95.

Ms. Tommye Williams
August 16, 1995

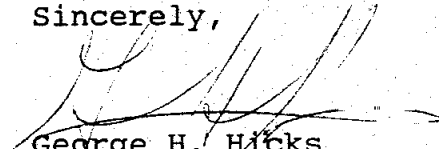
Page 3

We are also in receipt of a document from the latest added insurance carrier, replacing the previous certificate supplied, that they had reviewed their file and Excel was not covered under the policy provided.

Since our subcontractor has failed to provide proof of insurance or a bond covering Excel, we are withholding funds to the subcontractor as a bond to offset any potential claims until the time limit for filing claims has expired.

I am well aware from personal conversations with my subcontractor who alleges that he has friends on the Board of Supervisors as well as the City Council and that he knows what he has to do in order to get their help. He also advised me that he knows that he was going to get the cash accounting contract. I believe, based upon your remarks to Mrs. Nelson as well as your involvement in this matter, that our contract is being jeopardized based upon our requirement of having our subcontractor provide the required insurance set forth in our contract. I can only conclude that this is the second time during the course of our relationship with the MTA that our contract is being placed in jeopardy because of the subcontractor's failure to provide insurance and licensing required to meet the requirements of the MTA and our contract.

Sincerely,



George H. Hicks
President

GHH/ljn

cc: Larry Roberts, Esq.