

APRIL 1, 1997

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Los Angeles County
Metropolitan
Transportation
Authority

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TO: BOARD OF DIRECTORS

FROM: LINDA BOHLINGER, INTERIM CHIEF EXECUTIVE OFFICER

SUBJECT: APPROVE THE PLAN TO COMPLETE THE
CLOSED CIRCUIT TELEVISION PROCUREMENT
FOR THE METRO RED LINE

RECOMMENDATION

Approve:

- a) termination of ETA Technologies Corporation (ETA) as prime contractor on Contract No. B643, Closed Circuit Television (CCTV) procurement; and
- b) authorize the negotiation of the completion contract for the B643 Contract work with the existing B643 subcontractor, DPC Enterprises, Inc., dba Design Tech, for the remaining balance of the terminated B643 Contract, plus additional costs Not-To-Exceed (NTE) \$400,000, to result in a succeeding CCTV Completion Contract No. B643S.

Within Construction Committee authority: Yes No

ORGANIZATIONAL IMPACT

The above actions will maintain the project schedule for Metro Red Line, Vermont/Hollywood Corridor, allowing CCTV equipment to be delivered to the B648B Communications Installation Contractor on the delivery milestone date of June 1, 1997, thereby mitigating possible delay claims.

BUDGET IMPACT

The funds for this action are available within the Board approved project budget of \$1,640,781,000. This recommended action will negotiate the current remaining B643 Contract Balance of \$707,373, plus up to \$400,000, in order to result in a succeeding CCTV Completion Contract No. B643S, with a Total Contract Value NTE \$1,307,373. The Forecast Final cost, including this re-award and other anticipated options and changes for this completion contract, is \$2,641,000. This recommended action does not impact the MTA Fiscal Year Budget or the Sources of Funds. Project Contingency will not be affected.

Potential Cost Recovery: Yes No

There is no Performance Bond on this Contract per a July 23, 1993 decision by MTA Risk Management.

ALTERNATIVES CONSIDERED

A rebid of the Contract was considered (this may be a viable option in the future for Segment 3, North Hollywood, Mid-City, and East Side Extension). However, rebid and award of the Segment 2 Vermont/Hollywood procurement would take a minimum of nine (9) months, plus a four (4) month design phase required after award.

Additional costs would be incurred in rebidding the Contract, plus additional costs for construction management and EMC services associated with rebid and second design phase submittal processing. In addition to the costs mentioned, the B648B Communications Installation Contractor might choose to pursue possible costs resulting from the delay in equipment delivery.

BACKGROUND

The B643 contractor, ETA, has not been able to perform the work awarded to it in January 1994. The company is unable or unwilling to pay its obligations under the Contract. Because of its inability or unwillingness to pay subcontractors and suppliers, ETA has failed to meet its obligations in processing purchase orders, and is more than five (5) weeks behind with the long-lead procurements necessary to meet the scheduled delivery on June 1, 1997. ETA has lost most of its key personnel on the Contract.

Despite continuous efforts by the MTA and its Construction Manager to mitigate the situation, ETA is unable or unwilling to pay the suppliers and subcontractors. ETA has also failed to provide evidence of any financial capability to proceed with the work and has failed to respond to either the first or second Cure Notices. In spite of Contract provisions that require ETA to allow audits of its records, ETA refused to grant access to MTA auditors in an attempt to conduct a financial capabilities audit.

SMALL BUSINESS PARTICIPATION

The Contract has a Disadvantaged Business Enterprise (DBE) participation of 19.1%. Currently ETA has attained 10.45% towards the goal. The majority of the DBE value is in the documentation published to meet requirements under the Contract Data Requirements List. The negotiated Completion Contract B643S is with Design Tech, which was an MTA certified DBE and will be held to the same goal.

Prepared by:

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Metro Red Line, Wilshire and Vermont/Hollywood Corridors



Charles W. Stark
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