

**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

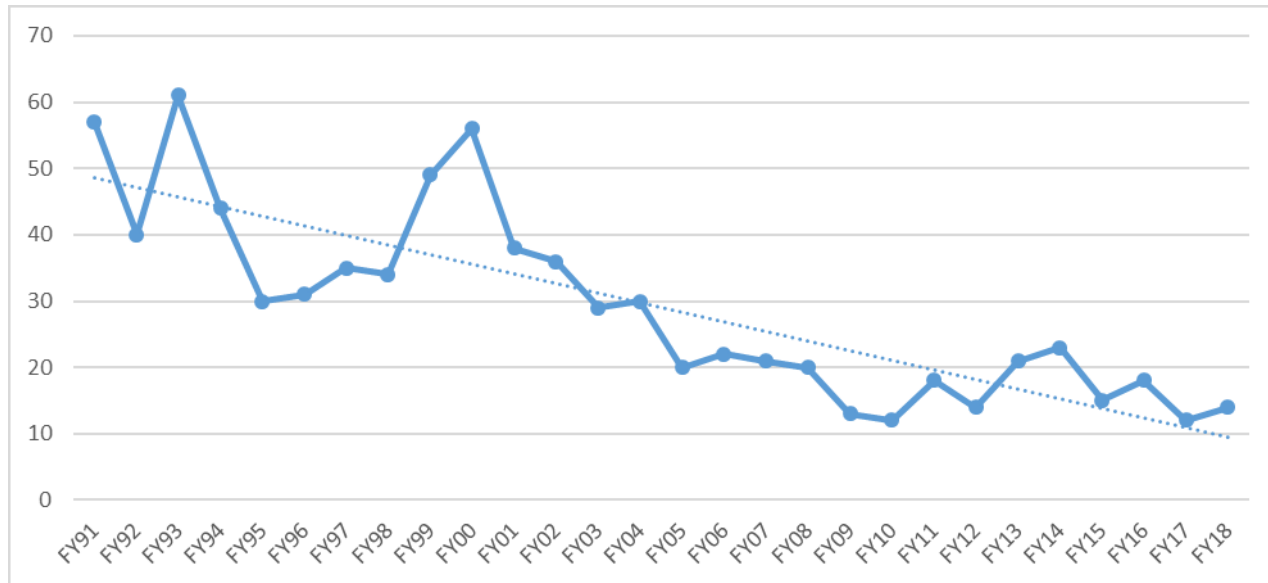
Findings

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

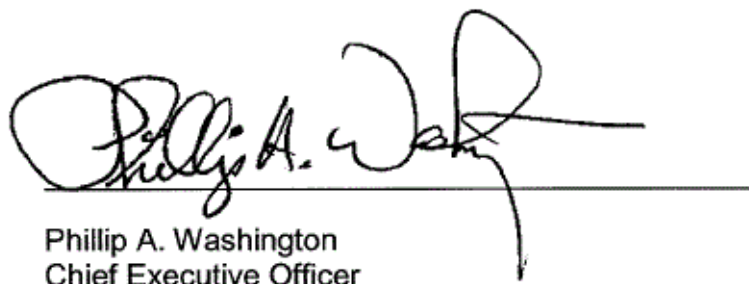
Attachment A - Procurement Summary

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