



Board Report

File #: 2022-0304, File Type: Contract

Agenda Number: 7.

EXECUTIVE MANAGEMENT COMMITTEE JUNE 16, 2022

SUBJECT: MYSTERY RIDER PROGRAM (ADA/LEP)

ACTION: APPROVE CONTRACT AWARD

RECOMMENDATION

AUTHORIZE the Chief Executive Officer to award a five-year firm-fixed unit rate Contract No. PS43587000 with Mobility Advancement Group to provide mystery rider observations for an amount not-to-exceed \$835,992 for the three-year base term, \$306,984 for the first option year, and \$322,332 for the second option year, for a total not-to-exceed amount of \$1,465,308, effective August 1, 2022, subject to resolution of protest(s), if any.

ISSUE

The current Mystery Rider Program (MRP) contract, executed in July 2017, will expire on July 31, 2022. MRP monitors and reports on the effectiveness of Metro's fixed-route bus services and all of Metro's contracted bus services (operated by outside bus contractors) in their adherence to Americans with Disabilities Act (ADA) requirements, accessibility, Title VI of the Civil Rights Act of 1964 (Title VI), Executive Order 13166 (Limited English Proficiency), and related operating policies and procedures. In addition, Metro must ensure that its many subrecipients of federal funding are in compliance with the ADA, Title VI, and Executive Order 13166.

BACKGROUND

On August 4, 2011, Metro agreed to a Settlement Order as a result of a lawsuit filed by wheelchair patron Cathy Gaddy and five other wheelchair plaintiffs, who alleged that Metro failed to meet the requirements of the American with Disabilities Act. The Gaddy Settlement Order included provisions that significantly improved Metro's compliance with the ADA, including the implementation of an enhanced Mystery Rider Program to monitor ADA compliance and identify areas for improvement.

The topics observed through MRP include wheelchair boardings and pass-ups, compliance with procedures for wheelchair securement, proper wheelchair securement, the offering of lap and shoulder belts, and treatment of customers with disabilities.

The Mystery Rider Program also monitors several other areas related to accessibility, LEP, safety,

and customer service.

The terms of the Settlement Order were scheduled to end in 2016, however, in March 2015, the Board approved the continuation of the settlement terms to ensure that Metro continues to fulfill the intent of the Gaddy Settlement Order and maintains a high level of service for people with disabilities.

DISCUSSION

The purpose of the Mystery Rider Program (MRP) is to monitor, test and report on Metro fixed route bus services, (including Metro's contracted bus services) for compliance with the requirements of the ADA, Title VI of the Civil Rights Act of 1964 and additional accessibility-related codes, policies, and procedures. Metro is also required to ensure subrecipients of federal funding distributed by Metro are compliant with required regulations and policies.

Accessibility / ADA MRP Observations

On a quarterly basis, Metro requires up to 600 observations of Metro bus services, 120 observations of contracted bus services, and 30 of Metro Micro's services for ADA and accessibility compliance. Metro utilizes quarterly observations to analyze statistical data, track trends and patterns, identify deficiencies, and generate reports.

In addition to these observations, up to 120 "special rides" (not to exceed 60 Metro special rides and 60 subrecipient special rides) will be required of the Mystery Rider contractor each quarter. Special rides are as-needed observations of Metro's bus and Metro Micro services, and services Metro Subrecipients providing fixed route transit services.

Limited English Proficiency (LEP) Observations

To ensure that Metro and its subrecipients are in compliance with the Limited English Proficiency (LEP) Policy under Title VI of the Civil Rights Act of 1964 and Executive Order 13166, Metro requires up to 120 quarterly in-person and phone contact observations of Metro employees through its system. The observations and contacts monitor and evaluate the compliance of Metro employees who have contact with the public with the Language Assistance Program of Metro as mandated by Title VI and Executive Order 13166. This will include evaluating Metro's bus services, contracted bus services and other frontline employees having direct contact with customers including call center personnel.

In addition to these observations and contacts made of Metro employees and services, up to an additional 90 in-person observations and 30 telephone contacts of Metro's subrecipients will be required of the Contractor each quarter.

DETERMINATION OF SAFETY IMPACT

MRP will help ensure that customers with disabilities and other needs will receive the safest and most accessible service from Metro, its contracted lines, and its subrecipients. MRP will use the data gathered from the accessibility and ADA observations to address potential accessibility-related maintenance and operations issues and will help in improving safety for customers who ride the system.

FINANCIAL IMPACT

Funding of \$259,382 for this service is included in the FY23 budget in Cost Center 2413, Office of Civil Rights, Racial Equity, and Inclusion, under project number 100002, and project name Mystery Rider Program.

Since this is a multi-year contract/project, the Cost Center Manager and deputy chief Civil Rights Programs will be accountable for budgeting the cost in future years, including any options exercised.

Impact to Budget

The source of funds is Prop A, Prop C and TDA Administration, which is not eligible for bus and rail operating and capital uses.

EQUITY PLATFORM

The solicitation was open to Metro certified small businesses. The recommended firm is a Metro certified small business firm. The recommended firm made a 100% SBE commitment and is meeting the Small Business Prime Set-Aside requirement established for this project. The MRP specifically monitors service delivery to marginalized groups such as customers with disabilities, customers with LEP, low-income riders, and older adults. The contract requirements enable Metro to go above and beyond to ensure that not only federal requirements are being met, but that Metro is identifying areas of improvement for vulnerable and marginalized riders. There are no negative equity impacts as a result of the proposed action.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The recommendation supports strategic plan goals #2 (Deliver outstanding trip experiences for all users of the transportation system) and #3 (Enhance communities and lives through mobility and access to opportunity). The Mystery Rider Program will ensure that Metro is providing the highest level of service for vulnerable populations, particularly for customers with disabilities, older adults, and those with limited English proficiency.

ALTERNATIVES CONSIDERED

One alternative is to reduce the scope of work to encompass mystery rides for solely Metro's fixed route system; however, this alternative is not recommended as Metro's contracted lines and subrecipients are also required to adhere to the Americans with Disabilities Act and Title VI of the Civil Rights Act of 1964. ADA regulations and California state law guarantee the civil rights of people with disabilities to receive equal access to all public transportation services. These laws require that transit services and vehicles be readily accessible to, and usable by, people with a wide range of disabilities and who may use aids such as wheelchairs, attendants, service animals, and respirators or portable oxygen supplies. The Mystery Rider Program is a vital tool in monitoring the adherence to the aforementioned statutes; improving Metro's services, contracted services, and subrecipients; and ensuring compliance with federal regulations.

NEXT STEPS

Upon approval by the Board, staff will execute Contract No. PS43587000 with Mobility Advancement Group to provide mystery rider observations effective August 1, 2022.

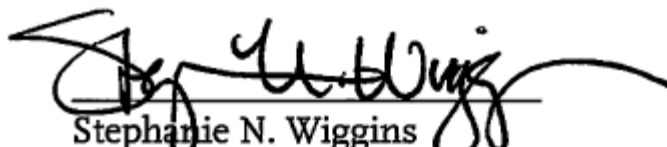
ATTACHMENTS

Attachment A - Procurement Summary

Attachment B - DEOD Summary

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