

REGIONAL TRANSIT ISSUE PAPER

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
2	10/24/11	Open	Action	09/14/11

Subject: Approving the Rejection of the Nonresponsive Bid from Batteries USA, Inc. and Awarding a Contract to Hoppecke Batteries, Inc. for UTDC Battery Procurement

ISSUE

Whether or not to approve the rejection of the nonresponsive bid from Batteries USA, Inc. and award a contract to Hoppecke Batteries, Inc. for UTDC Battery Procurement.

RECOMMENDED ACTION

Adopt Resolution No. 11-10-____ Approving the Rejection of the Nonresponsive Bid from Batteries USA, Inc. and Awarding a Contract to Hoppecke Batteries, Inc. for UTDC Battery Procurement.

FISCAL IMPACT

Budgeted:	Yes	This FY:	\$	257,760
Budget Source:	Capital	Next FY:	\$	0
Funding Source:	Federal and Local	Annualized:	\$	257,760
Cost Cntr/GL Acct(s) or	910800	Total Amount:	\$	257,760
Capital Project #:	R085.07.09.01 (UTDC LRV Retrofit, Procure Electrical Material)			
Total Budget:	\$ 260,206			

DISCUSSION

On February 23, 2009, the Board increased the General Manager/CEO's procurement authority to \$250,000 for any project funded in whole or in part by the American Recovery and Reinvestment Act of 2009 ("ARRA"). Specifically, the Board delegated to the General Manager/CEO the authority to release all solicitations of bids and proposals.

Among the projects funded by ARRA is the purchase of UTDC Batteries. An independent cost estimate for the proposed purchase determined that the purchase would not exceed \$250,000, as such; the Invitation to Bid (ITB) for UTDC Battery Procurement was released on November 19, 2010 under the General Manager/CEO's authority. On January 13, 2011, 4 bids were received. On February 8, 2011, the General Manager/CEO rejected all bids and authorized staff to re-bid the project.

On March 18, 2011, the ITB for UTDC Battery Procurement was re-released. Two bids were received on July 26, 2011. Batteries USA, Inc. bid \$254,400 and was the apparent low bidder. Hoppecke Batteries bid \$257,760. However, after a careful review of the battery model (number

Approved:

Presented:

Final 10/12/11

General Manager/CEO

Chief Operating Officer

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SAFT SRM 300) submitted by Batteries USA, Inc., staff determined that the proposed model battery did not meet all of the salient characteristics stated in the technical specifications. After determining that the bid from Batteries USA, Inc. was nonresponsive, staff consulted with the Chief Legal Counsel who concurred. Staff recommends that the Board approve the rejection of the nonresponsive bid from Batteries USA, Inc.

On August 11, 2011, RT received a protest from Saft America, Inc., the battery supplier for Batteries USA. Saft America, Inc. challenged Hoppecke Batteries, Inc.'s ability to meet the 60% US content required by Buy America for Rolling Stock and requested an audit. RT staff, following the protest procedures outlined in the ITB, responded that according to 49 CFR §661.15(a), "It is presumed that a bidder or offeror who has submitted the required Buy America certificate is complying with the Buy America provision." In accordance with the ITB, Section 2.9, RT gave Saft America, Inc. 10 calendar days to give written notice that the protest is withdrawn or alternatively, to request further consideration of its protest. RT informed Saft America, Inc. that if they failed to deliver such notice by the deadline, the protest would be deemed withdrawn. Saft America, Inc. failed to deliver a notice and a letter was faxed on September 7, 2011, informing all interested parties that the bid protest was deemed to be withdrawn and RT intends to award the contract to Hoppecke Batteries, Inc.

Hoppecke Batteries, Inc.'s bid is only 3.1% over the project Independent Cost Estimate of \$250,000 and the bid has been determined to be fair and reasonable. Staff recommends that the Board award the contract to the responsive and responsible low bidder, Hoppecke Batteries, Inc., for an amount not to exceed \$257,760.

RESOLUTION NO. 11-10-_____

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

OCTOBER 24, 2011

**APPROVING THE REJECTION OF THE NONRESPONSIVE BID FROM BATTERIES
USA, INC.
AND
AWARDING A CONTRACT TO HOPPECKE BATTERIES, INC. FOR UTDC BATTERY
PROCUREMENT**

BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

That, the bid submitted by Batteries USA, Inc., in response to Sacramento Regional Transit District's Invitation to Bid for Battery Procurement (RT Bid No. 2011016) is determined to be nonresponsive and is hereby rejected because the battery model bid does not meet all of the salient characteristics stated in the technical specifications.

THAT, the Agreement between Sacramento Regional Transit District, therein referred to as "RT," and Hoppecke Batteries, Inc., therein referred to as "Contractor," whereby Contractor agrees to provide Batteries, as specified, for an amount not-to-exceed \$257,760, is hereby approved.

THAT, the Chair and General Manager/CEO are hereby authorized and directed to execute said Contract.

DON NOTTOLI, Chair

A T T E S T:

MICHAEL R. WILEY, Secretary

By: _____
Cindy Brooks, Assistant Secretary