

REGIONAL TRANSIT ISSUE PAPER

Revised 6/11/12 - Pages 1, 13 and Resolutions

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
11	06/11/12	Open	Action	06/11/12

Subject: Denying Alstom Transportation Inc.'s Protest and Conditionally Awarding a Contract for UTDC Light Rail Vehicle Refurbishment to Siemens Industry, Inc.

ISSUE

Whether to: (1) deny Alstom's protest and conditionally award a contract for UTDC Light Rail Vehicle Refurbishment to Siemens Industry, Inc.; or (2) reject all proposals for UTDC Light Rail Vehicle Refurbishment

RECOMMENDED ACTION

- A1.** Adopt Resolution No. 12-06-____, Denying Alstom Transportation Inc.'s Protest; and
- A2. *Adopt Resolution No. 12-06-____, Conditionally Awarding a Contract for UTDC Light Rail Vehicle Refurbishment to Siemens Industry, Inc.; or***
- B.** Adopt Resolution No. 12-06-____, Rejecting all Proposals for UTDC Light Rail Vehicle Refurbishment.

FISCAL IMPACT

Budgeted:	Yes	This FY:	\$
Budget Source:	Capital	Next FY:	\$
Funding Source:	ARRA, State Prop 1B*	Annualized:	\$
GL Acct(s)	GL: 910800	Total Amount:	\$
Capital Project #:	WBS: R085		
Total Budget:	\$19,676,099.70		

American Recovery and Reinvestment Act (ARRA) of 2009#:	\$4,866,997	
Awarded Prop 1B:	\$10,931,672	
Future Prop 1B:	\$4,728,066	*Pending – requested allocation June 2011
Total:	\$20,526,735	

#To meet federal requirements, these funds must be expended by September 2015 and the FTA goal is to have the funds fully expended by September 30, 2013. *The contract contains a clause that addresses budget shortfalls and also contains a termination for convenience clause in case future state funding is not available.

DISCUSSION

A. The Procurement

In 2003, RT purchased 21 Urban Transportation Development Corporation (UTDC) light rail vehicles (LRVs) from Santa Clara Valley Transportation Authority (VTA). The LRVs require refurbishment and replacement of some systems to meet RT's operational requirements. On April 5, 2010, and June 22, 2010, RT contracted with LTK Engineering (LTK) through Work Orders

Approved:

Presented:

Final Revised 6/11/12
General Manager/CEO

General Manager/CEO

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under the General Engineering Support Services contract to assist RT in preparing specifications for the refurbishment project. Both LTK and RT staff conducted research by traveling to Utah to interview Utah Transit Authority's (UTA) Maintenance and Contract Project personnel who managed the refurbishment of UTA's 29 UTDC LRVs. From these "lessons learned," RT identified several problem issues that UTA encountered to avoid. LTK also conducted an analysis of the UTDC LRVs and provided an assessment of their current state. LTK and RT staff created the technical specifications for the refurbishment. LTK also prepared an Engineer's Estimate of the anticipated cost of the project, including (1) job classifications and labor hours estimated to complete the refurbishment, multiplied by average fully-burdened labor rates for those workers; and (2) the estimated materials cost. LTK has provided on-going technical support to RT staff during this negotiated procurement.

B. Procurement Strategy – Negotiated Procurement

On February 23, 2009, the Board approved Resolution 09-02-0035 to delegate procurement authority to the General Manager/CEO for projects funded in whole or in part by the 2009 American Recovery and Reinvestment Act (ARRA) funding, including authorization to release a Request for Proposals (RFP) for UTDC Light Rail Vehicle Refurbishment. The procurement method selected for this project is a "Best Value" procurement (as stated in the Federal Transit Administration's Circular 4220.1F) which means a competitive, negotiated procurement process in which RT reserves the right to select the most advantageous offer by evaluating and comparing factors in addition to cost or price, such that a public agency may acquire technical superiority even if it must pay a premium price.

The RFP was released on May 19, 2011. The solicitation was advertised in publications of general circulation, advertised in Transit Intelligence (e-newsletter), and posted on RT's website under Contracting Opportunities. A pre-proposal meeting was held on June 1, 2011, and three site visits were held in June and July to provide a reasonable amount of time for prospective Proposers and potential subcontractors to conduct an inspection of all UTDC Vehicles. The Proposal due date was extended at the request of potential proposers. On September 8, 2011, responsive proposals were received from Alstom Transportation, Inc. (Alstom) and Siemens Industry, Inc (Siemens).

A seven-member Selection Committee was convened to review and score the submittals; the Selection Committee consisted of: Vern Barnhart, Director, Light Rail; Darryl Abansado, Director, Civil and Track Design; Laura Espinoza, Maintenance Superintendent – Light Rail; Eric Oparko, Quality Assurance Administrator; Craig Norman, Senior Systems Engineer; Reggie Silva, Maintenance Supervisor; and Kerry Kopp, Maintenance Trainer – Light Rail.

The Selection Committee scored the written proposals, opened the sealed price proposals, and the scoring resulted in a determination that both firms were in the competitive range. The total score possible was 100 points from each evaluator (700 points total), with 60 points available from each evaluator (420 points total) for the technical portion, including:

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- 10 points for firm experience, financial capacity, subsystem supplier experience and manufacturing capability;
- 3 points for referenced projects;
- 12 points for project staffing and experience; and
- 35 points for the technical submittal—approach to accomplish the work, quality control, compliance with technical specifications, relevant design and manufacturing of subsystems, and project schedule)

A total of 40 points were available from each evaluator for the price (280 points total), with the lowest price receiving the full 40 points and the other proposer receiving a pro-rated pricing score determined by a mathematical formula.

WRITTEN EVALUATIONS	Possible Points*	Alstom*	Siemens*	Siemens Point Advantage
Part 1 - The Firm	70	51	61.5	10.50
Part 2 - Referenced Projects	21	16	14	-2.00
Part 3 - Project Staffing & Experience	84	40.5	77	36.50
Part 4 - Technical Submittal	245	166.5	200.5	34.00
Part 5 - Price Proposal	280	280	224	-56.00
Total:	700	554	577	23.00

*Reflects aggregate points from all seven evaluators

The Selection Committee concluded that oral presentations were unnecessary and opted to enter directly into formal negotiations with both firms. A contract negotiation meeting was held on site with each firm. RT staff met with Alstom on October 27, 2011 and with Siemens on October 28, 2011, followed by correspondence back and forth to negotiate the technical specifications, price, terms, and conditions. Final Offers were requested on January 31, 2012.

After final evaluation and scoring of all Proposals and Final Offers, and completion of a cost analysis, the results were as follows:

FINAL OFFERS	Possible Points*	Alstom*	Siemens*	Siemens Point Advantage
Part 1 - The Firm	70	43.5	62.5	19.00
Part 2 - Referenced Projects	21	14.5	15.5	1.00
Part 3 - Project Staffing & Experience	84	26.5	79	52.50
Part 4 - Technical Submittal	245	159	206	47.00
Part 5 - Price Proposal	280	280	224	-56.00
Total:	700	523.5	587	63.50

*Reflects aggregate points from all seven evaluators

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Siemens received higher scores than Alstom in every category other than price.

The Selection Committee determined that the Final Offer from Siemens was the most advantageous proposal for RT despite the higher price, for the reasons set forth below.

C. Justification for Award

1. Evaluation of Siemens proposal

a. The Firm

Siemens Mobility Division in Sacramento specializes in the design, systems integration, assembly, testing, commissioning, and aftermarket support of LRVs and employs over 700 experienced professionals, engineers, technicians, and skilled workers. Siemens' core experience is in light rail vehicle manufacturing and it is the number one manufacturer of LRVs in North America. RT's experience with Siemens support has been consistent since the purchase of the U2a Vehicles in approximately 1986. Siemens has the financial strength and capability to finance the work. All of Siemens' proposed major subsystems suppliers met RT's requirements and have proven success with Siemens. These subsuppliers have been producing similar systems in the light rail industry for many years.

b. Referenced Projects

Siemens' experience in vehicle overhaul and retrofits encompasses both complete vehicle overhauls as well as specific system retrofits. Its refurbishment projects include all of the major elements, such as trucks, HVAC, brakes, doors, and communication systems for customers including San Diego, St. Louis, Los Angeles, Pittsburg, and Edmonton. RT's specific experience with Siemens includes the communication system retrofit for the Siemens U2a light rail vehicles. Through redesign of Construcciones y Auxiliar de Ferrocarriles (CAFs) original design, Siemens engineering increased productivity and saved labor costs on the retrofit.

c. Project Staffing and Experience

Siemens intends to perform the bulk of the activities locally at RT and at Siemens' French Road facility. Its experienced engineering staff is based on French Road, which will make it convenient for RT staff to coordinate work, perform inspections, and attend meetings.

The Project Manager assigned to this project has impressive qualifications and extensive light rail experience with Siemens and holds a master's degree in electrical engineering. He has a proven record of experience with RT in successfully managing the LRV communications system retrofit in

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2006. For that project, he demonstrated his ability to bring the project in on time, within budget, and without change orders or additional charges. Siemens also proposed modifications that enhanced productivity and offered long-term ease-of-maintenance to RT's maintenance staff. RT's overall experience with Siemens has been favorable.

Siemens has immediate access to engineers, Quality Control inspectors, and additional labor to support a major refurbishment project such as this one.

d. Technical Submittal

Siemens, in its written proposal and during contract negotiations, demonstrated a clear understanding of the project by fully analyzing and addressing every step in the refurbishment process, asking detailed questions, and providing an in-depth response to all areas of the technical requirements.

The Evaluation Committee has confidence that Siemens will provide the aftermarket support that RT will need. Warranty work will be provided at the Sacramento facility, where warranty claims can be handled in a more expeditious and timely manner, given Siemens' immediately-available resources.

2. Evaluation of Alstom's Proposal

a. The Firm

Alstom Transport serves the rail market by supplying fully-integrated commuter rail transport systems and a full range of rolling stock products, as well as traditional and advanced signaling systems, infrastructure solutions, service and maintenance. Alstom has a Mare Island, California location for refurbishment of commuter rail vehicles for Amtrak. Alstom manufactures commuter rail vehicles. As a firm, Alstom is experienced in rebuilding independent systems on commuter rail. Alstom does not have recent experience in refurbishing light rail vehicles. The propulsion system Alstom manufactured for RT's CAF fleet of LRVs has experienced persistent problems. During negotiations, the individuals representing Alstom displayed a lack of knowledge about the existing relationship with RT and the problems experienced with the propulsion system, creating concerns among the evaluators about corporate cohesion and long-term support. RT has no concerns regarding Alstom's financial capacity.

Alstom's original major subsupplier for the Auxiliary Power System (APS) had no experience in designing and manufacturing an APS system and was rejected by the evaluators. The evaluators questioned Alstom's decision to choose an unknown, unproven APS supplier that had never designed the most complex sub-system required for the LRVs. During negotiations, Alstom, at RT's request, proposed a replacement manufacturer that the evaluators accepted. RT has no concerns regarding Alstom's other proposed subsuppliers and manufacturing capabilities.

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b. Referenced Projects

Alstom's proposal provided references for commuter and heavy rail projects but no light rail experience. Staff performed research using referenced agencies' websites, trade-specific websites, and contacted Caltrans for additional information; however, ultimately, the evaluators determined that Siemens understanding of LRVs and having several overhaul projects outweighed Alstom's many projects working on commuter and heavy rail.

c. Project Staffing and Experience

Alstom proposed to hire temporary personnel for requisite disciplines, including Quality Control engineers, once a contract was awarded. Alstom did not indicate that it has readily-available additional resources required to support a major refurbishment project such as this one.

During contract negotiations, Alstom, at RT's request, proposed a replacement Project Manager. After review of his credentials and his limited experience at Alstom, the Selection Committee had continuing concerns with the Project Manager and the entire project team because of their lack of rail refurbishment experience and, specifically, lack of experience with light rail vehicles.

d. Technical Submittal

The Selection Committee determined that Alstom failed to demonstrate it has a clear understanding of the project. Its written proposal lacked detail, and during contract negotiations it was apparent that Alstom does not have existing infrastructure, tooling, skills, experience or staffing to complete the work on the UTDC LRV refurbishment. Due to the lack of details in Alstom's proposal, combined with the inexperienced staff proposed for this project, the Selection Committee saw a greater risk for Contract Change Orders, additional charges, and delays.

Alstom proposes to transfer warranty and aftermarket support to Train-Life Service (TLS) located in Illinois after completion of the project. A major concern for the refurbishment project is that the local Alstom project team is different than the TLS Midwest support team and TLS may not be able to maintain the equipment due to its lack of knowledge of the project. Since TLS is located in the Midwest, repairing equipment would be costly in terms of freight costs and added turn-around time. The evaluators felt there was a risk to RT of having LRVs out of service.

3. Pricing Analysis

<u>Source</u>	<u>Total Contract Price</u>
Siemens	\$19,890,099.70*
Alstom	\$15,976,270.00
Engineering Estimate	\$20,936,520.44

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*Price later reduced after negotiating the use of a Parent Company Guarantee in lieu of Performance Bond.

Price points were allocated on a mathematical basis in accordance with the RFP. Alstom received the maximum allowed points for submitting the lowest price.

However, Staff was concerned that Alstom's proposal, with its lack of detail, did not accurately reflect the amount of work required to successfully complete the refurbishment project. A lower-priced proposal can result in more Contract Change Orders. For example, at UTA, a 55% overrun in the project costs was contributed to by a vague scope of services and proposal. Alstom also front-loaded the milestone payment schedule for its project schedule and vehicle design, meaning that approximately one-fourth of the entire contract price would be paid out by the time the first vehicle is completed. In contrast, Siemens' up-front costs were significantly lower and vehicle design costs are spread out throughout the life of the project. Although these concerns did not affect the pricing scores, they did lower Alstom's technical submittal score because they increase the project and schedule risk for RT.

Staff believes that Siemens pricing reflects the true costs of the project. Siemens price is lower than the Engineer's Estimate and has been determined to be fair and reasonable. Since technical superiority is considered vital to a successful project, RT reserved the right to award a contract on other than the lowest-price basis if a higher-priced Proposal was determined to be more advantageous to RT.

4. Summary of Trade-offs

The trade-offs for selecting the higher-priced proposer are as follows: Siemens has the technically superior proposal that is comprehensive; has better project management and support staff; and has solid light rail experience. Siemens' approach to the work is superior to Alstom's. For example, prior to the design phase, Siemens proposes to tear down the first 2 LRVs and remove the truck assemblies from the last LRV to use as floaters. The advantage to Siemens' methodology is that it provides a means to uncover issues that can be resolved during the design process and adds flexibility to the project schedule. In contrast, Alstom's proposed plan is to begin the design phase prior to vehicle teardown; therefore, much greater risk exists for Contract Change Orders due to subsequently necessitated design changes.

Siemens will provide aftermarket warranty at its local facility with staff that has UTDC LRV knowledge. Siemens employees are trained specifically on light rail vehicles and will continue to be available after project completion. In contrast, Alstom would hire local temporary employees and, after project completion, transfer all aftermarket support for the vehicles to TLS in Illinois. RT's experience is that Alstom's support of its propulsion system installed on CAF vehicles is inconsistent and frequently causes vehicles to be out of service. In fact, Alstom has been unable to repair some of its own components. Alstom has, at times, taken up to a year to return repaired parts to RT. RT believes that Siemens will provide more timely aftermarket support.

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The Selection Committee discussed the trade-offs for each proposal and agreed that Siemens submitted the technically superior proposal that provides less risk to RT and has the greatest potential for a successful and timely outcome. Siemens is financially sound and has the capability in terms of financial responsibility and personnel required to accomplish the work.

Pursuant to the revised Disadvantaged Business Enterprise (DBE) regulation in 49 C.F.R. Part 26 and RT's revised DBE Program, no DBE participation goal was established for this project.

The RFP requirements included a Performance Bond or Irrevocable Letter of Credit for contract execution. During contract negotiations, Siemens and RT agreed to instead use a Parent Company Guarantee (PCG). The form of the PCG was agreed upon by both parties and resulted in a cost savings of \$214,000. The total contract amount will be reduced by \$214,000 from \$19,890,099.70 to \$19,676,099.70.

Siemens Industry, Inc. completed the required Buy America Certificate for Rolling Stock that certifies compliance with the requirements of 49 U.S.C. Section 5323(j)(1), and the applicable regulations in 49 C.F.R. Part 661. The required Buy America Pre-Award Audit will be completed after the Board makes conditional award of the Contract.

D. Bid Protest

All protest documentation is included in Attachment A.

The following is a chronology of events that have occurred regarding the Protest.

<u>DATE</u>	<u>EVENT</u>
2/21/12	RT staff issued letters to both Alstom and Siemens of its intent to recommend a conditional award (subject to pre-award Buy America audit) of the Contract to Siemens.
2/23/12	Alstom submitted a properly-filed protest (hereinafter referred to as "Protest") protesting Staff's decision to recommend award of the Contract to Siemens. The grounds for protest were stated as: (1) RT may have abused its discretion by making an "arbitrary or capricious" decision that the proposal from Siemens was superior; and (2) RT's application of its evaluation process may be flawed because it does not allow for pre-award debriefing.
2/28/12	RT staff issued a preliminary response letter to Alstom addressing the initial arguments made by Alstom and providing notice that a meeting had been set for March 8, 2012, at which Alstom and RT staff would attempt to resolve the Protest.

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- 3/8/12 Meeting regarding protest held with RT representatives and Alstom representatives.
- 3/13/12 Alstom submitted a letter to RT requesting further consideration of its Protest. Alstom restated its grounds for the protest: (1) RT's conclusions regarding Alstom's refurbishment experience were not based on objective criteria; (2) RT's conclusions regarding potential deficiencies in Alstom's capabilities were incorrect; (3) RT's interpretation of the results of the negotiations were capricious; (4) results of the application of the mathematical price calculation are questionable; and (5) the evaluation process, even if properly applied, led to a result that is not most advantageous.
- 3/22/12 Documents that RT relied upon to make its recommendation were sent to both Alstom and Siemens.
- 4/5/12 Alstom submitted a letter to RT stating points which it felt deserve further consideration, specifically: (1) Alstom has more extensive overhaul and modernization experience; (2) the Siemens proposal shifts costs and risk to RT; (3) the Siemens proposal delays the delivery by 60 days; and (4) the evaluation process unfairly favored Siemens because it was a "local" company.
- 4/18/12 RT opted to seek the services of an independent investigator to further investigate the protest. A contract was executed with Raul V. Bravo + Associates, Inc.
- 5/24/12 RT received the final report from the independent investigator. Based on the report, Alstom and Siemens were notified of the General Manager/CEO's decision to deny Alstom's protest and to recommend that the RT Board of Directors, which is the awarding authority, deny Alstom's February 23, 2012 protest and conditionally award the Contract for UTDC Light Rail Vehicle Refurbishment to Siemens Industry, Inc.
- 5/30/12 Alstom Letter to RT requesting the protest continue to the RT Board for decision.
- 6/4/12 Alstom Letter to RT with new evidence submitted for protest hearing.
- 6/4/12 Siemens Letter to RT, Statement to the Board.

E. Response to Alstom's Arguments

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The preliminary response letter issued on February 28, 2012 (included in Attachment A) addressed the initial arguments advanced by Alstom. The staff response to the remaining arguments (articulated in the March 13, 2012 and April 5, 2012 letters from Alstom) follows:

March 13, 2012 Letter

- (1) RT's conclusions regarding Alstom's refurbishment experience were not based on objective criteria

As discussed above, while Alstom, as a firm, has extensive heavy rail refurbishment experience, its lack of light rail experience, combined with the inexperienced project team and demonstrated lack of corporate cohesion, was appropriately considered by the evaluators and is reflected in Alstom's score in "The Firm", "Project Staffing and Experience," and "Technical Submittal" categories. Alstom's past corporate experience with refurbishment was appropriately credited in the "Referenced Projects" category.

- (2) RT's conclusions regarding potential deficiencies in Alstom's capabilities were incorrect.

For the reasons detailed above, regardless of Alstom's overall corporate capabilities, the evaluators had legitimate concerns about Alstom's abilities to perform on *this project* based on: lack of detail in the proposal, inexperienced project manager, an unidentified QC manager, and proposed temporary staffing.

- (3) RT's interpretation of the results of the negotiations were capricious

Alstom criticizes RT's use of the words "closed" or "acceptable" as part of the negotiations, arguing that those words gave the misleading impression that Alstom's response was adequate and would lead to a higher score in the final evaluation. In a negotiated procurement, the negotiations offer an *opportunity* for proposers to better their proposals. In this case, RT staff, including the evaluators, requested additional information from Alstom during the negotiation process. In many instances, the same information was presented in a different format, leading the evaluators to believe it would be fruitless to *again* request additional information. The "closed" designation simply meant that further discussions or negotiations would not improve Alstom's proposal. The evaluators felt it would be detrimental to the competitive process to essentially lead Alstom to the desired responses that would result in a superior proposal.

Alstom's criticism is also based on an erroneous assumption that the scores for the final proposal must be linear modifications of the scoring of the initial proposal and reflect only the "on paper" changes to the proposal. For example, Alstom criticizes a

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negligible reduction in the “referenced projects” score between the initial and final proposals.

As an initial note, the evaluators are not bound by their initial scoring and score the final proposals using a blank score sheet. The initial proposal, information from the negotiations, and the final proposal are all considered in the final scoring. In the case of the Referenced Projects category (where Alstom lost 1.5 points out of 21) the “value” of the referenced projects in demonstrating the experience necessary to complete RT’s project was reduced based on the evaluators’ determination that Siemens understanding of LRVs and experience with several overhaul projects outweighed Alstom’s many projects working on commuter and heavy rail.

(4) Results of the application of the mathematical price calculation are questionable

The pricing scores were determined in accordance with a strict mathematical formula, as discussed above. Alstom’s criticism is based on the fact that both Siemens and Alstom lowered their prices by approximately the same amount between the initial and final proposals. Alstom appears to be suggesting collusion between RT and Siemens to maintain the same point differential. There is no evidence to support this conclusion; the reduction in price by Siemens was based directly on agreed-upon clarification of and changes to the work. Moreover, given the significant difference in the technical scores, the idea that there was collusion to avoid the loss of a single point in the pricing score is not credible.

(5) The evaluation process, even if properly applied, led to a result that is not most advantageous to RT.

This is a criticism not of the evaluation process, but of the procurement methodology selected for this procurement. In procuring the refurbishment services, RT had three procurement methodologies available: (1) low-bid; (2) technically acceptable, lowest price; or (3) the “trade off” process. After carefully evaluating UTA’s experience, RT staff felt it was critically important to contract with a firm that demonstrated a clear understanding of the UTDC refurbishment project and was willing to commit resources to completing the project satisfactorily, on time, and on budget. For that reason, staff determined that it was appropriate to allocate 60% of the points in the evaluation process to technical capability.

Alstom had an opportunity, during the solicitation period, to question the method of procurement. Having submitted a proposal knowing the “rules of the game”, it is disingenuous for Alstom to now question that methodology because it did not result in an outcome that favors Alstom. Nonetheless, this argument is without merit for the reasons discussed in this issue paper.

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April 5, 2012 Letter

(6) Alstom has more extensive overhaul and modernization experience.

To reiterate what has already been stated, regardless of Alstom's experience as a firm with refurbishment, that experience was not reflected in the technical proposal received from Alstom, nor did Alstom propose to staff the UTDC project with individuals experienced with light rail refurbishment projects.

(7) The Siemens proposal shifts costs and risk to RT

During the negotiation process, RT agreed to several small changes in the project scope and commercial terms and conditions that reduced the Siemens price. These changes reflect the fact that Siemens analyzed the scope of work to a high level of detail, carefully examined the vehicles and work space and demonstrated to RT that either: (1) that there was a low risk that the eliminated work needed to be performed; or (2) that burden to RT's resources of the proposed change would be negligible.

Alstom had an equal opportunity to propose such changes; it did not.

(8) The Siemens proposal delays the delivery by 60 days:

The 60 day delay is not for the entire delivery schedule of 21 vehicles but only the last vehicle. Siemens' project plan begins with the removal of the truck assemblies from the last vehicle to use as floaters. This allows Siemens to have one carset of trucks in process ahead of schedule. The advantage of this approach is that floaters will be used to improve the work flow. The first 20 vehicles will be delivered on schedule; only the delivery of the last vehicle will be extended by 60 days, which does not impact RT negatively in any way. The benefits of this superior work plan outweigh the delay of the delivery of the last vehicle.

(9) The evaluation process unfairly favored Siemens because it was a "local" company

The federal procurement rules flatly prohibit RT from awarding points or making a procurement decision based solely on a "local" or geographic preference. However, those same rules allow RT to account, in the evaluation process, for logistical issues that may arise from dealing with a company in a distant location. In this case, there were two concerns that arose from Alstom's location: (1) the inexperienced project staff would have inadequate local support in the event of problems with the work—higher-

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level personnel would have to travel to Sacramento to respond to issues during the course of the work; and (2) RT's experience with the aftermarket support provided by Alstom reasonably led evaluators to believe that the transfer of aftermarket support to distant forces with no familiarity with the project would result in the UTDC cars being out of service.

Staff recommends that the Board adopt Resolution **A1**, denying the Protest of Alstom Transportation, Inc. of RT Staff's intent to recommend award of the contract for UTDC Light Rail Vehicle Refurbishment to Siemens Industries, Inc., and **adopt Resolution A2** conditionally awarding the UTDC Light Rail Vehicle Refurbishment contract to Siemens Industry, Inc., for an amount not to exceed \$19,676,099.70.

However, if the Board, after evaluating all of the evidence presented, determines that the protest by Alstom is merited, the alternative action for the Board to take is to adopt Resolution B, rejecting all Proposals. Staff would then have to evaluate how to proceed to timely accomplish the work.

RESOLUTION NO. 12-06_____

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

June 11, 2012

**~~DENYING ALSTOM TRANSPORTATION INC.'S PROTEST AND CONDITIONALLY
AWARDING A CONTRACT FOR UTDC LIGHT RAIL VEHICLE REFURBISHMENT
SIEMENS INDUSTRY, INC.~~**

~~WHEREAS, on May 19, 2011, the Sacramento Regional Transit District (RT) released a Request for Proposals for UTDC Light Rail Vehicle Refurbishment; and~~

~~WHEREAS, on February 21, 2012, after receiving initial proposals, conducting negotiations, and requesting final offers, RT staff issued letters to Alstom Transportation Inc. (Alstom) and Siemens Industry Inc. (Siemens) stating RT's intent to recommend conditional award of a contract for UTDC Light Rail Refurbishment to Siemens Industry Inc.; and~~

~~WHEREAS, a properly filed protest was filed by Alstom on February 23, 2012; and~~

~~WHEREAS, after evaluating the protest, staff issued a preliminary decision that the protested lacked merit; and~~

~~WHEREAS, upon receipt of the preliminary decision, Alstom requested further consideration of the protest and provided further arguments in support of its protest; and~~

~~WHEREAS, a third party reviewer reviewed the procurement, found that Alstom's protest lacks merit, and concurred with the determination made by the RT evaluators that the Siemens proposal is superior.~~

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

~~THAT, the Board has conducted a hearing on the protest filed by Alstom with respect to the notice of intent to award a contract for UTDC Light Rail Vehicle Refurbishment and has considered the evidence and all other matters properly before it in accordance with the bid protest procedures applicable hereto.~~

~~THAT, the findings and determination of the RT staff, as set out in RT's letter dated February 28, 2012, and as further described in the RT staff report dated June 1, 2012, and the attachments thereto, are hereby adopted as the findings and determination of the Board of the Sacramento Regional Transit District, and Alstom's Bid Protest is hereby denied.~~

~~THAT, the Board finds that Siemens Industry, Inc. is the most qualified firm submitting a proposal for the Contract for UTDC Light Rail Vehicle Refurbishment.~~

~~THAT, the Contract between Sacramento Regional Transit District, therein referred to as "RT," and Siemens Industry, Inc., therein referred to as "Consultant," whereby Consultant agrees to provide UTDC Light Rail Vehicle Refurbishment project services, as specified, for an amount not to exceed \$19,676,099.70, is hereby approved contingent upon Siemens Industry, Inc's. compliance with the Buy America Pre-Award Audit requirements.~~

~~THAT, the General Manager/CEO is hereby authorized and directed to execute said Contract, upon satisfaction of the foregoing contingency.~~

BONNIE PANNELL, Chair

ATTEST:

~~MICHAEL R. WILEY, Secretary~~

By: _____
Cindy Brooks, Assistant Secretary

RESOLUTION NO. 12-06-_____

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

June 11, 2012

DENYING ALSTOM TRANSPORTATION INC.'S PROTEST

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

WHEREAS, on May 19, 2011, the Sacramento Regional Transit District (RT) released a Request for Proposals for UTDC Light Rail Vehicle refurbishment; and

WHEREAS, on February 21, 2012, after receiving initial proposals, conducting negotiations, and requesting final offers, RT staff issued letters to Alstom Transportation Inc. (Alstom) and Siemens Industry Inc. (Siemens) stating RT's intent to recommend conditional award of a contract for UTDC Light Rail Vehicle refurbishment to Siemens; and

WHEREAS, on February 23, 2012, Alstom filed a timely protest to RT's intent to recommend award of the UTDC refurbishment contract to Siemens; and

WHEREAS, after evaluating the protest, RT staff issued a preliminary decision that the protest lacked merit; and

WHEREAS, upon receipt of the preliminary decision, Alstom requested further consideration of the protest and provided further arguments in support of its protest; and

WHEREAS, a third-party reviewer retained by RT reviewed the procurement, found that Alstom's protest lacked merit, and concurred with the determination made by the RT evaluators that Siemens' proposal is superior; and

WHEREAS, the General Manager/CEO has recommended Alstom's protest be rejected for the reasons set forth in RT's letter of February 28, 2012, and the June 1, 2012 staff report.

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

THAT, the Board has conducted a hearing on the protest filed by Alstom with respect to the notice of intent to award a contract for the UTDC Light Rail Vehicle refurbishment and has considered the evidence and all other matters properly before it in accordance with the applicable bid protest procedures; and

THAT, the findings and determinations of the RT staff, as set out in RT's letter dated February 28, 2012, and as further described in the RT staff report dated June 1, 2012, and the attachments thereto, are hereby adopted as the findings and determination of the Board of the Sacramento Regional Transit District, and based upon those findings, Alstom's protest is hereby denied.

BONNIE PANNELL, Chair

A T T E S T:

MICHAEL R. WILEY, Secretary

By: _____
Cindy Brooks, Assistant Secretary

RESOLUTION NO. 12-06-_____

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

June 11, 2012

**CONDITIONALLY AWARDING A CONTRACT FOR UTDC LIGHT RAIL VEHICLE
REFURBISHMENT SIEMENS INDUSTRY, INC.**

WHEREAS, on May 19, 2011, the Sacramento Regional Transit District (RT) released a Request for Proposals for UTDC Light Rail Vehicle Refurbishment; and

WHEREAS, on February 21, 2012, after receiving initial proposals, conducting negotiations, and requesting final offers, RT staff issued letters to Alstom Transportation Inc. (Alstom) and Siemens Industry Inc. (Siemens) stating RT's intent to recommend conditional award of a contract for UTDC Light Rail Refurbishment to Siemens based on the determination that Siemens' proposal was most advantageous to RT; and

WHEREAS, a properly-filed protest was filed by Alstom on February 23, 2012; and

WHEREAS, Alstom's protest was rejected by the Board on June 11, 2012 following a hearing pursuant to RT's Procurement Ordinance; and

WHEREAS, the Board finds that Siemens Industry, Inc. is the most qualified firm submitting a proposal for the Contract for UTDC Light Rail Vehicle Refurbishment; and

WHEREAS, the Board finds that Siemen's proposal is the most advantageous to RT.

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

THAT, the Contract between Sacramento Regional Transit District, therein referred to as "RT," and Siemens Industry, Inc., therein referred to as "Consultant," whereby Consultant agrees to provide UTDC Light Rail Vehicle Refurbishment project services, as specified, for an amount not to exceed \$19,676,099.70, is hereby approved contingent upon Siemens Industry, Inc.'s compliance with the Buy America Pre-Award Audit requirements.

THAT, the General Manager/CEO is hereby authorized and directed to execute said Contract, upon satisfaction of the foregoing contingency.

BONNIE PANNELL, Chair

A T T E S T:

MICHAEL R. WILEY, Secretary

By:

Cindy Brooks, Assistant Secretary

RESOLUTION NO. 12-06-_____

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

June 11, 2012

**REJECTING ALL PROPOSALS FOR UTDC LIGHT RAIL VEHICLE
REFURBISHMENT**

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

THAT, the proposals received in response to RT Request for Proposals for UTDC
Light Rail Vehicle Refurbishment (RFP NO. 2010043) are hereby rejected.

BONNIE PANNELL, Chair

A T T E S T:

MICHAEL R. WILEY, Secretary

By:

Cindy Brooks, Assistant Secretary