

REGIONAL TRANSIT ISSUE PAPER

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
4	11/12/12	Open	Action	11/01/12

Subject: Rejecting the Bid and Awarding a Sole Source Contract for UTDC Light Rail Vehicle Coupler Overhaul to Westinghouse Air Brake Technologies Corporation (Wabtec)

ISSUE

Rejecting the Bid and Awarding a Sole Source Contract for UTDC Light Rail Vehicle Coupler Overhaul to Westinghouse Air Brake Technologies Corporation (Wabtec).

RECOMMENDED ACTION

Adopt Resolution No. 12-11-____, Rejecting the Bid and Awarding a Sole Source Contract for UTDC Light Rail Vehicle Coupler Overhaul to Westinghouse Air Brake Technologies Corporation.

FISCAL IMPACT

Budgeted: Yes Annual: \$264,540 per year
Budget Source: Capital Over the next 3 years

Funding Source: Federal (ARRA) State (Prop 1B)
Cost Cntr/GL Acct(s) or WBS: R085.07.07.03
Capital Project #: GL: 910800
Total Budget: \$793,620

American Recovery and Reinvestment Act (ARRA) of 2009: \$179,887
Awarded Prop 1B: \$613,733
Total Contract Amount: \$793,620 Plus applicable sales tax

DISCUSSION

Under Resolution Number 11-03-0038 dated March 14, 2011, the RT Board authorized the solicitation of bids for the overhaul of the UTDC light rail vehicle couplers. The overhaul of the couplers is part of the project to refurbish 21 UTDC light rail vehicles (UTDC Project).

An Invitation to Bid (ITB) document was released on December 16, 2011 and sent to 6 qualified sources. This solicitation was advertised in publications of general circulation (as per RT GM-SOP-97-0096) and posted on RT's website under Contracting Opportunities. On March 16, 2012, RT received one bid from Westinghouse Air Brake Technologies Corporation (Wabtec). After a thorough review of the bid, staff determined that the bid from Wabtec contained material irregularities and was non-responsive for the following reasons: Bidder (1) failed to submit qualifications as required in Section 1.2, Responsible Bidder, of the ITB; (2) submitted exceptions to the contract that are not allowed on a sealed-low bid procurement; (3) failed to submit bid security, as required in Section 1.21, Bid Security, of the ITB; and, (4) failed to fill out Bid Form

Approved:

Presented:

Final 11/6/12

General Manager/CEO

Maintenance Superintendent - Light Rail

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
4	11/12/12	Open	Action	11/01/12

Subject: Rejecting the Bid and Awarding a Sole Source Contract for UTDC Light Rail Vehicle Coupler Overhaul to Westinghouse Air Brake Technologies Corporation (Wabtec)

6.7, the Campaign Contribution Disclosure Form. Additionally, Wabtec's total bid price of \$793,620 exceeded the Engineer's estimate of \$204,750.

In accordance with RT's Standard Operating Procedure GM-SOP-97-009, Section XI, Rejection of Bids or Proposals/Waiver of Irregularities, and RT's Procurement Ordinance Section 1.509, Rejection of Bids/Proposals; Waiver of Minor Irregularities, staff reviewed the bid irregularities with RT's Chief Counsel and determined that (1), (2) and (3) above are material irregularities that cannot be waived; therefore, Wabtec's bid was deemed non-responsive.

FUNDING

In 2009, ARRA funding was obtained for the UTDC Project. RT created a Project Team and contracted with LTK to help develop the technical specifications for refurbishing the entire fleet of UTDC vehicles. At that time, RT revisited what modifications were needed, what systems had to be replaced with newer technology, and what systems should be added. RT analyzed the changes and upgrades that Utah Transit Authority (UTA) made, met with UTA to understand the difficulties UTA had, and internally researched RT's requirements in today's environment. The Project Team decided to manage some of the major sub-system overhauls in-house. The ARRA funding is sufficient to refurbish the first 7 vehicles.

REQUIREMENTS

LTK Engineering provided a detailed scope of work, which identified the systems on the vehicles that should be managed by RT rather than the major refurbishment contractor. LTK also analyzed and identified the systems that are critical to the safe operation of the vehicles. Many components on a light rail vehicle are safety related and the continued safe operation of the vehicle depends on proper selection of replacement parts or overhaul of the systems.

The original equipment manufacturer for the coupler equipment components is Wabtec. Wabtec is still active in the marketplace; a major segment of its business is the aftermarket support for its equipment with overhaul service and replacement parts. No other potential bidder was willing to overhaul and warranty the existing design.

STATUTORY AUTHORITY

The RT Procurement Ordinance, applicable State and Federal codes governing procurements, and RT's procurement program require procurements be conducted by full and open competition to the extent possible. The solicitation for the couplers yielded no responsive bidders due to the age of the vehicles and the specially-designed coupler equipment for operating on the UTDC vehicles; therefore, there is no market for full and open competition.

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
4	11/12/12	Open	Action	11/01/12

Subject: Rejecting the Bid and Awarding a Sole Source Contract for UTDC Light Rail Vehicle Coupler Overhaul to Westinghouse Air Brake Technologies Corporation (Wabtec)

ONLY ONE RESPONSIBLE SOURCE AND NO OTHER CONTRACTOR WILL SATISFY AGENCY REQUIREMENTS

Procurement of supplies and services, without competition, may be authorized under limited conditions, and subject to written justification documenting the conditions that preclude competition. Procurement by Noncompetitive Proposals (Sole Source) is authorized under RT’s Procurement Ordinance Sections 1.405.B and 1.405.D where, after receiving bids, the General Manager/CEO rejects all bids based on responsiveness and staff determines that the services and supplies can be provided by only one firm. The criteria set out in RT’s Procurement Ordinance that have been followed for this procurement are also consistent with the requirements in the Federal Transit Administration’s Third-Party Contracting Circular 4220.1F and requirements in the Federal Acquisition Regulations and U.S. Codes (which are referenced in FTA C4220.1F).

Wabtec’s February 28, 2012 bid was non-responsive; however, Wabtec is the original equipment manufacturer for the coupler equipment components and was willing to enter into negotiations with RT for the overhaul work. RT and Wabtec successfully negotiated the contract terms and conditions and is ready to execute the contract pending Board approval. Wabtec meets the Buy America requirements for manufactured products for this contract.

DETERMINATION OF FAIR AND REASONABLE COST:

The “Engineer’s Estimate” LTK generated for the coupler overhaul was \$204,750. However LTK’s Engineer’s Estimate did not take into consideration: 1) a required major design change for subcomponents that are unable to be manufactured, and 2) the scope of work defined by RT Maintenance. UTA has the same equipment on its UTDC vehicles. Staff researched the scope of work performed for UTA and found that UTA’s actual cost was above LTK’s estimate.

Staff evaluated the reasonableness of Wabtec’s proposed cost based on an evaluation of UTA’s contract change order that incorporated the same scope of work as outlined in RT’s technical specifications. The costs for UTA was \$16,649 per coupler in 2009, and is comparable to Wabtec’s proposed cost of \$17,636 per coupler. UTA determined the cost was fair and reasonable (under Contract UT06-010VT, Change Order No. 006 dated December 11, 2009). Based on UTA’s experience, staff believes the current pricing from Wabtec for the same work is fair and reasonable.

Staff also compared pricing for new couplers against Wabtec’s bid price to determine if it would be cost effective to purchase new couplers. Prices were obtained from Dellner, Wabtec and Siemens and the prices ranged from \$35,000 to \$40,000 per coupler. These prices exceed the project budget. Wabtec’s price has been determined to be the most cost-effective path to take and is in RT’s best interest.

REGIONAL TRANSIT ISSUE PAPER

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
4	11/12/12	Open	Action	11/01/12

Subject: Rejecting the Bid and Awarding a Sole Source Contract for UTDC Light Rail Vehicle Coupler Overhaul to Westinghouse Air Brake Technologies Corporation (Wabtec)

As a result of negotiations, RT is replacing the standard form indemnity with a limited indemnity that limits Wabtec's liability to RT for direct damages (but not third party damages) to the Contract price of \$793,620.

For the reasons stated above, staff recommends the Board reject the non-responsive bid and approve a Sole Source Procurement and award a Contract for UTDC Light Rail Vehicle Coupler Overhaul to Westinghouse Air Brake Technologies Corporation (Wabtec) in the amount of \$793,620, plus applicable sales tax.

RESOLUTION NO. 12-11-_____

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

November 12, 2012

**REJECTING THE BID AND AWARDING A SOLE SOURCE CONTRACT FOR UTDC
LIGHT RAIL VEHICLE COUPLER OVERHAUL TO WESTINGHOUSE AIR BRAKE
TECHNOLOGIES CORPORATION**

WHEREAS, in accordance with Sections 1.405.B and 1.405.D of the RT Procurement Ordinance, sole source procurement is permitted after a solicitation is done and no responsive bid is received; and

WHEREAS, it would be futile to seek further competitive bids.

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

THAT, pursuant to the RT Procurement Ordinance Section 1.508, this Board hereby rejects the non-responsive bid received for the UTDC Light Rail Vehicle Coupler Overhaul.

THAT, in accordance with Section 1.405.B of the RT Procurement Ordinance, sole source procurement is permitted upon a determination that the required services are only available from the original equipment manufacturer and it would be futile to seek further competition.

THAT, the Contract for UTDC Light Rail Vehicle Coupler Overhaul between Sacramento Regional Transit District, therein referred to as "RT," and Westinghouse Air Brake Technologies Corporation (Wabtec), therein referred to as "Contractor," whereby Contractor agrees to provide UTDC Light Rail Vehicle Coupler Overhaul services, as specified, for an amount not to exceed \$793,620, plus applicable sales tax, is hereby approved.

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

BONNIE PANNELL, Chair

A T T E S T:

MICHAEL R. WILEY, Secretary

By: _____
Cindy Brooks, Assistant Secretary