

# Metro-North Railroad Procurements

**Anthony Gardner**, MTA Assistant Deputy Chief Procurement Officer – Procurement Operations

## PROCUREMENTS

The Procurement Agenda this month includes 1 action for a proposed estimated expenditure of \$7M.

<b>Subject</b>	Request for Authorization to Award Various Procurements				
<b>Department</b>	MTA Procurement				
<b>Department Head Name</b>	Kuvershen Ayer				
<b>Department Head Signature</b>	<i>Kuvershen Ayer</i>				
<b>Project Manager Name</b>	David Melillo				
<b>Board Action</b>					
<b>Order</b>	<b>To</b>	<b>Date</b>	<b>Approval</b>	<b>Info</b>	<b>Other</b>
1	Committee	12/19/22			
2	Board	12/21/22			

December 14, 2022			
<b>Department</b>			
<b>Department Head Name</b>			
<b>Department Head Signature</b>			
<b>Internal Approvals</b>			
	<b>Approval</b>		<b>Approval</b>
	President		<i>CAR</i> <i>ss</i>
	VP & General Counsel		

<b>Internal Approvals (cont.)</b>							
<b>Order</b>	<b>Approval</b>	<b>Order</b>	<b>Approval</b>	<b>Order</b>	<b>Approval</b>	<b>Order</b>	<b>Approval</b>

**PURPOSE**  
To obtain approval of the Board to award various contracts and purchase orders, and to inform the Metro-North Committee of this procurement action.

**DISCUSSION**  
**Metro-North Railroad proposes to award Noncompetitive procurements in the following categories: None**

**Metro-North Railroad proposes to award one Competitive procurement in the following category:**

<u>Schedules Requiring Majority Vote:</u>	# of Actions	\$ Amount
Schedule H: Modifications to Personal/Miscellaneous Service Contracts	1	\$ 7 M
<b>SUBTOTAL</b>	<b>1</b>	<b>\$ 7 M</b>

**Metro-North Railroad proposes to award Ratifications in the following categories: None**

<b>TOTAL</b>	<b>1</b>	<b>\$ 7 M</b>
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**COMPETITIVE BIDDING REQUIREMENTS:** The procurement actions in Schedules A, B, C, and D are subject to the competitive bidding requirements of PAL 1209 or 1265-a relating to contracts for the purchase of goods or public work. Procurement actions in the remaining Schedules are not subject to these requirements.

**BUDGET IMPACT:** The purchases/contracts will result in obligating funds in the amounts listed. Funds are available in the current operating/capital budgets for this purpose.

**RECOMMENDATION:** That the purchases/contracts be approved as proposed. (Items are included in the resolution of approval at the beginning of the Procurement Section.)

## **BOARD RESOLUTION**

**WHEREAS**, in accordance with Sections 1265-a and 1209 of the Public Authorities Law and the All-Agency General Contract Procurement Guidelines, the Board authorizes the award of certain noncompetitive purchase and public work contracts, and the solicitation and award of requests for proposals regarding purchase and public work contracts; and

**WHEREAS**, in accordance with the All-Agency Service Contract Procurement Guidelines and General Contract Procurement Guidelines the Board authorizes the award of certain noncompetitive miscellaneous service and miscellaneous procurement contracts, certain change orders to purchase, public work, and miscellaneous service and miscellaneous procurement contracts, and

**WHEREAS**, in accordance with Section 2879 of the Public Authorities Law and the All-Agency Service Contract Procurement Guidelines, the Board authorizes the award of certain service contracts and certain change orders to service contracts.

NOW, the Board resolves as follows:

1. As to each purchase and public work contract set forth in annexed Schedule A, the Board declares competitive bidding to be impractical or inappropriate for the reasons specified therein and authorizes the execution of each such contract.

2. As to each request for proposals (for purchase and public work contracts) set forth in Schedule B for which authorization to solicit proposals is requested, for the reasons specified therein, the Board declares competitive bidding to be impractical or inappropriate, declares it is in the public interest to solicit competitive request for proposals, and authorizes the solicitation of such proposals.

3. As to each request for proposals (for purchase and public work contracts) set forth in Schedule C for which a recommendation is made to award the contract, the Board authorizes the execution of said contract.

4. As to each action set forth in Schedule D, the Board declares competitive bidding impractical or inappropriate for the reasons specified therein and ratifies each action for which ratification is requested.

5. The Board authorizes the execution of each of the following for which Board authorization is required: (i) the miscellaneous procurement contracts set forth in Schedule E; (ii) the personal service contracts set forth in Schedule F; (iii) the miscellaneous service contracts set forth in Schedule G; (iv) the modifications to personal/miscellaneous service contracts set forth in Schedule H; (v) the contract modifications to purchase and public work contracts set forth in Schedule I; and (vi) the modifications to miscellaneous procurement contracts set forth in Schedule J.

6. The Board ratifies each action taken set forth in Schedule K for which ratification is requested.

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**DECEMBER 2022**

**LIST OF COMPETITIVE PROCUREMENTS FOR BOARD APPROVAL**

***Procurements Requiring Majority Vote:***

**H. Modifications to Personal Service Contracts and Miscellaneous Service Contracts Awarded as Contracts for Services**

(Staff Summaries required for items estimated to be greater than \$1,000,000.)

- |  |             |                               |
|--|-------------|-------------------------------|
| 1. Sperry Rail, Inc.<br>Two years<br>Contract# 1-80846 AWO 4 | \$7,000,000 | <i>Staff Summary Attached</i> |
|--|-------------|-------------------------------|
- A one-year contract extension for continued Federal Railroad Administration–mandated ultrasonic rail testing and joint bar detection services.

**Schedule H: Modifications to Personal Service & Miscellaneous Service Contracts**



Item 1

<b>Vendor Name (Location)</b> Sperry Rail, Inc. (Shelton, Connecticut)	<b>Contract Number</b> 1-80846	<b>AWO/Modification #</b> 4
<b>Description</b> Ultrasonic Rail Testing & Joint Bar Detection Services	<b>Original Amount:</b> (MNR) \$3,400,001 (LIRR) \$6,000,000	
<b>Contract Term (including Options, if any)</b> Two Years	<b>Prior Modifications:</b> (MNR) \$2,600,000	
<b>Option(s) included in Total Amount?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>Prior Budgetary Increases:</b> \$0	
<b>Procurement Type</b> <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Noncompetitive	<b>Current Amount:</b> (MNR) \$6,000,001 (LIRR) \$6,000,000	
<b>Solicitation Type</b> <input type="checkbox"/> RFP <input checked="" type="checkbox"/> Bid <input type="checkbox"/> Other:	<b>This Request:</b> MNR: \$4,000,000 LIRR: \$3,000,000 \$7,000,000	
<b>Funding Source</b> <input checked="" type="checkbox"/> Operating <input type="checkbox"/> Capital <input type="checkbox"/> Federal <input type="checkbox"/> Other:	<b>% of This Request to Current Amount:</b> 58.3%	
<b>Requesting Department</b> Maintenance of Way, David Melillo, Vice President	<b>% of Modifications (including This Request) to Original Amount:</b> 102.1%	

**Discussion:**

Metro-North Railroad (“MNR”), on behalf of itself and Long Island Rail Road (“LIRR”) (collectively the “Railroads”), is seeking MTA Board approval for a one-year extension to Contract No. 1-80846 (the “Contract”) with Sperry Rail, Inc. (“Sperry”) in the not-to-exceed amount of \$7 million (MNR \$4M and LIRR \$3M) for continued Federal Railroad Administration (“FRA”)–mandated ultrasonic rail testing and joint bar detection services (“Services”) through December 31, 2023. For services beyond 2023, the Railroads (led by LIRR) will be conducting a new joint competitive procurement during the extension period, which will include an industry review of available technologies and service providers prior to selection and award recommendation to the Board. Five firms expressed interest in participating in the procurement.

MNR, on behalf of the Railroads, awarded this competitively solicited, negotiated contract in the amount of \$9,400,001 in October 2020 for a term of two years, which was extended for three months through the end of 2022. The Contract was modified for (1) the addition of Eddy current testing; (2) a change in MNR’s practice of stop/verify rail testing to continuous rail testing, after MNR received approval from the FRA to conduct such testing; (3) the three-month contract extension; and (4) the addition of funding in the amount of \$2.6 million.

Under this Contract, Sperry performs the mandated rail testing services throughout both Railroads’ operating territories for approximately 550 to 750 main and branch line track miles for each of the Railroads. The Railroads are utilizing the latest technologies in ultrasonic testing, joint bar detection and Eddy current testing to identify and detect internal and external flaws and fractures in track and rail that may not be visible to the naked eye. Ultrasonic rail testing equipment scans the rail for defects based on FRA standards for track anomalies, providing detection/evaluation of rail flaws, dimensional measurements, and track material disposition. Joint bar detection is an optical inspection system that performs automated crack detection of joint bars; measures rail gap, joints, and rail sides; detects missing bolts, corrosion, and problems with electric bonding; and generates joint bar inventory reports. Eddy current testing is an electromagnetic testing method used to detect surface and subsurface flaws in the rails. By detecting and analyzing otherwise invisible flaws, the rail can be replaced before a failure occurs which improves track safety. The ultrasonic rail testing, joint bar detection and Eddy current testing systems are contained in Sperry’s rail-bound and hi-rail vehicles, which can inspect tracks at speeds upwards of 30 miles per hour.

Services under this Contract include the provision of the inspection vehicles and on-vehicle staff to operate the ultrasonic testing, joint bar detection, and Eddy current testing equipment as well as the collection and interpretation of the data collected.

Original contract pricing for the Services was competitively obtained based on negotiated daily, hourly, and per-test and per-shift rates. These rates were fixed for the term of the Contract, and Sperry held the same rates firm for the current three-month extension. However, due to current economic market conditions including inflation, an increase of 3.5 percent was negotiated for the one-year extension period. Pricing for the extension is determined to be fair and reasonable.

This contract has been evaluated to determine the necessity and appropriate scope, if any, of cybersecurity requirements, including any requirements under federal, state, and local law and regulations. Any applicable cybersecurity requirements, to the extent required, have been included in the contract terms and conditions.

Sperry has certified that pursuant to EO 16 it is not doing business in Russia.

**Impact on Funding**

This extension is to be funded (\$4M/MNR and \$3M/LIRR) by each Railroad’s Operating Budget. Of Metro-North’s \$4M total, the Connecticut Department of Transportation is responsible for approximately 33 percent (or \$1.3 million).