

Schedule D: Ratification of Completed Procurement Actions



Item Number: 1–2

Vendor Name (Location) Hayden AI (San Francisco, California) Seon [USA] Corp. (Bellingham, Washington)
Description Automated Bus Lane Enforcement
Contract Terms (including Options, if any) Hayden: 65 Months (July 2022–December 2027) Seon: 40 Months (April 2024–August 2026)
Option(s) included in Total Amount? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> n/a
Procurement Type <input type="checkbox"/> Competitive <input checked="" type="checkbox"/> Noncompetitive
Solicitation Type <input type="checkbox"/> RFP <input type="checkbox"/> Bid <input checked="" type="checkbox"/> Other: Negotiated

Contract Number B62049 / B62049 Mod. 1 (Hayden) B62063 (Seon)	Renewal? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Total Amount: \$141,538,838 Hayden: \$83,133,058 Seon: \$58,405,780	
Funding Source <input checked="" type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input type="checkbox"/> Federal <input type="checkbox"/> Other:	
Requesting Department: Department of Buses, Frank Annicaro	

Discussion:

It is requested that the Board formally ratify the declaration of an Immediate Operating Need (“ION”) approved by the Deputy Chief Procurement Officer, MTA Procurement, waiving competitive bidding pursuant to Article III, Paragraph A, of the All-Agency Procurement Guidelines and Public Authorities Law 1209, subsection 9(a) and approve the award of contracts B62049 and B62049 Modification #1 to Hayden AI, Inc. (“Hayden”), and B62063 to Seon [USA] Corp (“Seon”). The awards to Hayden were for the purchase, installation, operation, and maintenance of up to 1,023 Automated Bus Lane Enforcement (“ABLE”) systems, in the total estimated amount of \$83,133,058. The award to Seon was for the purchase, installation, operation, and maintenance of up to 1,000 ABLE systems in the total estimated amount of \$58,405,780.

Improving the enforcement of bus lane traffic restrictions is a critical element to ensuring the success of both bus lanes and Select Bus Service (“SBS”). NYC Transit continues to develop aggressive and sustainable strategies, while also researching best practices around the country and outside the United States for approaches to bus lane enforcement. The implementation of an ABLE system has automated the enforcement process by issuing violation notices to owners of vehicles observed obstructing bus lanes during the enforcement period.

In 2012, NYC Transit conducted a limited ABLE proof-of-concept with Zenco Systems, Ltd. (“Zenco”) with the assistance of the NYC Department of Transportation, which proved that the Zenco ABLE system was well suited to work with NYC enforcement laws and the NYC operating environment. It should be noted that Zenco was acquired by Siemens Mobility, Inc. (“Siemens”) in 2015. Following the declaration of an Immediate Operating Need (“ION”), a contract was negotiated and awarded to Siemens for the installation of 123 ABLE systems and related evidence processing in February 2019; this contract was subsequently ratified by the March 2019 Board and later assigned to Yunex Traffic LLC in December 2021.

In an effort to foster competition, a Request for Information (“RFI”) was issued in June 2019 seeking additional vendors capable of furnishing ABLE systems. Responses were received from eight vendors. Following a series of meetings with vendors who replied to the RFI, the Department of Buses (“DOB”) entered into test agreements with Hayden and Seon in October 2020 and January 2021 respectively. DOB subsequently began intensive field testing to assist Hayden and Seon in the development of their ABLE systems and completion of the required certification testing prior to the award of any new contracts for widescale deployment.

Hayden submitted its initial three-year proposal in late 2021 for 112 ABLE systems in the total amount of \$11,523,953 or \$34,297/system/year. During negotiations, the estimated quantity of ABLE systems to be purchased from Hayden was increased to 300 with an option for up to 200 additional systems. Following several negotiations with Procurement and the Cost Price Analysis Unit (“CPAU”), Hayden submitted its final proposal in the amount of \$19,655,898 or \$21,840/system/year, which represents a savings of \$12,458/system/year or 36.32 percent per system from its initial proposal. Hayden’s pricing was deemed fair and reasonable by the CPAU, and a three-year contract was awarded to Hayden on July 8, 2022, in the estimated amount of \$19,655,898.

Seon submitted its initial three-year proposal in early 2023 for 400 ABLE systems in the total amount of \$27,571,264 or \$22,976/system/year. During negotiations, the estimated quantity of ABLE systems to be purchased from Seon was increased to 623. Following several negotiations with Procurement and the CPAU, Seon submitted a final proposal in the amount of \$39,250,783 or \$21,001/system/year which represents a savings of \$1,975/system/year or 8.60 percent per system from its initial proposal. Seon’s pricing was deemed fair and reasonable by the CPAU on May 1, 2023. On May 7, 2023, Hayden filed the first of several lawsuits, which included a preliminary injunction, against Seon and Safe Fleet (Seon’s parent company) alleging patent infringement. Upon the advice of the Law Department and outside counsel, all work with Seon regarding its ABLE system was suspended.

Schedule E: Miscellaneous Procurement Contracts



In an effort to meet the publicly stated timelines of the ABLÉ program and in light of the Authority's inability to award an ABLÉ contract to Seon, DOB requested Modification #1 to the contract with Hayden to exercise the option for 200 additional ABLÉ systems, purchase 523 additional ABLÉ systems (400 ABLÉ systems originally designated for Seon and another 123 ABLÉ systems to replace the aging ABLÉ Systems installed by Siemens), and extend the contract term by two years for the original 300 ABLÉ systems.

Hayden submitted a proposal for Modification #1 in the amount of \$69,607,789. After negotiations with Procurement and CPAU, Hayden submitted a revised proposal in the amount of \$63,477,161 which represents a savings of \$6,130,629 or 8.81 percent from its initial proposal. It should be noted that with this Modification #1, the average price has been reduced from \$21,840/system/year to \$19,867/system/year. Hayden's pricing was deemed fair and reasonable by the CPAU, and this Modification #1 was awarded to Hayden on December 21, 2023, in the estimated amount of \$63,477,161.

On February 23, 2024, United States District Court for the Eastern District of New York issued a Memorandum & Order denying Hayden's preliminary injunction. In keeping with DOB's strategy to foster competition in the enforcement space as well as reduce risk exposure by having more than one qualified vendor, discussions with Seon resumed. DOB requested and received a revised proposal from Seon for up to 1,000 systems in the amount of \$58,405,780 or \$19,469/system/year, which represents a savings of \$3,507/system/year or 15.3 percent per system from its initial proposal and \$1,532/system/year or 7.3 percent per system from the agreed upon pricing in May 2023. Seon's revised pricing was deemed fair and reasonable by the CPAU, and a three-year contract was awarded to Seon on April 26, 2024, in the estimated amount of \$58,405,780.

Following legislative approval to monitor and ticket vehicles obstructing bus stops as well double-parked vehicles, DOB has updated the scope of work, changed the name of this project to Automated Camera Enforcement ("ACE"), and requested that Procurement begin negotiations with both vendors to add the enforcement of bus stop and double-parked vehicle laws to these contracts. As these modifications are being conducted under an ION, they will be presented to a future Board for ratification following negotiation and award.

Hayden has certified that pursuant to EO 16, it is not conducting business in Russia.

Seon has certified that pursuant to EO 16, it is not conducting business in Russia.

The contract awarded to Hayden resulting from this procurement was evaluated to determine the necessity and appropriate scope, if any, of cybersecurity requirements, including any requirements under federal, state, and local law and regulations. Cybersecurity language as agreed to by Hayden and the Authority has been included in the contract terms and conditions.

The contract awarded to Seon resulting from this procurement was evaluated to determine the necessity and appropriate scope, if any, of cybersecurity requirements, including any requirements under federal, state, and local law and regulations. Seon has certified compliance with the MTA's cybersecurity requirements.

M/W/DBE Information

The MTA Department of Diversity and Civil Rights (DDCR) has established a zero percent M/WBE and zero percent SDVOB goals on this contract due to the lack of subcontracting availability.

Impact on Funding

These contracts will be funded with 100 percent MTA funds. Funds for these procurements have been approved in the MTA 2020–2024 Capital Programs as well as the operating budget. Notice to Proceed will not be issued until WAR certificates are approved.

Alternatives

There are no alternatives as these contracts have already been awarded.

Recommendation

It is recommended that the Board ratify the awards of B62049 and Modification #1 to Hayden, and B62063 to Seon. The awards to Hayden were for the purchase, installation, operation, and maintenance of up to 1,023 ABLÉ systems in the total estimated amount of \$83,133,058. The award to Seon was for the purchase, installation, operation, and maintenance of up to 1,000 ABLÉ systems in the total estimated amount of \$58,405,780.