

NYCT Committee
ACTIONS and PRESENTATIONS
SUMMARY for APRIL 2024

Responsible Department	Vendor Names	Total Amount	Summary of action
NYCT / MTA Bus	Hayden AI, Seon [USA] Corp	\$141,538,838	Contract for Automated Bus Lane Enforcement, "ABLE"



New York City Transit Procurements

Louis Montanti, MTA Deputy Chief Procurement Officer – Procurement Operations

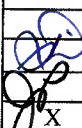
PROCUREMENTS

The Procurement Agenda this month includes 2 actions for a proposed estimated expenditure of \$141.5M.

Subject	Request for Authorization to Award Various Procurements
Department	MTA Procurement
Department Head Name	Lisette Camilo
Department Head Signature	
Project Manager Name	Rose Davis

April 24, 2024
Department
Department Head Name
Department Head Signature

Board Action					
Order	To	Date	Approval	Info	Other
1	Committee	04/29/24			
2	Board	04/30/24			

Internal Approvals			
	Approval		Approval
	President NYCT	X	Pres. MTA Bus/SVP DOB
	Deputy CFO	X	SVP Subways
X	Law	X	Diversity/Civil Rights

Internal Approvals (cont.)							
Order	Approval	Order	Approval	Order	Approval	Order	Approval

PURPOSE

To obtain approval of the Board to award various contracts and purchase orders, and to inform the NYC Transit Committee of these procurement actions.

DISCUSSION

NYC Transit proposes to award Noncompetitive procurements in the following categories: None

NYC Transit proposes to award Competitive procurements in the following categories: None

NYC Transit proposes to award Ratifications in the following categories:

<u>Schedules Requiring Two-Thirds Vote:</u>	<u># of Actions</u>	<u>\$ Amount</u>
Schedule D: Ratification of Completed Procurement Actions	2	\$ 141.5M
	TOTAL	\$ 141.5M

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.

APRIL 2024

LIST OF RATIFICATIONS FOR BOARD APPROVAL

Procurements Requiring Two-Thirds Vote:

D. Ratification of Completed Procurement Actions

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

- | | | |
|---------------------|--------------|-------------------------------|
| 1. Hayden AI, Inc. | \$83,133,058 | <i>Staff Summary Attached</i> |
| 2. Seon [USA] Corp. | \$58,405,780 | |
- 65 months (Hayden) / 40 months (Seon)
Contract #s B62049 / B62049.1 / B62063
Ratification of an Immediate Operating Need for contracts awarded for Automated Bus Lane Enforcement.

Schedule D: Ratification of Completed Procurement Actions



Item Number: 1–2

Vendor Name (Location) Hayden AI (San Francisco, California) Seon [USA] Corp. (Bellingham, Washington)	Contract Number B62049 / B62049 Mod. 1 (Hayden) B62063 (Seon)	Renewal? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Description Automated Bus Lane Enforcement	Total Amount: \$141,538,838 Hayden: \$83,133,058 Seon: \$58,405,780	
Contract Terms (including Options, if any) Hayden: 65 Months (July 2022–December 2027) Seon: 40 Months (April 2024–August 2026)	Funding Source <input checked="" type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input type="checkbox"/> Federal <input type="checkbox"/> Other:	
Option(s) included in Total Amount? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> n/a	Requesting Department: Department of Buses, Frank Annicaro	
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		

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.