



# Long Island Rail Road Procurements

Jacqueline Waddell, Acting Assistant Deputy Chief Procurement Officer – LIRR Procurement

## PROCUREMENTS

The Procurement Agenda this month includes 1 action for a proposed estimated expenditure of \$44.6M.

<b>Subject</b> Request for Authorization to Award Various Procurements					
<b>Department</b> LIRR Procurement					
<b>Department Head Name</b> Jacqueline Waddell					
<b>Department Head Signature</b>					
<b>Project Manager Name</b> Rose Davis					
<b>Board Action</b>					
<b>Order</b>	<b>To</b>	<b>Date</b>	<b>Approval</b>	<b>Info</b>	<b>Other</b>
1	Committee	06/24/24			
2	Board	06/26/24			

June 20, 2024			
<b>Department</b>			
<b>Department Head Name</b>			
<b>Department Head Signature</b>			
<b>Internal Approvals</b>			
	<b>Approval</b>		<b>Approval</b>
1	VP – Maintenance of Way <i>Ben 6/20/24</i>	2	LIRR General Counsel & Secretary <i>AS</i>
3	President <i>J.H.H.</i>		

<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 Long Island Rail Road Committee of these procurement actions.

**DISCUSSION**  
**LIRR proposes to award Noncompetitive procurements in the following categories:**

<u>Procurements Requiring Two-Thirds Vote:</u>	<u># of Actions</u>	<u>\$ Amount</u>
Schedule A: Noncompetitive Purchases and Public Work Contracts		\$ 44.6 M
<b>SUBTOTAL</b>		<b>\$ 44.6 M</b>

**LIRR proposes to award Competitive procurements in the following categories: None**

**LIRR proposes to award Ratifications in the following categories: None**

<b>TOTAL</b>	<b>\$ 44.6 M</b>
--------------	------------------

**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.

**JUNE 2024**

**LIST OF NONCOMPETITIVE ITEMS FOR BOARD APPROVAL**

***Procurements Requiring Two-Thirds Vote:***

**A. Noncompetitive Purchases and Public Work Contracts**

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

1. **Loram Maintenance of Way, Inc.**                      \$44,567,430 (est.)  
**5-Years (3-year base + two 1-year Options)**  
**Contract # 439941**

*Staff Summary Attached*

Award of a contract for Rail Vacuum Services.

Item Number: 1

<b>Vendor Name (Location)</b> Loram Maintenance of Way, Inc (Hamel, Minnesota)
<b>Description</b> Joint-Agency Rail Vacuum Services (LIRR / MNR)
<b>Contract Term (including Options, if any)</b> 5-Years (3-year base + two 1-year Options)
<b>Option(s) included in Total Amount?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Procurement Type</b> <input checked="" type="checkbox"/> Competitive <input type="checkbox"/> Noncompetitive
<b>Solicitation Type</b> <input type="checkbox"/> RFP <input checked="" type="checkbox"/> Bid <input type="checkbox"/> Other:

<b>Contact Number</b> 439941	<b>Renewal?</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Total Amount:</b> \$44,567,430 (estimate)  Three-Year Base = \$26,740,458 Two 1-Year Options = \$17,826,972	
<b>Funding Source</b> <input type="checkbox"/> Operating <input checked="" type="checkbox"/> Capital <input type="checkbox"/> Federal <input type="checkbox"/> Other:	
<b>Requesting Department:</b> Engineering Maintenance of Way, Paul Dietlin	
<b>Contract Manager:</b> Procurement & Logistics, Jacqueline Waddell	

**Discussion:**

Long Island Rail Road (“LIRR”), on behalf of itself and Metro-North Railroad (“MNR”), collectively (the “Railroads”) seeks MTA Board approval to award a public work contract to Loram Maintenance of Way, Inc. (“Loram”) for Rail Vacuum Services. This contract is for a three-year base term with two 1-year options. This procurement was competitively solicited through an Invitation for Bids (“IFB”) process. Loram will provide Rail Vacuum services, equipment, personnel at various points along the agencies’ rights-of-way in the estimated quantity amount of \$44,567,430 (three-year base, \$26,740,458 + two 1-year Options, \$17,826,972). The Board is also requested to authorize the LIRR Assistant Deputy Chief Procurement Officer to approve the exercise of two 1-year options in the amount of \$17,826,972, pending the approval of funding in 2027.

Rail vacuum services are needed by the Railroads to excavate ballast, mud, debris, and other materials along the railway. Under this contract, Loram will provide self-propelled specialty excavating and material handling equipment to systematically remove a variety of materials from various locations in electrified territory, both catenary and third rail, without interference with electric operations. Additionally, the rail vacuum will remove ballast and other materials as directed by the Railroads. Loram is required to furnish all operating and supervisory personnel, equipment, material, machinery, vehicles, and transportation necessary to perform the work.

The IFB was publicly advertised in the *New York State Contract Reporter*, the *New York Daily News*, and posted on the MTA website. The IFB was also sent directly to a list of firms known to perform this type of work in the industry, including Harsco Rail, Plasser American Corp, and Loram Maintenance of Way, Inc.

On December 1, 2023, a single bid was received from Loram. “No Bid Responses” were received from the other firms, indicating that they did not have the manpower and the rail-bound equipment capable of meeting all technical requirements.

Loram’s bid indicated its ability to perform the work. However, Loram took exception to several terms and conditions of the contract, including cybersecurity requirements, and was determined to be non-responsive. LIRR chose to negotiate the procurement as there were no other viable options to having these required services provided for the Railroads. As such, MTA Board approval is being sought in accordance with the MTA All-Agency General Procurement Contract Guidelines and Sections 1265-a and 1209 of the Public Authorities Law.

Loram submitted its Year 1 fixed rate of \$8,913,486. The MTA reviewed and evaluated the pricing to determine cost reasonableness against historical data (2021–2023 previous contract awards) and the Consumer Price Index (“CPI”). An internal price analysis determined the rate to be in line with the CPI. Based on the aforementioned, the pricing submitted by Loram is considered to be fair and reasonable. All rates for the subsequent years will be adjusted in accordance with the CPI.

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

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

**M/W/DBE Information**

The MTA Department of Diversity and Civil Rights (“DDCR”) has established a zero percent DBE goal for this contract. Loram has not completed any MTA contracts with goals; therefore, no assessment of their MWDBE/SDVOB is available at this time.

**Impact on Funding**

Funding for this project is included in the LIRR and MNR Capital Program Budget.

**Alternatives**

None. The Railroads do not have the in-house expertise or resources to perform the services associated with this contract.

**Recommendations**

It is recommended that the MTA Board approve the award of Contract 439941 for Rail Vacuum Services to Loram in the amount of \$44,567,430.