
MEMORANDUM

TO: SECRETARY PAUL J. WIEDEFELD
FROM: ADMINISTRATOR HOLLY ARNOLD
SUBJECT: INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT
APPROVAL REQUEST
DATE: JUNE 12, 2024

PURPOSE OF MEMORANDUM:

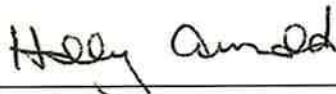
To request review and approval of the attached Procurement Officer's Determination (POD) seeking Secretary Wiedefeld's approval to utilize the Intergovernmental Cooperative Purchasing method.

SUMMARY:

In accordance with State Procurement Regulations COMAR 21.05.09.05, the Maryland Department of Transportation Maryland Transit Administration (MDOT MTA) is seeking approval to utilize the Washington State Department of Enterprise Services Contract for transit buses. The Contract will allow for the purchase of battery-operated electric buses and hybrid buses for the fiscal year 2025 for MDOT MTA.

ANALYSIS:

A full analysis and explanation for this request is contained in the attached POD which indicates the Intergovernmental Cooperative Purchasing Agreement would be in the best interest of the State and is not intended as a means to evade the purposes set forth under COMAR 21.01.01.03.



Digitally signed by
Holly Arnold.
Date: 2024.06.13

Holly Arnold, Administrator

06/13/2024

Date

☒ Approved and attached letter signed.

☐ Staff briefing requested.

☐ Denied.

ATTACHMENT

- One (1) Procurement Officer's Determination

**PROCUREMENT OFFICER DETERMINATION
INTERGOVERNMENTAL COOPERATIVE PURCHASE
AGREEMENT PROCUREMENT (ICPA)**

TO: Mr. Paul J. Wiedefeld, Secretary
CONTRACT: OPS-24-030-EQ FY25 Hybrid Electric and Battery Electric Bus Buy
DATE: June 12, 2024

I. BACKGROUND

The Maryland Department of Transportation Maryland Transit Administration (MTA) Office of Planning requested a new contract to procure hybrid-electric and battery-electric buses (BEB) partially utilizing the Urbanized Area Formula federal grant. The MDOT MTA plan is to purchase fifty (50) 40 ft. hybrid-electric buses and twenty (20) 40 ft. battery electric buses. This procurement will support MTA in maintaining the delivery of new buses to comply with the Federal Transit Administration (FTA) recommendation to limit the age of transit coaches to no more than twelve (12) years old. Keeping a steady delivery of new buses is critical to keeping the revenue bus fleet in an overall state of good repair and directly contributes to the MTA goals for safe and reliable operations.

II. FINDING OF FACTS

In 2019, the Maryland Department of Energy (MDE), in coordination with other Maryland agencies and stakeholders, proposed the Greenhouse Gas Reduction Act (GGRA) to achieve Maryland's goal of reducing greenhouse gas emissions by 2030, to a level equal to 40% of 2006 levels. The GGRA required that MTA reconfigure its revenue transit bus fleet to a minimum of 50% zero-emission buses, no later than 2030. In the 2024 legislative session, it was recognized that supply and costs may adversely affect the ability of the MTA to transition the fleet as outlined in the GGRA including no longer purchasing any other type of bus besides zero emission buses. It now permits the MTA to purchase hybrid buses. Additionally, starting in the 2027 fiscal year, MTA can no longer enter into a contract for buses unless they are zero emission buses.

In 2023, MDOT MTA conducted a competitive procurement in an effort to award a multi-year contract for as many as three hundred and fifty (350) battery electric buses. MTA identified five bus manufacturers, Ride dba BYD (BYD), NOVA Bus US, Gillig, Proterra Operating Group (Proterra), and New Flyer of America (New Flyer). These five transit bus manufacturers were the only vendors which MTA believed would be capable of delivering the required seventy buses per year over a five-year delivery schedule.

One company was eliminated as a viable option based on the inability to meet the National Defense Authorization Act (NDAA) of FY 2020 which became effective December 20, 2021. This act prohibits the expenditure of federal funds for procurements of rolling stock with companies (controlled or owned) based in countries from the prohibited list. Of the five vendors two submitted documentation for "No-Bid", one proposal was withdrawn, and the fourth was not eligible due to Federal law. This left New Flyer as the sole manufacturer remaining which indicated it could meet the 350-bus order over five years, and the additional support requirements of the solicitation.

Due to the forementioned circumstances, MTA determined there was only a single responsive and responsible proposal, from New Flyer, therefore, was determined to be susceptible for award. A Letter of Intent (LOI) for the award was issued to New Flyer. During the legal review process for form and sufficiency of the contract, the Maryland Office of the Attorney General identified a discrepancy, and a contract could not be executed. As a result, MTA reviewed the solicitation and determined the magnitude of amendments necessary necessitated the cancellation of the procurement.

In consideration of the state of good repair for the bus fleet, and the safety and operational risks associated with an increasing average age of the bus fleet, it was determined that MTA could not wait to complete another competitive procurement for a multi-year bus buy. To do so would leave a large gap in the necessary delivery schedule of new coaches. MTA then considered an Intergovernmental Cooperative Purchase Agreement (ICPA) to provide a substantially quicker and more cost-efficient procurement process that could fill the gap in new coach deliveries.

Utilizing an ICPA would allow MTA the time to re-evaluate our procurement strategies and requirements and conduct a long-term multi-year strategic bus buy. MTA explored a few governmental entities' contracts to identify a suitable government contract for this purchase. At this time, the Washington State contract is the only ICPA contract which meets the requirements for this procurement, provides the closest scope of work, allows for bus delivery in approximately 18 months from placing the order satisfying both GGRA and FTA requirements.

The Washington State contract for Heavy-Duty Hybrid- Electric and BEB buses has two contractors that can provide both model buses, New Flyer and Gillig. MTA primary consideration was lead-time for production and delivery.

Fleet standardization was also a significant factor. Currently, the fleet contains both New Flyer and NovaBus vehicles. Incorporating a third manufacturer into the bus fleet would have inherent costs, associated with multiple support areas such as maintenance training, operator training, inventory, and materials management, inventory storage requirements, purchasing volume, and potentials for supply chain issues.

New Flyer hybrid-electric and battery electric buses would provide MTA substantial advantage of maintenance commonality within several subsystems such as braking, electric, interior, exterior, operator controls, lighting, and safety. The support cost benefits are exponential for each of the common subsystems. MTA's fleet currently consists of two hundred forty-eight New Flyer clean diesel and seven battery electric buses, composing thirty one percent of the fleet.

MTA does not currently own or operate any Gillig manufactured buses. Before State acceptance, Gillig would be required to manufacture a pilot bus for testing and approval of each model hybrid-electric and battery electric before manufacturing could be approved to move forward. The prototype process in production and delivery would result in an inherent risk of missing the 2025 bus delivery which would increase the fleet age and additional repair and inventory costs. MTA conducted a price analysis.

The base pricing for New Flyer buses under the Washington State contract as follows:

XE 40ft.	\$1,034,790.00
XDE 40ft.	\$763,556.33

The costs for converting a bus from Washington State configuration to MDOT MTA configuration would increase the total bus price by an average cost of \$323,000. MDOT MTA configuration pricing is as follows:

XE 40ft.	\$1,396,359.08
XDE 40ft.	\$1,048,610.71

MTA compared the overall costs to other transit and state agencies which utilized the Washington contracts for their bus purchases. The cost differences are consistent with expectations considering the configuration differences. In addition, the same 40 ft. BEB from New Flyer in December 2021 was priced at \$1,110,607.60 which is an increase of 25% per vehicle. This is within 2% of the Producer Price Index for Truck and Bus Bodies projected cost change from 2021 to present, therefore, the cost was determined to be fair and reasonable.

Based upon time, costs, and fleet standardization, it would be in the best interest of the State for MTA to utilize the Washington State contract to purchase fifty 40 ft. hybrid battery buses and twenty 40 ft. battery electric buses from New Flyer.

III. DETERMINATION

For the reasons stated above and in accordance with COMAR 21.05.09.03(B), the Procurement Officer has determined that the circumstances necessitate the use of an Intergovernmental Cooperative Purchase Agreement, with the State of Washington, to purchase fifty 40 ft hybrid-battery buses and twenty 40 ft battery electric buses from New Flyer for a total cost of \$80,357,731.60.

Additionally, an ICPA is determined to be in the best interest of the state and not an attempt to circumvent the policies and purposes of COMAR 21.01.01.03.

PROCUREMENT OFFICER:

Heather Martin Digitally signed by Heather Martin
Date: 2024.06.12 15:07:30 -04'00'

Heather Martin
Chief of Service and IT Contracts

CONCURRENCE:

William Parham Digitally signed by William Parham
Date: 2024.06.12 15:41:47 -04'00'

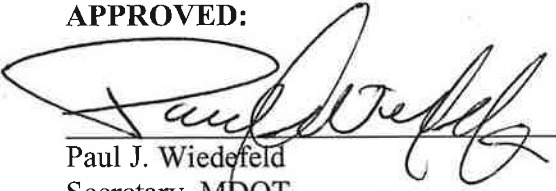
William Parham
Acting Director of Procurement

CONCURRENCE:

 Digitally signed by Holly Arnold.
Date: 2024.06.13

Holly Arnold
Administrator

APPROVED:


Paul J. Wiedefeld
Secretary, MDOT


Date