

**STAFF REPORT FOR CALENDAR ITEM NO.: 12
FOR THE MEETING OF: June 12, 2014**

TRANSBAY JOINT POWERS AUTHORITY

BRIEF DESCRIPTION:

Under Contract No. 08-04-CMGC-000, authorize the Executive Director to (1) enter into negotiations with Webcor/Obayashi Joint Venture (W/O or CM/GC) and Otis Elevator Company to determine a fair and reasonable price for Trade Package TG14.1A, Elevators; and (2) enter into negotiations with W/O and Schindler Elevator Corporation to determine a fair and reasonable price for Trade Package TG14.1B, Escalators.

EXPLANATION:

On November 5, 2013, the CM/GC issued a Request for Qualifications (RFQ) for TG14.1: Elevators and Escalators. On December 12, 2013, five firms responded to the RFQ. On December 20, 2013, a selection committee consisting of representatives from the TJPA, CM/GC, Construction Management Oversight (CMO) consultant and Program Management/Program Controls (PMPC) consultant reviewed and scored each firm's qualifications for technical merit. Based on its evaluation, the selection committee determined the following bidders to be qualified and free of conflicts of interest:

- KONE Inc.
- Otis Elevator Company
- Schindler Elevator Corporation
- ThyssenKrupp Elevator Corporation

On January 30, 2014, the TG14.1 package was issued for bid. The TG14.1 Elevators and Escalators package is comprised of two parts: TG14.1A, Elevators, and TG14.1B, Escalators. Bidders were invited to submit bids for either or both parts. Bidders bidding on both parts had the option of offering a discount on the entire package. The TJPA reserved the right to select the bidder or bidders whose combined responsive bids provided the TJPA with the overall lowest total price for the completion of all work described in the bid package.

A pre-bid conference was held on February 12, 2014. Five addenda were issued during the bid period to provide clarifications, respond to bidders' questions, and provide updated specifications, drawings and sketches. The addenda are listed below:

- Addendum #1 added the landscape drawings and specifications to all bidding trade packages for general reference.
- Addendum #2 added the elevator and escalator maintenance scope of work to the base contract bid rather than being an additive alternate to the base contract bid price. This was done to encourage bidders to submit bids and to guarantee that the manufacturer of the elevators and escalators would maintain this equipment after installation. The bid date was also changed from April 8 to May 15, 2014.
- Addendum #3 deleted passenger elevator PE203 from the scope of work. The deletion of elevator PE203 was a value engineering (VE) decision to reduce the overall project

budget for Phase 1. This elevator provides access to the lower level concourse for the SFPD, which the SFPD agreed could be deferred until Phase 2.

- Addendum #4 extended the bid date from May 15 to May 21, 2014, to accommodate a bidder's request for additional time.
- Addendum #5 was an administrative addendum to officially incorporate responses to questions provided during bidding into the Contract Documents.

The scope of work under this package includes furnishing and installing the elevators and escalators. The major items of work for this package consist of the following:

- Furnish and install 12 elevators and 19 escalators.
- Commission elevators and escalators.
- Provide maintenance prior to Substantial Completion for any elevators used during construction (escalators cannot be used during construction).
- Provide a six-year maintenance contract for elevators and escalators after Substantial Completion per Specification Section 14 01 00.

The scope of work also includes all labor, materials, equipment, tools, transportation, disposal fees, incidentals and any other costs/fees necessary to complete work in accordance with the Contract Documents. All necessary work from mobilization to handover to the next Trade Subcontractor is included in the scope of work.

Following a standard industry best practice, the Trade Work subcontract included a provision for the selected Trade Work Subcontractor to maintain the elevators and escalators for an initial term of six years following Substantial Completion of the Transit Center. This future maintenance is a line item in the base bid; thus, TJPA factored in the cost of future maintenance in determining the lowest responsive bid.

Bidders had the option of submitting VE proposals prior to the bid date. On May 8, 2014, three VE proposals were received. On May 16, 2014, the VE evaluation team consisting of representatives from the TJPA, CM/GC, CMO and PMPC evaluated the following VE proposals, none of which were accepted for the reasons set forth below:

- VE Proposal #1: Non "Buy America" Compliant Escalators
 - Proposed Savings: \$1,425,000
 - Reason for Rejection: This VE proposal would require submission of a Buy America waiver request to the Federal Transit Administration or Federal Railroad Administration, which is not a value engineering proposal.
- VE Proposal #2: Service Elevators SE201 and SE202 change from overhead "gearless" machine to overhead "geared" machine
 - Proposed Savings: \$300,000 (\$150,000/elevator)
 - Reason for Rejection: The design team specified "gearless" equipment because "geared" equipment is being phased out of the elevator industry. The design team was also concerned about the impacts of this change on other building elements that have already been designed or are part of Trade Subcontracts already awarded. Furthermore, the costs to redesign or change the design to a geared machine would negate a portion of the offered cost savings.

- VE Proposal #3: Strengthen escalator trusses and remove intermediate supports
 - Proposed Cost: Additional \$30,000 (This would increase the bid price by this amount.)
 - Reason for Rejection: This VE proposal does not result in a cost savings to the TJPA, as accepting this proposal would increase the bid price by \$30,000.

To ensure the best value for the bid scope, TJPA included in the package several deductive alternates and one additive alternate that are a part of the total bid, and thus were factors in determining the lowest responsible bid. Deductive Alternate No. 13 defers the installation of service elevator SE201 (one of two service elevators serving the Lower Concourse) until Phase 2 when the Lower Concourse and Train Platform levels will be operational. Deductive Alternate No. 14 allows for the use of the manufacturer’s standard passenger elevator cab finishes in lieu of stainless steel wall and ceiling panels detailed by the architect. Additive Alternate No. 22 increases the size of the glass in the interior and exterior elevator doors (required for transit elevator installations) for added safety and security.

On May 21, 2014, one responsive bid was received from Otis Elevator Company (Otis) for TG14.1A, Elevators, and one responsive bid was received from Schindler Elevator Corporation (Schindler) for TG14.1B, Escalators.

Otis also submitted a bid on TG14.1B, Escalators, for \$13,000,000 and a combined bid for TG14.1A, Elevators, and TG 14.1B, Escalators, for \$22,500,000. However, because Otis indicated that its escalators, manufactured in China, were not Buy America compliant, the TJPA deemed these Otis bids nonresponsive.

Below is a summary of the responsive bid results:

TG14.1A Elevators

Bidder Name	Otis Elevator Company
Base Bid to Furnish and Install Elevators	\$12,325,000
Deduct Alt No. 13: Defer installation of Service Elevator SE201	\$(1,525,000)
Deduct Alt No. 14: Manufacturer’s standard cab finishes in lieu of custom	\$(150,000)
Add Alt No. 22: Increase glass size in elevator doors	\$0
Base Bid Less Alternates 13 and 14	\$10,650,000
Maintenance of Elevators after Substantial Completion	\$3,600,000
Total Bid Including Alternates and Maintenance	\$14,250,000

TG14.1B Escalators

Bidder Name	Schindler Elevator Corporation
Base Bid to Furnish and Install Escalators	\$9,035,000
Maintenance of Escalators after Substantial Completion	\$2,400,000
Total Bid including Maintenance	\$11,435,000

Otis submitted the lowest and sole responsive bid for the elevators, based on the total bid amount of \$10,650,000, which is the amount of the base bid (\$12,325,000) less Alternates 13 and 14 (\$1,675,000) and does not include future maintenance (\$3,600,000). Otis's bid included no Small Business Enterprise (SBE) participation and therefore did not meet the 5% SBE goal on the package.

Schindler submitted the lowest and sole responsive bid for the escalators, based on the total bid amount of \$9,035,000, which is the amount of the base bid not including future maintenance (\$2,400,000). Schindler's bid included 7% SBE participation, meeting the 5% SBE goal on the package. Its bid includes two SBE firms.

TJPA's budget for TG14.1 is \$11,921,948 (which includes \$9,388 in design contingency and \$1,207,714 in escalation), and the CM/GC's estimate is \$13,415,200 (which includes the VE deletion of passenger elevator PE203). Both exclude maintenance costs, which will be funded from future operational budgets.

The combined bid for elevators and escalators, excluding maintenance costs, is \$19,685,000, which is \$6,269,800 or 46.74% over the CM/GC estimate.

As provided for under San Francisco Administrative Code Section 6.23 and allowed by Federal Transit Administration regulations, TJPA staff recommends entering into price negotiations with the sole bidders in order to confirm a price which is fair and reasonable. In this case, the sole responsive bidder for TG14.1A is Otis and the sole responsive bidder for TG14.1B is Schindler.

Price Negotiation Procedure

In order to enter into price negotiations with a sole bidder, TJPA must take several steps. First, the TJPA must determine that there was adequate competition. This step requires the TJPA to determine why other prequalified bidders did not submit a bid. If other prequalified bidders indicate that they did not bid for reasons that are unrelated to the specification and/or solicitation terms, then competition may be presumed to have been adequate. Also, this determination should involve an evaluation of whether further outreach efforts or removal/modification of certain requirements in the contract would result in receiving more than one bid. If further outreach efforts or removal/modification of certain requirements in the contract would not result in more than one bid, the competition may be deemed adequate.

The TJPA has determined that adequate competition existed. Based on its communications with the other prequalified bidders, the primary reasons for the lack of other bids are (1) prequalified bidders have sufficient existing work and lack the necessary manpower to undertake an additional large project; and (2) other and potentially more lucrative work exists based on an upswing in current market conditions. While other reasons were provided, the two reasons listed above were consistently communicated to the TJPA by other prequalified bidders.

The second step requires a price analysis to be performed to determine if the bid price is fair and reasonable. The TJPA and the CM/GC have performed an independent analysis of Otis's bid price and Schindler's bid price. Based on this analysis, at this time, the TJPA is unable to determine if the submitted bid prices are fair and reasonable. Further negotiations with Otis and Schindler will clarify if the submitted bid prices are fair and reasonable.

After competition is determined to have been adequate and given that the TJPA is currently unable to determine if the submitted bid prices are fair and reasonable, the TJPA may, subject to Board approval, enter into negotiations with the bidders in an attempt to establish a price that is fair and reasonable.

If a fair and reasonable price is agreed upon, and again subject to Board approval, a Trade Subcontract may be awarded.

The foregoing procedure is consistent with the FTA's Third Party Contracting Circular 4220.1.F and San Francisco Administrative Code Section 6.23 in the event only one bid is received.

Proposed Resolution

Based on the TJPA's determination that adequate competition existed and given that, at this time, the TJPA is unable to determine if the submitted bid prices are fair and reasonable, the TJPA, subject to Board approval, will enter into price negotiations with Otis for TG14.1A and Schindler for TG14.1B with the objective to reach agreement on a price that is fair and reasonable. Assuming a fair and reasonable price is mutually agreed upon, the TJPA will seek Board approval of the Trade Subcontract awards to Otis and Schindler for the agreed upon price.

RECOMMENDATION:

Staff recommends that the Board of Directors authorize the Executive Director to enter into price negotiations with: (1) the CM/GC and Otis for TG14.1A (Elevators) to determine a fair and reasonable price for the Trade Subcontract for the furnishing and installation of elevators at the Transbay Transit Center; and (2) the CM/GC and Schindler for TG14.1B (Escalators) to determine a fair and reasonable price for the Trade Subcontract for the furnishing and installation of escalators at the Transbay Transit Center.

ENCLOSURE:

1. Resolution

**TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS**

Resolution No. _____

WHEREAS, On March 12, 2009, the Transbay Joint Powers Authority (TJPA) awarded a contract to Webcor/Obayashi Joint Venture as Construction Manager/General Contractor (CM/GC) for the Transbay Transit Center Building and Related Structures (Contract No. 08-04-CMGC-000 or the Contract). Under the Contract, the CM/GC must competitively procure Trade Subcontractors; and

WHEREAS, On November 5, 2013, the CM/GC issued a Request for Qualifications (RFQ) for TG14.1: Elevators and Escalators; and

WHEREAS, On December 12, 2013, five firms responded to the RFQ; and

WHEREAS, On December 20, 2013, a selection committee consisting of representatives from the TJPA, CM/GC, Construction Management Oversight (CMO) consultant and Program Management/Program Controls (PMPC) consultant reviewed and scored each firm's qualifications for technical merit and determined four bidders to be qualified and free of conflicts of interest; and

WHEREAS, On January 30, 2014, the CM/GC issued an Invitation for Bids for TG14.1: Elevators and Escalators Package (TG14.1) for the entire Transbay Transit Center Program to furnish, install and maintain the Elevators and Escalators in accordance with the Contract Documents; and

WHEREAS, TG14.1 is comprised of two parts: TG14.1A, Elevators, and TG14.1B, Escalators, and bidders were invited to submit bids for either or both parts; and

WHEREAS, On May 21, 2014, one responsive bid was received and opened publicly for TG14.1A from Otis Elevator Company and one responsive bid was received and opened publicly for TG14.1B from Schindler Elevator Corporation; and

WHEREAS, The two responsive bids when added together exceeded the CM/GC estimate for TG14.1 by \$6,269,800; and

WHEREAS, Following receipt of the bids, the TJPA, in conjunction with the CM/GC, determined that adequate competition existed; and

WHEREAS, Following receipt of the bids, the TJPA, in conjunction with the CM/GC, determined that it is uncertain that the submitted bid prices are fair and reasonable; now, therefore, be it

RESOLVED, That the TJPA Board of Directors authorizes the TJPA's Executive Director to enter into price negotiations with the CM/GC and Otis Elevator Company for TG14.1A (Elevators) and with the CM/GC and Schindler Elevator Corporation for TG14.1B (Escalators) with the objective to reach an agreement on a fair and reasonable price for the Elevator and Escalator Trade Packages.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of June 12, 2014.

Secretary, Transbay Joint Powers Authority