



March 22, 2019

New York Metropolitan Transportation Authority
Patrick J. Foye, President
2 Broadway
New York, NY 10004

Cc:

Hon. Andrew M. Cuomo, Governor of New York
Fernando J. Ferrer, Acting Chairman, MTA
Janno Lieber, President, MTA Capital Construction
Ben Prosky, Executive Director, AIANY

Re: MTA Enterprise-Wide Cost Reduction Initiative

Dear Patrick J. Foye,

The New York Chapter of The National Organization of Minority Architects (nycoba | NOMA) is a professional design association aimed at promoting the work, contributions, and participation of minorities in the fields of design and architecture. Through our professional and educational programming, we advocate for dialogue, policies, and actions that increase diversity and inclusion in the profession. This letter seeks to represent the collective voices of our impacted member firms in response to your recent mandate.

Our understanding is that the MTA is facing steep fiscal challenges and a bleak future financial forecast. According to a letter sent to vendors (primarily prime contractors), with less than 30 days-notice, an immediate action and a series of enterprise-wide cost reduction initiatives have been implemented to reduce current per-hour unit rates by 10%.

Although many MWBEs and DBEs were not direct recipients of this letter, we would like the MTA to fully comprehend the detrimental impact these mandates have on the core of our member firms in their capacities as subcontractors on MTA projects. Documentation that indicates proper procedures were followed through either public notice or public hearings to discuss this urgent request has yet to be furnished, leaving a number of our members with either immediate termination of their contracts or fee reduction as their only potential response options. In violation of NY State public contracts law, this in effect forces affected parties to accept a fee reduction of more than 2% on their MTA contracts without due process.

We are requesting a meeting as soon as possible to discuss approaches that might be appropriate to address this matter, based on the feedback we have gotten from industry-leading organizations and firms affected by this action.

Thank you,

A handwritten signature in black ink that reads 'S. Josaphat'. The signature is written in a cursive, flowing style.

Samantha Josaphat, RA, NOMA, NCARB
nycoba | **NOMA** President

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TRANSIT

MTA Vendors Mull Ending Contracts as Authority Seeks 10% Cuts

Firms say the demand forces companies to work for nothing or at a loss



The MTA is demanding that vendors cut their bills as part of a cost-reduction program. PHOTO: BYRON SMITH FOR THE WALL STREET JOURNAL

By Paul Berger

May 18, 2019 12:00 p.m. ET

Design and engineering firms have told an industry group they are considering walking away from contracts with New York's Metropolitan Transportation Authority after the agency demanded that dozens of vendors cut bills by 10%.

The state-controlled MTA sent letters to certain vendors during the first months of this year, demanding the cuts to existing contracts as part of a cost-reduction program to stem a projected budget deficit in 2022 of \$1 billion. Design and engineering firms say the demand forces companies to work for nothing or at a loss.

The American Council of Engineering Companies of New York said in an email sent to members Thursday that one firm has accepted a change to their contract. The email added that some firms have expressed their concerns about losing money and are talking about walking away from contracts.

A spokesman for the MTA said Friday that no vendors have walked away from contracts so far and that a “significant number” of firms have agreed to cost reductions.

The spokesman added that the MTA has terminated one contract with WSP U.S.A., which will prevent the firm from competing for environmental services work in future. WSP didn't respond to a request for comment.

Jay Simson, president of ACEC of New York, declined in an interview to identify the firms involved or say how many are considering pulling out of contracts.

Mr. Simson said his group recognizes the MTA's financial challenges. But he said the cost-cutting program is shortsighted because it could lead to a lower standard of design work in the future.

In its email to members, the ACEC of New York said it believed the reduction request may violate federal procurement regulations on projects that have federal funding and that the group has asked members of Congress for support.

MTA Chairman Patrick Foye said in a statement: “The dire financial situation that the MTA is dealing with will have a direct impact on our customers if it is not addressed, and everyone who we do business with has a role in fixing it by tightening their belts and reducing costs. The MTA is making historic cost reductions while improving the quality of service, and we expect our partners to do the same.”

The MTA is a large and important client for firms in the region. It spends billions of dollars each year maintaining and expanding New York City's subway and buses, two commuter railroads and nine bridges and tunnels.

The cuts don't affect construction firms. Instead, they are aimed at technical, professional and advisory contracts, which include management consultants and IT firms as well as design and engineering companies such as WSP U.S.A., Aecom and STV. Spokespeople for the three companies, which have worked on projects such as the new Second Avenue subway, the renovation of an L train tunnel under the East River, and the 7 Subway line extension, declined to comment.

At an MTA board meeting on May 10, the authority's chairman, Patrick Foye, said the MTA was in talks with more than 40 vendors representing about 200 contracts. Based on discussions so

far, Mr. Foye said the authority was halfway toward saving an estimated \$75 million over the life of the contracts, some of which run for the next several years.

Mr. Foye said that for firms unwilling to cut costs: "We are prepared to terminate those contracts for convenience where it makes sense for the MTA, pursuant to the terms of those contracts."

The MTA has staggered its rollout of letters to vendors outlining the cuts. An MTA spokesman said that 50 firms have been contacted so far with a further 60 yet to be notified.

In its letter, the MTA gives companies a couple of weeks to confirm their new reduced rate, plus a few additional weeks before the rate cut takes effect. If firms don't respond, the letter states, "the MTA will assume a commitment to comply with this new policy and apply the 10% reduction to invoices received after the implementation date."

A coalition of trade groups sent the MTA a March 1 letter stating that the authority already applies federal auditing rules to its contracts that limit firms' profits to about 8%.

"A 10% cut in rates will mean that firms are working at a loss on MTA projects," said the letter, whose signatories included the ACEC of New York and the New York Building Congress.

Samantha Josaphat, president of nycoba-NOMA, the New York chapter of the National Organization of Minority Architects, said larger firms have forwarded the MTA letters to subcontractors.

Ms. Josaphat said smaller firms will be even harder hit by the cuts because they are less able to absorb the cost. She said that five minority-owned firms that work for the MTA, each employing five to 10 people, have contacted her expressing concern. "The cap of 8% was already hard to commit to," said Ms. Josaphat. "To now mandate them to bring fees down even more is very hard."

Write to Paul Berger at Paul.Berger@wsj.com

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