



**Testimony of Rachael Fauss, Reinvent Albany
Before MTA Finance Committee**

April 15, 2019

***Asks MTA to Explain How AlixPartners Contract is
Newly Classified “Competitive”***

Good afternoon. I am Rachael Fauss, Senior Research Analyst for Reinvent Albany. We advocate for more transparent and accountable state government, including for state authorities like the MTA. We would like the MTA to take everyday steps to increase public confidence by showing that the MTA follows its own rules and is open about its activities. Part of the MTA’s continuing credibility problem is the authority’s top management treating routine matters as emergencies that must be addressed in secret and outside of existing rules and well established processes. The MTA is a public transit agency, not a secret weapon workshop or spy agency.

I am here today to:

1. Note our continuing concerns regarding the procurement process used for MTA reorganization plan contract, given that the contract appears to have been reclassified as “competitive” per page 40 of your materials, despite it having been described as non-competitive in the March 2019 Finance Committee materials; and
2. Ask that the MTA staff provide answers to the following questions, given the apparent change in classification:
 - How can this contract be classified as “competitive” given that the prior March proposed approval submitted to the board noted that its previous iteration was not complying with the competitive bidding requirements under PAL§ 1265-a? Further, the March proposed approval stated that competitive bidding was not found to be practical under Article III(C)(3) of the MTA’s All Agency Service Procurement Guidelines¹. To be clear, the law requires Board Approval for non-competitive contracts of this size.

¹ MTA All Agency Service Contract Procurement Guidelines
http://web.mta.info/mta/compliance/pdf/Procurement_of_Services.pdf

- Given that the scope of the contract has increased, with the additional requirements of 1279-f, can this still be classified as “competitive” given that this component of the work was added on to the reorganization plan? It should be noted that the examination of waste, fraud and abuse as required by 1279-f is different in scope than a reorganization plan.
- Has the MTA issued a declaration of an Immediate Operating Need (ION) for this project to justify the lack of a formal, competitive process? Has the MTA provided a public listing of all contracts for which these declarations are issued?
- Are there other MTA contracts that have been classified as competitive and follow a similar selection process, in which full notice requirements are not followed, and staff selects the firms to be vetted?

To recap, the staff summary requesting Board approval² at the March 2019 Finance meeting stated that the contract was to be awarded under §1265-a(4)(a) of the Public Authorities Law, which relates to contract that do not comply with competitive bidding requirements. The justification provided said the contract “is essential to efficient operation or the adequate provision of service and as a consequence of unforeseen circumstance such purchase cannot await competitive bidding.”

The staff narrative for today’s April 15, 2019 meeting³ notes that the Chairman/CEO authorized the declaration of critical need to forgo formal advertising and conduct a “competitive process to the extent practicable”. Six firms were identified by a Steering Committee of MTA Senior Staff, and 4 firms were asked to submit proposals. Ultimately AlixPartners was found to “demonstrate superior expertise in operational restructuring, organizational design and transportation optimization”.

The staff narrative for today notes the fee is “inclusive of all expenditures and encompasses several additional tasks that were not in the original request” including new requirements from §1279-f of the Public Authorities Law, as included in the final budget - “reviews” of waste fraud and abuse, duplication of services, cost efficiencies, and reviewing the 2015-2019 Capital Plan of the MTA, among other items.

Thank you for your consideration.

² MTA Finance Committee. March 25, 2019. Page 32.

http://web.mta.info/mta/news/books/pdf/190325_1245_Finance.pdf

³ MTA Finance Committee. April 15, 2019. Page 40.

http://web.mta.info/mta/news/books/pdf/190415_1245_finance.pdf