

STATE OF MARYLAND  
BOARD OF PUBLIC WORKS  
GOVERNOR'S CONFERENCE ROOM  
STATE HOUSE  
ANNAPOLIS, MARYLAND

10 o'clock A.M.

November 12, 1976

Reported by:  
HUNT REPORTING COMPANY  
461 Quaker Bottom Road  
Havre de Grace, Maryland  
21078

PRESENT

GOVERNOR MARVIN MANDEL, Presiding

HONORABLE LOUIS GOLDSTEIN, Comptroller

HONORABLE WILLIAM S. JAMES, Treasurer

ANDREW HEUBECK, JR., Secretary; EDWARD L. MIDDLETON,  
Administrator, Board of Public Works

GEORGE R. LEWIS, Secretary, General Services

R. KENNETH BARNES, Secretary, Department of Budget and  
Fiscal Planning

DR. VLADIMIR WAHBE, Secretary, Department of  
State Planning

LOUIS N. PHIPPS, Deputy Secretary, Department of  
Natural Resources

MAX MILLSTONE, Deputy Secretary, General Services

DR. H. LOUIS STETTLER, Assistant Secretary,  
Department of Budget and Fiscal Planning

MS. BETTY CHANEY, Administrative Assistant,  
Board of Public Works

GOVERNOR MANDEL: Can we come to order, please? I didn't anticipate the kind of gathering we have here today, and I see there are a number of people who have requested to be heard, and time will be limited.

I am just wondering if we can eliminate any duplication or just repetitive statements.

How many people that are here actually want to be heard by the Board? I mean, I don't assume that everyone here wants to be heard. At least, I hope not.

All right. Then, we're going to ask the Department of Transportation to start off and present its case before the Board, and then we'll call on some of the people that want to be heard.

Harry, would you like to start off?

Let me say, before he starts, so there will be no misunderstanding about it. I have a long telegram that I just received from Walter Orlinsky, the President of the Baltimore City Council, who says that he's aware of this hearing today, and, unfortunately, he can't be here because he has a prior commitment to be out of the country, but that he understands that the City Council has pending before it an ordinance, and



that the law, that ordinance has to be adopted before any action of this Board could be legal, and that he was considering going to court for an injunction to prevent this meeting, but that, not being in town, he couldn't do that, and he's asking the Board to postpone this meeting until the City Council has had time to act.

There's no way -- and I want to make it clear -- in my judgment, and I think the other two members of the Board would concur, there's no way we could postpone this meeting for a number of reasons, Number 1 being that the contract, or one of the contracts, we're considering has an expiration date of December the 1st. The state has done all that it can do at this point to get the Mass Transit Project underway in Baltimore. The matter now is in the Baltimore City Council, and it's going to be up to them to take whatever action has to be taken as far as the city is concerned. If they want to proceed with the work, it's going to be a matter for the Baltimore City Council, now, to make the determinations that they have to make under the law. All that we can do is consider what's before us. I just want to make that clear.

And, Harry, if you want to go ahead, now, go right



ahead.

SECRETARY HUGHES: Governor, and Comptroller Goldstein, and Treasurer James: I will identify myself, because it says to do that. I'm Harry Hughes, Secretary of Transportation, for the State of Maryland.

You have before you, today, two contracts involving the Rapid Rail Subway System in Baltimore, Section A. One was before you earlier, and that is the construction contract. I think that's Item 1T, the Bolton Hill tunneling, and I would assume that you would prefer to take each one separately.

GOVERNOR MANDEL: Yes, can we confine ourselves to the first item, first, and then we'll take the next item after we dispose of that.

SECRETARY HUGHES: That's the assumption that we had made.

GOVERNOR MANDEL: Right.

SECRETARY HUGHES: So we're taking the first item, Item 1T, from where it was the last time it was before the Board, and that is the construction contract for the Bolton Hill tunneling.

We do have brief presentations on each one of these

subject matters, and Mr. Addison, the Mass Transit Administrator, will lead into those presentations and introduce who is to follow him.

So, without anything further, I'll just ask Mr. Addison to lead off and to follow up with a couple of people, and that will conclude our presentation with regard to that first contract.

MR. ADDISON: Thank you, Secretary Hughes.

Governor, Members of the Board: The item before you is the Bolton Hill construction contract, which was on the Agenda of the Board Meeting of October 22nd, and was deferred.

The reason for the deferral was the request on the part of the Board for certain additional information and actions to be taken in the interim to be reconsidered.

It's my understanding that we were to develop information concerning the specific UMTA requirement -- contract specifications -- requiring a contractor to meet a full 10 percent specification for minority business development, and that we also have meetings with Senator Douglas, Colonel Harris, and others, to determine what further might be done in order to increase minority participation on this specific contract.



I think the point I would like to first go into in some depth, are the UMTA requirements. First of all, as far as the affirmative action program, and the minority business program, of the MTA, they have been referred to UMTA and have been approved.

I would like to go into some of the details of what is called the UMTA External Operating Manual, which, in effect, are the requirements that all project sponsors receiving federal aid must adhere to.

And I believe, by just mentioning a few salient points out of this External Operating Manual, it can clearly be seen that everything that we have been doing is right on target and in conformance with all the federal requirements.

I would like to quote a section of the UMTA External Manual, which says, as follows: "All procurement transactions, regardless of whether negotiated or advertised, and, without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. The Grantee should be alert to non-competitive practices which may restrict or eliminate competition, or otherwise restrain trade."

The reason I am quoting this particular reference is



to clarify the issue as to whether or not a goal of 10 percent can be considered a requirement, or a set-aside.

As late as Wednesday afternoon, I had a discussion with the representative of the Office of Civil Rights of UMTA, and it was further established that a set-aside is not proper, nor appropriate, nor in conformance with Federal Procurement Regulations.

A further statement in the External Operating Manual is as follows: "In general, the project sponsor may not enter into contracts for construction, materials, or equipment, except after formal advertising, and free, open and unrestricted competitive bidding."

Again, reemphasizing, there is no possible way we, operating under these requirements, can establish any set-aside or restrictive quota in any contract.

Another issue is the question of, is it necessary, under federal requirements, that such a thing as a 10 percent goal even be included, and I would point out that the federal requirements are limited to an expression of best effort. They do not, in any way, imply any particular specific percentage goal, or requirement.

I would like to read a section out of the UMTA External Manual --reference, The Minority Business Enterprise Program -- as follows: "Unless a waiver has been obtained, as outlined in Chapter 11, Section B, Paragraph 4j, and Section P" -- and so forth, and so on -- "the project sponsor, consistent with federal policy expressed in Executive Order 11625, must assure that minority business enterprises have the maximum practical opportunity to participate in all contracting activities pursuant to the project. In providing this opportunity" -- and I would like to emphasize this sentence -- "In providing this opportunity, the project sponsor must use his best efforts, nothing further."

It is important to note that in our bid conditions, we have established, as a goal, 10 percent. I have a copy of a communication from the Regional Council of UMTA, Region 3, which states, "On grants over \$1 million, UMTA required the applicant to develop a minority business enterprise plan, and receive UMTA approval of the plan."

MTA has developed such a plan that has the goal of awarding 10 percent, by dollar value, to minority business enterprise firms.



MTA has included in its bid conditions the requirement that minority business enterprise firms are to be assured 10 percent of the total value of prime contract; however, MTA permits the prime contractor to request an exception to this requirement if the circumstances warrant.

This does not conflict with UMTA procedures, since UMTA considers the 10 percent figure to be a goal, not a set-aside.

And, finally, MTA can issue an exception without UMTA involvement.

There's a further restriction in the UMTA guidelines, which does not permit us to limit competitive participation by geographical area, or any other factor, foreign or domestic.

As a consequence, I think we have clearly established that the procedures that were involved in this particular contract, that are the MTA's affirmative action program, that were included in the bid conditions in this contract, are in full and complete compliance with the federal regulations, and exceed them in many respects.

GOVERNOR MANDEL: Can you hold on one second, please?



MR. ADDISON: Yes, sir.

GOVERNOR MANDEL: Go ahead, Walter. I'm sorry.

MR. ADDISON: Furthermore, in response to comments from the last Board of Public Works Meeting about the participants getting together on this thing, there was a meeting at the Maryland DOT Headquarters, on November 3rd, with representatives of the Secretary's office, my office, Senator Douglas, Colonel Harris, and others.

The follow-up to that was another meeting on November 4th, in the afternoon, which lasted approximately five hours, with representatives of Fruin-Colnon, the successful, low-bid contractor, Senator Douglas, and the Baltimore Association of Minority Contractors.

Again, there was another follow-up meeting to that on November 10th, again, with, to the best of my knowledge, Fruin-Colnon, representing the contractor, the Baltimore Association of Minority Contractors, and Senator Douglas.

I believe there has been an additional meeting today, just around noontime. I have not heard the results of what that meeting brought out.

But there has been a sincere and honest attempt to

get the participants together and talk this matter out into some depth.

We believe the contractor has developed a program which is acceptable, as far as the MTA is concerned, which we think is far in excess of what we might have anticipated in terms of bringing into their project a significant percentage of minority businesses.

We performed an independent evaluation of that opportunity, and we feel that their efforts in this direction have not only fulfilled what might be considered best efforts, but have gone far beyond.

I think, in order to bring the Board up-to-speed on what has transpired in this particular area, and since these kinds of negotiations between the minority contractors group and the Fruin-Colnon representatives should be discussed before the Board, I would like to introduce Mr. Morris Rosenberg, Counsel for Fruin-Colnon, who will be supported by Mr. Stanley Bartholomew, Vice President, for Fruin-Colnon, to bring to the Board exactly what has been transpiring in these various meetings that you requested.

MR. GOLDSTEIN: Well, Governor, may I ask Mr. Addison



a question?

GOVERNOR MANDEL: Go right ahead.

MR. GOLDSTEIN: Mr. Addison, we're now taking up the contract of \$41 million. Is that right?

MR. ADDISON: That's correct.

MR. GOLDSTEIN: Well, in other words, we've had a chance to read this telegram, and we haven't hired a construction manager yet -- are we taking the cart before the horse?

MR. ADDISON: No, sir.

MR. GOLDSTEIN: Why not? In other words, we don't have anybody here to represent the Board of Public Works on those contracts here today, and here we have a cloud hanging over the situation because Mr. Orlinsky, the President of City Council, says you need legislation -- and I heard the Mayor on the radio this morning saying that you need legislation before you award the contract.

MR. ADDISON: Mr. Goldstein, if I may point out --

MR. GOLDSTEIN: Are you a lawyer?

MR. ADDISON: No, sir.

MR. GOLDSTEIN: I didn't think you were.

MR. ADDISON: No, sir, I'm an engineer.



MR. GOLDSTEIN: Well, now, I'd like to have some lawyer speak to my question, then.

MR. ADDISON: Yes.

MR. GOLDSTEIN: Have you got a lawyer here?  
Mr. Hughes, you're a lawyer, I know, and a very good one.

MR. ADDISON: As far as the particular construction contract on the Agenda today, in relation to the telegram, and the requirement for a City Council Ordinance, this contract already has right-of-entry permits from Baltimore City; therefore, it does not require the passage of that ordinance. Future contracts may, but this particular contract does not.

MR. GOLDSTEIN: Well, who requested that this ordinance be introduced? It's my understanding that the folks in the Department of Transportation, of your division, asked it to be introduced. Is that right or wrong?

MR. ADDISON: We have been working with the city administration. It's a joint responsibility, as far as the introduction of this ordinance is concerned, and the need for its passage.

For example, the ordinance, technically, may not be necessary for the project, at all, if we could continue to

receive right-of-entry permits from the city on a case-by-case, project-by-project basis.

In overall, general procedure, it would be desirable -- and we agree with the city to this extent -- that, rather than have to process right-of-entry permits, for each portion of each contract, a franchise ordinance would, in effect, give us a blanket right-of-entry, and preclude the need for all that excessive paperwork.

MR. GOLDSTEIN: Dr. Stettler, do you have a copy of that law there, with that provision in it that requires Baltimore City to okay it? Let me see the copy of our statute. Which section was it, do you remember?

DR. STETTLER: 47, I believe, sir.

MR. GOLDSTEIN: Section 47.

DR. STETTLER: Yes, right in the middle.

MR. GOLDSTEIN: Right. Section 47 -- may I read it to you? Or you may be familiar with it.

MR. ADDISON: Yes, sir, I'm familiar with it.

MR. GOLDSTEIN: "The authorities shall comply with all laws, ordinances, and regulations, of Baltimore City, Anne Arundel County, and Baltimore County, with respect to use



of streets, highways and all other vehicular facilities, traffic control and regulations, zoning signs and buildings. The authority may not locate, construct or maintain any of his transit and related facilities in, upon, over, under, or across any streets, highways, freeways, bridges or any other vehicular facility, or parkways, or parklands, without the consent of, and except upon the terms and conditions required by the affected government or agency thereof."

MR. ADDISON: That's correct.

MR. GOLDSTEIN: That's very clear.

MR. ADDISON: That's right.

MR. GOLDSTEIN: And you haven't done that. Why didn't you introduce it last spring, or last summer, before the Council adjourned for the summer?

MR. ADDISON: That decision, I think, is not something that MTA had anything to do with. I think that was an administrative decision on the part of the city administration.

We have been requesting that that ordinance be introduced for quite some time, and due to conditions that the Mayor and his people felt appropriate, or inappropriate, at that particular time, the ordinance was not introduced until quite



recently. However, we have been pushing, shall we say, for introduction of that ordinance for about a year and a half.

But, be that as it may, as far as that Section 47 is concerned, we now possess right-of-entry permits, which are necessary, for proceeding ahead with this contract.

MR. GOLDSTEIN: Thank you.

MR. ADDISON: And I'd like to introduce Mr. Rosenberg, and Mr. Bartholomew, to explain what has transpired, with regard to minority participation.

MR. ROSENBERG: Your Excellency, Comptroller Goldstein, Treasurer James: I appear here today on behalf of the Fruin-Colnon Corporation, and Horn Construction Company, a joint venture, which was awarded the Bolton Hill tunnels contract.

To begin with, I sent a letter to the Board, calling to its attention a number of things, and I hope that each Member of the Board has had a chance to read that letter. Moreover, I would like to have that letter introduced as part of the record in this proceedings.

GOVERNOR MANDEL: I'll do that right now. I have a copy of it right here.

MR. ROSENBERG: Thank you.

GOVERNOR MANDEL: Go right ahead.

MR. ROSENBERG: Well, I wanted to wait until the court reporter had taken care of it. Thank you, Your Honor.

The Baltimore City Minority Contractors Association who now oppose the approval of this contract, had -- that is, its members had -- an equal opportunity to submit bids for the work that they were interested in obtaining.

But only one of its members submitted a bid, and that bid was not competitive, because it was approximately \$500,000 more than the joint venture figured it would cost it to do the work.

The joint venture, before submitting its bid, studied every contractors bid that was furnished to it before it put in its final figure, which happened to be the lowest of five construction contract bidders.

That is very important. It is only after we know what we have to subcontract that we can determine the bottom line figure, which, in this case, was \$41,658,000, which bid, incidentally, was \$3 million less than MTA, itself, estimated would be the cost of doing this tunnel work.



Now, this contract is a tunnel contract, and the operation is simply one of advancing the tunnel head from one point to another.

It is underground mining, and that portion of the contract could not be subcontracted by the joint venture. It had to do it, itself.

It has the expertise, and it, alone, would assume the hazardous risk of seeing to it that there weren't any cave-ins; that the buildings above the ground would not settle and be damaged, in many respects. It has to be done in a very highly-skilled way, with very sophisticated equipment, and not one, single contractor in the State of Maryland -- general contractor -- even submitted a bid for this job. All five who did, were out-of-state tunnel contractors.

Now, ideally, both from the point of view of the Federal Government and the State Government, the government saves money when a proficient general contractor can do all, or most, of the work.

And that is precisely the kind of case we have here, where, in submitting its bid, the joint venture planned to do 90 percent of the work itself, and, at the time it submitted



the bid, it had no bids to consider from the Baltimore City Minority Contractors Association, except one, which I said was \$500,000 too high -- not competitive -- and, of course, couldn't be used. Had we used it, this bid would have had to have been \$500,000 more.

There's no question of discrimination here. Minority subcontractors who did file bids, were honored, and contracts to the extent of \$620,000 will be awarded to minority contractors. That commitment has been made, if this Board approves the contract.

Because of the October 22nd meeting, the joint venture considered going deeper into this, to be a directive to the joint venture, to meet with Senator Douglas, and with the Baltimore City Minority Contractors, through their Association.

We had three meetings. The first one lasted five hours. At the second meeting, they gave us this document. It's a list of things that they were interested in doing, and they had the bid prices, and I'm just going to make a fast comparison. I already covered one, which was \$500,000 too high.

They were interested in trash removal. Their bid --

that one minority contractor's bid -- was \$200,000. The joint venture intends to do that work for \$16,000.

Job site security: A minority contractor on this list -- and I'd like to offer this in evidence, too, and I'll give it to the reporter later on -- put in a bid of \$90,000 for that item. The joint venture expects to do it for \$40,000.

Photographic construction progress: The minority contractor, \$20,000; the joint venture, \$6,600.

Fencing: The minority subcontractor's bid, \$100,000; the joint venture's price \$38,300.

I've already mentioned that other one, which was a half a million too high.

Now, as has been brought out by Mr. Addison, this is competitive bidding; no hand-outs are to be made. The state should get the lowest price it can for doing the work -- or, having the work done.

And, even if -- and my point is, even if -- the minority subcontractors had submitted these bids prior to the date on which the joint venture had to give its bottom figure to MTA, they wouldn't have been considered because they were not competitive, and, remember, this sheet of paper was given



to me, just two days ago, November 10th.

In the joint venture's effort to work something out, the attorneys for the joint venture and the man down here, Mr. Bartholomew, who is representing it, came up with a Memorandum of Understanding, which I would also like to have made a part of this record.

This Memorandum of Understanding sets forth the terms under which the joint venture would subcontract work to minority contractors.

I'm not going to take the trouble of reading the terms of it, but it complies with the specification requirements of the prime contract documents, and it also lists the work that I have just read off to the Board, and, if the minority contractors had accepted this work, plus an item for restoration of buildings, which will probably have to be done, but no one knows, now, just how many buildings will have cracks in them and will have to be restored -- with that \$500,000 figure included, this Memorandum of Understanding -- well, I can't find it right now, but as soon as I do, I'll have that marked, too -- but it gives minority subcontractors -- would give them, if they worked under this Memorandum of Understand-

ing -- close to \$3.5 million of work. I think it's \$3.7.

That was furnished to them yesterday. I don't know whether they've rejected it, or what. We have not received any definitive answer.

There are time limits in doing this work, and they are set forth -- some of them are set forth -- in the letter to the Board, in paragraph 14.

I'd like to call to the Board's attention that special, advanced tooling is required. In fact, rearrangements have to be made for the manufacture of the tunnel liner plates.

In addition, specialized, underground tunnel equipment must be custom designed, and built especially for this Bolton Street project -- Bolton Hill project.

Now, the dates have been set for having this material made when we need it for the job. If the job is to be done on time, within the period set out in the contract, there must be advanced lead time for the items that I have just mentioned.

We've gotten two extensions from the manufacturers who will do this, and, without obtaining reasonably prompt approval, it will be impossible to obtain those delivery dates, because it will be impossible for the manufacturers, the



suppliers, to do it.

So, prompt action, by the Board, is highly essential, for turning this over to Mr. Bartholomew, with whom it's been my good pleasure to have worked with for the past five days, all day long, and into the night, sometimes.

I would like to point out one other thing. From information that was given by MTA, this contract is just one of five tunnel contracts, the total of which will cost about -- or, estimated to cost \$120 million, and tunnel work is not the kind of work that the minority contractors are really interested in. But what they are interested in, is the remaining \$480 million in work, which will cover the erection of above-ground -- of the stations, and all those things -- where there is concrete work to be done, dry wall work to be done, painting to be done, plastering to be done -- all the things that minority contractors, and non-minority contractors in this area are capable of doing.

So, by approving the award, this is not the end-all for minority contractors. On the contrary, the way is ahead.

If this contract is awarded and the job begins, they will have the opportunity to bid on 480 million in work,

and, perhaps, even get greater than a 10 percent.

I concur in everything that Mr. Addison has said; that the 10 percent for minority enterprises is just a goal. Moreover, under the circumstances of this case, my own opinion is, had MTA not waived that requirement, it would have acted in an arbitrary and unreasonable manner, one, because the minority groups that are opposing this today, didn't even submit bids that were competitive -- they only submitted one that wasn't -- and, secondly, the Board, the prime contractor have got to act on the bids that were given to them before the final bid of each prime contractor was given to MTA.

Without that, there's no bidding process, and the minority group had equal opportunity, but they didn't take advantage of it, and it's too late to come before this Board now and object to the granting -- to the approval of the contract.

Moreover, from what I've said, even if they had submitted these bids on time, they were so out of line that they couldn't have possibly have done the work on the figures that the joint venture used.

At this time, I would like to introduce --



GOVERNOR MANDEL: Well, before you do that --

MR. ROSENBERG: Yes.

GOVERNOR MANDEL: Is there any questions of Mr. Rosenberg?

MR. JAMES: No.

GOVERNOR MANDEL: Louis, do you?

MR. GOLDSTEIN: I just have the one question with reference to this telegram that Mr. Orlinsky sent us: namely, the passing of the ordinance by the City Council of Baltimore prior to the awarding of this contract.

Let's assume that this contract is okayed by the Board of Public Works, today, and Orlinsky and his group in Baltimore, file injunction proceedings in Baltimore, and tie it up in the courts, and December 1 comes around and you haven't done anything -- what's going to happen?

MR. ROSENBERG: Well, my own opinion is that, based on what Mr. Addison said, that case won't get very far. And if an injunction proceedings --

MR. GOLDSTEIN: Well, we're not talking about what Mr. Addison said. I'm asking you, as a very fine lawyer, what you think, in your own right.

MR. ROSENBERG: Well, the --

GOVERNOR MANDEL: He thinks he'll have another case to handle.

MR. ROSENBERG: Of course, this is not my --

(Laughter.)

MR. GOLDSTEIN: Mr. Addison is an engineer. He says he's not a lawyer.

MR. ROSENBERG: Yes, well --

MR. GOLDSTEIN: And you're a very able lawyer.

MR. ROSENBERG: Louie, your flattery will get you nowhere.

(Laughter.)

MR. GOLDSTEIN: I'm not practicing law. I'm just asking you as a lawyer of a very fine firm, Rosenberg and Tydings, what do you think?

MR. ROSENBERG: I haven't given any consideration to this question. I have a top-of-my-head, gut reaction, and if there is a right-of-access, about which there doesn't seem to be any question, that telegram from Mr. Orlinsky is just a little political rhetoric, without any basis for it.

GOVERNOR MANDEL: By the way, I might say, last week



I asked the Attorney General to give us an opinion as to just what we have to do, and what the city's rights are.

But, from reading that particular section, myself, I think it says we need permission from the municipal government, or any appropriate agency.

And I think what Mr. Addison is saying is that the agency has already given the permission on this particular contract --

MR. ADDISON: Right.

GOVERNOR MANDEL: -- so that they're not sure that this particular ordinance is needed for this particular contract.

MR. ROSENBERG: Precisely. That's my understanding, too, Your Excellency.

GOVERNOR MANDEL: Are there any other questions anyone has of Mr. Rosenberg?

(No response.)

GOVERNOR MANDEL: Mr. Bartholomew?

MR. GOLDSTEIN: Just one more question, Governor.

GOVERNOR MANDEL: Oh, go ahead.

MR. GOLDSTEIN: You were speaking about these liners

for this tunnel. Are they steel liners, or are they going to be concrete liners?

MR. ROSENBERG: Steel.

MR. GOLDSTEIN: Steel. Where are you going to buy this steel from?

MR. ROSENBERG: They'll be manufactured in West Virginia and hauled up here.

MR. GOLDSTEIN: Are they going to use Bethlehem Steel, or any other companies in Maryland?

MR. ROSENBERG: I don't know the details about that.

MR. GOLDSTEIN: Or is it going to be Japanese steel?

MR. ROSENBERG: May I defer that question to Mr. Bartholomew?

MR. GOLDSTEIN: Okay.

MR. ROSENBERG: That's a detail that I don't know about.

MR. GOLDSTEIN: I'll be very happy to propound the question to Mr. Bartholomew. Yes, sir, I'll be happy to.

MR. ROSENBERG: Mr. Bartholomew, incidentally, will work with that chart. I don't know whether the Comptroller can see it.



MR. GOLDSTEIN: Oh, I can turn around; I can see it.

MR. BARTHOLOMEW: Just turn it around. You know the area.

GOVERNOR MANDEL: Mr. Bartholomew, before you get into that, I think if you answer the Comptroller's question, we could save a lot of time.

MR. GOLDSTEIN: Yes. Could you answer my question, sir? I understand the steel liners are going to be prefabricated down in West Virginia, and the Bethlehem Steel, who hires a lot of folks, announced on the radio this week they're laying off more people, and may lay off more.

Is this going to be Japanese steel, or European steel? What kind of steel are you going to use?

MR. BARTHOLOMEW: May I dispense with the introduction formalities; that, apparently, I'm known, and I'll respond to your question.

I'm advised by the Liner plate supplier, the Commercial Shearing Corporation, that the source of the steel that will be used in this particular order will be secured from the U. S. Steel Corporation.

The reason that that is so is that their particular

design of liner plate involves a rolled steel section that is a special one, and that, apparently, U. S. Steel, at this particular time, is in a position to roll it.

Commercial Shearing Corporation is a world-respected fabricator or furnisher of underground support for tunnels. They, historically, have manufactured liner plate, and other types of underground support, using steel from both the Bethlehem Steel Corporation and U. S. Steel.

They have excellent working relationships with both. I understand that, in this instance, the supply is dictated from U. S. Steel for the reason that I indicated.

MR. GOLDSTEIN: In other words, you're going to use domestic steel.

MR. BARTHOLOMEW: Yes, sir.

MR. GOLDSTEIN: Thank you, sir.

MR. BARTHOLOMEW: That is correct.

MR. GOLDSTEIN: You see, when you see 8 percent unemployment -- 8 million people out of work -- and the largest tidewater steel mill in the world laying off people every day, that means less sales tax, less income tax, less gasoline tax -- the type of tax to go ahead and help pay for these projects.



MR. BARTHOLOMEW: I understand, sir.

MR. GOLDSTEIN: We can't build them over in Japan, you know, or Belgium, someplace.

MR. BARTHOLOMEW: I can definitely say, it is not Japanese steel.

MR. GOLDSTEIN: Okay. If you put that in the record, it's okay with me.

MR. BARTHOLOMEW: Now, Mr. Rosenberg, I'm sure, will concur with me, that in the last two weeks, in meeting with Senator Douglas and other representatives in the State of Maryland, concerning this problem, that the work has been hard; at times, tempers have flared; there has been disagreement -- there has been honest disagreement.

All of us have worked on this problem very much, on both sides of the question. Sometimes, in these circumstances, we express things in a manner that implies the impression that is not intended.

And this happens, not only with contractors and attorneys, but also with minority businessmen, and others, Governor.

Mr. Rosenberg introduced a document that had figures

on it, some of which were bids that were actual bids received by the joint venture at the time of bid for the work -- the one that he mentioned.

The others, I think, that were described as bids, really, were more in the range of order of magnitude allowances that the minority community was suggesting might be an appropriate amount of work represented by the particular item represented, rather than a hard bid.

We do not believe that the minority community is using the requirements that we've been discussing in an effort, so to speak, to shake us down.

We do believe they have a problem on certain kinds of work, and being competitive with the experienced majority contractor, who has been executing that type of work for many, many years.

We, collectively, have a problem in that respect, and when I say collectively, I mean on the minority contractor's side of the picture, as well as our own. I would like to dwell on that a little later.

If I may, after having clarified that question, I would like to proceed with my more prepared remarks that I



hope will illustrate the problem that confronts us.

There is a very simple plot plan of the Bolton Hill project on the easel. I hope that you can see it.

MR. GOLDSTEIN: Governor, I'm going to take my coat off. It must be a hundred degrees in here.

MR. JAMES: Is the television all finished? Maybe we could dispense with the lights.

(Discussion off the record.)

GOVERNOR MANDEL: Go ahead, sir.

MR. BARTHOLOMEW: Thank you. The site of the work is illustrated. In the upper-central portion of the diagram is the portion of North Eutaw Street in the central part of the project, where the work is really centralized.

The state office complex buildings appear in purple -- the two on the upper side of North Eutaw Street -- and the Department of Human Resources Building on the south side.

Those buildings are multi-storied, large offices, containing many, many activities of the state government. The staffs that work there are very numerous, to the extent that the light beige areas -- parking lot areas -- are completely filled with cars by the people that work in these complexes.

The congestion is intense. When people come to work in the morning, North Eutaw Street, which contains three lanes of traffic in each direction in that area, is very, very heavily congested by people getting to work. In the evenings, when they go home, it is very heavily congested.

From about noon, onwards, activity is such that the street is very heavily congested. It is in that situation that the contract work, essentially, must be performed.

The contractor, regardless of whether it's our joint venture that will be building this job or any other, essentially, will be required to do the following things:

The first thing he must do is to relocate the existing utilities in the streets to clear the areas for the sinking of the access shaft of the tunnels.

The two access shafts of the tunnels are the two rectangular red squares that show in the middle of North Eutaw Street.

The next thing that he must do is to erect a compressed air plant, which is illustrated by a blue rectangle between the two parking lots.

That building will contain a number of large air



compressors that are powered by 400 h.p. electric motors, requiring a high-voltage power line from the Baltimore Gas & Electric to be built into the area, and the installation of about a 3,000 k.v.a. substation at the location of the compressor plant.

The contractor, then, must sink the right-hand access shaft. After the utility work has been done, the traffic must be diverted in a manner that will enable him to put ground support piles in the ground, install a decking system, erect heavy bracing, perform the excavation work to sink that shaft some 75 feet into the ground, that permits the erection of about \$1 million worth of custom-designed and delivered underground lining equipment for the tunnels.

The distribution of compressed air must be put under the street from the compressor house to the shaft, as well as power services and other things of that nature.

At this point, the contractor will be in the position to begin mining the tunnels. The two will be mined, essentially, simultaneously, with one of them meeting the other.

After the tunnel mining has progressed approximately 150 feet from the shaft, air locks must be installed in the

tunnels, and, from that point onward, on a 24-hour a day, 7-day a week, basis, compressed air must be kept in the tunnel headings to stabilize the face of, and to permit the driving of the tunnels.

After those two tunnels are driven, and they will be done in that manner, finally ending down on the lower, right-hand end of the diagram, up to a dead end, the two shields that were used to drive them, remain in the ground, the contractor, then, in the meantime, must have excavated the other shaft, which is the upper-left-hand red shaft, transferred his underground crews, which, incidentally, have worked on a 24-hour a day basis, five days a week -- even though the air is kept on over the weekends, the work will only progress, normally, during the five-day week -- those people then move to the other shaft, and the process is repeated, driving the other two tunnels in the other direction.

During the driving of the tunnels, and simultaneously with it, the contractor must inject grout pipes and do what is referred to in the documents as compaction grouting, under certain large buildings, and others, along the alignment of the tunnels, so that as settlement develops, if it does, due



to the tunnel driving, these buildings, simultaneously, may be jacked back up, so to speak, by the injection of this compaction grouting..

It's a technique that there's, I think, a good deal of speculation about. It has not been widely done. It has never been done before on this scale.

Simultaneously with that, he must monitor the movements of the ground surfaces to detect whether the streets and the buildings are moving.

When he moves to the other shaft, and repeats that operation for the other two tunnels, his work, then, will have progressed to the point where all four tunnels are done, and the last two shields are left in the ground, down under the lower, left-hand side of the chart.

Essentially, the only work remaining to be done at that point is, then, the sinking of two, small ventilation shafts: One is in that position, the other, in that position.

These shafts are sunk down on top of the completed tunnels by the same process of installing soldier pile, decking, and excavating, to break into the tunnels.

When that has been done, a concrete structure, or

chamber, is poured in that section around the tunnels. The concrete work is brought to the surface and the street in the immediate vicinity of that shaft is restored.

Now, there are two of them, as I mentioned. One is the intersection of North Eutaw Street and Monument Street, on the right; the other, the small shaft, or the Lafayette Street shaft, on the left.

When that has been done, that is the extent of the contract. That is all of the construction work that there is.

The problem that a competing contractor has, and with the type of requirements that are in these documents, regardless of how sincere, and how hard he may try to meet them, is simply this: That work has to be examined from the standpoint of what parts of it are susceptible to be sub-contracted to some other construction activity or agency or company, other than the prime contractor.

I would like to go through the operations again, and explain what we did on the day that we bid the job, in that respect, and why we did it.

The first thing that we talked about was the movement of the utility items to permit the shaft to be sunk. That



work is of a nature that it is frequently done by subcontractors. We did receive bids from minority subcontractors. They were competitive; we used them in our bid, and we advised the MTA of our intent to award that work to a minority subcontractor.

The installation and the design of a compressor house, and the equipment, is, obviously, proprietary. That is the expertise that our company has, and the reason that we came to Maryland to bid this project -- because of what we feel is our ability to do this work. That applies to the design and furnishing of that equipment, the sinking of those two shafts under traffic conditions, and the installation of our tunnel driving equipment in the shafts.

The installation of the air locks and the driving of the tunnels -- obviously, it has got to be done by the prime contractor.

Two contractors can't drive the same tunnel, even if there was some sense in it, from a business standpoint.

The next thing that I think has to be considered is the compaction grouting, that I indicated was of such a specialized nature that there are very few people in the country that really have had experience with it.

There was only one subcontractor quotation that was furnished to all of the bidding contractors for performing that work, from one contractor who has done a lot of grouting work on the San Francisco system, on the Washington system. He has not done the type of compaction grouting to the scale required by this contract, but he knows a lot about it and he has engaged, as a consultant, several smaller contractors out west, who have.

That bid was submitted to all of the contractors bidding the job and was used by all of them in their bid to the state.

For that work, we, obviously, will use that price and we intend to subcontract work to that firm.

The restoration of the buildings damaged by settlement is a provisional item that we can't say, definitely, will happen, but it probably will happen. There's an amount of \$500,000 included in the contract under the expressed provisions that if those buildings do settle, we are to take bids from contractors for the repair of the damage, submit them to the MTA, who will review them, and then direct us to award the work to one of those contractors.



It is the intent of the MTA -- their feeling -- and it is ours that that work can be performed by the minority contractors in the local area, and it is our intent to award that work to those contractors.

The \$500,000 may not develop; on the other hand, it may be more. We have no control over it. We really don't know.

The next thing that I think should be considered is the sinking of the shafts over the completed tunnels -- that is, the two small ones that I mentioned, the Monument shaft and the other shaft.

I don't think that we will argue that that work cannot be separately contracted. It does not interfere with the tunnel driving. It can be performed by others. I think the consideration there, really, becomes one of price.

My company, and our partner, has performed that kind of work for many years. We've studied the problem, and prepared our estimate for the value of that work and predicated the bid to the state, based on doing that work with our own forces.

We also took bids for the work. We received several

bids for performing the work that were in excess of our estimate. There were none from the Minority Contractors Association in Baltimore, but there were some from minority contractors elsewhere.

We were not able to use them in our price because of the fact that they were too high.

The next item of work is the concrete work, in bringing the concrete structures up in those shafts to the street.

Again, that is work that, historically, my company and our partner has performed with our own forces. We've executed ten such contracts on the San Francisco system and the Washington system.

We believe that we have something to offer in that respect, and that our in-house knowledge is something that makes us competitive and able to compete successfully for this type of work.

However, again, it is work that can be subcontracted to others. We did receive a, and I would say it's a fine, quotation from a member of the Minority Contractors Association in Baltimore for that work. We considered it.

Again, gentlemen, it was, as Morris Rosenberg



indicated, \$500,000 over what we estimate that we would be able to bid to the state on the basis of performing the work with our own forces.

About all the other work there is in the contract is the restoration of the streets, around those two shafts, after the concrete work is finished.

That work we received bids on from minority contractors. We used them in our bid. It is our intent to award that work to minority contractors.

I'd like to go back to one aspect of the tunnel work, and that is the disposal of the excavated material. That portion of that operation, obviously, is -- I won't say obviously, but factually is not work that will be performed by the joint venture forces, and we did not intend that it would at the time that we bid the job.

We sought quotations for the hauling and disposal of the excavation from majority contractors and minority contractors.

We received a number of bids. We did not receive a bid that we were able to use from a minority contractor in the Minority Contractor's Association of Baltimore.

We did receive a bid from a majority contractor in the City of Baltimore, who has been in the trucking business in the city for many, many years, and has demonstrated competence in that area.

It was the lowest bid of three or four bids that we did receive from majority contractors for the trucking.

We, obviously, needed the advantage of that bid, we included it in our price, and it was bid as part of our bid to the state.

We've indicated that fact to the MTA, as part of their review procedures, and indicated the intention to award that work to that majority contractor.

It's important to us, for another reason, besides simply the question that it was the lowest price. This contract provides for liquidated damages of \$5,000 a day in the event that we do not vacate that work shaft for each of those two tunnels by the stipulated date on the contract.

In addition to that, we have an investment in the around-the-clock, underground crews, and our fixed plant and equipment, and our supervisory personnel, of about \$15,000 a



day. We have got to advance that tunnel the requisite number of feet against that \$15,000 a day, or we perish.

It is fundamental to our position, that the trucker that hauls away that excavation be able to do so on a 24-hour a day basis; that he do so without delay; that the trucks are there, the material gets hauled away, and we do not suffer a delay on that account.

That thinking, and analysis that we made, after taking all of these bids, resulted in our position, as we reported it to the MTA at the time of bid.

The upshot of it was that we were committed to award \$620,000 of work to minority contractors; we committed the additional \$500,000 of restoration work, if it occurs, to minority contractors; the rest of the work was to the majority contractors I've mentioned, or to be performed with our own forces.

On that basis, we applied for an exception to the requirements, held several conferences with the MTA, and gave them a complete analysis of the breakdown of our bid to illustrate the problems that I've just illustrated, and applied for the exemption and received it.

Since the last meeting of the Board of Public Works, this question was raised by Senator Douglas, and, I might say, it raised with our full understanding, as a result of his efforts and our own, for the last two weeks we've been in a posture of intensive discussions and negotiations with the minority community in the City of Baltimore.

As a result of all of those discussions -- and I won't take up your time by trying to detail exactly what happened, but there were a number of meetings, and, as has been reported by Mr. Addison, the upshot of the situation was this:

The joint venture has indicated to Senator Douglas and to the Baltimore Minority Contractors Association that we are willing to enter into negotiations with them to review developing additional subcontract work in the following areas: Fencing, for which we have an allowance of \$38,700; Trash Collection Services, for which we have an allowance of \$16,000; Furnish Security and Guard Dog Services, for which we have an allowance of \$40,000; Photographic Services, \$6,600; Miscellaneous Material and Equipment and Hauling Services, \$15,000; Construction of the Concrete Foundations for the Compressor House, \$10,000; Furnishing of Concrete Foundations and



Miscellaneous Materials, such as stairs and walks for our office complexes, \$12,000.

The major item of building the concrete structures in the two shafts -- the Monument shaft and the other shaft -- involving many bid items in the estimate, but the general scope of it being the complete job of furnishing all materials, forming, pouring the concrete, finishing it, the stripping of forms, installing the reinforcing steel, the miscellaneous metal work, the battenite waterproofing, the bonding, the other required embedded metals -- all according to the specifications for which our estimate, plus the loadings, and the profit figures that bring it up to the figure that we included in our bid to the State of Maryland, \$1,702,200.

That is an item that, in our opinion, there is demonstrated competence in the minority community to perform. The problem that exists there appears to be, again, one of price; however, if it can be accomplished, that we can get the work subcontracted to a contractor of that group, under the scope of these dollars, we will earnestly endeavor to do so, and we will furnish such help in the way of renting cranes to them that may be difficult to obtain otherwise, providing

such services as we can, and we will help them in every manner to be able to reduce their estimated costs for the work down to this level where they can live with it, and we can live with it.

In addition to that, and, I might say, with a great deal of soul-searching on our part, we have agreed with Senator Douglas that we will negotiate with any contractors that will step forth and represent that they are capable of doing the work for the installation of the decking and the sinking of the two shafts down on top of the tunnels, including the decking, the installation of the solder piles, the excavation work and removal of the excavation, the bracings -- everything that is required.

Our price for doing that work, in the case of the Lafayette vent shaft, which is the easier of the two to perform -- the one on the left -- and it was included in our bid to the MTA for that work, \$417,500.

The same work for the Monument vent shaft, which is a very difficult problem, because of the traffic congestion there -- the chart really does not illustrate it very well, but that's an extremely heavily-trafficked cross street that



involves commuter traffic to the city in the morning and away at night; it's a very difficult problem; it has run the difficulty of the work up -- our price for that bid to the MTA was \$538,500.

The net effect of everything that I have talked about would bring, with our initial commitment resulting from the prices taken at the time of bid, plus the \$500,000 contingency item, plus the sum total of these things that I just detailed, which totals \$2,796,500, less a deduction of \$131,000 for work that is duplicated, would bring the amount, that if these negotiations were successful, at these levels, to about \$3,825,000, or something to that nature.

We have come to this position, from the position that we had at the date of the bid, which, in our opinion, fully satisfies the federal requirements, the UMTA requirements, the requirements of the State of Maryland, and the Department of Transportation, insofar as the legalistic requirements are concerned.

We have come from that position, which we believe proper, and for which we sought and secured the exemption, to the position that I have detailed to you now, and that we have

communicated to Senator Douglas and the black community, for the reason that, in part, we have been able to find additional things that, frankly, can be performed by anyone, and part of those moneys are in here, so that would have happened anyway, and partly as a result of our business judgment which simply says this, under normal circumstances, we would not subcontract the concrete work on those shafts, or the sinking of those shafts that have been included in this work, to any contractor, minority contractor or a majority contractor. Such contractors are in competition with us, and bid freely and openly against us to secure the contract in the first place.

If we would then turn and subcontract that work to another subcontractor, it can be for one reason, and one reason only, since it is our type of work, and that is on the basis of price that would reduce our bid to a competitive level that we think would help us at the bid table.

That was not the case. We are willing to subcontract it to minority contractors in the Baltimore Association of Minority Contractors because, in addition to performing this job for the State of Maryland, which we wish to do, and wish to do very badly, we also wish to perform this work in an



atmosphere of friendship.

When this job is completed, we want the City of Baltimore to feel as though they would like to have us back, and that includes the minority community.

We're willing to do this; we'll work toward it; we will help do it, in order to perform this contract in the spirit of friendship, rather than in an adversary position.

So, fundamentally, unless there are questions, I think that's about all I have to say.

We urge the Board of Public Works to approve this contract, and to do it promptly, for reasons that have been detailed in a separate memorandum that is before the Board, that you all received before the program was presented.

GOVERNOR MANDEL: Any questions?

MR. JAMES: Do I summarize properly if I say that 1.7 is a firm commitment, and that you add additional, possible allocations to the minority contractors up to 3.8?

MR. BARTHOLOMEW: The 1. --

MR. JAMES: Can you summarize what's firm?

MR. BARTHOLOMEW: The 1.7 is no more or less firm, in that it has not been a negotiated amount.

MR. JAMES: I see.

MR. BARTHOLOMEW: That is what we have in the contract that we can afford to negotiate.

MR. JAMES: Can you tell us what's firm, and what is possible? Can you summarize what is firm?

MR. BARTHOLOMEW: Yes, what is firm is the 620 that resulted from bids. I can regard as firm many of these smaller items. I cannot quickly develop a total figure. It can't be firm, because the contractors are, as yet, unnamed.

MR. JAMES: Well, what was your 3.8 figure?

MR. BARTHOLOMEW: The 3.8 figure represents our price for work in our estimate that we are willing to enter into subcontract agreements for with minority contractors in the Baltimore area. And there are some conditions to it, that I omitted, that I think I should read to the Board that are important, so that they understand the context under which we're doing this.

The conditions are that the minority subcontractor must demonstrate capability. His performance of that subcontract must be approved by the Mass Transit Administration. That is an expressed condition of the contract, and that we



have not the ability to waive it.

MR. JAMES: Well, is that in addition to the \$600,000? Is that in addition to the \$600,000?

MR. BARTHOLOMEW: The \$600,000 is included in \$3.8 million.

MR. JAMES: I see. Okay.

MR. BARTHOLOMEW: The other condition, and it's an important one, is that the subcontractor must furnish a performance in payment bond for the value of the work subcontracted with a surety which is on the U. S. Treasury's list of approved assurers, which is an assurity bond requirement that is in the MTA contract documents, and applies to us.

The subcontract must be approved by our surety. We cannot waive that requirement; it is not our prerogative. It's a requirement of the MTA contract and your contract documents that our surety approve the transaction.

Finally, the subcontractor must agree to perform the work under the requirements of the collective bargaining agreements to the extent that there are requirements in our collective bargaining agreements that this work be done.

Finally, the price must be in the general scope of

these numbers that I have indicated to you, and that is \$3.8 million.

The \$600,000 is an agreed price. Those were firm bids; it's firm; it's settled. The rest of this is work that we feel that, if sincere effort is made, we can negotiate it.

MR. GOLDSTEIN: I just have one question to ask of you, Mr. Bartholomew. You said there's \$500,000 allocated for buildings that may have cracks or settle because of this tunneling work. Is that correct?

MR. BARTHOLOMEW: That's correct, sir.

MR. GOLDSTEIN: Now, let's say, Mrs. Jones, or Mrs. Smith, or Mrs. Brown, or Mr. Kohn, or Mr. Hughes, finds these three-story homes up through Eutaw Place are cracking. How do they go about filing their complaint -- with the contractor, or with Mr. Hughes' Department of Transportation? What's the procedure?

MR. BARTHOLOMEW: I cannot speak to that subject with as great authority as others, but I'll try.

MR. GOLDSTEIN: I want to get this in the record, because I know how things happen in this state. You take some poor person, who wouldn't know where to even find you;



you'll probably go back to St. Louis, or some other place, where you come from, after you finish your work, and a lot of these folks, you know, in these departments, they seek other jobs. Like Mr. Addison, why, he was getting ready to go to Washington. I thought he was going to leave and go to Washington, the other day, according to the newspaper. See, they're here today, and gone tomorrow.

How do these people proceed to file their claim?  
Who do they proceed against?

MR. BARTHOLOMEW: I'll respond to that question to the best of my ability.

MR. GOLDSTEIN: Yes, sir.

MR. BARTHOLOMEW: They will contact us and file a claim that they've been damaged. The project is protected under the auspices of a wrap-up insurance program, whereby there is full, third-party liability insurance coverage for the restoration of damages.

MR. GOLDSTEIN: Do you have an insurance carrier that has that kind of a policy?

MR. BARTHOLOMEW: Yes, the authority has procured that protection for the entire system.

MR. GOLDSTEIN: That's under that big insurance policy.

MR. BARTHOLOMEW: And we are assured the protection of that as one of the --

MR. GOLDSTEIN: Is that a responsible insurance company, or are they in business today, and gone tomorrow. You know, one of the companies says they're pretty weak, you know, today.

MR. JAMES: We'll go into that later, Louis.

MR. GOLDSTEIN: Well, no. Why, no. I want to put this in the record. I think it's important to put this -- at least, I want it in the record. You may not want it, but I want it in the record.

MR. JAMES: Well, I expect to bring it up as a separate -- a completely separate item.

MR. GOLDSTEIN: I see. But I'd like to have it from the man who's going to be the principal contractor, if we award this contract.

MR. BARTHOLOMEW: My experience has been before, under similar circumstances, under the wrap-up programs, that our



ability, as the construction contractor, to respond to complaints of that type, has been that the contract terms have been satisfactory to allow us to do that. We have done it. It works, I think, quite well. The community is assured the protection for restoration of damage due to the construction work that's being done.

MR. GOLDSTEIN: You did that in Washington and San Francisco?

MR. BARTHOLOMEW: Yes, sir.

MR. GOLDSTEIN: Thank you, sir.

GOVERNOR MANDEL: Any further questions?

MR. GOLDSTEIN: That's all the questions I had.

GOVERNOR MANDEL: Thank you very much, then.

Senator Douglas?

I know there's a number of people that would like to be heard. Could we condense it into --

SENATOR DOUGLAS: We're going to try to condense it.

GOVERNOR MANDEL: Go ahead.

SENATOR DOUGLAS: Let me just say a couple of things, we're going to ask for a delay in the contract because, as

Mr. Bartholomew has indicated, we have been negotiating for a long time, and we're pretty close to an agreement.

The Memorandum of Understanding that they gave us last night has -- these gentlemen are very shrewd -- it has a lot of snake pits in it, and we have not been able to discuss those because we were running out of time because of this meeting.

I want to indicate to you why we are asking for a delay, and I want to address myself to something that is very, very pertinent, because the things that we came up with here, we came up with them, and you've got people employed with the state who are supposed to be doing these items, and I want to speak to that, very pointedly, a little later on, because I don't think that we, as blacks, in this state, should be put in the position that we are placed today. I think it's an unfortunate position, and those people of the communities of the State of Maryland have to understand that because of the realistic climate of the state, that we have to fight for every scrap of thing that we get. But we intend to do that, and that's why we're here.

I'm going to have some other people speak before me,



and I would like to wrap up what they say. The Baltimore Urban Coalition, the CEBO or the Council of Equal Business Opportunity, the Baltimore Contractors, the Free State Minority Contractors, The Eastern Shore Trucking, were all part of the negotiations, and we want to have Mr. Hoff, from the -- Chairman of the Baltimore Urban Coalition, will have something to say, first.

MR. HOFF: Governor, Members of the Board: I'm here representing the Baltimore Urban Coalition, which is an organization dedicated to the, sometimes questioned, proposition that people can live together in peace and harmony.

We are interested in the avoidance of conflict. In my association with the Baltimore Urban Coalition, I have not heard a single item that is likely to generate as much conflict now, or in the future, as the proposed subway system.

In our opinion, it behooves us to move carefully before we move too far in the direction that we might later regret.

The Baltimore Urban Coalition has, therefore, authorized me to request a further delay in the awarding of this contract, in order to allow the development of the more

credible program of minority participation in the proposed contract for the proposed system.

I am Gerry Hoff, Chairman of the Baltimore Urban Coalition.

Senator Douglas suggested that I might tell you why, in our opinion, the present program of minority participation is not entirely credible to the community.

We have been furnished by the Mass Transit Administration, whose cooperation we are most appreciative, a list of contracts awarded, to date.

This list, gentlemen, totals approximately \$30 million. Of that total, 3.4 percent of the negotiated values, or \$1 million, or so, were awarded to minority contractors.

As you have heard today, the proposition is that a further contract in the amount of \$40 million be awarded, and there is -- depending on which version you believe -- the possibility of a firm commitment for an additional \$600,000 to \$1.7 million contract work, as well as a potential additional \$2 million, and, all figured out, that the best we can hope for, out of the total \$70 million that would have then been awarded with the 5 percent; the worst that could happen would



be that this total would be 3 percent.

That seems a far cry from the 10 percent objective. Much has been said about the objective, itself. Gentlemen, it is not our position that an objective itself is adequate. I think I would second what Mr. Addison has said about the use of best efforts, except I would suggest we insert in that term the simple word, "very" best efforts.

To me, here's what very best efforts would mean: A program of minority participation for the entire system, and not just pieces of it. But, more important, yet, the development of a credible method of getting to that 10 percent objective. The highest figure that I have heard, so far, about what is believed can be awarded to minority groups, out of the total estimated work is \$40 million, and, at this point, we are at \$1 million, and, hopefully, at \$3 million.

There is \$37 million of additional work yet to go, and I don't know how it is proposed that we get there.

Finally, I would like to suggest that it was a healthy experience that your Board recommended, that the prime contractor meet and discuss with minority groups, and community groups, the proposed contract.

I agree with Senator Douglas, that this should have happened much earlier. I believe the most important thing is sufficient lead time in this and future awards to work out the problems on the community level.

And I suggest that the MTA appoint a community panel to award -- to counsel with it, on future contract awards, before they are recommended to this Board.

Thank you very much.

GOVERNOR MANDEL: Mr. Hoff, let me say something, because time is running on. It was this Board that insisted that there be meetings, and it was this Board that insisted that they get together and attempt to work out some minority representation.

But this Board also has a further obligation. We have an obligation, also, to all of the people in the State of Maryland. We have a contract, here, that came in \$3 million under the estimate. We have a date of December 1st, as I understand it, on which this contract is going to expire.

Now, if this contract expires, and if it's rebid, and if it comes out \$5 million above the estimates, we may even have some personal liability.



And, right now, I'm sure the Comptroller and the Treasurer don't feel like assuming that kind of personal responsibility.

MR. JAMES: The Comptroller can do it, but I can't.

GOVERNOR MANDEL: Yes, I know, but maybe he can afford it --

(Laughter.)

MR. HOFF: I think it's the usual question of what comes first, the principle, or the time involved.

GOVERNOR MANDEL: No.

MR. HOFF: And we stand on behalf of the principle.

GOVERNOR MANDEL: No, it's not a question of the principle or the time involved. We have reached the point of no departure. I mean, we've reached the point where we've got to go, one way or the other.

And I say this with all respect, and I think Senator Douglas, and Mr. Harris, and all, will tell you that every Member of this Board has been instrumental in trying to get to the point where we've reached now. But there comes a point where we have an obligation.

And I haven't discussed this with Senator James, or

the Comptroller, but there comes a point where a decision has to be made, and I just don't know if we can further delay, without running a very serious risk to both the state and to ourselves, frankly.

MR. HOFF: I would just like to tell you, on the basis of my review of the documents, I think it's going to be a very fortunate occurrence if the minority community in Baltimore comes out of this entire work with somewhere between \$10 and \$20 million dollars of contract awards. And I am not certain that that's going to be a tolerable result when all the returns are in.

GOVERNOR MANDEL: I don't disagree with you, at all. In fact, we agree with you. That's why we're here.

MR. HOFF: Yes, sir.

GOVERNOR MANDEL: But the problem is, can we do it in this instance?

MR. HOFF: Yes, sir.

SENATOR DOUGLAS: The next person to speak will be the Executive Director of the Council of Equal Business Opportunity, Mr. Samuel Daniels.

MR. DANIELS: Thank you, Senator Douglas.



Governor Mandel, Comptroller Goldstein, Treasurer James: I'm Sam Daniels, the Executive Director of the Baltimore Council for Equal Business Opportunity.

If you will bear with me, I will respond within, approximately, three minutes.

I would like to say this, that I think the Governor has really come to the core of the matter, and it brings, certainly, the Council for Equal Business Opportunity to its point of concern, that the condition exists at this point, because, primarily, the Mass Transit Administration, under the Department of Transportation of the State of Maryland, has not done its job.

And, perhaps, our argument is not with the representatives of Fruin-Colnon, but with those public servants who have the obligation to put together an effective, fair and reasonable affirmative action program, which they do not have.

The Council for Equal Business Opportunity joined with the Urban Coalition in the third week of October, along with Senator Douglas, in requesting that the Board delay its consideration of awarding any further contracts in this project until such time as there had been developed a more meaningful

affirmative action program, and a system of compliance, which, as of today, does not exist.

Now, if we are pressured for time to move as an expediency, and ignore the concerns of a significant portion of the population of this state, then I think it would, indeed, be costly, and a decision which should not be made by this Board, and that I join with those who are coming today, asking for further delay, not only on the awarding of this contract, but the awarding of the contract for construction management.

I'd like to say this to the Board: There is no affirmative action plan out of MTA. It's an after-the-fact, minimum attempt to delude people into believing that there's an affirmative action plan. It does not provide any affirmative action approach for minority participation in competitively bidding, or otherwise participating as a prime contractor, and I think --

GOVERNOR MANDEL: Sam, let me ask a question. Senator Douglas, we're going to meet again next Friday.

Mr. Bartholomew, do you think by next Friday you all could get together and come back here with a plan --

MR. BARTHOLOMEW: Governor, I --



GOVERNOR MANDEL: -- with the firm assurance to this Board that a decision will be made next Friday?

MR. BARTHOLOMEW: May I make a short response to that request, and to explain what the problem --

GOVERNOR MANDEL: I understand your problem. Really, we do. I really understand your problem.

MR. BARTHOLOMEW: Governor, I am not in a position to do that. I am very sorry. I cannot, for reasons that you understand.

MR. DANIELS: Governor, may I just conclude --

MR. GOLDSTEIN: Well, just one moment.

MR. DANIELS: -- because --

MR. GOLDSTEIN: Just one moment. One minute. You say you can't wait until next Friday, the 19th? Today's the 12th. I know what date it is. Just one minute, now. I'm the man asking the questions. You ought to sit back and listen for a minute, will you, please? I'm asking the questions; I'm on this Board, and you're not. Just let me ask the questions, please.

Today is the 12th.

MR. BARTHOLOMEW: Mr. Goldstein?

MR. GOLDSTEIN: And next Friday is the 19th.

MR. BARTHOLOMEW: I cannot because there are firms for which we have made binding commitments for the liner plate, months ago; for the underground equipment, months ago; for the compressor equipment, months ago.

Those commitments, we have gone to people that manufacture these things, time and time again, and asked for extensions. The clock goes on. They have been most gracious; they have extended twice, to my knowledge, critical dates, that, according to the commercial terms that were negotiated when we made these commitments, we either had to give them a firm, binding, total commitment, or cancel the transaction entirely.

The State of Maryland, Department of Transportation Contract does not put us in a posture that we can guarantee recovery of the bare minimum cancellation costs that these people would have for doing that, let alone the great cost that our own company has incurred, simply by virtue of the fact that we've had a large organization poised for 60 days, now --

MR. GOLDSTEIN: If I understand this contract, we had until December the 1st to make the award. And you mean to tell me that you made binding contracts -- a brilliant man like



you, representing a big company, made binding contracts before December the 1st?

MR. BARTHOLOMEW: Yes. May I clarify that?

MR. GOLDSTEIN: I'd like to know.

MR. BARTHOLOMEW: The bid documents speak to two issues: One of them is the -- the contract has already been awarded. The question that is involved is that I have no status under that contract.

MR. GOLDSTEIN: You say the contract has been awarded?

MR. BARTHOLOMEW: Yes, sir.

MR. GOLDSTEIN: Who awarded it?

MR. BARTHOLOMEW: I beg your pardon, sir?

MR. GOLDSTEIN: Who awarded it?

MR. BARTHOLOMEW: The Department of Transportation.

MR. GOLDSTEIN: That don't mean a damn thing.

GOVERNOR MANDEL: You mean it's been awarded, but not approved.

MR. GOLDSTEIN: They don't have any authority to award a contract.

MR. BARTHOLOMEW: Correct, sir.

GOVERNOR MANDEL: It's been awarded, but not approved.

MR. BARTHOLOMEW: Exactly.

MR. GOLDSTEIN: Well, that don't mean anything. If you don't get it approved, I don't pay you.

(Laughter.)

MR. GOLDSTEIN: I'm the man that pays the bills. And I'm not going to pay you. I want that understood, Mr. Harry.

MR. BARTHOLOMEW: That is precisely the problem.

MR. GOLDSTEIN: I want that understood, again. You all have been doing a hell of a lot of things up there that haven't been according to Hoyle, but let's set the record straight again, today, until it's approved by the Board of Public Works, it's not going to be paid. Damn if I'm going to the Penitentiary for you, or anybody else.

SECRETARY HUGHES: Nobody's asking you to.

MR. GOLDSTEIN: Okay. Okay. That's what it amounts to; that's what it amounts to.

SECRETARY HUGHES: No, it's subject to approval by the Board of Public Works.

MR. GOLDSTEIN: All right, then. That's how simple



it is.

MR. BARTHOLOMEW: That is the situation exactly.

MR. GOLDSTEIN: Did your lawyers tell you that?

MR. BARTHOLOMEW: No, sir, I can read the documents.

MR. GOLDSTEIN: Okay, then.

MR. BARTHOLOMEW: That's clear.

MR. GOLDSTEIN: Well, we've settled that very quick.  
I'm not going to make you any payments until we approve it here.

MR. BARTHOLOMEW: I understand that; I understand  
that.

MR. GOLDSTEIN: The law says that.

MR. BARTHOLOMEW: That's the problem, but the  
December date is a different date. That is the date of notice  
to proceed.

MR. GOLDSTEIN: I see.

MR. BARTHOLOMEW: Now, there can be a delay on that.  
That does not put me in the same position. But I cannot extend  
the date by which I can guarantee minimum cancellation charges  
to these firms that have already extended themselves far beyond  
what anyone would have a right to ask them to.

MR. JAMES: What's your last day?

MR. BARTHOLOMEW: I beg your pardon?

MR. JAMES: What is your last day? What is the last day?

MR. BARTHOLOMEW: They have given me, sir, today. If I don't get a resolution of this problem today, I'd be compelled to cancel the transactions, entirely, which will have this effect: That we will lose the delivery dates that have been committed for the liner plate because of the tooling problems of the underground equipment that is going to delay the physical execution of the work. That time will be lost and it cannot be regained, sir.

MR. GOLDSTEIN: Well, couldn't you, as a top man in your company, commit \$4 million to these wonderful people in this contract? I was just using that figure, \$4 million. That's pretty close to 10 percent. We've got some of the finest workmen in the world, here, represented right in this room, here today.

MR. BARTHOLOMEW: No, sir, I cannot, other than on the basis of normal business transactions.

MR. GOLDSTEIN: Well, what is your time schedule to go back home, today? Are you going to stay around here



tonight?

MR. BARTHOLOMEW: I'm at your service, sir.

MR. GOLDSTEIN: Well, maybe you can sit down with these folks tonight, and tomorrow morning, and get some oysters and country ham, up there in Baltimore, and biscuits, and soul food, and sit down and talk this thing out.

(Laughter.)

MR. GOLDSTEIN: That's what I recommend you do. Sit right around a big table there, somewhere.

MR. BARTHOLOMEW: Mr. Goldstein, I must say that I do not believe that the Board of Public Works can ask me to do that, under the context of the documents, and your obligations, and my obligations, under the procedures for which you have called bids, and you want to get this job built.

The contract conditions speak for themselves. I have indicated my complete intention to negotiate meaningful subcontracts with these gentlemen, subject to those conditions, within the framework of those dollars. And I have committed myself to work with them to that end.

GOVERNOR MANDEL: Can you do one thing for us? We're

going to be here, at least, another hour, or hour and a half.

MR. JAMES: If we're lucky.

GOVERNOR MANDEL: If we're lucky, right; maybe a little longer. How about walking around the corner and using one of my other offices, and sit down, and see if you can come back in some accord?

MR. BARTHOLOMEW: I think I can do that. I'd be glad to do that.

GOVERNOR MANDEL: Will you do that?

MR. BARTHOLOMEW: I'd be glad to do that.

GOVERNOR MANDEL: You all are here. Sit down in a room, and I'll lock the door, and we won't let you out until you get it settled.

MR. DANIELS: Governor, and Members of the Board of Public Works, my concern that I'm communicating to you, goes beyond just this contract, and I think it's very significant --

GOVERNOR MANDEL: We understand. Believe me. This is not going to happen again.

MR. DANIELS: But the affirmative action plan, as it currently exists, is ineffective; it lacks competence, and, really, I want to point out, what has appeared to be the



insensitivity of the administrator.

GOVERNOR MANDEL: We fully understand that, and that's why I'm saying this will not happen in the future. This is an exception. Just as you, we're having our first initiation. All I'm saying is, we have to get this one straightened out one way, or the other. We just can't keep going on.

SENATOR DOUGLAS: Let me indicate a couple of things to you. We have been negotiating with Mr. Bartholomew, and I want to say publicly that he's a fine, professional man, but we've been negotiating at a disadvantage because he has in his pocket a letter of intent to proceed, which means that he doesn't have to do anything, and it's hell negotiating with somebody when they don't have to give you anything, and that would be the situation if we go around the room and turn around and sit down with him. Until he has to give up something, we are in a bad position. Until he has to meet something, we're in a bad position.

Now, the document that he signed -- the document that he signed -- said he would make a best effort up to a goal of 10 percent. Now, I often wonder what would have happened if MTA had said, 10 percent. What would have happened

then? Would he have met those goals? I say to you, he would have. As a business situation, he would have met them, and there wouldn't have been any arguing, and there wouldn't have been any haggling about it.

GOVERNOR MANDEL: And you could have saved us a lot of time.

SENATOR DOUGLAS: I wouldn't negotiate with him. I've already spent a whole lot of time with him, but I say to you, unless this gentleman has something to lose, when he sits down at the negotiating table, I am negotiating, and the rest of these folks, here, from the Congressman's office, the Minority Contractors, Baltimore Urban Coalition, we're just --

GOVERNOR MANDEL: Bob, look --

SENATOR DOUGLAS: We're just wasting our time.

GOVERNOR MANDEL: The thing he has to lose is the contract.

SENATOR DOUGLAS: Well, the next bidder is only a half million dollars above him, and I think, seriously, in the future, we ought to consider that, then --

GOVERNOR MANDEL: Why don't you all --

SENATOR DOUGLAS: -- he has something to deal for.



GOVERNOR MANDEL: Why don't go around to the other room, and sit down and try to work it out? Will you, please?

MR. HARRIS: I think, as we stand, now, I don't think we're that much, or far, apart.

I think we can reach our decision.

GOVERNOR MANDEL: Okay.

MR. HARRIS: And I think these people will have to remain -- if they have to stay here over the weekend --

SENATOR DOUGLAS: If he's willing.

MR. HARRIS: Oh, he's -- I'm sure they're willing.

GOVERNOR MANDEL: Okay.

Do that, and come on back. We'll be here.

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GOVERNOR MANDEL: All right. Let's go on. Let's go on with Item 2T.

Harry, do you want to be heard on that?

Go right ahead.

MR. ADDISON: Gentlemen, for the record, Walter Addison, Mass Transit Administrator . . . the item pertains to the agenda item, Contract No. MTA-YO-01-04S, Construction Management Services.

The agenda description, I think, is rather inclusive, and I won't waste anybody's time reading through that.

This is a contract that falls into the category of Engineering/Architectural Services, and, therefore, is subject to the requirements of Article 41, of the Annotated Code, requiring a procedural process to be followed. It involves a selection process in accordance with Article 41.

I would like to read, for the Board's information, Section 231.0 of Article 41: "Contracts to be Awarded on a Competitive Basis. In accordance with the rules and regulations issued by the boards, all procurement and award of contracts, consultant agreements, or other obligations in excess of \$25,000, for architectural and engineering services, shall be



awarded on a competitive basis, and shall include evaluation of both technical and price proposals from two or more firms, unless the Board determines, in writing, in accordance with Section 231.Qb, that the professional services cannot be so completely defined as to lend themselves to that procedure. In making the award" -- I would like to highlight this sentence -- "In making the award, on a competitive basis, neither the price proposal, nor the technical proposal shall be the sole criteria."

On June 2nd, 1975, in accordance with the law, Mass Transit Administration presented to the Transportation Professional Services Selection Board, the intent to contract for services for construction management.

We indicated that we were not able to handle that, in-house, and, in accordance with the procedures, approval of the Board, to solicit interest from outside consultants, was requested.

Now, On June the 2nd, 1975, the Transportation Professional Services Selection Board approved the request to solicit interest.

MR. GOLDSTEIN: You say it was June the 2nd of '75?

MR. ADDISON: '75.

MR. GOLDSTEIN: Right; okay.

MR. ADDISON: Publication of that notice of interest was done, appropriately, in the Maryland Register and other publications.

On June 25th, which was the date in the public notice for such letters of interest to be received, were received, and on June 28th, the MTA received a candidate list of firms expressing interest, and there were eighteen firms on that list.

Prior to reviewing those candidates, in accordance with procedures standardized for reviewing all consultant solicitations of interest, we developed two processes; one of which was eight questions, which could be answered in the affirmative or the negative. We tried on the eighteen candidates, first, to determine whether we could reduce the list by that; and, then, following that, a list of ten questions, which would be rated, or numerically graded, to determine which were the highest-ranking candidates, because we had a requirement to reduce the list to no less than two, and no more than five.



On the basis of the eight questions which these eighteen candidates were subjected to, the list was reduced to eleven.

That eleven was then subjected to review, on the basis of ten questions, which were numerically graded, and, on the basis of that grading, the list was reduced to five.

I would like to point out that, at that point in time, when there were five finalists finally resulting, there was no objection to the weighting, grading and scoring process.

We, therefore, have established -- and this occurred between June and October -- that there were five candidate firms who were qualified; their qualification being an acceptance on our part, based on the review of the materials submitted at that point.

We notified all firms, both those that were on the reduced candidate list of five, and the ones that were not, on October 31st, of their position.

Subsequent to that, we then began development of a request for proposals. This request for proposals was to be sent to the five finalists, following which they would submit their proposals, in both technical and price proposal form, for

the appropriate evaluation.

On April 23rd, 1976, the time-lapse between October and April being, number one, because it required a great deal of effort on our part to develop the request for proposals, and, secondly, a hiatus period because of the deliberations going on in the Maryland General Assembly. But on April the 23rd, requests for proposals were issued to the five finalists.

On May the 12th, 1976, we held a pre-proposal conference with the five finalists. The date for receipt of proposals was set to be June 14th.

Prior to receiving the proposals, we developed an evaluation criteria that we would use to weight, rate and, so, rank the proposals as they were received.

The criteria was completed on June the 11th, three days prior to the receipt of the proposals.

The proposals were received, in two parts, from each firm: a technical proposal, and a cost proposal.

We sealed the cost proposals, and we subjected the technical proposals to an evaluation by a subcommittee of the MTA, a screening committee.

They did an interim, independent evaluation, without



consulting each other first. They, then, met and compared their notes on their review of the technical proposals.

Meanwhile, a cost analyst reviewed the cost proposals, and submitted factual information on these cost proposals to the screening subcommittee.

In order to give all of the finalists and opportunity to come before the MTA with a presentation of their qualifications, and to respond to any questions that might have arisen, due to the review of their proposals, interviews were set up on July the 7th, July the 12, and July the 13th, each of which lasted no less than two hours.

Following these interviews and presentations, we again met and made a final evaluation. We started on the final evaluation on July the 19th, and that final evaluation was complete on July the 23rd.

As a consequence, we, therefore, made a recommendation for a selection to the Transportation Professional Services Selection Board.

I would like to note that, while, all five of the finalists were judged qualified, they were judged qualified before they were required to submit proposals; however, after

the receipt of proposals, while they might have been qualified, they were not, necessarily, equal in terms of their proposed capability on the basis of the material submitted in their proposals.

With regard to the technical proposal, there was a unanimity on both the first and the fifth in that ranking.

I would also point out that, in the evaluation of the cost proposals, the evaluation must consider, not only the last dollar figure, but, also, the value of the effort to be received for the cost involved.

We made our recommendations to the Transportation Professional Services Selection Board. The Board approved the recommendation.

There has been a significant amount of materials submitted to the Board of Public Works, regarding this process, so I won't review it, other than the fact that it is in your file, and covers most of the objections.

GOVERNOR MANDEL: Senator James would like to --

MR. ADDISON: Yes, sir.

GOVERNOR MANDEL: Senator James.

MR. JAMES: Mr. Addison, I've read all the material



you've been reciting. The main thing, I think, that I'm interested in -- and I believe the Board is interested in -- is an explanation as to why you selected a construction manager, whose bid was, I believe, \$24 million, over one whose bid is \$18 million, when their apparent capabilities are about the same.

Now, maybe you disagree with that, on the basis of the rating, here, but I think that they're the questions that have been raised, as far as communications to me have been concerned.

MR. ADDISON: Yes.

MR. JAMES: So, I think, really, that's the basis --

MR. ADDISON: Well, I think --

MR. JAMES: -- that the Board is concerned with.

MR. ADDISON: Senator, in response to your question, if this process were similar to the one we have just been discussing with regard to construction, we have, in that instance, no real alternative but to accept a low bid, because everybody is bidding on the same items, the same quantity, the same final result, and how they get there.

With regard to the construction management services,

it is not a bid. The law doesn't contemplate it to be a bid. As I read earlier, it's a proposal, on both a technical and a price basis, neither one of which shall be the sole criteria.

In our judgment, a bid -- it's not a bid in this case, but a proposal of a price --

MR. JAMES: Well, it's a proposal.

MR. ADDISON: -- significantly lower, had to be recognized as being a price based on significantly effort expended during the course of the project.

In our judgment -- and I think this will be brought out by Mr. Murray, of my staff, who will go through the cost elements of the contract and the proposals -- it becomes apparent that the lower proposed price does not reflect the same level of effort and, potentially, a mismatch with what is going to be going on that the construction manager is responsible for. Obviously, their efforts have to be coinciding with the level of contracting effort in construction, and this will be shown not to be the case.

So, therefore, we feel that that price does not really represent the least cost to the state, because, in order



to accomplish the work that we believe has to be done -- and will be brought out by a following speaker -- following that technique, we either are not going to get the services that we require, or we're, eventually, going to pay, at least, as much, if not more to get them.

GOVERNOR MANDEL: Go ahead.

MR. GOLDSTEIN: May I ask you one or two questions? Now, you stated, I believe, that you had five qualified finalists, is that right, sir, out of eighteen?

MR. ADDISON: That's correct.

MR. GOLDSTEIN: Is that right, sir?

MR. ADDISON: That's correct.

MR. GOLDSTEIN: In other words, now, these five that you selected were, in your opinion, probably, all equal in their ability to do the work?

MR. ADDISON: No, sir, I didn't say equal. I said they were all five qualified.

MR. GOLDSTEIN: All qualified. All right.

MR. ADDISON: In other words, we were no longer interested in discussing whether you were qualified or not qualified. You were qualified, but this does not mean that

they were equally qualified, nor did their proposals indicate the comprehension, and the management technique, and other matters, which were equal.

They were not equal, at all, and the ratings that you have before you clearly indicate that they were not necessarily equal, at all.

MR. GOLDSTEIN: All right. My next question is, can you briefly outline for the Governor, and Senator James, the major items -- such as, man hours, fees -- that the Parsons firm is supplying, under the terms of their MTA contract for \$24 million?

MR. ADDISON: All right. I think the best thing for me to do at this point would be to introduce Bob Murray, of our staff, who will take you through a complete analysis of the manpower effort, the cost, overhead rates, and everything else, and I think --

MR. GOLDSTEIN: Who's Mr. Bob Murray?

MR. ADDISON: Mr. Murray? Right here.

MR. GOLDSTEIN: And where is he from?

MR. ADDISON: He's our Manager, Program Control.

MR. GOLDSTEIN: A Maryland man? He's from Maryland?



MR. ADDISON: Yes, sir.

MR. GOLDSTEIN: Right. Mr. Bob Murray. Okay.

MR. MURRAY: For the record, I'm Bob Murray, Manager of Program Control, the Mass Transit Administration.

Governor, and Members of the Board --

MR. GOLDSTEIN: Wait a minute; wait a minute. Let me get your title again, sir.

MR. MURRAY: Manager of Program Control.

GOVERNOR MANDEL: Manager of Program Control.

MR. GOLDSTEIN: Manager of -- okay.

MR. MURRAY: Governor, and Members of the Board, I'd like to use the charts over here, where we've got some statistical information I think you'll find interesting.

Are you going to be able to pick me up? I'll try to talk loud.

GOVERNOR MANDEL: If you talk loud enough, they'll be able to pick it up, I hope.

MR. MURRAY: As Mr. Addison pointed out, there were five finalists who submitted proposals. We have here the five firms listed, the number of total man hours that they proposed to accomplish their task to control the work required, and

every man hour rate that they proposed, and their total estimated cost of the project.

The bottom line shows the estimate that the MTA made, with 1,295,000 man hours at an estimated rate, or an estimated cost, of \$25,611,000.

It's of interest to note on here that the Parsons' proposal is very similar to the estimate that the MTA arrived at for the services that they were proposing for.

The reason this one particular rate here under Bechtel seems to be substantially lower than the others is that that rate was not escalated; they didn't propose an escalated rate. The other firms escalated their rates through the life of the contract. Since they were high, anyway, the additional escalation would have made them substantially higher, but would have brought that hourly rate more in tune with the other rates that are indicated here.

So you can see the number of man hours and the work proposed. They range from a high of 1,772,000 to a low of 858,000 hours, and, in the price range, from a high of \$33.6 million to a low of \$18.9 million -- almost \$19 million.

I'd like to show you a chart --



MR. GOLDSTEIN: Well, just one minute, now. I think I'd like to have an answer. What is the difference between these man hours between these two firms? Can you tell us why there's a difference?

MR. MURRAY: It's just how they saw the job and how they staffed the job.

MR. GOLDSTEIN: Well, now, they have 858,000 hours, and you have 12,295,000.

MR. MURRAY: That's correct.

MR. GOLDSTEIN: Well, couldn't your hours be more than it would take to supervise this job?

MR. MURRAY: Ours could be more, except these others verified that our hours are probably very close.

MR. GOLDSTEIN: Well, Bechtel's 1,752,000.

MR. MURRAY: Yes, we feel they're high.

MR. GOLDSTEIN: And Sterns is 1,400,000.

MR. MURRAY: Well, yes, I would expect there to be a range, and I think the range is --

MR. GOLDSTEIN: Well, if you're like the bridge people, and the other departments, hell, they've been so wrong in building bridges, and building tunnels. How do you know

your figures are right?

MR. MURRAY: I don't know our figures are right. They're an estimate that we concocted --

MR. GOLDSTEIN: I see.

MR. MURRAY: -- to evaluate these others against, and I can't say that they're right, or that they're wrong. They're our best estimate of the job.

Those hours, now, that you see here, are graphically displayed over the length of the job. The heavy dash line is the Parsons' proposed distribution of hours; the line that --

GOVERNOR MANDEL: Before you get into that, I'm a little confused, myself. Could you put that back up, again?

MR. MURRAY: Yes, sir.

GOVERNOR MANDEL: I multiply in my mind, so I could be very wrong.

MR. MURRAY: Well, these don't multiply out, Governor.

GOVERNOR MANDEL: I know they don't. That's what I want to ask you about them. I know they don't.

MR. MURRAY: Yes, they don't. This is an average direct man hour. It has no burden on it; it has no fee on it;



it has nothing else. This is a bare-bones hour.

GOVERNOR MANDEL: Yes, but what I'm saying is that if it's going to take -- let's take Bechtel, 1,700,000 hours, and, if you multiply that out by \$7.74, you get to, roughly, \$11,500,000.

MR. MURRAY: Then you would --

GOVERNOR MANDEL: And then they -- wait a minute; let me finish. Then they give you a \$30 million price. If you multiply Parsons out, it comes to around \$11 million, and they give you a \$26 million price. Now, what I'm saying is that, where does the difference between the cost of the man hours and the ultimate cost of the project -- what figures in that?

MR. MURRAY: The figures are the figures that have overhead burdens you don't see on here, that range from --

GOVERNOR MANDEL: Yes, but the overhead gets awful heavy.

MR. MURRAY: Yes, it does.

GOVERNOR MANDEL: With some of them, and with some, it doesn't.

MR. MURRAY: That's right. And you don't see the fee

that is included in here, and you don't see the direct billings that are included in here.

MR. GOLDSTEIN: Well, that was my question to Mr. Addison. I wanted you to give us a breakdown on these different figures.

MR. MURRAY: Well, we can give you all of that.

MR. GOLDSTEIN: Are you going to do it, now?

MR. MURRAY: No, I don't have that much detail, but I --

MR. GOLDSTEIN: Well, now, wait a while. You came down here today to tell me to vote for a contract. I wanted a breakdown in detail. I've read all this stuff in this book here, and you've departed from it, I believe, according to the contract and the way I read this book. Isn't that right, sir?

MR. MURRAY: I don't feel we've departed from it, no. I think we can go to the contract and what's involved in it.

GOVERNOR MANDEL: What I'm trying to get clear, and let me pursue it, let's take Parsons, at \$9.00 an hour, the hourly manpower rate is \$10.8 million, approximately, and



you've got a \$26 million cost, so there's \$16 million difference between the man hours and the ultimate cost. Bechtel, you've got \$11,400,000. I'm just, again, estimating. And you've got \$30 million; you've got \$19 million difference. Now, in the second one, SKNSH, you've got about \$8,500,000 cost, with only a \$10 million --

MR. GOLDSTEIN: No, it's \$858,000, Governor.

GOVERNOR MANDEL: I know, it's \$858,000 x 10. That's \$8.5 million, against \$18 million. You've only got a \$10 million difference.

MR. MURRAY: Governor, may I show you the chart, here --

GOVERNOR MANDEL: Yes.

MR. MURRAY: -- and show you on Parsons, since we entered into a negotiation with them --

MR. ADDISON: Bob, let me interrupt, for just one minute.

MR. MURRAY: Okay.

MR. ADDISON: The question Mr. Comptroller asked, about all of that data, is in the book that you have, and it's with reference to Exhibit 10, I believe, which breaks down,

not only the manpower rates, but the overhead, direct reimbursables, fee or profit, and all of those, which constitute the difference between what you're seeing on that chart and the total dollar figure.

GOVERNOR MANDEL: Yes, but what I'm saying, Walter, is, if you break all those --

MR. GOLDSTEIN: By each firm -- pardon me, Governor.

GOVERNOR MANDEL: If you break each one of those down -- the difference between the hourly cost and the total project cost -- you find that the second one, the net -- and I assume that's the net cost, including profit -- is that right -- total project cost?

MR. MURRAY: Yes.

GOVERNOR MANDEL: The lowest profit and net cost is number two, which is only \$10 million, as opposed to Bechtel, which would approximate about \$19 million, as opposed to Parsons, which would approximate about \$14 million.

MR. ADDISON: Well, Governor, the figures vary, and, of course, the overhead profit and so forth, are a multiplier, based on the direct wages.

MR. MURRAY: So that the exact --



MR. ADDISON: So that if you have a very low figure, in terms of man hours of effort, then all of the factors that follow it -- the percent of overhead, the percent for profit --

GOVERNOR MANDEL: You mean the less hours, the less net cost?

MR. ADDISON: Only if you paid it on a lump sum basis. When you pay it on a cost-plus-a-fixed-fee reimbursable basis, the direct hours that are actually expended, and that must be expended, have to be expanded by the varying payroll, their burdens, overhead factors and so forth. And I think the issue --

GOVERNOR MANDEL: Okay. I'm sufficiently confused now, that we can go ahead from here.

MR. ADDISON: Well, the point is, when it comes down to a breakdown on a percent basis, it works out to show a different set-up than when you have --

MR. GOLDSTEIN: In here, you have \$26,060,732 for Parsons. Is that correct?

MR. MURRAY: Yes.

MR. GOLDSTEIN: And the contract you submitted here today, the way I add it up, is \$25,034,224. Is that right, sir?

MR. MURRAY: Yes, sir.

MR. GOLDSTEIN: And then you have some other stuff in there.

MR. ADDISON: That's a --

MR. GOLDSTEIN: This is the total for overhead -- airplanes, room, rent --

MR. ADDISON: The whole project cost, yes, sir.

MR. GOLDSTEIN: -- moving, taxi fares, tips, secretaries that can't type or read. All that business.

(Laughter.)

MR. ADDISON: Yes, sir.

MR. JAMES: When I was in the Senate, they just practically stopped the legislature to get that appropriation for the dam over there at the University of Maryland, in Baltimore County. And now, I understand the dam is built?

MR. LEWIS: The dam is built.

MR. JAMES: I understand that it just doesn't work. I mean, it's inadequate -- at least, from what I've been reading in the papers.

MR. LEWIS: No; no, it's not inadequate. It was built, but, of course, the argument of the legislature was



the question whether it was being built as a flood control measure, or whether it was being built as a recreation measure.

MR. GOLDSTEIN: So, in other words, you negotiated with them after you got their bid and got it down to about \$1 million.

MR. ADDISON: That's correct. I think Mr. Murray ought to show -- well, I think he has already shown -- the variations in the manpower estimates on the project.

One of the factors -- and I'd just like to take advantage of this opportunity -- that needs to be put into context between that chart, showing the distribution of man hours, is the actual construction activity that's going to be going on, against which this contractor shall be responsible.

We have an overlay, and the overlay, Bob, do you want to explain what that it?

MR. MURRAY: Yes. The graph depicts the hours as the proposing firms saw their distribution over the life of the contract.

The heavy dash line is how Parsons saw the hours; this line here, which you probably can't see, but it's

purple, is the way the MTA saw the hours; and the other one reflects what Bechtel saw; the three that are grouped together are what Singstad saw.

MR. JAMES: I'd like to have an explanation of that difference, because I think -- why would Singstad feel as though only this unusual amount of hours would be sufficient? Are they skimping? Would they be skimping on the job? I'd like to have some explanation of that. Here you are, they're supposed to be a very capable outfit -- is there any explanation for that?

MR. ADDISON: Senator, may I try to respond to that?

MR. JAMES: Yes.

MR. ADDISON: The process, as I indicated earlier --

MR. GOLDSTEIN: Let me see if I understand the question. You want to know why there's a difference in the manpower hours.

MR. JAMES: Well, you have three of them there --

MR. GOLDSTEIN: Right.

MR. JAMES: -- that are pretty close: the 1.4 million, the 1.2 million and the 1.3 million. They're pretty close to the estimate; however, you have Singstad as 858,000, which



is way down.

MR. GOLDSTEIN: Well, I went to New York the other day, when I went up to sign the bonds, and checked. They've built tunnels. Those people know how to build tunnels. They are the hogs that go right down and dig the hole, you see? They've been in the business.

Some of these other people -- Parsons never built a damn tunnel, himself, as the engineer. Isn't that right? Did the Parsons Company ever build any tunnels?

MR. MURRAY: You mean the actual --

MR. GOLDSTEIN: Yes.

MR. MURRAY: -- contractor? No.

MR. GOLDSTEIN: You're damn right, he didn't. But Singstad has -- the Lincoln Tunnel, Hollan Tunnel. Go up to New York.

MR. MURRAY: They were the engineers on those tunnels.

MR. GOLDSTEIN: And they helped to build them -- the one in Baltimore, too. You know that.

MR. MURRAY: The Harbor Tunnel they were on.

MR. GOLDSTEIN: Yes, they built that.

MR. MURRAY: They were the engineers.

MR. GOLDSTEIN: Right.

MR. ADDISON: Senator, if I may respond to your question --

MR. GOLDSTEIN: That's the reason why. They know what the hell they're doing, in my opinion. These other people are just guessing at it.

MR. JAMES: Well, I'm trying to give them an opportunity to --

MR. GOLDSTEIN: Okay. Excuse me, I'll stop.

MR. JAMES: All right.

MR. GOLDSTEIN: I'll stop.

MR. JAMES: Your answer may be right.

MR. GOLDSTEIN: You know, I ain't been wrong many times in forty years of dealing with these highway people, I can tell you that.

MR. ADDISON: There were five finalists.

MR. JAMES: Yes.

MR. ADDISON: And we submitted to each of them a request for proposals, and that stated the conditions we wanted them to respond to, and they were all provided with



identically the same information -- the project schedule of the entire work to be done.

The purpose of asking for a proposal is to find out if they properly, or improperly, understood what they received and what their reactions to it would be, in terms of their offering their services to live up to the conditions of the request for proposal.

It is not uncommon that they don't all identically agree.

It's our responsibility, when there is disagreement, to try and determine whether or not that disagreement represents a complete and thorough knowledge and understanding of what's going on, or gives us some concern that there may be some misinterpretations.

The chart that is in front of you right now, the red bars indicate the cash flow, by fiscal year, of the construction program. As you can see, it is peaking in '78/'79.

We find it difficult, and I don't really want to get into individual discussions on others, because the contract before you is for the Ralph M. Parsons Company. We find it difficult to reconcile the way in which this project

will be consummated out on the streets, and work being done, with the manpower loading, which has its peak a year before and starts to drop off during the heaviest periods of construction. And that was a factor that had to influence us in our review.

GOVERNOR MANDEL: Do you want to go ahead, Mr. Murray?

MR. MURRAY: I think this will help to clarify where the other dollars are, between the multiplication of the direct man hours and the hours indicated.

This is an abstract of Parsons' proposal. It was made up of 1.261 million man hours, at about \$9.00 an hour. It came to a cost of \$11,347,000 for direct labor. They applied an 82.6 overhead factor, which equals \$9,372,000, a 10 percent profit, \$3.3 million, of direct cost, for a total proposal cost and estimated cost for the work of \$26 million.

During the contract negotiations -- the contract that you have in front of you now reflects what was arrived at during the negotiations -- the man hours reduced slightly, because there was an effort that they were proposing that the MTA wishes remain dominant in community relations, activities,



and other things like that. So they were taken out.

Because the time moved a little bit, during the time that they submitted their proposal, and when it looked like it was going to be awarded, there was a slight escalation in the per hour cost of direct labor. The final cost was \$11.569 million, or a net increase in direct labor of \$222,000.

The overhead rate was substantially reduced from a proposed rate of 82.6 to 70.4. It gave an overhead loading of \$8,150,000. That 70.4 percent of overhead is made up of a composite of payroll expenses which aggregate 27.9. That's a direct billing against an hour of labor, and then, depending upon the type of person, whether it's technical -- there's an overhead burden of 44.5 -- or whether it's support personnel, which could be steno/clerical, or computer spectrum, at a rate of 25, so it would be in combination of either one of these -- these two, or these two -- within this composite to equal 70.4.

So the fee was reduced from the \$2,072,000 to a \$1,850,000, for a reduction of .62 percent, or \$222,000.

The direct cost was reduced because they included things that they're not going to have to furnish now, and that's reduced the direct cost by \$703,000, or gave us a post-



contract price of \$24,134,000, almost \$2 million under the price that they had proposed.

MR. GOLDSTEIN: All right. Can you give us a comparison with the low bidder of \$18 million plus, on the same items?

MR. MURRAY: I don't have that with me, no.

MR. GOLDSTEIN: Oh, you don't?

MR. MURRAY: Well, yes we do. Do you have --

MR. GOLDSTEIN: Well, doesn't somebody have them here?

MR. MURRAY: -- the information supplied to you?

MR. GOLDSTEIN: I'm asking you. I want you to put it in the public record. You're the man here who's the expert. I want you to give me the comparisons.

MR. MURRAY: I'll have to get a copy of it.

MR. GOLDSTEIN: Well, get it, then. Just give it to us for the record, here. You're, here, the one who's supposed to be the expert.

MR. MURRAY: The figures that would be analogous to this that Singstad, Kehart, November and Hurka, et al, quoted were: 858,000 man hours, a composite rate of \$10.53, a total

direct labor cost of \$9,031,000, a proposed overhead rate of --

MR. GOLDSTEIN: Wait a minute. Just stop right there. That's better than \$2 million less on that one item.

MR. MURRAY: Yes, for about \$4 million -- or \$400,000.

MR. GOLDSTEIN: \$9.031 million, as opposed to \$11.347 million. Is that right?

MR. MURRAY: That's correct.

MR. GOLDSTEIN: Okay. I just want to be sure we get it in the record, here.

MR. MURRAY: Okay.

MR. GOLDSTEIN: Fine. Go ahead.

MR. MURRAY: A proposed overhead rate of 65 percent, for an overhead cost of \$5,870,000, a profit rate of 10.2 percent for --

MR. GOLDSTEIN: Well, now, wait a while. On overhead, then, their overhead is \$5,870,510. Is that right, sir?

MR. MURRAY: That is correct.

MR. GOLDSTEIN: And the overhead for this Parsons is \$9,372,880.

MR. MURRAY: That is correct.

MR. GOLDSTEIN: That's a difference of better -- almost -- about \$4.5 million.

MR. MURRAY: Yes, except, for one thing, it has about 400,000 more man hours.

MR. GOLDSTEIN: Okay. All right. But I'm talking about overhead. Go ahead.

MR. MURRAY: Okay. So they have a subcontracted effort of \$693,000, a direct cost of \$1,538,000, and other --

MR. GOLDSTEIN: Well, wait a minute. Now, that compares with \$3,268,000, direct cost, 394, doesn't it?

MR. MURRAY: That is correct.

MR. GOLDSTEIN: Better than almost 2.25 times more direct cost.

MR. MURRAY: Yes, sir, it is.

MR. GOLDSTEIN: What do you mean by it? Can you explain what direct costs are? What are direct costs?

MR. MURRAY: Yes, they're costs for which they receive no mark up, and they can be their office rent, reproduction costs.

MR. GOLDSTEIN: Right, just routine things.

MR. MURRAY: Yes.



MR. GOLDSTEIN: Well, why would Parsons have such a high cost, 2.25 times as much, as the other firm? They'll all be renting in Baltimore -- renting space, manpower, and all that.

MR. MURRAY: Yes. The only way I can answer that is the two firms saw that differently.

MR. GOLDSTEIN: Well, I mean, that is something you can put your hand on, the rentals of buildings. They're all union firms, aren't they? They're going to pay the union wage.

MR. MURRAY: Well, they'll pay the wage that's in the contract, right.

MR. GOLDSTEIN: All right. So, I mean, it's 2.25 times difference. \$1,538,365, as opposed to \$3,268,000. Is that correct? I just want to be sure I understand the figures.

MR. MURRAY: Yes.

MR. GOLDSTEIN: And you're reading them for your records. Is that right?

MR. MURRAY: Right; same one you're following, right.

MR. GOLDSTEIN: Okay. Go ahead.

MR. MURRAY: So they came up with a proposed price of \$18,975,000.

MR. GOLDSTEIN: And this here, now, is \$24,134,000.

MR. MURRAY: Right.

MR. GOLDSTEIN: A difference of about \$5 million; a little better than \$5 million.

MR. MURRAY: That is correct.

MR. GOLDSTEIN: And you want us to approve that contract costing \$5 million more.

MR. MURRAY: Yes, we've submitted it for your approval.

MR. GOLDSTEIN: I see.

SECRETARY HUGHES: I'd like to say something on it, I think, because the basic difference lies here in the number of hours to do the job.

MR. GOLDSTEIN: Well, can you explain why there's a difference?

SECRETARY HUGHES: I can't explain why that's so low. This estimate was made before any proposals were received. When you get five proposals in, and three are within a close range of each other, and one is way below, I think, immediately, you question whether they understand the nature of the job and the magnitude of the job, because, to do this job, it's going

to take a certain amount of man hours, regardless of who does it.

MR. GOLDSTEIN: Are these qualified people? Are they going to post a performance bond?

SECRETARY HUGHES: Well, I'm not passing judgment on that, but it certainly does indicate something, and so does this indicate something, too. You take that thing off. Every estimate of man hours, made in-house by the MTA, even by Bechtel, which is way high, had their peak work load in '79. That's when most of the construction was going to be. The low estimate of hours by Singstad was over here before you ever hit the high construction area. Again, I think it raises a doubt, do they really understand the job.

MR. JAMES: You mean the high points over there.

SECRETARY HUGHES: The high points over here.

MR. JAMES: Yes, not the low point.

SECRETARY HUGHES: And everybody else said it would be over here.

MR. JAMES: That doesn't make sense, really.

SECRETARY HUGHES: That indicates, again, I think, some lack of understanding the magnitude of the job and what's



going to be required.

I might also say -- because you're talking about the whole thing -- one of the critical elements that kept the Singstad joint venture into the cut down to five, as I understand it, was the Tishman firm, which had a vast lot of experience in here. But when the specific proposals came in, that firm was only going to participate in about 10 percent of the total work, where we had thought they were going to be one of the lead firms and were one of the ones that had the most -- Tishman, as a matter of fact, indicated they would assume very little responsibility for the total job.

MR. ADDISON: Well, I think that's a very important factor. As the Secretary has said, in determining the five finalists, based on the material that was sent in at the time of request for interest, and discussions with the various groups as they came in, we were quite impressed with the capability of a member of that joint venture -- the Tishman firm -- because of their very heavy construction background, their very heavy experience in similar kinds of work, and that was very powerful in terms of our determining the five finalists.

It was, however, rather discouraging to note that in the proposal, their effort was minor, was not oriented, at all, to the construction effort, the monitoring of construction, field work, at all, but strictly a project control management information system, for which, the consequences of their work, they were not going to have any responsibility.

MR. JAMES: Well, who was going to do the work? If the Singstad firm or the Tishman consortium had got the job, how would the work break down?

MR. ADDISON: The work broke down-- and I don't have it right in front of me, here.

SECRETARY HUGHES: While they're looking it up, I'd like to point out something else, too. These overheads that you see on this chart are directly related to the direct labor cost. That's the way with every one of these cost-plus -- the fringe benefits, labor burden, and so forth. So, the most you have here, the more you're going to have in your overhead burden. Right, Bob?

MR. MURRAY: Yes.

SECRETARY HUGHES: So, if you go on this basis, alone, but it's actually going to take the 1,295,000 hours to get the



job done, what becomes critical, then, is your direct hourly rates, because it's all going to be wrapped up into 1,295,000 hours, if that's what it takes to do the job.

MR. GOLDSTEIN: Well, that doesn't make sense. Bechtel's overhead was \$5,990,355, and they have more hours, and so what you're saying doesn't make sense. Bechtel's overhead was \$5,990,355. Parsons' is \$9,372,000. It's right here; your figures.

MR. MURRAY: Yes. I've tried to point out that that's an unescalated figure; that they failed to --

MR. GOLDSTEIN: I don't care if that's unescalated. Bechtel is one of the greatest companies in the world. Hell, they built that power plant down in Baltimore County, and over there to Gaithersburg. It's a world-wide corporation; they know what the hell they're doing. They're the most successful in this business, right in the United States, aren't they?

SECRETARY HUGHES: The point, Louie, is that what you're looking at here, these hourly rates go through the whole five-year period, and the escalations that are going to occur in those rates through the five-year period.

The Bechtel submission didn't put in the escalation.



That doesn't say they're not going to get it. They just didn't put it in their proposal.

MR. GOLDSTEIN: Well, you know it's a reputable firm. But their overhead here is only \$5,990,000. Parsons' is \$9,372,000. Parsons is higher than any of them, except PBQD. I don't know who in the hell they are. They're \$9,695,000.

MR. ADDISON: If I may, I'd like to now respond to Senator James' question.

MR. GOLDSTEIN: Well, can you wait; can you explain that vast difference in overhead?

MR. ADDISON: I think the responsibility to explain the differences in these things, were the responsibility of the proposers. That's why there were interviews; that's why we went through their material.

MR. GOLDSTEIN: No, but they've got the money here, and it's less money, and you're going ahead with the high overhead. I think it's up to you to explain it. It's up to you to explain. You're the man running the show. And I want you to justify to me why you're going to spend \$4 million more for overhead.

MR. ADDISON: Because it isn't --

MR. GOLDSTEIN: And if you don't, I'm not going to vote for this God-damned contract, I can tell you that right now.

MR. ADDISON: This contract is not a fixed dollar amount. It's going to be paid on the basis of the effort put out over the life of this project, basically built up on payroll. Because the overhead is a percentage of payroll. All of these things are built up on payroll. If --

GOVERNOR MANDEL: But, now, aren't you getting to the real heart of it? Isn't that the essence of it? Doesn't the MTA control the number of man hours that are involved?

MR. ADDISON: We control the number of man hours --

GOVERNOR MANDEL: Right.

MR. ADDISON: -- to the extent that, if there are inadequate man hours, we're going to demand more services, and we're going to ask for more men to be on the job. And then, if you take the original proposals, and you refactor them -- not on their dollar figure, but on what it would be if we said -- I don't care who it is -- they're going to put in 1,200,000.

What happens? The whole picture shifts, and what is



an apparent low, is no longer a low, at all, and I think that's the more realistic situation that will prevail.

We're going to have to insist that there be people out on the construction inspection, doing these things, when the work is going on, and, if they're not there, we're going to demand that they be there. And we're going to pay for that, in the long run.

Consequently, in spite of what the Comptroller has said, it's not going to cost \$5 million more. That's a logical cost. If the other contractor, according to their proposal, had to put in that effort, their proposal would be higher, and it would have cost us significantly more. And that's what we're concerned about.

MR. GOLDSTEIN: I don't understand that kind of arithmetic, myself. Maybe I don't know anything about it.

MR. JAMES: Well, if I interpret what you said correctly, you don't think that Singstad can do the job for 858,000 man hours. You feel as though they will have to put in 25 percent more man hours, and, therefore, the ultimate cost will be greater.

MR. ADDISON: I think that we cannot accept that this



work, knowing what's going to be done, the number of contract projects going on simultaneously, and the efforts that have to be put in -- we can't accept that it would be 858,000, and it would have to be more in the vicinity of 1.2 million. And we are somewhat backed up by the fact that most everybody else agrees with us, independently arriving at that kind of a figure.

But, Senator, I'd like to get back to your question. In that joint venture, the Singstad, Kehart, November and Hurka percentage was 45 percent; Tishman was 10; the Mueser, Rutledge, Wentworth and Johnston was 9. Then they had sub-contractors: Baltimore Contractors, 30 percent; a firm called Soil and Rock, which is a --

MR. JAMES: Thirty percent of what is the Baltimore Contractors?

MR. ADDISON: Thirty percent of the total.

MR. JAMES: I see. Go ahead.

MR. ADDISON: Exceeding the combination of two of the members of the joint venture. Soil and Rock, 4, and a firm called Synterra, 2 percent, which adds up to 100 percent.

MR. JAMES: Is that in here?

MR. ADDISON: Yes, sir.

MR. JAMES: I just couldn't remember. What page is that on? Can you tell me? I've been through that, but I can't remember everything that's in there.

MR. ADDISON: It's Exhibit 10, Attachment D.

GOVERNOR MANDEL: Look, we have --

MR. JAMES: Does Parsons have -- excuse me. I'm sorry, Governor.

GOVERNOR MANDEL: I was going to suggest, we have some other people here that want to be heard on this.

MR. JAMES: Yes.

GOVERNOR MANDEL: And we could be arguing all day with our own department people.

MR. JAMES: Okay.

SECRETARY HUGHES: May we show you one more chart?

GOVERNOR MANDEL: Yes.

SECRETARY HUGHES: It will just take a few minutes.

GOVERNOR MANDEL: Right, and then we can hear from these other people, and, at least, let them get away from here.

SECRETARY HUGHES: We're just giving you the breakdown on this contract as was just given on the other.

MR. ADDISON: Mr. Goldstein, you asked a question about the overhead costs.

MR. GOLDSTEIN: Yes, sir.

MR. ADDISON: And, again, these things have to be carefully analyzed, which we tried to do. You'll note, on that large sheet that we were referring to previously --

MR. GOLDSTEIN: Yes, sir.

MR. ADDISON: -- that the rate of overhead in the proposal was 65 percent, right?

MR. GOLDSTEIN: You mean this page right here?

MR. ADDISON: Yes.

MR. GOLDSTEIN: Yes, sir.

MR. ADDISON: 65 percent in the proposal. Of course, they are also now working on the project and, under audit, their overhead is considerably higher, so, consequently, when we got down to actual contract, and having to pay overhead based on audit, it wouldn't have been 65 percent. It would probably be significantly higher. We were aware of that fact.

SECRETARY HUGHES: Bob, do you want to go through these, quickly?

MR. MURRAY: These are the firms that are participat-



ing with Parsons in the consortium agreement, and this is their percentage of participation: The Parsons Company has 34 percent; De Liuw-Cather, about 18 percent; Gilbane Building Company, 15 percent; Robert Nash, almost 4 percent; Rummel, Klepper and Cahl, 15 percent; Leon Bridges, 4 percent; and, Whitman, Requardt and Associates, 11 percent. Two of those firms are minority firms.

SECRETARY HUGHES: Now, the personnel resources: At the peak requirement, there will be 174 people involved. Of those 174, 111 are presently-employed Maryland residents, 43 will be new local hires, and 20 will be brought in from Washington, D. C., or out-of-state, to staff the job. The breakdown by types are: 137 professionals, 18 steno and clerical, and 19 management.

GOVERNOR MANDEL: Any questions?

MR. GOLDSTEIN: Yes, sir, on page 3, Item E, the MTA, the Maryland Department of Transportation, and the Federal Urban Mass Transit Administrative, through their respective authorized representatives, shall, at all times, have full access to the work being performed, under the responsibility of the construction manager. How about the Board of Public

Works?

MR. MURRAY: I think the Board of Public Works --

SECRETARY HUGHES: It's all right with me.

MR. GOLDSTEIN: It's not in there.

GOVERNOR MANDEL: Can we hear from some of the other people --

MR. GOLDSTEIN: Right.

GOVERNOR MANDEL: -- that are here, and then we'll get back to these.

Judge Carter, do you want to be heard?

JUDGE CARTER: Well, I don't know that I want to be heard, particularly. I'm Judge Carter, retired, about to be reinstated, I take it. But I abstain from voting, not because I had anything particular against the recommendation, but I felt, as I told the Board the day before at a meeting, that a lot of these questions could come up. Some of them you've been kicking around here, this afternoon. And we'd heard that at least one of the bidders, Singstad or counsel, would want to be heard.

I thought they should have been heard; that the meeting should have been postponed and that they should have been



given an opportunity to file a brief, pointing out a lot of these things that you, gentlemen, are asking here, today, and I think, probably, that would have done it, and might well have solved the whole problem. I don't know. Well, I have some doubts about it, but it would have been helpful, anyhow.

To me, it was like saying to them, as they were told, we're going to make a decision, and this is in accordance with the rule. But I was in favor of abandoning the rule, because I thought it was unconstitutional.

We make a decision, and then say to them, now, what do you want to say about it. It's like hearing a case -- and, as you, gentlemen, know; you're all lawyers -- you hear the case, hear the evidence, and you say, well, my decision is for the plaintiff; now, what do you want to say about it.

It doesn't follow with my experience and my background. I thought they had a right to be heard, and, for that reason, I abstained from voting.

I still think that the rules have to be changed, and a lot of this trouble might well be avoided in the future, and, basically, that was my reason for abstaining from voting.

As I say, I recognized some of these questions that



you've been asking; not all of them. I'm not an engineer; I haven't had the experience in this field that you, gentlemen, have had, but I did recognize some of them, and I thought they should have been -- the counsel for the bidders, the losing bidders -- should have had a right to come in and tell us why the recommendation was wrong.

And, incidentally, I thought, too, that they should have access to all the data upon which the recommendation was based. They didn't have that, and haven't had it since, and I think -- that's why we're here, today; one of the reasons. I think there's the petition that they wanted to file before our board, is filed before you. They want to be heard, and they want their day in court, and, as I say, that was my position, and that's why I abstained.

GOVERNOR MANDEL: Thank you very much. Any questions of Judge Carter?

(No response.)

GOVERNOR MANDEL: Is Mr. Perkins here?

MR. PERKINS: Governor Mandel, Members of the Board.

GOVERNOR MANDEL: Would you please give your name for the record?

MR. PERKINS: My name is Thomas Perkins. I'm here today as attorney for the Singstad team, which is one of the five finalists in this competition, whom I am glad to hear Mr. Addison refer to, in his remarks, as being qualified for this work, because I think that settles one of the two matters that's before the Board here today.

I recognize the lateness of the hour, and I will do my best to be brief.

I have submitted, this morning, to the Members of the Board, a letter which, I think, fully sets forth our position, and, Mr. Heubeck, I assume that will be part of the record of these proceedings.

As I said, Mr. Addison indicated, and, I think, from the submittal we've put in, and from their own judgment in putting us in the finals, that it's very clear that we are qualified to do this work.

The concern he expressed, however, I find inconsistent with that statement, and I quote his words, that we will give "significant less effort" to this job.

Were we awarded this job, we are bound to perform the very same contract that Parsons is required to perform,



and our reputation, the reputation of the partners in this venture, of Singstad, who, Mr. Goldstein pointed out, has fifty years experience in this kind of work, of the Tishman firm, which comes to this venture, not to do the detail work in this job, but, as we point out on page 3 of our presentation, to do the very highly-skilled work, the project control management system work, which is why they were brought into this joint venture and which is why members of the MTA have commented favorably upon their ability to perform, and the other members of the venture that are laid out in the presentation that we make to you today.

Now, I've only heard one concern of the MTA that's been, really, brought to your attention, and that deals with total man hours, and they've shown you an awful lot of charts, and you can make those numbers say almost anything. Listening to the dialogue that's been going on, I think that's evident.

But let me tell you a number of reasons, possibly, why our numbers are lower, and then, finally, state, I think, the rather obvious reason.

First of all, Parsons did not project the use of any



subcontractors. We projected the use of a major subcontractor and, therefore, those hours are not in our hours that were shown at the top of that chart -- the 850,000-odd hours, or whatever was shown.

If you factor those hours back in, if you factor secretarial and clerical hours, which we've shown as being part of our overhead, we can come out and we can show you a lot of numbers; that we can change our numbers around, as Parsons, of course, did in negotiation with the MTA after the bid process had closed, to get to the contract that's before you. We can change our numbers around, too.

But we've been in this business, as has been pointed out, a long time. We feel that this job can be done for about four percent of the construction cost. We are very firmly committed to that, and we think, possibly, there is a little featherbedding going on with some of these hours, and we think if you buy 1,200,000 hours, you're going to get 1,200,000 hours whether you really need them, or not. And we don't intend to do that.

We have said in our presentation that we are firmly committed, not as an estimate, but as an upset figure, the bid

that has been submitted by this firm.

We will make one further offer here, today, to try to deal with the concern that Mr. Addison has expressed to you.

If you look at the contract that's been submitted, which varies from the contract that was bid, but not in any material fashion, on page 4, a topside hour figure, not a dollar figure -- it's now expressed in terms of man months, rather than man hours -- is set forth on page 4, in the area of performance of the contract, and that number is 7,234 man months.

If you allow us to include in our total number of hours, our subcontractor hours, which is only fair, because that puts us on a parity with Parsons, we will go to that ceiling for you. We will go to that ceiling for you, and relieve any concerns that Mr. Addison has that we're not going to put the proper effort into this job, but we will still try to give it to you at the lowest possible price, and, therefore, we will sign this contract with that understanding, and with only two changes in the contract, and that's on page 6.

We will give you the job for the fixed fee, and



anybody buying this, buys at that fixed fee. That's not subject to adjustment.

We will give it to you at what we quoted to you, which is a little over \$1.5 million. Now, there have been subsequent negotiations with Parsons, and, where the MTA was partially successful, they got Parsons' fixed fee down from \$2 million and changed to \$1,850,000. But we'll stick by our original offer to the state, and that is over \$300,000 lower than what you see here today.

And, as far as estimated cost is concerned, we will substitute the number that we showed the state in our bid for this job, and we will continue to be committed to do this for what we consider to be a reasonable amount of time to do the work, based not on a guess and a golly, but based on years and years of experience in doing this kind of work.

And we're prepared, today, to sign the contract with that understanding on man hours, at the reduced figure that we quoted to the state originally when we bid this job.

I have Mr. Hurka here with me, who is a principal of this firm. He's not from California; he's from St. Albans Way in Baltimore, and I think our local participation -- those



figures have been, you know, sort of at the eleventh hour to try to show parity with the group that we have. That's not a factor for consideration, but we're from this state, and we're proud to be from this state, and we think we can do this job because we've been doing it well for many, many years.

So, unless the Board has questions, that's, basically, our presentation.

MR. GOLDSTEIN: Governor, may I ask him one question?

GOVERNOR MANDEL: Sure, go ahead.

MR. GOLDSTEIN: A very simple question. Did I understand you to say that your company, STN, can provide the same 7,234 or 36 man months of effort for \$18.9 million that the other company's charging \$24 million for?

MR. PERKINS: If you include all of our man hours, including the subcontractor man hours.

MR. GOLDSTEIN: And that would be a firm price? You wouldn't ask for any overrides, or any overruns?

MR. PERKINS: Well, the same overruns that are set forth in this contract. You know, we'd be bound by those very

overruns. It's a 60-month projection going for --

MR. GOLDSTEIN: So it's approximately \$5 million less.

MR. PERKINS: That's correct.

MR. GOLDSTEIN: Well, that would build about five miles of road down in the country, Harry -- a nice five miles of road down on the Eastern Shore and Caroline County.

MR. JAMES: It's flat country.

MR. GOLDSTEIN: Flat country. Down on the Eastern Shore, it would build five miles of good roads then people are crying for down there. You say you don't have the money.

MR. PERKINS: We don't think it's going to take that many man hours, but we will make that commitment.

MR. JAMES: A couple of things --

MR. GOLDSTEIN: Just one second more. And, in other words, you would accept the same terms right in this contract I have in my hand here, right now, that was submitted, for \$18.9 million.

MR. PERKINS: With only two changes. We'd lower the numbers on page 6.

MR. GOLDSTEIN: Right.

MR. PERKINS: That's all we'd do, and we'd have an understanding that on man hours, we have a parity with the Parsons bid because Parsons didn't have subcontractors and we did; that our subcontractor man hours go into that man month figure --

MR. GOLDSTEIN: Okay.

MR. PERKINS: -- that's projected on page 4.

MR. GOLDSTEIN: And you claim you're qualified. You were one of the five selected, and you're qualified to do the work.

MR. PERKINS: You know, I don't like to toot the whistle of a client, although it's fun to do in this case, when you look at the qualifications --

MR. GOLDSTEIN: Right.

MR. PERKINS: -- that are on page 2 and 3.

MR. GOLDSTEIN: I read those.

MR. PERKINS: But I don't think that's in dispute, and what the statute says, why this process was created, was to assure qualified bidders.

MR. GOLDSTEIN: Right.

MR. PERKINS: All five of these parties are quali-



fied -- and to get the state the best dollar value, assuming quality, and we think we've done that.

MR. GOLDSTEIN: In other words -- see if I understand you -- what you're saying is that this company, low bidder, qualifies under the statute, meets all the terms of the statute in the long run --

MR. PERKINS: That's correct.

MR. GOLDSTEIN: -- and it's about \$5 million less. Okay.

MR. JAMES: Well, one thing that seems to disturb the Mass Transit Administration is that your principal participant, Tishman, is only devoting 10 percent -- is only assuming responsibility for 10 percent of the contract, as against 33 percent for Parsons. That's the first thing I'd like you to comment on.

MR. PERKINS: Well, okay. I tried to deal with that, briefly, in my remarks, but I think we've also dealt with it on page 3 of the presentation. Tishman is being brought in for a very technical specialty that they pioneered and developed world-wide. It would be a waste of money to use Tishman for routine inspection services where, as we indicate,

we propose to use Baltimore Contractors, which has more experience in this locally, probably, than anything else. But they're being brought into this job to be responsible, as I say, for monitoring the project control management system, which is the whole technical thing of making all the pieces of the construction work fit together, and this is a critical area to the effective performance of the management services contract. Tishman has an international reputation in this field and its prestige is on the line. Tishman isn't lending its name to this contract; they're very much a vital part of this, and the 10 percent is what we feel is a reasonable estimate to do this work.

Parsons is using Gilbanes for the same services. The Gilbane percentage of the Parsons contract, I believe, is in the area of 14 percent, so there's no real difference there. I mean, that's a paper tiger.

MR. GOLDSTEIN: Gilbanes is from Massachusetts.

MR. JAMES: Now, we've heard the concern of the Mass Transit Administration concerning when this job reaches its peak. The cash flow indicated -- the chart, there --

GOVERNOR MANDEL: Yes, let's get that other chart.



MR. JAMES: Let's get that other chart up there.

It seems to me that --

GOVERNOR MANDEL: That's the one thing --

MR. PERKINS: There, again, it's a function of the way the two different proposals were presented.

MR. JAMES: Well, how are you going to reach the peak in work when your cash flow is at a later date?

MR. PERKINS: Well, the peak in work is when we would be relying most heavily on Baltimore Contractors, our subcontractor, to do the inspection of the actual driving of the tunnels, and the actual work in the tunnels, and that's not reflected in our peak chart, because they're not a member of the joint venture; they are subcontractors. So if you factor in their time, then we're seeing the job the same way, but, at that point in time, inspection services, rather than engineering and design services, which Singstad performs or the technical services that Tishman performs --

MR. JAMES: Do you mean to say the chart was developed on different standards?

MR. PERKINS: In my understanding -- and I've been trying to master a lot of this presentation; it's sometimes



hard to do.

GOVERNOR MANDEL: Do you have any technical people with you?

MR. PERKINS: Mr. Hurka is here.

GOVERNOR MANDEL: We're lawyers, but I'm no technical person, and the one thing that I'd like to have an answer to --

MR. PERKINS: In my understanding, that's the answer to that question, but it's possible Mr. Hurka --

MR. JAMES: Charts baffle me, usually.

MR. PERKINS: Any further --

GOVERNOR MANDEL: Do you have any questions, Louis?

MR. GOLDSTEIN: No, he's answered my questions.

MR. JAMES: If you add your subcontractors in, how many more hours does that give you?

MR. PERKINS: Well, that's hard to say. It's not a significant factor in that figure. It was our soils people. There's possibly another 100,000 hours -- something like that, I think; of that nature. This is guesswork. You're talking about five years -- more than five years. These bids have come in. They're in different proportions. You go up to 1.7 million with Bechtel, but the Board certainly knows when

it awards conventional construction contracts, the variances can be 200 or 300 percent.

SECRETARY HUGHES: May I ask a question, Governor?

GOVERNOR MANDEL: Yes, go ahead.

SECRETARY HUGHES: Because it's a revelation to me. If I understand Mr. Perkins correctly, he is saying that in the proposal that was submitted by the Singstad joint venture -- and, I think it is important to remember that we have to rely on the written proposals that are submitted to us; that whole procedure relies on that, and when you start varying from that at a later date, you get into trouble. But, as I understand what Mr. Perkins is saying, is that the final proposal that was submitted by the Singstad joint venture, and the estimated number of man hours of 858,000, did not include any of the subcontractors.

MR. PERKINS: No. It did not include the one subcontractor that was shown, which, I think, was 600,000 or 700,000. That's Item 1. Item 2 --

SECRETARY HUGHES: I'm sorry. I don't understand that.

MR. PERKINS: Well, I don't know which of your



sheets, but on the one that's an attachment to the book, we show a subcontractor -- I think it's our Rock and Soil people -- at \$600,000, whereas Parsons shows no subcontractor -- \$693,000, and, at \$10.00 an hour, that's another, roughly, 70,000 hours. We have, in our overhead, clerical man hours and that could just as easily have been shown as direct labor and then reduced the overhead item. There are also other reviews we made which indicated for surveying teams, we indicated a team at one person, when it's really three people. We had Robert Mayo, who is a well-known consultant in this area, who, I think, people knowing tunnels are familiar with, review all of our records on this, and he came out very close to the estimate we had.

So it's maybe another 100,000 hours we could have shown in there, which would put us close to 1 million hours, as opposed to 1.2 million.

GOVERNOR MANDEL: Well, I'm not interested in people showing hours. I'm interested in what's going to get the job done and what's it going to cost.

MR. GOLDSTEIN: Right. In other words, construction managers is something new. It's just been innovated in the



last several years. Is that right?

MR. PERKINS: Right. We have --

MR. GOLDSTEIN: To assure the prime contractor is honest; he puts in this stuff that's supposed to be put in for quality cement; and he digs the holes right so the tunnels will meet.

MR. PERKINS: Coordinates the job.

MR. GOLDSTEIN: Coordinates the job.

MR. PERKINS: Gives field orders.

MR. GOLDSTEIN: Right. So, in other words, he's really a cost-plus man, when you come right down to it.

MR. PERKINS: Well, I think the statute forbids an award on that.

MR. GOLDSTEIN: Well, that's what it amounts to. In other words, you've got cost-plus, if you read this thing. I've read it about three times.

MR. PERKINS: Well, I think that is --

MR. GOLDSTEIN: And we're going to pay him \$24 million to see that all these contractors -- the gentleman, here, from St. Louis does his \$41 million contract right, and another guy does his right, and so forth and so on --

MR. PERKINS: Well, I think Secretary Hughes --

MR. GOLDSTEIN: -- so when the tunnel is completed, eight miles, everything fits, and the trains are running on a track that's even -- is that right -- and elevators are working? Is that correct?

MR. PERKINS: That's correct.

MR. GOLDSTEIN: So they won't have the mess they had down in San Francisco when the God-damned train ran off the track.

MR. PERKINS: But, as Secretary Hughes has said, that's the way it was bid. We are not changing our bid, but what we are saying we've said in writing, in one respect; that for the five-year life of the contract, we'll give you the full performance and our bid will be a ceiling; or, we're saying we will, in the alternative, prove either way, our good faith in this thing; that we will give you up to those number of hours again, or for the same kind of a package that Parsons is projecting, if there's any concern with the MTA that we're going to cut corners. And, you know, my people take that a little personally, based on their experience, just because they've come in with a lower projection, which is

based on the considerable collective experience of the team in this kind of work, that they're to be penalized for doing so, and their bid's to be thrown out.

MR. GOLDSTEIN: Did Parsons work on the one out in California?

MR. ADDISON: The EART system? I don't believe so.

MR. GOLDSTEIN: He didn't?

MR. ADDISON: No. If I may, and I don't want to be argumentative, but I'm hearing figures and information that I find inconsistent, and I think the Board of Public Works deserves to know.

I believe Mr. Perkins indicated that the Baltimore Contractors' effort would be added to this 858,000 man hours --

MR. PERKINS: No, I didn't; no, I didn't, because they were included in the 858,000 man hours.

MR. ADDISON: Yes, they were included, because --

MR. PERKINS: What I said was, we showed --

MR. ADDISON: -- when you show them together, you come up with the 18.9 million, of which the base man hour effort is still 858,000, including Baltimore Contractors.

MR. PERKINS: We have one subcontractor, and maybe



I'm putting too much weight on that one subcontractor, but we do show one subcontractor with a dollar value close to \$700,000, and, with an hourly rate in the area of \$10.00, that's another 70,000 hours. That's the only subcontractor I'm talking to, and I don't want to put too much weight on it.

MR. ADDISON: I thought the impressions might have been left that that 30 percent participation was in addition --

MR. PERKINS: No, absolutely not.

MR. ADDISON: -- to the chart.

MR. PERKINS: No, but if you want us to pad the hours, we're happy to do so. We'll do anything we can for the contract. But I just wanted to show that we could have, within the framework of our bid, you know, expressed the hours of subcontractors, certain overhead items, in the direct cost. We could have shifted it the other way, as Bechtel did. I think Bechtel shows you --

GOVERNOR MANDEL: Let me ask you a question to get it straight in my mind. In effect, are you saying to the Board, that that figure up there of \$18,975,000 -- that you are willing to take the contract to do the job, as it's outlined by the MTA, for that flat figure?

MR. PERKINS: If you include -- well, that's a minor item, but, basically, yes, that's correct -- isn't it? My note says, we will sign this contract for \$18.9 million.

MR. GOLDSTEIN: And meet all the requirements of MTA?

MR. PERKINS: That's correct. Well, we're bound by the contract there -- the scope of work is set forth -- just as any other bidders in this job.

MR. GOLDSTEIN: Okay.

GOVERNOR MANDEL: Are there any further questions of Mr. Perkins?

(No response.)

GOVERNOR MANDEL: Thank you very much. I think we have a Mr. Eddy here.

Would you identify yourself?

MR. STATTON: My name is Charles Statton, and I'm going to be the lead-off fellow for Bechtel; I'm Vice President and Division Manager for the Bechtel Gaithersburg Power Division, in Gaithersburg, Maryland.

After all you've heard this afternoon, one could draw the conclusion that there are no competent contractors

in the State of Maryland, and I, for one --

MR. JAMES: I don't draw that conclusion.

MR. STATTON: I, for one, am a Maryland contractor, and, like good oysters, Maryland has a lot of good contractors.

MR. GOLDSTEIN: Well, I can tell you one thing, you've built a power plant down in Calvert County that's working.

MR. STATTON: It's working, and it's saving everybody here a little money.

MR. GOLDSTEIN: And it's producing more electricity than any plant in the world, and it reduced cost, so I know damn well it's working.

MR. STATTON: Thank you.

MR. GOLDSTEIN: And I only live about six miles from it, and I'm not afraid of the radiation.

MR. JAMES: You probably radiate more than the plant does.

MR. GOLDSTEIN: Well, maybe I do; maybe I do.

(Laughter.)

MR. GOLDSTEIN: By God, it's good somebody radiates something around here. Thank God, I've got the ability to



radiate.

GOVERNOR MANDEL: Neither one of them are dangerous.

MR. GOLDSTEIN: That's right. Thank you, Governor.

MR. STATTON: Bechtel is an 80-year-old family firm that's been dedicated, over the years, to the engineering and construction business, and we've long thought of ourselves as having a low profile, but as we are most painfully aware today, in any accomplishment goal you have, there is no such thing as a low profile.

I have personally lived in the State of Maryland for over sixteen years, when we brought the Bechtel organization to Maryland, as we thought, if we were going to do work in this area, it was important that we become residents.

We currently have the largest engineering staff in the State of Maryland. We have 2,300 professional people in the Gaithersburg office.

Some of the work you saw earlier in the Bolton Hills was designed by the Bechtel group in Gaithersburg.

We have the, somewhat, outstanding position of having the highest bid. Mr. Eddy's going to talk to that issue before we're through.

We are currently involved in the RAMADA project for the District of Columbia, and we were part of the BART work in San Francisco, having a similar assignment as what we are talking of here today.

We would expect to utilize that experience in the conduct of this work, to include those people that are assigned in Gaithersburg.

While we recognize the technical services selection board has been temporarily blinded by a mathematical scheme of selection, it does not follow that this Board, and the taxpayers of this state, should fall victim to this distraction.

Bechtel, and its chosen partners in this proposal, have, without doubt, the best experience, and we're seasoned in dealing with Maryland labor.

We are organized and staffed with local residents, and we're prepared to serve the state's requirements in this particular case.

These key factors, of course, we believe, were held from the Board in this particular presentation to you, by the board.

I would like, at this time, to introduce Preston Eddy,



who will talk to some of the points from that chart, and will capitalize on some of the prior issues.

MR. EDDY: My name is Preston Eddy. I'm an area manager with the Hydro and Community Facilities Division of Bechtel, Inc. Until three weeks ago, I was a resident of the State of Maryland. I'm now in California, but I have lived in Maryland three, separate times in the last twenty years, so I may be back one of these days.

In construction, as in many endeavors, experience is the best teacher. No amount of project management and advance planning can avoid costly construction errors and delays if the organization and key personnel performing the management and planning have not had the necessary experience to anticipate the potential problems in the field.

Furthermore, the construction of a large, rapid transit system, in the heart of a city, is a unique type of project, and experience on smaller projects or different types of projects does not substitute for experience in other large, mass transit projects.

Therefore, in Bechtel's opinion, the experience of a firm, in similar projects, is the single, most important



technical selection criteria.

Having acted as construction manager for the only two major rapid transit systems built in the last twenty years, the Bay Area Rapid Transit System in San Francisco, and the Washington-Metropolitan Area Transit System, Bechtel is the leader in this field of endeavor.

Furthermore, the timing of the Baltimore project is such that Bechtel will be able to transfer substantial numbers of key experienced personnel directly from the RAMADA project to Baltimore, thereby providing continuity in the latest technology in the state of the art.

Although the selection board recognized our leadership in this area, and ranked Bechtel first among the bidders in the category of experience, the board's evaluators used a 500-point rating system, which allocated only 12 points to experience. This is no more weight than given to small, minor activities, such as, electrical installation and testing, mechanical installation and start-up testing, both of which had 12 points.

Before I address the question of construction management costs for this project, I think it's well to differentiate

between the various types of construction management contracts.

They range from simply inspection services, where technicians oversee the contractor's operation to ensure quality control, to a full range of contract management and administration services.

Our proposal includes the latter, encompassing a significant amount of cost control and field engineering services.

Construction management for the Baltimore Regional Rapid Transit System will be compensated on a recoverable cost plus fixed fee basis; thus, direct costs, including salaries and their related costs, will be reimbursed only to the extent that they are actually incurred. Indirect costs will be paid through an overhead rate set by governmental audit, and a fixed fee will be added to these recoverable costs.

Therefore, the most important factors in evaluating costs are the bidders' unit man hour rates; that is, direct cost, plus overhead, and his proposed fee.

The selection board indicated that it rated Bechtel's cost proposal poorly because Bechtel's man hour estimates were higher than the estimates of some other bidders



and the estimates of the MTA.

It has been our experience that those who have not undertaken similar projects in the past, usually underestimate the magnitude of the project.

We have given our best estimate of what we think the job will cost, and we believe we are uniquely qualified to recognize the magnitude of the project, and accurately estimate its construction management needs.

Furthermore, the man hour estimates given by the bidders are only estimates, and are not binding on the bidders, and there is no guarantee that the bidder with the lowest estimated man hours will not actually spend the largest number of man hours.

Mr. Addison articulated this very well. There are going to be change orders all the way through here. There are going to be changes in schedule.

Nor, is it necessarily desirable to spend the lowest possible number of man hours for construction management, since construction management costs are a very small portion -- 4 to 7 percent, historically -- of the cost of a project, and, when compared to the large number of craft labor man hour



costs, productively-spent construction management man hours can actually reduce the overall cost.

Bechtel man hour estimates were never questioned by the evaluators during the evaluation interviews, although our estimates were substantially higher than those of the MTA.

The selection board also indicated that Bechtel's cost rating was adversely affected because Bechtel did not include escalation estimates.

We did not include escalation in our cost because it is customary, on recoverable cost contracts, for the bid evaluator to apply a uniform escalation rate to all bids.

Since only the escalation which is actually experienced will be reimbursed, it serves no purpose to evaluate recoverable cost bidders on the basis of escalation rates included in their cost estimates.

Each one of the proposers had a different escalation rate. It's going to be whatever it's going to be.

Based on the information available to us, it appears that Bechtel man hour unit costs, unescalated, or using the same escalation rate as they've used for Ralph M. Parsons, are among the lowest, if not the lowest, of any of the firms

proposing here.

The corporate responsibility for construction management for the Baltimore system would be assumed by our division vice president, Jack Dillan.

Our proposed project manager, Bob Rosen, sitting right over here, will look to Jack Dillon for guidance during the life of the contract. Bob will have all the necessary authority, responsibility and accountability, right here, locally, to perform as project manager, and Mr. Dillon's function will, simply, be to provide the necessary overview and assistance Bob requires -- see that he gets the muscle when he needs it. As well, he will be a point of senior management contact for the MTA, DOT to utilize as they feel necessary or desirable.

One of the most important jobs of a construction manager is the planning and coordination of the work for the construction contractors in a manner which promotes the efficient use of available labor resources and maximizes labor productivity.

Bechtel believes that its continued relationship with local labor, and Bechtel's utilization of Maryland-based



subcontractors, will maximize its ability to perform the important task of prompt, efficient, productive labor usage.

In this regard, Bechtel has proposed what we believe to be an aggressive and obtainable program for minority participation. Bob Rosen and Bechtel are committed to a program which best serves the community in which the project is to be constructed.

Jack, what do we propose as an objective -- 25 percent to go to minorities?

MR. DILLON: Yes.

MR. EDDY: Bob Rosen is currently Assistant Construction Manager at RAMADA. We welcome your checking with the RAMADA staff to check his credentials and see if he's the man for the job.

We believe that the Maryland process for selection of firms to provide professional services is a fair system. The several steps in the process should be performed independently, with each successive step providing an essentially independent audit of the previous steps.

We believe the importance of this project warrants substantially greater levels of effort in the independent



review of the qualifications of the proposals by the Transportation Services Selection Board and/or the Board of Public Works.

Bechtel strongly believes that the objective facts clearly establish that the Bechtel organization will provide the most experienced and qualified construction management personnel for the Baltimore Regional Rapid Transit System, with the greatest degree of management commitment and effective utilization of local resources.

Furthermore, Bechtel's experience and technical expertise in large urban rapid transit projects will enable it to perform construction management for this important project with the fewest number of man hours necessary, whatever they may be.

These factors, combined with Bechtel's low unit man hour rates, leads to the conclusion that Bechtel could complete the project on schedule, at the lowest possible cost, and with a minimum of disruption to Baltimore City.

We appreciate the opportunity to appear here today, and we're prepared to provide any further relevant information you may require.

Thank you.

MR. JAMES: What part of this contract will Reiner handle?

MR. EDDY: Reiner would be a subcontractor to us providing inspection services below the resident engineer level. The Bechtel organization will have all position in the middle to senior management of the project.

MR. JAMES: Can you handle Washington and Baltimore at the same time?

MR. EDDY: Yes, because we are at the peak manpower commitment in Washington right now. It's tapering off. We've been on Washington since 1971. We've built up a very efficient cadre there. We have runner-ups in most positions, so it would be simply putting -- like, Bob Rosen has a replacement ready to take his place in Washington. He can come over here and bring the latest knowledge to this job. We have good runner-ups; we will have available personnel coming off that project -- exact fit -- as the build up comes here.

GOVERNOR MANDEL: Do you have any questions?

MR. GOLDSTEIN: Yes, sir. Did Mr. Dillon or Mr. Rosen work on the Washington and San Francisco BART

system?

MR. EDDY: Mr. Rosen did not, because Mr. Rosen has been on Washington for four years.

MR. GOLDSTEIN: Four years in Washington?

MR. EDDY: Yes.

GOVERNOR MANDEL: He looks like he survived well.

MR. EDDY: Mr. Dillon --

MR. GOLDSTEIN: How about Mr. Dillon?

MR. EDDY: Mr. Dillon had corporate responsibility for the last three years at BART, and in the MARTA, the Atlanta joint venture, he was the Bechtel individual responsible for that. His organization is responsible for RAMADA. I was personally responsible for the RAMADA project. That was one of the projects I had for better than two years.

MR. GOLDSTEIN: You say you're back in California. Are you working on the BART system in California now?

MR. EDDY: Oh, there's still wind-up on BART.

MR. GOLDSTEIN: I see. I read this article here in this engineering magazine, October 21, '76, BART Critic Calls it a \$1,600,000,000 Mistake. Are you familiar with that article?



MR. EDDY: Yes, sir. Have you read the Fortune article that says what a great system it is, and how we must benefit by what we learned on BART.

MR. GOLDSTEIN: And how about this article by Wilford Owens at the Birkley's Institution?

MR. EDDY: I'm not aware of that, sir.

MR. GOLDSTEIN: Yes, I've got the Fortune magazine article in my car.

MR. JAMES: You can get any opinion you want on BART, can't you?

MR. EDDY: Yes. I've been riding BART; it's a great system.

MR. EDDY: It was the people in Berkley wanting to put the system underground, the citizens want to shift it two blocks away, everybody always wants to shift a transit system two blocks away. That costs a lot of money.

MR. JAMES: What about Atlanta? What is happening in Atlanta?

MR. EDDY: Atlanta? We withdrew from the joint venture because of contract disputes.

MR. JAMES: Dispute?

MR. EDDY: Yes, we left under good conditions. At Gaithersburg we are designing a section for Atlanta right now. You are getting revenue of the State just like the Bolton Hill section. We are doing a similar section for Atlanta with our staff in Gaithersburg.

GOVERNOR MANDEL: Any further questions? --- Ed Courtney, President of Building Trades.

MR. COURTNEY: I'll give you a rest, I'm not going to get technical, I think you will understand me. Although, I do believe that the one that can do it for the least hours may be the most efficient manager because the

most efficient contractor was low. But, anyway, I'm one of the ones Judge Carter referred to, the one who couldn't object until after the award was made. But I want to tell you about the relationship with Parsons. If they are efficient, then somebody should correct the newspapers because at the Airport I read that there are \$26 million dollars in overruns and they are not half finished their job yet. But, the reason that I am here is that immediately after the last session, and I don't have to tell you about the details of the last session, I was called to the Governor's office, by the Governor, along with the Labor Commission and was told in no uncertain terms that there wasn't going to be any cost overruns on the Baltimore subway. And, it is really good that we finally got here because all you have talked about today is money. And, until there was a labor stabilization breach between the MTA and the unions in Baltimore there wouldn't be ten cents spent on a subway if we had to lose the whole \$500 million dollars.

GOVERNOR MANDEL: That is what I told you.

MR. COURTNEY: I wanted to refresh your memory.



MR. MANDEL: I want to refresh yours too.

MR. COURTNEY: Immediately after this we started negotiations and we reached an agreement with the MTA. But, if for one minute I had dreamed that Parsons would become a construction manager on the MTA there would have been a lot more in that agreement than is in there today because Parsons on the Airport told me, along with every other union, they were a construction manager, not a union contractor, had no signed agreements and unions had no rights to interfere with whatever Parsons did on that job. Now, if we are supposed to live with the construction manager which the MTA can assign the contract to on the rapid transit, believe me there is going to be a lot of overruns. The unions in Baltimore cannot deal with the Ralph Parsons group. I just want to bring it to the Governor's attention that what we told you we would do under a labor stabilization agreement, with the Ralph Parsons group, I'm not too sure we can live up to it. Our agreement is with the MTA, it is up to the MTA whether they want to hold on to it or assign it, but I don't think they want to hold on to it. We cannot get along

with the Ralph Parsons group.

GOVERNOR MANDEL: Any questions?

MR. MCGUIRK: My name is Harry J. Mc Guirk. I represent the Thirty-seventh District of Baltimore City. I'm here today because during the last session when we met sometime for I guess 16-18 hours a day trying to bring about a compromise on the subway, there were several things that we discussed. One of the things discussed is, I hope, working out here today and that is the affirmative action program which we made part of the compromise because had it not been there the bill would not have passed the General Assembly. The second portion that went into being was the question of an oversight committee whereby the legislature would continue to review certain aspects of the subway system. A third one was our commitment to the people that we would try to get the best for the dollar. Following up on that commitment that I made to the people as one of the compromisers of the Senate, I attended a public meeting of the committee who was to review the situation of this bid. Much to my surprise, and in light of the openness of your direct-



ive Governor, I was told that I could not speak prior to the issuance of the award. I found that this was quite a surprise because I believe that had we had the opportunity to discuss these things openly then, we could have probably brought out in the open some of the things that are unfortunately -- have developed since then. Number one, I have never talked to any member of the committee. I have never talked to any member of the Board and what I have is gleaned from this recommendation after many hours of work and a lot of effort on my part. I didn't like what was said about me, I still don't like it, it was untrue but you will find that it is not the first time there is an untrue thing stated in this proposal. I then checked out and found out that there was a selection committee. I made reference to three people on that selection committee, one to Mr. Hoppe, whose wife worked for an outfit. Another was a Mr. Hampton and a Mr. Miller. I am glad to report that those three have been absolved by the code of ethics. I would like to point out in your directive, Mr. Governor, that it stated in there that it should not have any appearance of familiarity with the



contractor. I still say when you work for a firm long enough, subconsciously, there must be some form of familiarity. I think you should correct your executive order that was sent down because it says they must equally avoid circumstances suggesting favoritism is implied. There is another section in here under the financial interest which states that ownership of any interest or involvement in any relationship from, or as a result of which, the owner has in past years received, or is presently or in the future entitled to receive, more than \$1,000 per year. I think that is something that has to be corrected because that states "any" relationship, which could apply to an employment relationship.

At that Hearing I personally could feel the chagrin that Judge Carter was going through. Here was a man who had sat in judgment for some number of years, who had heard both sides, and throughout that entire history he was able to make fair decisions on the basis of having heard both parties. And I think it was one of the unfair things that happened to him after a long distinguished career. But, the main objective here, I believe, is what

are we talking about in the way of a proposal? Now, in a review of this report, it states that as a result of House Bill 640 in the General Assembly, that this committee would be set up. In the section it quotes that in making the selection on a competitive basis neither the price proposal nor the technical proposal shall be the sole consideration. Therefore, I suggest that both should be the consideration. It was my reasoning that if we could have the technical responsibility as portrayed by several members of this group for a rate that was obviously lower than that projected, then it was in the best interest of Maryland citizens to get the lowest figure. For this you have seen the joking around appears to be in the question of man hours. I subject to you that had I offered to build this by pick and shovel and carried out by coolies I would have probably gotten the bid because I would have had the most man hours.

The other thing I would like to suggest to you is that we are talking about a projected number of man hours of 1.2 million which here today we saw in the proposal where their own estimates were over 10% high on the



previous bid that they have asked you to take. Now on that basis, I think you will find that this is a habit of the department, you can go back on an old budget where for the past four out of five years they have underestimated their expenditures and over-estimated their income, or vice versa, I forget which it was but I know it has been a habit of theirs for some time.

With reference to the proposal of other offerings by this department, I can only subject to you that you have an opportunity to read the auditors report over the last four or five years. I think it is almost inefficient not to have an audit of concessions on the various roads, not to have a review on the awarding of the contract after it was brought that experts have said that no airport, no airport, is efficient after 15 years. We're still building for traffic some twenty years from now, and it is estimated that five years of that expenditure will be a total loss to the State of Maryland. I think that these are the things that have to be brought out here today. It's fortunate that the State of Maryland does have a back-up team such as the Board of Public Works because



the questions asked here today are the ones we had hoped we would have had an opportunity to ask before the Board.

In reference to that Board, I would like to say Mr. Governor, that I felt the Board was acting with a member there who did not belong there. I have stated this publicly at both Board of Estimates and I would like to state it here. David Fisher was your recommendation to that Board, David Fisher resigned from the Department, and under the rules and regulations of that Department, only you can fill that vacancy. This Department took it upon itself to fill that vacancy with one of their own, which gave them the man who seconded this recommendation of Ralph M. Parsons. I think it was totally out of line because the appointment should have been yours.

The other question is ---

MR. JAMES: There is a letter in here from the Governor appointing that substitute

MR. MCGUIRK: It was my understanding that he had not appointed anyone to David Fisher's vacancy, and on that basis, if you did appoint someone-fine.

GOVERNOR MANDEL: When we appointed the original board,

we also appointed substitutes for the original appointees.

MR. MCGUIRK: Only for the two. Now I don't know if you appointed any substitute for Dave Fisher or not.

GOVERNOR MANDEL: Yes, I think so.

MR. O'DONNELL: Yes.

MR. MCGUIRK: But it says that when a vacancy occurs you are the one to reappoint. I didn't see any correspondence after the resignation of Dave Fisher to fill that vacancy. On that basis we did question it, but I think that we have here today a situation that I think is really tantamount to our responsibility, and that is getting the job for the best at the cheapest amount of tax dollars. I can see that under the selection that was made by this Board, that we are going to have problems one, from their attitude, one from the past performance at the Friendship Airport, and one on the figures that here have been given to us. I just hope that this Board in its wisdom can ferret out the problems that I see in awarding the contract to this gentleman and award it to one of the other competent members as well. I think it



will be a lot less trouble because when we go back in January we still have the problem facing us in the Legislature and I certainly hope that the problems of the Affirmative Action and the labor problems and of the City itself will be corrected.

GOVERNOR MANDEL: Are there any questions?

MR. GOLDSTEIN: Harry, you say you'll be back in January. You anticipate any problem getting the budget passed? This is going to be a continuing program.

MR. MCGUIRK: I can foresee problems, yes.

MR. GOLDSTEIN: Unless they are going to appropriate the money, how in hell can the job continue?

MR. MCGUIRK: Well, that is why I tried to stay with it and I have to report back that it has been done for the cheapest tax dollars.

MR. GOLDSTEIN: Let me see if I understand you. Suppose we got a contract today for this \$41 million, and you all are going to appropriate the money for the next contract.

MR. MCGUIRK: We went through a compromise of some seven to nine days and wound up winning it by one



or two votes. And right here today you have two of those votes that stood by it, Senator Douglas and myself. So when you get that close I'd say it was a hairy situation.

MR. GOLDSTEIN: I'm trying to interpret your attitude. In other words, it may be better to wait until after January to find out what the hell happens.

MR. MCGUIRK: Then you might be adding to the cost of the total project. But as long as we see that it is being done for the cheapest tax dollars, I think everybody can be happy; as long as you keep the compromise of affirmative action everyone is happy.

MR. JAMES: The time has come to act, if we don't act now I think we are about through.

MR. MCGUIRK: I think so too.

MR. GOLDSTEIN: Well, according to all the experts, it may be a pretty good thing.

MR. MCGUIRK: I have one more point to add which I think--I was glad to see that delay on the other. I think that the awarding of the manager contract should have been the first order of business. I have read in the paper where there is already two more contracts

ready to be issued by the Department of Transportation on this which would be three contracts. I hope that the Board will take cognizance of that and make sure thereafter the awarding of the manager also.

GOVERNOR MANDEL: Any further questions?

MR. MARBERGER: My name is John Marberger and I'm Chairman of the Transportation Professional Services Selection Board.

It seems like it is popular here today to say that you are from Maryland and I was not only born in Maryland but I was born some years down in Calvert County before our distinguished Comptroller.

In regards to Judge Carter, and what he told the Board, why he abstained from voting, I think it is only fair to say why I voted for this project. You will recall that it takes one affirmative vote by one of the public members to approve the vote.

I voted for this project because I spent many hours studying the reports. I talked to the State, I asked the secretary to hold a special meeting for the Judge and myself so that we could go over this in very



much detail. I noted particularly that the States staff man hours were very consistent with three of the other firms and I firmly believe that in this instance the State's staff, now I don't believe that we should ever rubber stamp the staff, but I think in this instance the staff has done their homework. That is the reason I voted for the project.

GOVERNOR MANDEL: Any questions?

MR. PLITT: Governor Mandel and members of this Board, my name is Herb Plitt. I am the President of Century Engineering and we and our partners, Sterns, Rogers are competitors for this construction management contract.

Century is a native Maryland firm. We rank among the top engineering firms here in the State. Our partners, Sterns, Rogers, is among the ten largest contractors in the country and among the largest construction managers in the country.

Now I want to point out just two things to you that I think this board ought to know. One, our firm was ranked second among five firms in terms of both



qualifications and price proposals. And the one thing that I want to draw to your attention about the price proposal is this, it has been said here today by several people that since this contract is a cost plus contract, in other words the State is going to pay for the number of man hours that are expended in providing services, if it takes 100 hours the State will pay for 100 hours, if it takes only 90 hours the State will pay only for 90 hours. So the important thing to look at, I think, is this. That if you evaluate it, the proposal on the basis of a set number of man hours, you would find that Ralph Parsons is not the low price, and in fact the other obvious low price firm is not the low price but that our firm, Century, Sterns & Rogers, would be the lowest price and would be some \$2 million dollars less than Ralph Parsons table.

I think that is very important because it is a cost-plus contract and it has been said here many times that whatever amount of hours are required to perform these services is what the MTA will expect and I think you will need to know that.

GOVERNOR MANDEL: Mr. Plitt, may I say one thing? You kind of lost me about three sentences ago. How do you get to be low based on those figures?

MR. PLITT: As a part of your book there you have an exhibit. It lists all the firms and the prices .

MR. GOLDSTEIN: Are you talking about this big chart here?

MR. PLITT: Yes sir. At the bottom of the page, and I don't have a page number here, there is a heading that is called 'Exhibit 10', and it says Developed Labor Costs using Exhibit 10 Rates and Mean Man Hours. Now the man-hours that are used there you will see are 1,317,454 and they are applied to the rates for each of the five competitors.

When you apply those to the same number of hours you will find that the Sterns, Rogers & Century proposal is low by some \$2 million dollars.

GOVERNOR MANDEL: What you are saying in effect is that if you apply the man hours -- if you apply the same man hours to each firm, then your firm would be the lowest.

MR. PLITT: That is correct.

GOVERNOR MANDEL: I guess everybody would agree to that.

MR. GOLDSTEIN: That is really confusing. In other words, you wouldn't agree this would be 1,317,454 man hours? Is that right?

MR. ADDISON: Any number of man hours normalizes all of the proposals. This is one way to make a comparison, which we did.

MR. GOLDSTEIN: Yes sir.

MR. ADDISON: Then, given a set of man hours which anybody would perform, you do have a difference in who is low and who is not low. I tried to make the point much earlier that this talk about saving something because of one gross dollar figure does not represent necessarily the cheapest proposal would be received.

MR. GOLDSTEIN: But then you have this other company come and say we will do it for \$18.9 million and give you a firm contract. And they get bonds and reliable people, just as reliable as you are, because you want to leave Maryland and go to Washington. So damn----- I mean I'm looking you right in the eye.



I mean hell, you were over to Washington looking for another job. So they are just as reliable as you. They have got as much stability as you have. Why aren't they reliable?

MR. ADDISON: I think the Secretary made reference to this before. The process had to do with the proposal.

MR. GOLDSTEIN: Right.

MR. ADDISON: In other words, your day in Court was dependant upon how you submitted a proposal and what you said. And on the basis of that proposal, they didn't say that.

GOVERNOR MANDEL: Say that again.

MR. ADDISON: On the basis of the proposal, they did not come in and say that if it takes 1,200,000 hours we will still do it for \$18 million. The \$18 million is based on the 858,000 hours.

GOVERNOR MANDEL: But they are saying on the basis of your proposal they will do it for \$18,977,000.

MR. GOLDSTEIN: Well you modified the other contract with Parsons. You modified their contract.

SECRETARY HUGHES: Not substantially, but---

MR. GOLDSTEIN: You modified the contract Harry. You know you did.

SECRETARY HUGHES: No, no we didn't have a contract.

MR. GOLDSTEIN: Well your proposal. Anything you want to call it.

SECRETARY HUGHES: We had proposals.

MR. GOLDSTEIN: All right, you modified their proposal. Their proposal is different today than it is in this book.

SECRETARY HUGHES: That's right. The law contemplates that.

MR. GOLDSTEIN: All right. Here you have reliable people come in and say we'll do it for \$18.9 million. I'm not going to sit here and give somebody \$5 million bucks when I hear the labor people here saying that they can't get along with these people.

SECRETARY HUGHES: Well, I think Mr. Parsons can respond to that better.

MR. GOLDSTEIN: I haven't heard any response to it.

SECRETARY HUGHES: What I think Mr. Plitt is saying is that to do the job the way it should be done it doesn't make any difference what firm does it it is going to take a certain number of man hours.

MR. PLITT: Correct. If you apply that number of man hours, whatever they are, to a rate, our firm would always come in with the lowest price. If this job takes twice as long to do and twice as many man hours, we would then be \$4 million dollars lower than the Ralph Parsons firm. Now I came here today, not to address this Board, but I have listened to lots of people come forth here and suggest that this whole business of who should have this contract may be up for grabs again. What I am suggesting is ---

GOVERNOR MANDEL: I know what it is up for-I think it is up for something. I think biggest problem facing us is how many hours is it going to take to do the job. And everybody seems to disagree and yet we have an open-ended contract. As I call an open-ended contract. And it is very hard for me, and with all due respect, Mr. Plitt, it is hard for me - for a firm to come in and say



it is going to take 1,000,403 hours and get the contract and then say 'Fellows, we made a mistake, we're only going to use 1 million man hours. We are going to cut off 403 man hours.' It is hard for me to visualize that. I could see them coming in and saying its going to take 1,000,600. But to say it is going to take less than we anticipated, I think very rarely happens. At least I've seldom seen it happen.

MR. PLITT: If I were to find fault with the procedure that has been used in this selection, then the one thing that I would find fault with is the fact that MTA did not ask the proposers to all propose on the same number of man hours. Had they done that---

GOVERNOR MANDEL: Then we wouldn't be sitting here with all these problems.

MR. PLITT: That is correct. But they have not done that and what I would like to say in conclusion is that if this Board is going to consider possible alternatives to the method of payment, a possible lump sum contract that has been proposed here with a guaranteed \$18 million or whatever that number would be, then I

am suggesting that our team would also like to make such a proposal. Thank you.

GOVERNOR MANDEL: Thank you. Did you say that Mr. Parsons was here?

MR. O'DONNELL: Someone said that Mr. Parsons was here.

MR. VOLPE: Governor Mandel and members of the Board, my name is Joseph Volpe. V-O-L-P-E. I am Vice-President and manager of the Washington office of the Ralph Parsons Company. I also happen to be an attorney. I would like to make just a very few points. The hour is getting late and I would much prefer that you perhaps have questions that you would like to ask me.

First I would like to address myself to Mr. Courtney and his remarks about our labor relations. The Ralph M. Parsons Company operates union all over the country. We have never done anything else --

MR. COURTNEY: As a contractor.

MR. VOLPE: We have never done anything else. I did not interrupt you Mr. Courtney. I would like to have included in this record a letter dated October 5, 1976.



It is addressed to MTA, signed by Mr. Maddox, a Vice-President of our Company. That spells out the labor relations of the Ralph M. Parsons Company. We will make a copy available to the reporter. (Appendix A)

MR. MANDEL: Glad to receive it.

MR. VOLPE: I would also like to make it part of the record, a letter written by our Project Manager at BWI to Mr. Durham, Director of Engineering, in which he responded to the charges made by Mr. Courtney regarding our actions at the Airport. This letter is dated August 31, 1976 and we will make a copy available to the reporter. (Appendix B)

Now, Mr. Courtney's gripe is over the fact that a decision was made at the Airport to package a piece of work having to do with elevated roadway in a way that did not involve Building Trades wages. And, this was done because, in the opinion of the Project Manager, and in the opinion of the Airport authorities, this was not a building, it fit a different category and should not be subjected to the wage levels of the building trades. Moreover, if it had not been done the way it was recom-



mended by Parsons, the Airport authorities would have lost the contribution and the participation of FAA which in this case amounted to \$2 million and some odd hundred thousand dollars. What I am saying is that we were motivated in that instance by the best interest of the authority. And, I might add, in that case the contractor awarded the job was a union contractor. So, I wonder why this charge is leveled at Parsons. We do not decide union or non-union. We simply call them as we see them. Looking at the best interest of our client, the Airport Authority.

I must confess to you, Mr. Governor and members of the Board, I am astounded by some of the things that I have heard here today. We responded to this request for proposal in good faith. We responded based on the ground rules that were set forth in the documents we received from MTA. We put together a team that includes, in our view, maximum local participation in this project. Now I am not going to stand here and, although the temptation is great, get into an argument with the folks here about who is qualified and who is not qualified. Our qualifications are in the record. We have assigned to

this project the vice-president of our Company who has had many, many years of experience in tunnel work construction, we have associated on this team local firms that have had similar experience. We have associated with us DeLeuw, Cather & Co., which is probably one of the outstanding engineering organizations in the world. In the field of engineering, rail systems and subway systems they are the general consultants on the RAMADA project in Washington. I think what is transpiring here this afternoon raises some rather serious ethical questions. But I am not going to attempt to try to respond to that. I will simply say that what we have done we have done in good faith. We attempted to meet the requirements as were set forth on MTA's own documents and beyond that I will not go but I'd be happy to respond to any questions you might have.

GOVERNOR MANDEL: I hope you don't think that any members of the Board have raised any ethical questions as far as capabilities or ability is concerned. Because, if that is in your mind, I don't think any member of the Board meant to raise that kind of question. We are



not talking about qualifications. What I would like to say to you simply, and ask you a straight forward question and get a straight-forward answer, if you were sitting here in this position handling public money and had this kind of situation facing you of a difference of \$5 million of public funds, and had to make a decision to award the contract where you are spending \$5 million more of public funds than for what you could get the work done, wouldn't it give you second thoughts?

MR. VOLPE: It would give me second thoughts if I did not have answers to some very material and relevant questions. The \$5 million we are talking about is a fraction of the cost to construct this system. It is a very small part of that cost. What I would be concerned about is whether or not I was selecting an organization that was competent and capable to do the job and was prepared to dedicate qualified people to do that job. Now, you've seen the charts and it is true, not only in this case, but in other cases that we have participated in, other situations we have participated in with the Federal government and other State government. One very



important criterion in determining the qualification of an organization we are proposing is how close he comes to your own estimate of what is required to do that job. His understanding. This tells you that this proposer understands the job. He knows what it calls for. And, if you look at the numbers there, you will find that we almost parallel MTA. And, I assure you that there was not a word spoken between Parsons and MTA --

GOVERNOR MANDEL: No one's suggesting that.

MR. VOLPE: --On this point.

GOVERNOR MANDEL: Well, I'm going to say it anyhow. But, if what you have just said is a true statement of facts, the estimates made on Washington and San Francisco ought to scare the hell out of us.

MR. GOLDSTEIN: Did you all make the estimates on BART?

MR. VOLPE: No, we had nothing to do with BART.

MR. GOLDSTEIN: How about Washington? In Washington, D.C. you told us it would cost \$1,500,000,000. And then it went to \$2,000,000,005 and then it went to \$3 billion now it is \$4,000,000,005, and now the other day-

MR. VOLPE: We are not running Washington either.

MR. GOLDSTEIN: You don't work on Washington at all?

MR. VOLPE: We are doing design work. We are doing section design work.

MR. GOLDSTEIN: But you are doing some work over there?

MR. VOLPE: Oh yes.

MR. GOLDSTEIN: All the experts over there told us \$1,000,000,005. That is where they started off.

MR. JAMES: Let's not blame this gentleman for what happened in Washington.

MR. GOLDSTEIN: I'm not blaming no one. I'm not blaming him for a damn thing. He is the one who brought up all of this proposal. I'm trying to find out something about this matter.

Where are you from sir?

MR. VOLPE: Washington, D.C.

MR. GOLDSTEIN: Washington, D.C., okay.

MR. JAMES: That is fairly close to Maryland.

MR. GOLDSTEIN: We haven't said anything about

your ethics.

MR. VOLPE: Well, as a matter of fact ---

MR. GOLDSTEIN: You must have a guilty conscience bringing it up here ---

MR. VOLPE: No Mr. Goldstein, I don't really. I meant to respond to Governor Mandel's point, I was not referring to the Board when I made the point about ethics.

MR. GOLDSTEIN: I'm here ---

MR. VOLPE: I was responding ---

MR. GOLDSTEIN: I'm here as a public official of Maryland trying to get some facts ---

MR. VOLPE: You are absolutely right.

MR. GOLDSTEIN: Anything I can get my hands on. I have got to go out here and run for election. All of these guys sitting here get appointed and they go from pillar to post. They don't give a damn about Maryland, all they look for is money. That is all they are interested in.

MR. VOLPE: The ethical point I was making had nothing to do with the Board members itself. I was talk-



ing about the things I have heard here today. From representatives of our friendly competitors. This is what I question.

MR. GOLDSTEIN: Well, that is the kind of disease you have in Washington. You cut each other up, like you were making mince pie.

MR. VOLPE: I have, I was going to say fortunately, perhaps unfortunately, not been subjected to it before and maybe that is one of the reasons I'm sensitive to it.

MR. GOLDSTEIN: Well you are a lawyer aren't you?

MR. VOLPE: Yes sir.

MR. GOLDSTEIN: You are up in the upper echelon. You don't get down with the hoy-poly see, maybe that is why you don't know anything about it.

MR. VOLPE: We sometimes get down below that.

MR. GOLDSTEIN: I see. Your up in the ivory castle, you don't get down with the hoy-poly and roll around in the mud. It's tough business.

MR. VOLPE: I just want to say that what has been suggested here by, as I call them, our friendly com-

petitors, is that you now change the ground rules. That we now proceed on a different basis than we were faced with at the time that we submitted our proposal. They had the same opportunity to compete on that proposal as we had. In every respect. And having failed, we now have presented here this afternoon, arguments based on what I think is a numbers game. As far as these estimates are concerned, I agree with what has been said by some of the speakers before. These are estimates. But again, I want to emphasize that one of the important criterion used in making the selection and determining the qualifications and the competence of an organization is how close he comes to your own estimate of what the job requires. And, in that, I think that we did a superb job. And one that we think is realistic and can be relied on.

And, with that Sir, I have nothing further to say.

GOVERNOR MANDEL: Any further questions? Thank you very much. Is there anyone else that we have missed? I hope not. Is there anything else you all want to add to this confusion?



SECRETARY HUGHES: I would like to say a couple of things in view of everything that has been said today this seems to be the day that DOT is a whipping boy.

I think we are really getting to some basic issues here and without saying anything more on this particular part of it. I think we are getting to a basic issue of whether we are going to build that system or not. And maybe whether we should or not. As I have discussed with you on many occasions, its going to be difficult under the best of circumstances to build a system this large and this complicated. And, if the circumstances aren't the best, which they appear not to be, and if procedures aren't streamlined and we can't expeditiously move, then we accept that, then it would almost be my recommendation that we not go ahead because I think that the ultimate result is going to be many, many more dollars than what we are talking about because the main thing that contributes to the cost of systems such as this is delay. I think even the engineers and professional people here who disagree on everything else would agree on that. So, I will say nothing more about that.



estimate of 1,000,000,295 man hours. Everybody could have bid on the same contract, then you could have selected what you think the best outfit --

SECRETARY HUGHES: That's a legitimate question. I raise the question myself. But I think the last speaker indicated this, that you could put it out. We make an estimate of what we think the man hours are going to be and that goes in every proposal. But, there is something to be said for having the firms that are submitting the proposals to give their estimate of the man hours because that helps you to determine their expertise, their qualifications. Whether or not you feel they understand the magnitude of the job and what is going to be required in man hours to get the job done. You can go both ways on that, we went on the way that it is an important element of determining the qualifications of the firm to get their estimate of man hours and from that to determine whether they really understood the magnitude of the job. And, I think maybe this has borne out because of the closeness of the majority of the firms in estimating the man hours to do it. But the procedures, under the law, says we go

through this process, considering price, considering expertise, but neither one shall control. And through the process, both elements have been weighted and they have been evaluated in making the final determination.

In this instance, and we have done this on most of the contracts, we've given more weight to qualification than to price, but both have been considered separately I might say. Independently of each other.

MR. GOLDSTEIN: Right on that point, Harry. You say you give more weight to qualifications instead of price. Is that what you are saying?

SECRETARY HUGHES: Yes sir.

MR. GOLDSTEIN: You didn't make the evaluation. Your subordinate made the evaluation, is that right?

SECRETARY HUGHES: That is correct.

MR. GOLDSTEIN: An he said that all five were equal. Isn't that correct?

SECRETARY HUGHES: No they didn't say all five were equal.

MR. MCGUIRK: No they didn't say all five were equal.



MR. GOLDSTEIN: Or qualified. What other words qualify you to be equal to work?

MR. O'DONNELL: Under the procedures that are adopted, one of the things we have to do is to --

MR. GOLDSTEIN: I haven't heard anybody say that anyone of these people weren't qualified to do the work. According to this book I read here.

MR. ADDISON: Before that book and any of that material was received we went through the process and got down to five. We got that five, we assumed at that point all five were qualified. The purpose of receiving the proposals was to find out which one had a superior capability to follow through and perform on the job because it was challenge to give us in their proposal how they were going to do it and why they should be chosen. And on the basis of the proposals, they are no longer equal.

MR. GOLDSTEIN: Well, that is your interpretation.

MR. ADDISON: That is correct.

MR. MCGUIRK: That is where it relates to the subway.

MR. GOLDSTEIN: In other words, you can rate any



damn thing you want.

MR. JAMES: I think we have had enough of that crossfire.

MR. GOLDSTEIN: Let's listen to Harry.

SECRETARY HUGHES: Under the rules and regulations we do have to get it down to no more than five firms or no less than two. That in itself presents some problems because you might have eight that you think are qualified and you are going to get proposals from but we have to get it down to five.

Now up until that point, see you haven't gotten specific proposals from any firm. It is then, after you have gone to the screening process and get it down to five that you ask for the specific proposals and that is when you get in the price proposals and the specific responses. Now, obviously, in that process, and I don't care what process you set up, there has to be personal judgments made on points throughout the whole process. There is no way to eliminate that. The main thing you can try to do in this process is to make it open and to be fair and objective to it. We say that we have done that. And people

may disagree with the judgments that were used, but I think (maybe they won't) that it has been fair and objective. But once you go through that, go to the selection board and have them make the selection. At that point you don't have any contract, make the selection of the firm. And I might add, that on our selection board, by our own instance as contrasted to the other selection board, we have written in the rules that it has to have the vote of at least one of the public members so that the Department cannot dominate the selection.

MR. MANDEL: Harry, let me tell you what bothers me, and it really bothers me. Maybe we have, by law, put ourselves in such a position that we are making ourselves so unnecessarily complicated it is costing a fortune. We have--a perfect illustration is-- I want to give you this illustration because this is what is bothering me. Just a month ago, we were designing the urgent needs for prisons, everybody knows. We had taken five proposals from architects to design a 128 -- any how, a little prison. But in order to speed it up, I signed an emergency order so that they could immediately go to work. The bids

had come in at \$68,000. But when they sat down and picked out an architect, it ended up costing \$28,000. Because it didn't have to go through all the procedures. And instead of saying it would take six months to design it, we said it had to be designed in 30 days and they said fine. They would do it in 30 days for \$28,000 as opposed to the bids that were \$68,000 and six months. And what bothers me is that we may have, by our own laws, put ourselves in the position that was costing us a hell of a lot of extra money.

MR. JAMES: It costs a lot of money to bid.

GOVERNOR MANDEL: That's right. But to do the things we want to do. This is what's bothering me. It may not-- when we talk about these hours, maybe one firm is able to, because of its own systems, do things cheaper than another.

MR. GOLDSTEIN: They don't put it on the back burner.

GOVERNOR MANDEL: I mean, you know, it has always been a custom, with all due respect to all of our friends here, but State work always has a low priority. When an architect had a private job, he got that one done while



the State job could sit and wait. But when we told them we had to have it in 30 days, they got it in thirty days. And when we told them that we were going to select that architect, the price dropped from \$68,000 to \$28,000.

MR. JAMES: Honesty is very expensive.

SECRETARY HUGHES: Yes, I don't think there is any doubt about it. The procedures are somewhat cumbersome and are going to reflect in cost, there is no question about it. But, anyway here we are and I understand the responsibility you gentlemen have really to fully understand, and I don't fully, but to fully understand it takes walking right through the whole process and now you are here with it to ask to be approved and if we are going to reopen the whole process when we get to the Board on this or all other contracts we are going to have even more of the cumbersome delay stuff that you are talking about Governor. And that is all I'm going to say on that.

I would like to say briefly, on the previous contract, I don't know whether any compromise or agreement has been reached or not but there were some statements that I wasn't going to say anything about but I just can't

stand here and hear the statements made about the Department of Transportation and its affirmative action program. I'll stack it up against any affirmative action program of any other State agency. I'll stack our contract provisions on affirmative action against any other State agency contracts if they have any affirmative action in any of them. We have made an effort and hope that it is going to be worked out but maybe we are getting to a basic decision there, is it a goal or is it a quota? Because you can always argue about whether a best effort has been made and then you get involved in price. What's going to control? Response to affirmative action or the price? And that is where we seem to be because when a contractor says it is going to cost him \$500,000 more to do it by awarding the contract on a sub basis than what I put in my bid, then we get down to the gut issue, what is going to control, price or affirmative action. I think we are going to have to give some attention to that.

GOVERNOR MANDEL: Thank you.

MR. JAMES: Can we have a report on the first item?



GOVERNOR MANDEL: How about sending Nick in as arbitrator?

GOVERNOR MANDEL: Let's take a 10 minute break until we get a report back.

(Thereupon a break was taken at 6:35 o'clock p.m.)

GOVERNOR MANDEL: Senator, how about getting up to the end of the table and telling us where we are? Can we get to order please?

MR. DOUGLAS: We have met, and I believe, we have an agreement in substance although I am one of those kind of individuals who really don't believe in a complete agreement until we both see it in black and white. I think after working with these gentlemen, I believe that they are going to live up to their word and that the lawyers are going to set down and draw up a memorandum of understanding and we are at the point where the 80-20 situation, we have accepted that. One joint venture is an 80-20 joint venture on the trucking of some material which puts us at, when we include the \$620,000 that has already been awarded, that is about \$3,516,500 and the contingency which might, it is an option, it is a one-half million



dollar option item, which might be exercised and it might not be. It might be \$500,000 and it might be more. We feel that can be thrown in. We have a total of about \$4 million. Those, I think I speak for the minority contractors, we will go along with this. We feel that the gentlemen here have negotiated fairly and it was a difficult negotiation because of the position we were placed in. But, they have negotiated fairly and we think we will accept the situation as we have it. Hopefully, in the next day or so we can write it down in language so that everybody can understand it and everybody can sign it. Is that in agreement with you?

MR. BARTHOLOMEW: Yes it is.

MR. DOUGLAS: One other item that the Governor and you and I know what I am talking about. We have sat down with MTA on several occasions, once with Allan Wilner. The Administrator of MTA said he had no problem with those things that we discussed and we would like very much if the future contracts would state in language that it would be a minimum of 10% rather than a goal of 10% so that we don't have this kind of situation on everyone of

those contracts.

GOVERNOR MANDEL: I think we had better get this thing resolved and then get into that, because I think that is a legal problem that we could have.

MR. DOUGLAS: We remove our opposition to the Bolton Hill contract based on the agreement that we have reached--memorandum of understanding that we have reached.

GOVERNOR MANDEL: Okay, and Mr. Bartholomew, I want to say to you that I am just speaking for one member of the Board. I appreciate your cooperation that you all have given to us in getting this problem resolved. As far as I am concerned, as I have said earlier, I think it is important that we get this contract going and get it moving.

MR. BARTHOLOMEW: Thank you sir.

GOVERNOR MANDEL: And I want to tell you that I appreciate it and I think the other members of the Board also appreciate the cooperation that has developed and I think it is a healthy thing that has developed as far as this situation is concerned and I think it will help us in the future.

MR. DOUGLAS: If we can get the agency to help us in the future, we won't be in this position.

GOVERNOR MANDEL: I'm sure you'll have the agency help and I think that Senator Hughes will have a few words to say to you privately.

MR. JAMES: I move that the contract be awarded--

GOVERNOR MANDEL: It's item 1-T.

MR. JAMES: Item 1-T to Fruin-Colnon Corporation and Horn Construction Company.

MR. GOLDSTEIN: Just let me ask you one question. What happens to that ordinance up there in Baltimore? You don't think we have the cart before the horse?

MR. MCGUIRE: I think that has to do with this,

MR. GOLDSTEIN: I second the motion.

GOVERNOR MANDEL: The motion is made and seconded that Item 1-T be approved, the contract be awarded to Fruin-Colnon Corporation and Horn Construction Company, St. Louis, Missouri

MR. GOLDSTEIN: With the understanding that it would be as presented to us by Senator Douglas. That is the memorandum of understanding that Senator Douglas pre-



sented here at 6:50 o'clock P.M.

MR. MANDEL: If there is no objection, we will approve it.

MR. DOUGLAS: Thank you sir.

MR. MANDEL: If there is no objection we will adjourn.

MR. MANDEL: On the other item Harry, we're going to meet next Friday morning, the Board, and make a decision at the next regular Board meeting, next Friday. Put the item on the agenda, Item 2-T, for next Friday.

Meeting adjourned at  
6:50 o'clock P.M.

## APPENDIX A

October 5, 1976

Mr. Frank Hoppe  
Mass Transit Administration  
109 East Redwood Street  
Baltimore, Maryland 21202

SUBJECT: The Ralph M. Parsons Company  
Labor Relations

Dear Sir:

Due to recent allegations in news articles to the effect  
that Parsons                      we believe it will be beneficial  
the following information.

The Ralph M. Parsons Company has been a union contractor since the formation of the Company in 1946. Our reputation with the Building Trades Unions is well known from the General Presidents Offices in Washington, D.C. through the local unions and local Building Trades councils in various parts of the country. We have an excellent rapport with the President of the Building Trades Department, Mr. Robert Georgine and his staff.

As a Company, we are very active as a member of the National Constructors Association which is the only all-union general contractors association in the United States. Our labor relations activities include Chairmanship of the NCA Labor

Relations Committee, Regional Chairmanship of the Gulf Coast Contractors (NCA), Chairmanship and Member of various Boilermaker Negotiating Committees. We were also responsible for negotiating the Modular Work Agreement in the State of Washington under which work is performed for units being shipped to North Slope of Alaska and member of the negotiating committee for the Houston Industrial Agreement between the NCA and Houston Building Trades Council. Our Labor relations Director serves on the Board of Trustees for Boilermaker National Pension Trust Fund and on the Boilermaker 9 Western States Vacation Trust Fund, along with being Chairman of the NCA Negotiating Committee with the United Association of Pipefitters and Plumbers. It has been our Company policy to promote union labor wherever we have direct control of hiring labor or selection of subcontractors. We are signatory to nine National Labor Agreements. In cases where we do not have National Agreements we sign local agreements with certain local unions. Where we have had direct control of hiring or subcontracts we have never hired non-union labor nor have we issued



subcontract to non-union subcontractors.

Mr. Ed Courtney, President of AFL/CIO Metropolitan Construction Building Trades Council has alleged that Parsons has bad relations with the construction union at B.W.I. Airport Project. We enclose a copy of a letter from our John McKinney, Construction Manager, to Mr. H. W. Durham, Director of Engineering for the State Aviation Administration. We believe you will concur that Parsons, as the Construction Manager, had no direct control over award of contracts and that in all cases we were performing in the best interests of the client.

If there is any further information we may provide to clarify the situation, please advise.

Very truly yours,

THE RALPH M. PARSONS COMPANY

J. W. Maddox

APPENDIX B

August 31, 1976

Mr. H. W. Durham  
Director of Engineering  
STATE AVIATION ADMINISTRATION  
Air Cargo Complex  
Baltimore/Washington Int. Airport  
Baltimore, Maryland 21240

Dear Mr. Durham:

Mr. James J. O'Donnell requested that he be furnished details concerning any alleged problems that the Ralph M Parsons Co./ Baltimore Contractors, Company, have had concerning labor at the Baltimore/Washington Int. Airport. This information was to address statements made by Mr. Ed Courtney, President of the AFL/CIO, Metropolitan Construction Building Trades Council.

Early in the Construction program a meeting was held with a representative of Mr. Courtney's office, Mr. Leonard Hudson, Baltimore Contractors, Inc., Mr. Harry Hine, Labor Relations Director of the Ralph M. Parsons Co., and myself. At this time Mr. Hine went into great detail pointing out that the Ralph M. Parsons Co. Was a union contractor and as such had never worked non-union any place in the United States. The frame work of our Construction

Management contract was discussed and it was called to the attention of the labor representative by Mr. Hudson that the Ralph M. Parsons Co./Baltimore Contractors, Inc., would not be doing subcontract work in their name, as our contract precluded this action. A statement was also made that any craft labor under the direct supervision of the Joint Venture could be a member of the appropriate trade union. However, the Joint Venture had no control over union affiliations of prospective bidders for work at the airport, as State statute did not require any specific labor affiliations in order to be qualified to submit a bid. To date, the Joint Venture has made recommendations for an award of approximately \$41 million of contracts, each time without regard to labor affiliations of the recommended contractor.

To date, there have been fifteen (15) contracts awarded to union prime contractors and eleven (11) contracts awarded to open shop prime contractors on the Terminal Expansion Program. These contracts represent approximately \$41 million worth of work of which approximately \$33 million was awarded to union contractors and \$8 million to open



shop contractors. This represents 80 percent of work being performed by union contractors and 20 percent by open shop contractors.

Our investigations have revealed that approximately 75 percent of the work in the Baltimore area is now being performed by open shop contractors. It is obvious from this information that the greater percentage of work at the airport is being performed by union contractors than the balance of the Baltimore Metropolitan area.

A review of the type of work being performed by open shop contractors reveals that most of it is utility type work which is very traditionally performed by non-union contractors. However, it is noted that almost without exception the union prime contractors have subcontracted a portion of their work to open shop subcontractors. The Joint Venture is responsible for making recommendations concerning approval of each subcontractor. In all cases, without exception, these recommendations have been made without regard to union affiliations.

It is our understanding that Mr. Courtney was perturbed by our recommendation concerning the wage rates to be incorporated into Contract No. 123B, Elevated Roadway and

Overpass. In all cases, Joint Venture recommendations were made in the best interest of the client. Early in the design state it was recognized that the project had to be packaged in such a manner as not to jeopardize the participation of the Federal Aviation Administration in the appropriate portions of the work. The State Aviation Administration obtained a grant #74-1-8-24-0005-07-74 from the Federal Aviation Administration for construction of hardstands and the Access Road and Elevated Roadway & Overpass. This grant represents a total of \$4,500,000.00. At this time the Federal statute does not permit the Federal Aviation Administration to participate in construction of the terminal building facilities. In order that the structure could in no way be classified as a building, an "expansion joint" was made between the terminal building construction and the elevated roadway construction. This definite break was made to preclude anyone from alleging that the elevated roadway was a building which would in reality prevent the State Aviation Administration from receiving the Federal Aviation Administration participation in this project, which represents 75 percent of \$3,069,000.00.



or approximately \$2,220,000.00.

In addition to the retention of the federal participation by utilizing highway wage rates, in lieu of building wage rates, a substantial savings was obtained theoretically due to the lower wage rates. This project involves approximately 100,000 man hours of labor. The building wage rate is approximately \$4.69 per hour higher than a highway rate. This difference represents savings of approximately \$469,000.00.

Contract No. 123B was advertised on December 10, 11 & 12, 1975. At the time the contract was advertised highway construction wage rates were included. On December 31, 1975, Mr. Ganna of the Federal Labor Commission called to discuss wage rates and to advise of the complaint that had been raised by Mr. Ed Courtney. (See Exhibit #5.) On January 8, 1976, representatives of the U.S. Labor Department visited the project and discussed the Elevated Roadway with Mr. Dennis Roxanis of the Office of Information and Trade Development. (See Exhibit #5a.) Based on the information that the labor representatives obtained in this meeting, they made a determination that highway wage rates



were incorrect and that the building rates should be used.  
(See Telegram dated January 13, 1976, Exhibit #6.)

Ray J. Dolan's , U.S. Department of Labor, wire, dated January 15, 1976, to Mr. William H. Whittle, Chief of Airports, Federal Aviation Administration, advised that the wire of January 13, 1976, was only applicable to a portion of the contract work. By Exhibit #7 wire, dated January 22, 1976, the U.S. Department of Labor rescinded wires of the 12th and 15th and advised that the highway construction rates were applicable.

During the period from December 31, 1975, thru January 22, 1976, our records revealed that we made a total of eleven(11) phone calls to the U.S. Department of Labor and the Federal Aviation Administration in an effort to get a proper wage determination. An equal number of phone calls were received from these agencies questioning our recommendation that the structure was a bridge in lieu of a building.

A meeting was held in our office with the Labor Department, at which time it was pointed out that highway design criteria and methods were used in lieu of

building criteria in designing the structure. This information is so noted on the design drawings. Also, to further justify our opinion regarding the proper wage rates, an addendum was issued to the bid documents deleting all Architectural finishings such as ceramic tile and stucco.

Based on the above information there was never any justification for the use of building rates in lieu of highway rates in the construction documents.

Use of highway rates did not preclude union contractors from bidding. The project was eventually awarded to a union general contractor on our recommendation. The use of the highway rates increased competition and insured FAA participation. They did not prevent union personnel from doing the work.

The only other labor related problem that has occurred during the expansion of the airport was an informational picket line put up by sprinkler fitters in which it was alleged that Ingleside Construction Company, the subcontractors for R.S. Noonan, Inc., were pay unfair wages. However, it is noted that Ingleside had been furnishing certified payrolls which indicated they were



paying wages and fringes as required by the contract documents.

This informational picket did not adversely effect the progress of the work, as only a few of the workmen honored the line for a couple of days. It is our understanding that this attempt at a work stoppage was to deter the R. S. Noonan Co. from using an open shop subcontractor on any future bids. At the time of this labor problem, the Ralph M. Parsons Co./Baltimore Contractors, Inc., reaffirmed to the R. S. Noonan Co. that labor relations were their responsibility, not that of the Construction Manager.

It is suggested that a copy of this letter be forwarded to Mr. O'Donnell for his information and use.

Very truly yours,

THE RALPH M. PARSONS CO./  
BALTIMORE CONTRACTORS, INC.

John D. McKinney  
Construction Manager

Attachments:

Exhibit No. 1 Wage Rates as sent out in Addendum No.



1 12/23/75

Exhibit No. 2 Original Request for Wage Rates from State

Exhibit No. 3 State Building Wage Rates as submitted to  
the SAA

Exhibit No. 4 Confirmation of determination to use Highway  
Rates vs. Building Rates

Exhibit No. 5 R. W. Mitchell assessment of situation

Exhibit No. 5a Record of meeting with Labor Representative

Exhibit No. 6 Telegram from U. S. Department of Labor

Exhibit No. 7 Telegram from U. S. Department of Labor

Exhibit No. 8 Telegram to Mr. H. W. Durham

Exhibit No. 9 Confirmation telegrams

Exhibit No. 10 FAA Concurrence

Exhibit No. 11 Bid Tabulations

Exhibit No. 12 General Contract information