

**MTA BOARD MEETING**  
**January 24, 2013**

## **MOTION BY DIRECTOR YAROSLAVSKY**

On January 17, 2013, Metro counsel issued a memorandum regarding the blackout period applicable to MTA procurements. It points out that the only Metro staff member with whom members of the Metro Board or their staff can communicate regarding a procurement during the blackout is the CEO or his /her designee. However, the memo further states that MTA has not adopted specific policies or procedures that more particularly define the allowable parameters of communications between the MTA CEO and Board members or their staff with regard to a pending procurement.

In order to preserve the integrity of the process, the Board should adopt such policies and procedures that will clearly define the parameters of communication between the CEO and Board members or their staff relative to a pending procurement. The reason for this is that the counsel's memorandum suggests that any subject related to a specific procurement, except for the recommendation of an award, can be discussed between the CEO and Board members and their staff during the blackout period.

The practice of this agency in the past 1 ½ decades has been to rigorously avoid communication between Board members and Metro staff, including the CEO, regarding the details of a procurement during its blackout period. Once the CEO's recommendation is transmitted to the full board, all procurement-related information is available to the Board for its decision-making process. This is a practice that has served this agency well for many years.

Allowing wide ranging communication about procurements between Board members and the CEO during the blackout period exponentially increases the probability that the confidentiality of procurement-related information will be compromised and that the integrity of the procurement process itself will be fundamentally undermined.

I, THEREFORE, MOVE that this board direct Metro's counsel in conjunction with the CEO and the Inspector General/Ethics Officer, to amend the MTA Administrative Code, Board Member Code of Conduct and Employee Code of Conduct, and develop specific policies and procedures that define the allowable parameters of communications between the MTA CEO and Board members or their staff with regard to a pending procurement in order to protect the integrity and independence of MTA's procurement process.

**I FURTHER MOVE that beginning immediately, the CEO be prohibited from discussing any procurements which are currently in its blackout period with any member of the Board or his/her staff until the proposed amendments to the Employee Code of Conduct are presented to the Board and acted upon.**