



August 23, 2013

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The Honorable Adam C. Gray, Chair  
Joint Legislative Audit Committee  
California State Assembly  
State Capitol, Room 6012  
Sacramento, CA 95814

The Honorable Ricardo Lara, Vice Chair  
Joint Legislative Audit Committee  
California State Senate  
State Capitol, Room 5050  
Sacramento, CA 95814

Dear Assembly Member Gray and Senator Lara:

During the Joint Legislative Audit Committee (JLAC) hearing on August 21, 2013, I committed that the California High-Speed Rail Authority (Authority) would provide responses to the questions submitted by Assembly Members Bigelow and Patterson in their audit request to JLAC, dated August 2, 2013.

On August 21, 2013, the Authority also submitted a series of documents to the members of JLAC and Assembly Members Bigelow and Patterson that provide an overview of the Authority's property acquisition process and relocation assistance programs, detailing the rights of affected property owners. This supplemented the information provided to JLAC on March 22 in response to earlier questions.

Below please find the Authority's responses to the questions submitted in the audit request by Assembly Members Bigelow and Patterson, which further outline the Authority's ongoing right-of-way acquisition process.

*1) Does the Authority have adequate policies and protocols for ensuring the independence of appraisers?*

Yes, the Authority has adequate policies and procedures in place for ensuring the independence of the appraisers. The Authority utilizes, via right-of-way contractors, only licensed and experienced independent California appraisers. Their work is governed by, and adheres to, the Uniform Relocation Assistance and Real Property Acquisition Policies Act; Title 23 and Title 49 of United States Code; California Government Code 7267.1 et seq.; and Uniform Standards of Professional Appraisal Practice industry standards, policies and protocols. Their work is triple checked by an independent reviewer, the Authority, and the Department of General Services (DGS) to ensure compliance.

EDMUND G. BROWN JR.  
GOVERNOR



*2) Does the Authority exercise appropriate oversight over appraisers?*

Yes, the Authority does exercise appropriate oversight over appraisers by employing a three step review process which is more than any other state or local agency. The initial appraisal report, once complete, is sent to an independent appraiser for review. The independent review appraiser then issues a review report. Both the appraisal and the review report are then reviewed by Authority right-of-way agents who conduct a quality control compliance review, after which the report and review are sent to DGS for final review and to set just compensation on behalf of the State Public Works Board (PWB).

*3) The Authority has signed contracts with four firms for right-of-way assistance, at a cost of \$34 million. What role do these contractors play in the land acquisition process?*

In February 2013, the Authority awarded four right-of way service contracts to Hamner Jewel Associates, Continental Field Services Corporation, Universal Field Services Incorporated, and Golden State Right of Way Team for a maximum amount of \$8,500,000 per firm. These firms will provide appraisal, acquisition and relocation assistance services as tasked. Additionally, the contractors may also be responsible for some property management activities including renting properties to existing tenants between the time of possession by the Authority and their vacating the property and turning the property over to the design-build team.

*4) Is it consistent with policies and protocols at other state agencies to use private contractors for right-of-way acquisition?*

Yes, the Authority's policy is consistent with policies and protocols at other state agencies. Specifically, these policies and protocols allow state agencies to contract out services, including right-of-way acquisition, when they need to supplement existing staff resources to perform those activities.

*5) Because two of these contractors are out-of-state firms, do appraisers have sufficient knowledge of California's real estate market and unique geography to make fair and reasonable offers?*

Only one of the right-of-way contractors, Continental Field Service Corp. of Fairfax, Virginia, is from out-of-state, but all four firms are following appropriate California procedures and are utilizing only California licensed independent appraisers with local experience.

*6) What process did the Authority use to assign parcels to contractors?*

The Authority utilized a process to assign parcels by geographic location along a given segment with a goal of equal parcel workload between the four right-of-way contractors.

*7) Did this process comply with existing laws and best practices?*

This process complied with best practices in assigning work on a generally geographical basis so that multiple right-of-way consultants were not working in the same area possibly causing confusion for property owners. There are no known laws and/or policies governing how parcels are assigned to right-of-way contractors.

*8) How many appraisals have been completed to date?*

As of August 19, 2013, the Authority has completed 243 appraisals.

9) *How many notices of decision to appraise have been sent?*

As of August 19, 2013, the Authority has sent 355 notices of decision to appraise.

10) *On April 17, 2013, the Authority entered into a settlement agreement to resolve a lawsuit brought by the Madera and Merced County Farm Bureaus. On July 23, plaintiffs notified the Authority that they were in default of this agreement. Why has the Authority failed to convene a panel of mediators to settle disputes concerning land valuations, as required by the agreement?*

The Authority has not failed to convene a panel of mediators as we are working with the plaintiffs to approve the seven meditators for the panel.

11) *What role do other state agencies play in providing assistance and oversight (including, but not limited to, Department of Transportation, Department of Finance, Department of General Services, and the State Water Resources Control Board)? Are these roles adequate and appropriate?*

All right-of-way work products of the Authority are reviewed and approved by DGS and the PWB through the Department of Finance (DOF). In addition, all legal actions and documents are reviewed and approved by the Caltrans legal staff through an interagency agreement with the Authority. Caltrans is also acquiring property using their own staff pursuant to an interagency agreement for a portion of the corridor through the City of Fresno in order to relocate a three mile section of State Route 99 between Ashlan and Clinton Avenues.

The appropriateness of this level of oversight is in line with the process defined in the Code of Civil Procedure Section 1245.210 et seq. and applies to all public entities, including the Authority, seeking to commence an eminent domain action. If the Authority and property owner are unable to reach an agreement through either the just compensation process or through an administrative settlement, then the Authority may need to seek to acquire the property through condemnation (eminent domain). This process involves submitting a Resolution of Necessity to the PWB and is consistent with processes followed by other state departments and their governing bodies, including Caltrans with the California Transportation Commission and the Department of Water Resources with the California Water Commission.

12) *Because the project design remains at least 85% incomplete, will the Authority acquire more land than necessary for the project?*

The Authority will not acquire more land than is necessary for the project. The Authority made a concentrated effort to minimize the right-of-way impacts on private property. Any additional right-of-way that may be needed by the design-build team will be subject to strict scrutiny as it impacts property owners.

13) *Can the Auditor estimate how much additional land will be acquired to accommodate future design changes?*

This question pertains to the Auditor's capabilities.

*14) The Authority is sponsoring AB 481 (Lowenthal), which will enable it to generate revenue from the sale or lease of acquired land that is not needed for high-speed rail purpose. How much "nonoperating" land does the Authority project it will acquire? Is this projection reasonable and necessary?*

The Authority does not plan or desire to purchase "nonoperating" right-of-way. As provided by Code of Federal Regulations 49 CFR 24.2(a)(27) and 24.102(k) and California Government Code 7267.7(a) and California Code of Civil Procedures 1240.150, the Authority can purchase, at the owner's option, remaining property that is uneconomical to the market and/or the owner. In addition, pursuant to County of Madera, et al. v. CHSRA (Case No. 34-2012-80001165) settlement, we must also offer to purchase remainder agricultural property in Madera and Merced counties under 20 acres in size.

*15) For what purposes does the Authority plan to lease this land, and how much revenue does it expect to generate?*

Possible options that may be available to the Authority for leasing are communication facilities and parking. Since design is not complete, a projection of the amount of possible revenue or even the number of opportunities that may be available would be premature. However, if Caltrans experience can be used as a basis of comparison, there will be a reasonable amount of opportunities to generate income from our investment.

*16) What factors does the Authority use in determining the impact that a partial acquisition will have on the value of a landowner's remaining property?*

The Authority's contracted appraisers, in accordance with federal and state laws and regulations, as well as industry standards, are required to consider all appropriate factors affecting the value of remaining property and thoroughly discuss it in their appraisals. Specifically, factors considered in the appraisal of any partial acquisitions include the value of the property before and after the acquisition, as well as the impact on the remainder of the property including severance damages, cost to cure damages, and general benefit, if any.

*17) Are these considerations adequately included within the appraisal?*

Yes, these considerations are adequately included in the appraisals. Additionally, the three levels of appraisal review that the Authority uses ensure that all appropriate factors have been considered.

*18) Does the Authority have adequate policies and protocols for landowners to appeal an appraisal value prior to initiation of eminent domain proceedings?*

Yes, the Authority does have adequate policies and protocols for landowners to appeal an appraisal value prior to initiation of eminent domain proceedings. The Authority, subsequent to the passage of Senate Bill 1210 (Torlakson, Chapter 594, Statutes of 2006), offers landowners the ability to obtain their own appraisals from state-licensed appraisers and the Authority can pay the reasonable costs up to \$5,000 of such an appraisal. The landowner can then present their appraisal to the Authority for consideration of arriving at a settlement. Additionally, there is an Administrative Settlement procedure provided under Code of Federal Regulations 49 CFR 24.102(i) and Appendix A 24.102(i) and guidelines set down in Caltrans Right-of-Way Manual, Section 8.01.29.00 that the Authority follows to avoid the initiation of eminent domain proceedings if reasonably possible. Agricultural properties within Madera and Merced counties are afforded, in accordance with the County of Madera, et al. v. CHSRA

(Case No. 34-2012-80001165) settlement, the additional opportunity to participate in mediation should they choose.

Information on these policies and protocols can be found on the Authority's webpage for affected private property owners at [http://www.hsr.ca.gov/Programs/private\\_property.html](http://www.hsr.ca.gov/Programs/private_property.html). The documents featured on this webpage provide an at-a-glance reference for frequently asked questions, detailed information on the rights and benefits of affected property owners under the Authority's relocation assistance programs and an overview of the procedures for acquiring property and the right-of-way process.

*19) The Authority reported to the Legislature on July 1, 2013 that it "is entering into an agreement with the California Department of Conservation (DOC) and the Madera and Merced County Farm Bureaus to assist in obtaining farmland conservation easements from willing sellers located near the high-speed rail alignment between Merced and Bakersfield." Does the agreement adequately provide for independent appraisals prior to purchasing a conservation easement?*

Yes, the DOC agreement currently covers ~2,500 acres of the ~5,000 acres needed in the Central Valley, including portions of the San Jose to Merced project section. The agreement permits a landowner and a land trust to submit an application to the High-Speed Rail DOC program for a permanent agricultural conservation easement. The landowner and the land trust then choose a mutually agreed upon and DGS approved appraiser with experience in agricultural properties and easements. Under the DOC contract, the appraisals of the value of conservation easements will be submitted to and reviewed by DOC and/or DGS. The easements will be subject to "Fair Market Value Appraisal Standards" laid out in the Farmland Conservancy Program's Appraisal Guidelines. The Settlement Agreement gives the Merced and Madera County Farm Bureaus the ability to administer their own program.

*20) How many farmland conservation easements have been obtained by the Authority?*

The Authority has obtained no farmland conservation easements, as we are in the process of developing selection criteria for the program to be implemented by DOC.

*21) Is the compensation for these easements reasonable?*

Please see the answer to question 19 and 20 above.

If you have additional questions, please contact Matt Robinson, Deputy Director of Legislation, at [matthew.robinson@hsr.ca.gov](mailto:matthew.robinson@hsr.ca.gov) or 916-324-1541.

Sincerely,



JEFF MORALES  
Chief Executive Officer

cc: The Honorable Frank Bigelow  
The Honorable Jim Patterson  
Members, Joint Legislative Audit Committee  
Debbie Meador, Chief Consultant, Joint Legislative Audit Committee