



CALIFORNIA
High-Speed Rail Authority

Right-of-Way Critical Parcel Acquisition

August 2018

EXECUTIVE SUMMARY

The Audit Office of the California High-Speed Rail Authority (Authority) completed its audit of the Authority's right-of-way critical parcel acquisition process. The Authority's Right-of-Way Section is responsible for all phases of the acquisition process for identified right-of-way, including payment to property owners for purchases and for relocations, providing right-of-way engineering services, documenting the process and all work activities in parcel diaries, and maintaining all records and documents.

The purpose of the audit was to evaluate existing practices for prioritization of acquiring parcels. The audit objectives were to:

- Identify the roles and responsibilities in the process of identifying and acquiring critical parcels.
- Evaluate the effectiveness of current practices, processes, and procedures to prioritize parcels.

To accomplish our objectives, we interviewed staff involved in the right-of-way critical parcel identification and acquisition process to identify key roles and responsibilities and reviewed applicable criteria. We reviewed the Authority's right-of-way manual, right-of-way acquisition plans, design-build and right-of-way consultant contracts, right-of-way parcel acquisition files, and the right-of-way parcel database.

Based on our audit, we determined that roles and responsibilities are understood but the Authority's Right-of-Way Section does not have formal processes and procedures specific to the identification and acquisition of critical parcels. The Authority's Right-of-Way Section has varying processes for the identification of right-of-way critical parcels for each construction package. These informal processes were documented in flowcharts in various stages of detail and development. Although interviews also described the various informal procedures for acquiring right-of-way critical parcels, the process for acquiring a parcel, regardless if critical or non-critical, does not change from the normal acquisition process utilized by the Authority's Right-of-Way Section.

We reviewed 10% (10 of 101) of the critical parcel acquisition files for parcels acquired during the period of July 1, 2016, to June 30, 2017, for the three active construction packages. Of the ten files reviewed, we found that five parcel acquisitions did not meet deadlines as identified in task orders. Therefore, we determined the current practices and processes were not effective.

We recommend the Authority's Right-of-Way Section should formalize a process for the identification and acquisition of critical path parcels to ensure the right parcels are acquired at the right time. The processes and procedures should indicate the necessary information to be documented for the parcels to be expedited through the acquisition process.

AUDIT REPORT

BACKGROUND

The Authority's Right-of-Way Section is responsible for all phases of the acquisition process for identified right-of-way, including payment to property owners for purchases and relocations, providing right-of-way engineering services, documenting the process and all work activities in parcel diaries, and maintaining all records and documents. As part of this responsibility, the Authority's Right-of-Way Section has been tasked with acquiring the parcels needed to construct the first 119-mile segment of the high-speed rail system. The initial 119-mile construction segment of the high-speed rail system is divided into three Construction Packages (CP), i.e., CP 1, CP 2/3, and CP 4.

The right-of-way acquisition process is a critical element for construction of the high-speed rail system to meet the mission of planning, designing, and building a high-speed rail system for the State of California. To acquire parcels, the Authority has procured multiple right-of-way consultants and multiple right-of-way surveying firms to implement and facilitate surveys, appraisals, negotiations and acquisitions of required right-of-way parcels along the planned rail system route. Right-of-way consultants provide right-of-way and real property services, as requested by issuance of task orders which specify the parcels to acquire and their delivery dates. The Authority's Right-of-Way Section acquires parcels through the normal acquisition process, the court system, or administrative settlements. The Authority's Right-of-Way Section must follow the Federal Uniform Relocation Assistance Act and the State Property Acquisition Law in appraising and acquiring needed parcels as well as providing relocation assistance.

Identification and acquisition of critical parcels are necessary for construction to be completed in areas that feature bridges, overcrossings, etc. During our interviews with staff involved in the identification and acquisition of right-of-way parcels, we were told the definition of a critical parcels is a) long lead time, b) is complicated, c) or is needed for a structure.

To assure parcels are identified and acquired based on priority, the Authority has developed an informal process of identifying and acquiring parcels identified as critical. The process of identifying and acquiring parcels based on priority began in early 2015 when the Authority and the design-builder identified parcels critical to the CP 1 portion of the project.

OBJECTIVES, SCOPE AND METHODOLOGY

The purpose of the audit was to evaluate existing practices for prioritization of acquiring parcels. The audit objectives were to:

- Identify the roles and responsibilities in the process of identifying and acquiring critical parcels.
- Evaluate the effectiveness of current practices, processes, and procedures to prioritize parcels.

To accomplish our objectives, we interviewed staff involved in the right-of-way critical parcel identification and acquisition process to identify key roles and responsibilities, and we reviewed applicable criteria. We reviewed the Authority's right-of-way manual, right-of-way acquisition plans, design-build contract terms, right-of-way consultant contracts, right-of-way parcel acquisition files, and the right-of-way database.

To test the process for effectiveness, ten critical parcel acquisition files were selected from parcels acquired during the period of July 1, 2016, to June 30, 2017. The critical parcel listing, provided by the Right-of-Way Critical Parcels Coordinator, was extracted from the Authority's right-of-way parcel database, the Right of Way Data Exchange System (ROWDES). The database is the Authority's Right-of-Way Section's project management information system and the central repository for right-of-way parcel data. In addition, ROWDES is used to manage right-of-way processes and workflows, for the collection of data, and generation of reports related to right-of-way parcels.

The audit took place at the Authority's Sacramento and Central Valley offices and we concluded our fieldwork on January 29, 2018. Changes after this date were not considered, and accordingly, our conclusion does not pertain to changes arising after January 29, 2018. On February 28, 2018, the results of our audit were discussed with management. The Authority's Right-of-Way Section identified corrective actions to address the issues, which is attached to the final report.

We conducted our audit in accordance with the *International Standards for the Professional Practice of Internal Auditing* issued by the Institute of Internal Auditors.

FINDINGS & RECOMMENDATIONS

We determined that roles and responsibilities are understood but the Authority's Right-of-Way Section does not have formal processes and procedures specific to the identification and acquisition of critical parcels. The Authority's Right-of-Way Section has varying processes for the identification of right-of-way critical parcels for each construction package. These informal processes were documented in flowcharts in various stages of detail and development. Although interviews also described the various informal procedures for acquiring right-of-way critical parcels, the process for acquiring a parcel, regardless if critical or non-critical, does not change from the normal acquisition process utilized by the Authority's Right-of-Way Section.

We reviewed 10% (10 of 101) of the critical parcel acquisition files for parcels acquired during the period of July 1, 2016, to June 30, 2017. Of the ten files reviewed, we found that five parcel acquisitions did not meet deadlines as identified in task orders. Therefore, we determined the current practices and processes were not effective.

Our findings and recommendations are detailed in the following:

Finding 1:

Government Code section 13403 (5) (b) (3) – State Leadership Accountability Act requires implementation of a system of processes and procedures adequate to provide compliance with applicable laws, criteria, standards, and other requirements. However, we found that the Authority did not have formal procedures to identify and expedite critical parcels.

We found no formal definition or criteria to identify critical parcels. Staff interviewed stated that parcels with “long lead times” and/or are “complex” are considered critical to acquire; however, those interviewed stated there is no official definition for “long lead time” or “complex”. In addition, the Authority's Right-of-Way Section has not formalized methods to expedite the acquisition of critical parcels. Furthermore, the designation of a parcel as critical for construction was initiated in CP 1 in order to start major construction. CP 2/3 and CP 4 generally follow a similar process but have different circumstances and use different terminologies.

Without a formalized process to identify and acquire parcels deemed critical, acquisitions may appear arbitrary and not priority based. In addition, the Authority may not acquire the right parcels at the right time.

Recommendation:

The Authority's Right-of-Way Section should formalize a process for the identification and acquisition of critical path parcels. The formalized process shall include but not be limited to a consistent approach for identification of critical path parcels, clear and documented augmented acquisition process necessary to ensure the right parcels are acquired at the right time.

Finding 2:

The informal process for identifying and acquiring critical parcels was not supported by documentation. Without formal processes and procedures, necessary information is not identified that support justifications of why parcels are critical. The Authority's Right-of-Way Section and the right-of-way consultants did not consistently maintain emails from management identifying critical parcels. In addition, the steps taken to acquire critical parcel were not sufficiently and consistently documented. Per the Right-of-Way Manual, parcel diaries should record contacts and efforts used to acquire assigned parcels through settlement and negotiation prior to litigation.

We reviewed ten parcel files and identified five parcel acquisitions did not meet deadlines as identified in task orders. Supporting documentation was not found in the files to describe acquisition efforts. In addition, the justifications for administrative settlements did not indicate if parcels were critical. We acknowledge some parcels will have long lead times and acquisition issues, however, the reasons for the critical designation should be sufficiently documented for an accurate and complete parcel diary.

Without adequate documentation for identified critical parcels, the Authority may not sufficiently justify its priorities.

Recommendation:

The Authority's Right-of-Way Section should formalize a process for the identification and acquisition of critical path parcels. The formalized process shall include a consistent approach for the identification of critical path parcels, clear and documented process for the augmented acquisition process necessary to ensure the right parcels are acquired at the right time. The processes and procedures developed should indicate necessary documentation required for the parcels to be expedited through the acquisition process.



Memorandum

DATE: 7/3/2018

TO: Paula Rivera, Chief Auditor

FROM: Kristiyan Assouri, Esq., LL.M., Chief Right-of-Way and Third Party *K.A.S.*

CC: Joseph Hedges, Chief Operating Officer
Roy Hill, Deputy Chief Operating Officer

SUBJECT: Right-of-Way Branch Response; Draft Audit Report 16-03

The California High-Speed Rail Authority's (Authority) Right-of-Way and Third Party division is in receipt of the draft audit findings conducted by your division related to the right-of-way (ROW) critical path parcel identification and acquisition. The audit findings (Draft Audit Report 16-03) and recommendations included the following:

1. Recommendation 1: The Authority's Right-of-Way Branch should formalize a process for the identification and acquisition of critical path parcels. The formalized process shall include a consistent approach for identification of critical path parcels, and a clear augmented acquisition process necessary to ensure the right parcels are acquired at the right time.
2. Recommendation 2: The Authority's Right-of-Way Branch should formalize a process for the identification and acquisition of critical path parcels. The formalized process shall include a consistent approach for the identification of critical path parcels, and a clear process for the augmented acquisition process necessary to ensure the right parcels are acquired at the right time. Specifically, processes and procedures developed should indicate necessary documentation required for the parcels to be expedited through the process.

The ROW/Third Party division concurs with the findings and the recommendations outlined in the Draft Audit Report 16-03. Outlined below, is a corrective action plan to address the issues raised in the Draft Audit Report 16-03.

Corrective Action Plan:

1. Defined Terminology: Define common terms like "critical", "priority", and "critical path" and assess level of effort attributed to each designation. Draft ROW procedure to address this item to be provided no later than October/2018. Responsible: Kristiyan Assouri.
2. Design-Build Training: The ROW team is well versed in the ROW acquisition process but does not have an intimate knowledge of the design-build delivery methodology or the designations that have been assigned to the parcels (be it critical or non-critical). After identification of the terminology and their uses, training will be provided to the ROW team specific to the design-build delivery method and its intersection with the ROW process. Training to be provided no later than October/2018. Responsible: Kristiyan Assouri.

3. Process Documentation: The Draft Audit Report correctly reflected that the process for designation of critical parcels is not formalized. While there is a process to identify a parcel and designating the parcel in ROWDES as "critical", the determination is identified through informal discussions with the Authority's design and construction staff. The corrective action plan will include documenting the process which also includes the process for the assignment of parcels to ROW staff and ROW consultant resources, identification of design/environmental/construction holds, determination of critical or non-critical, enhanced acquisition steps or tools to be implemented in the pursuit of parcels identified as critical, and a documentation of those enhanced efforts taken. Draft ROW procedure to address this item to be provided no later than October/2018. Responsible: Kristiyan Assouri.

The ROW team is comprised of the Authority's ROW division and support from the ROW acquisition consultants and the ROW surveying and engineering consultants. Implementation of the best management practices identified above will be communicated to the ROW consultants as well. This team, within the next 90 days will identify the best management practices identified above, and any others which may be revealed, document the processes, educate the ROW team and consultant support, and implement the changes. Implementation of this corrective action plan will be led by a focused team comprised of the following:

- Kristiyan Assouri, Chief ROW/Third Party
- Don Odell, Director of Real Property (acting)
- Sharon Parsons, Assistant Deputy Director
- Cuong Nguyen, ROW IT Task Manager

If you have any additional questions, please contact me directly.