

**BUSINESS ADVISORY COUNCIL
MEETING MINUTES**

Thursday, January 10, 2013
1:00 p.m.- 4:00 p.m.
Fresno, California

**CALIFORNIA HIGH-SPEED RAIL
Representatives:**

Thomas Fellenz, Council Chair

Robert Padilla, Small Business Advocate

Terry Marcellus, Project Management Team

Patricia Padilla, Small Business Team

Olivia Fonseca, Small Business Team

Lauren Padilla, Business Advisory Council Liaison

Eileen Ta, Small Business Team

MEMBERS Present:

ACEC: Arvin Chaudhary
AAAE: Eddy Lau
AAA/E: Linden Nishinaga
AGC: Sam Hassoun
CAACC: Scott Leslie
CCHCC: Mark Martinez
CSBA: Tom Crawford
DVBA: Chris Coles
ESDVOBN: Bill Ulmer
GFACC: Debbie Hunsaker
KMCA: Marvin Dean
LRRT: Paul Guerrero
LBA: Leonard Ortiz
NAACP: Betty Williams
NCA: Diana LaCome
SFAACC: Frederick Jordan
WCOE: Lee Cunningham

MEMBERS Absent:

ABA: Tony Wong

ALTERNATES Present:

ACEC: Todd Goolkasian
AAAE: Winifred Au
AICCC: Adam Holt
CABCC: Delores Thompson
LRRT: Victor Garza

GUESTS That Signed In:

Tami Chapman	Clinton Knott
Steven Ferrano	Ellen Lee
Joe Garcia	Michael Leffall
Nicole Goehning	Algerine McCray
Maureen Goolkasian	Odell McWane
Naazian Hanes	Brad Morris
Tate Hill	Tony Ogbeide
David Jones	Ron Seklina
MJ King	Kenneth Villafria

I. WELCOME AND INTRODUCTIONS

Mr. Fellenz, Council Chair, commenced the annual planning meeting by asking Council members to introduce themselves and identify their associated business trade organizations.

II. WELCOMING REMARKS

Mr. Fellenz welcomed attendees and expressed gratitude to the Kern Minority Contractors Association for graciously providing the venue for the Council meeting and the subsequent Committee meetings.

III. APPROVAL OF MINUTES

In an effort to approve the meeting minutes from December 6, 2012, Mr. Fellenz solicited input from the Council. The following revisions to the meetings minutes were received:

- Mr. Morales to be removed from the meeting minutes, as he was not in attendance. (Mr. Lau)
- Mr. Jordan stated that he did not second Motion I during the December 6, 2012 meeting. Mr. Hassoun was identified as the Council member to second Motion I.
- Mr. Dean requested for the meeting minutes to state that he abstained from voting on Motion I.
- Under VII. Committee Updates, Mr. Chaudhary requested that the fourth bullet under Professional Services be revised to read “Apply the thirty (30) percent SB goal separately on design and construction.”
- Under VII. Committee Updates, Mr. Lau requested that the eighth bullet under Professional Services be revised to read “Inclusion of automatic late penalties in Authority contracts and flow down provisions to subcontractors.”

Motion I

Motion to adopt December 6, 2012 meeting minutes with discussed revisions.

Raised by: Ms. Hunsaker

Seconded by: Ms. Williams

Status: **Passed**

IV. ANNUAL ADMINISTRATIVE ITEMS

Mr. Fellenz addressed the following annual administrative items:

- Council members were requested to submit the annual reaffirmation letter on behalf of their organizations to confirm their continued interest in serving on the Council before the next scheduled Council meeting. As requested by the Council, the Authority shall issue a template for members to utilize and submit on their organization’s letterhead. The annual reaffirmation letter must be signed from the organization’s president or chair and identify its selected primary and alternate representatives to serve on the Council.
- Two (2) administrative forms were introduced:
 - Official Council Request Form
 - Council members were requested to submit this form for any requests that require the Authority’s action.
 - Council members discussed and shared alternative preferences for processing requests in lieu of the form for Mr. Fellenz’ consideration. The form will continue to be utilized for all requests unless Authority applies a change to this procedure..
 - Request for Substitution Form
 - All (Primary and Alternate) member substitution requests must be submitted to the Council Liaison 30 days prior to the following meeting to allow adequate time for review and action.

V. PROJECTED 2013 MEETING SCHEDULE

Mr. Fellenz solicited input from the Council in regards to establishing the dates and general locations for the upcoming Council meetings for 2013. As a result, the following motions were raised:

Motion II

Motion to hold Council meetings every other month.

Raised by: Mr. Jordan

Seconded by: Mr. Guerrero

Status: **Passed**

Motion III

Motion to hold Council meetings every other month starting in February 2013.

Raised by: Mr. Guerrero

Seconded by: Ms. LaCome

Status: **Passed**

Motion IV

Motion to hold Council meetings the first Thursday of the designated months.

Raised by: Mr. Nishinaga

Seconded by: Mr. Dean

Status: **Failed**

Motion V

Motion to hold Council meetings the fourth Thursday of the designated months.

Raised by: Mr. Nishinaga

Seconded by: Mr. Dean

Status: **Failed**

Motion VI

Motion to hold the Council meeting scheduled in April 2013 in Bakersfield, California.

Raised by: Mr. Dean

Seconded by: Mr. Nishinaga

Status: **Passed**

The Authority finalized the following dates and general locations for the 2013 Council meetings:

- Thursday, February 21, 2013 (Sacramento)
- Thursday, April 18, 2013 (Bakersfield)
- Thursday, June 20, 2013 (Sacramento)
- Thursday, August 15, 2013 (Sacramento)

- Thursday, October 17, 2013 (Sacramento)
- Thursday, December 19, 2013 (Sacramento)

Council meetings scheduled in Sacramento will be generally held at the Department of General Services unless indicated otherwise. Council meetings are to be held from 1:00 p.m. to 3:00 p.m. and the preceding Committee meetings are scheduled from 10:00 a.m. to 12:00 p.m (unless an alternate meeting time was applied by the Committee). Further logistical details will be disseminated electronically prior to each meeting.

VI. COMMITTEE RECOMMENDED GOALS & OBJECTIVES FOR 2013

Mr. Lau, Committee Chair and Mr. Ulmer presented the goals and objectives on behalf of the Professional Services Committee. The following language has been generally extracted from the document disseminated by the Committee during the meeting:

- Implementation of the Small Business Program to all contracts, inclusive of retroactive applicability to current professional services contracts.
- Apply Small Business goals to each sector of Design-Build contracts: Design, Professional Services and Construction.
- Unbundle all Professional Services contracts awarded, inclusive of Design-Build contracts.
- Require interagency agreements to include the Small Business goals, reporting requirements and oversight.
- Apply strict Prompt Payment provisions to all subconsultant tiers on Design and Professional Services.
- Remove utility relocation work on future Design-Build contract packages, to be awarded as early work instead.
- Provide transparency and timeliness in compliance and enforcement reporting.
- Provide a single location for publishing and posting of future solicitations, status of current and awarded contracts and project schedules.
- Encourage policy for Small Businesses, inclusive of Disadvantaged Business Enterprises and Disabled Veteran Business Enterprises, to be prime contractors.
- Extend program outreach and education to the small business community, inclusive of supportive services.
- Clarify and determine applicability of the Conflict of Interest Policy.

Mr. Hassoun, Committee Chair shared that the Construction Committee composed a list comprised a number of goals and objectives to assist in eliminating barriers for small businesses. Collectively, the Committee determined that its members would emphasize on the following three (3) issues selected:

- Ensure Prompt Payment for all small businesses, regardless of tier
- Workforce Training
- Networking/Teaming Opportunities

Mr. Hassoun stated that the Committee intends to focus on methods of quantifying its effectiveness and success in reaching their goals and objectives during its next meeting.

Please note that any requests for action require the completion and submittal of the Official Committee Request Form to Committee Liaisons for review and processing.

VII. PROJECT UPDATE

Mr. Marcellus, Procurement Manager with the Authority's Project Management Team, presented project overviews and updates which included:

Construction Package 1 (CP1)

- The Authority released its final Addendum for CP1 on January 8, 2013.
- The proposal submission date for the five (5) short-listed firms is January 18, 2013.
- CP1 proposals shall be evaluated and awarded based on Best Value to one design-builder. Award evaluations are weighted as follows: thirty (30) percent for the technical proposal and seventy (70) percent for the cost proposal. The Small Business Performance Plan would be evaluated as part of the technical proposal in a pass/fail capacity.
- The evaluation panel will consist of five (5) public employees, although consultants may be solicited for technical assistance.
- Depending on the evaluation process, the Authority anticipates presenting a recommendation for award to the Board in June of 2013. The Notice to Proceed would follow in July of 2013.
- Mr. Fellenz shared that Design-Builders not selected for CP1 are eligible for a stipend of up to \$2 million dollars, on the condition that their expended amounts are verifiable and that extensive efforts to respond to the RFP were demonstrated.
- In response to an inquiry by Mr. Ortiz, Mr. Marcellus informed the Council that the Design-Builders will most likely list only its largest subcontractors in their proposals, therefore small businesses may not be designated at this time.
- In response to an inquiry by Mr. Leslie, Mr. Marcellus shared that there currently no scheduling deadlines to begin construction that would jeopardize funding. However, ARRA funds must be expended by 2017.
- In response to an inquiry by Mr. Crawford pertaining to small business reporting and compliance, Ms. P. Padilla stated that narratives and reports will be submitted and reviewed on the monthly basis to evaluate payments, attainments and commitments against the submitted Small Business Performance Plan. Mr. Fellenz inserted that the Small Business Program is inclusive of Administrative Sanctions for non-compliance.

Construction Package 2-4 (CP2-4)

- The Authority anticipates recommending the release of RFQs for CP2-4 for Board action in early 2013.

Right-of-Way (ROW)

- Mr. Fellenz informed the Council that an update regarding the proposed award of the ROW contract was provided to members electronically.

Project and Construction Management (PCM)

- The Authority's evaluation panel has selected a firm and is in the process of negotiations. In the event that negotiations are unsuccessful, the Authority may elect to enter into negotiations with the identified second proposer.

VI. SMALL AND DISADVANTAGED BUSINESS ENTERPRISE PROGRAM UPDATE

Ms. P. Padilla and Ms. Fonseca, with the Authority's Small Business Program, presented the following Small Business updates:

Supportive Services

- Ms. Fonseca informed the Council that the Authority anticipates releasing the Supportive Services RFP.

Community Benefits Policy

- Ms. Padilla shared that additional progress has been made in regards to the Community Benefits Policy, as it is inclusive of a Community Benefits Agreement (CBA) and National Targeted Hiring Initiative.
- The CBA has been submitted to Federal Railroad Administration for review.

Disparity Study

- In response to an inquiry by Mr. Dean, Ms. Fonseca notified the Council that proposals for the Disparity Study RFP were due November 20, 2012.
- The RFP was released under the Small Business Option and the Authority received three (3) proposals for evaluation.
- The Authority is currently in the procurement process and will notify the Council upon the issuance of the Notice of Intent to Award.

Certification Workshops

- Mr. Padilla notified the Council that the Authority is currently working in conjunction with its resource partners to host small business certification workshops within the next six months in Bakersfield, Fresno, Madera, Merced and Tulare.
 - Resource partners include the Department of General Services, Small Business Administration, Minority Business Development Agency, Small Business Development Centers and the California Department of Veteran Affairs.
 - Certification workshops will be held in computer labs and small businesses will be able to acquire their certification on the spot.
 - Workshop dates will be disseminated to the Council and posted on the Authority's website once finalized.
- In response to an inquiry by Ms. LaCome, Mr. Padilla shared that technical assistance to DBEs will be provided by the Minority Business Development Agency, with whom Authority is currently in the process entering a Strategic Partnership Agreement.
- In response to an inquiry by Mr. Lau, Mr. Padilla informed the Council that the certification workshops will include translators to facilitate the participation of Limited English Proficiency (LEP) individuals, in compliance with Title VI requirements. Mr. Padilla shared that the Authority has conducted certification workshops in the past to accommodate small businesses in the Hmong community.
- In response to inquiries by Ms. Williams, Mr. Padilla stated that although initial certification workshops are planned to be held in the Central Valley, the Authority intends to hold certification workshops throughout the state. There are no geographic restrictions; businesses may attend any of the certification workshops hosted by the Authority regardless of their business location.
 - Council members graciously offered to assist the Authority in disseminating details regarding the certification workshops to their constituency.

Community Workshops

- Ms. Fonseca shared that the Authority hosted the following community workshops in the Central Valley to provide information pertaining to the high-speed rail project, such as project updates, property acquisition, contracting and procurement opportunities for small businesses and etc.:
 - December 13, 2012 (Merced)
 - December 14, 2012 (Madera)
- Local and state agencies participated and hosted exhibit booths in a collaborative effort to share pertinent information to attendees regarding contracting opportunities, available services, support and technical assistance.

VIII. BUSINESS ADVISORY COUNCIL REQUESTS

In response to a Council request introduced during the December 6, 2012 meeting, Mr. Fellenz presented a a power point briefing (hard-copies were disseminated) to provide further clarification on the Authority's Organizational Conflict of Interest Policy. The goals of the Organizational Conflict of Interest Policy include:

- Integrity, transparency, competitiveness and fairness in contracting.
- Preventing unfair competitive advantage.
- Providing guidance to enable informed decisions.
- Protecting validity of Authority contracts and confidential and sensitive information.

In response to an inquiry by Ms. LaCome, Mr. Fellenz informed that the Council that the Organizational Conflict of Interest Policy is included in all Authority contracts. Mr. Fellenz encouraged the Council members to familiarize themselves with the Organizational Conflict of Interest Policy; it is available on the Authority's website at www.cahighspeedrail.ca.gov.

IX. ADHOC DISCUSSION; PUBLIC COMMENT

Mr. Fellenz opened the floor for adhoc discussion and public comment, to which ten (10) attendees presented their public comments. Topics of discussion included collective bargaining agreements, prevailing wage, suggestions to improve meeting effectiveness, statements of support and individuals sharing information regarding the services and products provided by their firm.