



DATE: October 7, 2022

TO: Meg Cederoth, Director of Planning and Sustainability

FROM: Paula Rivera, Chief Auditor

CC: Finance and Audit Subcommittee of the Board
Brian Kelly, Chief Executive Officer
Rachel Wong, Capital Procurements
Della Leong, Capital Procurements

SUBJECT: Preaward Review of HSR 21-07

The Audit Office of the California High-Speed Rail Authority (Authority) has completed its review of the draft agreement and cost proposal for professional services related to Design Services for Central Valley Stations including developing design and construction documents for the four Central Valley Stations station sites in Merced, Fresno, Kings/Tulare, and Bakersfield per RFQ No.: HSR 21-07 between the Authority and Foster + Partners and Arup US LLC (consultants).

A preaward review is performed when an agreement for architectural and engineering services is to be awarded based on qualifications. In accordance with Title 40, United States Code, Section 1104 and California Government Code Title 1, Chapter 10 Section 4528(a)(1), fair and reasonable compensation is negotiated. The preaward review is performed to assist in negotiations with the most qualified proposer.

The scope of the review was limited to examining the draft agreement and the cost proposal provided September 14, 2022. For the purpose of accepting contract progress billings, the objectives of the review were to determine if:

- The necessary fiscal provisions were incorporated in the draft agreement.
- The proposed costs are reasonable and in compliance with the Code of Federal Regulations, Title 48, Chapter 1, Part 31 and the agreement.

We completed a risk assessment of the subconsultants and determined the following subconsultants would be reviewed for this preaward:

- Blackburn Consulting
- FMG + Company
- HMM Engineers
- ICF Jones & Stokes, Inc.
- Leland Saylor Associates

- Studio – MLA Green (MLA Green, Inc)
- Novus Design Studio Inc.

Based on the review of the draft agreement and the cost proposal, except as discussed in the *Issues and Recommendations* section, no material deficiencies came to our attention.

Our review was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing for consulting engagements.

This report is intended for the information and use of the contract manager in support of contract negotiations, and management of the Authority. However, this report is a public document, and its distribution is not limited.

ISSUES and RECOMMENDATIONS

Cost Proposal

Issue 1 – Missing Loaded Billing Rates

The following consultants and subconsultants did not include the calculation for their loaded hourly billing rate for their proposed classifications:

1. Foster + Partners: all classifications
2. Arup US, LLC: all classifications
3. Blackburn Consulting: all classifications
4. HMM Engineers: all classifications
5. FMG + Company: all classifications except unsupported Architectural Designer I
*see Issue 6
6. Leland Saylor Associates: all classifications

Recommendation: The Contract Manager should have the consultants and subconsultants include the calculation for the loaded hourly billing rate for proposed classifications.

Issue 2 – Escalation Rates

Blackburn Consulting proposed future escalation rates for prevailing wage employees.

Recommendation: The Contract Manager should have the proposed escalation rates removed from the cost proposal. Future escalation rates for prevailing wage employees can be included on the cost proposal as a note.

Issue 3 – Missing Employee Names

Studio – MLA Green submitted an initial cost proposal with classifications and actual hourly rates without ranges. Therefore, names of the individual employees they represent should be included.

Recommendation: The Contract Manager should have Studio – MLA Green identify the individual employees for the classifications if no range is proposed.

Issue 4 – Rate Ranges Incorrectly Included

The cost proposal provided by FMG + Company had a range of actual hourly rates for employees listed with their actual hourly rate.

Recommendation: The Contract Manager should have FMG + Company revise the cost proposal to remove the range of actual hourly rate of listed employees.

Direct Labor

Issue 5 – Unsupported Hourly Labor Rates

The following subconsultant's have unsupported hourly employee rates:

1. FMG + Company understated the following employees:
 - Ken Yim: \$39.98
 - Luis Canlas: \$40.64
 - Charissa Frank: \$91.13FMG + Company overstated the following employees:
 - Safia Quinn: \$54.18
2. ICF Jones & Stokes understated the following employee:
 - Darrin Trageser: \$49.76
3. Novus Design Studio Inc overstated the following employees:
 - Michael Leung: \$72.41
 - Varand Balasanian: \$72.53
4. Studio – MLA Green overstated the following employees:
 - Ben Feldman: \$79.32
 - Eric Marecki: \$57.69

Studio – MLA Green also intends to propose eight additional employees, three of which are classifications that were not originally proposed for:

- Principal Landscape Architect
- Senior Associate Planner
- Senior Associate Design

Recommendation: The Contract Manager should have the cost proposal revised for the employees identified below to reflect the supported hourly rates for the following:

1. FMG + Company:
 - Ken Yim: \$41.19
 - Luis Canlas: \$41.88
 - Charissa Frank: \$93.91
 - Safia Quinn: \$50.33
2. ICF Jones & Stokes:
 - Darrin Trageser: \$57.69

3. Novus Design Studio Inc:
 - Michael Leung: \$33.23
 - Varand Balasanian: \$33.11
4. Studio – MLA Green:
 - Ben Feldman: \$76.92
 - Eric Marecki: \$56.25
 - Any additional employees that will be added to the proposal should be properly supported by pay records.

Issue 6 – Unsupported Hourly Classification Rates

The following consultant and subconsultants have unsupported hourly classification rates:

1. Foster + Partners understated the following classifications:
 - Associate Partner (high): \$97.36
 - Architect/Designer: \$14.94 - \$48.68
 - Architect/Designer Assistant: \$14.94 - \$42.59
 - BIM Technician/Coordinator (high): \$38.95
 - Design Technician (low): \$15.84
 - Project Administration (low): \$12.20
2. FMG + Company could not support the following proposed classifications:
 - Architectural Designer I: \$25 - \$35 – no support provided
 - Senior Project Manager/Architect*: \$70 - \$110
 - Project Manager/ Architect (low): \$55
 - Architect*: \$45 - \$65
 - Architectural Designer II: \$30 - \$45
 - Architectural Designer III*: \$40 - \$55

* Only one payroll register provided to support classification range.

3. HMM Engineers overstated the following classification:
 - Civil Engineering Manager (high): \$91.50

Recommendation: The Contract Manager should have the classifications revised to reflect the supported hourly ranges for the following:

1. Foster + Partners:
 - Associate Partner (high): \$100.96
 - Architect/Designer: \$23.37 - \$50.48
 - Architect/Designer Assistant: \$18.17 - \$44.17
 - BIM Technician/Coordinator (high): \$40.38
 - Design Technician (low): \$17.52
 - Project Administration (low): \$14.93

2. FMG + Company:
 - Architectural Designer I – Remove classification
 - Senior Project Manager/Architect: \$95.75 – \$95.75
 - Project Manager/ Architect (low): \$73.37
 - Architect: \$57.89 - \$57.89
 - Architectural Designer II: \$40.09 - \$41.19
 - Architectural Designer III: \$41.88 - \$41.88
3. HMM Engineers:
 - Civil Engineering Manager (high): \$78.00

Issue 7 – Proposed Overtime Rates Unsupported

The following consultants and subconsultants are not able to support overtime since the employees are exempt and they do not pay overtime to the employee:

1. Foster + Partners:
 - Peter Sokoloff
 - All proposed classifications
2. Arup US LLC:
 - John Eddy
 - Daniel Haufschild
 - Frances Yang

The following classifications did not have overtime proposed, but when the consultant includes the fully burdened labor rates for classifications, they should not allow for overtime for the following classifications:

- Principal (low and high)
 - Associate Principal (low and high)
 - Associate (low and high)
 - Senior Consultant/Planner/Engineer (high)
 - Senior BIM Technician (high)
 - Senior Project Controls (high)
3. Blackburn Consulting:
 - Robert Lockteff
 - Haze Rodgers
 - Robert Sandquist
 - Kelly Rasch
 - All proposed classifications
 4. ICF Jones & Stokes: all employees on the cost proposal are exempt.
 5. Novus Design Studio Inc: all employees on the cost proposal are exempt.

Recommendation: The Contract Manager should have the consultants and subconsultants remove all proposed overtime rates and add “N/A” to the overtime

column for the individuals and classifications identified above.

Issue 8 – Proposed Overtime at Straight Time

Blackburn Consulting proposed overtime for the loaded hourly billing rate (at straight time) for non-exempt employees who are subject to prevailing wage. According to the provided payroll, non-exempt employees who are subject to prevailing wage are paid time and a half for overtime hours.

Recommendation: The Contract Manager should have the Consultant revise the cost proposal and update overtime for loaded hourly billing rates to time and a half for the following non-exempt employees who are subject to prevailing wage: Barry Smith, Alex Garcia, Nicholas Vasquez, Luke Morrell, Arthur Mills, Keyton Rodgers.

Issue 9 – Overtime Should be at Straight Time

Arup US LLC did not list fully burdened labor rates for the below classifications. When proposed, the below classifications overtime can be listed at straight time:

- Senior Consultant (low)
- Consultant/Planner/Engineer (low and high)
- Senior BIM Technician (low)
- BIM Technician (low and high)
- Senior Project Controls (low)
- Project Controls (low and high)
- Project Administration (low and high)

Recommendation: The Contract Manager should have Arup US LLC list fully burdened labor rates for overtime for these positions at straight time, which is consistent with their company policy.

Issue 10 – Inaccurate Classification Descriptions

Blackburn Consulting provided incorrect prevailing wage group classifications for the following employees:

- Nicholas Vasquez
- Luke Morrell
- Arthur Mills
- Keyton Rodgers

Recommendation: The Contract Manager should have Blackburn Consulting revise their cost proposal and update classifications to the correct prevailing wage group for the following employees: Nicholas Vasquez, Luke Morrell, Arthur Mills, Keyton Rodgers. Classification for these employees should be PW Tester/Inspector Grp 3.

Indirect Costs

Issue 11 – Unsupported Indirect Rates

Foster + Partners originally proposed overhead rate of 204% and provided a revised rate of 201.04%. Currently, Foster + Partners does not have an audited indirect rate and wants to have it audited to seek assistance in handling the related party rent and uncompensated overtime.

Novus Design Studio Inc was unable to support their initial proposed indirect rates of 28.63% and 60.52%.

Recommendation:

The Contract Manager should allow Foster + Partners to use the revised indirect rate of 201.04% in the interim until the consultant has their audited overhead rate completed and provided no later than February 2023, and a true up should be completed.

The Contract Manager should allow Novus Design Studio Inc to use the indirect rate of 55.33% for a 3-month period at which time an indirect rate in compliance with Title 48, Part 31 should be provided and a true up completed.

Issue 12 – Use of Prior Year Indirect Rate

The following subconsultants provided a prior year indirect rate:

- FMG + Company provided an indirect rate schedule covering January 1, 2020, to December 31, 2020.
- Leland Saylor Associates provided an indirect rate schedule covering January 1, 2020, to December 31, 2020.
- Studio – MLA Green proposed an indirect rate schedule covering January 1, 2018, to December 31, 2018.

Recommendation:

- The Contract Manager should request FMG + Company to provide the most recent indirect rate schedule, year ended December 31, 2021, and update their cost proposal by the end of October 2022.
- The Contract Manager should have Leland Saylor Associates revise the cost proposal with the 2021 indirect rate of 129.17%.
- The Contract Manager should have Studio – MLA Green revise the cost proposal with the evaluated 2021 indirect rate of 145.78%. The 2021 indirect rate schedule provided had mathematical errors and was overstated due to unallowable direct costs per CFR 31.202 and auditor adjusted to 145.78%.

Issue 13 – Inadequate Financial Management System

Novus Design Studio Inc. does not have an adequate financial management system. Specifically, the subconsultant does not maintain timesheets or record all hours worked to segregate direct and indirect hours. Furthermore, the subconsultant does not identify indirect labor, are considering dividends as compensation, and show home office reimbursement as both direct labor and fringe benefits.

Recommendation: The Contract Manager should have Novus Design Studio Inc. implement a financial management system that accurately segregates direct and indirect costs in compliance with Title 48, Part 31. Evidence of an adequate financial management system should be provided within 3 months.

Other Direct Cost

Issue 14 – Incorrect Other Direct Costs Rate/Guideline Reference

The following consultants and subconsultants did not propose any Other Direct Costs. However, on the Schedule of Other Direct Costs, they included the following footnote: "Direct expenses will be identified as the scope is developed but could include items such as mileage and per diem for travel to the project site, which will follow current GSA and IRS limits at the time of the expense." The note should say the mileage and per diem will be follow CalHR rates instead of GSA and IRS. Additionally, other direct costs will be reimbursed at actual cost supported by vendor invoice.

- Foster + Partners
- Arup US, LLC
- Blackburn Consulting
- FMG + Company
- HMM Engineers
- ICF Jones & Stokes, Inc.
- Leland Saylor Associates
- Studio – MLA Green
- Novus Design Studio Inc.

Recommendation: The Contract Manager should have the consultants and subconsultants should revise their note to say CalHR in place of GSA and IRS and add other direct costs will be reimbursed at actual cost supported by vendor invoice.

Issue 15 – Incorrect Rate Sheet

Blackburn Consulting provided their Lab Fee Schedule as a supporting document to the initial cost proposal. However, the rates were not included on the initial cost

proposal provided by the subconsultant. The Prime consultant confirmed that they are aware and approve of the proposed lab fee schedule.

Recommendation: The Contract Manager should have the subconsultant incorporate the rates of their lab fee schedule into the cost proposal.