



DRAFT

FINANCE AND AUDIT COMMITTEE MEETING MINUTES

July 27, 2023

Location

**Department of Food and Agriculture Auditorium
1220 N Street
Sacramento, CA**

Webcast at:

www.hsr.ca.gov

The meeting of the California High-Speed Rail Authority (Authority) Finance and Audit Committee Meeting was called to order on July 27th at 8:30 A.M. at 1220 N Street, Sacramento, CA. The Meeting Minutes were prepared in the order items were presented during the meeting.

Committee Members Present:

Mr. Tom Richards, Committee Chair
Ms. Nancy Miller, Vice Committee Chair
Mr. Ernie Camacho, Committee Member
Mr. James Ghielmetti, Committee Member

Staff Present:

Mr. Brian Kelly, Chief Executive Officer
Mr. Brian Annis, Chief Financial Officer
Ms. Kendall Bonebrake Attorney, Assistant Chief Counsel
Ms. Lisa Moreno, Senior Management Auditor
Mr. Bill Casey, Chief Operating Officer
Mr. Britton Snipes, Board Secretary

Public Comment

An opportunity for public comment was made at the outset of the meeting.

Item #1 – June Meeting Minutes

The June 29, 2023 Meeting Minutes were moved for approval by F&A Committee Vice Committee Chair Nancy Miller and seconded by Committee Chair Tom Richards. The meeting minutes were approved by Chair Richards, Vice Chair Miller, and Member Camacho. Member Ghielmetti abstained.

Item #2 – F&A Committee Chairperson's Remarks, Initiatives, and Updates

Committee Chair Richards had no remarks, initiatives, or updates to present.

Item #3 - Audit Report by the Senior Management Auditor

Senior Management Auditor Lisa Moreno presented the Pre-award Review for HSR22-45 (ROW Engineering and Survey) to the F&A Committee Members.

Question:

Member Camacho asked it says that you reviewed the entire initial cost proposal submission from O'Dell Engineering and then later you stated that they were missing several documents. Does that not disqualify them for being non-responsive?

Response:

Ms. Moreno responded we have a list of items that we request them to send in with their cost proposals. Then we look to see if those are in there. If not, then we have a checklist that we send back to them and ask for those documents to be given to us. At that time, they did provide those after we had requested a second time for those documents.

Question:

Chair Richards asked who would you be asking this information from?

Response:

Ms. Moreno responded for the first round of information, we go straight to O'Dell since they are the prime and we ask them to submit any information that has not been provided that we had requested in the first rounds. They go to their subconsultants, they collect the data, and return it to us. If there is anything else missing or if we have further questions then we work directly with the subconsultants or the prime, whoever is being reviewed by whichever auditor we have.

Question:

Chair Richards asked does this all occur after the consultants or subconsultants have already been selected by a selection committee or something like that and now what you are doing is basically going through all the documentation to ensure it is compliant with the state and federal requirements?

Response:

Ms. Moreno responded yes, the selection process has happened and then this is just for us to be able to help the negotiation team say yes, these are fair prices that they are proposing. Then anything that we have recommendations for, we submit that to the negotiation team for inclusion into the final agreement.

Question:

Vice Chair Miller asked I think what Committee Member Camacho is asking is, were any of these substantive? The kind of error or omission where you would say something was non-compliant in terms of their bid?

Response:

Ms. Moreno responded no.

Question:

Chair Richards asked by the time they have come to you, is there actually a selection committee that makes the initial recommendation on who moves forward?

Response:

Mr. Kelly responded this process is an in-house process that is typically post-award based on the scoring

review but pre-negotiation for the final agreement on payment for services. We asked the audit team to help review all of the elements of cost-price audit versus market-rate, what things should be advised, the negotiating team accordingly, we implement that into the final negotiation.

Question:

Chair Richards asked so in other words, the selection committee has already selected these subcontractors and found them to be compliant? If something is missing, does that go back to the selection committee for any reason or have they already determined in their minds that the respondents are compliant?

Response:

Mr. Kelly responded in this case it was not missing requirements of the SOQ (Statement of Qualifications), it was missing requirements of making sure that the rates they were pursuing were reasonable.

Comment:

Member Camacho commented the write-up here leads me to believe that they stated they noted several missing documents. However, O'Dell later provided the requested documents and information for a complete initial submission, which then tells me that they did not complete the documents in the initial submission.

Response:

Mr. Kelly responded my understanding is that it was not documents that were part of the qualification submission, it was documents that were required for assuring that the negotiated prices were fair and reasonable in their marketplace.

Comment:

Ms. Moreno commented that is correct.

Item #4 – Executive Summary by Chief Financial Officer

Chief Financial Officer Brian Annis presented the Financial Report Executive Summary to the F&A Committee Members.

Question (Cash Management Report):

Member Ghielmetti asked what have we spent to date on emergency work?

Response:

Mr. Annis responded I believe we have only been invoiced through May for around \$600,000 of invoiced work. We estimate this \$9 million will ultimately be the cost. These are direct emergency costs, so there could be some associated costs from flooding that will come later that will not be reimbursable on an emergency basis if we have some time-related issues that add costs or things like that, but this is addressing the emergency work such as rebuilding roads or things of that nature that were done.

Question:

Chair Richards asked if we exceed the amount that we have been granted, is there any opportunity to apply for additional funds?

Response:

Mr. Annis responded there is a certain cutoff that was passed. The clock was about 120 days on some of the work effort. We will continue to work with the Office of Emergency Services and Department of Finance. As I understand it, there is the work that we have noted as needed and perhaps if some of the

work effort is more on those particular projects, we might have an opportunity to further reconcile. I think as far as defining a project, that window has closed now.

Question:

Chair Richards asked is there any exposure for Time Impact Analysis claims?

Response:

Mr. Annis responded I do not know the answer to that off-hand, I would have to confer with Legal and Contract Management.

Question (Capital Outlay Budget Summary):

Chair Richards asked with regards to the percentage of CP work that has been completed, is there a way of analyzing that in terms of how it comports with how much money we have left?

Response:

Mr. Annis responded yes; these can tie back as well to some of the data in the Central Valley Status Report. In that report, we show the original contract value, the current contract value, and the expenditures-to-date. These percentages are based on that same information, so it shows the expenditures-to-date divided by the current contract value.

Question:

Chair Richards so we can conclude then that the amount of work that still needs to be completed is provided for in the budget that has been approved?

Response:

Mr. Annis responded yes, and one thing that is not included in these percentages is some of the contingency that we report on a later page, to the extent that that contingency is added to the Design-Build Contracts that would change the contract value.

Question (Federal Funds and State Match Liability):

Member Ghielmetti asked do we have a budget for that Fresno Historic Depot?

Response:

Mr. Annis responded yes, the total project cost for that was \$32-33 million, in that range.

Question:

Member Ghielmetti asked so this covers about two-thirds of it, then?

Response:

Mr. Annis responded yes, it has about a 60-40 fund split, 60% Federal and 40% State.

Question (Contracts and Expenditures Report):

Member Ghielmetti asked how do we get the 30% goal?

Response:

Mr. Kelly responded it is established by the Board.

Response:

Member Ghielmetti commented it is not realistic. I appreciate it, it is nice to try to achieve it, but we have never gotten close, and I do not think CalTrans has that goal that high.

Comment:

Mr. Kelly commented I think it is right to have that aspirational goal and I think we have to understand how this is done in state government generally. I would say for our Professional Services contracts we are hitting the 30% goal roughly; I think this month reported 28.3% but some months we have been right at 30%. I was just looking, for example, at our Design contracts for the Merced and Bakersfield extensions and those are quite robust, we are doing pretty well on hitting all of the standards, the 30%, the 10%, and the 3% on those. As you can see in this chart, that bullet #5, the challenge is the large construction projects that are in the Central Valley. Those are our highest dollar contracts so that is the biggest amount. This percentage is a percentage of the dollar value, and they are not hitting the 30% goal. By comparison, if CalTrans for example on a major project has one Federal dollar on a project, the Federal standard applies, and the Federal standard for small business participation is 12% or something like that, and I think CalTrans is at 17%, and we are beyond 17%. This is work that we have ongoing with our Business Advisory Council, and we are looking at how to square the way you report this. I certainly do not mind an aspirational goal that says, here is the goal we want to achieve for small business participation, but I think what people have to understand which gets bureaucratic in a hurry, small business has different definitions under Federal standards and State standards, and that is something that is a management matter that we have to deal with. The state of California requires a different reporting scenario than the Federal government does, and we have to achieve both. I am trying to rationalize this reporting. I do not mind, again, an aspirational goal. I am very proud of what we are doing, that compared to CalTrans and other state agencies who build mega-projects, we are running the show, but we need to rationalize our reporting publicly and I think we are doing well. I think we want to keep striving for a big goal, but we have to be real about where it is. What is going to be interesting is when we get to the next Construction contracts because those are also going to be high value and we have to see what we can do to maximize small business participation in those. But it is much more complicated than just saying we need to hit 30% because that is just not the reality.

Response:

Member Ghielmetti commented maybe we should just call it an aspirational goal. I appreciate that, but I do not want to be attacked later by someone coming in and saying, "You did not meet your 30%." If 30% is an aspirational goal, that is one thing, if it is a goal we are supposed to meet, that is quite a different thing. I am a little nervous of how we present this.

Comment:

Mr. Kelly commented that is a good conversation I would like to have with this body first and then maybe the broader Board, but I have asked our folks who are working with the small business community, Catrina Blair, Jeannie Jones, and we are working on what the better way to report this stuff publicly given what the Federal and State standards are and what we are trying to achieve. We will be coming to you all with proposals for that. I do not necessarily want to reduce a goal, I think we should call it a goal, but we also have to be very clear about how we report these things and what it looks like. From my perspective based on what I have seen from other agencies that do the kinds of things we do; we are doing quite well. We will come back to you when we have finished some work with the Business Advisory Council and talk more about how we do this. Just keep in mind, different standards for Federal and State, different contracts with Federal and State dollars in it, as a general matter Professional Services Contracts, A&E Contracts, we are hitting it. The big challenge is on the Construction Contracts, which are our highest value contracts.

Comment:

Chair Richards commented the Board made it very clear back when it did act on this and clearly it is an aspirational goal. I think as years have gone by, we refer to it as the goal and we ought to make sure we recognize it is aspirational.

Comment:

Member Ghielmetti commented if we just added the word "aspirational" before "goal." I am just afraid someone is going to attack us because we did not meet these goals.

Comment:

Chair Richards commented anybody who did would have to go back to the record and the record was very clear, but there is nothing wrong with making sure it remains clear in our conversations subsequently.

Comment:

Member Camacho commented it may be an aspirational goal, but it is the right thing to do. To water down the language seems to me to defeat the purpose and the spirit and the intent of creating any aspirational goals or goals in general, but I think that as we move our activity into other parts of the state, we will find that there is a greater population and a greater opportunity for small and minority and women-owned firms to do business with us. If someone was going to ask if you could even break this out further to give us a percentage of those goals that are being met, whether they be under Construction or Professional Services. I would just like to see the numbers.

Comment:

Mr. Kelly commented what might be helpful for this body is when I come back with a firmer proposal on this, I would like you all to understand what the State and Federal requirements are and how they differ and then see how we land on that and how we do our reporting, and how we want to do our reporting. I am happy to break down the differences between the Construction and the non-Construction contracts because I think you will see how that shakes out.

Item #5 – Central Valley Update by Deputy Chief Operating Officer

Chief Operating Officer Bill Casey presented the Central Valley Status Report to the F&A Committee Members.

Question (CP Construction Labor):

Member Ghielmetti asked how is the heat affecting the workers?

Response:

Mr. Casey responded it is tough, you have to be very careful. You want to make sure you are cautious of heat stroke and heat exhaustion, plenty of water and shade when available. It is hard. It is very hot in the valley, so it is something to keep a close eye on.

Question (Utility Relocations):

Member Ghielmetti asked when you say we are ahead of our forecast numbers, how does that dovetail with our schedule?

Response:

Mr. Casey responded doing utilities live in a construction project is tough, so what we do is put a forecast out with the contract so they can plan ahead so we can plan for it and make a schedule. But it is tough, it does have an effect on construction.

Comment:

Member Ghielmetti commented I am nervous that we are going to affect our schedule. Budget and schedule are very important.

Response:

Mr. Casey responded we are trying to manage both. That is why we put a forecast out so the contractor can plan for it and then we cannot have unanticipated costs.

Comment:

Member Ghielmetti asked are there any big roadblocks ahead of you?

Response:

Mr. Casey responded dealing with third parties is always tough because they have a wholly different set of values, but it just takes a lot of effort and a lot of coordination with people like Dennis Kim and others who are really working hard to make sure we move this forward.

Question (Real Property/Right-of-Way):

Member Ghielmetti asked is Mr. Kim slowing down on this now?

Response:

Mr. Casey responded he is getting tired, but he is going after it.

Question:

Member Ghielmetti asked we were doing so well, were those the low-hanging fruit and now we are at the top of the tree?

Response:

Mr. Kim responded we do not have many parcels left; I think that is why you are seeing this. This is a natural progression of us just trying to get the last parcels delivered. Currently we have 2,225 out of 2,293 as of June in terms of what we are trying to deliver, so we are at 97%. We are just chasing the last 3% left as a result. Some of those have started later so it is a natural progression of just trying to close out those parcels. Really you are going to see lower numbers but that is intended. You will see numbers closer to about 2.5% for the last six months to get us to the 98%.

Question:

Member Ghielmetti asked is there anything out there that will slow down a contractor?

Response:

Mr. Kim responded not to my knowledge at this point. If there is anything that will impact critical path, we are all over it in terms of coordination with the contractor and the PCM's.

Question (Conclusion):

Chair Richards asked in regard to guideways and structures, I think for the last four months or, so it has been no change. Maybe it would be helpful to understand that. I am also wondering; can we break the underway and construction complete so we can see each of those?

Response:

Mr. Kelly responded yes, we have done that before when I have done the May and November updates. We break those down in a pie chart so we can use that pie chart here.

Question:

Chair Richards commented that would be helpful so we can see the movement. We do not know how many are under construction and how many are complete. Could you just tell us briefly what is going on with regards to guideway and structures and when you would suspect that we will see movement in terms of an increase of the underway and completed structures?

Response:

Mr. Casey responded I do not have those numbers with me, but our big push right now is CP4, getting that complete. We do anticipate hitting our goal of the end of August. There are a couple areas of North Kern Water District, Semitropic, the canals there that we are working through some difficult problems or constructing solutions, but that is a dot on the map compared to the entire guideway. We are looking to have that complete. We are actively working with CP1 and CP2-3 to resolve the TIAs to move forward and complete more of the work expeditiously.

Question:

Chair Richards asked if I understand correctly, then on CP1 and CP2-3 are we at a standstill subject to working out the TIAs?

Response:

Mr. Casey responded I would not say that. I would say that working through a lot of the third-party agreements has been tough. It is everywhere. I know CP2-3 has been trying to recover from the flooding. Mostly they are suppliers. They were flooded out and then they got a huge backlog of work, so they are trying to fit us back into their schedules, but we are looking to get those both moving at a larger clip than they are now.

Question:

Chair Richards asked next month maybe you can have more of that detail for us?

Response: Mr. Casey responded yes.

Having no further business, the meeting was adjourned at 9:20 A.M.

The Authority additionally posts on its website a link to a recording of the F&A meeting, which detail the discussion, questions, and answers from the meeting.