



DATE: August 12, 2024

TO: Dominique Rulens Contract Manager

FROM: Paula Rivera, Chief Auditor ^{PR}

CC: Finance and Audit Subcommittee of the Board
Brian Kelly, Chief Executive Officer
Richard Yost, Capital Procurements

SUBJECT: Pre-award Review of HSR 23-42

The Audit Office of the California High-Speed Rail Authority (Authority) has completed its review of the draft agreement and cost proposal for the independent safety inspector, RFQ No.: HSR 23-42, between the Authority and TÜV Rheinland North America Inc.

A pre-award 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. A pre-award review is not an audit; however, it 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 dated June 28, 2024. 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.

This pre-award is completed after Notice of Proposed Award has been issued to the most qualified proposer. We reviewed the entire initial cost proposal submission from TÜV Rheinland North America to ensure a complete submission. We noted that the cost proposal was not complete for one of the subconsultants because the company recently formed and does not have the necessary documentation.

We completed a risk assessment of the proposed subconsultants and determined the following subconsultants would be reviewed for this pre-award:

- AuditSafe
- CERTIFER

- Auriga Corporation
- ClemTech LLC
- Enspire Engineering Inc
- Katin Engineering Consulting
- Nobility Security and Maritime Solutions
- Pacific Blue Engineering, LLC
- Raul V. Bravo + Associates, Inc
- Soteria Company, LLC

Based on the review of the draft agreement and the cost proposal, except as discussed in the following *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

Indirect Cost Rate

Issue #1 – Overstated Indirect Cost Rate

TÜV Rheinland North America Inc. and Pacific Blue Engineering proposed an indirect rate that could not be supported.

Recommendation: The Contract Manager should have TÜV Rheinland North America Inc. adjust their indirect rate to 142.96% and Pacific Blue Engineering adjust their indirect rate to 110.33%.

Issue #2 – Noncompliant Indirect Cost Rate

AuditSafe and CERTIFER proposed overhead rates that are not compliant with the Federal Acquisition Requirements (FAR) and AuditSafe is not able to fully support their overhead rate.

Recommendation: The Contract Manager should have AuditSafe and CERTIFER either provide an audited overhead/indirect rate that is FAR compliant or a certification stating their overhead/indirect rate is FAR compliant by the billings in FY2025-26. In the meantime, the Contract Manager should allow AuditSafe bill an indirect rate of 55.8% and CERTIFER to bill their proposed indirect rate of 151%.

Issue #3 – Use of Prior Year Indirect Rate

Nobility Security Maritime Solutions and Raul V Bravo + Associates, Inc. provided financial support documents and an indirect rate for the year ended December 31, 2022.

Recommendation: The Contract Manager should have Nobility Security Maritime Solutions and Raul V Bravo + Associates, Inc. provide Contract Manager with their Indirect Rate Schedule and financial support documents for the year end December 31, 2023, by September 2024.

Issues #4 – Unsupported Indirect Rate

ClemTech LLC does not have an accounting system that segregates indirect and direct costs; therefore, an indirect rate cannot be determined nor verified. Without a verified indirect rate, the loaded billing hourly rates also cannot be verified.

Recommendation: The Contract Manager should advise the prime contractor to consider the viability of retaining the subconsultant on the contract because the subcontractor cannot determine an indirect rate; therefore, the loaded billing hourly rates also cannot be verified.

Direct Labor

Issue #5 – Overstated Rate Proposed

TÜV Rheinland North America Inc., Katin Engineering Consulting, and Nobility Security Maritime Solutions proposed a Loaded Hourly Billing Rate that is overstated and AuditSafe has proposed an overstated actual hourly rate.

Recommendation: The Contract Manager should have TÜV Rheinland North America Inc., Katin Engineering Consulting, and Nobility Security Maritime Solutions, reduce their loaded hourly billing rates as follow:

- TÜV Rheinland North America Inc.:
 - Akshay Deshpande \$213.90
 - Archana Narayanan 160.00
 - Brian Burns 218.80
 - David Diaz 51.01
 - Eric Cutright, Ph.D. 233.95
 - Graham Sutherland, Ph.D. 331.03
 - Guillermo Montiel, Ph.D. 51.01
 - James Duncan, C.Eng. 143.77
 - Joffrey Lauthier 318.29
 - Kenneth Jackson 228.44
 - Lou Baxter 235.54
 - Michael Towey 215.70
 - Sebastián Gonzalez 22.62
 - Sofia Ochoa 51.01
 - Stefanie Knight 79.45
 - Wilton Alston 215.20
 - Young-Sang Kim, Ph.D. 153.31
- Katin Engineering Consulting should reduce their loaded hourly billing rate to \$285.09,
- Nobility Security Maritime should reduce their loaded hourly billing rate to \$65.98.
- The Contract Manager should have AuditSafe reduce Fabrice Chodorge’s actual hourly rate from 105.77 to 93.27.

Issue #6 – Overtime Unsupported

Katin Engineering Consulting proposed an overtime rate for the owner. The owner receives a draw, therefore there is no labor and no premium for overtime.

Recommendation: The Contract Manager should have Katin Engineering Consulting remove the proposed overtime.

Issue #7 – Unsupported classifications

CERTIFER proposed two classifications for their internal employees and external contractors. However, they could not support the proposed rate as the positions were not filled yet. The two proposed classifications are “Additional expertise – North America Employees” and “Additional Expertise – International Employees.”

Recommendation: The Contract Manager should have CERTIFER remove the two unsupported classifications.

Issue #8 – Unsupported Direct Labor

ClemTech LLC could not support the proposed direct labor rate.

Recommendation: The Contract Manager should advise the prime contractor to consider the viability of retaining the subconsultant on the contract because the subcontractor cannot support the proposed billing rate.

Fee

Issue #9 – Additional Fee Proposed

Katin Engineering Consulting and ClemTech LLC have proposed an additional fee in addition to the loaded hourly billing rates.

Recommendation: The Contract Manager should have Katin Engineering Consulting and ClemTech LLC remove the fee from the cost proposal.

Other Direct Costs

Issue #10 – Incorrect Travel Other Direct Cost Rate

The cost for “Travel” should not be at actual.

Recommendation: The Contract Manager should have TÜV Rheinland North America and its subcontractors reference "Note A" of the Other Direct Costs for Travel instead of "Actual."

Issue #11 – Unnecessary and Unallowable Other Direct Costs

The scope of work on the contract should not require the following Other Direct Costs: moving and relocation, vehicles, office space, software licenses, and personal protective equipment. Second-tier consultants were also proposed but will not be utilized. Proposed legal services for visa petition applications are disallowed and should be removed.

Recommendation: The Contract Manager should request the following:

- TÜV Rheinland North America and all their subcontractors remove the following from the Other Direct Costs: moving and relocation, vehicles, office space, software licenses, and personal protective equipment request,
- AuditSafe USA, Inc, and Raul V Bravo + Associates, Inc. remove the second-tier consultants, and
- TÜV Rheinland North America; AuditSafe USA and CERTIFER remove Visa Costs from the Other Direct Costs.