



## **California High-Speed Rail Authority** **BRIEFING: INSERT DATE AND AGENDA ITEM # 5**

**TO:** Board Chair Richards and Board Members

**FROM:** Catrina Blair, MBA, Chief, Process and Program Development Branch  
Tawnya Southern, Attorney IV, Authority Legal Office

**DATE:** January 23, 2025

**RE:** Program Delivery Support Services Agreement Annual Report regarding Small Business and Conflict-of-Interest Compliance

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### **Summary**

This informational item will update the California High-Speed Rail Authority's (Authority) Board of Directors (Board) on activities for the Authority's Program Delivery Support (PDS) services agreement annual report regarding small business and conflict-of-interest compliance.

### **Background**

The Board's October 20, 2022, Resolution #HSRA 22-23 approved the contract award of the PDS services to AECOM-Fluor Joint Venture (AECOM-Fluor) and directed the Authority to "report on conflict-of-interest compliance and small business compliance to the full Board on an annual basis."

### **Prior Board Action**

On October 20, 2022, the Board previously approved the award of the PDS services contract to AECOM-Fluor through Resolution #HSRA 22-23.

On December 6, 2023, Authority staff provided an annual update to the Board regarding AECOM-Fluor's small business and conflict-of-interest compliance under the PDS services agreement.

### **Discussion**

The PDS services Agreement No. HSR21-17 (Agreement) between the Authority and AECOM-Fluor was fully executed on November 8, 2022. Exhibit A, Section 3.7 of the Agreement requires the consultant to prepare "a Conflict Mitigation Plan identifying mitigation measures it will put in place to avoid actual or potential organizational conflicts of interest for the Consultant and staff throughout the duration of the Agreement."

Exhibit D, Section 22 of the Agreement requires compliance with Small Business (SB), Disabled Veteran Business Enterprise (DVBE) and Disadvantaged Business Enterprise (DBE) participation goals in compliance with State and federal law. The Agreement is subject to the Authority's prior Revised Small and Disadvantaged Business Enterprise Program (August 2012, updated 2022), which established a 30 percent SB utilization goal, that is inclusive of a 10 percent DBE goal 3 percent DVBE participation goal.

In compliance with Resolution #HSRA 22-23, this informational item will provide the annual report to the Board regarding the PDS services consultant's compliance with the conflict-of-interest and small business Agreement requirements.

### Small Business Compliance

The Authority's Small Business Team ensures Small Businesses (SB), including Micro Business (MB), and Small Business Public Works (SB-PW), Disabled Veteran Business Enterprises (DVBEs), and Disadvantaged Business Enterprises (DBEs), are afforded every practicable opportunity to participate on the High-Speed Rail Project.

Monitoring compliance is the method by which the SB Team tracks the efforts of Prime contractors/consultants on the project. The PDS must comply with Authority's prior Revised Small and Disadvantaged Business Enterprise Program (August 2012, updated 2022), which established a 30 percent SB utilization goal, that is inclusive of a 10 percent DBE goal 3 percent DVBE participation goal. PDS is not subject to the new SB/DVBE/DBE goal structure approved by the Board on November 2, 2023. Compliance measures are detailed as follows:

#### 1. Payment

**Compliance Management System-** In September 2023, the Authority implemented a Compliance Management System. This system tracks prime payments and notifies subcontractors and subconsultants, giving them the opportunity to validate the payments they received from the prime. The system is designed to alert the Authority if a payment has not been validated, and immediate action is taken. The SB Team contacts the small business directly to confirm payment and reaches out to prime directly to resolve.

**Monthly Compliance Form Submittal-**Authority Primes must submit monthly compliance forms that detail payments made to SB, DVBE and DBE firms.

#### 2. Utilization

**Bi-weekly meeting with SB Officer-**The PDS Small Business officer (SBO) has a standing meeting with the Authority's SB Advocate and Program Chief to discuss compliance and efforts PDS is making to achieve SB/DVBE/DBE Goals.

**Monthly Narrative-**The PDS provides a monthly narrative that details outreach efforts, and strategies to increase participation, which include training meetings held with SB/DBE/DVBE firms on the PDS contract. This narrative is shared with the Authority's Business Advisory Council (BAC).

In addition to the above measures, the PDS SBO participates in partnering workshops with the Authority and attends BAC meetings held six times per year. The PDS SBO regularly reports their utilization, payment, and outreach efforts in BAC meetings.

As of the October 2024 reporting period, the PDS is on target based on their total expended values. The SB Team is working closely with the PDS SBO to assist with increasing the DVBE numbers.

**Overall SB Goal Attainment (30%)**

<b>PDS SB Goal Progress</b>	<b>Actual Value to Date</b>	<b>Status SB Goal Progress</b>
All SB Total Expended (SB/DBE/DVBE)	\$41,124,835.25	32.54%

**DBE Goal 10%**

<b>PDS DBE Goal Progress</b>	<b>Actual Value to Date</b>	<b>Status DBE Goal Progress</b>
DBE Total Expended	\$25,918,468.78	20.51%

**DVBE Goal 3%**

<b>PDS DVBE Goal Progress</b>	<b>Actual Value to Date</b>	<b>Status DVBE Goal Progress</b>
DVBE Total Expended	\$1,375,779.81	1.09%

Conflict-of-Interest Compliance

As previously reported, the Authority and AECOM-Fluor, including their attorneys, have worked collaboratively to implement mitigation measures that will sufficiently address potential and/or actual conflict-of-interest issues. In accordance with the Agreement provisions, a Conflict Mitigation Plan (Plan) was developed by AECOM-Fluor, negotiated, and approved by the Authority. The Plan requires the following:

1. Identification of the consultant’s key personnel and additional expertise resources, their respective companies, and their proposed locations for the duration of the Agreement to ensure required physical separation, if necessary, as a mitigation measure.

The Plan identified the requisite key personnel and additional expertise resources and where necessary mitigation measures have been implemented. AECOM-Fluor continues to update this information and track all personnel changes.

To date, the Authority and AECOM-Fluor have agreed to mitigation measures for certain key personnel and additional expertise resources on the project and have not conflicted out any individual from working on the project.

2. A description of the reporting relationships of each of the consultant staff.

The Plan designates the consultant's Principal in Charge and the Deputy Principal in Charge have all key personnel and additional expertise personnel reporting to them and have first line project responsibility regarding conflicts.

AECOM Technical Services, Inc. (AECOM) staffs the role of Principal in Charge, and Fluor Enterprises, Inc. (Fluor) provides the Deputy Principal in Charge (DPIC). The DPIC role is currently vacant, and Fluor ensures that this requirement is administered by its Chief of Staff and supporting staff. Both AECOM and Fluor have supporting administration personnel who provide supplemental reports, various information, and compliance with mitigation efforts.

3. A description of methods to prevent, restrict and disassociate consultant staff from other projects outside of the Authority's program that may create a potential or actual organizational conflict of interest.

Prior to an employee becoming part of the PDS staff, the Plan requires that AECOM-Fluor conduct an internal due diligence review to determine other project involvement. If the due diligence reveals a potential or actual conflict of interest, mitigation measures are employed such

as an ethical wall and separation are put in place. To date, nine supplemental reports to the Plan were prepared by AECOM and Fluor, which identified employees working and/or potentially working on other projects. An analysis of each of the potential conflicts was performed by the Authority's Legal Office and mitigation measures have been implemented, to the extent required, including disassociation from the other project.

Since our last report to the Board in 2023, four supplemental reports to the Plan were provided by AECOM-Fluor. Two supplemental reports to the Plan involved two AECOM employees, who are assigned to work on the Authority's project, and were also assigned to projects in which Dragados and Ferrovial are involved. As Construction Package (CP) 2-3 is a design-build project involving Dragados, and CP 4 is a nearly completed design-build project involving Ferrovial, there were potential conflicts of interest. However, the relevant facts and roles of the AECOM employees on the projects were analyzed and there was no actual conflict of interest.

Two supplemental reports to the Plan were provided by AECOM that identified two related projects, work on the Transbay Joint Powers Authority (TJPA) project and sought after work for the Los Angeles County Metropolitan Transportation Authority's (LA Metro) Construction Management Support Services for the Link US Station (CMSS LUS), which may create conflicts of interest, especially related to the National Environmental Policy Act (NEPA) assignment program work for the FRA. The potential conflicts were analyzed by the Authority's Legal Office and mitigation measures were put in place, which include utilization of separate AECOM teams for the PDS Agreement work and the TJPA and potential LA Metro's CMSS LUS contract work. AECOM has also established (or will establish) ethical walls between the AECOM employees who work on the contracts to ensure that no "inside" information is shared.

4. A Description of how the consultant will control the information relative to the Authority's operations and strategy in accordance with the terms of the Agreement.

AECOM-Fluor continues to implement security controls and a tracking system to identify user access regarding PDS information and has been utilizing project-specific servers and separate cloud environments.

5. The Consultant's process to promote awareness and to instruct Consultant staff in the importance of impartiality and its role in preventing bias, fraud, waste and abuse, including ethics training.

AECOM-Fluor continues to take steps to ensure that all staff have a copy of the Plan and are aware of their obligations and responsibilities under the Plan. Consultant has implemented a live web-based conflict-of-interest training program.

6. The Consultant's process to assess the effectiveness of the Conflict Mitigation Plan and address issues.

AECOM-Fluor appointed attorneys for AECOM and Fluor as their Plan officers with direct responsibility for implementation of the Plan. The Plan officers continue to be responsible for monitoring overall compliance with the various Plan measures and for identifying and responding to any potential or actual conflicts. The Plan officers continue to undertake quarterly reviews of Plan compliance and prepare supplemental reports and quarterly reports provided to the Authority.

**Legal Approval**

The Legal Office has reviewed this informational item and has found it complies with Authority policy.

**Budget and Fiscal Impact**

This is an informational item, and by itself, does not have a budget or fiscal impact.

REVIEWER INFORMATION	SIGNATURE
Reviewer Name and Title: Jamey Mataka Chief Financial Officer	Signature verifying budget analysis:
Reviewer Name and Title: Alicia Fowler Chief Counsel	Signature verifying legal analysis:

**Recommendations**

Not applicable, as this is an informational item only.

**Attachments**

Authority Board's October 20, 2022, Resolution #HSRA 22-23.