



# Pre-Construction Activities for the Merced and Bakersfield Extensions

## Persistent Delays in Securing Agreements with Third Parties Require New Solutions

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**OFFICE OF THE  
INSPECTOR GENERAL**  
CALIFORNIA HIGH-SPEED RAIL

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February 21, 2025  
The Governor of California  
President pro Tempore of the Senate  
Speaker of the Assembly

State Capitol  
Sacramento, California 95814

Dear Governor and Legislative Leaders:

The Office of the Inspector General, California High-Speed Rail initiated the following review of pre-construction activities on the Merced and Bakersfield extensions because of these activities' crucial role in meeting schedules and containing costs. Pre-construction activities—often referred to as *early works*—require the California High-Speed Rail Authority (Authority) to work with various third parties to acquire right of way and relocate utilities located in the system's path. When the Authority began construction on the initial 119-mile section of guideway in the Central Valley (initial segment), it had not completed necessary early works. Consequently, the initial segment has encountered significant schedule delays and cost increases caused by prolonged disagreements with third parties. The Authority has now begun designing extensions to the initial segment and has implemented new project management procedures for these extensions that, if followed, could help to ensure that it completes necessary early works before advancing to construction.

Although these new procedures may help prevent some of the costs and delays associated with moving into construction too soon, the procedures do not fundamentally improve the Authority's ability to get third parties to engage in what can be a time-consuming process. As a potential result, early works on the Merced and Bakersfield extensions have been hindered by delays in executing utility-owner reimbursement agreements, which are generally necessary for utility owners to review and approve utility relocation designs before the Authority can begin construction. In fact, some negotiations have been ongoing for nearly two years without reaching agreement. The Authority's often time-consuming internal review process, disagreement over contract terms, and little incentive for utility owners to engage in the process in a timely manner have caused the delays. Consequently, the Authority is currently proceeding with utility relocation designs without owner approval, which could lead to more redesigns later.

While we recommend that the Authority make improvements to its internal procedures and assess whether additional legal staff would improve its agreement review timelines, it still lacks leverage to help ensure that third parties do not themselves needlessly delay negotiations. Consequently, we recommend that the Authority work with state lawmakers to implement changes to state law to improve its ability to resolve third-party delays in a timely manner because the risk of early works



delays will only become more pronounced and expensive as the system moves from the Central Valley to more populated urban centers in California.

**Authority Response**

The Authority generally agrees with our conclusions and recommendations and provides additional information in its response—included in its entirety in the back of this report—on change efforts it is currently undertaking.

Respectfully submitted,

Benjamin M. Belnap, CIA  
Inspector General, High-Speed Rail

## Introduction

In its 2024 Business Plan, the Authority stated that it is focused on delivering an operational system on a 171-mile high-speed rail corridor in the Central Valley from Merced to Bakersfield (M-B segment) between 2030 and 2033. The Authority is currently constructing 119 miles of the segment from Madera to Poplar Avenue north of the city of Shafter in Kern County, which we refer to as the *initial segment*. Figure 1 shows the initial segment as well as the two extensions to that segment that the Authority has begun designing. One extension will span from Madera north to Merced (Merced extension) and the other from Poplar Avenue south to Bakersfield (Bakersfield extension).

The Authority has stated that starting construction on the initial segment before completing appropriate pre-construction activities resulted in unforeseen and underestimated costs to the project. We refer to these critical pre-construction activities as *early works*, which include identifying and acquiring the parcels of land needed for the rail system's right of way and relocating utilities located in its path. Completing early works generally includes the Authority's negotiating agreements with various third parties, such as utility owners, railroad companies, and local jurisdictions, before initiating construction. These interactions with third parties can face delays for a variety of reasons, ranging from disagreements over land rights or contract terms to a lack of staff at the third party. Relocating a utility or business is also inherently disruptive for the third party.

### Definition of a Utility

A utility is a privately, publicly, or cooperatively owned line, facility or system for producing, transmitting, or distributing electricity, gas, water, communications, waste or other similar commodity which serves the public.

Source: California Department of Transportation.

Figure 1. M-B Segment Map

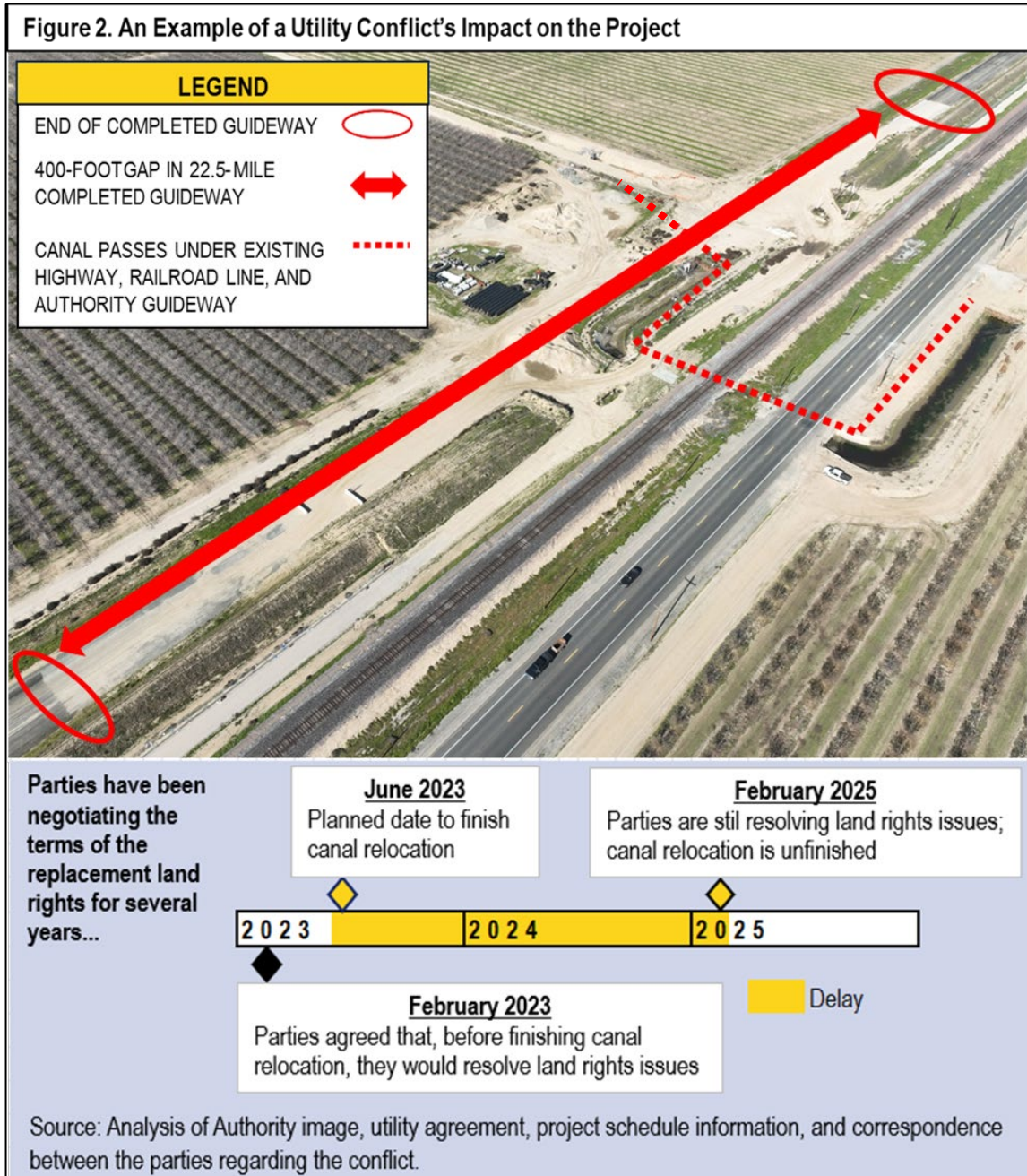


Source: Authority maps and documentation.  
Note: Section boundaries are not exact but are approximations for illustrative purposes.

Because it began construction without completing the necessary early works, the Authority has experienced delays and cost increases, some of which continue to plague the initial segment. In its 2023 Project Update Report, the Authority explained that commencing construction “at risk” resulted in a number of significant change orders that had to be resolved. An example from the initial

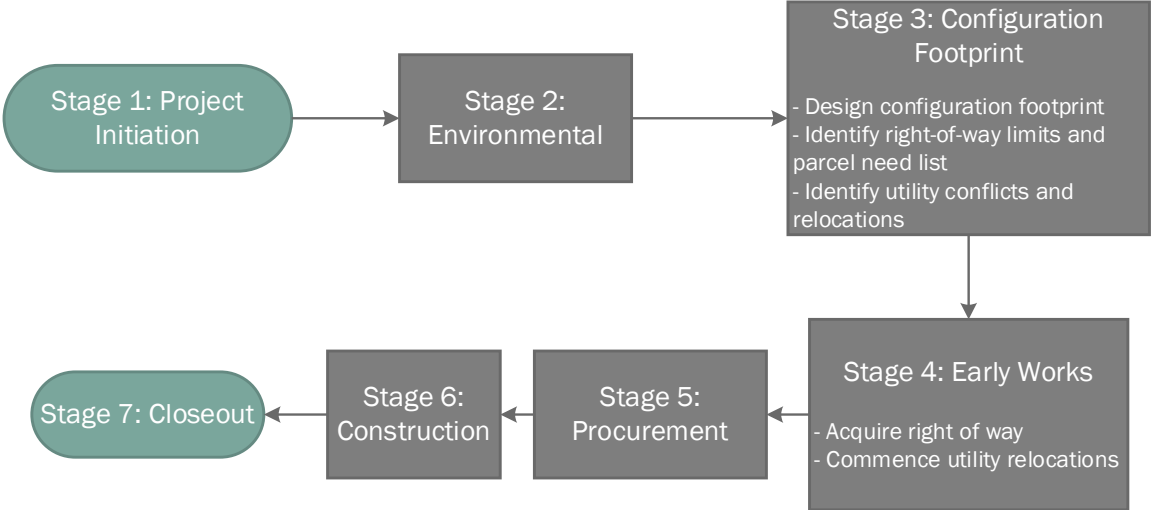


segment demonstrates the ramifications of being unable to reach timely agreements with third parties. The Authority has needed to relocate an irrigation canal in Kern County for many years, and negotiations over the terms of the irrigation canal owner's replacement land rights have yet to be resolved. This impasse has exposed the Authority to hundreds of thousands of dollars in construction delay claims and prevented it from completing a 400-foot section in its otherwise complete high-speed rail alignment for that portion of the segment. Figure 2 shows the gap in the high-speed rail guideway and a timeline of key developments in the Authority's interaction with the canal owner.



In response to lessons it learned on the initial segment, the Authority stated in its 2020 Business Plan that it was implementing a new policy for its future construction projects to strengthen its project development, project delivery, and risk management processes. This new policy is called *staged project delivery*, and it establishes the Authority’s approach for managing scope, schedule, budget, deliverables, and technical implementation of all capital projects. As Figure 3 shows, the staged project delivery process requires a project to progress through seven specific stages. Each stage represents key transition or decision points along a project’s progression and includes groups of activities and deliverables to be carried out. Authority leadership review and approve a decision to advance a project to the next stage. According to the process, the Authority would not begin construction on the Merced and Bakersfield extensions (stage six) until the early works deliverables are completed (stage four). By implementing the staged project delivery process for each extension, the Authority hopes to avoid the cost and schedule risks that occurred on the initial segment.

**Figure 3. Staged Project Delivery Process and Example Activities**



Source: The Authority’s staged project delivery policy and procedures and 2022 Business Plan.

The Authority is working to complete stage three of the staged project delivery process for the extensions. A key design milestone for each extension is the *configuration footprint*. The configuration footprint includes the guideway, which refers to the riding surface that will support and physically guide the high-speed train, such as elevated bridges or viaducts and tunnels. The configuration footprint also defines the project limits encompassing the structures, retaining walls, right-of-way limits, and already existing third-party facilities, like utilities and freight rail.

The Authority uses the configuration footprint as the basis for identifying the right of way for the project, which includes determining what parcels of land it needs to acquire. After it identifies the parcels needed for the project, the Authority undergoes an acquisition process to acquire those parcels. In addition, the Authority offers relocation advisory services and payments to eligible individuals, families, businesses, farms, and nonprofit organizations who are displaced by the project.

The configuration footprint also helps to identify utility conflicts. A utility conflict occurs when a utility must be relocated, adjusted, protected-in-place, or abandoned because of the project. To relocate the utilities that conflict with the guideway on the extensions, the Authority is having its designers prepare plans for the relocation of existing utilities and identify the needed right of way. Acquisition of the needed replacement right of way for relocated utility facilities may become a major obstacle to timely utility relocation. The text box provides perspective from the Authority's Central Valley Regional Director explaining some of the history behind why the Authority has had to work through so many utility conflicts on the initial segment—perspective that will continue to be relevant as the Authority pushes the high-speed rail system forward to more populated areas.

### **Regional Director's Perspective on Utility Conflicts**

Proposition 1A requires that the Authority build the high-speed rail along existing transportation and utility corridors. As these corridors are significantly developed, there is greater opportunity for utility conflicts and delays associated with working with the utility companies, local agencies, and freight railroads than would exist if the project alignment were elsewhere.

Having the high-speed rail alignment adjoining existing freight railroad lines has resulted in the need to construct or reconstruct numerous overhead and underpass structures that eliminate previously at-grade railroad crossings. While the surrounding communities have benefitted and will continue to benefit from the improved transportation connections resulting from this infrastructure investment, it added complexity to the design and construction because of additional interaction with multiple stakeholders and approval agencies (i.e. utilities, railroads, city permits) resulting in schedule pressures and additional costs to the project.



## **REVIEW RESULTS**

- **Staged project delivery could help ensure the Authority does not begin construction before it completes important early works, but it does not resolve other longstanding issues with third parties.**
- **Utility relocation designs are behind schedule because of delays in executing reimbursement agreements with third parties, risking potential delays to acquiring right of way.**
- **Both internal and external factors cause delays in negotiating reimbursement agreements with third parties, including insufficient internal deadlines and a lack of negotiating leverage.**

### **Although Staged Project Delivery May Reduce Some Risks on the Extensions, The Authority Needs to Make Improvements to the Process**

The Authority's procedures for its staged project delivery process may reduce the risk of unresolved early works delaying construction once in progress. However, the Authority should strengthen those procedures to ensure that it more fully considers whether a project, such as the Merced extension or the Bakersfield extension, is ready to advance. The procedures, currently in draft form, outline expected deliverables for completing each project stage. They also require the Authority staff and leadership to consider what risks exist in advancing to the next stage and to confirm that any such risks have been mitigated where possible. For example, deliverables required to complete stage three include a summary of right of way that has been identified as well as executed third-party agreements and approval documents. Both of these deliverables are crucial for transitioning to stage four because they establish the work and resources needed during that stage, in which the Authority begins actively acquiring right of way and physically relocating utilities before ultimately moving to the construction stage.

However, the Authority's procedures also allow for flexibility between certain stages. For example, the procedures state that although stage four typically begins at the completion of stage three, it may begin prior to the completion of stage three as long as approval is obtained from the Board and/or the business oversight committee. The Authority explained that flexibility between these particular stages is valuable because it allows for moving ahead with finalizing certain aspects of the

design phase that do not depend on outstanding deliverables. The procedures do not allow for similar flexibility when moving to the construction phase.

Before moving from one stage to the next, Authority leadership must approve the decision to do so. When staff believe the project is ready to advance to the next stage, they first hold a meeting with the project delivery advisory committee (advisory committee). As described in its enacting charter, the advisory committee's purpose is to recommend approaches to meeting the Authority's goals for the project while minimizing future cost and schedule risks; according to the Authority's procedures, a key focus at an advisory committee meeting is on project risks and the extent to which those risks have been mitigated. Committee members include the directors of program areas within the Authority, such as infrastructure delivery (which oversees civil construction) and real property, as well as the chief operating officer, among others. Following the meeting, the chief engineer of strategic delivery determines whether a project is ready to proceed to the next stage and makes a corresponding recommendation. Depending on the stage and the decisions being made, the Authority may also need approvals from its business oversight committee and the Authority's Board. For example, the procedures indicate that the Board might need to approve procurements or contracts that may be necessary to advance a project to the next stage.

With respect to its management of the M-B segment extensions, each of which is a project undergoing the staged project delivery process, we saw evidence that the Authority followed its procedures for the decision to move from stage three to stage four. For instance, the Authority held meetings with the advisory committee and then proceeded to obtain approval from the business oversight committee and Board to issue the notice to proceed with contracted work necessary for moving to stage four for the extensions' design.

However, the Authority's procedures should be strengthened to require fuller oversight of the status of each stage's deliverables. Currently, the procedures do not expressly require the relevant committees to verify whether the deliverables for a stage have been met or, if they have not been met, require staff to provide justification for why a project should still advance to a subsequent stage. Instead, the procedures designate the chief engineer of strategic delivery as responsible for ensuring deliverables are completed prior to recommending whether to move to the next stage. Consequently, the materials we reviewed for the advisory and business oversight committee meetings, as well as the subsequent Board meetings at which the Board approved the notices to the contractors to proceed with work, did not include an explicit discussion of the status of relevant stage three deliverables. The advisory committee materials, for example, focused instead on whether and how moving to stage four at that point would affect the construction procurement options ultimately available to the Authority. Although that type of discussion is directly relevant to the committee's purpose, it alone does not provide a complete picture of the status of early works or a means for the advisory committee to assess a project's readiness.

We believe requiring the committee to verify whether deliverables have been met will provide greater assurance that a project is ready to proceed to the next stage and will create a more transparent record of the Authority's decision making. The potential value of such a requirement is

likely to become more pronounced as the Authority prepares to move into the construction-related stages of the process. As described in the Introduction, the Authority has acknowledged that it began construction on the initial segment before critical pre-construction activities had been completed, resulting in unforeseen costs. The Authority agreed with our assessment.

Additionally, although the staged delivery process may help prevent the Authority from moving into construction too soon, the process is not intended to address challenges that may negatively affect a project's progress within any given stage. In particular, the process does not address issues related to completing early works in a timely manner that the Authority faced on the initial segment, such as negotiating agreements with third parties and relocating utilities. Because these issues still exist, as we describe in the following sections, the Authority is experiencing similar challenges completing the extensions as those it faced on the initial segment.

### **Recommendation**

To further reduce the risk of beginning construction of the extensions too early, by May 2025 the Authority should finalize its staged project delivery process procedures and better implement the purpose of these procedures by revising them to specifically require staff to include the status of all relevant deliverables in the materials for meetings related to advancing a project to a new stage. The procedures should specify that if a deliverable has not been met, meeting materials should include a justification for why a project should still proceed to the next stage.

## Utility Relocation Design for the Extensions is Behind Schedule

Utility relocation designs will not be finalized by the end of 2024 as scheduled, with the majority of designs still pending review. Consequently, design of both extensions is delayed. To relocate the utilities that conflict with the construction of the extensions, the Authority had directed its designers to prepare plans for the relocation of existing utilities and identify the needed right of way, which can include acquiring parcels of land. The Authority explained that on the initial segment, it started acquiring right of way before completing utility relocation designs. This sequencing resulted in the Authority having to return to certain property owners multiple times to renegotiate the acquisition to accommodate changes as utility designs progressed. The Authority indicated that finalizing utility relocation designs earlier in the process incorporates lessons learned on the initial segment, which could help to mitigate this issue.

To finalize utility relocation designs for the extensions, the Authority needs the utility owner to review and approve proposed designs. Authority staff explained that as a design progresses, it becomes increasingly detailed, and so the utility owner will generally review a design more than once to provide feedback before the final product is achieved. For example, the owner may review a design when it is 30-percent complete and again at 90-percent complete when additional details, such as adjacent facilities, have been added to the design. Authority staff told us that it is important for both the Authority and the utility owner to review relocation designs at multiple milestones to ensure that the Authority is accurately incorporating information the owner provides.

The baseline schedules for the Merced and Bakersfield extensions showed the final configuration footprint being submitted by the end of 2024, which should have included approved utility relocation designs. However, the Authority did not meet this deadline. For the Merced extension, the Authority's data as of November 2024 showed that only 76 of the total 231 utility relocation designs had been reviewed by the utility owner.<sup>1</sup> For the Bakersfield extension, as of early December 2024, the Authority had not formally submitted any utility relocation designs for owner review. The Authority now anticipates completing formal third-party review of utility designs by mid-2026—more than a year behind schedule. According to the Authority, no design packages had been submitted for the Bakersfield extension in most cases because the Authority was still in the process of executing with utility owners the agreements that establish the terms of the owner's review.

This process has proven time-consuming. In fact, for several of these agreements, the Authority began the negotiation process two years ago in early 2023. However, even when it has an executed agreement in place, other factors can hold up design review, such as the utility owner not having enough staff to perform the review. Additionally, the Authority has not yet executed agreements with other third parties that own structures, such as roadways, from whom it is also seeking design

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<sup>1</sup> The total count of 231 utility relocation designs includes 75 with a disposition of "protect-in-place" that may not require design, which could decrease the number of outstanding designs.



review and approval. We discuss these crucial agreements and the causes for the delays later in the report.

## **Delays In Finalizing Utility Relocation Designs Have Forced the Authority to Adopt Mitigation Measures**

The Authority's inability to finalize utility relocation designs as scheduled has ripple effects on its completion of the design for the extensions' configuration footprint. With the planned configuration footprint affected by the delay in obtaining approved utility designs, the Authority's acquisition of right of way may fall behind schedule as well. Although the Authority has started the process for acquiring whole parcels of land, it plans to first progress design to 60 percent before it acquires partial parcels because doing so ensures that design has progressed to a point where the Authority has confidence in its identification of the partial parcels' precise boundaries. As of our review, the Authority had revised the finish date for the Bakersfield configuration design to December 2024 and did not have a completion date for the Merced extension. However, because completing the final configuration footprint at 30 percent is contingent upon finalizing utility relocation designs, the delays described in the previous section could also cause delays in the acquisition process for partial parcels.

To keep design progressing in the absence of final utility relocation designs, the Authority described two actions it is taking. First, the Authority stated it instructed its contracted designer for the Bakersfield extension to make the configuration footprint as conservative as possible to account for the maximum amount of land needed for utility relocations. The Authority explained it is considering doing the same for the Merced extension. However, the Authority will still need to finalize utility relocation designs before it can be certain about which partial parcels to acquire. Second, the Authority has instructed its designers to proceed *at risk* by developing utility relocation designs without owner review and approval. Nonetheless, when the designers proceed at risk, they may have to redesign in the future if the owner does not agree with a design, leading to additional schedule delays and costs.

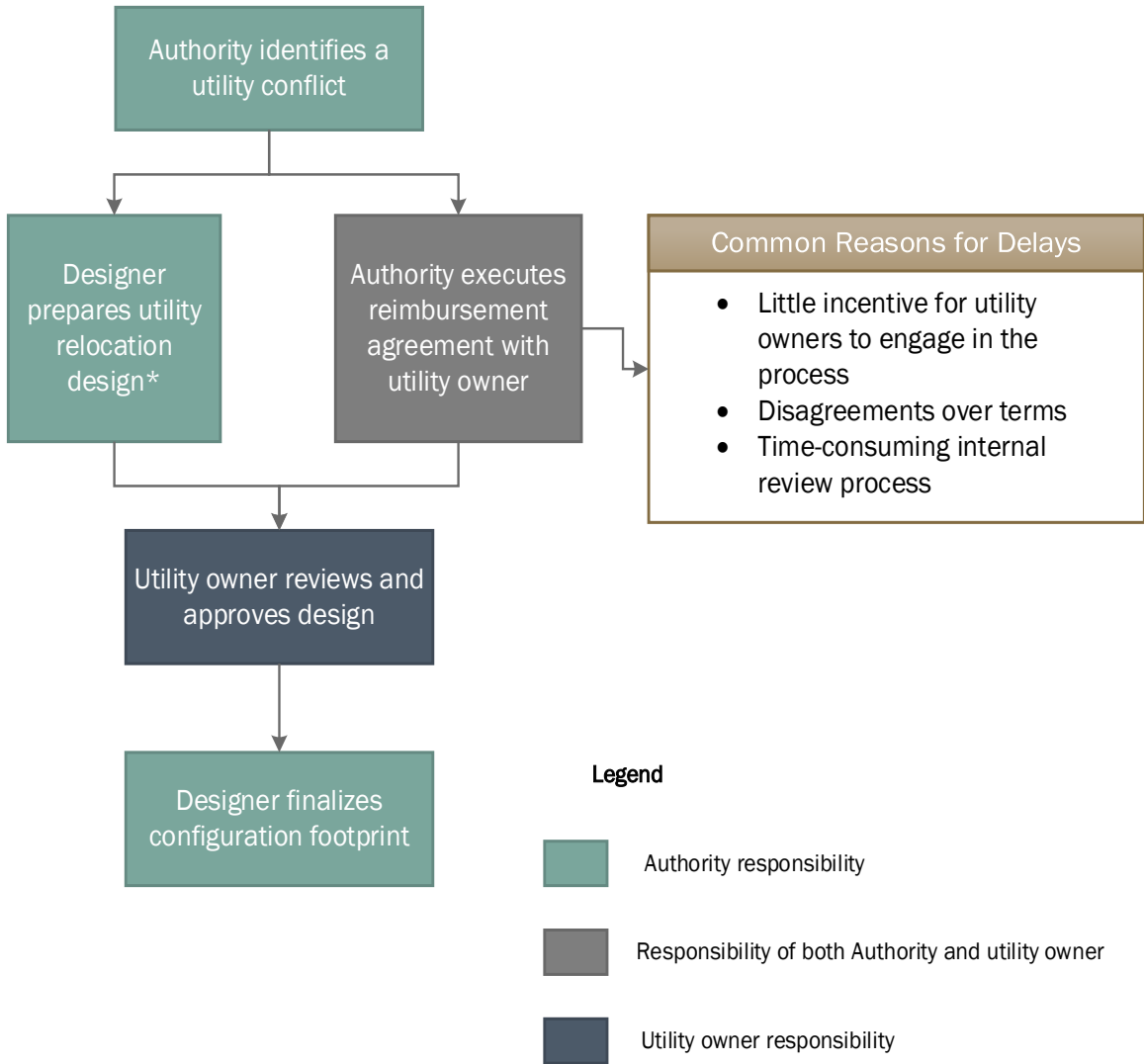
The Authority explained that it is attempting to mitigate this design risk in several ways. One mitigation measure is to protect the utilities in place, which can involve protective actions without relocating a utility, such as encasement in concrete to avoid damaging it. A second measure is to change the design so that construction will no longer impact certain utilities, thereby limiting the total number of relocations (and approved designs) needed. For example, according to Authority staff, the designers are redesigning a portion of the guideway to avoid impacting a utility facility where many utility lines converge. Authority staff further explained that proceeding at risk with utility relocation designs without owner review is a riskier action when the utility owners in question own many of the utilities affected by the extensions. For utility owners with fewer utility conflicts, the approach is less risky as there would likely be fewer total design changes. Regardless of the ultimate effectiveness of these mitigation measures, however, they likely would have been unnecessary had the Authority been able to complete the design of utility relocations as scheduled.

## **Significant Delays in Executing Reimbursement Agreements Have Delayed Utility Relocation Designs**

The Authority has not executed needed agreements with utility owners as quickly as expected, delaying the finalization of designs and the actual relocation of the utilities. In an attempt to ensure it could complete the designs of utility relocations in a timely manner, the Authority decided to pursue a different strategy in working with third parties on the extensions than it had on the initial segment. The Authority explained that for the initial segment, it generally entered into agreements with utility owners that covered both the review of designs and the subsequent relocation of the utilities. For the extensions, the Authority decided to split this process into two agreements—one for design review and one for utility relocation. The Authority refers to the design review agreement as a *reimbursement agreement* because it establishes the process by which the Authority pays the utility owner for its effort spent reviewing and providing comments on utility relocation designs as well as providing information about the property affected. The Authority told us that it had believed it would be faster and easier to secure separate reimbursement agreements that only cover the simpler tasks of the design phase as opposed to negotiating larger single agreements that covered both design and construction. The Authority will need to negotiate separate agreements for the actual relocation of the utilities on the extensions before it can begin construction.

Although the Authority had intended to complete the reimbursement agreements quickly and well in advance of finalizing the configuration footprint by December 2024, it has encountered significant delays. Figure 4, which depicts the process for executing reimbursement agreements with utility owners, includes common reasons for delays during that process, which can in turn forestall design review and, ultimately, relocation of the utility. We discuss these reasons in detail throughout the remainder of the report. The Authority explained that it needs a reimbursement agreement with the utility owner before the owner will approve designs. According to the Authority, some utility owners will provide informal review of designs without a reimbursement agreement in place. However, the Authority acknowledged that even in such instances, without the agreement in place, it cannot get formal approval of the designs from the utility owners and therefore cannot proceed with relocating the utilities in advance of constructing the guideway. The Authority stated that some utility owners, including the owner with the second-highest number of utilities affected by the extensions' designs, will not perform any review of designs without an agreement in place.

**Figure 4. Negotiating Reimbursement Agreements Can Delay Utility Relocation Designs**



\*Either the utility owner or the Authority, upon the owner’s request, prepares the designs for utility facility relocations.

Source: Analysis of utility relocation process documentation, design contracts for the extensions, and reimbursement agreement status documentation.



The Authority has identified a total of 38 reimbursement agreements needed between the two extensions. Table 1 shows the status of these reimbursement agreements as of November 15, 2024, just one month before the originally intended deadline of December 2024 for finalizing the design of all necessary utility relocations. The Authority had still not reached an agreement with 12 of the third parties at that time. The Authority’s records indicate that it had been in negotiations with some of these parties for nearly two years. The Authority’s tracking indicates that of the negotiations where an agreement has been executed, most were only executed recently—after May 2024. Consequently, as discussed above, the Authority had made limited progress in owner review of relocation designs as of November 2024. In addition, for the two utility owners with the largest number of utility conflicts with the guideway, one agreement was only executed in late November 2024 and the other was still pending as of January 2025. According to a December 2024 report from the Authority, these two owners have 270 combined utility conflicts for which designs must be finalized, far more than any other utility owners covered in that report. As of January 2025, the Authority reported that it had managed to reach agreement with three more utility owners but that nine were still under negotiation. The Authority projected that it could take until May 2025 to execute the remaining agreements.

**Table 1. The Authority Had Not Executed All Needed Reimbursement Agreements for the Extensions by November 2024**

<b>November 2024 Status</b>	<b>Merced</b>	<b>Bakersfield</b>	<b>Total</b>
<b>Negotiation in progress</b>	6	6	12
<b>Agreement reached, execution in progress</b>	2	7	9
<b>Executed</b>	11	6	17
<b>Total</b>	<b>19</b>	<b>19</b>	<b>38</b>

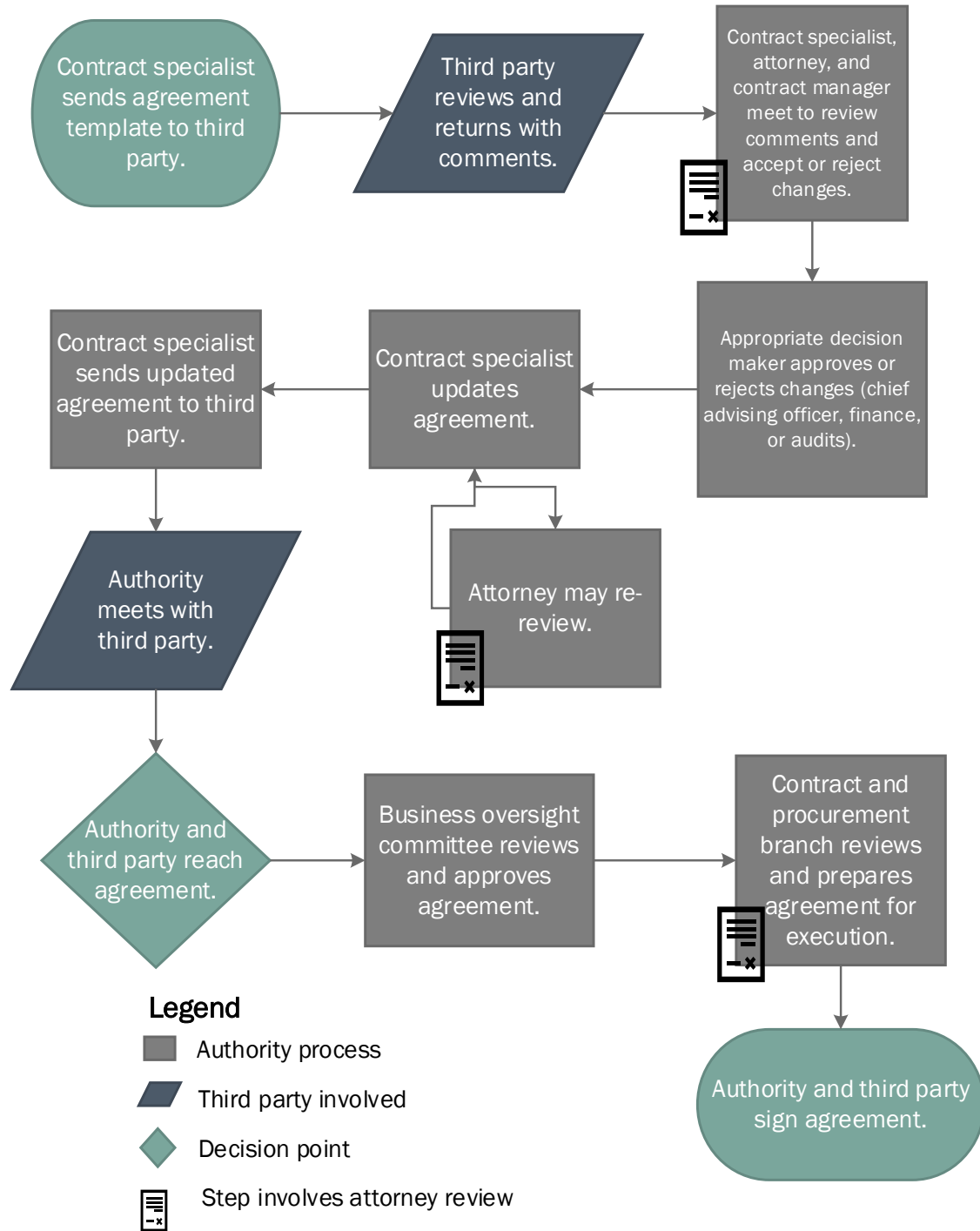
Source: Analysis of Authority’s reimbursement agreement status report for November 15, 2024.

## **The Authority Should Define Timelines and Improve Monitoring for Its Internal Reimbursement Agreement Process**

Although the Authority faces factors outside of its direct control that can delay reimbursement agreements, we also observed that the Authority's internal process for creating, reviewing, and approving reimbursement agreements can be quite lengthy and could be improved. The Authority has a template it uses for reimbursement agreements, but third parties may subsequently make changes to this template during their review. These changes must be reviewed in turn by the Authority, and the Authority's internal process includes multiple levels of review for each draft agreement, including contract managers, attorneys, and, depending on the negotiation, executive-level employees. Figure 5 shows the review and approval process for reimbursement agreements, specifying which steps are internal to the Authority. The Authority tracks the status of reimbursement agreements at various stages throughout its internal process, but its records—as currently managed—do not allow it to effectively monitor the extent to which the process adheres to applicable timelines or broadly determine the causes for delays. The Authority uses excel spreadsheets to track the current status of the agreement and record the latest actions that have been taken—for example, receiving comments back from the third party or holding an internal meeting to discuss the agreement. However, the spreadsheets generally only track these benchmarks as text comments—as opposed to in dedicated data fields—and do not always track benchmarks consistently across the Authority's various third-party negotiations. Although we therefore could not reliably conduct a systematic analysis of the timeliness of the Authority's internal process, we reviewed records pertaining to a selection of five agreements that were still pending, as well as one that was executed during our review, to identify causes for internal delays.

Our review found that the Authority does not have comprehensive timeframes in place for managing its third-party agreements process. The Authority's third-party agreements branch manages sending out initial agreement templates and coordinating subsequent communications. This branch's guidance for its contract specialists indicates that those staff are to produce the initial draft, as well as any subsequent drafts incorporating edits agreed upon during the negotiation process, within seven days. However, the Authority confirmed that during reviews by Authority staff outside the agreements branch, such as legal staff, contract specialists try to schedule meetings with those staff as soon as possible to discuss those reviews, but that there is no set time frame in which to schedule the meeting. Instead, the speed at which the contract specialist can schedule a meeting generally depends on the priority of the agreement.

**Figure 5. The Authority's Process for Establishing Reimbursement Agreements Includes Multiple Layers of Internal Review and Approvals**



Source: The Authority's reimbursement agreement procedures.

We observed that internal review periods can be lengthy. For example, the Authority's records for one agreement indicate that staff had taken more than four months to review changes made by the third party and had not yet returned the draft agreement to the third party as of November 2024. The records indicate that an Authority attorney was reviewing the agreement during this period. The attorney in question explained to us that the third party had made substantial changes to the agreement template, and so her review was particularly time consuming. Authority staff responsible for overseeing the third-party agreement process told us that, generally, only one or two attorneys are available to review pending reimbursement agreements, and legal staff reiterated that an insufficient number of staff attorneys has caused delays in reviewing agreements. Figure 5 highlights the steps in the process that include legal review and therefore where, to the extent staffing is insufficient, delays could consequently arise.

The Authority also lacks procedures that instruct staff how long they should try to resolve a negotiation issue before escalating it. The Authority told us that, in practice, if an Authority staff person and their counterpart at the third party cannot resolve a matter, it will be escalated to the next appropriate level of management. However, in the absence of clear procedures, we noted instances in which negotiations stalled for considerable periods before being escalated. For example, the Authority's internal records indicate that it has been negotiating one reimbursement agreement with an important third party for more than a year. The records indicate that in February 2024, the third party requested a provision in the agreement concerning reimbursement for its attorney fees to which the Authority objected. Thereafter, Authority staff spent roughly five months in discussion with the third party without coming to any resolution before deciding to hold a meeting to escalate the issue to the executive level. The Authority agreed that having defined negotiation timeframes, and communicating those timeframes to third parties, would be helpful in making the process more efficient and stated that it intends to institute such timeframes moving forward.

Even after the Authority has reached agreement with a third party in principle, a lack of internal timelines may continue to contribute to delays in executing the final agreement. Once an agreement is reached with the third party and at all appropriate levels of Authority leadership, the Authority's contract and procurement branch performs a final review and execution of the agreement. The Authority confirmed that they do not have current procedures for this process to establish timeframes for how long steps in the process should take. The Authority explained that the review process generally takes around two to three months. However, according to the Authority, if an agreement has been substantially altered, the review can take five to six months before the agreement is executed. We reviewed Authority records that pertained to third parties, which confirmed the variability in the length of time that transpired before execution; some agreements took only a few months to execute, while others took six or more months.

The Authority explained that delays in its contract and procurement review can occur for various reasons. For example, delays could occur during legal review if substantial changes to the template have not previously been reviewed by the Authority attorney that is assigned to perform the contract and procurement branch review. The Authority stated that it has tried to mitigate these delays by having the same attorney who worked on the agreement during negotiations also review the



agreement for the contract and procurement branch. Overall, procedures establishing timeframes for its process, as well as improved tracking of reimbursement agreements, could help the Authority determine more reliably where and why internal delays are occurring and therefore help ensure it responds effectively. Because some causes of delays are likely outside of its direct control, as we discuss in the following section, the Authority has a responsibility to ensure it works as efficiently as possible to complete its internal production, review, and approval of reimbursement agreements.

## **Recommendations**

To improve its ability to process and review third-party agreements in a timely manner, the Authority should do the following:

1. By May 2025, the third-party agreements branch and the contracts and procurement branch should develop procedures with defined timeframes for their internal review processes. These should include defined timeframes for how long staff at each level should attempt to resolve an issue before escalating it.
2. By May 2025, modify its internal tracking tools so that it can monitor whether internal timeframes are met and analyze the causes of common or persistent delays across third-party agreements.
3. If the Authority believes it needs additional legal staff, it should assess its legal staffing and determine the most expeditious way to hire additional staff, including reviewing other vacant positions in the Authority that could be re-purposed or requesting additional positions for fiscal year 2026-27.

## **The Authority Lacks Leverage When Negotiating with Third Parties**

Notwithstanding the internal timeliness issues we discuss above, the Authority appears to lack leverage needed to ensure timely negotiation of, and agreement to, terms by third parties. We examined the same selection of negotiation records discussed above to identify causes for delays that, in these cases, appeared to be outside of the Authority's direct control. The records indicate that some third parties have been slow to engage with the Authority or to turn around work products to ensure agreements are executed in a timely manner. For example, the Authority's records indicate that, for one agreement, it took the third party nearly two months to review and provide comments on the initial draft agreement. In another case, the records state that the third party was unresponsive for approximately three months and, later in the negotiations, it took the third party several additional weeks to respond to and attend a requested meeting.

During our review, Authority staff described what they believe are some causes of challenges in negotiating timely agreements with third parties. Authority staff responsible for working with third parties and overseeing design of the extensions indicated to us that delays result, in part, from third parties' lack of incentive to engage in the process, which requires work on their part that they wouldn't otherwise perform. Further, Authority staff overseeing the Central Valley region of the system explained to us that because utility owners, for example, are not under any particular time pressure, there is a resulting imbalance in these negotiations and the Authority's other interactions with third parties.

Additionally, Authority staff explained that, in the past, the Authority sometimes agreed to terms that put it in a disadvantageous position—for example, agreeing to compensate third parties for their attorney costs or agreeing to overly tight timelines for construction related to relocating individual utilities. We saw documentation of this type of issue in the example described in the previous section concerning attorney fee reimbursement. Authority staff also indicated that the lack of uniform agreement terms more generally increases difficulties in efficiently reaching and executing agreements. Authority staff expressed that, although the Authority has learned from and is now trying to avoid past mistakes, the legacy of those older agreements means that some third parties expect to receive the same terms as before, making current negotiations challenging.

To allow infrastructure projects to move forward more efficiently, the Governor ordered the California State Transportation Agency in 2023 to establish an interagency task force that would assist major infrastructure projects by working with third parties to obtain approvals and facilitate agreements necessary to relocate utilities or mitigate project impacts and allow construction to commence sooner. The Authority and the California Department of Transportation, among other agencies, were named in the executive order as task force participants. According to the Authority, it has brought two issues to the task force for assistance to date. In both instances, the Authority stated that it sought the task force's help because it could not reach an agreement with the utility, even after escalating the issue to the highest executive level internally.

The Authority stated that it is rare for an issue to be escalated high enough that it would be appropriate to involve the task force, and that generally, the delays in reaching agreements with third parties are a function of a time-consuming process, as opposed to an intractable disagreement. The executive order creating the task force does not direct it to pursue broader structural changes to the process or to recommend legislative action that might improve the Authority's, and other state agencies', ability to negotiate with third parties. Nevertheless, given the task force's overarching goal of helping minimize impacts to state infrastructure projects, the Authority should also explore using the task force's subject matter expertise to help it identify potential solutions to recurring negotiation challenges.

In response to our review of these external factors, the Authority shared with us ideas for legislative changes it believes could facilitate cost-effective coordination with third parties and therefore improve its ability to relocate utilities in a timely manner. For example, the Authority cited the potential benefits of the ability to obtain expedited possession of the land and facilities for a utility that needed to be relocated without going through the full eminent domain process or entering into a contract with the utility owner. This approach would allow the Authority to more expediently relocate the utility in a manner consistent with the owner's existing standards and specifications and while causing the least disruption to utility services, but to do so without needing to first obtain explicit approval for its planned approach. In such a scenario, the Authority could also subsequently obtain comparable replacement land rights for the owner as opposed to obtaining those rights before the relocation.

More broadly, the Authority indicated that having statutory authority to require third parties to relocate their own utilities in a timely manner and to write regulations establishing timeframes and other requirements for a more efficient utility relocation process would promote the faster construction of the high-speed rail system. Such authority would also provide a means of enforcing said timeframes and other requirements. Notably, staff also argued that the project and surrounding communities would themselves greatly benefit from this additional authority, as structures and guideway would get built more quickly, disruptions to traffic would be shorter, and project costs could be decreased. However, the Authority expressed that it has not fully explored the feasibility of these ideas. As such, before presenting any proposals to the Legislature, the Authority would need to develop these concepts further, which we believe it should do as promptly as possible.

Given the Authority's experience on the initial segment, and the fact that its new staged delivery process does not fundamentally change the dynamics of its negotiating position with utility owners, we believe it is imperative that the Authority work with state lawmakers to identify and implement statutory solutions to the challenges it faces. In addition to improving its own timeliness as a partner in third party negotiations, the Authority should pursue solutions that help ensure utility owners—which include local government entities and investor-owned utility companies regulated by the state—operate within reasonable review and approval timeframes to better facilitate the important state interest California high-speed rail represents. Changing the negotiating dynamics with utility owners is a critical long-term need for high-speed rail; the risks represented by early works delays are likely to become even more pronounced as the system moves beyond the Central Valley to

connect to and serve more populated urban centers in California—planned segments with initial designs that indicate higher total cost estimates and considerable numbers of potential utility conflicts.

### **Recommendation**

To improve the Authority’s ability to engage with third parties and complete early works activities in a timely manner, the Authority should seek the assistance of the task force on third parties and work with state lawmakers to identify specific changes to statute that it believes will improve its ability to accomplish these activities, including the following potential changes to state law:

1. Adding intent language describing and declaring the high-speed rail system’s importance to state transportation priorities and the public good and calling on local government entities and state-regulated utility owners within the system’s alignment to make the timely completion of the system a high priority.
2. Authorizing the Authority to promulgate regulations governing third-party review and approval timeframes for agreements and designs.
3. Providing the Authority with the ability to proceed with necessary designs and utility relocations if third parties are non-responsive after the period of time specified in the Authority’s regulations.



# Appendix A

## Scope and Methodology

The objective of this review was to assess the Authority's efforts to address challenges it has faced with third parties and early works and determine the status of early works on the Merced and Bakersfield extensions. We performed the review during the period of October 2024 to February 2025. The three review objectives were as follows:

- 1) Evaluate the Authority's policies and procedures for identifying and managing third-party issues, including right-of-way acquisition and utility relocation;
- 2) Identify potential issues in right-of-way acquisition and third-party coordination on the extensions and evaluate their potential adverse impacts to the extensions' schedules, and;
- 3) Recommend possible solutions, including those that could be implemented by state lawmakers, to improve the timeliness and efficiency of preparing the extensions for construction.

We performed the following to address the objectives:

1. Interviewed Authority personnel and reviewed the Authority's right-of-way manual to determine the Authority's processes for right-of-way acquisition and utility relocation.
2. Interviewed Authority personnel and reviewed the Authority's policies and procedures for its staged project delivery process to determine how the Authority plans to manage the risk of moving into construction before completing necessary early works activities.
3. Reviewed the extensions' baseline schedules and compared them to schedule updates and the Authority's internal reports on completing utility relocation designs and its effect on acquiring right of way.
4. Reviewed the Authority's tracking of utility relocation designs for the extensions to determine the status of those designs and third-party review of the designs.
5. Reviewed the Authority's tracking of third-party reimbursement agreements to determine the status of those agreements.
6. Interviewed Authority personnel and reviewed the Authority's procedures for processing reimbursement agreements to determine the cause of delays.

## **Appendix B**

### **Authority Response**

We have included the Authority's response to our review results and recommendations in its entirety. Following the Authority's response, we have also included a series of comments necessary to clarify and provide additional perspective. The numbers of those comments correspond to the numbers we have placed in the margin of the response.



Gavin Newsom  
GOVERNOR  
Ian Chowdhry  
CHIEF EXECUTIVE OFFICER



February 14, 2025

Jordan Wright  
Deputy Inspector General  
California State Auditor  
621 Capitol Mall, Suite 1200  
Sacramento, CA 95814

Dear Mr. Wright:

We are in receipt of your draft report "Pre-Construction Activities for the Merced and Bakersfield Extensions: Persistent Delays in Securing Agreements with Third Parties Require New Solutions" and the Authority's responses are provided in this letter.

The Authority is currently undertaking the construction of 119 miles from Madera to Poplar Avenue in Kern County (the Initial Segment), with extensions north to Merced and south to Bakersfield now in design for the full 171-mile high-speed rail corridor between Merced and Bakersfield (the M-B Segment). The report's scope is primarily focused on the extension projects in the M-B Segment, which the California High-Speed Rail Authority (Authority) is committed to delivering by 2030-2033.

1 While the Authority has provided responses to each of the report's specific findings below, we also observe that the report fails to take into account the context within which these observations are being made. The Authority is in the midst of a significant restructuring, as new leadership is installed in most of the Authority's major functional areas, with the goal of transforming the organization into an effective project delivery organization. Significant progress had been made in the last six months to streamline and improve project delivery processes, and these efforts remain ongoing.

We appreciate that the Office of the Inspector General (OIG) acknowledged many of the strategies the Authority is already implementing to progress the high-speed rail system based on lessons learned. These strategies include:

- Implementing a staged project delivery approach for the Merced Extension and Bakersfield Extension to reduce impacts to schedule and budget.
- Finalizing utility design earlier in the process to mitigate the number of acquisitions needed.

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- Providing for the Authority and the utility owner to review relocation designs at multiple milestones to ensure that the Authority is accurately incorporating information the utility owner provides.
- Instructing the use of a configuration footprint and advancing utility design where the Authority and Utility Owners have not entered into agreements to mitigate risk.

We would also note that the Authority is implementing various other strategies to mitigate the schedule, including:

- Working with the Administration and Legislature on proposed legislation to improve the Authority's ability to advance third-party utility work more expeditiously.
- Evaluating a range of contracting methods that can be employed on the M-B Segment extensions.
- Identifying parcels with low utility impact risk to advance property acquisition.
- Identifying measures to protect the utilities in place or changes in construction to avoid impact all together.
- Undertaking a comprehensive review of the Authority's Design Criteria Manual (DCM) for design requirement improvements that could lead to favorable cost and schedule impacts.
- Coordinating activities monthly with project teams to evaluate proposed schedule updates and proactively identify project interface risks that can prompt mitigation and governance actions.
- Working closely with State and Federal officials on efforts to build support and identify additional funding opportunities.

While this list is not exhaustive, it provides additional context regarding key management actions the Authority is taking to mitigate schedule and funding risks to the project.

The Authority provides the following responses to the OIG's recommendations:

**Review Result #1**

**Staged project delivery could help ensure the Authority does not begin construction before it completes important early works, but it does not resolve other longstanding issues with third parties.**

OIG Recommendation

To further reduce the risk of beginning construction of the extensions too early, the Authority should finalize its staged project delivery process procedures and better implement the purpose of these procedures by revising them to specifically require staff to include the status of all relevant deliverables in the materials for meetings related to advancing the project to a new stage. The procedures should specify that if a deliverable has not been met, meeting materials should include a justification for why the project should still proceed to the next stage.

Authority Response

2 The report highlights a work effort that is already underway and at an advanced stage. Since the 2022 Business Plan, the Authority has presented its staged project delivery approach and currently the Authority has a policy in place (POLI-1083 Staged Project Delivery policy). The Authority is also re-evaluating all its prior decisions regarding packaging and delivery methods for the extensions; it is accelerating focused design to enable early right-of-way acquisition and utility relocation ahead of letting construction contracts; and is deploying cutting edge technology to identify areas of likely conflict with third-party facilities to better inform these early work efforts.

Review Result #2

**Utility relocation designs are behind schedule because of delays in executing reimbursement agreements with third parties, risking potential delays to acquiring right of way.**

OIG Recommendation

To improve its ability to process and review third-party agreements in a timely manner, the Authority should do the following:

1. By May 2025, the third-party agreements branch and the contracts and procurement branch should develop procedures with defined timeframes for their internal review processes. These should include defined timeframes for how long staff at each level should attempt to resolve an issue before escalating it.
2. By May 2025, modify its internal tracking tools so that it can monitor whether internal timeframes are met and analyze the causes of common or persistent delays across third-party agreements.
3. If the Authority believes it needs additional legal staff, it should assess its legal staffing and determine the most expeditious way to hire additional staff, including reviewing other vacant positions in the Authority that could be repurposed or requesting additional positions for fiscal year 2026-27.

Authority Response

The Authority is already working to implement an internal tracking tool for monitoring third-party critical items. In January 2024 the Authority implemented the use of a new software tool/database system (LandPro) for storing right-of-way acquisition data. LandPro allows for acquisition data to be organized, managed and leveraged to provide status, reporting, and timelines as the single source of verification for the Authority.

In November 2024, the Authority began development of a third-party tracking tool within the LandPro database that will be implemented by May 2025, meeting the OIG's recommended timeframe. This will allow for the Authority to track agreement statuses in real time, set alerts related to task durations, identify escalation stakeholders, and provide history reporting on agreements. Additionally, the Authority is working to implement geographic information system (GIS) tools for a visual interface between right-of-way and third parties. This GIS interface will allow the Authority to further analyze utility relocation impacts on construction.

The Authority is also developing a documented procedure for timely third-party escalations related to agreements, right-of-way acquisitions, and relocations. The Authority will have this procedure in place no later than August 2025.

In response to recommendation No. 3 above, the Authority continuously reviews its resource needs as part of the annual state budget process and manages within its existing resources. The Authority is considering all its internal and external support needs as part of its ongoing re-envisioning effort.

The Authority also notes that the "third-party agreements branch" and the Authority staff responsible for right-of-way acquisition has been consolidated under the new Statewide Regional Director, meaning that regional stakeholder outreach and necessary third-party interactions will be more closely aligned under a single Authority reporting structure.

Review Result #3

**Both internal and external factors cause delays in negotiating reimbursement agreements with third parties, including insufficient internal deadlines and a lack of negotiating leverage.**

OIG Recommendation

To improve the Authority's ability to engage with third parties and complete early works activities in a timely manner, the Authority should seek the assistance of the task force on third parties and work with state lawmakers to identify specific



changes to statute that it believes will improve its ability to accomplish these activities, including the following potential changes to state law:

1. Adding intent language describing and declaring the high-speed rail project's importance to state transportation priorities and the public good and calling on local government entities and state-regulated utility owners within the project's alignment to make the timely completion of the project a high priority.
2. Authorizing the Authority to promulgate regulations governing third-party review and approval timeframes for agreements and designs.
3. Providing the Authority with the ability to proceed with necessary designs and utility relocations if third parties are non-responsive after the period of time specified in the Authority's regulations.

Authority Response

3 We appreciate the OIGs report recommendation supporting legislative actions that the Authority is already intending to pursue. The Authority's Chief Executive Officer is already seeking support from state lawmakers, the California State Transportation Agency task force on third parties, and others to pursue proposed legislation to improve the Authority's ability to accomplish third-party utility relocations more expeditiously. Among other statutory and regulatory approaches, the Authority is pursuing legislation as follows:

1. Prioritizing implementation of the high-speed rail system by recognizing its essential role in achieving the state's environmental, transportation, and energy goals and requiring state agencies, local governments, and utility owners to provide the cooperation needed to advance the project.
2. Requiring utility owners to (a) publish their utility facility design standards and specifications, (b) comply with Authority design standards and specifications for utility facilities within the Authority right-of-way, and (c) comply with reasonable facility relocation timeframes.
3. Creating an expeditious eminent domain process for utility relocations that allow utility owners a prescribed time to relocate their facilities.

The Authority is actively exploring various solutions to address these challenges.

Next Steps & Strategic Focus

The Authority is working with state, federal, and private partners to stabilize funding, improve project delivery, and minimize risk. Moving forward, key priorities include:

- Finalizing utility agreements and relocation designs.



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- Strengthening oversight and approval processes for project readiness.
- Exploring innovative construction; AI-driven scheduling, utility relocation, and right-of-way acquisition optimization; and modular design to optimize cost and speed.

By refining project management and reducing risks, the Authority aims to deliver California's high-speed rail efficiently and sustainably.

The Authority appreciates the Inspector General's observations, investigation results, and recommendations, and will continue working in good faith with the OIG to advance the recommended modifications to Authority's program.

If you have any questions, please contact Basem Muallem, Statewide Regional Director, at [basem.muallem@hsr.ca.gov](mailto:basem.muallem@hsr.ca.gov) or 916-720-8600.

Sincerely,

Basem Muallem  
Statewide Regional Director  
California High-Speed Rail Authority

cc: Ian Choudri, Chief Executive Officer

## OIG-HSR Comments on the Authority's Response

1. We did not include in our report the recent organizational developments described by the Authority in its response because these developments do not appear to be directly relevant to the subject of our review—pre-construction activities on the Merced and Bakersfield extensions—nor were these developments described to us as relevant by the Authority during the course of our review. Further, although we appreciate its efforts, we note that the project delivery process changes the Authority references have yet to measurably improve the M-B schedule.
2. The policy mentioned by the Authority is the policy we evaluated during our review. The Authority has yet to finalize the procedures for implementing that policy. As we discuss in the report, those procedures also require strengthening to ensure fuller oversight of key project decisions. That oversight will remain critical irrespective of any changes the Authority makes to its underlying strategy for packaging and constructing the extensions.
3. At no point during the course of our review, including our recently held exit conference with the Authority, did the Authority demonstrate or otherwise indicate that it was already pursuing legislation to improve the Authority's ability to accomplish third-party utility relocations more expeditiously. If it had, we would have happily acknowledged those actions and intentions in our report, as it appears that our conclusions and recommendations are aligned with the Authority's now-stated intentions.



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- Gross waste of funds.
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