



**CALIFORNIA**  
High-Speed Rail Authority

# **CALIFORNIA HIGH-SPEED RAIL: Environmental Services for the Merced to Fresno Project Section**

Pre-Bid

December 13, 2022

# WELCOME AND AGENDA

- Moderator
  - » Alice Rodriguez, Deputy Director of External Affairs
- HSR Project Overview
  - » Alice Rodriguez, Deputy Director of External Affairs
- Small Business Program Overview
  - » Ashley Mistler, Small Business Advocate
- Procurement Overview
  - » Brett Rushing, Cultural Resources Program Manager
- Organizational Conflicts of Interest Overview
  - » Lisa Crowfoot, Attorney IV

# PROCUREMENT PROCESS DETAILS

- **Webpage**

<https://hsr.ca.gov/business-opportunities/contractors/environmental-services-for-the-merced-to-fresno-project-section/>

Or go to: [www.hsr.ca.gov](http://www.hsr.ca.gov), then [Business Opportunities](#), then: [Contractors](#) Then [Environmental Services for Merced to Fresno](#)

This webpage will include:

- Pre-Bid Video
- PowerPoint
- Registrant List

- **California State Contracts Register Webpage**

<https://caleprocure.ca.gov/event/2665/0000025326>

This webpage will include:

- Responses to Questions
- Request for Qualification Updates
- **Submit questions to [capitalprocurement@hsr.ca.gov](mailto:capitalprocurement@hsr.ca.gov)**
- **Questions due by Tuesday, December 20<sup>th</sup>**



# CALIFORNIA HIGH-SPEED RAIL: Project Overview

Alice Rodriguez

Deputy Director of External Affairs



# CONNECTING CALIFORNIA

## Program Highlights

- **Mission:**
  - » To initiate the construction of a high-speed train system that utilizes an alignment and technology capable of speeds up to 200 miles per hour or greater.
- **Phase 1**
  - » 494 Miles
  - » San Francisco to Los Angeles/Anaheim
- **Phase 2**
  - » After Phase 1 - Extends 300 Miles
  - » Connections to Sacramento and San Diego

**Travels at approximately 200 mph  
Up to 24 Stations**



San Francisco  
Millbrae-SFO

San José

Gilroy

Carlucci Road

Merced

Madera

Fresno

Kings/Tulare

Bakersfield

Palmdale

Burbank

Los Angeles

Norwalk/Santa Fe Springs

Fullerton

Anaheim

# Central Valley Initial Operating Segment

- 171 Miles
- 100% environmentally cleared
- 119 miles under construction
- 52 miles starting advanced design (pre-construction work)
- Design for Central Valley Stations
- Track, Systems and train procurement contract bids in 2023

**Goal: Initial operations by 2030**

# Bay Area Valley to Valley Segment

- 159 Miles
- 100% environmentally cleared
- Eligible to begin advanced design in 2022/2023
- Corridor electrification underway on 51 miles through Caltrain Electrification Project
- Segment construction is unfunded

**Goal: Advance design work in 2023; identify “shared corridor” early capital investments; develop funding plan options**





# Southern California Complete Phase 1

- 164 Miles
- 92 miles (56%) environmentally cleared in 2022 (remainder in 2023/24)
- Some advanced design could begin in 2023
- Segment construction is unfunded

**Goal: Complete all environmental; begin advanced design in 2023; identify “shared corridor” early capital investments; develop segment funding plan options**



# PROGRAM UPDATE

## Highlights

- **9,800+ Construction Jobs Created Since Construction Began**
  - » 1,000+ Construction Workers Dispatched to Sites Daily
  - » 34 Active Construction Sites
- **739 Small Businesses Employed**
  - » 237 are Disadvantaged Business Enterprises
  - » 90 Disabled Veteran Business Enterprises
- **Leading In Sustainability**
  - » Run on 100% Renewable Energy
  - » Currently Using Tier IV Equipment on Construction
  - » Will Reduce VMT by taking 400k cars off the road annually







# CALIFORNIA HIGH-SPEED RAIL: Small Business Program

Ashley Mistler, Small Business Advocate  
Process & Program Development Branch  
[sbprogram@hsr.ca.gov](mailto:sbprogram@hsr.ca.gov)

# SMALL BUSINESS PROGRAM



- 30% Goal for Small Business Participation
  - » 10% Disadvantaged Business Enterprises (DBE)
  - » 3% Disabled Veteran Business Enterprises (DVBE)

# Commitment to Diversity

## Small Business Certification Overview

Certifications That Count Toward the Overall Goal:

- **California Department of General Services**

- Small & Micro Businesses (SB / MB)
- Disabled Veteran Business Enterprises (DVBE)
- Small Business for Public Works (SB-PW)

state

- **California Unified Certification Program**

- Disadvantaged Business Enterprises (DBE)

- **US Small Business Administration**

- 8(a) Disadvantaged Business Program
- Service Disabled Veteran-Owned SB (SDVSOB)

federal

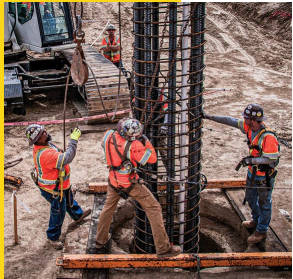




# Small Business Program

## Exclusivity

**There is no prohibition against Subconsultants/Subcontractors being exclusive to one Offeror, however, exclusivity is strongly discouraged for SB/DBE/DVBE Subconsultants/Subcontractors**



# Connect HSR

High-Speed Rail Vendor Registry

## Free Online Tool to Connect with Business Opportunities Open to All Businesses, Large and Small

### List Your Business:

- Type of Business
- Services Offered or Supplies Sold
- Service Counties
- Certifications

### Learn About:

- Future Contracting Opportunities
- Training/Workshops

### Register At:

- [www.conmnecthst.com](http://www.conmnecthst.com)





# CALIFORNIA HIGH-SPEED RAIL: Environmental Services for the Merced to Fresno Project Section

Brett Rushing

Cultural Resources Program Manager

# Scope of Work





# Environmental Services Contract

- The scope of work for the procurement and resulting Agreement will include as-needed environmental services, engineering services necessary to support the environmental work and related specialized professional services necessary to provide environmental clearance. The work is more fully described in the RFQ, and includes, but is not limited to, environmental impact analysis, CEQA/NEPA compliance and documentation, environmental re-examination and/or reevaluation, permitting, and environmental compliance during construction, for the Merced to Fresno project section.
- The work included in this Agreement encompasses the Merced to Fresno project section and will augment Authority and other staff resources. The project section is as defined in the 2012 Merced to Fresno certified Environmental Impact Report/Environmental Impact Statement (EIR/EIS) and as revised by any supplemental environmental reviews (such as addenda, reevaluations, reexaminations or any other supplemental environmental documents or approvals).
- The not-to-exceed dollar value for the Agreement is \$3 million with a three-year term. At the Authority's sole discretion, the Agreement may be amended to add two years and \$2 million.

# Environmental Services Contract

## Scope of Work

- Environmental impact analysis services may include preparation and/or support for lead agency compliance review of California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) documents, including:
  - *Environmental Impact Reports*
  - *Mitigated/Negative Declarations*
  - *Environmental Impact Statements*
  - *Environmental Assessments*
  - *Categorical Exclusions Or Exemptions*
  - *Preliminary Environmental Assessment Reports*
  - *Preliminary Environmental Studies/Scoping*
  - *Constraints Analysis; Related Decision Documents (Findings Of Fact, Records Of Decision, Findings Of No Significant Impact, Etc.) And All Related Services, Notices, And Documents.*
  - *Preparation Of Supplemental Environmental Reviews Such As Environmental Addenda, Re-examinations And Reevaluations To Augment Existing Environmental*
  - *Permit Amendments, Mitigation Monitoring And Compliance Work, And Reporting.*

# Environmental Services Contract

- If requested, engineering and design work under this Agreement would be limited to work necessary to support the environmental work. A sufficient level of design is required to prove feasibility of concept and justification of footprint during the environmental process. The Consultant must also ensure that level of design is sufficient for an analysis of impacts consistent with CEQA and NEPA requirements
- All Work under this Agreement shall be performed by written, executed task orders
  - *The Authority will draft task orders or, if requested by the Authority, the Consultant shall draft task orders. After review and agreement by both Parties, each task order shall be signed first by the Consultant's Contract Manager and then by the Authority's Contract Manager*
  - *Changes to executed task orders require written agreement by both Parties.*
  - *Consultant shall not invoice Authority for services or costs that are not included in an executed task order.*

# Environmental Services Contract

- Specialized Environmental Services may include:
  - » Environmental Justice
  - » Socio-Economic Studies
  - » Land Use Studies
  - » Cultural Resources
  - » Economic Impact Assessments
  - » Acoustical and Vibration Analysis
  - » Transportation Planning and Traffic Engineering
  - » Air Quality Analysis and Climate Change Studies
  - » Biological Resources and Wetland Studies
  - » Public Utility and Energy Studies
  - » Hydrology and Water Resource Investigations
  - » Geology, Soils and Seismicity Studies
  - » Hazardous Materials and Waste Expertise
  - » Safety and Security Analyses



# Environmental Services Contract

- Specialized Environmental Services may include:
  - » Agricultural And Forest Lands Studies
  - » Aesthetics And Visual Resources Analyses
  - » Community Impact And Other Demographic Assessment
  - » Electromagnetic Fields (EMF) And Electromagnetic Interference (EMI) Assessments
  - » Cumulative Impact Assessments
  - » Compensatory Mitigation Assessments
  - » Environmental Compliance And Mitigation Monitoring
  - » Supporting The Preparation Of Submittals In Support Of Natural Resources Credits For The Authority's Envision Verification
  - » Regulatory Permitting And Approvals Support Services
  - » Geographic Information Systems (GIS) And Information Management System Services
  - » Section 4(f) Of The USDOT Act Of 1966, And Section 6(f) Of The Land And Water Conservation Fund Act Of 1965 Evaluations And Related Environmental Services

# Environmental Services Contract

## Evaluation and Performance

- This is an Architectural & Engineering (A&E) qualification-based Request for Qualifications (RFQ) procurement.
  - » Refer to Government Code § 4525 et seq, the Authority's regulations found at 21 CCR § 10000 et seq, and the Authority's Board Policy and Procedure for awarding A&E contract.
- The Authority will enter into limited negotiations with the top-ranked Offeror and the contract fees and costs must be determined to be reasonable.
  - » Refer to Public Contract Code § 6106.
- Fee percentage is subject to negotiation in accordance with the RFQ.
- Pre-award review will be conducted concurrently with negotiations prior to execution.

# Environmental Services Contract

## Evaluation and Performance

- Environmental, social, and governance (ESG) efforts, which may include any environmental sustainability efforts, socio-economic equity policies, and governance policies, will be incorporated as a pass/fail requirement in the Request for Qualifications.
- Small Business, Disadvantaged Business Enterprise (DBE), and Disabled Veteran Business Enterprise (DVBE) utilization goals are also included in the Agreement requirements.
  - » 30% Small Business utilization goal, inclusive of 10% DBE utilization goal, and 3% DVBE utilization goal

# Key RFQ Procurement Dates

Key Dates	Activity Description
Tuesday, December 6, 2022	RFQ advertised.
Tuesday, December 13, 2022	Virtual Pre-Bid conference.
Tuesday, December 20, 2022	Last day to submit written questions.
Wednesday, January 18, 2023	SOQs due by 12:00 PM Pacific Time.
Friday, February 10, 2023	Notice of Proposed Award.
March 2023	Contract Negotiations and Notice to Proceed Issued.





# CALIFORNIA HIGH-SPEED RAIL: Organizational Conflicts of Interest Overview

Lisa Crowfoot, Attorney IV

# ORGANIZATIONAL CONFLICTS OF INTEREST

- All entities desiring to enter into an Authority contract must comply with its Organizational Conflict of Interest (OCOI) Policy.
- Why is the OCOI Policy necessary?
  - » Our federal grants require it;
  - » Ensures compliance with state and federal procurement laws and regs; and
  - » Ensures a fair and transparent procurement process, maximizing competition and minimizing exposure to bid protests
- U.S. Supreme Court recognizes that such policies are "...directed not only at dishonor, but also at conduct that tempts dishonor. This broad prescription embodies a recognition of the fact that an impairment or impartial judgment can occur in even the most well-meaning men when their personal economic interests are affected by the business they transact on behalf of the Government." (*United States v. Mississippi Valley Co.* (1961) 364 U.S. 520, 549, 81 S.Ct. 294, 5 L.Ed.2d 268, emphasis added)

# OCOI POLICY DEFINITION

An “Organizational Conflict of Interest” is defined as:

“...a circumstance arising out of a Contractor’s existing or past activities, business or financial interests, familial relationships, contractual relationships, and/or organizational structure (i.e., parent entities, subsidiaries, Affiliates, etc.) that results or would result in:

- **impairment or potential impairment of a Contractor’s ability to render impartial assistance or advice to the Authority or of its objectivity in performing work for Authority**
- **an unfair competitive advantage for any Contractor bidding or proposing on an Authority procurement, or**
- a perception or appearance of impropriety with respect to any of the Authority’s procurements or contracts or a perception or appearance of unfair competitive advantage with respect to a procurement by the Authority (regardless of whether any such perception is accurate).”

# ORGANIZATIONAL CONFLICTS OF INTEREST

- Two general situations in which an organizational conflict of interest will be found to exist for a contractor:
  - » 1. A contractor has an unfair competitive advantage
    - *Example: A contractor has inside or non-public information about a procurement*
    - *Example: A contractor provides services related to a procurement and then bids on it*
  - » 2. A contractor's objectivity in performing its contractual obligations for the Authority would be compromised such that it could not provide impartial assistance
    - *Example: A contractor on Contract A is in a position to oversee its own work on Contract B and mitigation is not possible*
- Courts are very deferential to public agency decisions on OCOs unless the agency acted in an arbitrary or capricious manner, abused its discretion, or acted illegally

# OCOI POLICY FLEXIBILITY

- The Policy states that “the Authority recognizes that its goals must be balanced against the need to not unnecessarily restrict the pool of potential proposers or bidders available to participate in Authority procurements and contracts.”
- If a potential conflict is recognized, the Policy requires consideration of numerous factors to determine whether the contractor may participate in the contract and whether mitigation or safeguards may be implemented to permit participation.
- Such safeguards are commonly applied to allow participation and include measures like ethical walls and release of work product.
- Contractors are generally not “conflicted” out simply because they’ve done prior work on the Project.
- The vast majority of OCOI determinations find that a contractor may participate in the desired procurement and/or contract.



# HOW TO REQUEST AN OCOI DETERMINATION

- Requests for Organizational Conflict of Interest determinations should be submitted to the Authority's Chief Counsel, Alicia Fowler, at [Legal@hsr.ca.gov](mailto:Legal@hsr.ca.gov), referencing the RFQ(s) of interest
- The Authority's OCOI determination process includes the following steps:
  - » After the request is received, an investigation and analysis, including potential mitigation options, is performed by the attorneys
  - » The requestor will often be asked for additional information and/or documents necessary for the OCOI determination
  - » The Chief Counsel makes the final determination and informs the requestor by letter, which discusses the relevant facts and applicable Policy provisions
  - » A requestor who does not agree with an OCOI determination may contact the Chief Counsel to raise additional relevant facts and information

# QUESTIONS AND RESOURCES

- Questions regarding this procurement can be emailed to:
  - » [capitalprocurement@hsr.ca.gov](mailto:capitalprocurement@hsr.ca.gov)
- Registrant List and Pre-Bid Video and PowerPoint will be posted on the webpage.
- Responses to questions and Request for Qualifications updates will be posted to the California State Contracts Register.



## Business Opportunities

California's high-speed rail program offers numerous contracting opportunities across a broad spectrum of services and materials. The Authority also maintains a 30 percent small business participation goal, and those businesses are playing a major role in building the program.



### GENERAL INFO

[Community Benefits Agreement](#)  
[Cal eProcure](#)  
[National Competitive Bid Recovery Act Reporting](#)  
[Organizational Conflict Of Interest Policy](#)  
[Unsolicited Proposal Procedures](#)



### SMALL BUSINESS PROGRAM

[Overview](#)  
[Get Connected](#)  
[ConnectHSR – Vendor Registration](#)  
[ConnectHSR – Vendor Search](#)  
[Policy & Program Plan](#)  
[Business Advisory Council](#)  
[Info Center](#)  
[Newsletter](#)  
[Small Business Assistance Form](#)



### CONTRACTORS

[Contracts Out for Bid](#)  
[Construction Management Services for Rail Design-Build-Maintain Contracts](#)  
[Design-Build Construction Packages](#)  
[Design Services for Central Valley Stations](#)  
[Design Services for Locally Generated Alternative](#)  
[Design Services for Merced to Madera](#)  
[Environmental Services for Merced to Fresno](#)  
[Program Delivery Support](#)  
[Rail Systems Engineering Services](#)  
[Track & Systems](#)

<https://hsr.ca.gov/business-opportunities/contractors/environmental-services-for-the-merced-to-fresno-project-section/>