



**DRAFT**

## **FINANCE AND AUDIT COMMITTEE MEETING MINUTES**

**February 16, 2023**

### **Location**

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

### **Webcast at:**

[www.hsr.ca.gov](http://www.hsr.ca.gov)

The meeting of the California High-Speed Rail Authority (Authority) Finance and Audit Committee Meeting was called to order on February 16<sup>th</sup> at 8:30 A.M. at 1220 N Street, Sacramento, CA. The Meeting Minutes were prepared in the order items were presented during the meeting.

### **Committee Members Present:**

Mr. Tom Richards, Committee Chair  
Ms. Nancy Miller, Vice Committee Chair  
Mr. Jim Ghielmetti, Committee Member

### **Staff Present:**

Mr. Brian Kelly, Chief Executive Officer  
Mr. Brian Annis, Chief Financial Officer  
Mr. Daniel Horgan, Deputy Chief Operating Officer  
Mr. Britton Snipes, Board Secretary

### **Public Comment**

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

### **Item #1 – November Meeting Minutes**

The November 17, 2022, Meeting Minutes were moved for approval by F&A Committee Vice Chair Nancy Miller and seconded by Committee Member Jim Ghielmetti. The meeting minutes were approved by all members present.

### **Item #2 – F&A Committee Chairman’s Remarks, Initiatives, and Updates**

Director of Communications Melissa Figueroa presented an update to the Diversity, Equity, and Inclusion Task Force to the F&A Committee Members.

### **Question (Diversity, Equity, and Inclusion):**

Chair Richards asked if there are goals for each of the areas that Ms. Figueroa went through? Do we have defined goals that we are moving towards or are trying to achieve?

Response:

Ms. Figueroa responded every year we will compare those metrics for hiring and the makeup of our staff. We are working with HR to do additional outreach efforts in specific areas such as low-income communities as well as job fairs which we have not done historically.

**Item #3 – Audit Report by the Chief Auditor**

Chief Auditor Paula Rivera presented an audit of the contract amendment process to the F&A Committee Members.

Question:

Member Ghielmetti commented that the Draft Business Oversight Committee Procedure was dated August 12, 2020. That is two and half years ago. What happened during that period?

Response:

Ms. Rivera responded that the procedures had been drafted but were never finalized and never distributed. There was a change in personnel. There was an interim person who was acting as the Business Oversight Committee Administrator and she reviewed the procedures and made some updates, but as the acting was not in the position to finalize them. We now have a full-time Administrator and they are working to finalize the procedures and we expect that will be done by June.

Question:

Chair Richards asked was that surprising? In the general realm of severity, how severe is this?

Response:

Ms. Rivera responded I would not say it is severe. We had good people in place who were helping those who needed to understand the process. There was just not a resource available to someone who would like to know how to go through the process. We did not find anything that slipped through the cracks or did not get handled. We have good people working on the process, there just is not an available resource for a contract manager to be able to look at a procedure and say "What do I need to do? What are the requirements?" So, I would not say it is severe at all.

Question:

Chair Richards asked what you were looking at was the auditing policies and procedures, not the empirical data of what an amendment might be and whether the amounts were justified? It is the process that you are focused on?

Response:

Ms. Rivera responded correct. The Business Oversight Committee is the governance process that determines whether or not the amendment is necessary, or the price is reasonable, so we did not question the governance.

**Item #4 – Executive Summary by Chief Financial Officer**

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

Question (Cash Management Report):

Chair Richards asked is the release of the additional Prop 1A funding, the \$4.2 billion, are we able to access that in advance of the appointment of an IG?

Response:

Mr. Annis responded yes, there was a provision in the implementing legislation that requires us to do some additional reporting before we access the final \$2.2 billion of that \$4.2 billion. So, what we will do in the future is to do a report on our need of that additional \$2.2 billion. The incoming Inspector General would review that as well as the legislature. There is no need for any further legislation or anything like that.

Question:

Chair Richards asked so you do have access to \$2 billion of the \$4.2 billion?

Response:

Mr. Annis responded that is correct. The Inspector General's selection process is underway. The legislature put out a notice in the fall to accept applications and they put out a three-month window to accept applications and that closed at the end of January. We are now waiting for them to nominate three individuals for the Governor's consideration.

Question (Capitol Outlay Budget Summary):

Chair Richards asked column one is budget authority, so that is what you cannot go over?

Response:

Mr. Annis responded you would have to come back to the board if you were going to exceed that.

Comment:

Chair Richards commented it is always interesting to me how much the forecast is less than the budget authority. I do not remember a year that we ever met the budget.

Response:

Mr. Annis responded typically we are going to come in below the budget because in every area there is a little bit of a contingency to manage. I think we need to do better at coming closer. I would rather see us at 70% or 80% not 50%. We did bring the number down. The budget for FY 22/23 was less than the projection had had a year prior for FY 21/22. We did push some of these forecast numbers down and anticipate doing more of that as we put together the FY 23/24 budget.

Question:

Chair Richards commented I think that is a good plan. We do get criticized for having a budget and never achieving the metrics of the budget.

Comment (Federal Funds and State Match Liability):

Chair Richards commented that our lack of selection in the mega projects portion of the IJJ was not really such a reflection on this project and the Authority, but rather the entire State of California only got \$30 million.

Response:

Mr. Annis responded that is correct.

Question:

Member Ghielmetti asked is that a five-year program total?

Response:

Mr. Annis responded yes, there was a provision in that program that allowed the Office of the Secretary at USDOT to award multiple years of funding in year one. We applied with that in mind, that we thought it was possible that they could award three or four years of funding. We had two applications that were a bit over \$1.2 billion so we actually applied for more than they ended up giving out to all recipients. They basically awarded only year one of the program.

Question:

Member Ghielmetti asked so they changed the provision midstream, is that correct?

Response:

Mr. Annis responded it was an allowance. They gave themselves the flexibility to award more but at the end of the day they decided to award a smaller set of relatively lower cost projects.

Question:

Member Ghielmetti asked so we will have another one next year and then another year after until we get to five years?

Response:

Mr. Annis responded absolutely. We avail ourselves of an opportunity to confer with the USDOT already to get their thoughts on our past application and advice for what we might do going forward.

Comment:

Member Ghielmetti commented I want to make sure the public knows that this was not a slap in the face for High-Speed Rail, this was just the way the feds are giving money out. We are still in the ball game and we will go forward from here.

Question:

Chair Richards asked if part of the Mega money, some of the \$2.1 or \$2.2 billion, has now been added to the first Federal-State grant application?

Response:

Mr. Kelly responded yes, those are separate pods, the Mega and the Federal-State. The Federal-State is a grant that is dedicated solely to inner city rail. The first grant opportunity for that will happen in 2023. I will talk about this a little bit in our broader hearing. What the federal government did is they added a second year to that grant.

Question:

Chair Richards asked so they took it up to \$4.5 billion?

Response:

Mr. Kelly responded yes, and that is just the first two years.

Question:

Chair Richards asked those are then both Federal-State?

Response:

Mr. Kelly responded yes, it is all in the Federal-State pot. Mega will have a secondary round I expect this year and another the year after that. The change that Brian referenced did affect our outcome in Mega was when the federal government first announced the IIJA and these dollars were available for large capital projects, the Mega program originally was conceived for larger projects only and over multiple years. I think as they are starting to let out the dollars they are being careful, which is not unreasonable. But in taking that approach they were clear that they wanted to only do one year and they backed away a little bit from just going with larger projects. So, we saw that that was the first year of this. The entirety of the State of California applied for a lot and only one project was awarded for \$30 million. On a national basis there was on the order of 128 applicants and only nine were awarded anything. So it was one round of one program in a very large pot and we have had very productive conversations with the FRA since then and we are looking forward to the Fed-State program this year.

Comment:

Chair Richards commented for the people in the public, IIJA is the Infrastructure, Investment, and Jobs Act.

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

Deputy Chief Operating Officer Daniel Horgan presented the Central Valley Status Report to the F&A Committee Members.

Question (Change Orders):

Chair Richards asked on the Time and Materials change order, that accounts then for the delay and includes inflation. What else is involved in the Time and Materials change order?

Response:

Mr. Horgan responded the Time and Materials was basically to allow the contractor to continue with the work whilst we were negotiating the lump sum.

Mr. Kelly commented you may recall that we executed Time and Materials to allow work to continue while we were negotiating the broader change order costs. Then when we settled the negotiations on the broader change order, we credited back the Time and Materials.

Question (Utility Relocations Status):

Member Ghielmetti asked is any of this holding up work with the contractors?

Response:

Mr. Horgan responded at the moment, no. We are making good progress with the utility companies. There are some agreements that are more problematic but utilities are moving at a reasonable pace.

Question:

Member Ghielmetti asked so we do not think we are going to have a problem this coming year?

Response:

Mr. Horgan responded not with utility relocations.

Question:

Member Ghielmetti commented I am more worried about holding up the contractors in construction.

Response:

Mr. Horgan responded no; you can see from the figures, the projections for CP2-3, the contractor is up to practically full production. CP1 we do have a couple of significant interfaces with the railroads and we are working our way through those.

Mr. Kelly commented a variation on that, that is important to understand is while it is true we have 74% of the structures underway or complete, so we are working through a lot of those things. There is obviously a schedule involved with each of those. I also think it is fair to say, when you talk about sort of the flatness of the number of structures that are started, that does have to do with some of the slowness of working through the third-party agreements. So, the reason we are putting greater management focus on getting third-party agreements approved and settled is because we want to see the structure count go up. We are trying to advance things in that regard and that is why we are putting higher focus on getting these approvals done earlier so we can see that move north.

Comment (CP Real Property/Right-of-Way):

Mr. Kelly commented in the Right-of-Way stuff we set out a series of goals for 2022. In June we were to hit 90%, we hit 91%, and at the end of the year for this month our goal was 95% and we are at 96%. The Right-of-Way team under Dennis Kim's leadership has done a tremendous job.

Question (Risk Contingency):

Chair Richards asked for the month of December, I assume the reduction is in due to two parts- one because of the season, Christmas, and the other a good deal of rain?

Response:

Mr. Horgan responded yes, and we also have during the December month the freight railways moratorium.

Question (CP 1-4 – Real Property/Right-of-Way):

Member Ghielmetti asked do we have any more surprises on utility relocations coming up?

Response:

Mr. Horgan responded Brian Kelly is working closely with the governor's office to advocate with some of the third parties and we are working at executive level with all the railroads and with the significant third parties.

Mr. Kelly commented the reality is we are grinding through the third-party agreements. This is the price we have been paying for some time on doing work out of sequence. We are putting all of our management attention now through promotions and focus on getting these important pre-construction agreements done so we can move the utilities and get into full construction. We have already and are elevating the process for higher level conversations where we need to to get those agreements completed and we are going to continue that. The idea is to put a really keen focus on primarily PG&E and UP. They are the primary challenges that we have left. We have other partners we are working through, but we are advancing that work in a reasonable way and we just have a lot left to do with those two. So, we are looking to elevate that work and get it done.

Question:

Member Ghielmetti asked have we identified all the right-of-way that we need? Are there no more surprises coming?

Response:

Mr. Horgan responded substantially yes. Until we have got all the utility designs fully completed, there is a risk that we may have to add or subtract a few parcels but it is more like a handful.

Mr. Kelly commented when I started here in 2018, we had about 1,400 parcels delivered to the design-build contractors. At that time the estimate was we needed 1,750. The reality is we needed 2,300, and of that we are over 2,200 delivered now. So, we really are coming down to the end. I expect that through February, we have about 86 parcels left to do. By the end of FY 22/23 that will be cut in half and we will finish the remaining ones at the end of that. I say that, too, because the 2,300 figure around some of the design issues for moving utilities that 2,300 has been on a given month. 2,998, 2,305. But that is the bounce now, the bounce is a few in one direction or the other and not hundreds. So, again, the project definition is a universe different today than when we started and we really are coming down to the end of this definition of the 119.

Member Ghielmetti commented I know we have learned our lessons and when we started doing these extensions to Bakersfield and Merced, hopefully the predesigned design is going to identify exactly what right-of-way we need so we can get a jump on it.

Mr. Kelly commented we have taken a different approach for the extensions to Merced and Bakersfield. We are in 30% design now and as part of that process as they get to the full 30%, what we call configuration footprint, they will be able to identify a full right-of-way acquisition plan. We can begin starting the acquisition at the end of this year. I expect much less delay of risk and cost later because of it.

Comment (CP4- Earned Value):

Mr. Kelly commented on CP4s we are working through the finalization we hope by the end of this month. On a couple of necessary utility agreements with irrigation districts down there, where we are affecting their property and some of their equipment, we have to get those done. It has been months in process and I think it will finish in February and that will enable us to move forward on the work. I do think that the schedule is being impacted by it and I do think we are going to see a move in the substantial completion date to the end of the quarter 2 rather than the beginning of quarter 2. So, we are dealing with that. Some of the heavy rain in January and December will also push back some of the work. Those are things we are dealing with but again it is a matter of weeks and not years here. So, again, I think the end of June, early July, we will reach substantial completion.

Question (Preliminary Numbers for December F&A Report):

Member Ghielmetti asked on the Downtown Fresno/Tulare/Ventura Street bridge, is that a change order based on the City of Fresno wanting it?

Response:

Mr. Horgan responded it has two impacts – one from the railroad and the other from the City of Fresno.

Mr. Kelly commented on CP1 we identified several large change orders we needed to get through negotiations on. Those were largely tied to third-party scope changes that were agreed to between 2015 and 2018. Those scope changes needed final design, they needed final scope, final cost, and that needed to be executed into the contract. We spent much of 2022 and even into last month and coming into this month getting those done. We are now at the end of those major ones but it is again agreements for the City of Fresno or UP or other entities where there were scope changes that were agreed to. We had to get that work done and put those in the contract and that is really what the work is and what we are coming to the end of on the big change orders on CP1.

Chair Richards commented they are scope changes from scope that we did not have at the outset. These are actually additions that were probably there from the beginning but not defined.

Mr. Kelly commented unfortunately there were scope changes post-contract award, so we had a contract award and then you had negotiations with third parties that sought changes to the scope of the work. It is one thing to commit to those but then you got to execute and put that scope to get that design done. We put that scope in the contract and move forward in a contractual way and that is what we are working on to complete CP1 now.

Having no further business, the meeting was adjourned at 9:28 A.M.

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