



DRAFT

FINANCE AND AUDIT COMMITTEE MEETING MINUTES

November 2, 2023

Main Location

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

Webcast at:

www.hsr.ca.gov

The meeting of the California High-Speed Rail Authority (Authority) Finance and Audit Committee Meeting was called to order on November 2nd 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
Mr. Ernie Camacho, Committee Member
Ms. Nancy Miller, Vice Committee Chair
Mr. James Ghielmetti, Committee Member

Staff Present:

Mr. Brian Annis, Chief Financial Officer
Ms. Alicia Fowler, Chief Council
Mr. Daniel Horgan, Deputy Chief Operating Officer
Mr. Dennis Kim, Director of Real Property
Mr. Britton Snipes, Board Secretary

Public Comment

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

Item #1 – August Meeting Minutes

The August 24, 2023, Meeting Minutes were moved for approval by F&A Committee Member Ernest Camacho and seconded by Committee Member Jim Ghielmetti. The meeting minutes were approved by all committee members present.

Item #2 – 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 where does the money we are being showed sit?

Response:

Mr. Annis responded it sits in the State Treasury. State funds are managed by the Treasurer's office. We have an account that is segregated by fund type, so there is a Prop 1A account and a Cap-and-Trade account and of course the Cap-and-Trade account is shared among different recipients of that fund. We do have accounting through the Controller's office and of course the Treasurer serves as the State's banker.

Question:

Chair Richards asked so it is not sitting in an interest-bearing account?

Response:

Mr. Annis responded well, yes. State funds do earn a relatively low earning rate through safe investments, at times it is around 1%. We generally do not receive a benefit from that. The Prop 1A is capped at the amount the voters approved of about \$9 billion for the project specifically. To the extent we earn interest, they will sell fewer bonds in the future. Then for Cap-and-Trade, that interest flows into the overall fund and unfortunately, we do not benefit from that either, but the State does receive some interest earnings.

Comment (Capital Outlay Budget Summary):

Member Ghielmetti commented it seems to me we should have known that [change orders would be necessary] ahead of time. Is this a result of having a Design-Build contract?

Response:

Mr. Annis responded I would say in part yes. I think at the time there was some discussion, but we did not have those third-party agreements in place with the Design-Bid-Build approach. That is what we are working on now with the Merced and Bakersfield extensions that are in design to advance to 30% and as part of that we are working with all the third parties, including the railroads, to document what the requirements are to make sure our design is consistent with what the third-party requirements are going to be. In a case like this you are going to see some higher costs because of these requirements. However, that should be built into the construction bid in the first place.

Comment:

Member Ghielmetti commented that is the whole point. This is one of the fallacies of Design-Build. We put a number out there and our contract people think "Well, they have blown the budget." These are things we should have known way in advance. We look a little silly because the numbers keep going up and they keep asking "Why?" I think this is a big fallacy of Design-Build.

Response:

Mr. Annis responded I think that is accurate, but the other thing is just the nature of the standards being established with our project. The best information we had at the time was what was built into that initial design. The lesson learned certainly is establishing those third parties before you go to contract. There are multiple procurement avenues that can accommodate that. Certainly Design-Bid-Build can but some of the others can as well. The trick is to have those third-party agreements established so that you do not have to modify designs after you have the contract in place. The 2023 Project Update Report did augment contingency, and it was for these types of change orders. In some cases, we had the proposal from the contractor, in other cases we did not, but we were tracking these different things a year and a half ago when those estimates were being established and again that is why the contingency grew last Spring.

Question:

Chair Richards asked if we have now gone through 16.7% of the fiscal year and we have expended 17.4% of the budget, is that an underutilization?

Response:

Mr. Annis responded that means we have over-expended in the first two months. I think that the expenditure level

in July and August is higher than average and will probably not be sustained at that level for the rest of the fiscal year. The other thing is we did work very hard to reduce our current fiscal year expenditure assumption. We cut some of the requested amounts to try to get closer to the forecast. We still are a bit conservative and tend to build it a bit more based on faster spend rates but again we did bring it down overall to be a bit closer to what Actuals should come in at relative to the forecast.

Comment:

Vice Chair Miller commented I remember when I first came on the Board, we were at 10% design which basically means we absolutely had no confidence in that budget at that time because it was only a 10% design. As we get to 30% and 40% and as we get higher, we know more about our costs. We also know more about our third parties, and it is not just our utilities and railroads, it is our cities, the counties, what they are asking for. We finally get into more specific design about where, how, and what the structures are actually going to look like. I anticipate that budget grows just because as our design gets better, we now know more. When we have had our experts come, they always tell us that we can have a 30% confidence in that budget and then it went up to 50%. I think we were at 90% when we finally got to CP1 full design. We are acting in an arena where we have the best information available but that is always fine-tuned as we go along with our design. I am not a huge fan of Design-Build. I think we have learned a lot of lessons and hopefully as we go forward, we will keep applying the lessons we have learned to keep our budget intact. That is why our contingency is fairly large, because as we go on and we realize the railroads are going to ask for this or they will require that, it affects our budget constantly. I anticipate that until we get full design we do not always know exactly how much and that is why we need a large contingency.

Question (Contracts and Expenditures Report):

Member Camacho asked we are talking mostly CP1-4, correct?

Response:

Mr. Annis responded that is correct.

Question:

Member Camacho asked are we not taking advantage of, or using, the goals that we set to apply to the PDS and, if we are not, could those help raise our percentage of utilization?

Response:

Mr. Annis responded I believe that the Professional Services number of 28.2% includes the PDS contract.

Question:

Member Camacho asked so Professional Services can be part of the PDS but can also be part of the CPs as well?

Response:

Mr. Annis responded yes, with the exception of Design-Build contracts.

Question:

Member Camacho asked so it does take the PDS contract into consideration?

Response:

Mr. Annis responded yes.

Question:

Member Camacho asked so what is the percentage of utilization on the PDS contract?

Response:

Mr. Annis responded I saw some statistics on that the other day, and I believe they are running close to 30% overall.

Response:

Mr. Kelly responded they are.

Item #3 – 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 (CP Real Property/Right-of-Way):

Member Camacho asked under Utility Relocations, we have 112 in progress, and we are working on 389. Where are those located? Which of the CPs is that located in?

Response:

Mr. Horgan responded they are located in all of the packages. For example, I will tell you in the Flash Report that we did 48 Utility Relocations in the month of September. They were AT&T Relocations. We have a significant number of AT&T Relocations, probably almost 100.

Comment:

Mr. Kelly commented just by way of broad numbers, there are about 1,836 that have to be moved and roughly 1,000 are in CP1. There are a lot in downtown Fresno, that is where the bulk of them are.

Question:

Member Ghielmetti commented Brian Annis sent us a memo on the summary of Change Orders. On CP1 there was a Time-Impact Analysis of \$154 million. What was the cause of those delays?

Response:

Mr. Horgan responded the primary reason for the bulk of those delays is third-party agreements and Utility Relocations. We have not been able to move the Utilities fast enough to enable the contractor to reach his production targets. So, we still have a significant number of Utilities in the City of Fresno in particular.

Question:

Member Ghielmetti asked could we not identify where they were?

Response:

Mr. Horgan responded no, we have identified them, but it is all the activities that you need to put in place to move the Utilities. So that is environmental clearance, land rights, conveyance rights, design approvals, and then making sure that the PG&E- and AT&T- nominated contractors have the available resources to undertake the work. In the Central Valley there is sort of a maximum number of Utilities you can relocate at any one time, and we are using up a significant proportion of the resources of the PG&E-nominated sub-contractors and similarly with AT&T.

Question:

Member Ghielmetti asked did we know these in advance? Is this a problem of Design-Build again?

Response:

Mr. Horgan responded in simple terms, yes.

Question:

Member Ghielmetti asked then it was an escalation cost adjustment for CP1? Are escalation clauses always part of our contracts?

Response:

Mr. Horgan responded no; we would not have to invoke any escalation if the contract was finished on time. The problem is that the cost of materials has gone up significantly in the recent past. If the contractor anticipated completing the works by 2021 and now it is going to be 2025, then the cost of materials has changed significantly as we all know. We can feel that every time we buy anything at the moment. So historically we were running maybe 2% or 3% but now escalation is running the building industry at 7% or 8%.

Question:

Member Ghielmetti asked so you are saying there really is an escalation clause in our contract?

Response:

Mr. Horgan responded yes.

Question:

Member Ghielmetti asked then for CP2-3, there are interim time extensions for \$48 million. Is this in the contract? What caused these delays?

Response:

Mr. Horgan responded similar reasons on CP2-3. We still have a significant number of electric transmission lines to relocate. In fact, we have seven major transmissions to relocate. There are also some other issues with getting access to property in some cases and we have obviously had an impact from the flooding as well with the irrigation districts.

Comment:

Mr. Kelly commented with respect to both CP1 and CP2-3, I think what you are seeing is the legacy that we have been working with from getting into Construction before Right-of-Way and Utilities are in hand. The good news is we report to this Board every month that we are coming to the end of that issue. We are at 98% of the Right-of-Way in hand and that will complete very soon. As you see 81% of those Utilities are now moved but the sequence that was out of sequence from the initial get-go on this is what we are playing catch-up on, and we are coming to the end of that time. The good news is also as we go forward, and we look at the construction contracts in front of us, the Right-of-Way and the Utility relocations will be done before we get into construction and that will reduce a lot of this risk.

Having no further business, the meeting was adjourned at 9:15 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.