



CALIFORNIA High-Speed Rail Authority

Memorandum

DATE: August 8, 2022

TO: Darin Kishiyama, Director of Contract Management

FROM: Paula Rivera, Chief Auditor ^{PR}

CC: Finance and Audit Subcommittee of the Board
Brian Kelly, Chief Executive Officer
Rachel Wong, Capital Procurements
Della Leong, Capital Procurements

SUBJECT: Preaward Review of HSR 21-17

The Audit Office of the California High-Speed Rail Authority (Authority) has completed its review of the draft agreement and cost proposal for Program Delivery Support, RFQ No.: HSR 21-17, between the Authority and AECOM-Fluor (Consultant).

A preaward review is performed when an agreement for architectural and engineering services is to be awarded based on qualifications. In accordance with Title 40, United States Code, Section 1104 and California Government Code Title 1, Chapter 10 Section 4528(a)(1), fair and reasonable compensation is negotiated. The preaward review is performed to assist in negotiations with the most qualified proposer.

The scope of the review was limited to examining the draft agreement and the cost proposal dated June 24, 2022, and subsequent revision dated June 30, 2022. For the purposes of accepting contract progress billings, the objectives of the review were to determine if:

- The necessary fiscal provisions were incorporated in the draft agreement.
- The proposed costs are reasonable and in compliance with the Code of Federal Regulations, Title 48, Chapter 1, Part 31 and the agreement.

We completed a risk assessment of the subconsultants and determined the following subconsultants would be reviewed for this preaward:

- 360 Total Concept Consulting, Inc.
- Bess Testlab, Inc.
- Atlas Technical
- D'Leon Consulting Engineers
- Egis Rail
- Keish Environmental
- Lenax Construction Services, Inc.

- Psomas
- Luster National, Inc.
- TEC Constructors & Engineers, Inc.
- Turner & Townsend, Inc.
- V&A Inc.
- Veridico Group, Inc.
- VST Engineering Inc.

Based on the review of the draft agreement and the cost proposal, except as discussed in the following *Issues and Recommendations* section, no material deficiencies came to our attention.

Our review was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing for consulting engagements.

This report is intended for the information and use of the contract manager in support of contract negotiations, and management of the Authority. However, this report is a public document, and its distribution is not limited.

ISSUES and RECOMMENDATIONS

Direct Labor

Issue 1 – Ineligible Escalation of Proposed Labor Rates

Fluor proposed escalated labor rates for March 1, 2023, through August 31, 2023.

AECOM, and subconsultants Lenax Corporation, Luster National, 360 Total Concept Consulting, Keish Environmental, Bess Testlab, Atlas Technical, Egis Rail, Turner & Townsend, Psomas, TEC Constructors & Engineers, D'Leon Consulting, VST Engineering, V&A Inc., & Veridico Group proposed escalated labor rates for October 1, 2022, through June 30, 2023.

Proposed escalation of 7% is:

- prior to the eligible start date of July 1, 2023 and
- does not comply with the US Department of Labor's ECI for "professional, scientific, and technical services" which for March 2022 12 month ended was determined to be 4.2%.

Recommendation: The Contract Manager should have the Consultant revise proposed escalation to comply with the HSR 21-17 agreement.

Issue 2 – Understated Proposed Classification Rates

AECOM understated eleven (11) proposed classification rates.

Atlas Technical understated one proposed classification rate on high end of range.

Recommendation: The Contract Manager should have Consultant make the following changes to the proposal to reflect supporting documentation.

AECOM

High range:

Urban Planner- (723134) revise up to \$76.92

Low range:

Engineering Manager (706535) revise up to \$84.41

Estimating Manager (692159) revise up to \$97.67

Quality Manager (689607) revise up to \$74.70

Urban Planning Manager (701501) revise up to \$81.91

Risk Management Analyst

- (686780) revise up to \$54.53 (change to Low)

- (698798) revise up to \$75 (change to High)

Sustainability Manger

- (665451) revise up to \$74.80 (change to Low)

- (675638) revise up to \$74.98 (change to High)

Transportation Planning Manager

- (688978) revise up to \$107.64 (change to Low)

- (633321) revise up to \$114.82 (change to High)

Atlas Technical

Senior Engineer revise up to \$90.00

Issue 3 – Need to Determine Prevailing Wage Compliance

Bess Testlab did not provide prevailing wage determination rates for comparison with proposed employee rates.

Recommendation: The Contract Manager should request the Authority Contract Compliance Unit verify the billed rates are following Department of Industrial Relations prevailing wage rates.

Issue 4 – Improper 1099 Contractor Proposed

Atlas Technical has proposed a 1099 contractor as direct labor however, this cost is not subjected to the overhead rate and fee application. This contractor should be included as a second tier subconsultant other direct cost.

Recommendation: The Contract Manager should have Consultant revise cost proposal rate sheet for subconsultant Atlas Technical, by removing Frieder Sieble from direct labor and include costs for a second-tier subcontractor as other direct cost.

Issue 5 – Ineligible Estimated Labor

Egis Rail has not mobilized its employees nor registered its U.S. subsidiary, and therefore identified that rates proposed were based on estimates. They also noted that employees for the U.S. branch are still going to be in negotiation since contacting these employees is still pending.

Recommendation: The Contract Manager should have Consultant ensure labor rates are actual and supported once employees are mobilized and contracted in the U.S. subsidiary company for Egis Rail.

Issue 6 – Actual Hourly Rates Not Proposed for Classifications

Psomas did not provide the actual hourly rates for the proposed classifications nor identify the low & high for the “Range of Actual Hourly Rates for Class”. From the cost proposal/rate sheet, the rates identified were Fully Burdened Loaded Rates.

Recommendation: The Contract Manager should have the Consultant revise the cost proposal/rate sheet for subconsultant Psomas, to correctly reflect actual hourly rates (low/high) ranges for classifications.

Indirect Costs

Issue 7 – Use of prior year (not most recent) overhead rate in cost proposal

D'Leon Consulting provided a FY 2019 schedule.

TEC Constructors & Engineers provided an OH rate from year ended 12/31/2020.

Turner & Townsend provided an OH rate from year ended 12/31/2020.

V&A Inc. used OH rate from year ended 12/31/2019.

Veridico Group provided OH rate from year ended 12/31/2020.

VST Engineering provided an OH rate from year ended 12/31/2020.

Lenax Construction provided an OH rate from year ended 2/28/2021.

Luster National proposed an indirect rate of 135.11% for FY 2020 however they have an audited rate for FY 2021.

Recommendation: The Contract Manager should have the Consultant revise cost proposal with updated 2021 rate for subconsultants D'Leon Consulting, TEC Construction, Turner & Townsend, V&A Inc, Veridico Group, and VST Engineering. Lenax Construction should provide the year ending 2/28/2022 overhead rate.

By October 2022, the subconsultants identified above should provide the indirect rate schedule and associated supporting documentation to the Contract Manager. Additionally, the Contract Manager should have the Consultant re-invoice at the updated overhead rates, to true up the amounts invoiced.

Issue 8 – Disallowed Costs for Indirect Rate

360 Total Concept Consulting proposed a rate of 141.72 percent. We disallowed indirect costs in the Legal & Professional Services account per FAR 31.205-1 Public Relations and Advertising Costs.

Keish Environmental could not provide supporting documents for FY 2021 as it is pending completion. We reviewed a proposed rate of 80.77 percent. We disallowed indirect costs in accounts 7105 PR & Advertising and 7125 Lobbying Costs per FAR 31.205-1 Public Relations and Advertising Costs and FAR 31.205-22 Lobbying and Political Activity Costs, respectively.

Recommendation: The Contract Manager should have Consultant revise the proposal with the following revisions:

For 360 Total Concept the revised rate is 106.95 percent.

For Keish Environmental

- Provide to the Contract Manager an updated 2021 schedule, trial balance, and 940 tax form by October 2022.
- The Contract Manager to accept 80.14% rate as an interim rate for billing until the finalized 2021 rate is completed.

Issue 9 – Estimated Indirect Rate

Egis Rail stated that the overhead rates provided were estimates and not actual.

Recommendation: The Contract Manager should have Consultant revise their proposal for Egis Rail and true up to an actual rate once they have established their U.S. subsidiary company and their FAR compliant indirect rate is available.

Fixed Fees

Issue 10 – Ineligible Proposed Fee

AECOM proposed a fee of 11 percent.
Fluor proposed a fee of 11 percent.
Atlas Technical proposed a fee of 14 percent.
Turner & Townsend a fee of 15 percent.
Egis Rail a fee of 15 percent.

Recommendation: The Contract Manager should have Consultant revise proposal to reflect fee negotiated.

Other Direct Costs

Issue 11 – Unallowable Other Direct Cost

Keish Environmental proposed market rate leasing price for usage of their vehicle. RFQ requires other direct costs to be charged at an actual rate.

Recommendation: The Contract Manager should have Consultant revise proposal, for subconsultant Keish Environmental, and remove vehicle charge or have actual costs for the vehicle submitted.

Issue 12 – Unsupported Other Direct Cost

EGIS Rail proposed estimates for computer and vehicle expenses.

Recommendation: The Contract Manager should have Consultant revise proposal and submit actual cost, for subconsultant EGIS Rail.