

Business Advisory Council-Meeting Minutes

DATE: Thursday, December 6th, 2012
 TIME: 1:00 pm.- 3:00 pm
 LOCATION: 707 3rd Street West Sacramento, CA

**CALIFORNIA HIGH-SPEED RAIL
 Representatives:**

Thomas Fellenz, Council Chair

Robert Padilla, Small Business Advocate

Terry A. Marcellus, CHSRA Project Management Team

Patricia Padilla, Small Business Team

Olivia Fonseca, Small Business Team

Lauren Padilla, Business Advisory Council Liaison

Eileen Ta, Small Business Team

MEMBERS Present:
 ACEC: Arvin Chaudhary
 AAAE: Eddy T. Lau
 AAA/E: Linden Nishinaga
 AGC: Sam Hassoun
 CA Asian CC: Scott Leslie
 CA Black CC: Aubry Stone
 CCHCC: Roy Perez
 CSBA: Betty Jo Toccoli
 DVBA: Chris Coles
 Elite SDVOB: Bill Ulmer
 GFA CC: Debbie Hunsaker
 KMCA: Marvin Dean
 La Raza RT: Paul Guerrero
 LBA: Leonard Ortiz
 NAACP: Betty Williams
 NCA: Diana LaCome
 SFAACCL: Frederick Jordan

MEMBERS Absent:
 AICCC: Robert Weir
 NAMC: Leonard Lumas
 ABA: Tony Wong
 WCOE: Lee Cunningham

ALTERNATES Present:
 AICCC: Adam Holt

INTERAGENCY PARTICIPANTS:
 Roseanne Goodwill; FRA
 Angel Carrera Jr.; DGS

GUESTS:
 Algereine McCray
 Don Zweifel

I. WELCOME AND INTRODUCTIONS

Mr. Fellenz, Council Chair, commenced the meeting by asking attendees to introduce themselves and identify their representing business trade organizations. Rosanne Goodwill, Federal Railroad Administration, participated telephonically.

II. WELCOMING REMARKS

Mr. Fellenz welcomed attendees and advised them of the following items:

- Council must set a date in January for the Annual Planning Meeting.
- Per Item 7 under Part IV. Membership, Section C. Council Membership of the Operating Guidelines, members must reaffirm their continued interest to serve on the Council on an annual basis. Mr. Fellenz requested that Council members submit their continued interest letter on association letterhead at the annual planning meeting.
- Mr. Jeff Morales, Chief Executive Officer, would be unable to attend the Council meeting due to conflicting Board responsibilities.
- The Board unanimously adopted the Community Benefits Policy. The Community Benefits Policy was read to the Council and they were informed that the Policy would be available on the Authority’s website.

III. APPROVAL OF MINUTES

Mr. Fellenz requested input from the BAC regarding the October 18, 2012 meeting minutes from October 18, 2012. The BAC members requested the following revision be applied to the minutes:

- Mr. Guerrero requested Item 4 under Part IV. Membership, Section E. Subject to Removal of the Operating Guidelines to be applicable to both the Council and the Committee meetings, as the Construction Committee meetings have also been affected by the lack of quorum.
 - Mr. Guerrero requested guidance from Mr. Fellenz regarding Robert’s Rules of Order, as to a quorum being maintained after it has been met, regardless of whether voting members leave and the members needed to achieve the quorum are no longer present.

Motion I	
Motion to amend Item 4 under Part IV. Membership, Section E. Subject to Removal of the Operating Guidelines to become applicable to both the Council and the Committee meetings, retroactively effective as of October 18, 2012.	Raised by: Mr. Guerrero
	Seconded by: Mr. Hassoun
<i>*Mr. Dean abstained from voting on this motion</i>	Status: Passed (retroactively effective as of October 18, 2012)

Motion II	
Motion to adopt October 18, 2012 meeting minutes with revision.	Raised by: Mr. Dean
	Seconded by: Mr. Hassoun
	Status: Passed

IV. REVIEW OF REVISED OPERATING GUIDELINES

Mr. Fellenz summarized the revisions to the Operating Guidelines as a result to the motions passed during the October 18, 2012 meeting.

V. PROJECT UPDATE

Mr. Marcellus, Procurement Manager with the Authority's Project Management Team, presented project overviews and updates which included:

Construction Package 1 (CP1)

- The Authority is currently working to finalize and release Addendum 7 for CP1.
- The proposal submission date for the five (5) short-listed firms has been extended from November 2, 2012 to January 18, 2013.
- The project delivery schedule has been extended from forty-two (42) months to fifty-four (54) months with intent to reduce financial risk and possible project delays. Liquidated damages were reduced on the design-builder.
- Mr. Lau requested clarification on the substitution process.
 - The Council was informed that there is a stringent substitution process and an Authority analysis is conducted on all substitutions.
- Mr. Dean asked for an elaboration pertaining to the contract award of CP1.
 - The Council was informed that CP1 proposals would be evaluated and awarded based on Best Value to one design-builder. Award Evaluations would be weighted as follows: thirty (30) percent weight for the technical proposal and seventy (70) percent weight for the cost proposal. The Small Business Performance Plan would be evaluated as part of the technical proposal.
- Mr. Nishinaga requested that a draft project schedule be disseminated, the Council was informed that the project is currently undergoing a number of developments and updates would be provided to BAC members as they become available.

Construction Package 2-4 (CP2-4)

- In response to BAC inquiries regarding Small Business partnering and subcontracting, the Council was informed that the Authority would be monitoring the design-builders monthly reports to ensure work executed was in accordance to their submitted performance plan.
- In response to questions from Mr. Hassoun and Mr. Ortiz regarding consequences should a design-builder be found non-compliant, the Council was informed that Administrative Sanctions have been incorporated into the Authority's Small and Disadvantaged Business Enterprise Program.
- In response to Mr. Chaudhary's questions regarding shortlisted teams automatic qualification to bid on CP2-4, the Council was informed short-listed teams for CP1 were not automatically qualified to propose for CP2-4. Each team would be required to pass the qualifications process to pursue CP2-4.

Right-of-Way (ROW)

- The Authority amended and reissued the ROW RFP, based on public commentary received. Land surveying was extracted from the original scope of work.
- The award of the contract is closely approaching and proposals are in the evaluation process. The 30 percent SB goal will be applicable.
- In response to Mr. Lau's question regarding utilities relocation, the Council was informed that the design-builder shall be responsible for utilities relocation.
- Ms. LaCome suggested that the Authority consider a Small Business set-aside for the utilities relocation work.

Project and Construction Management (PCM)

- The Authority's evaluation panel, has selected a firm and is in the process of negotiations. In the event that negotiations are unsuccessful, the Authority may elect to enter into negotiations with the identified second proposer.
- In response to Mr. Hassoun's questions regarding debriefings, the council was informed that the Authority intends to provide debriefings to firms that were not selected.

VI. SMALL AND DISADVANTAGED BUSINESS ENTERPRISE PROGRAM UPDATE

Ms. P. Padilla and Ms. Fonseca, with the Authority's Small Business Program, presented the following Small Business updates:

Organizational Charts

- Two (2) Organizational Charts were included in the BAC dissemination packets; the first Organizational Chart captured the Authority's team and the second captured the Project Management Team.
 - Several updates and new hires to the Authority's Organizational Chart were discussed.
- In response to Mr. Dean's request for a diversity breakdown of Authority personnel, the Council was informed that the Authority would submit an annual report in March of 2013 that would provide the composition of personnel.

Small Business Utilization Report

- The SB Utilization Report (through June 2012) has been posted on the Authority's website.
- The current SB Utilization Report (Contract Inception through September 2012) includes a number of updates based on commentary received from the Council, such as an additional column to include contract dollars expended and firm names.
- Council members suggested that the Authority take the following requests into consideration:
 - apply the thirty (30) percent SB goal to be applicable to the remaining contract dollars on active contracts. (Mr. Coles, Mr. Jordan)
 - apply the thirty (30) percent SB goal to both design and construction (Mr. Nishinaga)
 - SB Utilization Report be utilized as a factor of evaluation in the consideration of any contract renewals. (Ms. LaCome)
- Council members were reminded that the Authority's Small Business Policy was adopted November 2011 and is newer than the majority of the Authority's contracts. However, the Authority will ensure that the 30 percent SB goal be incorporated into all new contracts and contract renewals. Furthermore, Mr. Morales has issued a number of notices and conducted several in-person meetings with current consultants/contractors to encourage an increase in small business participation and initiate SB utilization reporting on a quarterly basis.

Insurance Liability Requirements

- Council members were informed that Jon Tapping, the Authority's Risk Manager, has lowered the insurance liability to one (1) million dollars for small businesses performing work that require liability and are certified by Department of General Services. This requirement is equivalent to the terms currently utilized by Caltrans.

Motion III

Motion to extend the Business Advisory Council meeting through the conclusion of pending discussion items listed on the meeting agenda.

Raised by: Mr. Guerrero

Seconded by: all BAC members

Status: **Passed**

VII. COMMITTEE UPDATES

Mr. Ulmer presented Committee requests* on behalf of Mr. Lau, Professional Services Committee Chair as follows:

- Perform debriefing with non-selected firms as a standard practice.
- Post all intent to award and final award selection information on the Authority website and BidSync.
- Unbundle utility relocation to a separate contract.
- Apply the thirty (30) percent SB goal separately on design and construction.
- Mr. Fellenz is requested to participate in the upcoming Committee meeting to provide guidance on potential conflict of interest issues.
- Apply the thirty (30) percent SB goal to all new task orders and contract extensions.
- Copy of KPMG's contractual agreement.
- Inclusion of automatic late penalties in Authority contracts and flow down provisions to subcontractors.
- Post and publish solicitation statuses.

Mr. Hassoun, Construction Committee Chair presented Committee updates/requests as follows:

- The Committee's mission is to provide feedback from the small business community, increase small business awareness and serve as a vehicle to enhance small business participation.
- Committee meetings will be extended an additional thirty (30) minutes to include Commodities as a standing discussion item, to be led by Mr. Ortiz.
- Construction Committee Requests* include:
 - SB assistance regarding bonding, insurance and working capital.
 - Clarification on the Federal Small Business definition.
 - Mr. Dane Hudson's continued participation on an as-needed basis.
 - Viable database for Small Businesses
 - The Council was informed that the Authority is currently working on developing a Vendor Database.

**Official Committee Request Forms must be completed and submitted to Committee Liaisons for action.*

VIII. BUSINESS ADVISORY COUNCIL REQUESTS

- Ms. LaCome asked to review language pertaining to the Community Benefits Agreement and retention. Mr. Hassoun stated he would submit her request in writing through the Committee Liaison.
- Mr. Dean requested that the Authority take measures to ensure that Board meetings and Business Advisory Council meetings are scheduled on different days.

IX. ADHOC DISCUSSION; PUBLIC COMMENT

Mr. Fellenz opened the floor for adhoc discussion and public comment.

- No public commentary was received.

X. TENTATIVE UPCOMING MEETING SCHEDULE

Prior to adjournment, Mr. Fellenz solicited potential dates and locations for the annual planning meeting to be held in January 2013 from the Council.

Motion IV

Motion to hold the annual planning meeting on Thursday, January 10, 2013 in Fresno, California.

Raised by: Mr. Dean

Seconded by: Mr. Nishinaga

Status: **Passed**

- The Authority will finalize the location of the annual planning meeting with the assistance of Mr. Dean and disseminate the information to the Council.