

High-Speed Rail Authority

It Risks Delays or an Incomplete System Because of Inadequate Planning, Weak Oversight, and Lax Contract Management

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This report concludes that the High-Speed Rail Authority (Authority) has not adequately planned for the future development of the high-speed rail network (program). For example, in its 2009 business plan, the Authority outlined the sources from which it expected to receive the funds necessary to meet the estimated \$42.6 billion cost of the program. The Authority stated it would need \$17 billion to \$19 billion from the federal government; however, the Authority has received a federal commitment of only \$2.25 billion. In addition, the business plan does not make clear which government would be responsible for a revenue guarantee needed to attract private investors, or how much it might cost. The program risks significant delays without more well-developed plans for obtaining funds.

The Authority also needs to improve some administrative practices. State law requires the Authority to establish an independent peer review group (review group) to review the Authority's plans, but only five of the eight members have been appointed. Thus, the Authority cannot fully benefit from the expertise the review group would provide. Additionally, the Authority does not currently categorize and track expenditures for administration, which state law limits to 2.5 percent (\$225 million) of the \$9 billion in bond funds authorized. Unless it tracks these funds and develops long-range plans for spending them, it risks running out of them prematurely.

Finally, a primary tool for monitoring the program has been inadequate and the Authority has not implemented effective controls over invoice processing and in some cases has paid for work that was not part of contracts or work plans. Three recent monthly progress reports the contractor managing the program (program manager) submitted to the Authority contained inconsistent information and did not compare actions performed and products created to what contractors promised to complete in their work plans. Additionally, the Authority paid at least \$4 million of invoices for which it had no evidence from the program manager that the contractors had performed the work invoiced. The Authority also paid more than \$268,000 for work that was not included in contractors' work plans, impairing its ability to measure performance against those plans, and it misused public funds when it paid \$46,000 for furniture not covered in the contract with its program manager.

In the report, the California State Auditor (state auditor) made the following recommendations to the Authority. The state auditor's determination regarding the current status of recommendations is based on the Authority's response to the state auditor as of April 2011.

Recommendation 1.1—See pages 17—24 of the audit report for information on the related finding.

To ensure that it can respond adequately to funding levels that may vary from its business plan, the Authority should develop and publish alternative funding scenarios that reflect the possibility of reduced or delayed funding from the planned sources. These scenarios should detail the implications of variations in the level or timing of funding on the program and its schedule.

Authority's Action: Pending.

The Authority stated that it will release a funding plan and updated business plan in October 2011. To help develop the plan, it chose a financial services consultant but could not reach agreement on contract terms and conditions. According to the Authority, it released a revised request for proposal in April 2011 and expected to execute a contract for financial services in mid-May 2011.

Recommendation 1.2—See pages 22—24 of the audit report for information on the related finding.

In order to plan adequately for private investment, the Authority should further specify the potential costs of planned revenue guarantees and who would pay for them.

Authority's Action: Pending.

The Authority stated that it continues working with financial and legal consultants to provide a discussion of revenue guarantees. It expects that the issue of planned revenue guarantees will be addressed in the October 2011 funding and business plans.

Recommendation 1.3—See pages 24 and 25 of the audit report for information on the related finding.

In order to respond effectively to circumstances that could significantly delay or halt the program, the Authority should ensure that it implements planned actions related to managing risk.

Authority's Action: Pending.

The Authority stated that it needs, but cannot hire, a senior risk manager and management auditors due to an executive order freezing hiring. It says it is seeking an exemption from the freeze and is moving ahead with conducting interviews for a senior management auditor.

Recommendation 1.4—See pages 26 and 27 of the audit report for information on the related finding.

To avert possible legal challenges, the Authority should ensure that the review group adheres to the Meeting Act or seek a formal opinion from the Office of the Attorney General regarding whether the review group is subject to this act.

Authority's Action: Pending.

The Authority provided a letter from Assemblymember Galgiani stating that, as the author of Assembly Bill 3034, it was not her intent that the peer review group not be subject to open-meeting rules. However, the Authority has not sought a formal legal opinion on the matter.

Recommendation 1.5—See pages 28 and 29 of the audit report for information on the related finding.

To ensure that it does not run out of funds for administrative and preconstruction tasks prematurely, the Authority should track expenditures for these activities and develop a long-term spending plan for them. It also should develop procedures and systems to ensure that it complies with Recovery Act requirements.

Authority's Action: Partially implemented.

The Authority stated that system enhancements went online in May 2010. At present, the system contains data that allows for the output of expenditure data. Further, staff continues to enhance and refine system capabilities. Also, the Authority provided an expenditure report showing amounts expended for administration by category, by fiscal year, and in total. Travel, rent, and interagency services made up most of the costs. However, the Authority did not provide evidence of a long-term spending plan.

Recommendation 1.6—See pages 29—31 of the audit report for information on the related finding.

The Authority should participate in the development of key policy documents, such as its business and strategic plans. Further, Authority members should adhere to their policies and procedures, including those outlining how they may communicate with contractors.

Authority's Action: Fully implemented.

The Authority added language to its policies and procedures stating that the Authority—meaning the appointed members of the board—is responsible for developing key policy documents, including approving business plans and strategic plans. The Authority also added language to its policies and procedures requiring that board members communicate with contractors through the Authority's chief executive officer.

Recommendation 1.7—See pages 32—34 of the audit report for information on the related finding.

In order to ensure that staff receive relevant information on the program's status, the Authority should amend the oversight consultant's work plan to include a critical review of the progress reports for accuracy and consistency. Authority staff also should request that the program manager revise its progress reports to include information on the status of contract products and services in relationship to what was promised.

Authority's Action: Fully implemented.

The Authority's project management oversight consultant amended its work plan to include review of the program manager's progress reports. The Authority provided a March 2011 progress report from the program manager, which included a table of past-due deliverables and an analysis of the "earned value" of its work based on the deliverables.

Recommendation 1.8—See pages 35 and 36 of the audit report for information on the related finding.

To determine if it is paying invoices that accurately reflect work performed, the Authority should ensure that staff adhere to controls for processing invoices.

Authority's Action: Fully implemented.

The Authority developed an invoice review, verification, and approval process. Invoices now include cover sheets requiring signatures from both the program manager and the Authority. The Authority documented the process in its *Contract Administration Manual*, as discussed below in Recommendation 1.10.

Recommendation 1.9—See pages 37 and 38 of the audit report for information on the related finding.

To ensure that it does not misuse public funds and can hold contractors accountable, the Authority should adhere to the conditions of its contracts and work plans, and make any amendments and modifications in writing.

Authority's Action: Fully implemented.

The Authority amended its contract with a contractor to include work on an effort called "Vision California" that was originally under an oral agreement. Further, the Authority amended its contract with its program manager to require an audit-adjusted field rate for staff co-located with the Authority and using Authority facilities, also originally under an oral agreement. An "audit-adjusted field rate" is a discounted overhead rate used when consultants use client facilities.

Recommendation 1.10—See pages 38 and 39 of the audit report for information on the related finding.

To better determine if payment controls are implemented, the Authority should ensure that its written policies and procedures reflect intended controls over invoice processing and offer sufficient detail to guide staff. These procedures should include steps for documenting implementation of invoice controls.

Authority's Action: Fully implemented.

The Authority amended its *Contract Administration Manual* to include detailed procedures for implementation of invoice review and documentation of invoice controls.