

**CALIFORNIA HIGH-SPEED RAIL AUTHORITY RESPONSE TO PROTEST
RFP No. HSR25-89 FOR TRACK & SYSTEMS CONSTRUCTION CONTRACT
BY CALIFORNIA HIGH SPEED PARTNERS**

The California High-Speed Rail Authority (Authority) submits this response to the May 5, 2026, submission from California High Speed Partners titled “RFP No. HSR25-89 Track and Systems Construction Contract – BID PROTEST” (hereafter referred to as Letter of Protest).

The following brief summarizes the Authority’s position regarding the contentions raised by the Letter of Protest.

I. Factual Background

The Track and Systems Construction Contract (TSCC) RFP was released on November 25, 2025. The RFP required that “[w]here the Work requires a professional license, at least one Key Personnel in responsible charge of the Work (subject to the Professional Engineers Act) shall be a California registered Professional Engineer in good standing by the date of contract execution.” (ITP Section 6.6.2(e).) The RFP also requires that “[t]he Design Oversight Manager shall be a registered professional engineer in the State of California.” (IFB Section 6.6.2(f)(4).) ITP Attachment A, Minimum Qualifications Item 59, requires the Proposal to identify at least one Key Personnel who is a California registered Professional Engineer.

During the procurement process, the Authority issued eight addenda to the RFP. Addendum 4 was released on February 27, 2026, and removed the California registered Professional Engineer requirement for several Key Personnel positions but maintained the requirement that the Design Oversight Manager be a California registered Professional Engineer.

During the procurement process, Proposers submitted questions and the Authority posted responses to these questions on the California State Contracts Register for the benefit of all Proposers. Questions and Responses, Round 5, dated February 20, 2026, included the following question and response:

Question 504: The Design Oversight Manager is a position that does not require signature or seal for design by this individual. We ask the Authority to remove the requirement for Professional Engineer license in the State of California

Authority Response: The Authority declines to make the requested change.

Questions and Responses, Round 10, dated April 3, 2026, included the following question and response:

Question 618: From November 20, 2025, Board Meeting Agenda Item #3, the anticipated Contract Award and NTP 1 date was presented as being issued by July 2026, is this date still valid?

Authority Response: The Authority is striving to execute the TSCC contract within the month of June 2026, and to issue NTP 1 in June 2026, or as soon as the contract is executed. To meet this target, the Authority anticipates in-person negotiations, both the

limited negotiations prescribed by the ITP and those necessary to prepare NTP 1, commencing within 24 hours (and no later than 1 business days [sic]) after publication of the Notice of Proposed Award (NOPA).

Proposals were due on April 9, 2026, and two timely Proposals were received. The Pass/Fail Responsiveness Subcommittee performed a responsiveness and pass/fail review of both Proposal packages. Page 2 of the Transmittal Letter (Form A) submitted with the California High Speed Partner's Proposal acknowledges receipt of all questions and responses released during the procurement process: "The Authority's responses to the Proposer questions No. 1 through No. 618 were posted on the California State Contracts Register."

California High Speed Partner's proposal identified on Form E that Simon D'Cruz's California Professional Engineer License was "pending." No California professional engineer license was indicated for the proposed Design Oversight Manager, Sanchay Singhal on either Form E or the resume for Sanchay Singhal included in the Proposal.

On April 16, 2026, a request for clarification was submitted to California High Speed Partners (April 16 Letter) requesting, among other requests, that California High Speed Partners submit the anticipated approval date for the California Professional Engineer License for Simon D'Cruz. This letter further requested confirmation that the proposed Design Oversight Manager, Sanchay Singhal, is a licensed California Professional Engineer.

On April 17, 2026, California High Speed Partners submitted their response to the April 16 Letter (April 17 Letter). This letter indicated that Simon D'Cruz's license is anticipated by December 31, 2026, and Sanchay Singhal's license is anticipated by March 2027.

On April 29, 2026, a letter was sent from Emily Morrison, the Chairperson of the TSCC Evaluation Selection Committee, to California High Speed Partners (April 29 Letter) notifying California High Speed Partners that their Proposal was found to be non-responsive for failure to meet the requirements of ITP Sections 6.6.2(e) and 7.3, and ITP Attachment A.

On April 29, 2026, the TSCC Notice of Proposed Award was published. California High Speed Partners submitted their Letter of Protest on May 5, 2026.

II. Summary of Authority Position on the Letter of Protest

California High Speed Partners failed to meet two related requirements in the ITP. First, they failed to meet the requirement that at least one Key Personnel in charge of the Work be a California registered Professional Engineer by the date of contract execution (ITP Section 6.6.2.(e) and ITP Attachment A, Item 59). Second, they failed to meet the requirement that the Design Oversight Manager be a California registered Professional Engineer by the date of contract execution (ITP Section 6.6.2(f)(4)).

Disqualification as nonresponsive was the appropriate result for a Proposer failing to meet the minimum qualifications included in Section 6.6.2(e), 6.6.2(f), and Attachment A of the ITP. California High Speed Partners' April 17 Letter indicated that neither the Design Oversight Manager nor the Engineering and Design Director, which indicated a pending California Professional Engineer's license, would have a license by the anticipated date of contract

execution (anticipated in June 2026, as indicated in Questions and Responses, Round 10). Additionally, none of the other Key Personnel identified in California High Speed Partners' Form E indicated registration as a California Professional Engineer.

Further, the Authority correctly determined that the failure to provide a Key Personnel that is (or will be by the date of contract execution) a California registered Professional Engineer is a material deviation and should not be waived.

III. Proposer Failed to Submit a Key Personnel Who Would be a California Registered Professional Engineer by the Date of Contract Execution

California High Speed Partners' Proposal did not include any Key Personnel who would be a California registered Professional Engineer by the date of contract execution, and did not submit a Design Oversight Manager who would be a California registered Professional Engineer by the date of contract execution.

California High-Speed Partners had reason to be aware of the California registered Professional Engineer requirements as stated in the IFB (Section 6.6.2.(e), 6.6.2(f)(4), and Attachment A) as well as the response to Question 504, which maintained the requirement that the Design Oversight Manager be a California registered Professional engineer by the date of contract execution. Further, Question 618 stated contract execution was expected in June 2026. California High Speed Partners' Form A, submitted with its Proposal, acknowledged these questions and responses, as discussed above.

The Authority's April 16 Letter attempted to clarify the status of the Engineering and Design Director's and Design Oversight Manager's respective registration as California Registered Professional Engineers. California High Speed Partner's April 17 Letter indicated that their registration as California Professional Engineers was anticipated in December 2026 and March 2027, respectively, six and nine months after contract execution was anticipated.

As California High-Speed Partners did not provide any information in its Proposal or the April 17 Letter to demonstration compliance with the requirements of ITP Section 6.6.2(e), 6.6.2(f)(4), and Attachment A, the Authority determined that California High-Speed Partners was non-responsive to these requirements.

IV. Failure to Provide a California Registered Professional Engineer is a Material Non-Conformance

In ITP Section 3.3, the Authority

reserves to itself all rights, which may be exercised by the Authority in its sole discretion, available to it under applicable law including without limitation, with or without cause and with or without notice, the right to ... 5. Waive informalities, immaterialities, irregularities, mistakes, and deficiencies in a Proposal[.]”

California Business and Professions Code §6730 states,

In order to safeguard life, health, property and public welfare, any person, either in a public or private capacity, except as in this chapter specifically excepted, who practices,

or offers to practice, civil engineering, electrical engineering or mechanical engineering, in any of its branches in this state, including any person employed by the State of California, or any city, county, or city and county, who practices engineering, shall submit evidence that he or she is qualified to practice, and shall be licensed accordingly as a civil engineer, electrical engineer or mechanical engineer by the board.

California Business and Professions Code §6732(a) requires that “at least one licensed engineer shall be designated the person in responsible charge of professional engineering work for each branch of professional engineering practiced in any department or agency of the state...”

Deviations may be determined to be material if they give a bidder a competitive advantage not available to other bidders. A deviation which impacts a bidder’s bid price would be material, but other deviations that confer a competitive advantage can also be deemed material.

The requirement that the Design Oversight Manager be a California registered Professional Engineer at the time of contract execution is intended to comply with the requirements in California Business and Professions Code §6730, *et seq.* Waiving this requirement would allow one Proposer to deviate from this statutory requirement while requiring the other Proposer to submit a compliant Proposal, thus conferring a competitive advantage to the Proposer for which the requirement is waived.

Waiving a requirement for a PE license would be prohibited under state law, contradict the procurement documents, and potentially create an actual or perceived bias.

V. The Professional Engineer Requirement’s Lack of Direct Impact on the Proposal Price Does Not Make It Immaterial

The requirements that at least one key personnel be a California registered Professional Engineer and that the Design Oversight Manager specifically be a California registered Professional Engineer are not directly related to the Price Proposal. As discussed above, a deviation is not required to be directly related to price to be found material.

Pursuant to IFB Section 7.3, Proposer Minimum Qualifications, review of all minimum qualifications to determine Proposal responsiveness occurs prior to opening of the price proposals:

The Proposer must submit all of the required information as described in Section 6 of this RFP. All of the information identified must be included for the Proposal and required submittals to be considered responsive. Proposals or required submittals with missing or incomplete information may be rejected. If a Proposer passes this phase, its Proposal will be evaluated and scored.

The Authority’s process in IFB Section 7.3 requires it to make all determinations regarding the responsiveness of all Proposals as to the minimum qualifications prior to opening of the price proposal. As the deviation’s impact on the price proposal cannot be determined without viewing the price proposal, the decision to find California High Speed Partners’ Proposal non-responsive must be made separate from whether the deviation impacted the Proposal price.

VI. The ITP Requires At Least One Key Personnel to be a California Registered Professional Engineer

California High Speed Partners' Letter of Protest alleged that "the Authority's rejection lacks support because no licensing requirement applies to the Engineering and Design Director role." (Letter of Protest, page 4.) This misstates the reasoning behind why California High Speed Partners was found non-responsive to the RFP requirements.

California High Speed Partners was found non-responsive for failure to meet the requirements of ITP Sections 6.6.2(e), 6.6.2(f)(4), 7.3, and Attachment A. (April 29 Letter.) Failure to meet the requirements of IFB Section 6.6.2(f)(3), which lists required qualifications for the Engineering and Design Director, was not listed as a basis for finding California High-Speed Partners non-responsive.

Authority's April 16 Letter sought clarity regarding whether the Engineering and Design Director would be a California registered Professional Engineer by the date of contract execution to determine whether California High Speed Partners met the requirement that at least one Key Personnel be a California registered Professional Engineer at the time of contract execution. The Engineering and Design Director was identified in the April 16 Letter because California High Speed Partners' Form E identified this individual as holding a "pending" license. The request for clarification of the status of the Engineering and Design Director's California Professional Engineer license was to clarify whether the Proposer met the requirement for at least one key personnel be a California registered Professional Engineer at the time of contract execution. The disqualification was based on the lack of a California registered Professional Engineer among all key personnel, not that the Engineering and Design Director specifically lacked this license.

The determination that California High Speed Partners was non-responsive to these requirements was based on (1) failing to submit a Design Oversight Manager who would be a California registered Professional Engineer by the date of contract execution and (2) the lack of a California registered Professional Engineer among all key personnel. The finding of non-responsiveness was not because the Engineering and Design Director specifically lacked this license.

VII. Conclusion

Based on the above, the Authority maintains that the Letter of Protest must be rejected on the ground that California High Speed Rail Partners was properly found non-responsive due to (1) failure to submit a Design Oversight Manager who would be a California registered Professional Engineer by the date of contract execution as required, and (2) failure to submit any Key Personnel who would be a California registered Professional Engineer by the date of contract execution, as collectively required by ITP Sections 6.6.2(e), 6.6.2(f)(4), 7.3, and Attachment A. These failures constitute a material deviation, rendering their proposal non-responsive, and the Authority properly disqualified the offer on these grounds.

Attachments:

1. RFP No. HSR25-89, referenced sections
2. April 16 Letter
3. April 17 Letter
4. April 29 Letter
5. Questions and Responses, Round 5, Question 504
6. Questions and Responses, Round 10, Question 618
7. Pass/Fail Responsiveness Subcommittee Report
8. California High Speed Partners Proposal, Form A and Form E