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Executive Director

ANDREW B. FREMIER
Deputy Executive Director

DRAFT

BAY AREA TOLL AUTHORITY (BATA)
OVERSIGHT COMMITTEE
April 11, 2012
MINUTES

Attendance

Chair Bill Dodd convened the meeting at 9:42 a.m. In addition to Chair Dodd, the following Committee members were in attendance: Vice Chair Tom Bates, David Campos, Dave Cortese, Federal Glover, and Scott Weiner.

Also present was Ex-Officio voting member BATA Chair Adrienne Tissier and BATA Vice Chair Amy Rein Worth.
Other Commissioners in attendance as ad hoc non-voting members: Dorene Giacopini, Mark Green, Scott Haggerty, Anne Halsted, and Jake Mackenzie.

Consent Calendar

Upon the motion of Commissioner Bates and the second from Commissioner Glover, the Committee unanimously approved the following four consent items:

- Minutes of the March 7, 2012 meeting
- BATA Financial Statements – February 2012
- Contract Amendment – On-Call Project Design Services, FasTrak® Regional Customer Service Center (CSC) Procurement Assistance: Jacobs Engineering Group, Inc. $190,000
- Contract Amendment – On Call Project Design Services, Closed Circuit Television Installation Project: URS Corporation Americas $120,000

BATA Resolution No. 103 – BATA Financing Plan

Mr. Brian Mayhew, BATA Chief Financial Officer, along with Ms. Mary Collins, Bond Counsel with Orrick Harrington and Mr. Bob Rich, Financial Advisor with Public Financial Management, presented this item. As background, Mr. Mayhew presented a power point presentation entitled BATA Financial Update and 2012 Plan of Finance. Mr. Mayhew also highlighted the following:

- In 1998 BATA originally started with $1 billion planned, the financing was split between the Northern and Southern bridge groups the State Treasurer was the Issuer of Record. BATA has since funded $11 billion in capital projects.
- There is a new round of bank downgrades although the Federal Government completed a stress test on banks and declared they were all relatively healthy or within their requirements.
- In 2012, BATA will continue to be aggressive in managing and minimizing any credit risk that can come up.
- Regarding debt portfolio management, BATA will continue to monitor and manage the variable rate / swap portfolio which is approximately $1.5 billion. The plan with the $1.5 billion is to monitor and seek opportunities in the market. At the moment the portfolio is performing the way it was designed.

- In 2009, indexes were at 5.09% and there was $5 billion left of the program to finance. Interest rates were reaching staggering levels and at these levels the program would not have been completed. Had interest hit 6% the current toll structure would not have been sufficient. The BATA modeling target was at 5.75% which would allow it to finish the projects. When the target was set it was below what the revenue bond index indicated it should be set. The interest rates on the Build America Bonds Programs ("BABs"). It gave the municipal world access to liquidity and the market that would not have existed without the BABs. BABs kept the BATA projects going and made the financing rate substantially lower then BATA had originally projected in 2009.
- BATA letters of credit banks with a rating of "A3" or higher are Bank of Tokyo-Mitsubishi, Barclays Bank PLC, JP Morgan Chase, Union Bank, and Sumitomo Mitsui Bank Corp., "A1 and A2" rated banks are Bank of America, Lloyds TSB and Morgan Stanley. Moody's recently announced a change in its rating criteria that could result in downgrades for 17 of the worlds largest financial institutions. The impact on Moody's new rating method is at a higher interest rate on a portfolio. In this case there is approximately $615 million of BATA money that can be in question if downgrades occur in Bank of America, Lloyds and Morgan Stanley.
- BATA plans to convert modes with Lloyd and Morgan Stanley's. The plan is to change modes on approximately $305 million of bonds from weekly resets to 3-5 year resets. By doing this it will mean the $305 million bonds will be converted from a weekly reset to a 3 to 5 year reset, resulting in these bonds no longer having remarketing agents or any lines of credit associated with them.
- With Bank of America, there are plenty of other banks that have high enough ratings where we could change quickly and would not have to pay additional brokers fees. This is the first step and there are plenty of options. This is only if Moody's carries out their intention of lowering the banks' short term rating. If Moody's does not carry out its intentions, BATA will be fine.
- In the case of the swap portfolio there is a negative mark-to-mark value of the contract at the moment because interest rates are low. That value works against us. BATA would pay $411 million if BATA were to terminate all the contracts. If the swaps were terminated and termination cost financed, it would equal $.20 on the toll or about $27 million a year.

Commissioner Dodd mentioned it sounded counter intuitive that one of the bank's credit rating would be downgraded and BATA's rate would go up. He then asked that this credit rating be explained.

Mr. Rich replied that it is not the fee to BATA. Bank of America worked with them to extend their credit facilities and has been accommodating. Bank of America backed bonds, are going to trade at higher interest rates then, for example, J.P. Morgan backed bonds. BATA still has to pay those bonds and is still the credit behind those bonds. The investors are looking to BATA which is still rated higher than most of the banks.

- Mr. Mayhew stated that BATA was working at a 5.25% interest rate target to finish the projects a couple of years ago. At one point in time it was believed to need 6.25%. Nobody can beat the market but we have used the market to take advantage of some areas and BATA has come out well throughout all of it.

Mr. Mayhew concluded his presentation by asking for approval of BATA Resolution 103.

Commissioner Campos thanked the Finance department for their presentation and asked what the worst case scenario could be if everything goes contrary to what was explained by Mr. Mayhew previously. Mr Mayhew said nothing would be done if the market should go counter to what is expected and that no bonds would be issued. In 2010 and 2011 interest rates went up and no action was taken until it all settled down. The same was true with lines of credit after 2011. The market needed to adjust itself and BATA stayed away. If interest rates go up, BATA will stay away. If interest rates get to a certain parameter where variable rates can be used then BATA will then consider that.

Commissioner Campos asked what the process would be for when to take or not take action. He also asked what the level of involvement for the Authority would be in making that decision.

Mr. Mayhew replied there is a good financing team and a lot of advice of what to do. Any changes will be looked at. Models are constantly looked at for 100 years. Models run for change of cost, interest cost and financing structure.

Mr. Rich stated what drives decision making is when you need the money. Timing vs. when you need the money is looked into. The finance team advises Mr. Mayhew or Ms. Woo on when to move the money. It is less of an immediate need for BATA as its cash is quite healthy.

Mr. Campos again asked what the Authority's role would be in BATA Finance decisions.

Mr. Heminger, BATA Executive Director, replied that as with the past $8.5 billion of debt, the Authority sets parameters within which the Authority feels comfortable and that BATA Finance works within those parameters. Mr. Heminger mentioned that both Mr. Mayhew and Mr. Rich would engage in discussions when getting close to the parameters and even though authorized would question whether they really wanted to proceed. Mr. Heminger mentioned that the judgment exercised in the past years has been good because all $9 billion has come in for under 4.5%. The Authority's focus should be these parameters before it today. If the Authority is not comfortable then it should debate and change them. Mr. Heminger stated that BATA Finance has never come close to the major parameters in terms of interest rates or other factors. The parameters are where the Authority exerts its discipline and control and once established, then BATA Finance can proceed. Mr. Heminger emphasized the history in this program has been reimbursable. BATA has spent the money and when it has a lot of expense debt is sold and BATA is reimbursed. The market at the current time appears to be favorable and BATA is willing to consider a forward financing, where not all the money is spent but the rate is good enough that it is worth getting; but if the rate goes in the other

direction, BATA still has plenty of money in the bank to complete all the projects. In short, BATA is trying to take advantage of the market.

Commissioner Campos pointed out that page 4 of the presentation, shows the banks that BATA is doing business with. He mentioned that San Francisco, to a lesser extent then the rest of the Bay Area, is dealing with the foreclosure crisis. The Accessor-Recorder did a study and there are about 400 foreclosures in San Francisco and the third party independent auditor found irregularities. About 84% of the foreclosures had questionable action on part of the bank. Commissioner Campos feels that BATA has some financial responsibility to make sure BATA manages the toll revenue in the most effective way and to maximize the revenue for the toll payers. BATA is doing business with some of the institutions that are playing a role in this foreclosure crisis. He feels that at some point it should be addressed to the extent that we have money with these institutions. It is a real concern in the part of San Francisco that Commissioner Campos represents.

Mr. Heminger mentioned that Mr. Mayhew is recommending to reduce the role that these banks play. In the meantime, BATA's liquidity and the fact that we have most of the debt issued reduces BATA's exposure.

Commissioner Dodd asked if going to the maximum on the $1.2 billion with these parameters of 5.75% for tax-exempt bonds or 8% for taxable bonds, would have an impact on tolls. Mr. Mayhew responded, "No", and mentioned the 5.75% is the limit without impacting the structure.

Upon the motion of Commissioner Cortese and the second of Commissioner Tissier the motion passed unanimously.

<u>Contract – Credit Card Processing and Banking Services for the FasTrak® Electronic Toll Collection (ETC) Program: Bank of America Merchant Services. ($10,000,000)</u>
Mr. Mayhew presented the Committee with staff's recommendation for credit card processing and the banking services for the FasTrak® ETC. He mentioned that the current vendor for the ETC is Bank of America and that BATA issued a bid for credit card processing with minimum qualifications, the main ones of which are that the vendor have assets based on $5 billion and stringent requirements on PCI certification, which are security structures that protect the credit card holder with the credit card processor. There were seven respondents to the Request for Proposal and after several discussions and interviews, with the help of Golden Gate Bridge Highway and Transportation District staff, it was recommended that Bank of America be selected for the job. Bank of America made some pricing concession during the process worth about $12,000 to $13,000. Bank of America, the incumbent contractor, has done a fine job and have set a standard for PCI and customer security compliance which is a very important aspect of credit card processing.

Commissioner Cortese asked what it would take to add a social responsibility criterion to the evaluation process. He thinks it is worth pursuing when utilizing banks as vendors.

Mr. Heminger suggested staff could reach out to other toll authorities and issuers around the country and see how they handle social responsibility when evaluating banks and then bring back a report with possible options for the Committee to consider.

Commissioner Green stated that he appreciated the pressure some Commissioners may feel about adding a social equity component in choosing banks, but cautioned restraint so as not to create unintended consequences.

Commissioner Rein Worth asked if the staff recommendation was to act on the proposal today or set it aside with direction to come back to the Committee with more information on the issue of social responsibility. Mr. Heminger said he was suggesting the former, and is seeking Committee approval. Commissioner Rein Worth said the situation before them today was to purchase a product versus selling a bond. She said she would like to see a detailed analysis of the contractor selection process. She mentioned that at the March BAHA meeting there was a very detailed matrix that described the results of the evaluation of proposers before the Authority made a decision. With a conflict of this size, she would like to know how all the banks ranked in terms of the criteria. She also asked for Bank of America's position in terms of offering some additional reduction of their fees. It is important that BATA get the best service and to look at the vendors that are providing the best financial value. She then asked for a little more detail. Mr. Mayhew said Bank of America and Wells Fargo were the top-ranked banks. Bank of the West was number three. Commissioner Rein Worth then mentioned price-point. If the Committee authorizes the Executive Director to negotiate a contract is there an opportunity to look at what is being paid for these services? Mr. Mayhew said staff will go back and continue discussion on pricing. Overall, Bank of America made the better proposal based on BATA's security requirements.

Chair Dodd agreed with Commissioner Rein Worth's comment on setting the standard where all committee memos contain comparative ratings. Mr. Heminger replied that in the future staff will present to the Committee more standardized format to compare proposals when seeking contract approval.

Commissioner Haggerty referred to Commissioner Green's comments. BATA has a fiduciary responsibility to the people paying the tolls and also has the responsibility to get the projects done. He realizes that BATA, has to associate itself with major institutions because of the amount of money it manages. BATA has to stay focused on that mission.

Commissioner Campos stated he has no problem moving forward with this contract. However, he supported following up on Commissioner Cortese's request to staff to explore whether social responsibility could be a criterion in the future.

Commissioner Bates said he agrees with Commissioner Campos. Once confident that banks meet the standard criteria then social responsibility should be looked into as well. He stated that San Francisco and Berkeley are making sure the money is handled properly and appropriately but in addition they consider social responsibility also.

Upon the motion of Commissioner Cortese and second from Commissioner Rein Worth the motion passed unanimously.

Toll Bridge Seismic Retrofit Program (SRP) Progress Report

Mr. Peter Lee, BATA staff, provided an update on Bay Bridge cabling and said that the last of 137 strands were completed last week. The contractor started cable hauling in late December 2011 and is on target for the Labor Day 2013 opening.

Commissioner Green wanted to comment on the bridge seismic work that had been done on the Dumbarton and San Mateo/Hayward bridge and would like to see the cost of upgrading the seismic safety standard of either of the bridges because if a major incident should happen it would require people from the South bay to travel 50 plus miles to get to the San Francisco area. Mr. Heminger mentioned the work was nearly complete on those bridges and looking into upgrading to a life-line standard would be significant work. Also, Mr. Heminger stated the reason for life-line status for the San Francisco Bay Bridge was that in the event of a major earthquake, search and rescue teams that landed at the Travis Air Force Base could access the west bay.

Other Business/Public Comment/Next Meeting/Adjournment

There being no further business or public comment, the meeting was adjourned at 10:44 a.m. The next BATA Oversight Committee meeting is scheduled for Wednesday, May 9, 2012 in Oakland, California.