

Change Order 0018

9-Month Delay Claim Resolution

Proposed Action

- **Authorizes the Chief Executive Officer to execute Change Order 00018 with Ansaldo Honolulu Joint Venture for the settlement of the Core Systems Contractor's nine (9) month delay claim and includes the full reconciliation of its Best and Final schedule (pre-Notice to Proceed [NTP]) and post-NTP baseline progress schedule in the amount of \$8,700,000.**

Core Systems Fiscal Information

Allocated Contingency

\$67,432,099

Previously Executed Change Orders / Credits	- \$21,280,893
Net Contingency Transfer(s) to/from Unallocated Contingency	+ \$8,317,350
Available Contingency	\$54,468,556
Cost of this Action	- \$8,700,000
Remaining Contingency after Execution of this Action	\$45,768,556

Nine-month Delay Claim

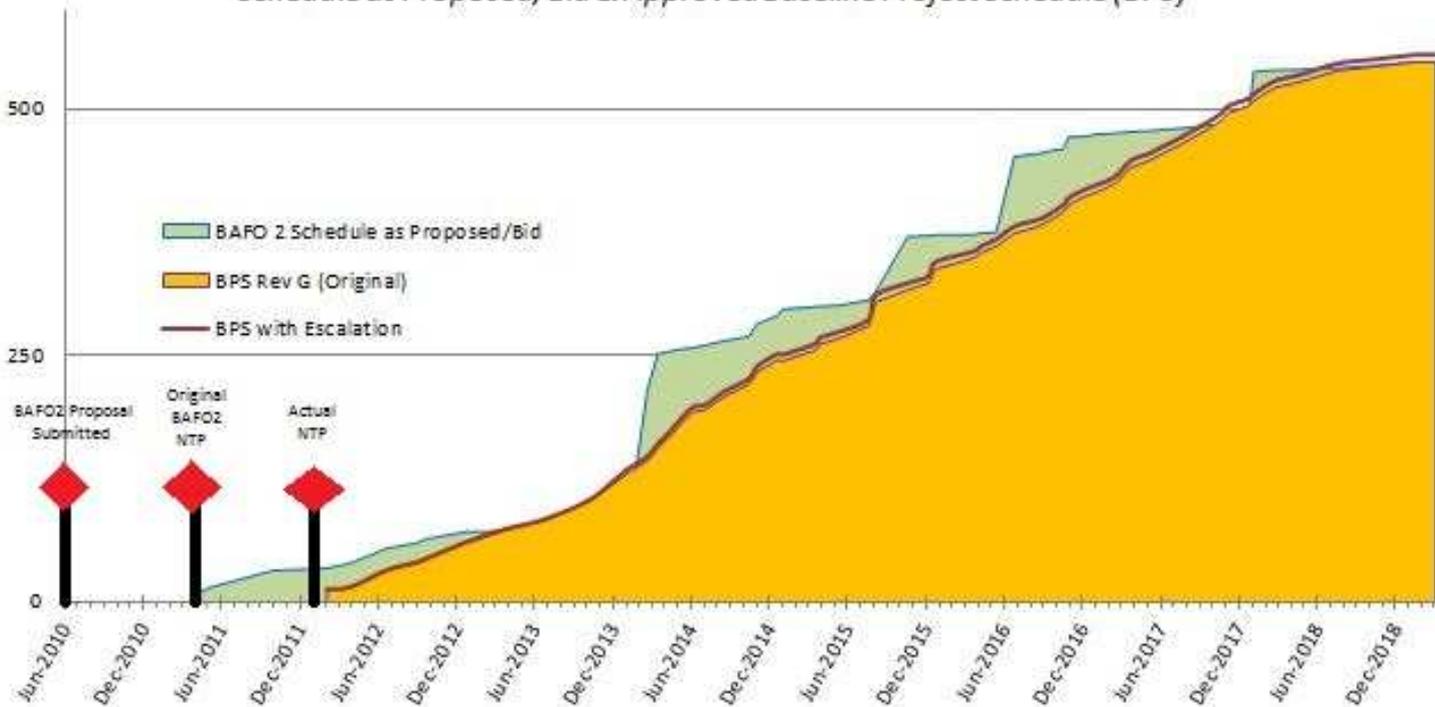
Key Feature Summary

- **HART issued Notice of Award to Ansaldo Honolulu Joint Venture (AHJV) on March 11, 2011**
- **Notice to Proceed (NTP) expected and as identified in the contract documents, no later than April, 11 2011**
- **NTP issued on January 13, 2012**
- **Total days delay in issuance of NTP, 277 days**

Delay in Notice to Proceed

Schedule as Proposed/Bid & Approved Baseline Project Schedule (BPS)

SCHEDULE OF ACTIVITIES (\$M)



- BAFO2 Technical, Price and Schedule Proposal submitted to the City of Honolulu in **June 2010**
- Proposal Documents defined Notice to Proceed as **April 2011**
- Actual Notice to Proceed was issued in **January 2012** due to a bid protest
- Full Opening Completion was maintained in the Approved Baseline Schedule requiring certain activities to be accelerated.

Nine-month Delay Claim Background

- **The Core Systems Contract is a Firm Fixed Price contract.**
- **The Contractor has affirmed their commitment to perform the defined scope of work in the time defined in the contract for the sum of the Firm Fixed Price as submitted with their Proposal.**

Nine-month Delay Claim

Background

- **Often the Owner will assume market fluctuation risk by including an Economic Price Adjustment clause in the contract that allows for price adjustment payments based on changes in certain pre-defined indexes; PPI or CPI.**
- **This contract did that but only for the Full Operations and Maintenance Phases of the contract.**
- **The Contractor had the responsibility to price into their price proposal their expected market fluctuations and to balance that with the objective of winning the contract that has a certain amount of price components that were taken into account when awarding the contract.**
- **Because we structured the contract without the Economic Price Adjustment clause the impact in pricing of the work is being calculated and formed the basis for our the negotiations and compensation of this change order.**

Nine-month Delay Claim Justification

- **The delay in issuance of NTP was due to bid protests filed by the unsuccessful Core Systems Offerors, for which a stay on the award of the contract was in effect until the DCCA Hearings Officer's decisions regarding the protests were issued.**
- **The delay was an event beyond the control of the Core Systems Contractor and HART.**

Nine-month Delay Claim

Independent Cost Estimate (ICE)

- **HART ICE determined escalation costs based on a comparison of the delay in schedule activities between the Baseline Project Schedule (BPS) – Rev. G and the BAFO BPS**
 - **Activity mid-point dates from the two schedules are analyzed to determine the specific delay impact for each activity.**
 - **Escalation costs are then calculated on the prorated annual escalation rate based on the specific delay impact calculated for the activity.**
 - **The escalation rate utilized are shown on the next slide.**
- **ICE Low and High Range for Negotiations: \$7,274,707 and \$9,406,486**

Nine-month Delay Claim Escalation Index Evaluation

Cost Factor	ICE	PMOC Spot Report 2010 – 2019 *
Labor	2.88% (Low) 4.67% (High)	4.67%
Materials	3.30%	3.30%

*Escalation values from Table 5-7, Recommended Escalation Factors, FTA PMOC CLIN 0005: Spot Report, Dated July 2009. A review of both labor and material index performance from NTP to today indicate that the labor and material rates identified in the 2009 report are still valid.

** 2.88% Labor Escalation Rate was the rate utilized in AHJV bid proposal and found in their Escrow bid documents.

Nine-month Delay Claim

Contractor Proposed Cost (CPC) Estimate (\$ million)

➤ Financial Impact Cost:	\$2.03
➤ Delay Escalation Cost:	\$12.14
➤ Financial Review Cost:	\$0.03
➤ Expert Review Cost:	\$0.04
➤ Preparation Cost:	\$0.19
➤ G.E.T.:	\$0.68
➤ Interest:	\$1.32
➤ OH&P	<u>\$0.04</u>
➤ TOTAL:	\$16.48

Nine-month Delay Claim

Summary of Negotiations

➤ CPC	\$16,478,561
➤ HART ICE Low	\$7,274,707
➤ HART ICE High	\$9,406,486
➤ Settled Amount	\$8,700,000

This Contract Change Order is for the settlement of the Core Systems Contract's nine (9) month delay claim and includes full reconciliation of its Best and Final schedule (pre-Notice to Proceed) and baseline progress schedule (post-NTP).

Mahalo!

Nine-month Delay Claim Background

Contract Baseline

- **NTP key Core Systems completion milestones**
 - **Intermediate Opening #1 – December 15, 2015**
 - **Intermediate Opening #2 – October 15, 2017**
 - **Full Opening – March 15, 2019**
- **NTP was based on Contract's expected Access Dates for all Fixed Facilities**

Nine-month Delay Claim Background

Baseline Project Schedule (BPS)

- February 17, 2012 - AHJV submitted its Initial BPS
- March 1, 2012 – HART provided “Accepted as Noted” of Initial BPS
- March 1, 2012 - HART issued revised Fixed Facilities access dates and key milestones
- November 30, 2012 - HART accepted BPS - Rev. G
 - Revised Fixed Facilities access dates
 - Revised Intermediate Opening #1 and Intermediate Opening #2 dates
 - Original Full Opening date

Cash Flow Comparison

BAFO2 vs. Revision G Cash Flow

