

To: Court Facilities Working Group (CFWG)

From: Hon. Patricia Lucas, Vice Chair of Court Facilities Working Group, Chair of the Audit Subcommittee

Re: Status update on independent audit of Courthouse Construction Program

Date: May 4, 2012

**Summary:**

As you may recall, at our very first meeting on August 30, 2011, we directed the Administrative Office of the Courts to engage an outside, independent auditor to assist us in our ongoing oversight of the judicial branch's court facilities program. When the Judicial Council approved our latest cost-reduction recommendations on April 24, 2012, Justice Hill spoke briefly about the independent auditor in his presentation to the Council. He asked me to give the Working Group a status update. I'm told that we can expect the report sometime in August. When we do receive the report, Justice Hill will convene the entire committee to hear the report and to make recommendations, if any, to the Judicial Council.

**Background:**

The Trial Court Facilities Act of 2002, also known as SB 1732, made the Judicial Branch responsible for the operation and maintenance of all court facilities, and for the planning and construction of new trial court facilities using funds generated by Judicial Branch operations and allocated to court facilities infrastructure. The Office of Court Construction and Management (OCCM) a division within the AOC was formed in 2002 to assume responsibility for this new Judicial Branch responsibility. SB 1407, enacted on September 28, 2008, provided enhanced revenue streams for the design, construction and rehabilitation of court facilities and authorized up to \$5 billion in lease revenue bonds for trial court construction and renovation, dramatically expanding the size and scope of the court construction component of the facilities program. Since 2002, the AOC—based on direction from the Judicial Council—has made significant progress on several facilities initiatives:

- Completed all transfer agreements (by December of 2009) establishing on-going responsibility for the ownership, operation, and maintenance of 532 court facilities
- Assumed operation and maintenance responsibility for 20 million square feet of court facilities
- Completed construction, or renovation of 8 new court facilities; 2 of which were under county project management and 6 of which were under AOC project management
- Started construction on 9 additional projects and received funding approval for 40 additional projects
- Retained the services of 39 architectural firms to design 57 projects
- Retained the services of 10 construction management/general contracting firms to be responsible for the construction of 14 projects
- Initiated development of policies, procedures, and processes, whether completed or in process, sufficiently comprehensive to complete all of the above work
- Completed 6,961 facility modification projects costing over \$88,000,000.

The Chief Justice appointed the Court Facilities Working Group in July 2011. At its first meeting in August, the Working Group directed the AOC to engage an independent auditor.

The primary goal for engagement of an independent audit was to support and enhance the success of the program relative to budget, scope, schedule, and quality outcomes, and to provide the Working Group and the Judicial Council with an unbiased review. To this end Justice Hill appointed me as chair of the Audit Subcommittee (initially named Independent Outside Oversight Consultant Subcommittee) to oversee the contract. The subcommittee includes Judge David Power, Solano; Judge Gary Orozco, Fresno; Court Executive Officer Stephen Nash, San Bernardino; Ellen Warner and Michael Bocchicchio, each representing the real estate, architecture, and construction industry; and Thomas Warwick, representing the State Bar of California.

After our subcommittee reviewed proposals from several outside auditors, we recommended to the Working Group that the AOC engage the services of Pegasus Global Holdings, Inc. The contract was signed in January 2012.

**Scope of Services:**

Pegasus is a construction consulting firm based in Cle Elum, Washington. Pegasus provides management evaluations and proposed solutions to the investment community, multi-national corporations, government entities, owners, engineers, and contractors for a wide variety of construction related projects with a focus to enhance the organization's efficiency and effectiveness. The principle consultants at Pegasus all have over 25 years consulting experience to the construction industry. Pegasus is led by its CEO, Dr. Patricia Galloway, who is a civil engineer, holds an MBA and a Doctorate in Infrastructure Systems Engineering. In addition to Dr. Galloway, the Pegasus senior staff members working on the engagement are Jack Dignum and Dr. Kris Nielsen. Mr. Dignum, who is the Engagement Manager on the AOC Project, holds a degree in industrial psychology, and a Masters degree in Program Management and Administration. Dr. Nielsen is a lawyer, a mechanical engineer, and holds a Doctorate in Infrastructure Systems Engineering. Additional subject matter experts in areas such as program management, estimating, warranty/ conformance, and LEED will work on specific areas of the engagement as needed.

Pegasus has provided services across every sector of the capital construction industry both in the United States and internationally, working with, and under, public and governmental project owners and sponsors. This work includes significant work in heavily regulated environments. Pegasus has extensive experience in most areas of construction, including institutional buildings.

Specific examples of Pegasus engagements include:

- Engaged by the Indiana Utility Regulatory Commission to perform a prudence audit of the \$2.88 billion Edwardsport Integrated Gas Combined Cycle Power Project
- Engaged by the City of Winnipeg to perform a comparative audit of its multibillion dollar capital project program
- Engaged by the State of Washington Joint Legislative Audit and Review Committee (JLARC) to review, comment on, and suggest refinements to a JLARC consultant that was to provide a performance audit of the State of Washington capital planning, design, and construction processes.
- Engaged by Her Majesty's Treasury and the Department of Transport for the United Kingdom to conduct a detailed evaluation of certain management processes, procedures and assumptions associated with the Cross London Rail Link Program.
- Engaged by Princeton University to review its capital construction program and identify any elements of its capital project risk management practices that did not meet industry "best practices".

The Pegasus engagement for the CFWG includes both specific tasks and tasks to be assigned on an "if needed/when needed basis". The defined tasks that Pegasus has or will be performing at the direction of the CFWG and its Audit Subcommittee are:

- Perform an assessment of the overall management of the Courthouse Construction Program (Program) relative to budget, scope, schedule and quality outcomes using a combination of AOC policies, procedures, processes, standard document reviews and interviews of OCCM and other senior management responsible for key elements of the Program.
- Compare the findings from its review to make specific recommendations for improvement based on generally accepted industry practices. These recommendations include improvements in existing policies and procedures, the necessity of new documents, and the development of processes to minimize project risk.

- Review six individual projects, both completed and in the course of construction, to assess project team performance relative to budget, scope, schedule and quality outcomes, and provide specific findings and recommendations to improve project outcomes on other projects in construction, and in development.
- Perform an assessment of OCCM from both an organizational and staffing viewpoint to assess the capability of the organization and its staff, consultants, architects and engineers, and contractors to deliver the Program within budget, scope, schedule and quality outcomes as defined by the CFWG.
- Identify the processes that will, if improved, provide the greatest value to the Program, and recommend specific improvement goals, objectives, and implementation strategies.
- On an on-call and as needed basis, perform review and assessment of the implementation of findings, recommendations and improvements, and perform other studies as assigned by the CFWG to assist in its stewardship of the Program.
- Prepare on behalf of the Working Group an annual report to the Judicial Council of California concerning the efficiency and effectiveness of the OCCM management of the Program.

In completing its work Pegasus has been authorized to use any of the following methods of inquiry:

- Attend meetings associated with the implementation of the program.
- Conduct interviews with the AOC management charged with the implementation of the program.
- Conduct interviews with project team end users, consultants and contractors.
- Review program and project related documents and processes as required in assessing the Program.
- Request that the AOC prepare reports to augment existing documents and documents routinely prepared as part of the implementation of the program.
- Review applicable literature and consult with individuals responsible for similar federal, state, and local government construction programs.

The term of the contract with Pegasus is for an initial term of 15 months ending May 15, 2013, with the ability for the Working Group to extend the contract for up to three consecutive one-year terms.

We are looking toward August for a full report to the CFWG.