



ACTION ITEM

Consideration of and Possible Delegation of Authority to Approve Ministerial Amendments for Agreements and Increase of Delegated Authority to Award and Execute Agreements

Summary: Staff recommends that the Council amend the delegation of authority to the Executive Officer to increase the authority to award and execute contracts, task orders, grant agreements, and interagency agreements on the Council's behalf from \$500,000 to \$750,000; and to delegate authority to enter into and execute amendments on the Council's behalf, which do not substantively amend the scope of work, extend the contract term, or increase the total contract amount, for all contracts, task orders, grant agreements, interagency agreements and other instruments or documents that exceed \$750,000.

The Executive Officer's delegation of authority for these matters has not been increased since its initial adoption by the Council in 2010. The changes recommended by staff would continue to provide for the orderly operation of Council operations, while still ensuring critical policy matters receive Council review.

REQUESTED ACTION

Staff requests that the Council approve Resolution #2022-02 to amend the delegation of authority to the Executive Officer to increase the authority to award and execute contracts, task orders, grant agreements, and interagency agreements on the Council's behalf from \$500,000 to \$750,000; and to delegate authority to enter into and execute amendments on the Council's behalf, which do not substantively amend the scope of work, extend the contract term, or increase the total contract amount, for all contracts, task orders, grant agreements, interagency agreements and other instruments or documents that exceed \$750,000.

BACKGROUND

The Sacramento-San Joaquin Delta Reform Act (Delta Reform Act), California Water Code sections 85000, et seq., the Sacramento-San Joaquin Delta Reform Act of 2009 (Delta Reform Act), Water Code section 85000 et seq., directs the Delta Stewardship Council (Council) to develop an enforceable, comprehensive, long-term management plan for the Sacramento-San Joaquin Delta and the Suisun Marsh (collectively, the Delta), and directs that the Delta Plan must further the "coequal goals" of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem to be achieved in a manner that

protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place (Water Code §§ 85300, 85054). The mission specific to the Delta Science Program is to “provide the best possible unbiased scientific information to inform water and environmental decision-making in the Delta” to be carried out, in part, through funding research, synthesizing and communicating scientific information to policymakers and decisionmakers, and promoting independent scientific peer review. (Cal. Wat. Code § 85280(b)(4).)

To achieve its mission and the mission of the Delta Science Program, the Council’s powers include the power to enter into contracts and to disburse funds through grants, public assistance, loans, and contracts. (Wat. Code §§ 85210, 85213, and 85280(b)(4).) The Council may also delegate administrative functions to Council staff. (Wat. Code § 85210(d).)

At its April 2010 Meeting, the Council approved a delegation of authority for the Executive Officer to award and execute contracts, task orders, grant agreements, and interagency agreements on the Council’s behalf up to \$500,000. The current delegation of authority to the Executive Officer (adopted April 2010) also directs the Executive Officer to bring the following matters to the attention of the Council “at a meeting or other appropriate communication”:

- (a) Matters of a unique or unusual nature.
- (b) Matters that appear to depart from the policies of the Council.
- (c) Matters involving significant policy questions.
- (d) Highly controversial or potentially controversial matters.
- (e) Matters that involve a substantial risk of litigation.
- (f) Any matter that a member of the Council requests to be brought to the attention of the Council.
- (g) Any matter that, in the judgment of the Executive Officer, should be brought to the attention of the Council.

JUSTIFICATION

To provide for the orderly administration of the day-to-day affairs, it is commonplace for state boards, departments, and offices to delegate certain matters to staff. The Delta Reform Act gives the Council the power to delegate. The Executive Officer’s delegation of authority in this respect has not been adjusted since it was adopted in 2010.

The proposed increase in the delegated amount to no more than \$750,000 for the Executive Officer to enter into and execute contracts (and their amendments) and the proposed delegation for ministerial amendments for contracts that exceed that

exceed \$750,000, would result in greater administrative and operational efficiency, while retaining the Council's authority to approve larger, more significant contracts and their substantive amendments. The proposed delegation would not change the requirement for the Executive Officer to bring to the Council unusual, significant, highly controversial matters or other matters that fit the criteria referred to above.

The requested delegated authority has precedent under the California Bay Delta Authority (CALFED), the predecessor to the Council. The California Bay Delta Act (SB 1653, Costa, Chapter 812, Statutes of 2002) provided CALFED with the ability to delegate to the Executive Officer the approval of contracts up to \$1 million, as a means to "maximize flexibility and efficiency in implementing authority activities." Adjusted for inflation, the \$1 million delegated authority would be approximately \$1.6 million in today's value.

Furthermore, consistent with current practice, staff will continue to regularly keep the Council apprised on contracting matters by providing the Council (and the public) with a Quarterly Contract report.

Finally, it should be noted any contracts above \$50,000 that are not exempt by Water Code 85213 will continue to require approval from the Department of General Services. The delegation of authority would not impact or affect compliance with any other applicable State contracting laws, regulations, policies, and procedures.

Therefore, staff recommends that the Council approve Resolution 2022-02 (Attachment 1 to this staff report).

FISCAL INFORMATION

None.

LIST OF ATTACHMENTS

Attachment 1: Resolution #2022-02

CONTACT

Jessica Pearson
Executive Officer
Phone: (916) 445-4500