

STATE OF CALIFORNIA

**STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

**RESOLUTION - RE: EXECUTIVE DIRECTOR AUTHORITY TO APPROVE
CERTAIN COMMISSION TRANSACTIONS**

I. Purpose of Resolution

This Resolution supersedes Resolution No. 18-0221-7 approved by the Commission on February 21, 2018. The change between that superseded resolution and this one is to provide authority for the Executive Director or his or her designee to approve all amendments to test and eventually widely implement improvements to CEC agreements and their processes. A CEC-wide team, with input from current grant recipients, has come up with ideas for many improvements. These include, but are not limited to, making invoicing easier and faster, budgets less complex, and improving and making more consistent the processes and tools to support project success through active grant management. To implement many of these changes will require amendments to existing agreements. These amendments will not alter the purpose of the agreements or increase the overall budget, but some will change existing terms and conditions and alter current requirements. To ensure these amendments can be efficiently executed, the CEC wants its Executive Director or his or her designee to approve them on behalf of the CEC instead of having to bring them all to business meetings for approval.

The California Energy Commission engages in a significant number of contracts, grants, loans, and amendments to those transactions to implement its statutory mandates, which include, but are not limited to, transactions associated with the day-to-day administration of the Commission, contracts, grants, and loans to implement energy research and development, alternative fuel and technology demonstrations, and efficiency and clean energy improvements, and contracts to provide expertise and support to Commission staff. To ensure that the Commission can timely approve and make changes to these agreements, the Commission is authorizing the Executive Director to approve certain types of agreements and changes to agreements as described in this Resolution.

II. Day-to-Day Administration of Commission Operations

In accordance with the Executive Director's duties of managing the day-to-day operations of the Commission and its staff, the Executive Director, or his or her designee, may approve agreements of a ministerial nature, such as the following:

- 1) Personnel contracts (such as payroll, employee appointment and separation, employee benefits, and health, safety, and wellness programs);
- 2) Operating expenses and equipment for the Commission (such as purchase orders for office supplies or furniture);
- 3) Information technology (IT) licenses, software, and services;
- 4) Subscriptions and licenses for access to databases and research (such as Westlaw);
- 5) Student assistants;
- 6) Staff training;
- 7) Technical editing and writing;
- 8) Security guards;
- 9) Hearing reporters;
- 10) Clerical and administrative support;
- 11) Records, equipment, and furniture: purchase, storage, and moving;
- 12) Bond program support (fiscal, audit, etc.);
- 13) Other types of ministerial agreements related to Commission operations; and
- 14) Changes or amendments to the above types of agreements.

The Commission considers this to be declarative of the Executive Director's existing legal authority but is including this in a Resolution to ensure consistent treatment of this issue. The Executive Director may continue to agendize for Commission approval at a business meeting any of these types of agreements, as he or she deems appropriate.

III. Changes to Agreements Approved by the Commission

The Executive Director, or his or her designee, shall approve the following types of changes to Commission agreements, but only if the changes meet all of the criteria specified below. The Executive Director, or his or her designee, shall disapprove any proposed change that does not meet all of the specified criteria. This instruction does not apply to changes to agreements related to the day-to-day administration of the Commission (listed above).

Notwithstanding the above, instead of approving or disapproving the proposed change, the Executive Director may schedule the proposed change for consideration at a regularly-scheduled Commission business meeting for Commission consideration.

If the Commission approves or disapproves a proposed change to an agreement, the Executive Director may not later change that approval or disapproval.

Types of Changes

- 1) Changes to extend the end date of an agreement;
- 2) Changes to alter the due dates of deliverables and products;
- 3) Changes to the agreement budget that:
 - a. Reallocate funds between budget categories or tasks,
 - b. Alter or increase personnel or subcontractor rates, and/or
 - c. Add personnel, personnel categories, or subcontractors;
 - d. Update and improve it to make it more efficient and flexible and less administratively burdensome;
- 4) Changes to the contractor's or recipient's name or corporate structure;
- 5) Changes to the Statement of Work;
- 6) Changes to the Terms and Conditions;
- 7) Termination of the agreement when no Commission-provided funds were spent;
- 8) Disposition of equipment to which the Commission has title; and
- 9) Other minor amendments.

Criteria for Approving Changes

- 1) The change does not increase the total cost of the agreement;
- 2) The change does not materially alter the purpose or goal of the agreement;
- 3) The change is necessary to carry out the purpose or goal of the agreement;
- 4) The change does not materially affect the Commission's rights or liabilities, except that material changes can be made to improve the administrative efficiency and flexibility of the agreement, such as improvements to invoicing, reducing where possible flow-down provisions, introducing distinctions between subrecipients and vendors, reducing or streamlining items that must be provided to the CEC, and adding more budget flexibility;
- 5) The change is consistent with applicable requirements in the Department of General Services' State Contracting Manual and with state law;
- 6) The change does not materially alter the position of the Commission with respect to the agreement, deliverables, or products, except that material changes can be made as described in #4 above;
- 7) The change does not materially delay the work to be performed under the agreement; and
- 8) The change is not due to the negligence, bad faith, or poor work quality of the Contractor or Recipient.

IV. Department of General Services Approval

The Executive Director, or his or her designee, shall continue to submit agreements and amendments to the Department of General Services if the

Department of General Services' approval is required to give effect to the proposed amendment.

IT IS SO RESOLVED.

CERTIFICATION

The undersigned Secretariat to the California Energy Commission does hereby certify that the foregoing is a full, true, and correct copy of a RESOLUTION duly and regularly adopted at a meeting of the California Energy Commission held on August 12, 2020.

AYE:

NAY:

ABSENT:

ABSTAIN:

Cody Goldthrite
Secretariat