



**BOARD POLICY – HSRA11-001**

Amended May 20, 2021

**DELEGATION OF AUTHORITY (DOA)**

California Public Utilities Code section 185024(a) directs the Board to appoint an Executive Director to administer the affairs of the Authority as directed by the Authority. Pursuant to this section, the Board has the authority to delegate any of its powers to the Chief Executive Officer (CEO) for purposes of efficiency and effectiveness in conducting the business and affairs of the Authority.

The purpose of this policy is to establish the authority granted by the Board to the CEO. It also provides the CEO with the authority to delegate functions he or she has been delegated by the Board to the appropriate, qualified Authority staff.

**DELEGATION**

This Delegation of Authority assumes that the CEO works in accordance with the Business Plan, which has been approved by the Board.

The CEO shall ensure that all actions taken shall be conducted in accordance with all applicable federal and state laws and regulations, and the policies of the Board of Directors and shall ensure compliance with applicable grant requirements when predominantly federal and state funds are used for procurements.

**A. Procurement**

The Board shall delegate the following procurement authorities to the CEO and the CEO may at his or her discretion delegate procurement authorities to the appropriate, qualified Authority staff.

1. The High-Speed Rail Board authorizes the CEO or designee, to undertake all that is necessary to prepare and issue all procurement up to an amount not to exceed \$25 million each for purposes of advancing the California High-Speed Train Project. The preceding sentence does not authorize the CEO to execute any contracts arising from a procurement (see Section B for that authority).
2. The CEO shall assure that all procurements are conducted in accordance with all applicable federal and state laws and regulations, and policies and in compliance with all applicable grant agreement requirements.
3. This delegated procurement authority does not include Authority contracts with the CEO's employer immediately preceding his or her appointment to the CEO position.

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4. A list of all new or amended Authority contracts with a value of \$10,000 or more will be periodically presented to the Board by Authority staff.

**B. Contracts and Contract Management**

The Board shall delegate the following authorities to the CEO and the CEO may at his or her discretion delegate authorities to the appropriate, qualified Authority staff.

The CEO will have the authority to approve and execute new contracts, and change orders or amendments to any existing contract, lease, real property acquisition agreement or Memorandum of Understanding, having anticipated expenditures within the limitations enumerated below:

- i. Contract Amounts up to \$25 million: The CEO is delegated the authority to approve and execute new contracts up to \$25 million,<sup>1</sup> provided the associated action is consistent with the Program Baseline and Program Budget (including the contingency balance amount contained therein);
- ii. Original Contract Amounts over \$25 million require Board approval;
- iii. The CEO is delegated the authority to amend any contract as to time only, for any time extension amount, provided that the action is consistent with the Program Baseline Schedule;
- iv. The CEO is delegated the authority to amend any contract by any dollar amount, provided the action is consistent with the Program Baseline and Program Budget (including the contingency balance amount contained therein); and
- v. The CEO is required to report 1) contingency balance trending information to the Board Finance & Audit Committee at its regular meetings, or more frequently upon request, and 2) to the Board Chairperson any single contingency use equal to or greater than \$25 million.

**C. Non-Monetary Agreements with Other Public Entities**

The Board shall delegate the following authorities to the CEO and the CEO may at his or her discretion delegate authorities to the appropriate, qualified Authority staff.

1. The CEO may enter into non-monetary agreements such as Memorandums of Understanding, Cooperative Agreements, Interagency Agreements, or other agreements or instruments with federal, state and local partners.
2. The CEO shall negotiate and execute grant agreements, where the Authority is the Grantee, with Federal, State and local grantors.

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<sup>1</sup> This clause in the version of this Policy attached to Resolution #19-05 was inadvertently inconsistent with the Resolution. The inadvertent inconsistency has been corrected to be consistent with the Resolution.

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**D. Planning**

Under the oversight of the committee of the Board on Transportation and Land Use, the Board shall delegate the following authorities to the CEO and the CEO may at his or her discretion delegate authorities to the appropriate, qualified Authority staff.

1. The CEO may initiate and negotiate agreements related to planning, development, construction, mitigation and implementation of agreements for facility, physical improvements, station and track infrastructure, including but not limited to, management, repairs and operations.
2. The CEO may initiate and negotiate agreements related to the necessary construction, removal or relocation of highways, roadways, overpasses, grade separations and rail track relocation.
3. Station Area Development
  - i. The Board delegates to the CEO the authority to negotiate and enter into funding agreements with communities relative to HST station area development. These agreements shall be consistent with the HST Station Development Policy and will provide assistance to the Authority in its planning process. The funding of the agreements will be limited to 20% of the total cost for the study and will not exceed \$200,000.00.
  - ii. Board approval is required for amounts exceeding the delegation for station area development agreements.

**E. Personnel**

The Board shall delegate the following authorities to the CEO and the CEO may at his or her discretion delegate these authorities to the appropriate, qualified Authority staff.

1. The CEO shall appoint such employees as may be necessary to carry out the functions of the Authority.
2. The CEO shall promote, transfer, discipline, and terminate employees of the Authority subject to all applicable laws and regulations, including without limitation the rules set forth by the Department of Personnel Administration manuals, policies, and procedures.
3. The CEO shall designate an employee to act as the secretary of the Authority for the purpose of keeping its minutes and resolutions.

**F. Fiscal**

Under the oversight of the Finance and Audit Committee, the Board shall delegate the following authorities to the CEO and the CEO may at his or her discretion delegate these authorities to the appropriate qualified, Authority staff.

1. The CEO shall prepare, approve and submit the Authority's annual budget requests

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pursuant to the policies and procedures and timelines as defined by the Department of Finance.

2. The CEO may transfer funds between line items within the Authority's authorized annual budget.
3. The CEO or the Chief Financial Officer will present the budget to the Board for review, input and acceptance.

#### G. Legal

1. The CEO may settle all lawsuits, alternative dispute matters and claims that the Authority must defend when the settlement amount does not exceed \$5 million. In the event that the CEO exercises this authority he or she shall send a memo to the members of the Board as soon as possible.
2. The CEO has the authority to develop and implement legal plans and strategy, in consultation with legal counsel, for the purposes of litigation, claims or proceedings.
3. The CEO has the authority to take all necessary steps to ensure compliance with all statutory, administrative and regulatory requirements.

#### H. Program

The Board shall delegate the following authorities to the CEO and the CEO may at his or her discretion delegate these authorities to the appropriate, qualified Authority staff.

1. The CEO has the authority to carry out all responsibilities which may be delegated under the provisions of **the California Environmental Quality Act (CEQA)** and the State CEQA Guidelines Section 15025(a), including but not limited to taking all actions necessary to cause the preparation of environmental documents and to ensure the Authority's compliance with CEQA; provided however, that the CEO shall obtain Board concurrence regarding identification of or subsequent major<sup>2</sup> revisions to a state preferred alternative/proposed project in the environmental document.

~~He or she shall have authority to issue notices, to prepare and forward to the Federal Railroad Administration (FRA) a draft environmental document, to work with FRA in preparing a draft environmental document to be issued on behalf of the Authority and the FRA for public review, to hold hearings to receive comments on environmental documents, to prepare final environmental documents for consideration by the Authority, and to work with the FRA in the preparation of a final document for NEPA compliance~~

2. ~~If the FRA assigns its responsibilities under NEPA and other federal environmental laws to the State, acting through CalSTA and the Authority,~~ Pursuant to a memorandum of understanding (MOU) with the ~~FRA Federal Railroad Administration (FRA)~~ executed under 23 U.S.C. 327 ~~executed on July 23, 2019,~~ and the associated application the State submitted to FRA on January 31, 2018, the CEO shall have the authority to take all actions necessary to implement the

<sup>2</sup> For purposes of Section H.1 and H.2, a "major" revision is one that potentially would significantly negatively affect large populations substantially different from the potential effects of the previously-identified alternative.

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responsibilities of the Authority under ~~such the National Environmental Policy Act (NEPA), assignment~~ consistent with the MOU, including but not limited to:

- a) issuing public notices, signing and issuing draft and final environmental **impact statements (EIS)**~~documents (including any environmental assessment (EA), environmental impact statement (EIS),~~ or supplement thereto, holding public meetings to inform the public and accept public comment, executing decision documents approving project elements and verifying that associated environmental documentation complies with NEPA ~~(including any Categorical Exclusion (CE), Finding of No Significant Impact (FONSI), or~~ through a Record of Decision (ROD), and communicating with other agencies and stakeholders; provided, however, that the CEO shall obtain Board concurrence regarding identification of or subsequent major revisions to a federal preferred alternative (except in cases when the Board has already identified the approximate equivalent pursuant to section H.1 above), and shall obtain Board approval to execute any ROD that approves any preferred alternative and that verifies the associated NEPA document as compliant with NEPA (except that the CEO may approve, via **Categorical Exclusion (CE), Finding of No Significant Impact (FONSI)**, ROD, or other appropriate NEPA document, (i) modifications to any alternative previously approved by the Board when such modifications do not require a supplemental EIS and (ii) any preferred alternative that the Board previously approved for implementation as CEQA state lead agency prior to NEPA assignment);
- b) issuing public notices, identifying a preferred alternative, signing and issuing draft and final environmental assessments, holding public meetings to inform the public and accept public comment, and approving a preferred alternative in a FONSI or mitigated FONSI; and
- c) approving a project through a CE.

3. For Local Sponsor projects included in the scope of the NEPA Assignment MOU and not part of Phase 1 or Phase 2 of the High-Speed Rail system, the CEO may:

- a. Approve a project through a CE;
- b. Approve the release of a draft EA and final EA and approve the project in a FONSI, or mitigated FONSI as appropriate;
- c. Approve the release of a draft EIS and final EIS and approve the project in a ROD, provided,
  - i. The CEO and Local Sponsor representative present a project summary to the Board prior to public release of the draft EIS, and
  - ii. The CEO provides advance notice to the Board prior to signing a ROD approving the project.

4. The CEO may approve all design plans, specifications and estimates for capital outlay projects.

I. Real Property

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Under the oversight of the committee of the Board on Transportation and Land Use, the Board shall delegate the following authorities to the CEO and the CEO may at his or her discretion delegate these authorities to the appropriate, qualified Authority staff.

1. The CEO may perform all steps necessary to secure access to and to acquire any real property needed for high-speed rail purposes. In the event that the CEO requests the governing board to initiate litigation for these purposes, he or she shall send a memo to the members of the Board as soon as possible in order to notify them of such request.
2. The CEO has the authority to sell or exchange real property or an interest therein at fair market value in the manner set forth in section 185040 of the CA Public Utilities Code.
3. The CEO may sell or lease excess right-of-way parcels to municipalities or other local agencies for public purposes in the manner set forth in section 185041 of the CA Public Utilities Code.
4. The CEO may lease nonoperating right-of-way areas to municipalities or other local agencies for public purposes and may contribute toward the cost of developing local parks and other recreational facilities of these areas in the manner set forth in section 185042 of the CA Public Utilities Code.
5. The CEO may lease to public agencies or private entities or individuals for any term not to exceed 99 years the use of areas above or below operating rights-of-way and portions of property not currently being used as operating rights-of-way, in the manner set forth in section 185044 of the CA Public Utilities Code.
6. The CEO may complete all necessary work and obligations related to all right-of-way relocation or removal related to publicly owned or privately owned utilities and utility facilities, including but not limited to, contracting, negotiation, execution, compensation, apportionment of obligations and settlement of claims or actions, in the manner set forth in section 185500 et seq. of the CA Public Utilities Code.
7. The CEO may develop and implement legal plans and strategy, in consultation with legal counsel, for the purposes of maintaining litigation of an action or for an adjudication as to the obligations and costs to be borne by the parties related to utility or utility facility removal or relocation.

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