



RESOLUTION #HSRA 19-09

Revision of the CEO Delegation of Authority Related to Preferred Alternatives

Whereas, the California High-Speed Rail Authority (Authority) is responsible for the development and implementation of intercity high-speed rail service pursuant the Public Utilities Code §185030 et seq;

Whereas, pursuant to Public Utilities Code §185024, the Authority has appointed an Executive Director/Chief Executive Officer (CEO) who, subject to the direction of the Authority, has charge of administering the affairs of the Authority;

Whereas, the Authority Board delegated authority to the CEO in Board Policy HSRA 11- 001, originally approved via Resolution #HSR 11-09, which Policy the Board amended in August 2018 in anticipation of imminent NEPA assignment, which did not occur until July 2019;

Whereas, the Board concurred in October and November 2018 with staff-identified preferred alternatives (under CEQA as state lead agency only) for the four southern California project section, for inclusion in forthcoming draft environmental documents;

Whereas, the Board in October 2018 took final action on the CEQA state lead agency only to approve for implementation the Locally Generated Alternative alignment in the southern Fresno to Bakersfield section;

Whereas, actions previously taken by the Board as state lead agency only require equivalent actions under NEPA, and NEPA assignment has now occurred;

Whereas, preferred alternative previously identified by the Board for inclusion in draft environmental documents may require minor revisions; and,

Whereas, given these parameters, the Board has determined that a revision of the delegation of authority to the CEO is appropriate for timely execution of actions to advance the Program.

Therefore, it is resolved:

The Board amends Board Policy HSRA 11-001, Section H. Program, generally as follows, and more specifically as shown in the attached (Attachment A) underline and strikeout version of the Board Policy HSRA 11-001. These changes would delegate to the CEO the following:

- a) to identify a preferred alternative alignment for NEPA purposes if it is the approximate equivalent to an alignment the Board previously identified for CEQA purposes;
- b) to make non-major revisions to a preferred alternative previously identified by the Board; and
- c) to approve for implementation under NEPA any preferred alternative that the Board previously approved for implementation as state lead agency under CEQA prior to NEPA assignment.

Vote: 8-0

Yes: Schenk; Richards; Curtin; Lowenthal; Camacho; Miller; Mendonca; Perea

No: 0

Absent: N/A

Date: September 17, 2019

**ATTACHMENT A TO CALIFORNIA HIGH-SPEED RAIL
AUTHORITY BOARD**

RESOLUTION #HSRA 19-09

ADOPTED SEPTEMBER 17, 2019

AMENDMENT TO BOARD POLICY HSRA 11-001

CEO DELEGATION



BOARD POLICY – HSRA11-001

Amended ~~September~~June 18~~7~~7, 2019

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 procurements 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.
4. A list of all new or amended Authority contracts with a value of \$100,000 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,¹ 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.

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.

¹ 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.

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 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 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 major² revisions to a state preferred alternative/proposed project~~is not to include identification of preferred corridor alignments and station locations~~ in the ~~draft~~ environmental document.
2. 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.
- 2.5 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 executed under 23 U.S.C. 327 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 responsibilities of the Authority under such NEPA assignment MOU, including but not limited to issuing public notices, signing and issuing draft and final environmental 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 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 CE, 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).
3. The CEO may approve all design plans, specifications and estimates for capital outlay projects.

I. Real Property

Under the oversight of the committee of the Board on Transportation and Land Use, the Board shall

² For purposes of section H.1 and H.2.5, a "major" revision is one that potentially would significantly negatively affect large populations substantially different from the potential effects of the previously-identified alternative.

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.