



AGENDA ITEM: 6
DATE OF MEETING: October 17, 2012
ACTION: X
INFORMATION: _____

**DELEGATION OF AUTHORITY TO AWARD CONTRACTS UNDER
RFPs FOR THE CHILD SIGNATURE PROGRAM**

SUMMARY OF REQUEST

Staff requests that the Commission delegate its authority to the Executive Director to award contracts based upon the recommendations of evaluation committees reviewing the applications submitted in response to requests for proposals (RFPs) issued in support of the Child Signature Program.

DISCUSSION

At the October 19, 2011 Commission meeting, the Commission unanimously approved \$45 million in funding over a three-year period to develop the Children Signature Program (Program). In addition to issuing contracts to the participating counties, the solicitation of contractors will be necessary for the development of this program. For many of those contracts, staff will use the Request for Proposal (RFP) process prescribed by the Department of General Services, to obtain high quality contractors for expert assistance and to ensure the Program's success.

For particular RFPs, evaluation committees will be required to score solicitations in order to find the most qualified contractors. The State Contracting Manual, Volume 1, 5.15 describes RFP procedures for awarding contracts using evaluation committees. Section F of this subchapter addresses the procedures when a contract is awarded by a state commission. It states:

“If the contract is awarded by a state board or commission, the recommendations of an evaluation committee shall be considered advisory in nature, and the board or commission must make the ultimate decision unless statute expressly permits the board or commission to delegate that responsibility.”

While the California Children and Families Act of 1998 (the Act) does not expressly delegate the authority to award contracts recommended by evaluation committee to staff, it does empower the Commission to enact bylaws to address business issues that the Act did not address, and to delegate express authority to the Executive Director.

Specifically, the Health and Safety Code, section 130125 describes the Children and Families Commission's powers and duties. Section 130125 (i) states that the Commission has the duty and power to enter into contracts. Section 130130 states "Procedures for the conduct of business by the state commission not specified in this act shall be contained in bylaws adopted by the state commission." Section 130120 provides that "the executive director shall act under the authority of, and in accordance with the direction of, the state commission."

The California Children and Families Commission Bylaws, Article XI, "Procedures for Conduct of Business," Section I, states, "The commission confers signature authority to the Executive Director and his or her designee for the purpose of executing all contracts and other legal documents on behalf of the commission." Section III of Article XI states "after the commission has authorized expenditure for such contracts, the commission delegates to the Executive Director and his or her designee the authority to award and enter into such contracts."

In authorizing the Child Signature Program in October 2011, the Commission allocated \$45 million per fiscal year for three years. The fiscal detail submitted to the Commission reflected that the allocation was to support all expenditures required to carry out the Program as designed, including the retention of education and research consultants required to achieve our goals of enhanced access and quality in early childhood education. Pursuant to the bylaws, the October 2011 authorization of the Program constituted the Commission's delegation of authority to the Executive Director to award and execute contracts in support of the program.

The Program began officially in July 2012, first by soliciting applications from counties to expand participation in First 5 California Child Signature Program. As the program is implemented over the next few years, there will be specific needs to advertise for subject matter experts in education, early childhood development, research, and data collection and analysis, to supplement the knowledge and capacity of staff. While there are several methods of procurement for personal services under state contracting laws, the Request for Proposal is one method that First 5 California will certainly use, at least once if not more over the life of the Child Signature Program.

Even though the Commission has already provided a general delegation of authority to the Executive Director to award contracts in support of the Program, staff recommends that the Commission take the extra step of expressly confirming that the delegation of authority includes the power to award and execute contracts based on a recommendation of an evaluation committee under an RFP. Because the State Contracting Manual addresses the ultimate authority of a commission to award contracts under an RFP, it is prudent to be explicit in the scope of the delegation, and to affirm that the Act provides the Commission the power to delegate such actions. As the bylaws provide, the Commission will still review such contracts in its quarterly ratification of agreements executed under the Executive Director's delegated authority.

In summary, because the state contracting manual requires the demonstration of the Commission's statutory authority to delegate the award of contracts selected under an RFP, staff recommends that the Commission expressly affirm that its October 2011 authorization of the Child Signature Program includes the Executive Director's authority to award and execute contracts under a request for proposal, subject to Commission ratification.

STAFF RECOMMENDATION

Staff recommends that the State Commission expressly delegates its authority to award and execute contracts based upon the recommendations of evaluation committees reviewing applications submitted in response to requests for proposals (RFPs) issued in support of the Child Signature Program.