



Consideration of Architectural and Engineering Rulemaking (Action Item)

Introduction

The Department of Water Resources (DWR) must obtain approval from the California Water Commission for rules and regulations not pertaining to the management and administration of DWR pursuant to Water Code section 161. DWR’s Division of Engineering (DOE) proposes two minor, but necessary, changes to its existing regulation implementing Architectural and Engineering (A&E) contracting. A&E contracting is a qualifications-based selection process where a fair and reasonable cost is only negotiated after selection of the most qualified firm. DWR is one of several State agencies authorized to use this solicitation method pursuant to Government Code (GC) 4525 *et seq.* to procure the services of engineers, architects, land surveyors, landscape architects, and environmental and construction management service professionals. Use of GC 4525 *et seq.* requires department-specific regulations.

The proposed regulatory changes correct unnecessary restrictions on A&E contracting that prohibit use of A&E contracts by advisory boards. The proposed changes also call for DWR to publish a look-ahead report of future A&E contracts. A look-ahead report includes upcoming A&E contracts and a range of values for each contract. Finally, the proposed changes will clarify confusing language within the A&E rules by removing language that relates to service agreements.

Staff from DOE began its A&E amendment rulemaking with a 60-day public comment period that ended on December 12, 2023, with a public hearing on the ending date. The public hearing was not attended; DWR received one non-substantive comment during the comment period.

Staff from DOE will present information about the proposed A&E amendments. The Commission must approve the regulations before DWR submits the final changed regulations to the Office of Administrative Law for their review.

Commission Decision

The Commission may approve the proposed changes as presented, defer approval pending additional information, or disapprove the proposed changes. If the Commission disapproves, DWR will solicit Commission feedback and pursue additional changes to this rulemaking package, or may pursue another rulemaking.

Background

This briefing will advance Goal Three of the Commission’s Strategic Plan, which calls on the Commission to “carry out its statutory authorities associated with the Department of Water Resources to ensure that the DWR’s decisions on key programs and activities are based on sound information and advance climate resiliency,” stating that the Commission will “review,

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consider, and approve, as appropriate, all regulations by the Department, and provide public participation in the rulemaking process.”

Meeting Overview

At this meeting Kristen Martin, Assistant to the Division of Engineering Manager, and John Dunnigan, DWR attorney, will share information about the proposed changes to the A&E regulations, why they are necessary/important, and the process for developing and vetting these changes with interested parties.

This is an action item.

Contact

Laura Jensen

Assistant Executive Officer

California Water Commission

916-820-5897