

REGIONAL WATER AUTHORITY POLICIES AND PROCEDURES MANUAL

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POLICY ON EXTERNAL ISSUES

I. INTRODUCTION

The Authority's Amended and Restated Joint Exercise of Powers Agreement (JPA Agreement) lists as one of the Authority's goals, to *"Provide a unified voice to advocate and respond to legislative, regulatory and policy matters of importance to the region's water supply."* (Article C.5)

Among its powers, the JPA Agreement provides for the Authority to "Take and advocate on External Policy Issues in a manner consistent with any policies adopted by the Board of Directors to govern the taking and advocacy of such positions" (Article 7.a.13.), with "External Policy Issues" defined as *"state and federal legislation and regulatory issues; judicial matters having broad applicability to the mission and/or Members and Contracting Entities of the Regional Authority; and water projects or actions of entities other than Members or Contracting Entities that may impact the region* (Article 3.g)."

The scope of these powers is further defined by limitations in Article 7.b that state,

"To ensure that the Regional Authority does not take a position in conflict with Members' or Contracting Entities' interests on local issues that are not External Policy Issues, the written consent of all Members and Contracting Entities (i.e., the unanimous consent of those entities, not just those present at a Board of Directors meeting, or a quorum of the Members and Contracting Entities) shall be required before the Regional Authority adopts formal positions on such local issues. For purposes of this Article 7.b, the term "local issues" includes, but is not limited to, local land use decisions, local ordinances, projects in this region of individual Members or Contracting Entities and disputes or agreements among Members and/or Contracting Entities concerning the region. The Regional Authority also will not take a position on any judicial or regulatory matter involving a Member or Contracting Entity as a party that otherwise would be an External Policy Issue without the consent of that Member or Contracting Entity. Notwithstanding any other portion of this Article 7.b, the Regional Authority may express support for a project of a Member or Contracting Entity to other entities

where the project promotes the mission of the Regional Authority and where the support position is consistent with adopted Board policy or policies.

This policy states the manner in which the Authority will implement the JPA Agreement's provisions in Articles 7.a.13 and 7.b.

II. DEFINITIONS

The following definitions apply to this policy of the Authority.

- a. "External Policy Issues" include state and federal legislation and regulatory issues; judicial matters having broad applicability to the mission and/or Members and Contracting Entities of the Regional Authority; and water projects or actions of entities other than Members or Contracting Entities that may impact the region."
- b. "Policy Principles" are high level statements of policy with respect to External Policy Issues that support the mission of the Authority and broadly support the interests of the Members and Contracting Entities, including, without limitation, a legislative and regulatory agenda.
- c. "Policy Positions" are statements regarding specific matters on which, consistent with adopted Policy Principles, the Authority may advocate in writing or in person at appropriate venues.

III. DEVELOPMENT AND APPROVAL OF POLICY PRINCIPLES

For the Authority to effectively represent the interests of its Members and Contracting Entities on External Policy Issues, the Authority will develop and adopt Policy Principles on specific topics, including an annual legislative and regulatory agenda, and approve such Policy Principles as follows.

1. Development of Policy Principles. As and when appropriate, the Executive Director, in consultation with the Executive Committee and interested Members or Contracting Entities, will develop proposed Policy Principles on issues that are reflected in, or the Executive Director expects to be reflected in: (A) legislation in the California Legislature or Congress; (B) state or federal regulatory processes, (C) judicial proceedings with broad applicability to the mission of the Authority or the interests of its Members and Contracting Entities; or (D) water projects or actions of entities other than Members or Contracting Entities that may impact this region.
2. Approval of Proposed Policy Principles for Circulation. The Executive Director will present proposed Policy Principles to the Executive Committee for approval before circulating those proposed Policy Principles to the Authority's Members and Contracting Entities for their possible consent.

3. Authority Adoption of Policy Principles. Proposed Policy Principles will become the Authority's official stance on issues if approved by the Authority's Members and Contracting Entities pursuant to this policy. Adoption may be accomplished through written response of the Members and Contracting Entities, through a vote at a meeting of the Board of Directors of the Authority, or through a combination of the two at the discretion of the Executive Committee. In any case, adoption of proposed Policy Principles by the Authority shall require:

Affirmative approval of the Policy Principles by not less than one-half (50%) of the Members and Contracting Entities collectively.

AND

Not more than one-quarter (25%) of Members and Contracting Entities that respond or vote, collectively opposing the Policy Principles.

Adoption through Written Approval - Written response shall be provided by one board representative from each Member or Contracting Entity. If there is a conflict between responses from a Member's or Contracting Entity's Board representatives or alternates, then: (A) the response reflecting the official position adopted by the Member's or Contracting Entity's governing body or officer will govern over any other response; and (B) if there is no such official response from a Member, then the response by an elected official of a Member will govern over a response by an employee of the Member. Responses from Members or Contracting Entities shall be one of the following: 1) written approval of the proposed principles, 2) a written statement of abstention, or 3) written opposition to the proposed principles. Members and Contracting Entities will respond within ten (10) working days following notification as defined below for their position on the proposed Policy Principles to be recorded. Responses will be tallied at the end of the 10-working-day period. Working days shall be Monday through Friday, not including state or federal holidays. The deadline may be extended beyond ten working days at the discretion of the Executive Committee or Executive Director.

Any Member or Contracting Agency may request, within the first five days of the 10-working day period, that the item being addressed be considered at a meeting of the Board of Directors and no action shall be taken until such Board meeting occurs.

Adoption through Board Vote – If adoption is by vote of the Board, the percentages for approval above must be based on the total number of active Members and Contracting Entities, not just those present at the Board meeting.

4. Notification. When written adoption is solicited, Members and Contracting Entities will be notified of Policy Principles proposed for adoption by email to each of the identified Board representatives and alternates, providing the proposed Policy Principles as well as the deadline for response. The representatives for each Member and Contracting Entity that has not responded will be reminded by email and by phone not less than three working days prior to the deadline for response. The Authority will update contact information for Board representatives whenever notified by a Member or Contracting Entity, and will request the update of contact information in January and July of each year. To ensure Members and Contracting Entities have ample opportunity to respond, email notifications will include the subject line “RWA Proposed Policy Principles for Consideration” and will be sent with high priority status. It is the responsibility of Members and Contracting Entities to ensure that their contact information is current and accessible.

Proposed Policy Principles will be circulated to the Board as soon as practicable after the Executive Committee approves them for circulation. When approval of Policy Principles is sought through vote of the Board, Members and Contracting Entities also will be notified of Policy Principles proposed for adoption by email to each of the identified Board representatives and alternates at least 72 hours prior to the meeting of the Board. Such notification will provide the proposed Policy Principles as well as the time, date, and location of the Board meeting. The matter for consideration will also be publicly noticed in accordance with Brown Act requirements.

5. Notification of Vote on Policy Principles. The Authority will retain the response of each Member and Contracting Entity on any proposed Policy Principles. The Authority will distribute a tally of those responses to the Members and Contracting Entities in the materials for the next Board meeting after the close of any period for responses to the proposed Policy Principles. At that meeting, the Executive Director will report the vote on the proposed Policy Principles.
6. Duration of Policy Principles. For purposes of this policy, Policy Principles will remain valid for three years after their approval, unless superseded by new, modified, or amended Policy Principles. Policy Principles approved before the effective date of this policy will be valid for three years from that effective date. After three years, Policy Principles must be reapproved by Members and Contracting Entities pursuant to this policy to continue to represent the position of the Authority.

IV. IMPLEMENTATION OF POLICY POSITIONS

The Authority will use the adopted Policy Principles to develop and advocate for specific Policy Positions. It will be necessary for the Authority to use judgment and to consider rapidly changing conditions as it endeavors to advocate on

behalf of the Members and Contracting Entities. Advocacy activities will be governed by this policy.

1. Positions on Particular Versions of Legislation, Regulatory Proposals, and Water Projects or Actions. The Executive Director may express, to any interested organization or person, an Authority position on a particular bill being considered by the California Legislature or Congress, any version of any such bill, any regulatory proposal being considered by a state or federal agency or any water project or action that is an External Policy Issue if, prior to expressing that position:
 - (A) The Executive Committee finds that the Executive Director's proposed position would be consistent with all relevant Policy Principles approved under this policy; or
 - (B) The Executive Director finds in writing, with the written concurrence (which may include e-mail) of the Authority's General Counsel or the General Counsel's designee, that:
 - (i) Immediate action is necessary to protect the interests of the Authority's Members and Contracting Entities;
 - (ii) The Executive Director's proposed position is consistent with all relevant Policy Principles approved under this policy; and
 - (iii) It would be impractical to call an Executive Committee meeting to consider the Executive Director's proposed position before the Authority must act to protect the interests of the Authority's Members and Contracting Entities.
2. Ratification of Emergency Positions. If the Executive Director takes a position under Section IV.1.(B) of this policy, then the Executive Director will report his or her action to the Executive Committee at that Committee's next meeting. If the Executive Committee does not concur with the position taken by Executive Director, then the Executive Director will communicate the position ultimately approved by the Executive Committee to the same interested parties to whom the Executive Director communicated said position.
3. Litigation. The Authority may take a position on litigation consistent with approved Policy Principles with the Executive Committee's approval. Consistent with this policy, the Authority may take a position on litigation by filing formal *amicus curiae* briefs or through other measures consistent with any applicable court rules. No expenditure of funds for *amicus curiae* briefs shall be expended without approval of the Executive Committee or as otherwise provided in the Board adopted Policies and Procedures.

4. Support of Projects of Members and Contracting Entities. The mission of the Authority includes assisting Members, “in protecting and enhancing the reliability, availability, affordability, and quality of water resources.” (JPA Agreement, Recital B.) The Executive Director may express, to any interested organization or person, an Authority position in support of a project of a Member, Contracting Entity, or other entity that promotes this regional mission, including, but not limited to those incorporated into the integrated regional water management plan, if, prior to expressing that position the Executive Director complies with the procedures in Section IV.1 of this policy and obtains any necessary Executive Committee ratification under Section IV.2 of this policy, and if there is no readily available, documented opposition to the project by another Member or Contracting Entity.

V. LIMITATIONS

1. No Authority to Oppose Projects of Members or Contracting Entities. Notwithstanding any other part of this policy, the Authority shall not take a position opposing a project under the jurisdiction of a Member or Contracting Entity unless that specific position is approved unanimously pursuant to Article 7.b of the JPA Agreement. Additionally, the Authority’s position on a project shall not have an adverse effect on any member agency without unanimous approval.”
2. No Authority to Take Positions on Land Use Issues. Notwithstanding any other part of this policy, the Authority shall not take a formal position on the policies, decisions or actions of any local government under its land use authority unless that specific position is approved unanimously pursuant to Article 7.b the JPA Agreement.
3. No Authority to Take Positions on Local Issues. Notwithstanding any other part of this policy, the Authority shall not take a formal position on local issues, as defined in Article 7.b of the JPA Agreement, unless that specific position is approved unanimously pursuant to that Article 7.b.
4. Should a dispute arise as to whether a limitation applies, the full Board shall make the determination.