

# **CALIFORNIA HEALTH FACILITIES FINANCING AUTHORITY**

## **RESOLUTION NO. 2002-07**

**March 28, 2002**

Section 15438 (o) of the California Government Code (the "Act") authorizes the California Health Facilities Financing Authority (the "Authority") to enter into contracts and agreements necessary to carry out the functions and responsibilities of the Authority. Section 15436 of the Act further authorizes the Authority to delegate to its Executive Director the power to enter into and execute contracts on behalf of the Authority.

Since the Authority has very few contracts or agreements that are necessary to perform its normal operations, including those for financial and bond sale advisors & administrative functions with the State Treasurer's Office, these have historically been brought to the Authority for approval prior to execution.

The Authority staff has this month been faced with an emergency situation whereby the inability of the Executive Director to execute contracts without prior Authority approval has been detrimental to carrying out the functions of the Authority. The State Attorney General's Office (the "A.G.") is designated as counsel to the Authority and provides assistance and guidance in the development of bond documents relating to approved applications. In addition, the A.G. provides an opinion as required by the Bond Purchase Contract between the Authority, the Borrower, the Underwriter and the State Treasurer's Office, as to the eligibility of the Borrower and the necessary authorization and approval of the Authority for each bond transaction.

Due to an overwhelming workload at the A.G. on bond sale activity within the State Treasurer's Office, the A.G. cannot continue to provide uninterrupted counsel services to the Authority and has authorized contracting with qualified outside bond counsel firms for the necessary Authority counsel functions. This authorization was also necessary for and given to the California Educational Facilities Authority (CEFA). However, because the Executive Director of the Authority did not have the authorization to enter into contracts without prior Authority approval, unlike prior authorization from CEFA, no contract could be completed for counsel representation on items scheduled for consideration at the March Authority meeting.

Staff requests the Authority approve the attached Resolution No. 2002-07, which delegates to the Executive Director the authorization to enter into and execute those contracts and agreements that are necessary to carry out the function of the Authority without specific prior approval by the Authority. As noted in the Resolution, the Executive Director will provide a report to the Authority at the next scheduled meeting on any contracts or agreements that were necessary and advisable to further the

requirements of the Act. Further, staff has proposed a maximum amount of \$250,000 per contract or agreement that would be authorized under this Resolution.

Approval of this Resolution would alleviate the current situation with regard to Authority counsel by allowing the Executive Director to contract with a qualified counsel firm for services that the A.G. is unable to provide without causing unnecessary delays in applications from eligible borrowers and provide the Executive Director with the authorization to avoid similar emergency situations that may occur in the future.

Staff respectfully requests approval of Resolution No. 2002-07.