



## Staff Report Item 12

**TO:** East Bay Community Energy Board of Directors

**FROM:** Nick Chaset, CEO  
Inder Khalsa, EBCE General Counsel

**SUBJECT:** Approval of Administrative and Operational Policies

**DATE:** January 17, 2018

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### **Recommendation**

- A. Approve policies relating to: Customer Confidentiality and Process for Considering Policy or JPA Agreement Amendments;
- B. Discuss Policies relating to: Administrative Procurement Practices and Delinquent Accounts and Collections; and
- C. Adopt two Resolutions regarding: Delegation of Authority to the CEO for Regulatory and Legislative Matters, and Records Retention Policy

### **Background**

As the EBCE approaches launch, the adoption of administrative and operational policies will help ensure smooth operations consistent with Board direction. Staff is proposing six policies for Board consideration and adoption during the January 17 Board meeting. The Board may adopt all six of the proposed policies or may provide direction to staff to revise and return with one or more of the policies at a later meeting. Each of the policies, and resolutions where applicable, are attached to this staff report.

### **Analysis & Discussion**

#### **1. Administrative Procurement Practices**

The Board has directed staff to propose agency procurement practices to facilitate efficient business operations and provide fair compensation and local workforce opportunities whenever possible within a framework of high quality, competitive service offerings. The attached Administrative Procurement Practices policy provides for the following:

- a. The delegation of the CEO's signing authority to EBCE staff for certain types of contracts.
- b. The award of professional services agreements.
- c. Issuance of RFPs for non-professional services contracts.
- d. Evaluation of bids and proposals.
- e. Local, union labor and other preferences.
- f. Ethical vendor standards.
- g. Reporting & public access to contracts.

Please note that policies related to power procurement and wholesale energy services will be included in an energy risk management policy coming to the Board for consideration in February.

## **2. Delegation of Authority for Regulatory and Legislative Matters**

This policy delegates authority to the CEO and/or his designees to take necessary regulatory or legislative action consistent with EBCE's mission with a requirement to report these actions at the next regularly scheduled Board meeting.

## **3. Records Retention Policy**

This policy establishes minimum records retention periods for EBCE documents, consistent with California law.

## **4. Delinquent Accounts and Collections Policy**

Pacific Gas & Electric (PG&E) issues bills to customers. This policy identifies the process by which PG&E determines when an account is delinquent and the actions both PG&E and EBCE will take to address the delinquency.

## **5. Customer Confidentiality Policy**

This policy establishes the EBCE's customer privacy and confidentiality standards, limiting the EBCE's use of customer account information. This policy will be posted to a dedicated page on EBCE's website. Customers will be provided with the webpage URL in EBCE's customer enrollment notices, or can access the page through a Customer Confidentiality Policy link that will be added to the menu on the EBCE website.

## **6. Process for Considering JPA Agreement and Policy Amendments**

This policy establishes a structured and transparent process in March and September of each year for proposing policy changes or amendments to the EBCE Joint Powers Agreement for Board direction and decision.

### **Attachments:**

- A. Policy - Administrative Procurement Practices
- B. Resolution adopting Delegation of Authority for Regulatory and Legislative Matters
- C. Policy - Delegation of Authority for Regulatory and Legislative Matters
- D. Resolution adopting Records Retention Policy
- E. Policy - Records Retention Policy
- F. Policy - Delinquent Accounts and Collections Policy
- G. Policy - EBCE Customer Confidentiality Policy

## H. Policy - Process for Considering Joint Powers Agreement and Policy Amendments



POLICY # \_\_\_\_\_

## Administrative Procurement Practices

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**Purpose:** It is in the interest of East Bay Community Energy to establish administrative procurement practices that facilitate efficient business operations and provide fair compensation and local workforce opportunities whenever possible within a framework of high quality, competitive service offerings.

**Policy:**

**1. Executive Management Signing Authority:**

- a. On August 2, 2017, the EBCE Board of Directors authorized the Chief Executive Officer to enter into contracts of \$100,000 or less without prior Board approval with the stipulation that all new contracts must be reported at the next scheduled Board meeting. This policy does not include power supply or wholesale energy services and shall remain in place unless and until amended by the EBCE Board of Directors.
- b. EBCE executive level staff, at the discretion and approval of the CEO, may sign professional service agreements and vendor contracts up to \$100,000 as an authorized designee of the CEO subject to Board reporting requirements outlined above. In addition, the following authorities shall apply except where in conflict with the Joint Powers Agreement, state or federal law:
  - Non-Disclosure Agreements – Director level and above;
  - Banking and Treasury Administration – Chief Operating Officer level and above.
- c. Invoices and vendor payments shall be approved by the contract signee, his/her executive level manager and/or the COO.

**2. Professional Services Agreements:** EBCE may contract for professional services, including but not limited to consultant, legal, or design services, in its sole discretion. Contracts valued at greater than \$100,000 in a contract year shall require Board approval, and staff shall obtain at least three bids if feasible. Contracts valued at less than \$100,000 may be signed at the discretion of the CEO and subject to Board reporting requirements outlined in section 8.

**3. Competitive Solicitations:** EBCE will run competitive solicitations through the issuance of requests for proposals (RFPs) or similar instruments for all non-professional services contracts with a contract value in excess of \$100,000 in any given contract year. These contracts are subject to Board approval before final execution. For contracts valued below \$100,000 in a given year, staff shall obtain at least three bids if feasible; a formal RFP process for contracts under \$100,000 is not required unless otherwise directed by the CEO.

4. **Contract Amendments:** Contract amendments including changes in timeframe, scope, and value shall be at the discretion of the CEO, subject to Board approvals and signing authorities outlined in section 1.
5. **Bid Evaluation:** Bids and proposals received through a competitive solicitation shall be subject to a set of criteria and scoring system, reviewed and evaluated by relevant EBCE staff and an evaluation committee selected by the CEO, or at the discretion of the Board, members of a designated Board subcommittee or the Community Advisory Committee. Bids for contracts received through formal or informal solicitation shall be evaluated based on competency to perform scope of work, best fit, price competitiveness and compliance with sections 6-7 below.
6. **Special Procurement Preferences:** EBCE seeks to support companies and contractors that reflect its values, and has identified three vendor/contractor categories that shall be given special consideration during bid evaluation and selection. In competitive solicitations, these categories shall receive bonus percentages/points ranging from 2.5% - 5% for a maximum bonus total of 10% in a bid scoring process.
  - 6a. **Alameda County Preference:** EBCE desires to support Alameda County businesses where possible. Businesses with office(s) located in Alameda County and including at least 25% Alameda County residents under their employment shall receive a bonus equal to 5% or 5 points out of a 100-point scoring system in competitive solicitations.
  - 6b. **Union Labor Preference:** EBCE desires to support the use of union labor where possible. EBCE shall make its best effort to work with unionized contractors and subcontractors in the provision of goods and services to EBCE. Businesses who use union labor and/or unionized contractors shall receive a bonus equal to 2.5% or 2.5 points out of a 100-point scoring system in competitive solicitations.
  - 6c. **Other Preferences:** EBCE desires to support diversity among its contractors and vendors by working with women, minority, disabled veteran, and lesbian, gay, bisexual, and transgender-owned businesses. Businesses owned and operated by a person representing one or more of these categories shall receive a bonus equal to 2.5% or 2.5 points out of a 100-point scoring system in competitive solicitations.
7. **Ethical Vendor Standards:** EBCE is committed to the highest standards of responsible behavior and integrity in all of its business relationships. EBCE will consider a company's business practices, environmental track record, and commitment to fair employment practices and compensation in its procurement decisions.

8. **Reporting, Public Access:** EBCE shall report on all new contracts, regardless of scope or contract value, at each Board meeting. As a public agency, the EBCE shall release all public records, including contracts as applicable, as required by the Public Records Act.

**Attachment 12B**

**RESOLUTION EBCE R-2018 \_**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE EAST BAY  
COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CHIEF EXECUTIVE  
OFFICER TO ENGAGE IN REGULATORY AND LEGISLATIVE MATTERS**

**RECITALS**

WHEREAS, the East Bay Community Energy Authority (“EBCE”) was formed on December 1, 2016 pursuant to a Joint Powers Agreement to study, promote, develop, conduct, operate, and manage energy programs in Alameda County; and

WHEREAS, pursuant to Section 4.10 of the East Bay Community Energy Authority Joint Powers Agreement, the Chief Executive Officer may exercise all powers of the EBCE including day to day operations and management responsibilities; and

WHEREAS, there may be times the Chief Executive Officer deems it necessary to advocate in support of or in opposition to regulatory, legislative, or other initiatives related to the mission of EBCE; and

WHEREAS, it is beneficial for EBCE to engage in regulatory and legislative affairs that impact its customers and member jurisdictions.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE EAST BAY COMMUNITY ENERGY AUTHORITY DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. The Board finds and declares that regulatory and legislative affairs may, from time to time, require time sensitive decisions to be made by those organizations impacted by said legislation.

Section 2. The Board hereby adopts Policy #\_\_\_\_\_ attached hereto as Exhibit A authorizing the Chief Executive Officer or his/her designee to take action in accordance with the provisions of said policy.

Section 3. The Board finds that the Recitals set forth above are true, correct, and incorporated herein by reference.

Section 4. This Resolution shall take effect immediately.

**ADOPTED AND APPROVED this\_\_ day of January, 2018.**

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Scott Haggerty, Chair

**ATTEST:**

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Stephanie Cabrera, Clerk of the Board



POLICY # \_\_\_\_\_

**Delegation of Authority to CEO for  
Regulatory and Legislative Matters**

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**Subject:** Delegation of authority to Chief Executive Officer and his designee(s) to take action on regulatory and legislative matters impacting EBCE.

**Purpose:** On occasion, the Chief Executive Officer is approached with a time-sensitive request to sign a letter of support (or opposition) regarding regulatory, legislative, or other initiatives related to East Bay Community Energy's mission and operations. This policy is intended to delegate authority to the Chief Executive Officer and/or his relevant designee(s) to take necessary action in various regulatory matters and proceedings and respond to legislative matters on behalf of East Bay Community Energy when certain conditions are met.

**Policy:** East Bay Community Energy hereby delegates its authority to the Chief Executive Officer and his/her relevant designees to sign regulatory and legislative documents or related materials on behalf of East Bay Community Energy, when the following conditions are met:

1. The regulatory, legislative, or related action is directly related to and consistent with East Bay Community Energy's mission and operations.
2. Because of time constraints, bringing the matter to the Board of Directors at a special meeting or its next scheduled meeting is not practical.
3. The Chief Executive Officer has investigated the positions of (1) other California CCAs; (2) state and federal legislators representing Alameda County and its cities.
4. The Chief Executive Officer has conferred with the Chair of the Board (or Vice Chair in the Chair's absence) and both the Chief Executive Officer and the Chair/Vice Chair agree that: (a) the position that the Chief Executive Officer intends to take is consistent with the mission of East Bay Community Energy; (b) bringing the matter to the Board at its next scheduled meeting or at a special meeting is not practical or appropriate under the circumstances; and (c) taking the position without a vote of the Board is appropriate under the circumstances.
5. The Chief Executive Officer reports positions taken pursuant to this policy at the next regularly scheduled Board of Directors meeting as part of the CEO Report or Regulatory/Legislative Report.

**Attachment 12D**

**RESOLUTION EBCE R-2018-\_\_**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE EAST BAY COMMUNITY ENERGY AUTHORITY ADOPTING A  
RECORDS RETENTION SCHEDULE**

**WHEREAS**, the maintenance of numerous records is expensive, slows document retrieval, and is not necessary after a certain period of time for the effective and efficient operation of the East Bay Community Energy Authority (“EBCE”); and

**WHEREAS**, Section 34090 of the Government Code of the State of California provides a procedure whereby any City record which has served its purpose and is no longer required may be destroyed; and

**WHEREAS**, the State of California has adopted guidelines specifying retention periods for various government records; and

**WHEREAS**, the Board of Directors of the EBCE desires to adopt a records retention schedule to ensure efficient and effective maintenance of its various documents and records.

**NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE EAST BAY COMMUNITY ENERGY AUTHORITY, DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** The records of the EBCE, as set forth in the Records Retention Schedule, attached hereto as “Exhibit A”, are hereby authorized to be destroyed as provided by Section 34090 et seq. of the Government Code of the State of California and in accordance with the provision of said schedule upon the request of the Clerk of the Board and with the consent in writing of the General Counsel, without further action by the Board of Directors of EBCE.

**SECTION 2.** With the consent of the Clerk of the Board and the General Counsel, updates are hereby authorized to be made to the Records Retention Schedule without further action by the Board of Directors.

**SECTION 3.** The term “records” as used herein shall include documents, instructions, books, microforms, electronic files, magnetic tape, optical media, or papers; as defined by the California Public Records Act.

**SECTION 4.** This resolution shall become effective immediately upon its passage and adoption.

**ADOPTED AND APPROVED this \_\_\_ day of January, 2018.**

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Scott Haggerty, Chair

**ATTEST:**

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Stephanie Cabrera, Clerk of the Board



POLICY # \_\_\_\_\_

**Records Retention**

**Subject:** East Bay Community Energy’s legal and compliance recordkeeping requirements.

**Purpose:** Implement a records retention schedule in order to ensure that EBCE’s records are kept as long as legally and operationally required and that obsolete records are disposed of in a systematic and controlled manner. The records retention schedule is intended to ensure that employees adhere to approved recordkeeping requirements, and that they do so consistently.

**Policy:** Records will be retained according to the following schedule. After the required retention date has passed, all documents or electronic files will be deleted or discarded.

Record Type	Required Retention	Sample Descriptions
Executed Contracts	5 years after completion of contract	Power supply contracts, contracts with vendors or consultants
Invoices from Vendors	2 years after completion of contract	Vendor invoices for payment
Non-Disclosure Agreements	In perpetuity	NDA with vendor, employee, Board member or advisor
Board Approved Decisions	In perpetuity	Resolutions, meeting minutes, and other items approved at regular or special Board meetings
Board and Committee Meeting Materials	In perpetuity	Agendas, staff reports and other material provided to Board members in preparation for meetings
Board Approved Budgets	In perpetuity	Final, approved budgets
Drafts of Documents	30 days after final version is approved	Draft contracts, programs, RFPs, etc.
General Electronic Correspondence	2 years	Relevant email correspondence at staff discretion
Customer-Specific Usage Information and Data	5 years	Electronic information and reporting from Data Manager, bill analyses
Marketing Material	2 years after public distribution	Flyers, brochures, electronic advertisements

General Educational or Informational Material	2 years	Brochures, reports, electronic information
Personnel Information	3 years after termination	Offer letter, resume, evaluations, personnel records, payroll records, and 1-9 forms
Accounting Records	7 years	Unaudited financials, bank statements, payables/receivables and controls back up documentation, etc.
Recruitment Materials	3 years after completion	Ads, responses



POLICY # \_\_\_\_\_

**Delinquent Accounts and Collections****Subject:** Delinquent Accounts and Collections Policy**Policies:**Delinquent Accounts:

Pursuant to Electric Rules 8 and 11, Pacific Gas & Electric (PG&E) uses the following process to determine past due accounts and the necessary action:

Residential Accounts		Non-Residential Accounts	
Day 1 - Issuance of Bill	Customer Receives Bill	Day 1 - Issuance of Bill	Customer Receives Bill
Day 22	Past Due	Day 18	Past Due
Day 27 - 33	15 Day Notice on Next Bill	Day 21	7 Day Notice Delivered
Day 41-47	48 Hour Notice via Mail	Day 29	24 Hour Phone Call or In Person Notice
Day 45 - 51	24 Hour Phone Call or In Person Notice	Day 32	Account is Eligible for Disconnection
Day 50-56	Account is Eligible for Disconnection		

Aging Accounts:

All EBCE accounts, whether Residential or Non-Residential, identified in the month aging accounts receivable report, as provided by PG&E, with outstanding balances over 90 days or more are eligible to be returned to PG&E.

EBCE Residential customer accounts exceeding \$250 in charges overdue for more than 90 days will be sent a late payment notification by EBCE. The customer will be provided 60 days to pay or make payment arrangements. If payment in full is not received within 60 days from the date of notification, or the terms of an activated payment arrangement are not fulfilled, the EBCE customer account may be closed and returned to PG&E bundled generation service on the next account meter read date. Residential customers returned to PG&E will be charged the applicable EBCE opt-out fee.

EBCE Non-Residential customer accounts exceeding \$500 in aggregate in unpaid charges for 60 days or more will be sent a late payment notification by EBCE. The customer will be provided 30 days to pay or make payment

arrangements. If payment in full is not received within 30 days of the date of notification, or the terms of an activated payment arrangement are not fulfilled, the EBCE customer account may be closed and returned to PG&E bundled generation service on the next account meter read date. Non-residential customers returned to PG&E will be charged the applicable EBCE opt-out fee.

Collections:

Closed East Bay Community Energy accounts with overdue amounts greater than \$100 may be referred to a collection agency. Amounts \$100 or less may be written off. PG&E may close customer accounts before payment delinquencies bring them to the attention of EBCE operations. When PG&E closes customer accounts, these accounts are also closed in the EBCE program. In these cases, the thresholds outlined in the preceding paragraphs apply in either referring closed accounts to collections or writing off balances.



POLICY # \_\_\_\_\_

**Customer Confidentiality**

**Subject:** EBCE Customer Confidentiality Policy -- Notice of Accessing, Collecting, Storing, Using, and Disclosing Energy Usage Information

**Policy:** East Bay Community Energy (EBCE), its employees, agents, contractors, and affiliates shall maintain the confidentiality of individual customers' names, service addresses, billing addresses, telephone numbers, email addresses, account numbers, and electricity consumption, except where reasonably necessary to conduct EBCE's business or to provide services to customers pursuant to the "Rules Regarding Privacy and Security Protections for Energy Usage Data" issued by the California Public Utilities Commission (CPUC). Examples of reasonably necessary business purposes include but are not limited to when such disclosure is necessary (a) to comply with law, regulation, or court order; (b) to enable EBCE to provide service to its customers; (c) to collect unpaid bills; (d) to obtain and provide credit reporting information; (e) to resolve customer disputes or inquiries; (f) to communicate about demand response, energy efficiency, energy management, and conservation programs; or (g) in a situation of imminent threat to life or property. EBCE shall not, under any circumstance, disclose customer information for third-party telemarketing, e-mail, or direct mail solicitation. Aggregated data that cannot be traced to specific customers may be released at EBCE's discretion.

Customer data, including individual customer names, addresses, and electric energy usage data, is collected via PG&E's metering systems. EBCE may share customer data with contractors and vendors for purposes of providing services and operating programs. Contractors and vendors are required to agree to only use customer data for program operational purposes and protect it under the same standards as EBCE. EBCE maintains customer-specific energy usage and billing information for only as long as is reasonably necessary, typically not more than five years unless otherwise required by law or regulation.

The effective date of this policy is January 1, 2018. Notice of this policy will be provided annually to customers via an on-bill message guiding customers to the most updated version on EBCE's website at [www.ebce.org](http://www.ebce.org). Any changes to this policy between notification periods will be communicated on EBCE's website. Previous versions of this policy can be requested via email at [info@ebce.org](mailto:info@ebce.org) or by mailed request to the address below.

Customers having questions or concerns regarding the collection, storage, use, or distribution of customer information, or who wish to view, inquire about, or dispute any customer information held by EBCE or limit the collection, use, or disclosure of such information, may contact EBCE Clerk of the Board and Executive Assistant, Stephanie Cabrera, at [scabrera@ebce.org](mailto:scabrera@ebce.org) or by US mail at 1111 Broadway Ave, Oakland, CA 94607.



POLICY # \_\_\_\_\_

**PROCESS FOR CONSIDERING POLICY AND  
JPA AGREEMENT AMENDMENTS**

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**Subject:** Process and timing for placing potential policy and/or JPA Agreement amendments on the Board of Directors agenda.

**Purpose:** EBCE desires to have a structured and transparent process for proposing and advancing JPA Agreement amendments and/or policy amendments to the Board of Directors for their direction and decision.

**Policy:** Twice per year, in March and September, the CEO shall place an item on the Board meeting agenda regarding suggested or proposed policy and/or JPA Agreement amendments for Board consideration. The Board will be asked to either approve a certain change or addition (for policy matters), or provide direction to staff regarding its interest in pursuing an amendment for approval at a future Board meeting (for JPA Agreement matters). In either case, a majority of the Board will need to indicate support for a policy amendment or JPA Agreement matter to move forward with Board action.

Anyone wishing to place a suggested amendment/addition for consideration on the March or September Board agenda should contact EBCE's CEO, COO or Board Clerk.

This administrative process precedes, but does not alter, Section 8.4 of EBCE's JPA Agreement which specifies the noticing and Board voting requirements for JPA amendments.