

**CALENDAR ITEM
C76**

Statewide

09/01/11
W 30177, R00311
D. Brown
A. Abeleda
C. Oggins

REQUEST AUTHORITY FOR THE EXECUTIVE OFFICER TO ACCEPT A GRANT OF FUNDS FROM THE CALIFORNIA OCEAN PROTECTION COUNCIL FOR THE PREPARATION OF ENVIRONMENTAL DOCUMENTATION FOR THE MODERNIZATION OF THE STATE LANDS COMMISSION'S STATEWIDE LOW-ENERGY GEOPHYSICAL SURVEY PERMIT PROGRAM.

APPLICANT:

California State Lands Commission
100 Howe Avenue, Suite 100 – South
Sacramento, CA 95825-8202

PROPOSAL:

The Executive Officer requests delegation of authority to accept a grant of funds in the amount of up to \$222,000 from the California Ocean Protection Council (OPC) for the modernization of the California State Lands Commission's (Commission) Offshore Low-Energy Geophysical Survey Permit Program and preparation of related environmental documentation.

BACKGROUND INFORMATION:

Pursuant to California Public Resources Code (PRC) Division 6 and California Administrative Code Title 2, generally, and PRC section 6826, specifically, the State of California, acting by and through the Commission, issues non-exclusive permits to qualified entities to perform geophysical surveys of the ocean bottom subject to specified terms and conditions. The Commission's Offshore Geophysical Survey Permit applies to data-gathering methods that follow a pre-defined course or spatial grid (i.e., a survey) on state sovereign lands extending from the shoreline out to three nautical miles offshore. These surveys obtain critical data on a variety of ocean resources and uses; areas of study can include areas of hard bottom and essential fish habitat, underwater structures (notably oil and gas pipelines and fiber-optic cables), near-shore sand erosion and deposition, seafloor changes, seafloor topography and bathymetry, seafloor hazards and debris, and offshore cultural resources.

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Currently, to comply with the California Environmental Quality Act (CEQA) (PRC § 21000 et seq.), the Commission issues permits for geophysical surveys using low-energy equipment (no more than two kilojoules [kJ] input energy) under a Mitigated Negative Declaration (MND) developed and certified by the Commission in 1984. The Commission established the 2kJ threshold in 1987, in light of then-recent scientific reports that high-energy underwater noise, such as that produced by air-guns, could have physiological or behavioral impacts on marine mammals, fish, and reptiles (projects that propose to use air guns or other high-energy [greater than 2 kJ] geophysical survey equipment are analyzed separately on a case-by-case basis).

Recent studies demonstrate that factors such as frequency, sound pressure levels, and type of exposure are more significant factors for assessing impacts to marine wildlife behavior and physiology than equipment energy input. These studies are also the basis for survey standards used by the National Oceanic and Atmospheric Administration Fisheries Service (NOAA Fisheries) in waters under the jurisdiction of the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE).

The Commission staff has worked for several years to identify a funding source to update the Commission's existing low-energy offshore geophysical permit program and incorporate new scientific findings identified in the course of preparing a new CEQA document. In June 2010, Commission staff submitted an unsolicited pre-proposal for a grant from the OPC to modernize the program and conduct an environmental analysis, with public review, of the program pursuant to the requirements of CEQA. In December 2010, at the OPC's request, the Commission staff submitted a full proposal to the OPC. In May 2011, after incorporating the findings of a peer review by the Ocean Science Trust, Commission staff resubmitted a revised full-proposal to the OPC. On August 11, 2011, the OPC, at the recommendation of its staff and in receipt of letters of support from resource agencies and fishing and industry representatives, voted to disburse up to \$222,000 to the Commission to prepare a new CEQA document (e.g., an MND) and modernize its geophysical survey permit program.

Grant funds will be used to (1) contract for consultant services for reviews of the current program and the relevant scientific literature and preparation of the CEQA document, and (2) cover some Commission staff costs associated with project management. The Executive Officer has already received authorization from the Commission (Minute Item 35, October 16, 2008) to solicit bids, negotiate costs and enter into agreements for consultant services for the project.

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code § 6106 (Delegation to execute written instruments)
- B. Public Resources Code § 6826
- C. State Contracts Manual (rev. 09/01)

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IT IS RECOMMENDED THAT THE COMMISSION:

1. Find that these activities are exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15260 because these activities are considered to be feasibility and planning studies as defined by title 14, California Code of Regulations, section 15262.
2. Authorize the Executive Officer or his designee to accept a grant of funds, award and execute necessary contracts in accordance with state policies and procedures in order to carry out the objectives of the grant.