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(6/2/15) Board Meeting- Item 8
CWSRF IUP
Deadline: 5/28/15 by 12:00 noon

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May 12, 2015

Julie Rizzardo, Supervising Water Resources Control Engineer
State Water Resources Control Board
Division of Financial Assistance
Water Recycling Funding Program
1001 I Street
Sacramento, CA 95814



Attention: Meghan Tosney, Sr. Water Resources Control Engineer

COMMENTS TO THE PROPOSED CALIFORNIA CLEAN WATER STATE REVOLVING FUND PROGRAM'S INTENDED USE PLAN FOR STATE FISCAL YEAR 2015-16

Dear Ms. Tosney:

The City of Los Angeles (City), Bureau of Sanitation (LA Sanitation) respectfully requests the State Water Resources Control Board (State Water Board) to consider additional changes to the proposed Clean Water State Revolving Fund Program's (CWSRF) Intended Use Plan (IUP) for State Fiscal Year (SFY) 2015-16 with language that allows larger agencies and municipalities, such as LA Sanitation, to apply for grants and loans for projects that serve disadvantaged areas.

The new Table 4 proposed in the CWSRF IUP for SFY 2015-16 (Attachment 1) eliminates "Category 2" entirely, giving larger agencies and municipalities less incentive to apply for grants and loans for projects that serve disadvantaged areas under funding programs referenced in the IUP. Currently, in Table 4 of the CWSRF IUP for SFY 2014-15 for the Federal Fiscal Year 2014 (Attachment 2), larger municipalities, such as LA Sanitation, fall under the "Category 2" category with the corresponding definition of "Communities Other" for project types that serve disadvantaged areas for principal forgiveness loans (a.k.a. grants).

The IUP describes how State Water Board management will operate the CWSRF in conjunction with other financing programs managed by the Division of Financial Assistance (DFA). As such, eliminating "Category 2" in the proposed CWSRF IUP for SFY 2015-16 will affect the funding programs administered by the State Water Board under the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1).

zero waste • one water

AN EQUAL EMPLOYMENT OPPORTUNITY - AFFIRMATIVE ACTION EMPLOYER

Recyclable and made from recycled waste 

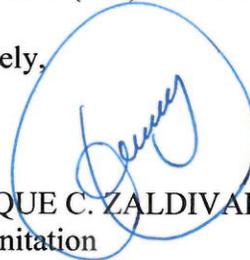
Under Proposition 1, changes to the CWSRF IUP will affect the following programs managed by the DFA:

- Small Community Wastewater (Chapter 5, Section 79723) - \$260 million
- Water Recycling Funding Program (Chapter 9) - \$625 million
- Stormwater Grant Program (Chapter 7) - \$200 million

Large portions of the City of Los Angeles are classified as disadvantaged areas. The proposed changes to the CWSRF IUP not only fail to recognize the extraordinary need of these areas but conflict with the proposed Water Recycling draft guidelines that include a 5% funding bonus for projects serving such disadvantaged areas. LA Sanitation recommends that the State add language to the proposed CWSRF IUP for SFY 2015-16 to provide the State Water Board the flexibility to allow large agencies and municipalities to apply for grants and loans for these areas in the years to come.

Finally, LA Sanitation understands there are limitations within the Proposition 1 statute that may affect the State Water Board's ability to provide additional funding or other advantages to projects that benefit these types of communities. However, we would appreciate creative solutions that could promote these types of projects serving disadvantaged areas within Los Angeles. If you should need additional information about the comments or would like to discuss further the draft Guidelines, please do not hesitate to contact Arnil Aguilar of my staff at (213) 485-2371.

Sincerely,



ENRIQUE C. ZALDIVAR, Director
LA Sanitation

ECZ/AH:aba

Attachment:

- 1 – Table 4 - CWSRF IUP for SFY 2015-16
- 2 – Table 4 - CWSRF IUP for Federal Fiscal Year 2014 (SFY 2014-15)

cc: Barbara Romero, Mayor's Office, Deputy Mayor for City Services
Cecilia Cabello, Mayor's Office, Legislative Deputy Director
Derek Mazzeo, Mayor's Office, External Affairs Liaison
Ted Bardacke, Mayor's Office, Director of Infrastructure
Heather Marie Repenning, Board of Public Works, Commissioner
Adel Hagekhalil, LA Sanitation, Assistant Director
Traci Minamide, LA Sanitation, Chief Operating Officer
Lisa Mowery, LA Sanitation, Chief Financial Officer
Eva Sung, LA Sanitation, FMD Division Manager
Arnil Aguilar, LA Sanitation, Acting Sr. Management Analyst II
Jim Marchese, LA Sanitation, Environmental Supervisor II
File

ATTACHMENT 1

Table 4: Eligibilities and Funding Maximums: SCG and Principal Forgiveness

Table 4a. SCG Fundⁱ

Eligible Applicants: Public agencies, 501(c)(3) non-profit organizations, and tribes. ⁱⁱ				
Project Types: CWSRF-eligible wastewater projects. ⁱⁱⁱ				
Affordability Criteria			Grant Amount ^{iv}	
Population ^v	Community Median Household Income (MHI)	Wastewater Rates as Percent of MHI ^{vi}	Percentage of Total Project Cost ^{vii}	Up to a Maximum of (\$ million) ^{viii, ix, x, xi}
<20,000	ANY ^{xii}	≥4.0%	50	6
	Disadvantaged Community (DAC) with MHI <80% of Statewide MHI	≥1.5%	50	4
		≥2.0%	50	6
	Severely Disadvantaged Community (SDAC) with MHI <60% of Statewide MHI	≥1.5%	75	4
		≥2.0%	75	6

Table 4b. CWSRF Principal Forgiveness^x

Eligible Applicants: Any municipality, intermunicipal, interstate, or state agency (regardless of population, MHI, or wastewater rates). ^{xiii}
Project Types: Any CWSRF eligible project that implements a process, material, technique, or technology to address water-efficiency or energy-efficiency goals or encourages sustainable planning, design, or construction. This includes, but is not limited to: water or energy conservation assessments, audits, or plans, water reuse, water or energy reducing devices, water meters, or projects meeting the Green Project Reserve: Guidance for Determining Project Eligibility (see page 50 of 94) .
Principal Forgiveness Amount: For water or energy conservation assessments, audits, or planning work, 100 percent of actual costs up to \$35,000 in principal forgiveness. For all other projects, 50 percent of total, actual costs associated with water or energy conservation or sustainable planning, design, or construction up to \$2.5 million in principal forgiveness.

(continued on next page)

Table 4, Notes:

ⁱ This includes funds available through the CWSRF Program's annual SCG allocation, any available residual general obligation bond funds (including those specifically identified in State Water Board Resolution No. 2013-004, and any additional residual general obligation bond funds that may become available), and general obligation bond funds available as a result of Prop 1. At least 10 percent of the SCG funds available per Prop 1 will be provided to SDACs.

ⁱⁱ Federally recognized tribes, and state tribes on the Native American Heritage Commission consult list.

ⁱⁱⁱ Includes only projects approved for funding after July 1, 2015. In addition to capital projects, the Division of Financial Assistance (Division) is authorized to direct up to fifteen percent of the funds available per Prop 1 to a multi-disciplinary technical assistance program for small DACs and SDACs.

^{iv} Regardless of wastewater rates, any small DAC or SDAC may receive 100 percent of eligible planning costs, not to exceed \$500,000 in SCG funding, for wastewater planning activities, including but not limited to feasibility/engineering studies, environmental studies, legal analyses, and financial/rate analyses. Any State Water Board grants or principal forgiveness provided as part of such agreement, will count toward the maximum grant amount for which the community is eligible. Upon the Division's determination of sufficient planning funding needs, more than 15 percent of the funds available per Prop 1 may be used to fund planning and technical assistance activities.

^v To qualify for SCG funds, a project must be geared toward addressing primarily residential needs. Also, at least 50 percent of the dwellings or dwelling units must be the primary dwelling of permanent residents for a community or community area to qualify for SCG funds. Typically, permanent residents are those residing in the community at least six months out of the year; however, seasonal, migrant laborers can also be counted as permanent residents.

^{vi} For the purposes of calculating rates as a percentage of MHI, service charges plus other costs specifically related to the wastewater system may be considered, including but not limited to, dedicated sales tax revenue, assessments, and fees. For publicly-owned systems serving facilities such as schools or labor camps, and for which wastewater user rates or service charges are not charged, the Division may elect to approve 100 percent grant up to a maximum of \$6 million. Even if 100 percent grant is approved, Division staff will review projected revenues and expenses to confirm adequate revenues to operate and maintain the project.

^{vii} For small DACs and small SDACs with wastewater rates at least 2.0 percent of community MHI, if the community's credit review shows inadequate revenues to finance the remaining project costs, the grant percentage may be increased to as high as 100 percent, as necessary to approve financing for the project. In addition, for small DACs or small SDACs, the Division has discretion to increase the grant percentage to as high as 100 percent, if the community's unemployment rate is at least 2 percent higher than the statewide average, or low population densities impact the community's ability to afford financing. Even if 100 percent grant is approved, Division staff will review projected revenues and expenses to confirm adequate revenues to operate and maintain the project.

^{viii} For projects that connect previously unsewered areas or join communities to regionalize wastewater treatment works consistent with the CWSRF Policy, SCG funds will be allocated to each community served by the project on a per community basis, rather than a per project basis. For these projects, and for projects that either reduce contaminants in drinking water supplies, or prevent further contamination of drinking water supplies, the maximum grant amount per community is increased to \$8 million.

^{ix} If components related to water or energy efficiency result in higher capital costs, the Division may make a determination that the incremental increase in capital costs (resulting from installation of such water or energy efficiency components) will be provided as additional grant, above and beyond what would otherwise be the maximum grant amount for the project.

^x To ensure that available funds are distributed to a large cross-section of communities throughout California, a single community may not receive cumulatively more than \$8 million in SCG and principal forgiveness funding in any given five year period.

^{xi} Any project with a cost per household exceeding \$30,000 is considered non-routine, and any construction funding agreement for such a project will be subject to State Water Board approval.

^{xii} Communities not qualifying as disadvantaged are required to fund a local cost share of not less than 50 percent of the total costs of the project. As part of requesting disbursements, such communities will be required to submit backup documentation substantiating that the community paid the local cost share.

^{xiii} Municipality includes an Indian tribe or an authorized Indian tribal organization.

ATTACHMENT 2

D. TABLE 4: 2014 CWSRF PRINCIPAL FORGIVENESS (PF) AND SMALL COMMUNITY GRANTS (SCG) BY CATEGORY OF APPLICANT¹

Category 1	
Project Types	Eligible project types include wastewater, stormwater, nonpoint source, or estuary ³ .
Communities: Small, Disadvantaged with Substantial Costs²	a. (i) Population <20,000 and (ii) community median household income (MHI) <80 percent of statewide MHI and (iii) rates for wastewater or wastewater plus stormwater at least 1.5 percent of community MHI ^{4,5} ; or b. (i) Population <20,000 and (ii) rates for wastewater or wastewater plus stormwater more than 4 percent of community MHI ^{4,5} .
Total Principal Forgiveness/ SCG	<ul style="list-style-type: none"> • 60 percent of the maximum 2014 PF shall be available to projects in this category. • Any uncommitted 2010 through 2013 Category 1 PF shall be available to projects in this category¹. • At least \$8 million from the SCG Fund shall be disbursed to wastewater projects in this category, with priority given to projects that serve severely disadvantaged communities (community MHI <60 percent of statewide MHI)⁶. • At least 50 percent of this category will be allocated to wastewater projects.

Principal Forgiveness/SCG per Project

A project may receive 50 percent of eligible project costs, not to exceed \$4 million, in PF/SCG financing.

Exceptions:

(i) For “Category 1a” wastewater projects with wastewater rates at least 1.5 percent but less than 2.0 percent of community MHI, if the community’s credit review shows inadequate revenues to finance the remaining eligible costs, “Category 1a” Disadvantaged Communities (DACs) may receive PF/SCG financing up to 75 percent of eligible costs or a “Category 1a” severely DAC (community MHI <60 percent of statewide MHI) may receive PF/SCG financing up to 100 percent of eligible project costs, not to exceed \$4 million.

(ii) For “Category 1a” wastewater projects with wastewater rates at least 2.0 percent of community MHI, projects may receive 75 percent of eligible costs, not to exceed \$6 million in PF/SCG financing. If the community’s credit review shows inadequate revenues to finance the remaining eligible costs, the DAC may receive PF/SCG financing up to 100 percent of eligible costs, not to exceed \$6 million.

(iii) For projects that connect previously unsewered areas or join communities to regionalize wastewater or stormwater treatment works, consistent with the *CWSRF Policy*, PF will be allocated to each community served by the project on a per community basis, rather than a per project basis. For these projects, communities qualifying under “Category 1” may receive 100 percent PF/SCG financing not to exceed \$4 million, and communities qualifying under “Category 1a” with rates at least 2.0 percent of community MHI may receive 100 percent PF/SCG financing not to exceed \$6 million.

(iv) “Category 1” entities eligible for planning or design financing may receive 100 percent of eligible planning or design costs, not to exceed \$500,000 in PF/SCG financing, for planning or design activities. Planning activities may include, but are not limited to, feasibility/engineering studies, environmental studies, legal analyses, and financial/rate analyses.⁷

(v) For projects that connect previously unsewered areas or join communities to regionalize wastewater or stormwater works, consistent with the *CWSRF Policy*, if the community that will be served by the project does not have wastewater rates and charges in place, but would otherwise qualify for “Category 1a,” that community may receive 100 percent of eligible planning or design costs, not to exceed \$500,000 in PF/SCG financing, for planning or design activities.⁷

(Table 4 – Continued)

Category 2	
Project Types	Eligible project types include wastewater, stormwater, nonpoint source, or estuary ³ .
Communities: Other ²	<ul style="list-style-type: none"> a. Project serves a DAC (community MHI <80 percent of statewide MHI) not qualifying under Category 1 above; b. Project serves a disadvantaged area (area MHI <80 percent of statewide MHI) of a larger community; or c. Project implements a nationally designated estuary plan. ⁸
Total Principal Forgiveness	<ul style="list-style-type: none"> • 40 percent of the maximum 2014 PF amount shall be available in this category. • Any remaining 2010 through 2013 Category 2 PF amounts shall be available to projects in this category. ¹
Principal Forgiveness per Project	
<p>Portions of the project that serve a DAC or disadvantaged area may receive PF of 50 percent of eligible project costs, not to exceed \$2 million in PF.</p> <p>Exceptions:</p> <p>(i) Consistent with the <i>CWSRF Policy</i>, for projects that connect previously unsewered areas or join communities to regionalize wastewater or stormwater treatment works, PF will be available to each community served by the project on a per community basis, rather than a per project basis. For these projects, communities qualifying under Category 2 may receive PF of 50 percent of eligible project costs not to exceed \$3 million.</p> <p>(ii) “Category 2c” projects that implement a project for a nationally designated estuary may receive PF up to 75 percent of eligible project costs. Cumulative PF shall not exceed \$1 million per estuary plan area.</p> <p>(iii) For a small DAC only (community population less than 20,000 and MHI <80 percent of statewide MHI), an entity eligible for planning or design financing may receive 50 percent of eligible planning or design costs, not to exceed \$250,000 in PF for planning or design. Planning activities may include, but are not limited to, feasibility/engineering studies, environmental studies, legal analyses, and financial/rate analyses. ⁷</p>	
Requirements and Deadlines Applicable to All Projects	
<ul style="list-style-type: none"> • Costs for planning and design specific to a project financed with CWSRF Principal Forgiveness or the Small Community Grant fund may be counted as part of the local contribution regardless of the date incurred. Costs incurred after October 1, 2011, for construction or implementation specific to a project financed with Principal Forgiveness or Small Community Grant funds may be counted as part of the local contribution. • Projects may not receive financing for more than 100 percent of total project costs, and must meet all applicable eligibility requirements. 	

1. The criteria in Table 4 and Section IV.A.5 of the CWSRF Policy apply to all qualifying projects receiving approval of Principal Forgiveness or Small Community Grant financing after the date this *IUP* is adopted by the State Water Board.
2. At least 50 percent of the dwellings or dwelling units must be the primary dwelling of permanent residents for a community or community area to qualify for Principal Forgiveness/SCG financing. Permanent residents are those residing in the community at least six months out of the year. Seasonal, migrant laborers can also be counted as permanent residents.

3. Projects must be eligible under Clean Water Act (CWA) Section 603. This section refers to project types defined in Sections 212, 319, and 320 of the CWA.
4. Rates as a percentage of MHI demonstrate a community's investment in water quality. For wastewater projects, only wastewater rates will be used to calculate the community's rates as a percentage of MHI. For other types of water quality improvement projects, wastewater rates plus stormwater rates, if applicable, may be used to calculate the community's rate as a percentage of MHI. Projects qualifying in Category 1.b must receive approval from the State Water Board, and are not eligible for the SCG Fund.
5. For the purposes of calculating rates as a percentage of MHI, service charges plus other costs related to the system may be considered, including, but not limited to, taxes, assessments, and fees. For wastewater projects, only wastewater costs, (including, but not limited to, service charges, taxes, assessments, and fees) will be used to calculate the community's rate as a percentage of MHI. For other types of water quality improvement projects, wastewater costs plus stormwater costs, if applicable, (including, but not limited to, service charges, taxes, assessments, and fees) may be used to calculate the community's rate as a percentage of MHI.
6. \$8 million has been appropriated from the Small Community Grant Fund for SFY 2013/14. \$2 million is reserved for planning financing agreements. If reserved planning funds are not committed by March 31, 2014, any remaining funds will be available for either planning or construction projects. Additional appropriated funds will be disbursed consistent with Category 1 limitations unless otherwise directed by the State Water Board.
7. Any Principal Forgiveness/SCG Funds provided as part of a planning or design financing agreement will count toward the maximum Principal Forgiveness/SCG Funds amount for which the community is eligible.
8. Communities that implement a project for a nationally designated estuary plan are not required to meet size or household income criteria to receive Principal Forgiveness in Category 2.