

**STATE WATER RESOURCE CONTROL BOARD**  
**DIVISION OF FINANCIAL ASSISTANCE**  
**PROPOSITION 1 GROUNDWATER SUSTAINABILITY PROGRAM**  
**STAFF DISCUSSION DOCUMENT/PROPOSED SCOPE – NOVEMBER 2015**

The State Water Board has two new groundwater quality funding programs to administer - \$800 million of groundwater sustainability funds through Proposition 1 and approximately \$20 million per year through the Site Cleanup Subaccount Program (“SCAP” - established by [Senate Bill 445](#) in 2014). Both of these funding programs can be used to address groundwater quality problems that have largely been unaddressed due to lack of viable responsibility parties and the financial resources to cleanup or mitigate the problem.

The purpose of this document is to continue the dialogue with stakeholders on the proposed scope and direction of the Proposition 1 Groundwater Sustainability Program. Division of Financial Assistance (DFA) staff would like to share our current thinking and get feedback on the proposed scope of the funding guidelines prior to release of the draft guidelines.

## **Background**

[Assembly Bill 1471](#), (Proposition 1), was passed by voters on November 4, 2014. Chapter 10, Groundwater Sustainability (Sections 79770-79744 of the California Water Code) makes \$800 million available for grants and loans for projects to prevent or clean up the contamination of groundwater that serves or has served as a source of drinking water. The State Water Board administers this program. The Department of Water Resources administers a \$100 million program in Chapter 10 (Section 79745 of the California Water Code) to support the development and implementation of groundwater plans and projects.

In June 2015, DFA staff from both the SCAP and Proposition 1 Groundwater Sustainability programs held joint scoping sessions in Sacramento, Fresno, Los Angeles, and Orange County. Stakeholders had an opportunity to provide written comments on the scope of the two programs by June 30, 2015. Since the scoping meetings, DFA staff has met with staff from the regional water boards, the State Water Board’s Division of Drinking Water, and Department of Toxic Substances Control. DFA staff have also begun meeting with applicants who submitted “pre-applications” through the State Water Board’s “FAAST” system.

The proposed scope described below was developed after consideration of stakeholder input; discussion with the regulatory agencies; review of “pre-applications”; and internal discussion.

## **Proposed Funding Process:**

1. **Pre-application Submittal:** An applicant first fills out an online “Pre-Application” for groundwater quality funding using the FAAST ([Financial Assistance Application Submittal Tool](#)), which includes basic information about the proposed project.
2. **Initial Staff Review:** The initial staff review will identify whether the “best” funding fit for the proposed project is the Prop 1 Groundwater Sustainability program; Site Cleanup Subaccount Program; or Drinking Water State Revolving Fund (SRF). Each program is administered by different units in DFA. Follow-up with the Applicant will be done by staff from the funding program that is identified as the “best” fit.

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General Decision Rules to Identify “Best” Funding Fit:

- I) Projects with no other available funding will be administered through SCAP.
- II) Projects that are primarily drinking water treatment projects (i.e., treatment of natural contaminants or contaminants that are not amenable to source cleanup) will be administered through the Drinking Water SRF. Prop 1 Groundwater Sustainability funds can be used to support the drinking water treatment project if there is a need for grant funds and insufficient funds through the Drinking Water SRF to support the project.
- III) Projects with eligible applicants and eligible projects that address the cleanup or prevention of contamination of groundwater that serves as a source of drinking water AND includes a source cleanup component will be administered by the Prop 1 Groundwater Program.
- IV) Applicants with projects that are ineligible for the three drinking water/groundwater quality funding programs will be directed to other funding programs, if staff can identify other funding program eligibility criteria that fit the applicant and project.

**Note** – the steps below apply to projects that will be administered through DFA’s Prop 1 Groundwater Program.

3. **Applicant Contact:** Groundwater Program staff will contact the applicant and begin a dialogue with the applicant and regulatory agencies (i.e., regional water board, Division of Drinking Water, DTSC) on the scope/budget for the project. Discussion with the Applicant will focus on adjustments to the scope, as needed, to meet Water Board or the regulatory agency’s priorities and goals and any additional detail required to evaluate the project.
4. **Final Application Submittal:** Based on discussions in #3, the Applicant will be invited to submit a Final Application that includes a detailed work plan and budget. The Final Application should incorporate the feedback from the discussions in #3.
5. **Evaluation:** Staff will conduct an initial review of readily available information from the Applicant and regulatory agency related to responsible party searches to verify that the project is eligible for funding. A technical review team, including State Water Board, regional water board, and (potentially) DTSC staff will score all complete, eligible applications submitted based on the evaluation criteria established in the Funding Guidelines. Planning and implementation projects will be evaluated separately.
6. **Preliminary Award:** DFA staff will develop a list of projects recommended for funding, along with a recommended funding amount, based on the evaluation by the technical review team. The Deputy Director of DFA will make the final decision as to which Applicants will receive notification of a “Preliminary Award”. The Preliminary Award letter will identify the amount of funding that the State Water Board intends to provide and the additional information that must be provided to complete the Grant Agreement.
7. **Grant Agreement:** The Applicant will work with DFA staff to complete the Grant Agreement based on the direction provided in the Preliminary Award letter. DFA staff, with assistance from the regulatory agencies, will evaluate additional documents to: a) confirm the technical feasibility of the project; b) evaluate any additional information regarding responsible parties and their ability and/or willingness to pay for the cost of cleaning up the contamination being addressed; c) determine the technical, managerial,

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and financial capacity of the Applicant to operate and maintain the project for the applicable life of the project; d) determine the status of CEQA/environmental documentation, if available; e) determine the status of any legal issues that may affect the outcome of the project (e.g., site access, pending litigation regarding cleanup); and f) address any information gaps or issues that must be resolved prior to completing the Grant Agreement.

**Proposed Proposition 1 Groundwater Sustainability Requirements and Policies**

**Eligible Applicants under Proposition 1:** public agencies, 501(c)(3) nonprofit organizations, public utilities, federally recognized Indian tribes, State Indian tribes on the Native American Heritage Commission Consult List, and mutual water companies.

**Program preferences** – preference will be given to projects that support the State’s policy on the human right to water; address a public health threat; benefit the largest number of people per dollar spent; enhance local supply reliability; remove the most contamination at the lowest cost; have clear funding commitments for any match required and ongoing operation and maintenance; minimize the time required to achieve environmental outcomes; and can be completed within the appropriation time frame.

**Funding cycle/amounts** – DFA intends to have annual solicitations for projects until all funds have been expended. DFA will have two types of solicitations: solicitations targeted to projects benefiting disadvantaged communities and environmentally distressed areas and general solicitations. Applicants with projects benefiting DACs and EDAs can respond to both solicitation types. Twenty percent of the available funds (\$160 million) will be set aside for projects benefiting DACs/EDAs. The first solicitations will occur approximately one month after Board adoption of the Funding Guidelines. [The Budget Act of 2015 \(Assembly Bill 93\)](#) appropriates Proposition 1 funds and makes the funding available for expenditure (i.e., encumbered in a funding agreement) until June 30, 2018, and available for liquidation (i.e., funds encumbered in funding agreements have been invoiced and paid) until June 30, 2021. Since projects to be funded with the appropriation from the the Budget Act of 2015 must meet the expenditure and liquidation deadlines, project selection in the initial rounds will be based on the ability to meet those respective deadlines.

**Funding Minimum and Maximum Amounts and Match** – the proposed minimum and maximum grant amounts apply to funding decisions that are delegated to the Deputy Director. There is no proposed maximum for implementation projects. The board would be able to waive those constraints through its approval of a project at a board meeting.

**Table 2. Proposed Limits on Grant Amounts per Project Delegated to Deputy Director**

	Planning	Implementation
<b>Minimum</b>	\$100,000	\$500,000
<b>Maximum</b>	\$1,000,000	N/A

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**Grant/Loan Split** – proposing only grants.

**Disadvantaged Community/Economically Distressed Area Match** – Proposition 1 allows the reduction of match requirements for projects that benefit disadvantaged communities and economically distressed areas. Drinking water treatment projects funded by Prop 1 Groundwater Sustainability funds will use the same method for determining match reduction as identified in the [Drinking Water SRF Intended Use Plan](#). For all other projects, the reduction in match will be based on an evaluation of the Applicant's ability to pay and the extent to which the project benefits a severely disadvantaged community, disadvantaged community, or economically distressed area.

**Eligible Projects** – eligible projects will include both planning and implementation projects.

**Planning** projects include remedial investigations/site characterization (including monitoring); feasibility studies; and responsible party searches. Planning projects generally produce a report or information needed to design and build a cleanup project.

**Implementation** projects include, but are not limited to, design, construction, pilot studies, and initial startup of facilities that prevent or cleanup the contamination of groundwater that serves or has served as a source of drinking water. Projects that are focused primarily on treating groundwater for direct use in the drinking water system will generally be funded through the Drinking Water State Revolving Fund program. Such projects will be considered for Groundwater Sustainability funding if constraints associated with the Drinking Water program prevent fully funding a worthy project solely with Drinking Water program funds.

**Projects vs. Programs** – some Applicants may want to fund a groundwater cleanup “program”, which is composed of multiple projects. Staff proposes to fund those projects within a “program” that would have otherwise been recommended for funding had the projects been submitted individually. The Board may enter into a single agreement with an Applicant with multiple projects, if it is administratively expedient to do so or may have separate funding agreements (e.g., if the projects have significantly different timelines for completion; legal issues may hold up one project, but not another).

**Technical Assistance** – the State Water Board has set aside of **\$10 million** to provide technical assistance small, disadvantaged communities to support Prop 1 Groundwater Sustainability efforts. The technical assistance program will be run out of the Office of Sustainable Water Solutions. Technical assistance will include, but is not limited to: preparation of pre-application/final application; assistance in assessment of the scope of contamination; initial assessment of potential cleanup options; legal assistance; organization formation and managerial assessment and assistance; and technical training.

**Post-project Cost Recovery/Responsible Party (RP) search** – Proposition 1 requires applicants to make reasonable efforts to recover the costs associated with remediation from responsible parties. The primary responsibility for identifying such responsible parties and recovering costs should continue to remain with the regulatory agencies. The burden of RP searches would fall on the applicant during the pre-application and final application phases.

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The funding guidelines will allow grant or matching funds used for RP searches and cost recovery efforts to be eligible costs, within limits, potentially based on a percentage of the total project cost (e.g., 5% or less).

**Collaboration with Regulatory Agencies:** A critical key to the long-term success of funded projects will be on-going collaboration with the regulatory agencies that have oversight or an interest in groundwater cleanup projects. The Regional Water Boards, Division of Drinking Water, the DTSC, US EPA, and local regulatory agencies will have important insights and information that will assist DFA in evaluating the priority and feasibility of proposed cleanup projects. The primary regulatory agencies will need to provide oversight of the long-term operation and maintenance of projects.

**Project types Identified:**

DFA staff discussions with Regional Boards, DDW, and DTSC, along with review of completed “Pre-Applications”, indicates we will have the following general project types:

- “Smaller” cleanup projects (e.g., dry cleaners) that are associated with one or a few responsible parties that contaminate a relative limited area. There may be vapor intrusion risks to mitigate in addition to addressing groundwater contamination. The RP or someone acting on behalf of the RP (e.g., the regional board) is often the applicant. These projects will generally be administered through the SCAP.
- Larger cleanup projects in which the contaminant plume is large or regional/basin wide in nature. These projects might include both source cleanup/containment and wellhead treatment elements. The applicants are generally water purveyors or other public agencies. These projects will generally be administered through the Prop 1 Groundwater program.
- Larger cleanup projects/Superfund that have a record of decision in place that may be inadequate to address the groundwater contamination issues. Discussions with DTSC and US EPA are needed to determine whether these projects (or some portion thereof) qualify for and should be funded through the Prop 1 Groundwater program.
- Drinking water treatment projects – these projects either address natural contaminants (e.g., hexavalent chromium) or are large contaminant plumes that are not amenable to cleanup (e.g., nitrates in the Central Valley/Central Coast). These projects will generally be administered through the Drinking Water SRF program, although Proposition 1 Groundwater Sustainability funds would be available, if needed.

**Next Steps**

- In November, will three public workshops are being held and meetings with applicants that have larger/more complex Prop 1 project proposals.
- Draft guidelines released in late December 2015/early January 2016
- Public meetings on draft guidelines – February 2016
- Board adoption hearing – April/May 2016