

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE
APRIL 4, 2023**

ITEM 2

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR OR DESIGNEE AND THE DEPUTY DIRECTOR OF THE DIVISION OF FINANCIAL ASSISTANCE (DFA) OR DESIGNEE TO CARRY OUT CERTAIN ACTIONS TO IMPLEMENT THE FEDERAL SEWER OVERFLOW AND STORM WATER REUSE MUNICIPAL GRANTS PROGRAM.

DISCUSSION

Section 221 of the Federal Water Pollution Control Act (also known as the federal Clean Water Act) authorizes Congress to appropriate funds for the Sewer Overflow and Stormwater Reuse Municipal Grants (OSG) program. The OSG program can fund infrastructure needed to address combined sewer overflows (CSO), sanitary sewer overflows (SSO), and stormwater management.

The U.S. Environmental Protection Agency (USEPA) will award grants to states to make sub-awards to eligible entities for eligible OSG projects as defined in the federal Clean Water Act. States are required to prioritize funding projects for communities that are (1) financially distressed (i.e., disadvantaged communities (DACs) and severely disadvantaged communities (SDACs) as defined in Appendix D of the Proposition 1 Storm Water Grant Program Guidelines, dated October 16, 2019 (Guidelines)); (2) applicants that have begun implementing a long-term municipal CSO or SSO control plan and have implemented or are complying with an implementation schedule for the minimum controls specified in the CSO control policy referred to in Title 33 United States Code (U.S.C.) section 1342(g)(1); or (3) projects that have requested funding through the Clean Water State Revolving Fund (CWSRF). Projects under the OSG program will have many of the same program requirements as the CWSRF, and, to the extent there are sufficient eligible projects, at least twenty percent (20%) of a state's allocation must be used for green infrastructure, water and energy efficiency improvements, and other environmentally innovative activities.

As a condition of the grant awards, states must provide a non-federal cost share equal to twenty percent (20%) of the grant (state match). Sources of state match can be public and/or private funds, in-kind services, and may include loans (including loan forgiveness) from the CWSRF program.

To the extent there are sufficient eligible project applications, states shall use not less than twenty five percent (25%) of the OSG grants to carry out projects in rural communities (a city, town, or unincorporated area that has a population of not more than 10,000 inhabitants) or financially distressed communities, as defined by the state, and to the extent there are sufficient eligible project applications, states shall use not

less than sixty percent (60%) of the twenty five percent (25%) to carry out projects in rural communities. Section 221 of the Clean Water Act prevents states from requiring these communities to fulfill the state match requirement.

USEPA will allow a state to reduce its 20 percent cost share requirement to the extent the state provides sub-grants for OSG activities in rural or financially distressed communities. This added flexibility provides an alternative means of satisfying the cost share requirement and eliminates the previous practice of a state passing through its cost share burden to rural or financially distressed sub-recipients.

On April 19, 2022, the Board adopted [Resolution No. 2022-0013](#) allowing the Executive Director, or designee, to apply for and the Deputy Director to award the OSG Funds from Fiscal Years 2020 through 2022. DFA applied to USEPA for \$12 million in OSG Funding. A list of eligible projects for OSG funding was submitted to USEPA with the DFA's 2022 application.

Any future funding secured can be used to fund projects on the 2022 list, projects identified and discussed in the SFY 2022-23 CWSRF Intended Use Plan (IUP), or a future IUP. Priority should be given to projects in rural and disadvantaged communities consistent with the OSG's guidelines.

To support the OSG program, \$280 million was authorized per year for fiscal years 2022 through 2026. Of this amount, USEPA has allocated 10.6 percent to the State of California. DFA plans to apply each year to USEPA for available OSG funding in 2023 through 2026.

POLICY ISSUE

Should the State Water Board adopt the resolution to authorize the Executive Director or designee to apply for, accept, and/or amend an annual OSG program grant each year in Fiscal Years 2023 through 2026?

Should the State Water Board delegate authority to the Deputy Director of DFA or designee to negotiate, execute, and/or amend OSG program grant funding agreements with eligible entities for eligible projects as defined in the Clean Water Act?

Should the State Water Board direct the Deputy Director of DFA or designee to use available OSG Funding to fund eligible stormwater projects identified in the State Water Board's 2022 application to USEPA for OSG Funding or to fund eligible stormwater projects identified in the CWSRF Intended Use Plan?

FISCAL IMPACT

The state match obligation for the OSG funds will be passed through to eligible entities which do not serve rural and financially distressed communities as part of funding eligible projects. The match is waived if the OSG funds are utilized for disadvantaged communities. DFA is in the process of awarding the entire 2020 and 2021 OSG funds to two disadvantaged communities. To the extent possible, but consistent with the OSG

guidelines, DFA will continue to award the OSG funding to rural and disadvantaged communities which will lower the match requirement from the State Water Board.

The OSG program grant allows up to four percent (4%) of the grant for the State Water Board's administration of the grant funds.

REGIONAL BOARD IMPACT

There will be no direct impact to the Regional Water Quality Control Boards (Regional Boards). Accepting OSG funds will fund current and near-term projects that support the Regional Boards' stormwater regulatory efforts.

STAFF RECOMMENDATION

The State Water Board should authorize the Executive Director or designee to apply for, accept, and/or amend an annual OSG program grant each year from 2023 through 2026.

The State Water Board should delegate authority to the Deputy Director of DFA or designee to negotiate, execute, and/or amend OSG program grant funding agreements with eligible entities for eligible projects as defined in the Clean Water Act.

The State Water Board should direct the Deputy Director of DFA or designee to use available OSG Funding to fund eligible stormwater projects identified in the State Water Board's 2022 application to USEPA for OSG Funding or to fund eligible stormwater projects identified in the CWSRF Intended Use Plan.