

California Department of Public Health
Safe Drinking Water State Revolving Fund

**GUIDELINES FOR CONSOLIDATION PROJECTS
(PROPOSITION 84 VERSION)**

NOTE: This document was intended for use by the Safe Drinking Water State Revolving Fund (SDWSRF) program and has been modified for use by the Proposition 84 program. References to SDWSRF specific processes and loans have been removed.

Purpose

Obtaining Proposition 84 (Prop 84) grant funding for consolidation projects can be a complicated process. The number of parties involved and the amount of information required necessitates careful coordination to assure a successful project.

The following guidance is provided to aid invited water systems in applying for construction funding. This guidance may also be used to develop the scope of work for feasibility projects. This document is intended as general guidance; however, each project has unique characteristics which demand case-by-case decisions and implementation. Please communicate any special project requirements as soon as you become aware of any issues to your local California Department of Public Health (CDPH) District Office or send an e-mail to the Prop 84 funding program at: dwpfunds@cdph.ca.gov.

Background

Funding for consolidation projects is both authorized and encouraged by the Prop 84 program. Consistent with the Prop 84 criteria, funds may be used for consolidation projects that improve the safety of public water supplies by enabling non-compliant water systems to achieve compliance with primary drinking water standards by consolidating with another water system that is in compliance. The following definitions are used in this guidance.

A public water system is defined as “a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.” (Health & Safety Code 116275(h))

A consolidation project is defined as “a project involving the restructuring of two or more water systems into a single public water system through physical consolidation of the water systems.” (22 CCR 63000.17)

A restructured water system is defined as “the single [public] water system that results from the consolidation of two or more water systems.” (22 CCR 63000.81)

The limitations imposed on all water systems involved in consolidation projects require that “upon completion of a consolidation project, all water systems involved in the consolidation, other than the restructured system, shall cease to operate as public water systems.” (22 CCR 63058) Please note – a project such as those to construct an interconnection for supply of raw water, or those that construct an interconnection and establish a wholesale/retail water supply arrangement, are not consolidation projects if upon completion of the project the participating entities still meet the definition of a public water system and there is no restructured water system.

A consolidation project must have one restructured water system and one or more consolidating water systems. The restructured water system will be the single, surviving public water system that results from the consolidation project. The consolidating water systems must be physically consolidated and surrender their existing domestic water supply permits. The consolidating water systems will cease to exist as public water systems after the project is complete.

In addition to the definitions stated in the statutes and regulations, the following consolidation project types have been identified.

Master meter consolidations – The restructured water system’s responsibility ends at the master water meter. A connection is provided to the consolidating water system, which will be responsible for operating and maintaining the infrastructure within its own boundaries. For this type of consolidation project, a water service agreement must be made between the owner of the consolidating entity and the restructured water system. Construction of a pipeline, connection and master meter for supply of water from an adjacent water system (the restructured water system) to a mobile home park, where the park owner still owns the distribution system within the park and buys water from the restructured water system via the master meter, is an example of this type.

Distribution system consolidations – The restructured water system will directly bill each customer within the consolidating water system’s service area. The restructured water system’s facilities will include the distribution system of the consolidating entity(ies). This means that the restructured water system will operate and maintain the entire distribution system – lines, pumps, tanks, etc., and therefore the consolidation project must result in the restructured water system having the legal right to access the distribution facilities and provide service within the service area of the consolidating system(s). For this type of consolidation project, a consolidation and water service agreement(s) must be made between the entity having legal ownership of each consolidating water system, and the restructured water system. (Depending on the legal authority of a consolidating water system to require its customers to accept service from the

restructured water system it may be necessary to require consolidation and water service agreement(s) from each individual customer.

For example, if each individual in a mutual water company has an individual deeded ownership in the water system, then a form of consolidation and water service agreement(s) is required between each customer and the restructured water system.) A project designed to supply customers directly via constructed service connection/meter at each home (as opposed to a single master meter) is referred to as a distribution system consolidation project. For example, a project to consolidate a mutual water company with another public water system is a master meter consolidation project if a single connection/meter is constructed to deliver water from the restructured water system to the mutual and the mutual in turn distributes the water to its members. A project to construct a connection/meter to each individual home (formerly served by the mutual) for direct delivery of water by the restructured water system is an example of a distribution system consolidation. Both types of projects are consolidation projects if the mutual ceases to operate a public water system when the project is complete.

The type of consolidation project proposed should be clearly described in the application. The consolidation type will directly affect the application and funding agreement requirements. The specific requirements will be established when the application is reviewed.

Responsibilities

Each party involved in the consolidation project has significant responsibilities. It is important that these responsibilities be understood fully before too much effort is expended pursuing a consolidation option that may not be viable.

For the consolidating water system(s), the responsibilities are as follows:

- The consolidating water system(s) must authorize the restructured water system to act on the consolidating system's behalf in matters relating to Prop 84 funding. The authorization must be in writing.
- The consolidating water system(s) must sign a consolidation and water service agreement(s) with the restructured water system that identifies: (i) the terms of service; (ii) infrastructure ownership; (iii) operation and maintenance (iv) transfer of facilities; (v) inactivation of the consolidating water system; (vi) intent to surrender its domestic water supply agreement; and (vii) other terms as negotiated between the two water systems. The form of water supply agreement will vary dependent upon the particular project. For example, if the project is a distribution consolidating project, then each homeowner must agree to be served water by the restructured water system and pay the established user rates, or it may be an agreement between the restructured water system and a mutual

water company, acting on behalf of its members. If the project is a master meter project, the water service agreement is between the consolidating and restructured water system. The form of this agreement must be approved by CDPH. It is also important to determine that the persons signing the agreement(s) have appropriate authority to legally bind their respective water systems.

- The consolidating water systems must surrender their domestic water supply permits and cease to exist as public water systems. The decision to surrender a domestic water supply permit must be made by the legal owner of the public water system, according to the requirements and processes stated in its enabling statutes. To this end, it is important that the type of ownership (e.g. mutual water company, special district, corporation) be clearly established for all consolidating water systems involved.

For the restructured water system, the responsibilities are as follows:

- The restructured water system must act on behalf of the consolidating water system(s) in matters relating to Prop 84 funding. This includes coordination with CDPH district offices and the Prop 84 program to obtain a funding agreement.
- The restructured water system must enter into a consolidation and water service agreement(s) with each consolidating water system and/or consolidating entity. (Note, this is the same consolidation and water service agreement(s) discussed above under responsibilities of a consolidating system.) The restructured water system must agree to supply water to the consolidating water system(s)/entities for the useful life of the project. The agreement(s) to supply water may be conditioned on the consolidating system/entity paying the agreed upon rates and complying with the restructured water system's standard rules of service.
- The restructured water system will be responsible for managing the construction project and ensuring that the project is operated to supply water to the consolidating water system(s)/entities for the useful life of the project, and ensure that the consolidating systems'/entities' former source of supply is properly disconnected, abandoned and/or destroyed.
- The restructured water system will operate and maintain facilities built using Prop 84 funds (the project facilities) as well as any facilities transferred from the consolidating water system, and must submit an application for an amended domestic water supply permit for all such facilities.
- The restructured water system must demonstrate that it has legal authority to provide domestic water to the service area(s) of consolidating water systems. This requirement must be satisfied before a funding agreement can be issued.

- The restructured water system must demonstrate its legal authority to contract with the State. Ownership of the restructured water system must be demonstrated before the funding agreement can be issued.
- **In the case of a construction project, CDPH will issue the Prop 84 funding agreement to the restructured water system since it will be the only public water system remaining after the consolidation project is complete.** The restructured water system will be solely responsible satisfying all of the conditions of the funding agreement. Please note, the restructured water system may require the consolidating system(s) to satisfy appropriate conditions, but ultimate responsibility for satisfying the conditions of the Prop 84 funding agreement will rest with the restructured system.

Please note that in the case of a feasibility study project, the funding agreement may be issued to the restructured water system or it may be issued to any or all of the participating water systems. This will be determined during the feasibility study application review process.

- The restructured water system's agreement with the consolidating system(s) for other project responsibility (ies) should be addressed during the consolidation and water service agreement(s) negotiations.

Initial Coordination and Communication

As early as possible, all parties should begin coordinating their efforts. At a minimum, the involved parties should discuss the following key issues.

- Determining who will be submitting the Prop 84 application and conveying this information to the CDPH district office and Prop 84 program.
- Obtaining commitments from all parties. The commitments must be in writing, whether it is by board resolution or other mechanism allowed by the water systems' enabling statutes.
- Identifying any procedural requirements that must be completed before the consolidation can occur (e.g. LAFCO, permit, or annexation processes). Timelines for these requirements should be determined so they can be considered during the application process.
- If it will be necessary for the restructured water system to annex the area served by the consolidating water system, or obtain approval from the California Public Utilities Commission (CPUC) or LAFCO. Such processes should be initiated as soon as possible to assure a funding agreement can be issued. (NOTE – In some cases, this may not occur until funding is assured.)

A draft consolidation and water service agreement(s) should be prepared. The restructured water system's terms and conditions for consolidation should be discussed and documented in the agreement(s). The consolidating systems will need to satisfy any terms and conditions specified in the agreement(s) in order for the consolidation to occur. (The restructured water system may use its standard agreement for new service connections as appropriate, but will either need to amend that standard agreement to add additional terms to cover items such as those listed under the Consolidation and Water Service Agreement(s) section of this document or, submit two agreements. One agreement would be the standard one and the other would contain terms to cover the items listed under the Consolidation and Water Service Agreement section of this document.) A copy of the draft agreement(s) must be submitted to the Prop 84 program for review, comment and/or approval. The final consolidation and water service agreement(s), and form(s) approved by CDPH, must be signed and submitted to the Prop 84 program before a construction funding agreement will be issued.

Applying for Prop 84 Funding

Except for the restructured water system, all of the consolidating water systems must have fundable problems on the Prop 84 Project Priority List (PPL). Water systems that are not fundable on the PPL will not receive invitations to apply.

Any of the invited water systems, or the restructured water system, may submit the application for Prop 84 funding. It is not necessary to submit more than one application for the consolidation project. If the restructured water system will be submitting the application, the consolidating water systems must authorize the restructured water system to apply on their behalf.

Regardless of who is submitting the application, all involved parties must submit supplemental information to complete the application. It is critical that all the requested information be submitted with the application to avoid funding delays. The restructured water system must be clearly identified.

The following information should be obtained from all involved parties and provided to the CDPH district office and the Prop 84 program as soon as possible so they can help coordinate the effort.

- Public Water System (PWS) Name
- PWS Number
- Primary Contact information (name, phone number, email)
- Identify whether the PWS is a consolidating water system or the restructured water system

If consolidation is to be considered as the solution, it is important to begin coordinating and communicating with all of the involved parties including CDPH, early in the funding process. It is important whenever possible to begin communication in advance of applying for funding as consolidation cannot occur without all systems agreeing to the

project. This may be as early as prior to receiving an invitation for funding or at the latest, immediately after consolidation is selected as the preferred project alternative.

Additional Application Deliverables for Projects Involving Consolidation

Each party in the consolidation project must be designated as either the restructured water system or a consolidating water system. Each designated party will be responsible for addressing the following requirements in the application.

Table 1 - Summary of additional application deliverables

Description	Restructured water system	Consolidating water system
Submitting the application	Only one party needs to apply, but all parties that did not apply must submit a supplemental information form with the application.	
Documentation showing commitments to consolidate	Yes	Yes
Documentation authorizing the restructured water system to act on consolidating water systems' behalf	No	Yes
DRAFT consolidation and water service agreement	Yes	Yes
TMF capacity	Yes – Submit TMF assessment form (evaluate mandatory TMF)	No – Must submit ownership and water rights documents
Ownership information	Yes – Must be a legal entity that can contract with the State	Yes – Must be owned by valid legal entities

Commitments to Consolidate

The commitments to consolidate must be in writing, whether it is by board resolution or other mechanism allowed by the water systems' enabling statutes. It is not necessary for all parties to sign one document as long as each consolidating system provides documentation showing its commitment to the consolidation project and authorizing the Applicant to act on behalf of the consolidating system.

Be aware for construction projects, the consolidating system must agree to consolidate and surrender its domestic water supply permit upon completion of a construction project. The restructured water system must agree to serve the consolidating system's customers for the duration of the expected useful life of the project.

Please note that the commitment to the consolidation project must not contain conditions that contradict Prop 84 requirements.

Consolidation and Water Service Agreement(s)

A draft consolidation and water service agreement(s) must be submitted with the Prop 84 application. The agreement should clearly identify the obligations of each party and include at least the following items:

1. The agreement should describe any construction related requirements including the following:
 - a. A clear description of the project components
 - b. Identify any easements necessary to construct the facilities.
 - c. Identify which components are to be constructed by each party
 - d. An estimated project completion schedule

2. Terms of transfer of the consolidating system's customers and assets
 - a. Procedures and timing for consolidating water system's surrender of their domestic water supply permits
 - b. Process, terms, conditions and timeline for the restructured water system's supply of water to each and every consolidating system and, in the case of a distribution consolidation system, supply of water to each customer of the consolidating public water system(s).
 - c. Terms, conditions and timeline for any transfer of facilities from consolidating system(s) to the restructured water system
 - d. Terms, conditions and timeline for disconnecting the consolidating systems' water supply facilities, installation of any project required cross-connection or backflow protection devices terms, conditions and timeline for destruction of disconnected water supply facilities (e.g. destruction of wells)
 - e. For distribution system type consolidations, the procedures, terms, conditions and timeline for systematic transfer each customer to receive water service and supply from the restructured water system, and disconnect from the consolidating system's service line. Please note, if this will require construction of new lateral connections on the customers' property, terms for providing the cost of such construction must be delineated. Prop 84 cannot pay for improvements, such as lateral connection, on private property.

3. Establish terms of service
 - a. Operation and maintenance terms of all facilities. Must clearly delineate areas of responsibility and facility ownership for each party.

NOTE: The restructured water system may use its standard agreement for new connections but will need to amend that agreement to add additional terms, or submit two agreements, the standard one and one that would address the applicable items above. Additionally, the final consolidation and water service agreement(s) must be signed by all parties before the funding agreement is issued.

TMF Capacity

The TMF assessment form must be completed by the restructured water system. The assessment must address the four mandatory TMF requirements – ownership, water rights, consolidation, and budget – specified in the Prop 84 criteria. If the applicant is

one of the consolidating water systems, the restructured water system should be directed to complete the appropriate TMF assessment form as stated in the application. Consolidating water systems must submit ownership and water rights information as requested in the supplemental information form.

Financial Information

Each water system involved in a feasibility study project, which is intended to study, plan and/or design a consolidation project must submit the most recent three years of audited financial statements.

For a project involving construction funding, only the restructured water system is required to submit the most recent three years of audited financial statements.

Ownership

Ownership documentation must be submitted by each water system involved in the consolidation project. The restructured water system must submit its ownership documents with the required TMF assessment form. Consolidating water systems must submit ownership documents with the requested supplemental information form. It is imperative that ownership of each water system be clearly defined. Even though the consolidating water systems must surrender their permits, the decision to do so must be made by the legal owner of the water system.