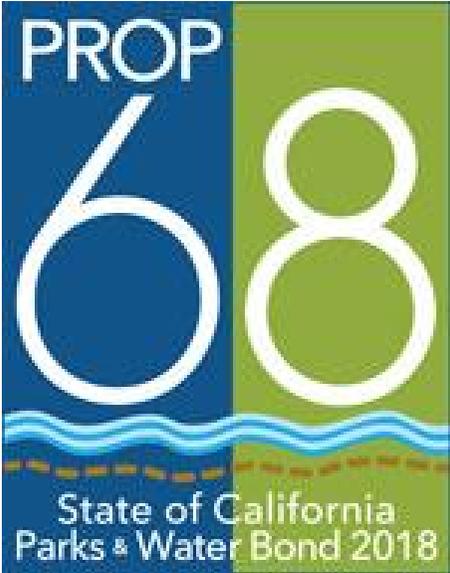


**PROPOSITION 68  
GROUNDWATER TREATMENT AND REMEDIATION GRANT PROGRAM  
GUIDELINES**



*Adopted by the State Water Board August 20, 2019*



## TABLE OF CONTENTS

1. PURPOSE AND OVERVIEW .....	3
1.1 Funding .....	4
2. PROGRAM PRIORITIES, REQUIREMENTS, AND Preferences .....	4
2.1 Priorities Established in Proposition 68 .....	4
2.2 Eligibility Requirements Established by the State Water Board .....	5
2.3 Project Preferences Established by the State Water Board .....	5
3. COMPETITION .....	5
4. ELIGIBILITY REQUIREMENTS.....	6
4.1 Eligible Grant Applicants .....	6
4.2 Eligible Project Types .....	6
4.3 Contaminants.....	6
4.4 Operations and Maintenance Projects .....	6
4.5 Capital Improvement Projects .....	7
4.6 Availability of Funds and Eligible Reimbursement Timeframes .....	7
4.7 Other Eligibility Considerations .....	7
4.8 Ineligible Project Types and Expenditures .....	7
5. GRANT AMOUNTS AND MATCH REQUIREMENTS .....	8
5.1 Funding Minimum and Maximum Amounts, for DFA Approval .....	8
5.2 SDAC Set-Aside.....	9
5.3 Match Requirements .....	9
6. PROJECT SELECTION PROCESS AND RELATED INFORMATION.....	10
7. Metrics of Success.....	12
8. Responsible Party Requirements.....	12
8.1 Responsible Party Considerations during the Application Process .....	13
8.2 Responsible Party Considerations – Award and Grant Agreement .....	13
9. General Program Requirements .....	13
9.1 Conflict of Interest.....	13
9.2 Confidentiality.....	14
9.3 Labor Code Compliance .....	14
9.4 CEQA Compliance .....	14
9.5 Related Litigation .....	14
9.6 Project Assessment and Evaluation Plan (PAEP) .....	14
9.7 Monitoring Requirements.....	15

9.8	Data Management .....	15
9.9	Reporting .....	15
9.10	Operations and Maintenance .....	16
9.11	Urban and Agricultural Water Management Plan & Groundwater Planning Requirements .....	16
9.12	Grant Agreement .....	17
9.13	Reimbursement of Costs.....	18
9.14	Grant Manager Notification.....	18
9.15	Disputes .....	19
APPENDIX A: ACRONYMS AND DEFINITIONS USED IN THESE GUIDELINES AND APPENDICES .....		20
APPENDIX B: CAPITAL IMPROVEMENTS AND LIFE-CYCLE COST EVALUATION .....		25
B.1	Purpose .....	25
B.2	Capital Improvement Cost Benefit Analysis.....	25
B.3	Capital Improvement Supporting Documentation .....	25
Capital Improvement Cost Benefit Analysis Table (for Section B.2) .....		27
APPENDIX C: REQUESTS FOR REDUCED FUNDING MATCH FOR DISADVANTAGED COMMUNITIES AND ECONOMICALLY DISTRESSED AREAS.....		28
C.1	PURPOSE .....	28
C.2	ALLOWANCES.....	29
C.3	STEPS TO REQUEST A REDUCED FUNDING MATCH .....	29
APPENDIX D: PROPOSAL EVALUATION SCORING CRITERIA .....		31
APPENDIX E: REGIONAL WATER BOARD AND DIVISION OF DRINKING WATER RESPONSIBILITIES .....		38
APPENDIX F: RESPONSIBLE PARTY SEARCH .....		39
APPENDIX G: GUIDELINES FOR GRANTEES .....		41
APPENDIX H: state cross-cutters.....		43
APPENDIX I: NATIVE AMERICAN TRIBE NOTIFICATION.....		44

## 1. PURPOSE AND OVERVIEW

The California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018 (commonly referred to as Proposition 68), Chapter 11.1 Groundwater Sustainability (Chapter 11.1), allocates \$80 million for grants for treatment and remediation activities that prevent or reduce the contamination of groundwater that serves as a source of drinking water.

This document serves as the required project solicitation and evaluation guidelines (Guidelines) (Pub. Resources Code, § 80010, subd. (a)) for the State Water Resources Control Board's (State Water Board) Groundwater Treatment and Remediation Grant Program. The State Water Board's Division of Financial Assistance (DFA) will administer the program, and the solicitation for proposals DFA develops will include more information on how to apply.

Changes to the Guidelines may be necessary due to legislation or changes in State Water Board policy. If additional substantive changes are necessary, these Guidelines will be amended and subject to a public review process per Public Resources Code section 80010.

The Deputy Director of DFA may update and amend the Appendices to the Guidelines.

## **1.1 Funding**

After accounting for administrative and bond costs, approximately \$74 million is available to fund projects through the Groundwater Treatment and Remediation Grant Program. The State Water Board is setting aside \$16 million for projects serving severely disadvantaged communities (SDACs) (Pub. Resource Code, § 80008, subd. (a)(1)).

Proposition 68 provides that subdivisions (a) and (b) of Government Code section 16727 do not apply to Chapter 11.1; therefore, these bond funds may be utilized for non-capital expenditures, including ongoing operations and maintenance (O&M) of existing facilities (Pub. Resources Code, § 80141, subd. (j)).

## **2. PROGRAM PRIORITIES, REQUIREMENTS, AND PREFERENCES**

The State Water Board will evaluate and score project proposals competitively based on the program priorities, requirements, and preferences identified in this section. In addition to the program priorities set forth in Proposition 68, the State Water Board has established eligibility requirements and preferences.

### **2.1 Priorities Established in Proposition 68**

- 2.1.1 Leverage Funds – Priority will be given to projects that leverage private, federal, or local funding or produce the greatest public benefit (Pub. Resources Code, § 80001, subd. (b)(2)).
- 2.1.2 Workforce Opportunities – To the extent practicable, the project provides workforce education and training, contractor, and job opportunities for disadvantaged communities (Pub. Resources Code, § 80001, subd. (b)(5))
- 2.1.3 Proposition 68, Chapter 11.1 (Pub. Resources Code, § 80141, subd. (b)) prioritization criteria:
  - a. The threat posed by groundwater contamination to the affected community's overall drinking water supplies, including an urgent need for treatment of alternative supplies or increased water imports if groundwater is not available due to contamination. For the purposes of this paragraph, treatment includes ongoing operation and maintenance of existing facilities.
  - b. The potential for groundwater contamination to spread and impair drinking water supply and water storage for nearby population areas.

- c. The potential of the project, if fully implemented, to enhance local water supply reliability.
- d. The potential of the project to maximize opportunities to recharge vulnerable, high-use groundwater basins and optimize groundwater supplies.
- e. The project addresses contamination at a site for which the courts or the appropriate regulatory authority has not yet identified responsible parties, or where the identified responsible parties are unwilling or unable to pay for the total cost of cleanup, including water supply reliability improvement for critical urban water supplies in designated superfund areas with groundwater contamination listed on the National Priorities List established pursuant to Section 105(a)(8)(B) of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9605(a)(8)(B)).

## **2.2 Eligibility Requirements Established by the State Water Board**

- 2.2.1 The project must be identified as a high priority by the applicable state or federal regulatory agencies (e.g. Regional Water Quality Control Board [Regional Water Board], State Water Board, Department of Toxic Substances Control [DTSC], the United States Environmental Protection Agency [U.S. EPA], and Department of Water Resources [DWR]).<sup>1</sup>
- 2.2.2 The applicant must demonstrate that the project can be completed within the appropriation time frame.
- 2.2.3 The applicant must demonstrate the availability of funds for any match required.
- 2.2.4 The applicant must have established, or have a detailed plan for establishing, adequate rights of way for the useful life of the project.

## **2.3 Project Preferences Established by the State Water Board**

- a. Human Right to Water – the project supports and advances the State’s policy on [The Human Right to Water](#), including any resolutions or policies adopted by the State Water Board.
- b. Community Benefit – the project benefits the largest number of people per dollar spent, considering the size of the community in which the project is located.
- c. Contaminant Removal Efficiency – the project removes the most contamination at the lowest cost.
- d. Promote Groundwater Sustainability – the project supports attainment of the goals of an approved Groundwater Sustainability Plan (GSP)<sup>2</sup> or the project is consistent with the applicable court decree in an adjudicated basin.
- e. Demonstrated Ability – the applicant has demonstrated the ability to complete similar projects or previous phases of the overall cleanup effort on time and within scope and budget.
- f. Public Health Risk/Benefit – the project provides a quantifiable reduction in an existing risk to public health.<sup>3</sup>

## **3. COMPETITION**

Grants will be awarded on a competitive basis based on scores using specific criteria contained in these Guidelines. (Pub. Resources Code, § 80141, subd. (a)).

---

<sup>1</sup> State Water Board, DFA staff will consult with the applicable regulatory agencies to determine whether the project is a high priority. The applicant for funds may provide information to the State Water Board to support a determination that the project is a high priority.

<sup>2</sup> Requirement to be consistent with an approved GSP only applies to projects that are awarded funding after the applicable Sustainable Groundwater Management Plan deadlines take effect. See Section 9.11(f).

<sup>3</sup> For example, drinking water is being delivered above a primary maximum contaminant limit or drinking water notification levels and the project will reduce concentrations below those levels.

## **4. ELIGIBILITY REQUIREMENTS**

### **4.1 Eligible Grant Applicants**

Eligible grant applicants are public agencies, non-profit organizations, public utilities, federally recognized Indian tribes, California Native American Tribes, and mutual water companies. See Appendix A for definitions of these terms.

### **4.2 Eligible Project Types**

Projects that are eligible to receive funds through the Groundwater Treatment and Remediation Grant Program must:

- a. Meet the purpose of Proposition 68 Chapter 11.1, Groundwater Sustainability, to prevent or reduce the contamination of groundwater that serves as a source of drinking water and meet the eligibility requirements and project preferences specified in Sections 2.2 and 2.3.
- b. Be consistent with water quality protection requirements outlined in Division 7 (commencing with section 13000) of the Water Code, and with applicable Regional Water Board and State Water Board policies, permits, and orders (such as Antidegradation Policy, Salt and Nutrient Management Planning, Policy Memo 97-005 Policy Guidance for Direct Domestic Use of Extremely Impaired Sources, Resolution 92-49 Policies and Procedures for Investigation and Cleanup and Abatement of Discharges). The applicant is expected to consult with Federal (e.g. U.S. EPA) and State (e.g., the local Regional Water Board and Division of Drinking Water (DDW) district office) agencies, prior to submitting their full proposal, to ensure that their project is consistent with federal and state policies, permits, and orders and to identify any permits that may be required.

The general types of projects and costs eligible for funding are described below.

### **4.3 Contaminants**

Projects must address contamination in groundwater that serves as a source of drinking water. Only those projects addressing contaminants resulting from a discharge of waste and causing contamination will be funded by the Groundwater Treatment and Remediation Grant Program. See Appendix A for the definitions of “contaminant” and “contamination.”

### **4.4 Operations and Maintenance Projects**

Costs eligible for funding generally include required O&M costs for existing treatment and remediation systems that prevent or reduce contamination of groundwater that serves as a source of drinking water, including but not limited to:

- a. Permitting;
- b. Monitoring;
- c. Reporting;
- d. Utility bills;
- e. Chemicals;
- f. Replacement or changeout of existing equipment;
- g. Plant operator.

The types of treatment systems that may qualify for O&M funding include, but are not limited to:

- a. Wellhead treatment;
- b. Extraction and treatment systems;
- c. Centralized groundwater treatment systems;
- d. Source area cleanup.

#### **4.5 Capital Improvement Projects**

It is expected that proposals will primarily consist of requests to fund O&M at existing facilities. New infrastructure projects (e.g., wellhead treatment, installation of extraction and treatment systems, etc.) will generally be directed to the Proposition 1 Groundwater Grant Program, with one potential exception: project proposals that include relatively small-scale capital improvements that will reduce long-term O&M costs. These capital improvements will be considered for funding through the Groundwater Treatment and Remediation Grant Program if an applicant can demonstrate that the resulting reduction in O&M costs over the useful life of the improvement exceeds the proposed capital cost (Appendix B).

#### **4.6 Availability of Funds and Eligible Reimbursement Timeframes**

The Budget Act of 2018 (Senate Bill 840) appropriates these Proposition 68 funds and makes the funding available to encumber into a funding agreement until June 30, 2021, and available for liquidation (i.e., funds encumbered in funding agreements, invoiced, and paid) until June 30, 2023. Project selection will be based on the ability to meet those respective deadlines. The timeframe for incurring costs eligible for reimbursement will begin no earlier than June 5, 2018 and end no later than February 28, 2023. The funding agreement will specify the actual eligible start and end dates for reimbursement applicable to that project.

#### **4.7 Other Eligibility Considerations**

- 4.7.1 **Projects vs. Programs:** Some applicants may want to fund a groundwater cleanup “program”, which is composed of multiple projects. Multiple projects proposed by an applicant may be funded provided that the projects would have otherwise been recommended for funding had they been submitted individually. The State Water 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 for individual projects (e.g., if the projects have significantly different timelines for completion; or legal issues may hold up one project, but not another).
- 4.7.2 **Public Purpose:** Projects proposed by a public utility regulated by the Public Utilities Commission or a mutual water company shall have a clear and definite public purpose and shall benefit the customers of the water system and not the investors. Public utility or mutual water company applicants may be required by the Deputy Director of the DFA to provide information necessary to demonstrate that the customers of the water system receive the benefits of the project through a reduction in rates (or reduced rate increase) commensurate with the grant funding provided; or otherwise demonstrate how the customers and not the investors in the water system benefit from the project. In addition, the Deputy Director of the DFA may require applicants to conduct any independent, third-party audit necessary to demonstrate that the investors are not benefiting from the grant funding provided.

#### **4.8 Ineligible Project Types and Expenditures**

Proposition 68 Groundwater Treatment and Remediation Grant Program funds cannot be used for the following items:

- a. Projects that do not meet the purpose of Proposition 68 Chapter 11.1, Groundwater Sustainability;
- b. Projects not resulting from a discharge of waste;
- c. Acquisition of land through eminent domain;

- d. To pay any share of the costs of remediation recovered from parties responsible for the contamination of a groundwater storage aquifer (funds may be used to pay costs that cannot be recovered from responsible parties (Pub. Resources Code, § 80141, subd. (c));
- e. Overhead or costs not directly related to the project; or
- f. State or federal taxes.<sup>4</sup>

## 5. GRANT AMOUNTS AND MATCH REQUIREMENTS

This section establishes a funding “set-aside” for SDACs, as well as minimum and maximum funding amounts for funding decisions delegated to the Deputy Director of the DFA, and match requirements, including match reductions for DACs and Economically Distressed Areas (EDAs).

### 5.1 Funding Minimum and Maximum Amounts, for DFA Approval

This section describes the minimum and maximum grant amounts for funding decisions delegated to the Deputy Director of the DFA. The State Water Board retains authority to approve projects exceeding grant amounts listed herein.

In general, there is a minimum grant amount of \$500,000 and a maximum grant amount of \$5 million per project and a maximum grant amount of \$20 million per applicant for O&M projects. However, additional funding for capital improvements to existing facilities that will reduce long-term O&M costs may be provided as part of an award. Funding for such improvements has a maximum grant amount of \$2 million per project and \$5 million per applicant, which may be in addition to any funding provided for O&M activities.

**Table 1. Limits on Grant Amounts for Approvals by the Deputy Director of the DFA**

Eligible Operations and Maintenance Activities		
	Per Project	Per Applicant
Minimum	\$500,000*	N/A
Maximum	\$5,000,000**	\$20,000,000***

Additional for Eligible Capital Improvements (to Reduce Life Cycle Costs)		
	Per Project	Per Applicant
Minimum	N/A	N/A
Maximum	\$2,000,000	\$5,000,000

\* The Deputy Director of the DFA on a case-by-case basis may approve funding of projects below the minimum amount for good cause.

\*\* The Deputy Director of the DFA may increase awards for projects that benefit a SDAC above the maximum grant amounts.

\*\*\*When funding a groundwater cleanup program, with multiple projects funded under a single agreement, the maximum grant limit will be applied on a per-project basis up to the maximum set per applicant.

<sup>4</sup> Grant proceeds may be taxable for certain entities. Grantees should consult with their tax advisors. The DFA cannot provide assistance related to federal or state taxes. Under no circumstances can grant funds be used to pay a Grantee’s taxes.

## 5.2 SDAC Set-Aside

Twenty (20) percent of the available funds (\$16 million) will be set aside for projects serving SDACs.

## 5.3 Match Requirements

The applicant is required to provide a minimum local cost share (“match funds”) of fifty (50) percent of the total project cost (Pub. Resources Code, § 80141, subd. (e)). Match funds may include, but are not limited to: federal grants and loans, local and private funding, donated and volunteer services; or “in-kind” services provided by the applicant.

Repayable financing received through the Drinking Water State Revolving Fund (DWSRF) or Clean Water State Revolving Fund (CWSRF) Programs, or other state or federally sponsored loan program, may be used for match. The State Water Board reserves the discretion to review and approve funding match expenditures.

Match funds include only those costs that are otherwise eligible reimbursable expenses and were incurred on or after approval of Proposition 68 by the voters (June 5, 2018), except that match funds can include costs recovered by the applicant from responsible parties.<sup>5</sup> An applicant that recovers costs from a responsible party can request that its match be adjusted to reflect any costs recovered from the responsible party that have been applied to eligible expenses for completion of the project. A request for such an adjustment in the source of the match can be made after execution of a funding agreement with the State Water Board and prior to the final invoice for the project.

### 5.3.1 DAC and EDA Match:

The match requirement for a DAC or EDA may be reduced or waived (Pub. Resources Code, § 80141, subd. (f)). Appendix C includes eligibility requirements and steps the applicant must take to apply for a reduction in funding match. The Deputy Director of the DFA will determine the appropriate match reduction based on Table 2, below. The Deputy Director of the DFA may request documentation necessary to verify any claims regarding how the project benefits the DAC or EDA.

Treatment and remediation projects that cleanup contamination of an aquifer may have multiple components. The Deputy Director may provide a match reduction for the component(s) of the project that provides direct benefits to the DAC or EDA and not provide match reduction for the component(s) of the project that do not benefit the DAC or EDA (e.g., the soil cleanup benefits a DAC, but the treated drinking water is delivered to a water system that is not a DAC).

An applicant with a jurisdictional boundary with a population that meets the definition of a DAC or EDA may qualify for Group A match reduction. An applicant with a jurisdictional boundary with a population that does not meet the definition of a DAC or EDA may qualify for a match reduction under Group B for those components of the project that benefit a DAC or EDA (see Table 2).

If the Deputy Director of the DFA determines a match reduction is not allowed and the project is approved for funding, DFA staff will work with the applicant to reduce the grant amount or increase matching funds.

---

<sup>5</sup> Grant funds, however, cannot be used to pay any share of costs of remediation recovered from responsible parties [Water Code section 80141(c)].

**Table 2. Reduced Match for the Project That Directly Benefit a DAC or EDA**

Match Requirement *
<p><b>Group A**: 100% of the Project Benefits a DAC or EDA</b> 0% match if the community meets the definitions.</p>
<p><b>Group B**: Applicant with a Jurisdictional Area that is not a DAC or EDA, but with Project Components that Benefit a DAC or EDA</b> 20% match for the component(s) of the project that benefit a DAC or EDA.</p>

\* Minimum match amount is calculated based on the total project cost. For the purposes of this program, the total project cost is the match amount plus grant amount.

\*\* When funding a groundwater cleanup program, with multiple projects funded under a single agreement, the reduced match may be calculated on a per-project basis.

## **6. PROJECT SELECTION PROCESS AND RELATED INFORMATION**

DFA plans to award all funding available in a single funding solicitation, except that applications for funding from the SDAC set-aside will be accepted continuously until those funds are awarded to projects. The solicitation notice will include deadlines to complete the proposal. The solicitation notice will also include information on: the anticipated award date; any deadlines for completion of the project; when final invoices must be submitted; and where applicants can find standard terms and conditions for grant agreements.

The project selection process primarily will consist of the steps described below:

**Step 1. Proposal Submittal:** Applicants will submit a detailed proposal through the Financial Assistance Application Submittal Tool (FAAST), that includes, at a minimum, a detailed work plan (tasks, deliverables, and schedule), budget, and metrics of success (see Section 7). Except for applicants applying for the SDAC set-aside (which will have a continuous application process), DFA will provide applicants a common deadline to complete their proposal.

**Step 2. Evaluation:** DFA staff will conduct an initial review to verify that the proposal is complete and the project appears eligible for funding. A technical review team, including State Water Board, and potentially Regional Water Board, DTSC, or DWR staff will score all complete, eligible applications submitted based on the evaluation criteria established in these Guidelines, including the Scoring Criteria in Appendix D. Responsibilities of the Regional Boards and DDW in reviewing submitted proposals are discussed in Appendix E.

Proposals deemed incomplete or ineligible will not be evaluated or scored. DFA staff will refer applicants of ineligible projects to appropriate state or federal funding programs, if an applicable funding program can be readily identified.

**Step 3. Preliminary Award:** Eligible SDAC set-aside projects will be awarded funds on a continuous basis.

With regard to the one-time solicitation for non-SDAC projects, eligible projects solely benefitting a DAC or EDA will be funded first. The remaining projects will be evaluated and ranked by a technical review committee and only the most competitive projects will be recommended for funding.

The Deputy Director of the DFA will make the final decision as to which applicants will receive notification of a Preliminary Award, and will take one of the following actions: a) offer a Preliminary Award to the applicant consistent with recommendations provided by DFA staff; b) offer a Preliminary Award to the applicant but award a different amount than recommended by DFA staff; or c) do not award funds for the applicant's project as recommended by DFA staff. The Deputy Director may also award funds to an applicant for a project not recommended by DFA staff, provided such a project otherwise meets the requirements of these Guidelines.

DFA staff will notify applicants of awards via email or letter, and post approved funding lists on the State Water Board website. 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.

Those applicants who are not awarded funding will also be notified and will be provided an opportunity to receive feedback on the basis for their project not receiving funding.

- Step 4. **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 (see Section 8 and Appendix F);
  - c. Confirm the status of California Environmental Quality Act (CEQA)/environmental documentation, if applicable;
  - d. Confirm the status of any legal issues that may affect the outcome of the project (e.g., site access, pending litigation regarding cleanup); and
  - e. Address any information gaps or issues that must be resolved prior to completing the grant agreement.

Based on the information gathered from the applicant, the Deputy Director may approve adjustments to the amount awarded or scope of the project. The Deputy Director may withdraw the Preliminary Award and direct staff not to complete a grant agreement if the additional information gathered indicates that: the applicant would be unable to satisfactorily complete the project; the project is deemed ineligible; the applicant is non-responsive to DFA's requests for information or consultation, or a more appropriate source of funding is identified.

Note: The Preliminary Award letter does not constitute a financing agreement, a guarantee of financing, a guarantee that sufficient funds from the anticipated sources of funds will be available for the project, or a determination of eligibility.

Funds may become available from projects that are withdrawn or completed under budget. The Deputy Director of the DFA shall have the authority to utilize these funds for funding additional

projects or for augmenting the scope and budget of projects previously awarded. Additional activities funded under existing grants will be subject to these Guidelines and must complement or further the goals of existing projects.

## **7. METRICS OF SUCCESS**

Eligible project benefits will be reported on an annual basis over the funding term. Applicants must provide estimates for one or more of the following metrics of success for projects funded under Proposition 68:

- a. Volume of clean drinking water provided or volume (acre-feet) of water that is prevented from becoming contaminated (e.g. by recharge, source area cleanup).
- b. Number of people or residential connections directly benefiting<sup>6</sup> from the project.
- c. Population and percentage of DAC or EDA directly benefiting from the project.
- d. Average mass of contaminant and total mass of contaminant removed (or prevented from contaminating the drinking water source).
- e. Percent reduction in concentration of the contaminant (or percent increase in concentration prevented).

Grant agreements will include requirements to evaluate actual project performance relative to these metrics of success (see Section 9.6).

## **8. RESPONSIBLE PARTY REQUIREMENTS**

Proposition 68 includes two references regarding responsible parties. In prioritizing projects, the State Water Board is to prioritize projects where the responsible party has not yet been identified or the responsible party is unwilling or unable to pay for the total cost of cleanup (Pub. Resources Code, § 80141, subd. (b)(5)). Public Resources Code section 80141(c) does not allow Proposition 68 funds to be used to pay for the share of costs recovered from responsible parties, but they may be used to pay for costs that cannot be recovered. In addition, Public Resources Code section 80141(c) states "...Parties that receive funding for remediating groundwater storage aquifers shall exercise reasonable efforts to recover the costs of groundwater cleanup from the parties responsible for the contamination. Funds recovered from responsible parties may only be used to fund treatment and remediation activities including operations and maintenance."

The expectation for entities receiving funding to exercise reasonable efforts to recover costs only applies to efforts to recover costs associated with the grant funding provided. The activities that may be funded with recovered funds include non-grant funded costs of acquiring new capital assets or non-grant funded costs to maintain the treatment and remediation system, including, but not limited to, O&M costs.

The primary venues for identifying responsible parties and recovering costs for cleanup are the courts and through the processes established by the regulatory agencies. Groundwater Treatment and Remediation Grant funds can be used to accelerate cleanup efforts that would otherwise be delayed due to the length of the processes associated with those venues.

Roles and expectations of DFA staff and applicants regarding assessment of responsible parties are described below.

---

<sup>6</sup> A direct benefit includes both the prevention and reduction of contamination.

### **8.1 Responsible Party Considerations during the Application Process**

As part of the application process and prior to execution of a grant agreement, the applicant must make reasonable efforts to identify existing and readily available information on any potentially responsible parties and the status of efforts by the regulatory agencies to require responsible parties to pay for the total cost of cleanup. The applicant should contact the regulatory agencies as necessary and, as part of its application, provide documentation summarizing the status of potentially responsible parties.

Should the available information indicate that responsible parties are able and willing to pay for the total cost of cleanup associated with the proposed project; the project is considered ineligible for funding.

### **8.2 Responsible Party Considerations – Award and Grant Agreement**

Should the Deputy Director award funding to a project, the Deputy Director will take one of the following actions based on consideration of the potentially responsible parties' ability and willingness to pay for the total cost of cleanup:

- a. Award funding for the project and not require any additional efforts on the part of the applicant to make further efforts to recover the cost of cleanup. The Deputy Director will take this action, if available information indicates that reasonable efforts have already been made by the applicant, regulatory agencies, or other parties to require the responsible parties to pay for the total cost of the cleanup and recovering additional costs for cleanup is infeasible.
- b. Award funding for the project at a reduced amount from the total cost of the cleanup and not require any additional efforts on the part of the applicant to make further efforts to recover the cost of cleanup. The Deputy Director will take this action, if available information indicates that reasonable efforts have already been made by the applicant, regulatory agencies, or other parties to require the responsible parties to pay for the total cost of the cleanup and the responsible parties are obligated to pay for a portion of the project cost. The Deputy Director will reduce the amount awarded, as necessary, to ensure that Proposition 68 funds are not used to pay for the share of costs recovered from responsible parties.
- c. Award funding for the project and require additional efforts on the part of the applicant to make further efforts to recover the cost of cleanup. The Deputy Director will also include such conditions in the funding agreement as necessary to ensure that the applicant makes reasonable efforts to recover the costs of cleanup.

## **9. GENERAL PROGRAM REQUIREMENTS**

All applicants that are awarded a grant through the Groundwater Treatment and Remediation Grant Program must comply with the following general program requirements. Before submitting a proposal, applicants must consider their ability to comply with these requirements. Guidelines for grantees, including details that State Auditors may review if a grant is audited are discussed in Appendix G. See Appendix H for additional state laws that may apply.

### **9.1 Conflict of Interest**

Applicants are subject to state and federal conflict of interest laws. Failure to comply with these laws, including business and financial disclosure provisions, will result in the proposal being rejected and any subsequent grant agreement being declared void. Other legal action may also be taken. Before submitting an application, applicants are urged to seek legal counsel regarding conflict of interest

requirements. Applicable statutes include, but are not limited to, Government Code section 1090 and Public Contract Code sections 10410 and 10411.

## **9.2 Confidentiality**

Any privacy rights, as well as other confidentiality protections afforded by law with respect to the proposal, will be waived once the proposal has been submitted to the State Water Board. The locations of all projects awarded funding must be reported to the State Water Board and Regional Water Boards (Water Boards) and made available to the public. The Water Boards may report project locations to the public through internet-accessible databases. The State Water Board uses Global Positioning System (GPS) coordinates for project and sampling locations.

## **9.3 Labor Code Compliance**

Grantees are bound by all of the provisions of the Labor Code regarding prevailing wages and shall monitor all contracts subject to reimbursement from the grant agreement to ensure that the prevailing wage provisions of the Labor Code are being met. Before submitting an application, applicants are urged to seek legal counsel regarding Labor Code compliance. See the California Department of Industrial Relations website for more information.

## **9.4 CEQA Compliance**

Grantees are responsible for complying with all applicable laws and regulations for their projects, including CEQA. State Water Board selection of a project for a grant does not indicate that the consideration of alternatives or mitigation measures that would reduce or eliminate adverse environmental effects of that project is adequate. No capital improvement work may proceed until the State Water Board completes its own CEQA findings.

Public Resources Code section 21080.3.1 requires that, prior to the release of a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report (EIR) for a project, the lead agency shall (under certain conditions) begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the project. Public Resources Code section 75102 requires that, prior to the adoption of a Negative Declaration or EIR for any project, the Lead Agency shall notify the proposed action to a California Native American tribe that is on the contact list maintained by the Native American Heritage Commission (NAHC) if that tribe has traditional lands located within the area of the proposed project. See Appendix I for the Office of Planning and Research's (OPR) procedures for tribal consultation for General Plans and Specific Plans as guidance to meeting the Native American Tribe Notification requirement.

## **9.5 Related Litigation**

A grantee cannot use funds from any disbursement under a grant agreement to pay costs associated with any litigation the grantee pursues. Regardless of whether the project is the subject of litigation, the grantee agrees to complete the project funded by the grant agreement or to repay all grant funds plus interest.

## **9.6 Project Assessment and Evaluation Plan (PAEP)**

Grantees are required to assess and report on project effectiveness. Such reporting is required to ensure that the State Water Board meets its obligation to establish metrics of success. At a minimum, implementation projects must include one or more of the metrics of success identified in Section 7.

All proposals must include a PAEP table to summarize how project performance will be assessed, evaluated, and reported. The goals of a PAEP are to:

- a. Provide a framework for assessment and evaluation of project performance;
- b. Identify measures that can be used to monitor progress towards achieving project goals and desired outcomes; and
- c. Provide a tool for grantees and State Water Board's Grant Managers (Grant Managers) to monitor and measure project progress and guide final project performance reporting that will fulfill the grant agreement requirements.

In addition, grantees must submit an updated PAEP after the grant agreement is executed and make annual updates thereafter for the term of the agreement. The PAEP must include a summary of project goals, the appropriate performance measures to track the project progress, and measurable targets that the applicant thinks are feasible to meet during the project period. The PAEP is not intended to be a monitoring plan (MP).

### **9.7 Monitoring Requirements**

If project effectiveness is being evaluated through water quality, water quantity, or other environmental monitoring, the grantee must prepare a MP. Existing MPs may be utilized or modified to meet this requirement. The MP must include a description of the monitoring program and objectives, types of constituents to be monitored, methodology, the frequency and duration of monitoring, and the sampling location for the monitoring activities.

Data produced and reports submitted in association with the MP must be generated by a laboratory accredited by the State of California Environmental Laboratory Accreditation Program (ELAP). The laboratory must hold a valid certificate of accreditation for the analytical test methods specified in the MP or equivalent analytical test methods validated and approved for intended use. The laboratory must include quality assurance/quality control data in all data reports and submit electronic data as required by the State Water Board. Data generated using field tests is exempt pursuant to Water Code section 13176. Please see the ELAP website [Drinking Water ELAP Lab Information](#) for additional information.

### **9.8 Data Management**

Projects must include appropriate data management activities so that grantees can provide data in the format necessary to upload into the applicable statewide data systems.

- a. Groundwater quality monitoring data must be integrated into GeoTracker and be compliant with an approved Quality Assurance Project Plan (QAPP). Data will be available to the stakeholders, agencies, and the public. Please see the GeoTracker website [Waterboards Geotracker](#) for additional information.
- b. Groundwater monitoring data also must be integrated into the Groundwater Ambient Monitoring & Assessment (GAMA) database. Please see the GAMA website [Waterboards GAMA](#) for additional information.
- c. Surface water quality monitoring data must be integrated into the California Environmental Data Exchange Network (CEDEN) and be compliant with an approved QAPP. Data will be available to the stakeholders, agencies, and the public. Please see the CEDEN website [CEDEN](#) for additional information.

### **9.9 Reporting**

Every grantee is required to submit quarterly progress reports to the DFA that detail activities that have occurred during the applicable reporting period. Reporting is required even if no grant related activities took place during the reporting period. At the conclusion of the project, the grantee must submit a Final Project Summary, Final Project Inspection and Certification, and a comprehensive

Draft and Final Project Report. DFA staff will make templates available to grantees, where possible, to reduce reporting burdens.

### **9.10 Operations and Maintenance**

The State Water Board shall not be liable for any cost of maintenance, management, or operation of the project and related systems after the term of the grant agreement; the grantee assumes all O&M costs of the facilities throughout the remaining useful life.

### **9.11 Urban and Agricultural Water Management Plan & Groundwater Planning Requirements**

- a. Urban Water Management Planning Act Compliance:** Water suppliers who were required by the Urban Water Management Planning Act (Wat. Code, § 10610 *et seq.*) to submit an Urban Water Management Plan (UWMP) to DWR must have submitted a complete UWMP to be eligible for grant funding.
- b. Agricultural Water Management Plan Compliance:** Beginning July 1, 2013, an agricultural water supplier is not eligible for a water grant or loan awarded or administered by the state unless the supplier complies with Senate Bill (SB)x7-7 water conservation requirements outlined in Water Code section 10608, Division 6, Part 2.55, which requires submittal of an Agricultural Water Management Plan (AWMP).
- c. Water Code Section 10920 Compliance:** Water Code section 10920 *et seq.* establishes a groundwater monitoring program designed to monitor and report groundwater elevations in all or part of a basin or sub-basin. Information on the requirements of the California Statewide Groundwater Elevation Monitoring (CASGEM) Program can be found at the CASGEM link here: [CASGEM](#). DWR has established high, medium, low, and very low priority groundwater basins, as well as CASGEM monitoring entities. Water Code section 10927 identifies potential CASGEM monitoring entities. Applicants who match the list for potential CASGEM monitoring entities, and whose jurisdictional boundaries include high or medium priority basins with no CASGEM monitoring entity, will not be eligible for grant funding pursuant to Water Code section 10933.7(a). Consistent with Water Code section 10933.7(b), if the entire service area of the grant applicant is demonstrated to be a DAC, the project will be considered eligible for grant funding notwithstanding CASGEM compliance.
- d. Surface Water Diversion Reporting Compliance:** A diverter of surface water is not eligible for a water grant or loan awarded or administered by the state unless it complies with surface water diversion reporting requirements outlined in Part 5.1 (commencing with section 5100) of Division 2 of the Water Code.
- e. AB 1420 Compliance:** Assembly Bill (AB) 1420 (Stats. 2007, Chapter 628) conditions the receipt of a water management grant or loan, for urban water suppliers, on the implementation of water demand management measures described in Water Code section 10631. DWR has determined that implementation of the California Urban Water Conservation Council best management practices (BMPs) will fulfill the requirements of AB 1420. An urban water supplier may be eligible for a water management grant or loan if it demonstrates that it has implemented or scheduled, or is in the process of implementing or scheduling the implementation of BMPs. Urban water suppliers applying to use grant funds for implementation of BMPs must ensure they have submitted all the necessary information. Therefore, urban water suppliers submitting proposals must

supply additional information which can be found at DWR Water Use and Efficiency website here: [Water Use Efficiency Information](#).

- f. Sustainable Groundwater Management Act (SGMA) Compliance:** The Sustainable Groundwater Management Act is intended to provide for the sustainable management of groundwater by enhancing the local management of groundwater. SGMA includes a multi-year and multi-step process of forming local Groundwater Sustainability Agencies (GSAs); establishing local GSPs; and implementing those GSPs.

To support the goals of SGMA, the State Water Board will only fund projects in basins in which the local agencies are taking the required steps to comply with SGMA. The following is required of applicants with grants in non-adjudicated high- or medium-priority CASGEM basins, as designated by DWR:

- i) After July 1, 2017, the project must be located in a basin in which a GSA has formed or an alternative has been submitted to DWR (Wat. Code, §10735.2, subd. (a)(1)).
- ii) After January 31, 2020, the project must be consistent with an adopted GSP, if the project is located in a basin that is subject to critical conditions of overdraft (Wat. Code, § 10735.2, subd. (a)(2)).
- iii) After January 31, 2022, the project must be consistent with an adopted GSP, if the project is located in a basin that is not subject to critical conditions of overdraft (Wat. Code, § 10735.2, subd. (a)(4)).

If the applicant is not a GSA, the applicant must demonstrate that it has coordinated with the appropriate GSA and document that the GSA supports the proposed project.

The above SGMA-requirements do not apply to the adjudicated areas listed in Water Code section 10720.8(a), since the water master or local entity managing groundwater is not required to form a GSA or prepare a GSP. Applicants with projects in adjudicated areas that have not complied with the reporting requirements of Water Code section 10720.8(f) are not be eligible to receive grant funding.

- g. SBx7-7 Compliance:** Sustainable Water Use and Demand Reduction (Wat. Code, § 10608 et seq.). SBx7-7 conditions the receipt of a water management grant or loan for urban water suppliers on achieving gallons per capita per day reduction targets with the end goal of a twenty (20) percent reduction by 2020. Applicants that are urban water suppliers will be required to provide proof of compliance with SBx7-7 as a condition of the grant.

## 9.12 Grant Agreement

Following funding awards, the State Water Board will execute a grant agreement with the grantee. Grant agreements are not executed until signed by authorized representatives of the grantee and the State Water Board.

It is **HIGHLY recommended** that applicants review the grant agreement template prior to submission of their proposal. If applicants are not able to abide by the terms and conditions contained therein, applicants should not submit a proposal. A copy of a grant agreement template will be posted prior to opening the funding solicitations on the Proposition 68 Groundwater Treatment and Remediation Grant Program website. DFA may update the grant agreement template consistent with changes in law, State Water Board policy, or program preferences. The State Water Board reserves the authority to add terms and conditions to the grant agreement that do not appear in these Guidelines.

At the discretion of the Division, the applicant may be required to submit, to the satisfaction of the Division and the Division's counsel, a legal opinion from the applicant's counsel upon execution of the financing agreement.

The State Water Board encourages collaboration in the development and implementation of projects. Parties that wish to collaborate on a proposal may elect to use a contractor-subcontractor relationship, a joint venture, a joint powers authority (JPA), or other appropriate mechanism. Grant agreements will be executed with one eligible grantee per project. This grantee can subcontract with partners that are responsible for implementation of the project tasks. The grant funding and the implementation responsibilities will be the province of the grantee; subcontracting to another entity does not relieve the grantee of its responsibilities. The State Water Board will not have a relationship with collaborators or subcontractors. The State Water Board will not participate in resolving bid or contractual disputes. The grantee will have sole responsibility to resolve all bid or contractual disputes. The State Water Board will not reimburse legal or other costs associated with such disputes.

Notwithstanding the foregoing, the State Water Board may revise the standard grant agreement terms and conditions to reflect changes in state law.

### **9.13 Reimbursement of Costs**

Only direct costs and work performed within the terms of the grant agreement will be eligible for reimbursement. Contingency and the funding recipients indirect costs, including overhead and markup, are not eligible expenses. Eligible expenses incurred upon the start date listed in the grant agreement and prior to the project completion date may be directly reimbursed. Advance funds will not be provided.

Reimbursable costs include the reasonable costs of planning, engineering, design, permitting, preparation of environmental documentation, environmental mitigation, easement and land purchases, project implementation, O&M activities, project monitoring within the term of the agreement, and education and outreach necessary for successful project implementation.

Costs that are not reimbursable with grant funds and do not qualify for meeting local cost share requirements include, but are not limited to:

- a. Costs incurred outside the terms of the grant agreement with the state;
- b. Education and outreach not directly related to project construction;
- c. Purchase of equipment not an integral part of the project or included in the line item budget;
- d. Establishing a reserve fund;
- e. Expenses incurred in preparation of the proposal;
- f. Payment of principal or interest of existing indebtedness or any interest payments;
- g. Overhead, markup, or costs not directly related to the project, and
- h. State or federal taxes.<sup>7</sup>

### **9.14 Grant Manager Notification**

Grantees will be required to notify the Grant Manager prior to conducting construction, monitoring, demonstration, or other implementation activities so that the Grant Manager may observe to verify

---

<sup>7</sup> Grant proceeds may be taxable for certain entities. Grantees should consult with their tax advisors. The DFA cannot provide assistance related to federal or state taxes. Under no circumstances can grant funds be used to pay a Grantee's taxes.

activities are conducted in accordance with the grant agreement. The Grant Manager may document the inspection with photographs or notes, which may be included in the project file.

### **9.15 Disputes**

- a. An applicant or grantee may appeal a staff decision within 30 days to the Deputy Director of DFA or designee, for a final DFA decision. An applicant or grantee may appeal a final DFA decision to the State Water Board within 30 days. The Office of the Chief Counsel of the State Water Board will prepare a summary of the dispute and make recommendations relative to its final resolution, which will be provided to the State Water Board's Executive Director and each State Water Board Member. Upon the motion of any State Water Board Member, the State Water Board will review and resolve the dispute in the manner determined by the State Water Board. Should the State Water Board determine not to review the final Division decision, this decision will represent a final agency action on the dispute.
- b. Where a grant agreement has been executed, the dispute and remedies provisions of that agreement will control, and the dispute provisions of this section are inapplicable.

## APPENDIX A: ACRONYMS AND DEFINITIONS USED IN THESE GUIDELINES AND APPENDICES

### Acronyms

AB	Assembly Bill
AWMP	Agricultural Water Management Plan
Basin Plan	Regional Water Quality Control Plan
BMP	Best Management Practice
CASGEM	California Statewide Groundwater Elevation Monitoring
CEDEN	California Environmental Data Exchange Network
Census Bureau	United States Census Bureau
CEQA	California Environmental Quality Act
Chapter 11.1	Chapter 11.1 Groundwater Sustainability of Proposition 68
COC	Chemical of Concern
CWSRF	Clean Water State Revolving Fund
DAC	Disadvantaged Community
DDW	Division of Drinking Water
DFA	Division of Financial Assistance
DTSC	Department of Toxic Substances Control
DWR	Department of Water Resources
DWSRF	Drinking Water State Revolving Fund
EDA	Economically Distressed Area
EIR	Environmental Impact Report
FAAST	Financial Assistance Application Submittal Tool
GAMA	Groundwater Ambient Monitoring & Assessment
GPS	Global Positioning System
Grant Manager	State Water Resources Control Board's Grant Manager
Groundwater Grant Program	Proposition 1 Groundwater Sustainability Grant Program
GSA	Groundwater Sustainability Agency
GSP	Groundwater Sustainability Plan
Guidelines	Project solicitation and evaluation guidelines
JPA	Joint Powers Authority
MHI	Median Household Income
MP	Monitoring Plan
NAHC	Native American Heritage Commission
NEPA	National Environmental Policy Act
NOI	Notice of Intent
NPDES	National Pollutant Discharge Elimination System
O&M	Operation and Maintenance
OPR	Office of Planning and Research
PAEP	Project Assessment and Evaluation Plan
PRC	Public Resources Code
QAPP	Quality Assurance Project Plan
Regional Water Board	Regional Water Quality Control Board
SB	Senate Bill
SDAC	Severely Disadvantaged Community
SDWA	Safe Drinking Water Act of 1996 (federal)
State Water Board	State Water Resources Control Board
TMF	Technical, Managerial, and Financial
U.S. EPA	United States Environmental Protection Agency
USGS	U.S. Geological Survey

## Definitions

**Agricultural Water Supplier** – means a water supplier, either publicly or privately owned, providing water to 10,000 or more irrigated acres, excluding the acreage that received recycled water; also include a supplier or contractor for water regardless of the basis of right that distributes or sells water for ultimate resale to customers. (Wat. Code, §10608.12, subd. (a)).

**Applicant** – means the entity that is formally submitting a grant application. This is the same entity that would enter into an agreement with the state should the grant application be funded.

**Application** – the electronic submission to the State Water Board that requests grant funding for a proposal that the applicant intends to implement.

**Aquifer** - A body of rock or sediment that is sufficiently porous and permeable to store, transmit, and yield significant or economic quantities of groundwater to wells and springs. (DWR Bulletin 118 Glossary).

**Basin** – means a groundwater basin or subbasin identified and defined in Bulletin 118 or modified pursuant to Chapter 3 (commencing at section 10722) of the Water Code.

**Beneficial Uses** – means the uses of groundwater, streams, lakes, rivers, and other water bodies, that are beneficial to humans and the environment. Beneficial uses are identified in each Regional Water Board's Basin Plan(s) and in statewide Water Quality Control Plans.

**Bulletin 118** – means “California’s Groundwater: Bulletin 118” updated in 2003, as it may be subsequently updated or revised in accordance with section 12924 of the Water Code.

**California Native American Tribe** – the term “state Indian tribes” (Wat.Code, § 79712, subd. (a)) means Indigenous Communities of California, which are on the contact list maintained by the NAHC, including those that are federally non-recognized and federally recognized, and those with allotment lands, regardless of whether they own those lands. Additionally, because some water bodies and Tribal boundaries cross state borders, this term may include Indigenous Communities in Oregon, Nevada, and Arizona that are impacted by water in California.

**Community** – for the purposes of this grant program, a community is a population of persons residing in the same locality under the same local governance.

**Contaminant** – means any physical, chemical, biological, or radiological substance or matter in water (Health & Saf. Code, § 116275, subd. (a)).

**Contamination** – includes the Water Code section 13050(k) definition: “Contamination” means an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. “Contamination” also includes any equivalent effect resulting from the disposal of waste, whether or not waters of the state are affected. “Contamination” of an aquifer occurs when a contaminant exceeds a primary maximum contaminant level (MCL) or notification level; or when contaminants, in combination, pose a risk to public health equivalent to exceeding a primary MCL or notification level.

**Disadvantaged Community (DAC)** – means a community with an annual median household income that is less than eighty (80) percent of the statewide annual median household income (Pub. Resources Code, § 80002, subd. (e)).

**Economically Distressed Area (EDA)** – means a municipality with a population of 20,000 persons or less, a rural county, or a reasonably isolated and divisible segment of a larger municipality where the segment of the population is 20,000 persons or less, with an annual median household income that is less than eighty-five (85) percent of the statewide median household income, and with one or more of the following conditions as determined by DWR:

(1) financial hardship; (2) unemployment rate at least two (2) percent higher than the statewide average; or (3) low population density (Wat. Code, § 79702, subd. (k)).

**Evaluation Criteria** – means the set of specifications used to select or choose a project based on available funding.

**Federally Recognized Indian Tribes** – means an American Indian or Alaska Native tribal entity that is recognized as having a government-to-government relationship with the United States, with the responsibilities, powers, limitations, and obligations attached to that designation, and is eligible for funding and services from the Bureau of Indian Affairs.

**Funding Match** – means funds made available by the applicant for the project including, but not limited to, federal funds (grants or loans), local and private funding, or donated and volunteer (“in-kind”) services. Repayable financing received through the CWSRF Program or a federally sponsored loan program may be used for the match.

**Grantee** – means a grant recipient.

**Groundwater** – refers to water beneath the surface of the earth within the zone below the water table in which the soil is completely saturated with water, but does not include water that flows in known and definite channels.

**Groundwater Recharge** – the augmentation of groundwater, by natural or artificial means.

**Groundwater Sustainability Agency** – means one or more local agencies that implement the provisions of the Sustainable Groundwater Management Act. For purposes of imposing fees pursuant to Chapter 8 (commencing with section 10730) or taking action to enforce a GSP, “groundwater sustainability agency” also means each local agency comprising the groundwater sustainability agency if the plan authorizes separate agency action (Wat. Code, § 10721, subd. (j)).

**Groundwater Sustainability Plan (GSP)** – a plan of a groundwater sustainability agency proposed or adopted pursuant to the Sustainable Groundwater Management Act (Wat. Code, § 10721, subd. (j)).

**In-Kind Contributions** – work performed by the grantee that furthers the scope of the grant, the cost of which is considered local cost share in-lieu of actual funds from the grantee.

**INDIPAY** – means a U.S. Environmental Protection Agency (U.S. EPA) screening process that assesses an individual's ability to pay civil penalties, Superfund cleanup costs, and pollution control expenditures.

**Local Cost Share** – see Funding Match.

**Long-term** – means for a period of not less than 20 years (Wat. Code, § 79702, subd. (o)).

**Median Household Income (MHI)** – commonly used to provide data about geographic areas. It divides households into two equal segments, with the first half of households earning less than the MHI, and the other half earning more.

**MUNIPAY** – means a U.S. EPA screening process that assesses a municipality's ability to afford civil penalties, Superfund cleanup costs, and pollution control expenditures.

**Mutual Water Company** – means a private corporation or association organized for the purposes of delivering water to its stockholders and members at cost, including use of works for conserving, treating, and reclaiming water (Pub. Util. Code, §§ 2725-2729).

**National Pollutant Discharge Elimination System (NPDES) Permit Program** – means a program that controls water pollution by regulating point sources that discharge pollutants into waters of the United States. Point sources are discrete conveyances such as pipes or man-made ditches.

**Non-profit Organization** – means any non-profit corporation qualified to do business in California and qualified under Section 501(c)(3) of the Internal Revenue Code (Pub. Resources Code, § 80002, subd. (j)).

**Overdraft** – means the condition of the groundwater basin or aquifer where the average annual amount of water extracted exceeds the average annual supply of water to a basin or aquifer.

**Person** – includes any city, county, district, the state, and the United States, to the extent authorized by federal law.

**Pollution** – an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following: 1) the waters for beneficial uses; or 2) facilities which serve these beneficial uses. “Pollution” may include “contamination” (Wat. Code, § 13050, subd. (l)).

**Project** – means the entire set of activities, including, but not limited to, planning, permitting, constructing, operation and maintenance activities, monitoring, and reporting that is included in a request for grant funding from an applicant.

**Project Area** – means the geographical boundaries, as defined by the applicant that encompass the area where the project will be implemented or constructed, including the area where the benefits and impacts of project implementation or planning activities extend.

**Proposal** – means all of the supporting documentation submitted that details the project and actions that are proposed for funding pursuant to an application for a grant.

**Proposition 1** – means the “Water Quality, Supply, and Infrastructure Improvement Act of 2014” passed by California voters on November 4, 2014, and as set forth in Division 26.7 of the Water Code.

**Proposition 68** – means the “Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018” passed by California voters on June 5, 2018, and as set forth in Division 45 of the Public Resource Code.

**Public Agency** – means any state agency or department, special district, JPA, city, county, city and county, or other political subdivision of the state (Wat. Code, § 79702, subd. (s)).

**Public Utility** – means an entity as defined in Public Utilities Code section 216.

**Regional Water Board** – means any California Regional Water Board as specified in section 13200 of the Water Code.

**Reimbursable Costs** – means costs that may be repaid by state grant funds.

**Scoring Criteria** – means the set of requirements used by the State Water Board to evaluate a proposal for funding.

**Severely Disadvantaged Community (SDAC)** – means a community with a median household income of less than sixty (60) percent of the statewide average. (Pub. Resources Code, § 80002, subd. (n)).

**Stakeholder** – means an individual, group, coalition, agency, or other entity that is involved in, affected by, or has an interest in the implementation of a specific program or project.

**Superfund** – refers to the program administered by the U.S. EPA under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA).

**Sustainable Groundwater Management** – means the management and use of groundwater in a manner that can be maintained during the planning and implementation horizon without causing undesirable results (Wat. Code, § 10721, subd. (u)).

**Technical Reviewers** – means a group of DFA staff assembled to evaluate the technical competence of a proposed project and the feasibility of the project being successful if implemented. Representatives from the Regional Water Boards, DTSC, DWR, and/or other State Water Board divisions may also be invited to participate as technical reviewers.

**Treatment and Remediation** – means cleanup work that includes treatment and reduces contamination in groundwater that serves as a source of drinking water, and/or prevents the migration of contamination to groundwater that serves as a source of drinking water.

**Undesirable Result** – means one or more of the following effects caused by groundwater conditions occurring throughout the basin (Wat. Code, § 10721, subd. (w)):

1. Chronic lowering of groundwater levels indicating a significant and unreasonable depletion of supply if continued over the planning and implementation horizon. Overdraft during a period of drought is not sufficient to establish a chronic lowering of groundwater levels if extractions and recharge are managed as necessary to ensure that reductions in groundwater levels or storage during a period of drought are offset by increases in groundwater levels or storage during other periods.

2. Significant and unreasonable reduction of groundwater storage.
3. Significant and unreasonable seawater intrusion.
4. Significant and unreasonable degraded water quality, including the migration of contaminant plumes that impair water supplies.
5. Significant and unreasonable land subsidence that substantially interferes with surface land uses.
6. Depletions of interconnected surface water that have significant and unreasonable adverse impacts on beneficial uses of the surface water.

**Urban Water Supplier** – means a supplier, either publicly or privately owned, that provides water for municipal purposes, either directly or indirectly, to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually (Wat. Code, § 10617).

**Useful Life** – refers to the length of time that a funded project must be operated and maintained in order to achieve and sustain the identified environmental outcome(s).

**Waste** – includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.

**Waste Discharge Requirements (WDRs)** – means requirements that are adopted by the State or Regional Water Boards to regulate the discharge of waste to protect the waters of the state in accordance with the applicable Water Quality Control Plan and other statewide policies or plans.

## APPENDIX B: CAPITAL IMPROVEMENTS AND LIFE-CYCLE COST EVALUATION

### B.1 Purpose

The purpose of this Appendix is to identify the criteria through which eligibility will be evaluated to fund capital improvements through the Groundwater Treatment and Remediation Program. Generally, the information provided should demonstrate that the capital improvement will provide the benefit of reducing long-term treatment system operation and maintenance (O&M) costs of groundwater cleanup. DFA staff, in consultation with the technical reviewers of the funding application, will review the information submitted to determine if the proposed capital improvement qualifies for funding.

### B.2 Capital Improvement Cost Benefit Analysis

The solicitation will require the applicant to evaluate the existing annual O&M costs, the projected O&M costs and changes in life cycle costs after implementing the proposed capital improvement(s); and complete the attached cost benefit analysis table. For O&M costs associated with the capital improvement be sure to include any additional groundwater monitoring costs that may be necessary for successful implementation (e.g. monitoring under DDW Policy Memo 97-005, additional monitoring for in-situ technologies, or source area cleanup, etc.).

### B.3 Capital Improvement Supporting Documentation

Information that should be provided, if applicable, to support the associated benefit of the proposed capital improvement will vary. Depending on the type of improvement proposed applicants should consider the following:

- **Existing Facilities and Proposed Capital Improvement** – Provide a detailed description of the existing facilities, current O&M activities and the proposed capital improvement. Include a narrative supporting the cost benefit analysis table completed in Section B.2 of this appendix. Provide an explanation of the methodology for calculating the cost and benefits of the existing facility and capital improvements considered and discuss any assumptions made. Be sure to include any costs estimates or calculations for annual and life cycle costs as supporting documentation.
- **Site Conceptual Model** – Present a site conceptual model for the proposed improvement area that presents the vertical and horizontal extent of the groundwater plume, groundwater flow direction, and identifies the target capture zone (if applicable). If available, include any groundwater modeling results, plume maps, water elevation maps, hydrogeologic cross sections, and time series data that supports the site conceptual model. Evaluate if there are any data gaps that should be addressed to ensure successful implementation of the proposed capital improvement.
- **Performance Objectives** – Detail the performance objectives of the existing system (e.g. Remedial Action Objectives). Include a discussion of the performance of the existing facility in meeting these objectives and explain how the proposed capital improvement will maintain or improve the facilities ability to meet or exceed the performance objectives outlined. Describe any regulatory guidance, orders, or permits associated with the proposed capital improvement. If applicable, describe how the proposed capital improvement relates to any regulatory directive.
- **Work Tasks and Deliverables** – Include a general description of all work tasks necessary to complete the proposed capital improvement. Provide as many subtasks as are required, for example:
  - **Planning/Design/Engineering/Environmental** – describe of all tasks and subtasks necessary to complete the improvement (e.g., preliminary design, final design, geotechnical investigations, pilot study, bid documents, CEQA documentation). Provide copies of any completed deliverables. Also provide a list of all required permits, environmental documentation, and landowner/access agreements required, and the status of each approval.

- Construction/Implementation – describe relevant construction activities (e.g., notice to proceed, construction administration, construction management, construction subtasks, etc.).
- Monitoring/Performance – describe any additional monitoring to evaluate the effectiveness of the capital improvement.

**Capital Improvement Cost Benefit Analysis Table (for Section B.2)**

Project Description		Volume of clean drinking water provided		No. of people benefitting		DAC population benefitting		Average mass of contamination removed		Number or percent of wells no longer threatened or contaminated		Reduction in contaminant concentrations	
		AFY	\$/AFY	People	\$/Person	People	\$/Person	lbs	\$/lb	AFY	\$/AFY	%	\$/%
Existing Facility	Annual O&M Cost												
Proposed Capital Improvement	Capital Cost												
	Annual O&M Cost												
	Life Cycle Cost												

Project Description	Capital Cost	Annual O&M Cost	Life Cycle Cost
	\$	\$/year	\$
Existing Facility (w/out proposed Capital Improvement)	-		
After Capital Improvement			

## **APPENDIX C: REQUESTS FOR REDUCED FUNDING MATCH FOR DISADVANTAGED COMMUNITIES AND ECONOMICALLY DISTRESSED AREAS**

### **C.1 PURPOSE**

The purpose of this Appendix is to provide a method for demonstrating eligibility for the reduced funding match for the Groundwater Grant Program. At a minimum, the following information must be included in the application:

- A map with sufficient geographic detail to define the boundaries of the overlying drinking water entity's service area (if applicable), the DAC or EDA, and the project construction and benefit areas (applicants with geographic information system capabilities should provide a shapefile(s) of water system boundaries and/or claimed project benefit areas, if such files are available);
- Description of the method used in determining the total population of the proposed DAC or EDA. The applicant must identify what census geographies (e.g., census designated place, census tract, census block group) were used, and how they were applied. Also, the applicant must explain how the DACs or EDAs were identified;
- Annual MHI data for the DAC or EDA in the project area;
- Information on amount and type of direct benefit the project provides to the DACs or EDAs may vary and will be dependent upon the project type;
  - For cleanup projects (planning or implementation) that provide clean drinking water as a direct end use, the benefitting water purveyor(s) entire service area is generally considered the benefit area;
  - For source area cleanup projects (planning or implementation), Census Bureau Block Group(s) are generally used to define the benefit area. The benefit area will typically include the investigation or clean up area and immediately adjacent areas;
  - For prevention type projects (planning or implementation), applicants must show or describe the area that is claimed to benefit from contamination prevention as a result of the project. Typically the benefit area consists of the entire service area of the water purveyor(s) with wells protected by the project;
- Descriptions or information on the DAC or EDA involvement, such as past, current, and future efforts to include DAC or EDA representatives in the planning and/or implementation process; and
- Letters of support from representatives of the DAC or EDA indicating their support for the project or component of the proposal designed to provide direct benefit to the DAC or EDA and acknowledging their inclusion in the planning and/or implementation process.

The following data requirements must be met, for the entire claimed benefit area:

- MHI and population data must be from the 2015 or later United States Census Bureau (Census Bureau) data sets, or an income/population survey if no representative census data are available; and
- MHI and population data used in analysis must be from the same time period and geography.

To determine whether the project is located within an EDA, please refer to DWR's website at: [EDA Mapping Tool](#).

## **C.2 ALLOWANCES**

For assistance with accessing census data, see the Census Bureau American Fact Finder website ([Census Factfinder](#)). Applicants may use a single type of census geography or combinations of 2010 or later Census Bureau geographies in determining the MHI and population for DACs and the project area. However, the census geography that is used must be consistent for both MHI and population. Official census geographies, such as census tract, place, and block group, are acceptable.

## **C.3 STEPS TO REQUEST A REDUCED FUNDING MATCH**

**Step A. Documentation of the Presence of DACs or EDAs:** The project must directly benefit a DAC or EDA. **If the project is not directly benefit a DAC or EDA, do not apply for a reduced funding match.** The DAC or EDA should be identified in the description of the project area in the proposal. Applicants should ensure that the description of the DAC or EDA is sufficient to determine whether the community meets the applicable definition. The DAC or EDA should also be shown on maps of the project area. In describing the DAC or EDA, include the relationship to the project objectives and information that supports the determination of DAC or EDA in the project area.

**Step B. Benefits and Impacts to DACs or EDAs:** The applicant must explain anticipated benefits and impacts to the DAC or EDA in their project area for the specific work item in their proposal. The explanation should include the nature of the anticipated benefit, the certainty that benefit will accrue if the project is implemented, and which DAC or EDA in the project area will benefit and/or be impacted.

For assistance with accessing census data, see the Census Bureau's website ([Census](#)) or American Fact Finder website ([Census Factfinder](#)). Include the method used for population determination, the population of the project area, population of DACs/EDAs in the project area, MHI data for DACs or EDAs, and calculation of the reduced funding match.

**Step C. Determining Funding Match Reduction:** The applicant must provide a proposed funding match reduction and justification for the proposed reduction. DFA staff will review the information submitted by the applicant to develop a recommended match reduction based on the requirements in Section 5. The DFA will make the ultimate determination on approved match reductions.

## Exhibit C-1: Certification of Understanding

The undersigned certifies that:

The proposal submitted by <Insert Name of Applicant> for <Insert Proposal Title> for a Proposition 68 Groundwater Treatment and Remediation Grant Program contains a request for a reduction of the funding match based on <"small & severely disadvantaged", "disadvantaged", or "economically distressed area"> community status.

The above named applicant understands:

- The reduction of the funding match presented in the proposal is a request that will not be automatically granted.
- State Water Board staff will review the DAC/EDA information submitted in the proposal prior to making a decision to accept, modify, or deny such a reduction.
- Should the proposal be chosen for funding, but the requested reduction in funding match is rejected or modified, the grantee is responsible for costs exceeding the grant funding amount to complete the project and any additional required match.
- The State Water Board will rescind the grant award if the grantee cannot either:
  1. Cover the increased costs and/or match due to rejection or modification of the request for reduction in the funding match; or
  2. Adequately restructure the grant proposal within the available budget, while still meeting the intent of the original proposal.

Authorized Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Agency: \_\_\_\_\_

Date: \_\_\_\_\_

## **APPENDIX D: PROPOSAL EVALUATION SCORING CRITERIA**

It is understood that in the case of projects benefitting SDACs, limited information supporting prevention or reduction of contamination in groundwater may be available. DFA staff will consider this when reviewing proposals for the SDAC set-aside and as appropriate may work with those applicants to gather additional supporting information subsequent to proposal submission. Such information will be uploaded to FFAST and may be considered in the review and award process.

The proposal evaluation scoring for projects includes an eligibility review and evaluation scoring criteria:

### **1. Eligibility Review**

The Eligibility Review includes a simple “Yes/No” determination as to whether the proposal includes the information requested.

For SDAC set-aside projects, reviewers will evaluate proposals based on information included in the initial submission and any additional supporting information gathered and uploaded to FFAST subsequent to proposal submission.

All proposals that do not receive a “Yes” determination for all questions will not be considered for funding.

### **2. Evaluation Scoring Criteria**

The Evaluation Scoring Criteria requires the reviewer to determine how well the proposal addresses the evaluation question.

For SDAC set-aside projects, reviewers will give a simple “Yes/No” determination as to whether the proposal, including any additional supporting information gathered subsequent to proposal submission satisfies the information requested.

For all other proposals, four to five points will be given if the proposal addresses the question well and no changes are needed to fund. One to three points will be given if the proposal addresses the question to some degree, but changes are needed to fund. No points are given if the proposal does not address the evaluation question. The evaluation scoring criteria also include “Yes/No” questions. These questions are evaluated so that five points, or more, will be given for each “Yes” determination while “No” determinations will receive zero points.

Please note that the Eligibility Review and Evaluation Scoring Criteria include the same questions considered “critical”.<sup>8</sup> Critical questions will be evaluated with a “Yes/No” determination in the Eligibility review and will also be scored during the evaluation review.

---

<sup>8</sup> An “\*” is used to designate “critical” evaluation questions.

**APPENDIX D: PROPOSAL EVALUATION SCORING CRITERIA**

**PROPOSITION 68 GROUNDWATER TREATMENT AND REMEDIATION GRANT PROGRAM IMPLEMENTATION PROPOSAL EVALUATION: ELIGIBILITY REVIEW**

<b>ELIGIBILITY CRITERIA</b>	<b>YES/ NO</b>	<b>KEY</b>
1. Is the applicant an eligible entity?		
2. Does the proposal provide the following to support and justify the project: <ul style="list-style-type: none"> <li>a. A description of the groundwater basin, beneficial uses, and groundwater quality issues especially related to chemicals of concern (COCs) and their impact on drinking water sources?</li> <li>b. Accurate and complete summary of the data available on the COCs and any changes in the extent of the plume and COC levels over time?</li> </ul> 3. Does the proposal: <ul style="list-style-type: none"> <li>a. Provide a complete description of the extent to which a search for responsible party(ies)/potentially responsible party(ies) has been conducted and the known responsible party/potential responsible party(ies) in relation to the proposed project?</li> </ul> 4. Is the project coordinated with cooperating entities such as; a water master (for adjudicated basins); federal, state, and local regulatory agencies; and any community organizations and is there documented support for the project from cooperating entities?*		<b>Applicant must receive a “Yes” to be eligible for proposal evaluation</b>
5. Does the proposal, including the identified project goals and purpose, as described: <ul style="list-style-type: none"> <li>a. Address one or more Proposition 68 prioritization criteria (Pub.Resource Code, § 80001, subd. (b)(7) (see Section 2.1))?*</li> <li>b. Address the State Water Board requirements (see Section 2.2)?*</li> <li>c. Address one or more State Water Board preferences (see Section 2.3)?*</li> </ul>		

**APPENDIX D: PROPOSAL EVALUATION SCORING CRITERIA**

**PROPOSITION 68 GROUNDWATER TREATMENT AND REMEDIATION GRANT PROGRAM IMPLEMENTATION PROPOSAL EVALUATION: ELIGIBILITY REVIEW**

<b>ELIGIBILITY CRITERIA</b>	<b>YES/ NO</b>	<b>KEY</b>
<p>d. Address a significant groundwater contamination problem based on best estimates of the anticipated project benefits (by prevention or cleanup of contamination)?*</p> <p>6. Has the applicant estimated one or more of the metrics of success (see Section 7) and are the estimates reasonable for the project? Are the goals and targets reasonable and feasible?*</p>		
<p>7. Does the proposal include:</p> <p>a. The detailed tasks and deliverables necessary to complete the project?</p> <p>b. Adequate technical justification that completion of the tasks are appropriate and necessary to achieve the project purpose?*</p>		
<p>8. Based on the proposed schedule and deliverables, can the project be completed within the appropriation timeframe?*</p>		
<p>9. Do the summary budget table, narrative, and supporting cost documentation justify the project costs? Are the costs reasonable?*</p>		<p align="center"><b>Applicant must receive a “Yes” to be eligible for proposal evaluation</b></p>
<p>10. Are the benefits significant given the cost of the project?*</p>		
<p>11. Indicate whether the application should be assigned for review and scoring based on the answers to questions above.</p>		<p align="center"><b>Yes = Proposal will be scored.</b></p> <p align="center"><b>No = Proposal will not be scored.</b></p>

## APPENDIX D: PROPOSAL EVALUATION SCORING CRITERIA

### SCORED CRITERIA

#### Project/Applicant Background – 50 Points

1. Does the proposal provide the following to support and justify the project:
  - a. An accurate and complete summary of other work completed to address the groundwater contamination and the relation of this project to other efforts?
  - b. Accurate and complete regional and project maps depicting the site location, lateral and vertical extent of contaminated groundwater, location of existing facilities, including but not limited to treatment systems, production wells, injection wells, and area to be remediated?
  - c. A description of the groundwater basin, beneficial uses, and groundwater quality issues especially related to chemicals of concern (COCs) and their impact on drinking water sources? (Yes = 5 points, No = 0 points)
  - d. Accurate and complete identification of contaminant source area(s) associated with the project area?
  - e. Accurate and complete summary of the data available on the COCs and any changes in the extent of the plume and COC levels over time?
  - f. Description of consistency with any applicable groundwater management plan, court decree (for an adjudicated basin), salt and nutrient management plan, and other regulatory orders or requirements?
2. Does the proposal:
  - a. Provide a complete description of the extent to which a search for responsible party(ies)/potentially responsible party(ies) has been conducted?
  - b. Provide a complete and accurate description of the known responsible party/potentially responsible party(ies) in relation to the proposed project?
3. Has the applicant and its technical team (if identified) conducted similar projects and demonstrated an ability to complete projects on time and within scope and budget?
4. How well is the project coordinated with relevant cooperating entities such as; a water master (for adjudicated basins); federal, state, and local regulatory agencies; and any community organizations and is there documented support for the project from cooperating entities?\*

**APPENDIX D: PROPOSAL EVALUATION SCORING CRITERIA**

**SCORED CRITERIA**

**Program Priorities, Requirements, and Preferences – 25 Points**

5. Does the proposal, including the identified project goals and purpose, provide sufficient justification that the project, as described:
  - a. Address one or more Proposition 68 prioritization criteria (Pub. Resources Code, § 80001, subd. (b)(7) (see Section 2.1))?\*
  - b. Address the State Water Board requirements (see Section 2.2)?\*
  - c. Address one or more State Water Board preferences (see Section 2.3)?\*
  - d. Address a significant groundwater contamination problem based on best estimates of the anticipated project benefits (by prevention or cleanup of contamination)?\*
6. Has the applicant estimated one or more of the metrics of success (see Section 7) and are the estimates reasonable for the project? Are the goals and targets reasonable and feasible?\*

**Scope of Work – 35 Points**

7. Does the proposal include sufficient justification and provide:
  - a. The detailed tasks and deliverables necessary to complete the project?
  - b. Adequate technical justification that completion of the tasks are appropriate and necessary to achieve the project purpose?\*

And if the project includes capital improvement does the proposal include:

  - a. A detailed description of the technology and practices the project is proposing to use and adequate justification for the technical basis of the approach?\*
  - b. The supporting engineering calculations to demonstrate that the project will achieve its purpose?\*
  - c. Adequate and appropriate stakeholder involvement and include sufficient public outreach?
  - d. An adequate description of how the proposed project is consistent with or is the appropriate next phase to address the contamination?
  - e. A discussion on the required permits, environmental documentation (CEQA/ National Environmental Policy Act [NEPA]), and landowner/access agreements required to implement the project?\*

<b>APPENDIX D: PROPOSAL EVALUATION SCORING CRITERIA</b>	
<b>SCORED CRITERIA</b>	
<b>Schedule – 20 Points</b>	
<p>8. Does the proposal include an adequate description of any key decision points, milestones, or deliverables that could impact project scope, cost, and schedule?</p> <p>9. Does the proposal include a schedule that is consistent with and reasonable given the tasks described in the Scope of Work and the available budget?</p> <p>10. Based on the proposed schedule and deliverables, can the project be completed within the appropriation timeframe?*</p>	
<b>Budget – 20 Points</b>	
<p>11. Do the summary budget table, narrative, and supporting cost documentation justify the project costs? Are the costs reasonable?*</p> <p>12. Are the tasks shown in the budget consistent with the tasks shown in the work plan and schedule?</p> <p>13. Are the benefits significant given the cost of the project?*</p> <p>14. Does the proposal include leveraging of other funding sources (i.e., private, federal or local) and are the sources of matching funds clearly committed and well-documented? (Yes = 5 points, No = 0 points)</p>	
<b>Performance Evaluation and Monitoring – 15 Points</b>	
<p>15. Does the proposal include sufficient justification and provide a discussion of the proposed data collection and monitoring and how that data will be managed and reported?</p> <p>16. Will the measurement tools and methods effectively monitor project performance and target progress?</p> <p>17. Is the proposed monitoring appropriate for the benefits claimed, and the process for which it will be tracked discussed?</p>	
<b>OVERALL TOTAL POINTS:</b>	<b>165</b>

## **APPENDIX E: REGIONAL WATER BOARD AND DIVISION OF DRINKING WATER RESPONSIBILITIES**

The Regional Water Board and/or the State Water Board DDW will assist DFA staff in reviewing the scope, budget, and schedule of each proposal that is submitted and determined eligible for Groundwater Treatment and Remediation Grant Program funding. The level of involvement and review by both the Regional Water Board and DDW will depend on the scope of the proposed project. The Regional Water Board will assist the applicant in identifying responsible parties, when possible, or providing information that will assist the applicant's search for responsible parties within the proposed project area or areas that are adjacent to the project area, if necessary. The Regional Water Board will also inform the applicant of any Water Board permit requirements for the proposed project (e.g., WDRs, NPDES permits, Notices of Intent [NOIs]). To the extent feasible, the Regional Water Board will inform the applicant of any other local ordinance requirements (e.g. well construction permits by the local environmental agency), under which the applicant may be required to operate the proposed remediation facilities or conduct site investigations. Similarly, the DDW will inform the applicant of any 1996 federal Safe Drinking Water Act (SDWA) requirements that may require consideration in the applicant's project proposal.

## APPENDIX F: RESPONSIBLE PARTY SEARCH

Public Resources Code section 80141(c) states that funding authorized by this chapter (Chapter 11.1) shall not be used to pay any share of the costs of cleanup recovered from responsible parties. Furthermore, Public Resources Code section 80141(b)(5) states that prioritization of projects that are funded under this chapter shall in part be based on if the project addresses contamination for which a responsible party has not yet been identified or where the identified responsible party is unwilling or unable to pay for the total cost of the cleanup. Public Resources Code section 80141(c) also requires that the Grantee exercise “reasonable efforts” to recover costs of the cleanup activities but does not specifically define these requirements.

The applicant will have the responsibility to provide the following information (as applicable) pertaining to the property or area(s) that would be addressed by the project:

- Property file searches
- Online database searches such as Westlaw, etc.
- Conducting a tax and financial documents search
- Providing title history reports and documents
- Performing corporate and other public documents search
- Performing property searches via assessor’s office
- Identifying and locating witnesses and other knowledgeable parties
- Providing lien information and moratorium documents

The information should be reviewed by the applicant to determine if any viable responsible parties should be contributing to cleanup actions in the proposed project area or any adjoining areas (not necessarily within the scope of the proposed project).

### **Financial Status (Viability of Responsible Party)**

An applicant seeking to determine the financial status (i.e., the viability) of a responsible party should consider consulting the following resources and any other resources it may deem to be useful to make this determination:

1. **Responsible Party:** Ask the responsible party for its financial information (tax returns, bank statements, financial statements, insurance policies designed to address environmental liabilities, etc.), especially if the responsible party is still associated with the site or is the applicant, and, therefore, will receive the benefit of the grant. An applicant that is a responsible party and claiming it is not viable should provide conclusive information, such as an INDIPAY or MUNIPAY analysis, or its inability to pay for the assessment or cleanup.
2. **Federal, State, and Local Records:** federal, state, and local (i.e., county and city) records often provide information on the status of a business. An applicant that is a state or local government should, at the very least, search its own records for information on a responsible party. Examples of such resources include regulatory records (e.g., state hazardous waste records), Secretary of State databases, and property/land records.
3. **Public and Commercial Financial Databases:** Applicants also may obtain financial data from publicly available and commercial sources. Please note that some

commercial sources may charge fees. The State Water Board does not endorse the use of any specific sources, and will accept reliable data from other sources as part of a proposal for funding. Examples of sources that could be searched include: LexisNexis, Dun & Bradstreet reports, Hoover's Business Information, Edgar Database of Corporate Information, Thomas Register of American Manufacturers, The Public Register, Corporate Annual Reports, Internet search engines (Google, Ask).

## **APPENDIX G: GUIDELINES FOR GRANTEES**

The lists below details the documents/records that State Auditors would need to review in the event of a grant being audited. Grantees should ensure that such records are maintained for each funded project consistent with the records retention timeline established in the grant agreement.

### **Internal Controls**

- 1) Organization chart (e.g. the Grantee's overall organization chart and organization chart for the grant funded program/project)
- 2) Written internal procedures and flowcharts for the following:
  - a) Receipts, deposits, and disbursements
  - b) State reimbursement requests
  - c) Grant expenditure tracking
  - d) Guidelines, policy, and procedures on grant funded program/project
- 3) Audit reports of the Agency's internal control structure and/or financial statements within the last three years
- 4) Prior audit reports on grant funded program/project

### **Grants**

- 1) Original grant agreement, any amendment(s), and budget modification documents
- 2) A listing of all bond-funded grants received from the state
- 3) A listing of all other funding sources for each program/project

### **Contracts**

- 1) All subcontractor and consultant contracts and related or partners documents, if applicable
- 2) Contracts between the Agency and member agencies as related to the grant funded program/project

### **Invoices**

- 1) Invoices from vendors and subcontractors for expenditures submitted to the state for payments under the grant
- 2) Documentation linking subcontractor invoices to state reimbursement requests and related grant budget line items
- 3) Reimbursement requests submitted to the state for the grant

### **Cash Documents**

- 1) Receipts (copies of warrants) showing payments received from the state
- 2) Deposit slips (or bank statements) showing deposit of the payments received from the state
- 3) Cancelled checks or disbursement documents showing payments made to vendors, subcontractors, consultants, and/or agents under the grant
- 4) Bank statements showing the deposit of the receipts

**Accounting Records**

- 1) Ledgers showing entries for grant receipts and cash disbursements
- 2) Ledgers showing receipts and cash disbursement entries of other funding sources
- 3) Bridging documents that tie the general ledger to requests for grant reimbursement

**Administration Costs**

- 1) Supporting documents showing the calculation of administration costs

**Personnel**

- 2) List of all contractors and Grantee's staff that worked on the grant-funded project
- 3) Payroll records including timesheets for contractor staff and the Grantee's personnel who provided services charged to the project

**Project Files**

- 1) All supporting documentation maintained in the project files
- 2) All grant-related correspondence

## APPENDIX H: STATE CROSS-CUTTERS

- i. The California Environmental Quality Act (CEQA), as set forth in Public Resources Code 21000 et seq. and in the CEQA Guidelines at Title 14, Division 6, Chapter 3, Section 15000 et seq.
- ii. Water Conservation requirements, including regulations in Division 3 of Title 23 of the California Code of Regulations.
- iii. Monthly Water Diversion Reporting requirements, including requirements set forth in Water Code section 5103.
- iv. Public Works Contractor Registration with Department of Industrial Relations requirements, including requirements set forth in Sections 1725.5 and 1771.1 of the Labor Code.
- v. Volumetric Pricing & Water Meters requirements, including the requirements of Water Code sections 526 and 527.
- vi. Urban Water Management Plan requirements, including the Urban Water Management Planning Act (Water Code, § 10610 et seq.).
- vii. Urban Water Demand Management requirements, including the requirements of Section 10608.56 of the Water Code.
- viii. Delta Plan Consistency Findings requirements, including the requirements of Water Code section 85225 and California Code of Regulations, title 23, section 5002.
- ix. Agricultural Water Management Plan Consistency requirements, including the requirements of Water Code section 10852.
- x. Charter City Project Labor Requirements, including the requirements of Labor Code section 1782 and Public Contract Code section 2503.
- xi. Governor's Infrastructure Plan. (Gov. Code, § 13100.) The Recipient shall ensure that the Project shall maintain consistency with section 13100 of the Government Code (five-year infrastructure plan).
- xii. Groundwater Monitoring. (Wat. Code, § 10920.) The Recipient shall comply with Water Code section 10920 et seq., which requires groundwater monitoring and reporting of groundwater elevations.

## APPENDIX I: NATIVE AMERICAN TRIBE NOTIFICATION

Public Resources Code section 21080.3.1 requires the CEQA lead agency to consider project effects on tribal cultural resources and to conduct consultation with California Native American tribes. The State Water Board recommends using the OPR's procedures for tribal consultation for General Plans and Specific Plans as guidance to meeting the Native American Tribe Notification requirement. The notification process a lead agency uses may include the following steps:

- Determine if the proposed project is a project under CEQA.
- If the project will use a negative declaration or an EIR to comply with CEQA and the CEQA document was not adopted by March 1, 2009, tribal notification is required prior to adoption of the CEQA document.
- To determine which tribes may have traditional lands located within the project area, send a request to the NAHC using the NAHC request form which can be found at the following link: [NAHC Resources](#). Expect a reply within 30 days.
- Once tribal information from NAHC is received, notify tribes of the project nature and project location.
- Allow tribes 90 days to reply to the notification.
- Solicit input from tribes that respond to the notification.
- Consider tribal input to the project prior to adoption of a negative declaration or EIR.

The above notification process follows OPR's procedures for tribal consultation for General Plans and Specific Plans. Further information on tribal consultation can be found at the following link: [Tribal Consultation Information](#)

Contact information for the NAHC is as follows:

Tribal Advisor  
Office of Governor Gavin Newsom  
Executive Secretary, Native American Heritage Commission  
1550 Harbor Blvd. Suite 100  
West Sacramento, California 95691  
(916) 373-3710  
(916) 373-5471  
nahc@nahc.ca.gov  
[NAHC Information](#)