

commentletters

From: Townsend, Jeanine@Waterboards
Sent: Tuesday, October 13, 2015 1:22 PM
To: commentletters
Subject: FW: Comments to Draft Proposition 1
Attachments: Prop1 Comments 2015.pdf



From: Rafael Casillas, PE [<mailto:rcasillas@accessduarte.com>]
Sent: Monday, October 12, 2015 11:09 AM
To: Townsend, Jeanine@Waterboards
Subject: Comments to Draft Proposition 1

Jeanine,

Please see the attached document for comments. Feel free to contact me if you have any questions.

Thank you,

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I. PURPOSE

The Storm Water Grant Program (SWGP) Proposition 1 (Prop 1) Guidelines (Prop 1 SWGP Guidelines) establish the process and criteria that the State Water Resources Control Board (State Water Board) will use to solicit applications, evaluate and select proposals, and award grants for the multi-benefit storm water management projects through the Prop 1 SWGP (Prop 1 SWGP projects), as established in California Water Code (Water Code) section 79747. Prop 1, Chapter 7 provides grant funds to help water infrastructure systems adapt to climate change, provide incentives for water agencies throughout each watershed to collaborate in managing the region's water resources and setting regional priorities for water infrastructure, and improve regional water self-reliance consistent with Water Code section 85021. Section 79747 provides \$200 million in grant funds specifically for multi-benefit storm water projects.

** WILL THIS GRANT BE OPEN TO AGENCIES WITHOUT THEIR OWN WATER SYSTEM ?*

Under existing law, the State Water Board and the Regional Water Quality Control Boards (Regional Water Boards) prescribe waste discharge requirements (WDRs) for the discharge of storm water in accordance with the National Pollutant Discharge Elimination System (NPDES) permit program established by the federal Clean Water Act (CWA) and the Porter-Cologne Water Quality Control Act. Storm water and dry weather runoff are underutilized sources of surface water and groundwater supplies. Instead of being viewed as a resource, they are often seen as a problem that must be moved to the ocean as quickly as possible or as a source of contamination, contributing to the loss of usable water supplies and the pollution and impairment of rivers, lakes, streams, and coastal waters.

Storm water or dry weather runoff projects that address discharge to an Area of Special Biological Significance (ASBS) may also qualify for any unused or re-appropriated Proposition 13 (Prop 13) Coastal Nonpoint Source funds; any unused or reappropriated Proposition 40 (Prop 40) funds; any unused or reappropriated Proposition 50 (Prop 50) Coastal Non-Point Source funds; and Proposition 84 (Prop 84) funds. Should the State Water Board's Division of Financial Assistance (Division) Deputy Director determine that a project can be funded in whole or part by any of these funds, the Deputy Director may require the applicant to submit any supplemental information required to satisfy the legal requirements of those propositions.

II. OVERVIEW

The Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Prop 1) was approved by California voters in the general election on November 4, 2014. Among other funds, Prop 1 provided \$200 million for matching grants to public agencies, nonprofit organizations, public utilities, state and federally recognized Indian tribes, and mutual water companies for multi-benefit storm water management projects (Water Code § 79747). After bond and program administration costs, approximately \$186 million will be available for projects.

Prior to the passage of Prop 1 in November 2014, the California Legislature adopted Senate Bill (SB) 985 entitled Stormwater Resource Planning Act (SB 985). SB 985 amended Water Code¹ sections 10561, 10562, 10563, 10573, and added sections 10561.5 and 10565 to require the development of a Storm Water Resource Plan to receive grants for storm water and dry weather capture projects from a bond act approved after January 1, 2014. These Water Code sections are referred to herein as the SB 985 requirements. The SB 985 requirement to prepare a Storm Water Resource Plan is directed to public agencies. The Plan must include a prioritized list of projects to address storm water capture and use and urban runoff pollution on a regional watershed basis. Each developed Storm Water Resource Plan must be submitted to the appropriate regional water management group for incorporation into their integrated regional water management plans (IRWMPs). The Storm Water Resource Plan must address the requirements listed in the Water Code and be developed in accordance with the State Water Board's Storm Water Resource Plan Guidelines (Plan Guidelines).

EWMP/WMP ?

¹ References in this document to the Water Code that are not to a specific section are intended to refer to those sections of the Water Code added or amended by SB 985, namely Water Code sections 10561, 10561.5, 10562, 10563, 10565, and 10573.

The ASBS Grant Program provides funding for projects that restore and protect the water quality and the environment of coastal waters, estuaries, bays, and near shore waters which affect a particular ASBS. Storm water and dry weather runoff projects that meet this purpose may be awarded any unused or reappropriated Prop 13 Coastal Nonpoint Source funds; any unused or reappropriated Prop 40 funds; any unused or re-appropriated Prop 50 Coastal Non-Point Source funds; and Prop 84 funds. These Prop 1 SWGP Guidelines supersede any previously issued ASBS Grant Program guidelines for purposes of this project solicitation.

A. SOLICITATIONS

The solicitations will consist of a one-step competitive process. The proposals will be evaluated for eligibility, technical merit, and ranked by applying the scoring criteria in Appendices B and C. The highest ranked proposals will be recommended for funding. Division staff may request additional information during the proposal review process. Solicitations will be open in two rounds of funding (see Section E – Schedule).

I. PLANNING GRANTS

Water Code section 79704 allows up to ten percent of the SWGP Prop 1 grant funds (up to \$20 million) for “ planning and monitoring necessary for the successful design, selection, and implementation of the projects authorized ”. Water Code section 79747(c) states that the “Development of plans for stormwater projects shall address the entire watershed and incorporate the perspectives of communities adjacent to the affected waterways, especially disadvantaged communities.” The development of a watershed-based Plan must meet the requirements set forth in SB 985 and the Storm Water Resource Plan Guidelines. Priority will be given to those planning projects that include collaboration between all municipal separate storm sewer system (MS4) permittees and/or co-permittees within the watershed and to planning for Integrated Regional Water Management (IRWM) groups to make any necessary revisions to their IRWMP to meet the SB 985 requirements and Storm Water Resource Plan Guidelines.

These Prop 1 SWGP Guidelines authorize the Deputy Director of the Division of Financial Assistance to award up to \$1 million of the planning funds in one or more grants to provide technical assistance to Prop 1 SWGP implementation applicants from disadvantaged communities (DACs) and economically distressed areas (EDAs). The technical assistance would be provided during the application process and after the grant award. These funds will be awarded through a competitive process. DFA will solicit a request for Statements of Qualifications (SOQs) and will rank entities responding based on their experience in providing the required technical assistance, success in providing such assistance, and ability to reach the applicants. The most qualified applicant(s) will be selected by the Division’s Deputy Director based on the results of the solicitation and evaluation.

II. IMPLEMENTATION GRANTS

Water Code section 79725(b) states that up to ten percent (10%) of the SWGP funds (up to \$20 million) shall be allocated for implementation projects that directly benefit a DAC as defined in subdivision (a) of Water Code section 79505.5. More information on the definition of a DAC and the steps required to verify a reduction in matching funds is provided in Appendix A.

Up to \$80 million will be available to fund implementation projects during the first solicitation (Round 1) in Spring 2016. Approximately \$86 million will be available to fund implementation projects during the second solicitation (Round 2). We anticipate Round 2 for implementation projects to occur Spring 2018; however, the solicitation date is dependent upon legislative appropriation of the funds.

Any unused or re-appropriated Prop 13 Coastal Nonpoint Source funds; any unused or reappropriated Prop 40 funds; any unused or reappropriated Prop 50 Coastal Nonpoint Source funds; and Prop 84 funds

may also be awarded to qualifying projects. For projects that may be awarded Prop 84 funds, the State Water Board will also request review and recommendations from the ASBS Task Force. In 2012 the State Water Board appointed/re-appointed the ASBS Task Force members for a term lasting through June 30, 2016.

III. ELIGIBILITY REQUIREMENTS

Eligibility is based on applicant type, minimum and maximum grant amounts, match requirements, project schedule, project eligibility, incorporation of multiple benefits, and program preferences. Applications will be evaluated for compliance with the eligibility requirements. Proposals that do not meet all eligibility requirements will not be reviewed or considered for funding.

A. ELIGIBLE APPLICANTS

Prop 1 (Water Code § 79712(a)) states that eligible applicants consist of:

- Public agencies;
- 501(c)(3) Nonprofit organizations;
- Public utilities;
- Federally recognized Indian tribes;
- State Indian tribes listed on the Native American Heritage Commission's Tribal Consultation List; and
- Mutual water companies.

B. ELIGIBLE PROJECT TYPES

SWGP will be accepting applications for planning and implementation projects. Prop 1 allows up to ten percent, or approximately \$20 million, for planning grants, which will be awarded in Round 1 in Spring 2016 (see Section E – Schedule).

The planning grants will be available to eligible applicants that do not have a Storm Water Resource Plan or have a Storm Water Resource Plan that requires modification to meet the Water Code requirements and Storm Water Resource Plan Guidelines. The State Water Board anticipates only offering planning grants during Round 1. Up to \$1 million of the planning funds will be used for one or more grants to provide technical assistance to DACs and EDAs applying for implementation funding. Storm Water Resource Plans are required of public agencies. Therefore funding preference for planning projects will be given to public agencies or eligible applicants preparing Storm Water Resource Plans on behalf of public agencies.

ON THE LIST →

The SB 985 requirement for Storm Water Resource Plans applies to public agencies. However, non-public agency applicants must have their proposed storm water capture or dry weather runoff capture project identified and prioritized within an applicable Plan.

The Implementation funds will be awarded in two rounds of funding: Spring 2016 and Spring 2018 (see Section E – Schedule). Approximately \$80 million will be awarded in Round 1 for implementation grants, including capture projects that are identified in a Plan that is in compliance with the SB 985 requirements and Storm Water Resource Plan Guidelines. The State Water Board wants to ensure that sufficient time is provided for those requiring time to prepare and complete their Storm Water Resource Plans; therefore, Round 2 for implementation grants will occur approximately two years following Round 1 (see Section E – Schedule). Below is a description of the project types eligible for the planning and implementation grants.

I. PLANNING GRANTS

Planning grants may be awarded to those required to develop a Plan in accordance with the SB 985 requirements and the Storm Water Resource Plan Guidelines. Priority consideration will be given to those applications that include collaboration between all MS4 permittees or co-permittees within the watershed or for an IRWM group to develop a region-wide Plan for their IRWMP or for an IRWM group to make any necessary revisions to their IRWMP to meet the SB 985 requirements and Storm Water Resource Plan

Guidelines. Planning grants may include tasks for assessments, monitoring, geotechnical/technical investigations, or studies needed to complete preparation of the Storm Water Resource Plan.

One or more grants will be awarded to an entity(-ies) that possess the experience, knowledge, and skills required to provide technical assistance to SWGP Prop 1 implementation applicants from DACs or EDAs.

II. IMPLEMENTATION GRANTS

Implementation grants will only be awarded to projects that are included and implemented in an adopted IRWMP, that are included in a Plan if the project is a capture project, that respond to climate change, that contribute to regional water security, and that contain a minimum of two multi-benefits as listed in Section II.G. – Program Preferences. In order to improve regional water self-reliance security and adapt to the effects on water supply arising out of climate change, the purposes of Prop 1, Chapter 7 are to:

- Help water infrastructure systems adapt to climate change, including, but not limited to sea level rise;
- Provide incentives for water agencies throughout each watershed to collaborate in managing the region's water resources and setting regional priorities for water infrastructure; and
- Improve regional water self-reliance consistent with Water Code section 85021.

Proposed projects may be located on either public or private lands. Projects shall be designed to infiltrate, filter, store, evaporate, treat, or retain storm water or dry weather runoff.

Specific types of eligible projects include:

- Green Infrastructure (i.e., Low Impact Development (LID)),
- Rainwater, storm water and dry weather runoff capture and reuse, and
- Storm water treatment train facilities.

Ineligible projects include:

- Projects that must seek eminent domain as part of their project implementation timeline
- Projects that do not meet the requirements of these Prop 1 SWGP Guidelines, the Storm Water Resource Plan Guidelines, Water Code, and Prop 1; and
- Projects that consist of only education and outreach activities.

All Prop 1 SWGP projects must meet the following requirements:

- All projects must be multi-benefit projects and contain a minimum of two benefits listed in Section G – Program Preferences;
- All projects must be included and implemented in an adopted IRWMP;
- Prop 1 SWGP projects that are storm water and dry weather runoff capture projects must be included in a Storm Water Resource Plan that complies with the SB 985 requirements and is consistent with the Storm Water Resource Plan Guidelines^{2,3};
- All projects must be consistent with the applicable water quality control plan (Basin Plan) adopted by the State Water Board and/or Regional Water Board;
- All projects must demonstrate capability of contributing to sustained, long-term water quality benefits for a period of 20 years; and

² Storm Water Resource Plans must be submitted to the local IRWM group and the IRWM group must include the Plan in the IRWMP. Compliance with the Water Code also meets the criteria of a project being included and implemented in an adopted IRWMP.

³ Per Water Code Section 10563(c)(2)(B), the requirement for a Storm Water Resource Plan does not apply to a DAC with a population of 20,000 or less that is not a copermitee for an MS4 permit issued to a municipality with a population of more than 20,000.

- All projects carried out on lands not owned by the grantee (public or private) must obtain adequate rights of way for the useful life of the project (i.e. at least 20 years).

C. GRANT AMOUNT

The minimum and maximum grant amounts available for both Planning and Implementation grants are presented in Table 1 below. The State Water Board will authorize up to \$1 million of the planning grants for technical assistance, to be issued under a separate solicitation.

Table 1 – Minimum and Maximum Grant Amounts

| Project Type | Minimum Grant Amount | Maximum Grant Amount |
|----------------|----------------------|----------------------|
| Planning | \$100,000 | \$500,000 |
| Implementation | \$500,000 | \$5,000,000 |

D. MATCH REQUIREMENT

The applicant is required to provide a funding match. The match requirement is fifty percent (50%) of the total project cost. Match is not based solely on the size of the grant request. **Other State grant funds (regardless of issuing State agencies) cannot be used for the required match.** The funding match may include, but is not limited to: Federal loans, local and private funding, or donated and volunteer (“in-kind”) services. Repayable financing received through the Clean Water State Revolving Fund Program or a Federal sponsored loan program may be used for match. The State Water Board reserves the discretion to review and approve funding match expenditures.

general funds only?

What are the specifics of the "loan program"?

For planning projects, eligible reimbursable expenses incurred after the approval of SB 985 (**September 24, 2014**) and prior to the project completion date can be applied to the funding match.

The requirement for match is waived for entities chosen to provide technical assistance, since those entities will be supporting DACs and EDAs.

For implementation projects, eligible reimbursable expenses incurred after adoption of the Prop 1 SWGP Guidelines (**December 1, 2015**) and prior to the project completion date can be applied to the funding match.

Eligible expenses for funding match include, but are not limited to:

- Donated and volunteer (“in-kind”) services;
- Planning, engineering, and design specific to the implementation project;
- Permitting;
- Environmental documentation and mitigation;
- Easements and land purchases made by the applicant;
- Project implementation (e.g., purchase of material, equipment, construction);
- Project effectiveness monitoring; and
- Education and outreach.

I. **DISADVANTAGED AND ECONOMICALLY DISTRESSED AREAS FUNDING MATCH REDUCTION**

DACs and EDAs may request the reduced funding match outlined in Table 2. Applicants in either group must document that representatives of the DAC or EDA have been or will be involved in the planning and implementation process, and that project implementation will provide **direct benefits to these communities** (See Appendix A for details and instructions to document DAC or EDA status to qualify for match Groups A, B, C, and D.). Division staff will review and make the final determination on funding match reduction eligibility. If Division staff determines a match reduction is not allowed and the project is approved for funding, Division staff will work with the applicant to reduce the grant amount or increase matching funds.

Projects will be for multiple communities, how will they apply?

Table 2 – DAC/EDA Reduced Match

| Match Requirement ¹ |
|---|
| <p>Group A: Small & Severely DAC² 5% if population is less than 20,000 persons AND median household income (MHI) is less than 60% Statewide MHI ²</p> <p>Group B: Small & DAC³ 10% if population is less than 20,000 persons AND MHI is between 60-80% Statewide MHI ³</p> <p>Group C: DAC³ 15% if population is greater than 20,000 persons AND MHI is less than 80% Statewide MHI ³</p> <p>Group D: EDA⁴ 15% if the community meets the EDA definition ⁴</p> |
| <p>¹ Match is calculated based on the <i>total project cost</i>, <u>not</u> on the grant amount. Total Project Cost x %Match = Required Match i.e. - \$3,750,000 (Total Project Cost) x 20% (Percent Match) = \$750,000 Match Grant funds, including grants from other sources, <i>cannot</i> be used for matching funds.</p> <p>^{2,3,4} See definition in Appendix D</p> |

E. SCHEDULE

Approximately \$100 million in SWGP funds have been appropriated for fiscal year 2015-2016. Staff anticipate awarding up to \$20 million in planning funds and up to \$80 million in implementation funds in Round 1. The anticipated program timelines are outlined in Table 3. Any program schedule updates will be available on the SWGP website. Additional rounds for solicitation of projects may occur depending on the availability of funds.

Table 3 – Expected Timeline

| Round | Award | Construction Complete ² | Final Report | Work Completion | Final Invoice |
|---|-------------|------------------------------------|--------------|-----------------|---------------|
| 1 | Spring 2016 | October 2019 | January 2020 | February 2020 | March 2020 |
| 2 | Spring 2018 | October 2021 | January 2022 | February 2022 | March 2022 |
| <p>¹ The timeline is subject to legislative appropriation of funds. Funds appropriated in future years will be disbursed in accordance with the appropriation(s) schedule(s). These dates represent deadline dates; therefore, Grantees should plan to complete the tasks well in advance of the listed dates.</p> <p>² <u>Construction must be completed early enough to perform post-construction monitoring, as appropriate, to determine project effectiveness.</u></p> | | | | | |

NEED TO START GRANT APPLICATION

NEED TO ADD TIME FOR PAED & PS&E.

F. EDUCATION AND OUTREACH

As indicated in Water Code § 79707(g) and to the extent practicable, **all projects must include signage** informing the public that the project received funds from Prop 1. Other education and outreach costs directly related to the completion of the implementation project could be eligible for reimbursement of grant funds or matching funds; however, a direct correlation between the education and outreach activities, the construction of the project, and expected project benefits from the education and outreach must be clearly identified.