

# **Local Levee Assistance Program**

## **Guidelines for Providing Funding and Grants to Local Public Agencies under Proposition 84 of 2006**

**Department of Water Resources  
Division of Flood Management  
April 2008**

# Local Levee Assistance Program Guidelines

April 2008

## Table of Contents

I. PURPOSE.....	1
II. INTRODUCTION AND OVERVIEW .....	2
III. DEFINITIONS AND ACRONYMS .....	3
IV. GENERAL REQUIREMENTS .....	8
A. QUALIFICATIONS OF APPLICANTS.....	8
B. CONDITIONS FOR LOCAL LEEVE GRANT PROGRAM FUNDING .....	8
C. PAYMENT FOR LOCAL LEEVE GRANT PROGRAM PROJECTS OR EVALUATIONS.....	10
E. CREDIT FOR LLUR PROJECT WORK PERFORMED PRIOR TO EXECUTION OF THE PROJECT AGREEMENT .....	12
F. RETENTION OF FUNDS .....	13
G. PROJECT OR EVALUATION ACCEPTANCE .....	13
H. MAINTENANCE PLAN FOR LLUR PROJECTS .....	13
I. PROJECT OR EVALUATION DEFAULT .....	14
V. SELECTION PROCESS .....	14
A. GENERAL PROPOSAL SOLICITATION PROCESS.....	14
B. APPLICANT ASSISTANCE WORKSHOPS.....	15
C. APPLICATION REQUIREMENTS .....	15
D. COMPETITIVE REVIEW PROCESS .....	16
E. PROCESS FOR SETTING PROJECT OR EVALUATION PRIORITY .....	17
F. FUNDING .....	20
VI. AGREEMENTS .....	20
VII. REPORTING AND RECORDKEEPING.....	23
A. PROGRESS REPORTS .....	23
B. POST-IMPLEMENTATION REPORT .....	24
C. RECORDKEEPING .....	25
VIII. THE LLUR SEGMENT .....	25
A. LLUR PROJECTS .....	26
B. DESIGNS .....	27
C. LLUR GRANT APPLICATION.....	28
D. CEQA COMPLIANCE .....	29
E. ADVANCE PREPARATION FOR RIGHT OF WAY ACQUISITION .....	30
F. COSTS ELIGIBLE FOR LLUR GRANT FUNDING.....	30
IX. THE LOLE SEGMENT .....	31
A. LOLE .....	32
B. LOLE GRANT APPLICATION .....	32
C. COSTS ELIGIBLE FOR LOLE GRANT FUNDING .....	33

<b>APPENDIX A. CRITERIA FOR LLUR PROJECT RATING .....</b>	<b>35</b>
<b>TABLE A-1. RATING CRITERIA AND WEIGHTING FACTORS FOR LLUR GRANTS .....</b>	<b>35</b>
<b>TABLE A-1. RATING CRITERIA AND WEIGHTING FACTORS .....</b>	<b>37</b>
<b>APPENDIX B. CRITERIA FOR LOLE RATING.....</b>	<b>39</b>
<b>TABLE B-1. RATING CRITERIA AND WEIGHTING FACTORS FOR LOLE GRANTS.....</b>	<b>39</b>
<b>APPENDIX C. SPECIAL PROVISIONS APPLICABLE TO PROJECTS THAT SERVE A DISADVANTAGED COMMUNITY OR SEVERELY DISADVANTAGED COMMUNITY .....</b>	<b>43</b>

# LOCAL LEVEE ASSISTANCE PROGRAM GUIDELINES

## April 2008

### I. Purpose

The purpose of these guidelines is to establish the process and criteria that the Department of Water Resources (referred to herein as "Department" or "DWR") will use to solicit applications, evaluate proposals, and award funding and grants using funds made available to the Department for critical levee repairs and levee evaluations. This Local Levee Assistance Program is for reimbursement for actions on local levees only. The legislature first made funds available for this purpose by enacting AB 142 (2006), but the voters approved Proposition 84 in November 2006, and the funds to be used now will come from Proposition 84.

Proposition 84 enacted Section 75032 of the California Public Resources Code, which states:

*The sum of two hundred seventy five million dollars (\$275,000,000) shall be available to the Department for the following flood control projects:*

- (a) The inspection and evaluation of the integrity and capability of existing flood control project facilities and the development of an economically viable flood control rehabilitation plan.*
- (b) Improvement, construction, modification, and relocation of flood control levees, weirs, or bypasses including repair of critical bank and levee erosion.*
- (c) Projects to improve the Department's emergency response capability.*
- (d) Environmental mitigation and infrastructure relocation costs related to projects under this section.*
- (e) To the extent feasible, the Department shall implement a multi-objective management approach for floodplains that would include, but not be limited to, increased flood protection, ecosystem restoration, and farmland protection.*

Proposition 84 also enacted Section 75032.4 of the Public Resources Code which provides that the funds made available by this section are continuously appropriated to the Department. DWR is making available \$60 million for the program for fiscal year 2007-08; \$40 million for performing urgent levee repairs and \$20 million for levee evaluations. Another \$10 million for levee evaluations is to be made available in fiscal year 2008-09 and may be awarded along with the \$20 million without performing a separate solicitation.

These guidelines were established following public meetings at Sacramento on May 7, 2007 and Los Angeles on May 8, 2007 and a public review period from April 2, 2007 to May 11, 2007. All written or oral input to the public meetings and the review period has been considered in their development.

## II. Introduction and Overview

Programs covered by these guidelines include:

- Local Levee Urgent Repair (LLUR) Grants: This program has been developed to implement Governor's Schwarzenegger's Executive Order S-01-06 for repair of critically damaged levees. Following this Executive Order, DWR has repaired over 100 critically damaged levees in the Central Valley for which the State has provided operation and maintenance assurances to the federal government. Through this program, DWR is prepared to fund repair of local flood control facilities, limited to critically erosion-damaged levees, levees with unstable slopes, and other unstable facilities. The funds allocated for these grants will be expended through competitive grants to Local Public Agencies responsible for flood control at the project location. Grants will be offered competitively statewide to qualified applicants.
- Local Levee Evaluation (LOLE) Funding Agreements: This program has been developed to assist Local Public Agencies in obtaining geotechnical information needed for restoring or maintaining levee accreditation by the Federal Emergency Management Agency (FEMA) as a result of FEMA's new requirements in Procedure Memoranda 34 and 43. Through this program, DWR is prepared to fund geotechnical exploration of existing local levees and evaluation of the collected data with regard to stability, seepage, and underseepage. Levees at risk of losing accreditation from FEMA, or that have recently lost their accreditation, will be presumed to qualify for LOLE funding and given preference. Proposals for evaluations of levees not at risk of losing FEMA accreditation will be considered if the Local Public Agency is able to document that a levee has serious problems with seepage, stability, erosion or underseepage. To be selected, a proposal must be designed to conduct a geotechnical evaluation.

The funds allocated for this program will be expended through a competitive solicitation. Funding will be offered competitively statewide to selected qualified applicants. This program will not be available for levees identified in Cal. Pub. Res. Code § 5096.955 (a) (added by SB 85 in 2007), which are being or will be evaluated separately by DWR. If a potential applicant is uncertain regarding whether a particular levee is identified in Cal. Pub. Res. Code § 5096.955 (a), the applicant should contact DWR Flood Project Modifications and Permits Branch.

## GENERAL PROCESS FOR LOCAL LEVEE ASSISTANCE PROGRAM FUNDING

- DWR solicits proposals for projects, issuing Solicitation Notices and a Proposal Solicitation Package (V.A).
- DWR posts the PSP on the DWR website (V.A).
- DWR may conduct Applicant Assistance Workshops if needed (V.B).
- Agencies submit applications using the DWR form from the PSP (V.A, V.C).
- DWR screens applications for applicant eligibility, timeliness, completeness, and correct format (V.A, V.C).
- DWR assigns a project type to each proposed project (V.E)
- DWR Consensus Rating Team reviews and scores applications according to competitive evaluation criteria (V.D, V.E).

## III. Definitions and Acronyms

These definitions and acronyms apply throughout these Guidelines:

**Approved Design** means a design approved by DWR as the basis for a grant under the LLUR segment, substantially conforming to the guidelines in Section VIII.B.

**Applicant** means a Local Public Agency, including a joint powers agency representing

more than one Local Public Agency, which has legal authority and jurisdiction to implement flood control programs and files an application for funding under Proposition 84 of 2006 and these Guidelines.

**CEQA** means the California Environmental Quality Act, Public Resources Code Sections 21000 *et seq.*

**Community** means either (1) the specific geographic area that receives a direct reduction in flood risk from the proposed project, or (2) the geographic area of the sponsor, if the local cost share is derived from throughout the geographic area.

**Construction** means those actions taken to put a designed project into effect.

**CPM diagram** means a Critical Path Method diagram, which is a schedule that is derived by calculating the total duration of a project or evaluation based on individual task durations and their interdependencies. A CPM diagram is usually depicted in a bar graph format, graphically showing the task durations and interdependencies.

**Damage** refers to a range of possible states of levee disrepair, falling into one of the following four categories:

- **CRITICAL** – A levee (as defined by these guidelines to include any levee, embankment, structure, flood control facility or related structure) that is near failure as evidenced by one or more of the following damage

conditions, and has a high probability of failing during the course of a single flood season or single high water event:

- the presence of erosion, which has encroached into the levee or its foundation (e.g., the projected waterside slope of a levee);
- internal erosion caused by seepage through or under the levee during a past flood event (e.g., evidence of boils, or “piping”, that moved fine soils from the levee or its foundation);
- active levee instability.

➤ POTENTIALLY CRITICAL – A levee containing one or more of the following damage conditions that is not likely to fail during the next flood season or single high water event:

- the presence of erosion, which has encroached or is predicted within the next flood season or single high water event to encroach into the levee or its foundation;
- internal erosion caused by seepage through or under the levee has not occurred in a past flood event, but is predicted through engineering analysis to occur at the project design stage (e.g., factor of safety against piping is less than unity);
- active levee instability is not evident, but an engineering analysis demonstrates a factor of safety for stability closer to unity than to the conventionally accepted factor of safety (e.g., design stage steady state seepage slope stability safety factor of less than 1.2 for a landside levee slope).

➤ SIGNIFICANT – A levee containing one or more of the following damage conditions that is not likely to fail during the next flood season or single high water event:

- the presence of erosion, which is unlikely to encroach into the levee or its foundation during the next flood season or single high water event;
- internal erosion caused by seepage through or under the levee has not occurred in a past flood event, but an engineering analysis demonstrates an inadequate factor of safety against piping for the design stage;
- active levee instability is not evident, but an engineering analysis demonstrates an inadequate factor of safety for stability (e.g., design stage steady state seepage slope stability safety factor of less than 1.4 for a landside levee slope).

➤ NOT SIGNIFICANT – A levee that is currently in a condition that may be less than ideal or in need of maintenance so as not to degrade to the point where it contains one or more of the degradation conditions listed above and that is not likely to fail during the next flood season or single high water event.

**Design** means all activities following a feasibility study leading to physical definition of the project in sufficient detail to enable project construction.

**Director** means the Director of DWR.

**Disadvantaged Community** means a Community with an annual Median Household Income that is less than 80% of the statewide annual Median Household Income.

**DWR** means the California Department of Water Resources.

**Economic feasibility** is determined by calculating the ratio of economic benefits to economic costs for a given alternative. A project is “economically feasible” when this ratio is greater than or equal to one.

**Evaluation** means all testing, laboratory analysis, engineering evaluation, report preparation and related activities undertaken to determine the structural condition of a levee or other flood control facility in a discrete action undertaken under the LOLE segment of the Local Levee Assistance Program.

**Feasibility Study** means an investigation resulting in a report that provides the information for design and construction of a project, and demonstrates whether the described approach is economically and technically feasible and appropriate for construction.

**Funding Agreement** means the agreement between DWR and a sponsor describing the conditions under which a LOLE will be performed.

**Geotechnical Evaluation** means an engineering study that determines whether a levee is capable of safely containing a predetermined water level in the adjacent stream with respect to seepage, underseepage, erosion and slope stability.

**Grant Agreement** means the agreement between DWR and a sponsor describing the conditions under which a LLUR project will be performed.

**Lead Agency**, according to context, means (a) the Local Public Agency designated to lead the project or evaluation when the sponsor is an organization representing more than one Local Public Agency, or (b) the agency responsible for CEQA documentation.

**Levee** means a levee, embankment, structure, flood control facility or related structure intentionally constructed for the purpose of preventing overflow of a watercourse.

**LLUR** means Local Levee Urgent Repair.

**Local Levee** means a levee or other facility that is not a part of the State Plan of Flood Control for the Central Valley, not located within the legal boundary of the

Sacramento-San Joaquin Delta provided in California Water Code Section 12220, or for the purposes of the LOLE program, not an urban levee that qualifies for evaluation under Section 5096.955 (a) (2) of the Public Resources Code.

**Local Levee Assistance Program** means the overall program for providing funding to Local Public Agencies under Proposition 84 of 2006, including its constituent LLUR and LOLE segments.

**Local Public Agency** means any political subdivision of the State of California within the appropriate location and with appropriate flood control responsibilities, including, but not limited to, a county, city, city and county, district, joint powers agency, or council of governments.

**LOLE** means Local Levee Evaluation.

**Maintain** means to keep a project in the state in which it was constructed, preserving its features against failure or decline in functionality, including operation, repair, replacement, and rehabilitation when necessary.

**Median Household Income** means the median household income data reported in the most recently published U. S. Census.

**Milestone** means a time when a significant portion of a project or evaluation is completed, as defined in the funding or grant agreement as a time for disbursement of State funds.

**Pre-project costs** means costs related to a LLUR project that qualify for credit in all respects except that they were incurred before the signing of a grant agreement.

**Project**, referring to design or construction of a flood control facility, means all engineering, design, preparation for acquisition of real property interests, construction and related activities undertaken to implement a discrete action undertaken under the LLUR segment of the Local Levee Assistance Program.

**Project**, referring to a flood control facility, means all or part of either the Sacramento River Flood Control Project, the San Joaquin River Flood Control System, or other flood control feature in the Central Valley of California or on a stream draining into the Central Valley for which the State has constructed the feature and/or provided the nonfederal assurances of operation and maintenance to the federal government. These facilities are or will be included in the State Plan of Flood Control for the Central Valley.

**Project costs** means costs related to a LLUR project that qualify for reimbursement in all respects.

**PSP** means Proposal Solicitation Package.

**Seepage** means water passing through a levee under hydrostatic pressure, without any definable channel or duct, and evidenced by wetness of the levee or flowing or standing water on the land side .

**Severely Disadvantaged Community** means a Community with an annual Median Household Income that is less than 60% of the statewide annual Median Household Income.

**Sponsor** means an applicant who has been awarded and who has accepted funding through the selection process described in these Guidelines.

**State Plan of Flood Control for the Central Valley** means facilities that are part of either the Sacramento River Flood Control Project, the San Joaquin River Flood Control System, or other flood control feature in the Central Valley of California or on a stream draining into the Central Valley for which the State has constructed the feature and/or provided the nonfederal assurances of operation and maintenance to the federal government.

**Underseepage** means water passing under a levee under hydrostatic pressure, without any definable channel or duct, and evidenced by wetness or flowing or standing water on the land side.

**USACE** means the United States Army Corps of Engineers.

## IV. General Requirements

The following requirements apply to all Local Levee Assistance Program projects and evaluations.

### SOME FEATURES OF AN ACCEPTABLY COMPLETED PROJECT OR EVALUATION

- Qualified sponsor (IV.A).
- Acceptable application (V.C, VIII.C, VIII.D, IX.B).
- Selected by competitive review process (V.D,V.E, V.F).
- Funding or Grant Agreement executed (VI).
- (LLUR Projects) Maintenance Plan provided (IV.G, VII.B).
- All output produced (VIII.A, VIII.B, VIII.E, IX.A).

### A. Qualifications of Applicants

An applicant for funds from the Local Levee Assistance Program may be a Local Public Agency or a joint exercise of power agency representing more than one Local Public Agency. For purposes of these guidelines, a Local Public Agency is defined to include a joint exercise of powers agency as well. The Local Public Agency must be responsible for flood control in the area of the proposed project or evaluation. The Local Public Agency must also be qualified to contract with the State. On approval of the application

and awarding of funds, such organization may remain a sponsor, or may transfer such approval to another eligible organization to sponsor the project or evaluation, subject to concurrence by DWR.

An applicant for a LLUR grant must document that it will be able to ensure the operation and maintenance of the completed project in perpetuity or until DWR agrees in writing that maintenance is no longer required.

### B. Conditions for Local Levee Assistance Program Funding

Local Levee Assistance Program funds are only available Statewide for facilities that are not a part of the State Plan of Flood Control for the Central Valley and are not located within the Sacramento-San Joaquin Delta and that are not urban non-project levees eligible for evaluation under Section 5096.955 (a) (2) of the Public Resources Code.

Disbursement of Local Levee Assistance Program funds to Local Public Agencies will be under a funding or grant agreement between DWR and the sponsor. The sponsor must provide copies of resolutions from all member organizations, accepting the funds and authorizing specific individuals to sign the

funding or grant agreement on behalf of each. The lead agency must provide a resolution authorizing specific individuals to apply for and accept State disbursements.

All funding and grant agreements with local sponsors must be signed by the sponsor. If a funding or grant agreement is not signed within two years of the date the application is approved, or within six months of the date CEQA documentation is complete, whichever is sooner, the award may be withdrawn.

DWR may enter into a project agreement under the LLUR segment or an evaluation agreement under the LOLE segment before the sponsor has obtained all applicable permits, but will not disburse any State funds until the sponsor has complied with all applicable federal, State, and local laws, rules and regulations, and obtained all required permits. For LOLE only, funding agreements must be approved by the Department of General Services.

The sponsor must develop a work plan satisfactory to DWR. To assist the sponsor to develop a work plan, DWR may visit the work site to assess its conditions and needs, and may confer with the sponsor, supporters, and other local officials, agencies, and organizations with an interest in the project or evaluation, and convey recommendations and information obtained from these efforts to the sponsor.

For LLUR projects, the sponsor (or lead agency) and DWR shall agree on the subdivision of the project into tasks. The sponsor may further subdivide the project into subtasks for its convenience. The work plan must include the specific schedule and tasks of the work to be undertaken and the relationship of tasks to contract items. For LOLE, the tasks will include only:

- Field testing,
- Laboratory testing, and
- Engineering analysis and report preparation.

The work plan for a LOLE must include the proposed locations of the test sites and a specific schedule of the work to be undertaken, in relation to the test sites. The work plan must be based on a thorough office study that has considered all existing drilling and geologic information as well as a fluvial geomorphologic investigation.

The sponsor may revise the work plan from time to time during the term of the grant agreement with the approval of DWR. Revision of the work plan may result in a redistribution of funds among tasks.

Compliance with applicable laws, including California Labor Code provisions, will become an obligation of the sponsor under the terms of the grant or funding agreement between the sponsor and DWR. The sponsor must have a Labor Compliance Program that meets the requirements of subdivision (b) of Labor Code Section 1771.5. The sponsor's Labor Compliance Program must be in

place at the time the sponsor performs the LLUR project or LOLE. DWR will require periodic submission of reports to ensure the sponsor remains in compliance with the California Labor Code. Before submitting an application, applicants are urged to seek legal counsel regarding California Labor Code compliance.

Before DWR will execute the funding or grant agreement, the sponsor must provide the following:

- A finance plan that demonstrates to DWR's satisfaction the sponsor's ability to complete the project or evaluation.
- Evidence that the sponsor has a Labor Compliance Program.
- For LLUR projects, a finding of an engineer licensed under the laws of the State of California that the project is necessary because the flood control system has been critically damaged. The finding must be approved and signed by a duly authorized representative of the agency's governing board.

**C. Payment for Local Levee Assistance Program Projects or Evaluations**

DWR will fund up to fifty percent of the estimated cost of the work for all Local Levee Assistance Program projects or evaluations unless the Community that is benefited is a Disadvantaged Community or a Severely Disadvantaged Community. Projects that serve such communities will be eligible to receive funds set aside for such communities and, if they receive funds set aside for such communities, will pay reduced cost shares, as further explained in Appendix C.

**LOCAL LEVEE ASSISTANCE PROGRAM REIMBURSEMENT CATEGORIES**

DWR will reimburse for work in the following categories:

- For construction in LLUR projects, contract items and tasks as they appear in the estimate in the project agreement (VIII.F).
- For design in LLUR projects, tasks described in the work plan (VIII.F).
- For LOLE, five specified tasks (IX.C).

Sponsors will be expected to contribute the remaining portion of the project or evaluation costs, either through direct contribution or by use of credit, as defined in Section IV.D. Direct contributions may originate from local, federal or other non-State sources. State funds from any source must not be used as the local share of project or evaluation costs.

Actual reimbursement is subject to the following limitations:

- For both LLUR projects and LOLE, total reimbursement may not exceed

- The amount of the award.
- The State share of the actual cost of the project or evaluation work.
- FOR LLUR projects, the Local Public Agency share of eligible project costs may be reduced by credits for qualifying pre-project work.
- For LLUR projects, DWR will apply a maximum State funding of \$5,000,000 per applicant, whether or not the applicant submits applications for more than one project. For LOLE, DWR will apply a maximum State funding of \$1,000,000 per applicant, whether or not the applicant submits applications for more than one evaluation. The Director may authorize variances to these rules to fund projects or evaluations with exceptional circumstances.
- No more than ten percent of the total eligible project costs of all described contract items and tasks may be set aside as a contingency fund.
- Contingency funds may be used for any item or task as needed but may not be used for work other than the items or tasks in the project or evaluation agreement.
- If contingency funds are not available, cost overruns for individual contract items or tasks may be covered only to the extent to which reallocation of unexpended funds from other contract items or tasks is permitted under the project agreement.
- Reimbursement using credits, when allowed, is part of total reimbursement and individual item or task reimbursement.

- All reimbursement is subject to availability of funds.

**REIMBURSEMENT REQUESTS**

- **Must be on DWR form.**
- **Must have explanation for billed work from past periods.**
- **Successive requests must have continuous, non-overlapping work periods.**
- **Must be covered by progress reports.**

Work performed before a project agreement is executed may be eligible for crediting against the local share of a LLUR project, as described in Section IV.D.

State funds or allocations will be paid to local sponsors in arrears on a reimbursable basis at

least quarterly but no more often than monthly at DWR's discretion, subsequent to submittal and approval of reimbursement requests (invoices) and progress reports. The sponsor must submit reimbursement requests in duplicate on a summary billing form provided by DWR. The DWR form will provide a continuous record of payments, retained amounts, and other data. The sponsor must provide the following information:

- The amount requested for payment, before retention, for each item or task.
- For field testing and laboratory testing on LOLE, the number of sites completed.

- The total amount requested.
- The sponsor's request number.
- The State agreement number.
- The date of submittal.
- The beginning and end dates of the work covered by the requested payment. The time periods covered by successive invoices must be continuous and must not overlap.
- A separate explanation of any billed work attributed to past work periods, establishing the appropriateness and non-duplicative nature of the charges.
- An original signature of the sponsor's officer requesting payment on both copies, in an ink colored other than black.
- One copy of records substantiating the requested payment. For LOLE, substantiating records must include the field location of completed field testing and laboratory testing sites.

DWR will return one copy of the summary billing form to the sponsor, completed with cumulative payment and retention information and other information added by DWR.

Funds will be disbursed as provided in the project or evaluation agreement to reimburse costs incurred by the sponsor, but not for the following:

- Activities that could affect the environment, until the sponsor complies with all applicable requirements of CEQA and other environmental laws.
- Activities requiring permits, until the permits are obtained.

If a LLUR project sponsor fails to comply with the guidelines in Section VIII.D regarding environmental documentation, no further payments will be made pursuant to the project agreement until compliance has been attained. Payments may be reinstated at DWR's discretion at that time.

#### **D. Credit for LLUR Project Work Performed Prior to Execution of the Project Agreement**

Under the LLUR program, at the sole discretion of DWR, credit may be issued to the sponsor for a portion of pre-project costs. The sponsor may use approved credit only to reduce the local share of incurred project costs. Approved credit is acknowledgement that the sponsor has incurred expenses that could have been covered if a project agreement had been in place. It does not entitle the sponsor to payment. DWR will issue credit under the following conditions:

- Total credit is limited to a percentage of pre-project costs equal to the State percentage of project costs for the same project for which the credit is issued.
- Credit will only be issued after the sponsor and DWR have executed a project agreement.
- Costs incurred before November 7, 2006 will not be credited.

- Construction expenditures will only be creditable if they were incurred after DWR issued a commitment letter and DWR approved the construction plans in writing.

Credit will not be given for the costs of preparing an application or the costs of complying with CEQA.

#### **E. Retention of Funds**

DWR will retain ten percent of all approved payments to assure satisfactory completion of individual items or tasks. The approved completion of items or tasks will be the basis of reimbursement of retained funds. No reimbursement of retention will be made for partially completed items, subtasks, or partially completed tasks.

When all work associated with an item or task described in the work plan has been completed to the satisfaction of DWR and all required products for that item or task have been submitted to and approved by DWR, the sponsor may request payment of retained funds. DWR at its sole discretion may pay the retained funds for that item or task to the sponsor. After the retained funds for an item or task have been paid, no further payment will be made for that item or task.

#### **F. Project or Evaluation Approval**

DWR will notify the sponsor that the project or evaluation is approved and will release any remaining retained funds when the following criteria are satisfied:

- The work is completed to the satisfaction of DWR.
- The sponsor has provided and DWR has approved all products required by the project or evaluation agreement.
- The sponsor has provided and DWR has approved a post-implementation report, as described in Section VII.B.

#### **G. Maintenance Plan for LLUR Projects**

For a construction project, the sponsor must provide a maintenance plan satisfactory to DWR that must include:

- A description of the facilities and properties to be maintained.
- The name of the maintaining agency.
- A provision requiring the sponsor to maintain the completed project in perpetuity or until DWR agrees in writing that the project is no longer needed and maintenance is no longer required.
- A description of periodic maintenance activities that will be performed, and the frequency and timing of performance.
- Disclosure of the source of funds for the maintenance.

- A certification under penalty of perjury that the sponsor can pay for maintenance of the project facilities and any land to be acquired from funds available to the sponsor.
- A provision requiring the sponsor to provide annual pictorial reports to DWR each year between July 1 and July 15 describing the maintenance activities performed during the year and any maintenance problems that currently exist.
- A provision that the sponsor assures that the maintenance measures or repairs that DWR deems necessary will be promptly taken or made.

#### **H. Project or Evaluation Default**

If for any reason the sponsor is unable to complete the Project or Evaluation, DWR at its sole discretion may:

- Cancel the Project or Evaluation agreement.
- Complete the Project or Evaluation using its own resources.
- Contract with the current or any other contractor to complete the Project or Evaluation.
- Require that the sponsor return all or a portion of State funds, with interest at the general obligation bond rate at the time of default accruing from the date the funds were provided.

#### **APPLICATIONS FOR LOCAL LEVEE GRANTS**

Applications must be:

- From eligible applicants (IV.A).
- For a local project (II).
- On time (V.C).
- Complete (V.C, VIII.C, IX.B).
- In the required format (V.A).

**DWR will not accept applications that fail to meet these requirements.**

### **V. Selection Process**

#### **A. General Proposal Solicitation Process**

Eligible Local Public Agencies may apply for competitive program funding or grants for LLUR projects or LOLE efforts at such times as DWR may designate. DWR will designate times and funding availability in one or more solicitation notices and Proposal Solicitation Packages for the LLUR and LOLE programs. Applications for proposed projects or evaluations must be submitted in response to a solicitation notice and in accordance with a PSP issued by DWR. DWR will send notices to flood control agencies, and also to all individuals and organizations that have requested notice of the opportunity to submit applications. Notices may be given by mail, electronic mail, website posting, or any other method that provides easy access and prompt availability.

The PSP will be posted on a DWR website at <http://www.floodsafe.water.ca.gov>. The PSP will provide detailed instructions on the mechanics of submitting proposals and additional information on submittal

requirements. These Guidelines, including listed requirements for LLUR and LOLE funding, are considered a part of each PSP.

Applications must be made on a form prescribed by DWR and contained in the PSP. Applicants may obtain a PSP online or request a package by e-mail, mail, telephone, or fax. Addresses are:

E-mail:           Imarino@water.ca.gov

Mail:             Len Marino, Project Manager  
                    Department of Water Resources  
                    3310 El Camino Avenue  
                    P.O. Box 219000  
                    Sacramento, California 95821

Fax:              Len Marino  
                    (916) 574-1766

Telephone:     Len Marino  
                    (916) 574-2639

## **B. Applicant Assistance Workshops**

Depending upon the anticipated need, DWR may conduct applicant assistance workshops to address applicant questions and to provide general assistance to applicants in preparing their applications. Dates and locations of any scheduled workshops will be provided in the PSP. In addition to the informational workshops, applicants are encouraged to seek assistance from DWR staff in understanding program requirements and completing applications.

## **C. Application Requirements**

Applicants must be eligible to receive funding or a grant under the provisions of Section IV.A. Applications from ineligible applicants will not be reviewed or considered for funding.

Applications may include attachments with supplemental materials such as design plans and specifications, detailed cost estimates, feasibility studies, reports on pilot projects, maps, diagrams, letters of support, copies of agreements, records of previous geotechnical explorations, or other applicable items. Applicants seeking funding for projects or evaluations benefiting a Disadvantaged Community or Severely Disadvantaged Community must also provide Median Household Income data regarding the Community. Hard copy applications will be accepted. However, applicants are encouraged to submit applications and supporting documents in an electronic format. Electronically

submitted applications must be followed, within three days, by one printed copy of each submitted item. Hard copy applications must be submitted in duplicate.

All applications and supporting documents must be appropriately date-marked by the submittal deadline. Any material received after the deadline, except printed copies of electronically submitted applications or supporting documents, will not be reviewed or considered for funding and will be returned to the applicant.

All information requested in the PSP or in these guidelines must be provided or its omission explained. DWR staff will review each application for completeness. If the PSP requests information not relevant to a proposal, the applicant must clearly state the reason why the information was not provided. Applications not containing all required information or acceptable reasons for omission will not be further reviewed or considered for funding.

DWR will acknowledge complete applications from eligible applicants within fifteen days of the submittal deadline. Applications will be reviewed and compared to Project or Evaluation priority criteria as described in Appendix A for the LLUR segment and Appendix B for the LOLE segment.

#### **D. Competitive Review Process**

DWR's Division of Flood Management will appoint a Consensus Rating Team composed of at least three non-management staff members and, at DWR's discretion, reviewers from outside DWR. In either case, DWR may request additional consultation with any appropriate DWR unit, government agency or other consultant, including but not limited to the DWR Division of Planning and Local Assistance, the DWR Division of Safety of Dams, the Office of Emergency Services, the Department of Fish and Game, and the USACE.

To promote consistency of rating, all Consensus Rating Team members will evaluate all applications, to the extent possible.

For complete applications from eligible applicants, the Consensus Rating Team will endeavor to finish the consensus rating of the projects or evaluations within 60 days following the submittal deadline specified in the PSP.

The Consensus Rating Team will determine which projects are eligible for the funds set aside for projects that benefit a Disadvantaged Community or Severely Disadvantaged Community.

DWR may also utilize consultants with expertise in determining the criticality of damage and in performing geotechnical evaluations to advise the Consensus Rating Team on whether damage sites are critical and on whether evaluation proposals are complete and the work plans contain the appropriate activities.

Following completion of the consensus rating of all eligible applications, DWR will convene a Selection Panel of DWR managers to review the types, scores, and comments. The Selection Panel will generate priority and funding lists within 30 days following the completion of consensus rating. The Selection Panel will generate a separate priority list for projects eligible for the set aside for those projects that benefit a Disadvantaged Community or Severely Disadvantaged Community.

### **E. Process for Setting Project or Evaluation Priority**

DWR will categorize each proposed project to determine project and evaluation priority. The evaluation forms that will be used are provided in Appendix A for LLUR projects and Appendix B for LOLE.

#### **CRITICALITY CRITERIA**

For LLUR projects, DWR will assign a criticality rating as follows:

**CRITICAL** – A levee (as defined by these guidelines to include any levee, embankment, structure, flood control facility or related structure) that is near failure as evidenced by one or more of the following damage conditions, and has a high probability of failing during the course of a single flood season or single high water event:

- the presence of erosion, which has encroached into the levee or its foundation (e.g., the projected waterside slope of a levee);
- internal erosion caused by seepage through or under the levee during a past flood event (e.g., evidence of boils, or “piping”, that moved fine soils from the levee or its foundation);
- active levee instability.

**POTENTIALLY CRITICAL** – A levee containing one or more of the following damage conditions that is not likely to fail during the next flood season or single high water event:

- the presence of erosion, which has encroached or is predicted within the next flood season or single high water event to encroach into the levee or its foundation;
- internal erosion caused by seepage through or under the levee has not occurred in a past flood event, but is predicted through engineering analysis to occur at the project design stage (e.g., factor of safety against piping is less than unity);
- active levee instability is not evident, but an engineering analysis demonstrates a factor of safety for stability closer to unity than to the conventionally accepted factor of safety (e.g., design stage steady state seepage slope stability safety factor of less than 1.2 for a landside levee slope).

SIGNIFICANT – A levee containing one or more of the following damage conditions that is not likely to fail during the next flood season or single high water event:

- the presence of erosion, which is unlikely to encroach into the levee or its foundation during the next flood season or single high water event;
- internal erosion caused by seepage through or under the levee has not occurred in a past flood event, but an engineering analysis demonstrates an inadequate factor of safety against piping for the design stage;
- active levee instability is not evident, but an engineering analysis demonstrates an inadequate factor of safety for stability (e.g., design stage steady state seepage slope stability safety factor of less than 1.4 for a landside levee slope).

NOT SIGNIFICANT – A levee that is currently in a condition that may be less than ideal or in need of maintenance so as not to degrade to the point where it contains one or more of the degradation conditions listed above and that is not likely to fail during the next flood season or single high water event.

For LLUR projects, criticality will be determined by inspection of structures suspected of being so damaged that, in the opinion of a registered engineer, the structure or levee system is incapable of safely carrying the design flood flow. DWR will also categorize the project by type. The possible types are:

1. Repair of levees damaged by erosion.
2. Repair of levees damaged by internal erosion.
3. Repair of local levee slope instability.
4. Repair of unstable flood control facilities other than levees.

DWR will first fund the critical projects. Within this category, awards will be made first for qualified projects of the first type and, if funds remain, progressing to the next type, until all appropriate projects have been funded or available funds have been expended. If there are funds available for potentially critical projects, awards will be considered first for qualified projects of type 1, and, if funds remain, progressing to the next type until all appropriate projects have been funded or available funds have been expended.

For LOLE, the types are:

1. Geotechnical evaluations of levees that are accredited by FEMA, but are at risk of becoming unaccredited due to geotechnical inadequacies (other than meeting freeboard requirements).
2. Geotechnical evaluations of levees exhibiting seepage, underseepage or other signs of instability.

The LOLE program funds projects that evaluate local levees at risk of failing. DWR will presume that levees at risk of losing FEMA accreditation, or that have lost accreditation since August 2005, as a result of implementation of FEMA

Procedure Memoranda 34 and 43, fit this profile and will be given preference. Applicants for facilities that are not necessarily at risk of loss of accreditation but have exhibited problems with seepage, underseepage, or other instability are also eligible. Such problems should be documented in the application.

For projects or evaluations that contain elements of more than one type, DWR will consider each type as a separate project or evaluation for the purposes of applying these priorities and awarding grants.

The Consensus Rating Team will individually score proposals in accordance with the competitive criteria in Appendix A for the LLUR segment and Appendix B for the LOLE segment. Further details concerning how this scoring will be done may be made available by DWR. The review and score will be based on the merit of the entire proposal as a whole, not the merit of an individual component. Following completion of the individual reviews, the reviewers will discuss the proposals, develop a consensus review and score, and assign a final consensus score.

The Selection Panel will review the types, consensus scores, and comments provided by the Consensus Rating Team. The Selection Panel will recommend projects or evaluations to be funded and submit the recommendations to the Director. The Selection Panel may recommend:

- Allocating any or all of the remaining available LLUR funds to LOLE, or LOLE funds to LLUR projects.
- Allocating partial funding to one or more of the projects or evaluations being funded.

The Selection Panel will generate a recommended priority and funding list for the Director's approval. If during the competitive review process one or more projects or evaluations become ineligible or are withdrawn, the Selection Panel will recommend sufficient additional projects or evaluations to utilize available funds. The Selection Panel will consider the following:

- Amount of funds available for the Program.
- Type.
- Consensus Rating Team review and score.
- Immediacy of completion of the project or evaluation that may result from the proposal.
- Geographic distribution of funding. The Selection Panel may adjust priorities to improve the equity of distribution throughout the State.
- Number of proposals. The Selection Panel may recommend reducing individual funding or grant amounts from that requested to allow a greater number of high priority proposals to receive funding, or to allocate the remaining balance of available program funds. Such reductions will be weighed against the likelihood that reduced funding would make the proposal infeasible for the sponsor.

- Consistency of Consensus Rating Team scoring. The Selection Panel may adjust individual scores to ensure that rating criteria have been consistently applied.

There will be a separate priority list and funding list for projects that are eligible to receive the funds set aside for projects that benefit a Disadvantaged Community or Severely Disadvantaged Community. Projects that serve communities that qualify as a Disadvantaged Community or Severely Disadvantaged Community on the basis of being a specific geographic area that receives a direct reduction in flood risk from the proposed project will receive priority for funding over communities that qualify on the basis of being the geographic area of jurisdiction of the sponsor where the local cost share is derived from throughout the geographic area.

If the funding available exceeds the amount needed to fund projects that serve a Disadvantaged Community or Severely Disadvantaged Community, the excess funds will be made available for other projects that are not eligible for the set aside. If the funding available is insufficient to fund the projects that serve a Disadvantaged Community or Severely Disadvantaged Community, the projects that are not funded from the funds set aside for these communities will be considered on the same basis as other projects that are not eligible for the set aside and will not be eligible for reduced cost shares.

## **F. Funding**

The Director will determine the final priority order and the amount of funding for each project or evaluation on the priority list. Twenty-five percent of the funds will be set aside for projects that serve a Disadvantaged Community or Severely Disadvantaged Community and a separate priority list will be developed for projects eligible for these funds. Following the Director's approval, DWR will notify the selected applicants by mail of their selection for awards and the funding amounts and will post the priority list of proposals and recommended funding on a DWR website at

<http://www.floodsafe.water.ca.gov>.

When the applicant indicates acceptance of the funding in writing, the applicant becomes the sponsor. Final award is subject to execution of a satisfactory funding or grant agreement.

## **VI. Agreements**

Two kinds of agreements are used in the Local levee Assistance Program: grant and funding agreements. Before DWR will make any disbursement for any project or evaluation, DWR and the sponsor must execute an agreement. LLUR projects will have grant agreements. LOLE funding agreements require approval of the Department of General Services.

Grant and funding agreements will include provisions suitable for the project or evaluation conditions. At a minimum, all agreements for both LLUR projects and LOLE must include:

- A cost-sharing formula that provides that the sponsor pays a specified percentage of the eligible costs of the project or evaluation.
- A requirement that the sponsor provide evidence that it has an acceptable Labor Compliance Program in place.
- A requirement that the sponsor make a progress report to DWR, as described in Section VII.A, as a prerequisite to each disbursement. DWR will monitor progress and may withhold up to 100 percent of the currently requested payment if progress is not satisfactory.
- Either a reference to completion milestones defined in the work plan, at which time payment of State funds will be made for completed work, or a statement that payment will be made no more often than monthly but at least quarterly in arrears upon receipt of invoices and progress reports.
- A requirement that the sponsor submit a written post-implementation report as described in Section VII.B.
- A requirement that the sponsor indemnify and hold the State, its agencies, officers and employees free and harmless from any and all liability arising out of project or evaluation activities.
- Any other requirements deemed necessary by DWR including increased requirements with regard to indemnification.

All grant agreements for LLUR projects must include:

- A work plan that includes:
  - A work breakdown, showing and describing all contract items and tasks expected to occur during the project.
    - All actual construction work must be listed by contract item, as the project would be advertised to a contractor.
    - If the project includes design:
      - Tasks shall be shown for activities expected to occur during design.
      - A task for advance preparation for right of way acquisition, if that activity is to be performed.
    - Contract administration may be listed as a separate task.
  - A work schedule in the form of a CPM diagram. The work schedule must be related to the contract items and tasks, but may be described in terms of the physical works to be constructed.
  - An estimate of the cost of each contract item and task and the amount of each contract item and task that will be funded using State funds.
    - The estimate must have all costs assigned to contract items or tasks.
    - Application preparation and contract administration may be separated out as appropriate tasks, or may be included in each item related to such costs.
    - No more than 10 percent of the total cost of all described contract items and tasks may be shown in the estimate as a contingency fund.

- A definition of project milestones, if payment is to be made upon milestone completion.
- A provision that individual contract items or task costs may not overrun or be changed without written approval from DWR.
- A provision that if there is a cost overrun with respect to an individual contract item or task of no more than 20 % of the original estimate, the Department may authorize the use of any available contingency fund or reallocation of unexpended funds for other individual contract items or tasks.
- A provision that if there is a cost overrun or decrease in allocated funds that exceeds 20% of the amount originally estimated for an individual contract item or task, the project sponsor and DWR must agree to amend the project agreement.
- A provision that DWR may inspect the project at any reasonable time to ensure it is being carried out in accordance with the work plan, and after completion to ensure that it is being properly maintained.
- A requirement that the sponsor assures that the completed project and any associated environmental mitigation measures will be operated, maintained, repaired, replaced and rehabilitated in perpetuity, in accordance with a maintenance plan prepared by the sponsor and approved by the State, or until DWR agrees in writing that maintenance is no longer required.
- A requirement that the sponsor prepare a maintenance plan as described in Section IV.G.
- A provision that the sponsor will perform the maintenance with its own forces, or will employ another agency or organization satisfactory to DWR.
- A provision that the sponsor will control encroachments on the project facilities and properties, whether unauthorized or permitted, and will not permit any encroachments that will adversely affect the function or maintenance of the project facilities and properties.
- A requirement that if DWR deems maintenance measures, repairs, replacements or rehabilitation necessary, and the sponsor does not, in the opinion of DWR, provide these services promptly, DWR may upon 30 days' written notice enter upon the property and perform the required work, and bill the sponsor and the sponsor will pay the cost of any work so performed.
- If the land upon which the project is built is not owned by the sponsor, a requirement that before beginning construction of the project, the sponsor demonstrate to DWR that it has secured rights-of-way from the owner that give the sponsor and DWR adequate rights to enter the property to construct, maintain, repair, replace, or rehabilitate the project.
- A provision that notwithstanding the contractual ability of DWR to enter the property to do required maintenance, repairs, replacements, or rehabilitation, DWR can seek a court order requiring the sponsor to perform its contractual obligations to do such work and/or pay DWR's costs for doing such work.

All funding agreements for LOLE must include:

- A work plan that includes:
  - A task breakdown and CPM diagram showing and describing all activities expected to occur during the evaluation.
  - An estimate of the cost of each task and the amount of each task that will be funded using State funds.
    - The estimate must have all costs assigned to tasks.
    - Administrative and similar costs are considered to be included in each task related to such costs, and will not be paid separately.
    - The cost of preparing a LOLE segment funding application is considered to be included in the total cost of performing all tasks, and will not be paid separately.
    - No more than ten percent of the total cost of all described contract items and tasks may be shown in the estimate as a contingency fund.
- A provision that if there is a cost overrun with respect to an individual contract item or task of no more than 20 % of the original estimate, the Department may authorize the use of any available contingency fund or reallocation of unexpended funds for other individual contract items or tasks.
- A provision that if there is a cost overrun or decrease in allocated funds that exceeds 20% of the amount originally estimated for an individual contract item or task, the project sponsor and DWR must agree to amend the project agreement.
- A definition of evaluation milestones, if payment is to be made upon milestone completion.
- A provision that DWR may inspect the evaluation work at any reasonable time to ensure it is being carried out in accordance with the work plan.
- A provision that the agreement must be approved by the Department of General Services.

## **VII. Reporting and Recordkeeping**

### **A. Progress Reports**

The sponsor or lead agency will be required to submit progress reports in sufficient detail to substantiate reimbursable expenses. The report will be a key item in evaluating requests for reimbursements, and a reimbursement request must coincide with a report submittal, subject to the following:

- The minimum period of both progress reports and reimbursement requests is one month.
- The maximum reporting period is three months for projects or evaluations having agreements that specify quarterly reporting. This requirement may be met without submitting a reimbursement request.

- For projects or evaluations having agreements that establish milestones, a report shall be made at the end of the month in which the milestone is completed whether or not it coincides with a reimbursement request.
- The time periods covered by successive progress reports shall be continuous but shall not overlap.

Progress reports shall include the following information:

- Records of expenditures.
- Description of activities since the previous report.
- Status of the project or evaluation relative to the progress schedule.
- An estimate of percentage completion of the work.
- The percentages of State and total funding expended.
- Key issues that must be resolved.
- The time period covered by the report.
- A proposed new schedule for DWR approval if the current schedule is no longer achievable.

The contents of the required progress reports will also be required to include information requested by the Department of Finance relative to accountability for Proposition 84 bond funds. The Department of Finance may also require more frequent reporting. Both grant and funding agreements will provide that DWR can change reporting requirements at any time to ensure that the information needs of the Department of Finance are met.

## **B. Post-Implementation Report**

Within 90 days after the project or evaluation is completed, the sponsor or lead agency shall submit a post-implementation report that shall include the following:

- An executive summary not exceeding two pages.
- Records of expenditures.
- Description of project or evaluation activities since the previous report.
- A comparison of the original schedule and the actual schedule.
- A discussion of problems that occurred during the work and how the problems were resolved.
- Submittal of any required products that have not been submitted previously.
- A listing of required products previously submitted, with dates of submittal and DWR approval.

For LLUR projects, the post-implementation report shall also include:

- Photographs of the before-project condition.
- Progress photographs showing project activities and techniques.
- Photographs of the completed project.
- As-built plan drawings.

- A maintenance plan, approved by DWR, as described in Section IV.G.

Post-implementation reports may also be required to include information requested by the Department of Finance relative to accountability for Proposition 84 bond funds. Requirements for this reporting have not been determined.

### **C. Recordkeeping**

A sponsor will be required to maintain all records and documents pertaining to a project or evaluation for five years after completion of the work required, and to make all records and documents held by the sponsor pertaining to the project or evaluation available for inspection and audit by DWR or the State Auditor during normal business hours, both during the project or evaluation and in the five years following completion of the work.

DWR or the State Auditor may audit the records of the project or evaluation at any time within three years after final payment of State funds. DWR may also require grant and funding recipients to permit an annual citizen advisory committee to audit the records of the project or evaluation.

In addition, sponsors must comply with any additional audit requirements imposed by the Secretary of The Resources Agency in performing the Secretary's obligation to independently audit Proposition 84 grants and funding awards and annually list expenditures.

## **VIII. The LLUR Program**

The LLUR segment applies Statewide to projects involving existing local flood control facilities. The work consists of construction of repairs to levees that have sustained critical levee, bank, or internal erosion damage, or that have developed unstable slopes, or other flood control facilities that have become unstable. Design as required to support construction may be included in a project.

LLUR projects will be selected on a competitive basis and funded under a grant to a Local Public Agency. DWR will select projects to receive grants on the basis of the criteria given in Appendix A. Local Public Agencies will perform or contract for performance of the construction under project agreements with DWR. LLUR projects may include design as required to adequately describe the required construction.

The required components of a LLUR grant application are outlined in Section VIII.C. Applicants must use the format provided in the PSP which will be made available when DWR announces funding availability through a solicitation notice.

Projects to be funded must be sponsored by an agency qualifying under Section IV.A. Actual construction may be performed by a contractor under a contract conforming to the contracting laws of the State of California.

## **A. LLUR Projects**

Construction of projects funded under the LLUR segment will use information from a design approved by DWR, substantially meeting the guidelines in Section VIII.B, to put the project into effect. The proposed project must be repair of erosion damage or unstable slopes for a levee or remediation of unstable conditions for any flood control facility. All facilities to be repaired must be local facilities.

Construction of projects must conform to any drawings, specifications, and design report contained in the approved design and to any changes subsequently approved in writing by DWR.

Construction will result in a complete, sustainable and maintainable project completed according to the approved design and approved changes. The project must comply with all applicable permits, standards, laws, and other local, State, and federal requirements. These include but are not limited to the regulatory requirements of the Federal Energy Regulatory Commission, the USACE, the Central Valley Flood Protection (Reclamation) Board, the State Water Resources Control Board, and other agencies. Sponsors must also comply with CEQA, State and federal Endangered Species Acts, and the federal Clean Water Act.

The sponsor must obtain any permits required for any feature of the work before commencing construction of that feature.

Funding of projects will be established as follows:

- The initial amount of funding to be granted for the project will be based on:
  - For construction, the contract item unit prices and quantities in the approved design, if available at the time of grant application, or in the grant application, and the cost estimates for specified tasks in the grant application.
  - For design, if allowed, the estimated costs included in the grant application.
  - For advance preparation for right of way acquisition, the cost estimate in the grant application.
  - The estimated State share of any pre-project work to be credited.
  - Any information provided in the grant application about the financial contribution made by the applicant.
  - Circumstances of the funding process including availability and DWR allocation of funds.
- The sponsor shall provide to DWR a copy of the bid prices for the awarded contract.
- When the sponsor performs the work directly, the construction item unit prices used for initial funding will apply.

- Funding may be further adjusted to correspond to changes subsequently approved by DWR.
- When the grant includes an amount for pre-project work, the grant may include credit for that work.
- There will be a presumption against the payment of costs of preparing CEQA documents that may be overcome on a case-by-case basis only if DWR approves the payment of such costs in writing for good cause shown.

The initial schedule for construction will be derived from the CPM diagram in the approved design, updated as to starting date when such date has been determined. The schedule may be adjusted to reflect changes approved by DWR.

## **B. Designs**

Designs are not funded separately under the Local Levee Assistance Program, but design work necessary to support construction may be included in a project. The purpose of design is to develop or complete plans, specifications, cost estimate, and design report approved by DWR that can be used to advertise for construction of the project.

Designs will provide the information needed to begin project construction. This information includes, but is not limited to:

- Drawings showing project features, with enough specificity and completeness so that a general contractor could understand the intent of and bid on the project. All drawings must be signed and stamped by an engineer registered pursuant to California law.
- Project specifications complementing the drawings and providing the written description of project needs. All specifications must be certified by an engineer registered pursuant to California law.
- A detailed cost estimate showing the total project costs by line item. Unit prices must include labor and material costs. The estimate must be certified by an engineer registered pursuant to California law.
- A design analysis or report showing the engineering calculations that were used to determine the size and types of materials used in the design.
- A task breakdown for project construction showing all activities expected to occur during the construction process.
- A schedule for project construction showing the time in calendar days required to complete the project as determined by use of a CPM diagram.

Designers will be required to follow all applicable federal, state, local and industry standards. For projects which will, if constructed, fall under the jurisdiction of The Central Valley Flood Protection (Reclamation) Board, applicable state standards include standards found in Title 23, Division 1, Chapter 1, Article 8 of the California Code of Regulations.

The sponsor shall provide to DWR an information copy of the design criteria, standards or guidelines used by its designer. This information must be provided before the final design is submitted to DWR for review. DWR may waive submittal of any such documents that are readily available in-house to DWR staff.

Construction of emergency projects may be based on an informal design. Use of an informal design for an emergency project must be approved by DWR in advance of construction. For informal designs, the design portion of the application and the design report may be abbreviated, both subject to DWR approval. DWR may, at its sole option, approve these designs verbally subject to written confirmation within 60 days.

### **C. LLUR Grant Application**

Every complete application for a LLUR project grant must contain the following technical information:

- A description of the project.
- A statement that the project is not a part of a State-federal project and not located in the Sacramento-San Joaquin Delta.
- A description of why the project is urgently needed.
- Documentation demonstrating that the project is in compliance with the California Endangered Species Act.
- Evidence that the sponsor has an acceptable Labor Compliance Program in place.
- A schedule for execution of project construction, showing the time in calendar days required to complete each task of the project construction as determined by use of a CPM diagram.
- A project estimate including an estimate of the costs of project management and other supplementary costs.
- The amount of State funding requested, schedule of expenditures, and the sources and amounts of any other funds to be applied toward the project.
- The proposed percentage participation of the applicant including a reduced percentage if the project benefits a Disadvantaged Community or a Severely Disadvantaged Community.
- Citations of the applicant's statutory enabling laws, authority to construct the project, and authority to contract with the State, including a brief description of procedural steps required by the applicant's enabling laws to contract with the State.
- A resolution of the applicant's governing body authorizing a designated representative to sign and submit the application.
- A list of all criteria, standards, and guidelines used by the project designer. If DWR does not have the referenced document readily available, a successful applicant will be required to provide one copy.
- A feasibility study, demonstrating that the project is economically feasible.

- Documentation of compliance with CEQA as required in Section VIII.D of these Guidelines.
- If applicable, documentation that the project will benefit a Community which is a Disadvantaged Community or Severely Disadvantaged Community.
- Any additional engineering, technical, financial, economic, environmental or legal analyses and justifications required by DWR during administration of this program and rating of the applications.

An application for a project that does not include design must also include documents produced by an approved design, meeting the requirements set forth in Section VIII.B of these Guidelines, and providing sufficient information to begin project construction. Required documentation includes drawings, specifications, cost estimate, design report, construction task breakdown, and construction schedule.

An application for a project that includes design must also include:

- A task breakdown for the design showing all activities expected to occur during the design process, and including a separate task for any proposed advance preparation for right of way acquisition.
- A schedule for execution of the design, showing the time in calendar days required to complete each task of the design as determined by use of a CPM diagram.
- An estimated total cost for the design, including a detailed breakdown of design costs by task.

#### **D. CEQA Compliance**

- For Projects That Do Not Include Design:

Absence of design activities implies that the project is completely designed and ready to be prepared for construction. CEQA documentation should be complete at this point. The applicant must submit a copy of the final Environmental Impact Report or Negative Declaration, adopted by the sponsor, together with a Notice of Determination, with the grant application.

- For Projects That Include Design and Have Formal Feasibility Studies:
  - If CEQA documentation has been completed, the applicant must submit a copy of the final Environmental Report or Negative Declaration and the Notice of Determination with the grant application.
  - If documentation is not completed and there is a public draft, the applicant must submit a copy of the public draft and include all activities necessary to complete the work of CEQA compliance in the task breakdown submitted with the application.
  - If a public draft is not available, the applicant must prepare and submit an Initial Study and include all activities necessary to complete the work of CEQA compliance in the task breakdown submitted with the application.

- For Projects That Include Design and Do Not Have Formal Feasibility Studies:
  - Emergency repairs may not have formal feasibility study or design phases. For such projects, a copy of the final Environmental Impact Report or Negative Declaration, adopted by the sponsor, together with a Notice of Determination, must be submitted to DWR before DWR will disburse grant funds for construction.

### **E. Advance Preparation for Right of Way Acquisition**

The project can be constructed on land owned by the sponsor or on land that the sponsor has secured rights to use to construct, operate, and maintain the project. A LLUR grant sponsor may use grant funds to perform work in preparation for acquisition of right of way and other real property rights for the project being designed, under the following conditions:

- The project must include design activities.
- The sponsor must have a funding source approved by DWR for construction.
- Grant funds may be used to pay staff salaries, staff expenses, and equipment and materials costs for performing work leading to acquisition of property rights.
- Grant funds may be used to fund payments for real property rights to be acquired that are necessary and appropriate for the project.
- The sponsor will account for all reimbursable costs of preparing for property rights acquisition as an item in the design task breakdown.
- The sponsor will provide a list of properties for which grant funds were expended to prepare for acquisition. The list shall identify which actions, such as parcel descriptions and title searches, were performed for each parcel.

### **F. Costs Eligible for LLUR Grant Funding**

The sponsor will be reimbursed only for the eligible costs described in this section. For design work, billing and payment will be based on the cost of work accomplished on the tasks described in the work plan. For construction, billing and payment will be based on the cost of work accomplished on the contract items and tasks in the estimate in the project agreement. Unit prices will be used only for establishing the amount of State funding.

No costs are eligible and no funds will be disbursed until a project agreement has been executed. Under the conditions described in Sections IV.D, the cost of work performed prior to execution of the project agreement may be eligible for credit against the local share of project costs.

Eligible costs include only actual costs directly related to:

- Performing design activities in accordance with an approved feasibility study, if any, and in accordance with an Environmental Impact Report or Negative Declaration prepared in accordance with CEQA.
- Advance preparation for right of way acquisition, as described in Section VIII.E.
- Right of way acquisitions.
- Necessary relocation expenses for property owners and tenants affected by the project.
- Utility relocations and damages to real property.
- Constructing the project in accordance with an approved design, including project management and other supplementary costs approved in writing by DWR prior to construction.
- Progress reports and the post-implementation report.

## **IX. The LOLE Program**

Levee owners and local communities have the responsibility to document that a levee meets the requirements of Title 44 of the Code of Federal Regulations, Section 65.10 of the National Flood Insurance Program regulations (44 CFR Section 65.10). Without this documentation, a Local Public Agency cannot comply with 44 CFR Section 65.10 and the area behind the levee is at risk of being re-delineated and mapped as a Special Flood Hazard Zone on the Digital Flood Insurance Rate Map (DFIRM). For further information about FEMA's interpretation of Title 44 CFR Section 65.10 see FEMA Memoranda 34 and 43.

The LOLE segment provides Local Public Agencies with the funding necessary to conduct geotechnical evaluations of levees that are at risk of failing, and therefore at risk of not meeting the Title 44 CFR Section 65.10 requirements discussed above. The LOLE program applies Statewide. Local levees at risk of losing FEMA accreditation, or that have lost accreditation since August 2005, as a result of implementation of Procedure Memoranda 34 and 43, will be presumed to qualify for LOLE funding and receive preference for funding. Proposals for evaluations of levees not at risk of losing FEMA accreditation will be considered if the Local Public Agency is able to document that a levee has serious problems with seepage, stability, erosion or underseepage. To be selected, a proposal must be designed to conduct a geotechnical evaluation. Qualifying evaluation work will consist of field testing levees by drilling, cone penetration, or other acceptable method, laboratory testing of the resulting samples, and, using the data obtained from the testing, an engineering study of the levee with respect to seepage, underseepage, erosion and/or slope stability.

LOLE will be selected on a competitive basis and funded under a funding agreement with a Local Public Agency. DWR will select evaluations to receive funding on the basis of the criteria given in Appendix B. Twenty-five percent of available funds will be set aside for projects that benefit a Community that is a

Disadvantaged Community or Severely Disadvantaged Community in accordance with Appendix C. Local Public Agencies will perform the drilling and evaluation under funding agreements with DWR.

The required components of a LOLE funding application are outlined in Section IX.B. Applicants must use the format provided in the PSP which will be made available when DWR announces funding availability through a solicitation notice.

Evaluations to be funded must be sponsored by an agency qualifying under Section IV.A, but can be conducted on both publicly and privately owned levees. Actual evaluation may be performed by a contractor under contract to the sponsor. Contracts must conform to the contracting laws of the State of California.

### **A. LOLE**

The primary objective of a LOLE project is to evaluate the stability and susceptibility to seepage and underseepage of levees that require geotechnical certification to maintain FEMA accreditation. The levees to be evaluated must be local facilities, not those identified in Cal. Pub. Res. Code. § 5096.955 (a) (added by SB 85 in 2007).

Evaluations will produce a written report giving location of all test sites, completed data from field and laboratory tests performed, and engineering analyses of the results with respect to seepage and levee stability.

Evaluators will be required to follow all applicable federal, state, local and industry standards. For evaluations of levees that fall under the jurisdiction of the Central Valley Flood Protection Board (formerly known as the Reclamation Board), applicable state standards include the standards found in Title 23, Division 1, Chapter 1, Article 8 of the California Code of Regulations.

Funding of an evaluation under the LOLE segment does not obligate DWR to fund a feasibility study, design, or construction of any project.

The sponsor must obtain any permits required for any evaluation procedure at any site before commencing the procedure.

### **B. LOLE Funding Application**

A complete application for LOLE funding must contain at a minimum the following technical information:

- A description of the evaluation, signed by a civil or geotechnical engineer registered pursuant to California law.
- A map indicating the areas to be evaluated and the transverse and longitudinal locations of the test sites.

- The purpose(s) of the evaluation.
- A history of the levee to be evaluated, including descriptions and dates of all previous known instances of seepage, underseepage, or instability and all remedial actions taken.
- A statement that the levee to be evaluated is not a part of a State-federal flood control project, is not located in the Sacramento-San Joaquin Delta, or protecting an urban area that is also partly protected by the State-federal levee.
- A statement describing the status of the levee's accreditation by FEMA and the likelihood of becoming unaccredited.
- Evidence that the sponsor has an acceptable Labor Compliance Program in place.
- A task breakdown for the evaluation.
- A report that presents all existing drilling and geologic information, a fluvial geomorphologic evaluation, and existing geotechnical analyses - upon which the work plan is based.
- A schedule for execution of the evaluation, showing the time in calendar days required to complete each task of the evaluation as determined by use of a CPM diagram.
- An estimated total cost for the evaluation, including a breakdown of the cost of each task, including detailed drilling plans, geophysical testing, and engineering analyses.
- The amount of State funding requested and the sources and amounts of any other funds to be applied toward the study.
- The proposed percentage participation of the applicant, including a reduced percentage if the project benefits a Disadvantaged Community or a Severely Disadvantaged Community.
- Copies of any evaluations previously prepared that support an application for additional evaluation.
- Citations of the applicant's statutory enabling laws and authority to contract with the State, including a brief description of procedural steps required by the applicant's enabling laws to contract with the State.
- A resolution of the applicant's governing body authorizing a designated representative to sign and submit the application.
- Any additional engineering, technical, financial, economic, environmental and legal analyses and justifications required by DWR during administration of this program and rating of the applications.

### **C. Costs Eligible for LOLE Funding**

The sponsor will be reimbursed only for the eligible costs described in this section. Billing and payment will be based on the cost of work accomplished on the tasks specified in this section.

No costs are eligible and no funds will be disbursed until a funding agreement has been executed.

Eligible costs under the LOLE Program include only those costs directly related to the tasks of:

- Conducting rotary wash drilling, core drilling, cone penetration, or other acceptable tests.
- Performing laboratory tests on the resulting samples.
- Performing engineering analyses of seepage and stability and reporting on the resulting data.
- Temporary right of way for performing the work.
- Progress reports and the post-implementation report.

Reimbursement for administrative costs and overhead, unless separately reported, will be considered to be included in the amounts paid for field testing, laboratory testing, and evaluation and reporting.

## APPENDIX A. Criteria for LLUR Project Rating

The following table lists the rating criteria for LLUR projects. Each proposal must meet all of the acceptability criteria listed at the top of the table.

If the acceptability criteria are met, the Department will determine the criticality and type of project. Then competitive criteria will be used to evaluate the extent to which the applicant’s proposal meets a perceived need for local flood control facility repair considered jointly with all other proposals offered in response to a DWR-issued PSP. Each criterion will be scored on a scale of 1 to 5 with 1 being “low” and 5 being “high.” That score will be multiplied by a weighting factor indicating the importance of the criterion. DWR may provide a further description of scoring methods and procedures.

To assist in evaluating individual proposals, DWR and its assisting agencies and consultants may inspect the site, review available records, and consult with the applicant, interested stakeholders, Local Public Agencies, State agencies or federal agencies with an interest in or jurisdiction over any of the criteria listed in the table in this Appendix.

**TABLE A-1. RATING CRITERIA AND WEIGHTING FACTORS FOR LLUR FUNDING**

Acceptability Criterion	Yes	No
• Complete proposal was received on time.		
• Project would be repair of levees that have sustained critical levee, bank, or internal erosion damage, or that have unstable slopes, or other flood control facilities that are unstable.		
• Project would be local, not a part of a State-federal project and not located in the Sacramento-San Joaquin Delta.		
• Project is urgently needed to repair or stabilize levees or stabilize other flood control systems.		
• Applicant or lead applicant is responsible for flood control in the project area.		
• Applicant ensures the operation and maintenance of any completed project.		
• Applicant or lead applicant is qualified to contract with the State.		
• Applicant has a satisfactory Labor Compliance Program in place.		
• Applicant has submitted a satisfactory finance plan.		
• Applicant has submitted a finding of critical damage or instability.		

<b>Criticality</b>	<b>Yes</b>	<b>No</b>
• Is the project repairing critical damage?		
• Is the project repairing potentially critical damage?		
• Is the project repairing significant damage?		
<b>Ranking Criteria</b>	<b>Yes</b>	<b>No</b>
• Repair of levees damages by levee or bank erosion.		
• Repair of levees damaged by internal erosion.		
• Repair of local levee slope instability.		
• Repair of unstable flood control facilities other than levees.		

**TABLE A-1. RATING CRITERIA AND WEIGHTING FACTORS  
FOR LLUR FUNDING -- CONTINUED**

<b>Competitive Criterion</b>	<b>Weighting Factor</b>	<b>Maximum Score</b>
<b>1. Immediacy of completion</b> <ul style="list-style-type: none"> <li>• Can the project be constructed before next flood season begins (November 1, 2008)?</li> <li>• Can the project be constructed before the next flood season ends (Approximately April 30, 2009)?</li> <li>• Can the project be constructed before November 1, 2009 r?</li> <li>• Is CEQA completed and have all necessary permits been obtained?</li> </ul>	2	10
<b>2. Protection of lives</b> <ul style="list-style-type: none"> <li>• Does the project have significant potential for protecting lives?</li> <li>• Does the project protect 200 people or more?</li> <li>• Does the project protect 2,000 people or more?</li> </ul>	1	5
<b>3. Protection of property</b> <ul style="list-style-type: none"> <li>• Does the project have significant potential for protecting against property damage?</li> </ul>	1	5
<b>4. Protection of critical infrastructure</b> <ul style="list-style-type: none"> <li>• Does the project protect highways, streets, transmission lines, pipelines, public buildings, dams, hydroelectric plants, or other public works?</li> <li>• Do the works protected perform a function or functions critical to the public good?</li> </ul>	1	5
<b>5. Economic feasibility</b> <ul style="list-style-type: none"> <li>• Does the project exhibit a high value of benefit-cost ratio?</li> </ul>	1	5
<b>6. Flooding Characteristics</b> <ul style="list-style-type: none"> <li>• Does the project have the potential of protecting against great depth of flooding? What is the depth protected against?</li> <li>• Does the project have the potential of protecting against high floodwater velocities?</li> <li>• Would the project protect against unusually high quantities of floating debris?</li> </ul>	1	5
<b>7. Local participation</b> <ul style="list-style-type: none"> <li>• Does the applicant propose to contribute funds above the required minimum cost share, or to provide valuable property or in-kind services?</li> </ul>	1	5

<b>8. Advanced Phasing</b> <ul style="list-style-type: none"> <li>• Is the project ready to construct, with a design approved by DWR?</li> </ul>	1	5
<b>9. Probability of Flooding</b> <ul style="list-style-type: none"> <li>• What are the current and post-project probabilities of occurrence of flooding?</li> </ul>	1	5
<b>10. Ecosystem Restoration</b> <ul style="list-style-type: none"> <li>• Will the project contribute to ecosystem restoration?</li> </ul>	1	5

## APPENDIX B. Criteria for LOLE Rating

The following table lists the rating criteria for LOLE. Each proposal must meet all of the acceptability criteria listed at the top of the table.

If the acceptability criteria are met, the project category chart will determine whether this is an evaluation of a local levee at risk of losing FEMA accreditation, or that has recently lost its accreditation, as a result of implementation of FEMA Procedure Memoranda 34 and 43, or a local levee that has exhibited seepage, underseepage or instability problems. The former category is presumed to qualify for LOLE funding and is given preference. The latter category qualifies if the application adequately demonstrates that the levee in question has exhibited problems. The competitive criteria will be used to evaluate the extent to which the applicant’s proposal meets a perceived need for local levee evaluation, considered jointly with all other proposals offered in response to a DWR-issued PSP. Each criterion will be scored on a scale of 1 to 5 with 1 being “low” and 5 being “high.” That score will be multiplied by a weighting factor indicating the importance of the criterion. DWR may provide a further description of scoring methods and procedures.

To assist in evaluating individual proposals, DWR may consult with the applicant, interested stakeholders, Local Public Agencies, State agencies or federal agencies with an interest in or jurisdiction over any of the criteria listed in the table in this Appendix.

**TABLE B-1. RATING CRITERIA AND WEIGHTING FACTORS FOR LOLE FUNDING**

Acceptability Criterion	Yes	No
• Complete proposal was received on time.		
• Work would consist of geotechnical evaluation of a levee.		
• Levee would be local, not part of a State-federal project, not located in the Sacramento-San Joaquin Delta, and not an urban non-Project levee that qualifies for evaluation under Section 5096.955 (a)(2) of the Public Resources Code.		
• Applicant or lead applicant is responsible for flood control in the evaluation area.		
• Applicant or lead applicant is qualified to contract with the State.		
• Applicant has a satisfactory Labor Compliance Program in place.		
• Applicant has submitted a satisfactory finance plan.		

Project Category	Yes	No
1. Applicant seeks to evaluate a local levee that has recently lost, or is known to be at risk of losing, FEMA accreditation due to lack of geotechnical information or potential geotechnical inadequacies with respect to seepage, underseepage, erosion or slope stability.(These projects will be presumed to qualify for LOLE funding)		
2. Applicant seeks to evaluate a levee not known to be at risk of losing its accreditation, but known to have seepage, underseepage or stability problems (These projects are also eligible for LOLE funding and will awarded funds on a case-by-case basis.)		

**TABLE B-1. RATING CRITERIA AND WEIGHTING FACTORS FOR LOLE FUNDING (con't.)**

Competitive Criterion	Weighting Factor	Maximum Score
<p><b>1. Critical need for evaluation</b></p> <ul style="list-style-type: none"> <li>• Was the levee accredited by FEMA in 2005, but has since become unaccredited, or at risk of becoming unaccredited, due to lack of geotechnical information or potential geotechnical deficiencies with respect to seepage, underseepage, erosion or slope stability?</li> <li>• Are there reasons other than lack of geotechnical information or potential geotechnical deficiencies for loss or risk of loss of FEMA accreditation (e.g., lack of freeboard, inadequate levee maintenance, lack of channel maintenance, unauthorized encroachments)? <i>Note: Non-geotechnical reasons for risk of loss of accreditation weigh against competitiveness of application.</i></li> <li>• If there are other reasons for loss or risk of losing accreditation, what steps are being taken to remedy these other issues (e.g., plans, schedules, funding, resources, permits, authorizations). <i>Note: Non-geotechnical reasons for risk of loss of accreditation weigh against competitiveness of application.</i></li> </ul>	2	10
<p><b>2. Performance History</b></p> <ul style="list-style-type: none"> <li>• Has the levee proposed for evaluation exhibited seepage, underseepage, or signs of instability in recent flood events?</li> <li>• Has the levee failed previously?</li> <li>• Was the levee remediated after any previous failure, seepage or underseepage incident, or sign of instability?</li> <li>• Has there been seepage, underseepage, or a sign of instability on adjacent or nearby levees of similar construction and foundation conditions?</li> </ul>	1	5

**TABLE B-1. RATING CRITERIA AND WEIGHTING FACTORS FOR LOLE FUNDING (con't)**

<p><b>3. Protection of lives and property</b></p> <ul style="list-style-type: none"> <li>• Does the levee proposed for evaluation protect 2,000 people or more?</li> <li>• Does the levee protect 200 people or more?</li> <li>• Does the levee protect an area where property damage due to flood would be high?</li> <li>• Does the levee protect critical infrastructure?</li> </ul>	1	5
<p><b>4. Potential for levee improvement</b></p> <ul style="list-style-type: none"> <li>• Has a repair or improvement project been proposed previously for the levee proposed for evaluation?</li> <li>• Is there a feasibility study underway for improvement of the levee?</li> </ul>	1	5
<p><b>5. Flooding Characteristics</b></p> <ul style="list-style-type: none"> <li>• Does the levee proposed for evaluation protect against great depth of flooding? What is the depth protected against?</li> <li>• Does the project have the potential of protecting against high floodwater velocities?</li> <li>• Would the project protect against unusually high quantities of floating debris?</li> </ul>	1	5
<p><b>6. Local participation</b></p> <ul style="list-style-type: none"> <li>• Does the applicant propose to contribute funds above the required minimum cost share or evaluate geotechnical adequacy of other local levees without cost sharing?</li> </ul>	1	5

## **APPENDIX C. Special Provisions Applicable to Projects that Serve a Disadvantaged Community or Severely Disadvantaged Community**

Twenty-five percent of the funds will be allocated to projects that serve a Community that meets the definition of Disadvantaged Community or Severely Disadvantaged Community. In order for a Community to be eligible to receive these funds, an applicant must be able to demonstrate that the specific geographic area that receives a direct reduction in flood risk from the proposed project is a Disadvantaged Community or Severely Disadvantaged Community. Details concerning the information an applicant is required to provide to show that a project will serve a Disadvantaged Community or Severely Disadvantaged Community will be provided in the Proposal Solicitation Package.

DWR will create a separate project priority list for the amount set aside for Disadvantaged Communities and Severely Disadvantaged Communities. Projects on this list will be prioritized based on the criteria of each grant program. Projects that serve communities that qualify as a Disadvantaged Community or Severely Disadvantaged Community on the basis of being a specific geographic area that receives a direct reduction in flood risk from the proposed project will receive priority for funding over communities that qualify on the basis of being the geographic area of jurisdiction of the sponsor where the local cost share is derived from throughout the geographic area.

If a project is selected that will serve a Disadvantaged Community or a Severely Disadvantaged Community, the sponsoring agency will pay a reduced cost share. For projects that will serve a Disadvantaged Community, DWR will pay up to a 70% cost share. For Projects that will serve a Severely Disadvantaged Community, DWR will pay up to a 90% cost share.

If the funding available exceeds the amount needed to fund projects that serve a Disadvantaged Community or Severely Disadvantaged Community, the excess funds will be made available for other projects that are not eligible for the set aside.

If the funding available is insufficient to fund the projects that serve a Disadvantaged Community or Severely Disadvantaged Community, the projects that are not funded from the funds set aside for these communities will be considered on the same basis as other projects that are not eligible for the set aside and will not be eligible for reduced cost shares.