

California Department of Water Resources
Flood Protection Corridor Program
Proposition 84 Funding Cycle

Competitive Application Workshop Questions and Responses
October 1, 2007
1:00pm – 3:00pm

Red Bluff City Council Chambers
555 Washington Street, Red Bluff, CA 96080

Q: In preparing an application for a project that includes a conservation easement plus other construction is it best to identify standalone segments (separable phases) and then you decide what to fund?

A: Yes, include all phases of the project. Keep in mind that FPCP projects are primarily for flood risk reduction then secondarily agricultural or habitat benefits. Be sure to include that Phase 1 can be a stand alone project, if that is the case.

Q: How well developed or through the process should the project be?

A: The project cost estimate when the project is submitted should be close to the actual amount. Additional grant funding is not likely to be added later.

Q: Currently we have a certified appraiser assessing fair market value for a conservation easement. Is it acceptable for us to use our own appraiser or will the State want to use their own appraiser? Will the State review be at the cost of the grantee?

A: Appraisals of fair market value prepared for property acquisitions funded by the FPCP must be prepared in accordance with Uniform Standards of Professional Appraisal Practice and signed by a licensed appraiser. The appraisal can be paid for by the grantee and then DWR, or other state agency as determined by DWR, will review the appraisal. The State's cost for review of the appraisal is not charged to the grantee.

Q: Would our Board of Directors need a resolution to enter into agreement before the application is submitted?

A: Prior to executing a funding agreement the applicant must present a copy of a resolution showing that the person who signs the agreement is authorized to do so, but this is not needed before the application is submitted. Because it takes so much work to prepare an application, we assume the person preparing the application has some assurance that the sponsoring organization's Board of Directors is likely to approve the necessary resolution.

Additional Information: Requests for funding for property rights acquisitions must include letters from willing sellers indicating their willingness to sell at fair market value. All applications must include a hydrologic and hydraulic report or, at a minimum in lieu of a full H and H report, a certified civil engineer's or hydrologist's estimate of flood

benefits and how conditions would change with the project. This estimate is sufficient for the application, but if the full hydrologic and hydraulic report is not submitted at the time of application, preparation of the full H and H report must be a part of the agreement scope of work. If the hydrologic and hydraulic report results do not indicate the anticipated flood benefits are likely to result from the project, the project can be canceled.

Q: What evidence of willing seller would be needed?

A: We would need a letter from the landowner stating that they are willing to enter into negotiations with the grant applicant's organization to sell for the fair market value. Fair market value would be based on an appraisal reviewed and approved by the State, usually based on comparable sales.

Additional Information: Unfortunately, appraisers often do not consider government purchases as "comparable" sales because they do not reflect the market in the same way that private commercial sales do. This creates a problem in valuing river bottom and habitat land, because there is often little commercial interest in this type of property, so government funded sales are the only sales that have taken place.

Q: It seems that you prefer conservation easement to fee title acquisition because it would provide more funding for other projects.

A: Conservation easements are preferred because if the State or Federal government purchases land in fee title, property taxes would no longer be collected causing a loss in tax base for the local County government. Purchase by fee title can be done if the landowner will not agree to an easement and it is being purchased by a tax-paying entity. Purchases of fee title by non-tax-paying entities are allowed, but we usually require a letter of support from the County that would lose the tax revenue.

Q: Does the State have a program where they have direct payment for taxes like the Federal government?

A: Occasionally, there are situations where the State does pay for services such as to the local fire or flood control districts. However, there is not a direct in-lieu fee payment system like the Federal government has to compensate for property tax losses.

Q: Will there be a maintenance fund available?

A: We can set up an endowment for property maintenance that would be 20% of the acquisition cost. If the project does not include land purchase, then it is 20% of land improvements. Be sure to include the need for the maintenance fund and the anticipated dollar amount in the project budget.

Q: Who can hold the endowment?

A: Typically held by the agency that has the maintenance responsibility. There would be an agreement addressing what can be done with the funds and how the funds are to be managed, and the funds management is subject to auditing.

Q: The minimum requirements, Section III a of the application, states that “The project proposes to use any granted funds for protection, creation, and enhancement of flood protection corridors”. Must the project include all of these components?

A: The project can include one or more of these components. Flood protection corridor means that at least 50% of the property must be within the 100 year floodplain, which can include the areas behind levees if the levees are not certified for 100-year protection.

Q: Say there is a situation where there is a breach or will be soon and this is not shown on Flood Emergency Management Agency maps. How would an applicant consider this problem?

A: If a certified engineer can show that the area is within the 100 year floodplain, regardless of the FEMA maps, this would be accepted by the FPCP program. County-developed or similar flood hazard maps and can also be used to demonstrate that the area is within the 100 year floodplain.

Q: How are administrative or overhead costs covered?

A: The State is limited to 5% although we have allowed projects to budget more if the additional costs can be justified. Administrative costs include telephone costs, bookkeeper labor, project management, office space, etc. Large project costs, such as completing the California Environmental Quality Act documents or other permitting expenses, should not be included in administrative costs.

Q: What is the timeline for announcing projects that will be funded? Will site visits be included in the application review process?

A: It will take 6 weeks or so to go through the applications. Then decisions must be sent through upper management for approval, which takes about 1 month. It is hoped that announcements on projects to be funded will be available in January. FPCP staff can request applicants to furnish missing information if applications are complete but not detailed enough for accurate evaluation. This could add time to the January announcement goal. There will be site visits as part of application review. If there is a very large number of applications to review it could take a longer amount of time to go through the process than estimated.

Additional Information: There were about 45 applications in 2002 for this program. There was only 27.5 million dollars available and 144 million dollars was requested. Therefore, many projects were either not funded or only a portion of the project costs were funded.

Q: During project review, are points assigned to applications by teams?

A: There is one team that reviews the applications. There are expert representatives for review of the flood benefits, wildlife, and agricultural benefits. Some of our staff review the miscellaneous section. There are representatives from all DWR regions throughout California, but most of the team members are from the Sacramento area. Those reviewers from the Sacramento area are also knowledgeable about other regions of California. Earl Nelson, FPCP Program Manager, visits all the sites. Additional people who participate in site visits vary by site location and availability.

Q: Will site visits be done for all applications?

A: Yes. Sometimes an application might look good on paper, but might not look so good in reality as evidenced by the site visit. The opposite situation can also occur. Therefore, all project sites will be visited.

Q: Will this program have future funding and have a similar process annually?

A: Proposition 84 provides 40 million dollars to the FPCP program. Of this amount, there will be 36 million dollars available for projects. Proposition 1E will provide 250 million dollars for the Floodway Corridor Program. We are currently writing regulations for this program. It will be slightly different than the FPCP. It is expected to have some annual funding cycles. The goal is to combine the Floodway Corridor Program with the regional flood planning efforts and other programs such as the Integrated Regional Water Management Program planning.

Q: It appears that you will have public hearings for acquisitions for fee title or easements. In the past, did these hearings stop project from going through?

A: No. The public hearing is held after the project is selected and before entering into a grant agreement. It is held in the county or general area of the project location. There was a project with some public opposition, but it was worked out. There was also a project that had overwhelming support of people attending the hearing.

Q: Please elaborate on the California Environmental Quality Act checklist required for the application. Is this a complete CEQA document?

A: The law of CEQA is in the public resources code. The Governors Office of Planning and Research developed and approved CEQA Guidelines. There is an example initial study as an appendix to the CEQA guidelines

(http://www.ceres.ca.gov/topic/env_law/ceqa/guidelines/appendices.html, Appendix G Environmental Checklist Form). Depending on the lead agency, this or a similar format would be used. If there is currently no lead agency because the applicant is a non-governmental organization, then the checklist on the previously mentioned website can be filled out by that organization. This will provide the necessary information to staff in reviewing the project impacts. The Lead Agency will have to complete official CEQA documents at a later time, early in the project implementation before irretrievable commitment of financial resources that will lead to physical environmental impacts.

Q: If CEQA is already complete, do we just need to provide documentation?

A: Documents showing the impacts, such as an EIR summary or initial checklist, would be helpful in review of the project impacts. If a full EIR is available, it would be helpful to the project reviewers to have it at the time of application.

Q: If there is a National Environmental Policy Act document on file for the project, would this satisfy the CEQA checklist requirement?

A: It would be helpful, but the CEQA initial study would also need to be done. It could be based on the NEPA document.

Q: Is there a cost-share requirement for either the FPCP program or the Proposition 1E Floodway Corridor Program?

A: The Proposition 1E Bond requires us to maximize cost-share funds to the greatest extent possible. However, it does not specify an exact amount. Some programs currently under Proposition 1E have a 50:50 cost share and some have a 70:30 cost share. There is no cost-share requirement for FPCP projects, but cost sharing is encouraged. The application has points available for projects that have some cost-share funding available. Gaining points for cost-share can be helpful in getting a project approved, but a project could have high points in other areas of the application that could result in project approval regardless of not having any cost-share.

Q: Does the match have to be obtained by the project applicant prior to application submittal?

A: The funds need to be committed. Cost-share funding that might be obtained (or might not) cannot be counted in scoring the amount of cost sharing to be provided by the applicant..

Q: When comparing the applications, will the total score be compared or will each section be compared? How will the projects be prioritized?

A: The applications are not grouped into funded or not to be funded. The potential projects are ranked by total score. Then we take a look at the funding requested for each project and how much funding is provided by Proposition 84. We allocate the funds starting with the highest-ranking project until the funds have all been committed. Then we look at the quality of the highest-ranking projects that did not receive funding. Sometimes the higher-ranking projects' scopes of work are reviewed to see if any of them can be divided into phases. If a portion of a project can be funded at lower cost and still provide benefits, then a greater number of quality projects can be funded.

Q: What is the difference between disadvantaged and severely disadvantaged communities?

A: The FPPC Guidelines define disadvantaged communities as having an annual median household income that is less than 80% of the statewide annual median household income. Severely disadvantaged communities have an annual median household income that is less than 60% of the statewide annual median household income. This is based on the median household income stated in the 2000 Census. If there have been significant changes in the community since the 2000 Census was taken, then the most recent updated number should be used.

Q: What projects are structural or non-structural?

A: The extreme example of a non-structural component would be a river with no levees. There is nothing to restrict the river's natural flow onto the floodplain during flood stages (high flows). Setting back the levees on a river is a movement towards being non-structural. Set-back levees, although themselves structures, are defined as being acceptable project components by the legislation that set up the Flood Protection Corridor Program. Placing a levee behind a levee would not apply because there would not be enough room for habitat and the floodplain would not be widened. A relatively shallow

earthen bottom detention basin that fills during high water stages and has natural gravity outflow can perform ecologically like a floodplain and is acceptable as a non-structural project. A concrete-lined detention basin would not be acceptable because there would not be any habitat within the basin.

Q: The guidelines state that the FPCP should be within the geographic scope of the CALFED Bay-Delta Program. How beneficial would it be for an applicant to be within this scope?

A: Your re-statement of the guidelines does not tell the entire story. The guidelines actually say that the Flood Protection Corridor Program is statewide in scope, and within the geographic scope of the CALFED Program projects funded by the FPCP should be consistent with CALFED's plan as expressed in its August 28, 2000 record of decision. This was something we looked in great detail during the review of the 2003 FPCP applications. Back then a CALFED staff member participated in the review and evaluation of projects. Since then CALFED has changed and they do not as many staff members as they did then. CALFED will be invited to participate, but it is uncertain if CALFED staff will participate in the upcoming application review.

Q: If a project has acquisition and restoration/flood improvements, is it best to apply to the FPCP as one application or divide those two components into two separate applications?

A: It could be funded either way. You should package it into a way that gives you the best score. If the project exceeds our per project funding cap, it might be best to split it into two applications. However, there is then a risk of one piece not getting a high enough score to be funded. A large phased project with strong benefits could receive funding for phase 1 this year (if phase 1 can stand alone as a viable project) and also receive tentative commitment of future funding if additional funding becomes available in a future budget year.

Q: Would it then be beneficial to mention in the application that phasing is possible?

A: Yes. Explain that your project can be phased, what is included in each phase, what the benefits are of each phase, etc. We can then choose to fund one or more phases.

Q: Can acquisitions that have been closed prior to grant application be used as cost sharing match? The Questions and Answers from the FPCP workshops in 2002 said that generally it could be used as match if the property was purchased less than 2 years ago and if longer than it would be considered on a case by case basis.

A: There is nothing in the regulations that says how far back a purchase can be considered for matching funds credit. Include it in your application for review, and the evaluation team will decide if points can be awarded.

Q: There is an engineer's hydrology study done a year ago that does not directly discuss the proposed project, but is in the same general area and has the exact same geography. Would this be acceptable for the application?

A: Submit the study and get a current engineers statement on how the project relates to that study. If these documents need to be revised or supplemented, it can be done early in the work plan to ensure that projected flood benefits are realistic.

Q: Do you have a preferred page limit?

A: There is no page limit. The application needs to provide the information necessary to understand and evaluate the project, but should be concise. There is no extra credit for extra unnecessary pages.

Q: If the application refers to a document, does the document need to be included in the application or would providing a web address suffice?

A: A web address is sufficient as long as it can be accessed by the application reviewers.

Q: Would it be preferred that the application be bound or unbound?

A: The hard copy should be collated in some fashion that holds it together but still allows it to be separated for copying. A three ring binder works well for this. Spiral or plastic comb binding also works, but is not preferred because it is difficult to work with and tends to jam in copy machines. For the digital version, we would prefer a compact disk or USB flash drive submittal.

Q: How does an applicant determine the economic value of flood benefits? Would there be an evaluation of the downstream asset values, numbers of people living downstream, etc?

A: The U.S. Army Corps of Engineers has methodologies for determining that. You can count the value of property destroyed by flooding, lost work days from flooding, economic disruption to the local business economy, number of people impacted from flooding during their commute on the highway, etc. There are various ways to determine this. It should be reasonable and intuitively obvious, or use an acceptable calculation such as the methods of the USACE. For guidance on preparing this analysis, please refer to the Corps' APPENDIX D Economic Justification Determination available at the following website: <http://www.usace.army.mil/publications/eng-pamphlets/ep500-1-1/a-d.pdf> .

Q: Will funds be distributed throughout California or do you try to fund projects within each DWR district?

A: The best projects will be funded, but we would be happy if they were geographically distributed.

Q: Would letters of support from local legislators and other organizations be beneficial?

A: Yes. There is a question where points can be obtained for public support of the project.

