

Response to Comments Special Projects Interim Guidelines

Question / Comment	Response
<p><u>No-regrets</u>: Clarify the definition of “no-regrets” or use another term altogether to avoid confusion. The Draft Interim Guidelines seem to use “no-regrets” differently than Delta Vision and BDCP.</p>	<p>“No-regrets” is defined under the “No-Regrets Actions” section of the Interim Guidelines</p>
<p><u>Semi-urban</u>: Why was a 1,000 population value used to define semi-urban? The legacy towns won’t meet this.</p>	<p>Central Valley Flood Control Plan uses the number of 10,000 population for helping to define urban and urbanizing areas. The Interim Guidelines define the semi-urban areas of the Delta as communities with at least 1,000 population.</p>
<p><u>Habitat enhancement</u>: Define habitat enhancement more clearly and describe what is needed to be considered enhancement.</p>	<p>Habitat enhancement refers to the “net long-term habitat improvement” requirement defined in California Water Code section 12310 (e) as “enhancement of riparian, fisheries, and wildlife habitat.” It is a program-wide requirement described by the Department of Fish and Game as follows: “‘Enhancement’ and ‘improvement’ relative to the program are used interchangeably and mean the improvement of fish and wildlife values and ecological functioning above that which would exist with all necessary compensatory mitigation achieved.” (see Delta Flood Protection Program (AB 360) Fish and Wildlife Habitat Enhancement Guidance Document, November 1999)</p>
<p><u>Legacy towns</u>: Why are Courtland and Locke not considered legacy towns?</p>	<p>Refer to The California Water Code Section 12311 for implementation of flood control projects.</p>
<p><u>Final accounting</u>: What is referred to by “final accounting” on page 8 of the Draft Interim Guidelines, where it lists “costs that the State does not authorize as part of final accounting” as ineligible?</p>	<p>Final Accounting is implemented as part of a Project Funding Agreement.</p>
<p><u>Nominal funding</u>: Define what is considered “more than nominal funding” (i.e., how much funding needs to come from other sources to receive the 5% additional State cost-share)?</p>	<p>There is no minimum amount to be considered “more than nominal”; the ranking will be based on a comparison to other projects.</p>
<p><u>Requirements & Mandates</u>: “Existing agency requirements and mandates” is a vague ineligible cost.</p>	<p>The Interim Guidelines define state mandated projects.</p>
<p><u>Subventions</u>: Is the subventions program being redefined as maintenance only? The subventions program currently allows some improvements in levees and is a very valuable and successful program.</p>	<p>This isn’t changing the subventions program. We want the subventions program to remain viable. The Subventions Program is not being impacted by these guidelines.</p>
<p><u>Project/non-project levees</u>: Are both project and non-project levees eligible?</p>	<p>Non-project levees, as defined in the Water Code Section 12980, are supported by the Special Projects Program and project levees in the primary zone of the Delta are also supported by the Special Projects Program.</p>

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<u>Eligible districts:</u> Are only Reclamation Districts eligible to receive funding?	No. Levee districts or other agencies responsible for maintenance may also be eligible to receive funding.
<u>Surplus money:</u> Does a project have to meet the criteria even if there is plenty of money available?	Yes.
<u>Enhancement:</u> Are enhancement-only projects eligible?	The draft guidelines indicated that habitat projects were eligible, but this was clarified in the final guidelines to explicitly indicate that habitat projects are eligible, <i>“including habitat restoration and protection that fulfills both mitigation and enhancement objectives.”</i>
<u>Design-only projects:</u> Do applications have to be for complete projects or can they also be for engineering design only? Is there only one opportunity to submit a funding proposal for a project design or environmental engineering work for a project that hasn’t been lined up yet?	An engineering study could potentially be a project by itself and may also be submitted as part of a project.
<u>Limit on 8 western islands:</u> Does the \$2 million funding limit apply to the eight western delta islands?	Yes.
<u>Limits to small projects:</u> The \$2 million funding limit will result in small projects.	The \$2 million limit is intended to prevent too much spending on one project. However, the Draft Interim Guidelines provide room for discretion.
<u>Project Timing:</u> What will be the project timing?	Funding agreements will specify an expiration date, which will typically allow two years to spend the funding.
<u>Reimbursement:</u> Will districts have to pay costs of project construction and get reimbursed afterward?	Once the project agreement is in place, the district can be advanced up to 90% of the Special Projects’ cost-share.
<u>Reserve:</u> Does the \$3 million reserve carry over to the next flood season?	Expenditure of the \$3 million will be decided at the end of the current flood season
<u>Cost-sharing:</u> Why is cost-share a factor? Does the District’s ability to share in the costs make a project more worthy of the funds?	Local Districts bringing additional funds through other partners may possibly be ranked higher.
<u>8-Western delta islands:</u> Why distinguish between the 8 western Delta islands and the remainder of the Delta? Most of the districts are not in any better shape financially than the 8 western Delta islands.	This is discussed in the California Water Code Section 12311.
<u>Enhanced cost-sharing:</u> Increase the additional State cost-share from “up to 5%” to “up to 10% or 20%” for each enhancement. Or establish a cost-share of 90% State and 10% local, instead of the proposed system of 75% State cost-share “with hoops” to increase that percentage.	This comment has been taken into consideration in finalizing the Interim Guidelines.

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<u>Subsidence</u> : Is proof of ongoing subsidence needed to receive enhanced cost-share for providing a buffer?	There may not be a need for a proof of ongoing subsidence; however, providing an explanation including background regarding the need for the specific proposal as part of the proposed project would be helpful.
<u>Enhancement for HMP</u> : Some islands may not be able to fund improvements to HMP and may need enhanced cost-share for HMP.	This has been considered in the final version of the Interim Guidelines.
<u>Surplus money – 100%?</u> : If more money is available than requests for money, would all projects be funded at 100%?	No.
<u>CEQA work</u> : Include preferred alternative studies as an eligible cost. Expenses for studies to choose the preferred alternative is a CEQA requirement and the Draft Interim Guidelines list CEQA related work as a potential eligible cost. Should scale be a factor? Can it be described better?	As proposed in the Draft Interim Guidelines, costs for CEQA prior to submitting an application to Special Projects (e.g., alternative analysis) are not covered; once a project has been selected by Special Projects, further CEQA costs are covered (e.g., permitting). The intent is to prevent spending a large amount on studies for a project (e.g., EIR) without subsequent work products (i.e., without the project going through). This may be further clarified in the Interim Guidelines. We will have to consider whether local permits or local exemptions will qualify for a federal project.
<u>Appurtenances</u> : The Draft Interim Guidelines do not describe in sufficient detail what project components are eligible/ineligible for a project (e.g., paving on a levee road). Can eligible costs include appurtenances?	Consider writing it into the project funding agreement if it is important. Fencing, guardrails, and paving do not have a flood control benefit and therefore these expenses are not paid by special projects.
<u>FEMA certification</u> : Is work related to FEMA certification eligible?	It depends. Work directly related to levees may be eligible (e.g., soil borings). Other work may not be eligible (e.g., hydrologic analysis for the river system).
<u>Emergency preparedness -Mapping</u> : Will the mapping efforts of San Joaquin County be eligible?	No, because San Joaquin County is not an eligible agency.
<u>Soil borings</u> : Are soil borings a separate item?	Soil borings may be considered as part of a project - it would need to be defined in the project.
<u>Borrow royalty</u> : Would there be borrow royalty for construction projects?	This is dependant on the project.
<u>Drainage</u> : Are drainage projects eligible?	No.
<u>Agriculture</u> : Are agriculture projects that include habitat-friendly agricultural practices eligible?	Ongoing operational agricultural projects are not covered. Habitat projects are eligible on a case-by-case basis.
<u>Ability to Pay Study</u> : Is the Ability to Pay Study reimbursable?	This is not part of the Interim Guidelines.

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<u>Relative importance (esp. HMP):</u> How is a project's importance being considered in the selection process? It should be the highest priority to protect the Delta at least to an HMP level to be eligible for FEMA funds.	All the criteria will be looked at, not just one. HMP has a high priority, but we don't have firm numbers on how much it would cost to improve the Delta to HMP. We are working on getting that information now with LIDAR data.
<u>Ranking system:</u> Adjust the ranking system to simultaneously consider need <i>and</i> benefit (instead of independently ranking for need and benefit) to better fit the CWC 12313 and DRMS.	Section 12313 of the California Water Code requires the department to consult with all appropriate agencies to establish a priority based upon both of the following: (1) The importance or degree of public benefit needing protection and (2) The need for flood protective work. We believe that the ranking system, as currently configured, considers both of these important objectives.
<u>Corps projects:</u> Should districts submit applications for projects that have U.S. Army Corps of Engineers (Corps) funding as alternates? Would submitting these applications affect any other project that the District submits?	Districts should submit whatever project that they think could benefit flood control. Once received, Special Projects will go through the criteria and the ranking system and each project will have its own rank.
<u>Partnerships:</u> Explain the project selection criteria for significant partnerships. Consider using a step process (rather than 50%) to evaluate partnerships cost share.	To be considered significant, funding from other partners needs to be at least 50% of the project cost. Typically funding of this magnitude will be from the Corps.
<u>Habitat Enhancement:</u> Provide a greater score to projects with habitat enhancement.	Habitat projects may be funded up to 100%
<u>Low-hanging fruit:</u> Would there be allowances for "low-hanging fruit" (i.e., projects that could meet standards (PL 84-99) very cost-effectively)?	We would like to see all levees at PL-84-99, but it has to be balanced and weighed against other projects.
<u>Time schedule:</u> Will the Special Projects Solicitation Packages be issued in the beginning of January or February?	The tentative schedule is to issue the Special Projects Solicitation Packages in January.
<u>Work overload:</u> There is too much work to complete in 3 months. The four-week window between receiving the Special Projects Solicitation Packages and submitting the applications doesn't provide enough time for the districts to coordinate with the Corps.	DWR has one year to fund and a total of 3 years to complete the projects. The districts will have to work within this time schedule. Some districts are already working with the Corps
<u>Other agencies involved:</u> Some islands have habitat projects that have involved other resource agencies.	This should be disclosed in the submittals.
<u>Professional engineer:</u> On page 14, the Interim Draft Guidelines states that a professional engineer has looked at the project description. This needs clarification. What does the engineer need to sign and evaluate?	At a minimum, design work (plans and specs) must be stamped/signed by registered California Engineer.

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<u>Commitment</u> : Would the commitment have to be a work agreement?	Yes, The Department of Water Resources will formulate a Project Funding Agreement.
<u>FEMA funding</u> : Mandate a survey at least every 5 years to determine each island/tracts' HMP status.	We will consider requiring a survey of islands/tracts' HMP status in the 5-year plan.
<u>5-year plan</u> : Is a 5-year plan not required this year (09-10)?	Starting in fiscal year 2009-2010, a 5-year plan will be required.
<u>Flexibility of 5-year plan</u> : Can the sequence in the 5-year plans be changed after it has been submitted?	As long as the requirements/elements of the 5-Year plans is addressed, sequencing should not be an issue.
<u>5-year plans</u> : 5-year plans should include enhancements.	This is mentioned in the final Interim Guidelines.
<u>Suisun Marsh</u> : Suisun Marsh levee standards are not explicitly discussed in the Draft Interim Guidelines. Suisun Marsh won't meet PL 84-99. Can this be addressed?	The Department understands the challenges of meeting the criteria for PL 84-99 in the Suisun Marsh.
<u>Redundancy</u> : Will agencies work together to avoid redundancy?	Yes. For example, we are working with other portions of DWR to determine water surface elevations and provide this information to the districts to determine how their levees compare to the standards.
<u>Website</u> : A website is needed.	A website has already been established at http://www.water.ca.gov/floodmgmt/dsmo/bdlb/