

CALIFORNIA WATER PARTNERSHIP



April 8, 2016

California Department of Water Resources
Division of Integrated Regional Water Management
Financial Assistance Branch
Post Office Box 942836
Sacramento, CA 94236
Attn: Craig Cross

Sent via email: DWR_IRWM@water.ca.gov

Re: Draft 2016 Integrated Regional Water Management Guidelines

Dear Department of Water Resources:

On behalf of the above-listed organizations, members of the California Water Partnership, we are writing to provide input into the development of the Department of Water Resources (DWR) Integrated Regional Water Management (IRWM) Guidelines (Guidelines) for Proposition 1 (Prop 1). The California Water Partnership is dedicated to securing a sustainable and equitable water future for California. Our partnership advocates for adoption and implementation of the principles and practices of integrated water management. Our work ensures that water management practices benefit our public health, our environment and all Californians.

In order to evaluate the efficacy of the program in achieving these benefits, we looked for the following information in the draft guidelines:

- The extent to which state priorities are addressed;
- The identification and evaluation of multiple benefits;
- Specific measures to address the water-related needs of disadvantaged communities and tribal interests and ensure their engagement throughout the process.

Program guidelines:

Pre-applications

We propose that in forthcoming PSPs/RFPs DWR require a simple pre-application prior to the more detailed final application. This will allow DACs and Tribes who may not have the necessary resources at their disposal to complete a full application to determine early on, and without expending resources they do not have, whether they will qualify for funds through the IRWM process. While we understand that

application costs are reimbursable, for some applicants, the resources necessary to submit a thorough application can be cost-prohibitive. And if they do apply and do not receive funding they cannot recover those costs. Furthermore, we worry that parties will submit only as much information as they have the capacity to to prepare, due to lack of resources, and this will not include all the relevant information, causing the applicant to lose out on funds they might have been eligible for.

II. B. Funding Opportunities

Statute requires that no less than 10% of the implementation funding be awarded to projects that directly benefit DACs. To comply with both the spirit and letter of the law, the Department needs to more critically evaluate “direct benefit to DACs” than it has in the past. In addition to ensuring “direct benefit” (see below), the department should only consider the percent of funding directly tied to the verified DAC benefit when tracking progress in meeting the 10% requirement.

II. C. Minimum Local Cost Share Requirements

Waiver of the minimum 50% cost-share requirement for projects that directly benefit a DAC or EDA is extremely important for helping DACs or EDAs and we are happy to see its inclusion in these guidelines. We look forward to working with staff on detailing this policy further in forthcoming PSP or RFPs as it is critical that any such waiver is tangibly tied to a direct DAC benefit. All too often in the past, unsubstantiated claims of benefit or mere geographical proximity has qualified project proponents for this waiver, in many cases without the knowledge or consent of the community said to be benefiting. We encourage staff to look at the State Water Resource Control Board’s draft Proposition 1 Groundwater Grant Program Guidelines, in appendix B which outlines a better engagement process for DACs in grant applications which are requesting a funding match reduction based on DAC benefit. We hope that this model will be considered for future PSPs and RFPs.

II. D. Program Preferences & Statewide Priorities

We applaud the inclusion of projects with multiple benefits as a program preference. This preference, is, in essence, the core of Integrated Regional Water Management and therefore we suggest that forthcoming PSPs/RFPs emphasize and incentivize such projects as much as possible. The Guidelines, however, do not make it clear how individual projects will be evaluated and rewarded within the multiple benefit framework. We recommend that for scoring, DWR provide a list of diverse benefits and score projects proportional to the number they would achieve thereby promoting projects with the highest number of benefits rather than simply more than one, as “multiple” often implies.

III. B. Eligibility Criteria

We are happy to see the incorporation of the priorities of the CA Water Action Plan into the eligibility criteria. We are also pleased to see inclusion of SB 895 compliance as a criteria, however we would like the Guidelines to highlight the fact that there are exemptions to SB 895 compliance, such as for DACs. A DAC should not be penalized for failing to comply with a law from which they are exempted. It is likely that staff already acknowledges this, but further clarification would be useful.

Appendix B

There needs to be additional clarity as to which overhead costs will be considered to be Reimbursable Costs. Alternatively, the Department could suggest a method for attributing overhead costs directly related to project costs. Additionally, DWR should clarify whether there is a cap or not on overhead and recognize that significant limitations on overhead recovery handicap or prevent NGOs and some DACs from applying for IRWM Prop 1 funding for IRWM Implementation Projects.

Appendix G: Advanced Payment

We are pleased to see the inclusion of advanced payment for DAC projects. While it is certainly reasonable for the grantee to provide the stated information to DWR within 90 days of the execution of a grant agreement, we urge DWR to be flexible on the timing of the disbursement and use of the advanced funds. In many cases, the beginning stages of a project are the least costly and most time intensive. The project sponsor, through the Grantee, should be given the flexibility to identify at which point during the project schedule the advanced funds would be most helpful. Additionally, while oversight and controls are needed to ensure the advanced funds are properly expended, understanding that project delays are common, we encourage DWR to take all relevant information into consideration when deciding whether to revoke any advanced funds not expended within the established six month time-frame.

Furthermore, we would like to see the qualifying applicants for advanced payment be opened up to include tribes. Many tribes do not have the necessary funds to begin a project or engage in the IRWM process without financial assistance, and reimbursement is not sufficient to help ensure these tribal members are capable of participating in the process should they desire to do so. Advance payment should be offered to tribes who can demonstrate financial hardship or need.

Volume 2: Relation to Local Water Planning

The Guidelines require the Regional Water Management Groups to discuss processes for incorporating SB 985 Regional Water Management Plans (RWMP) / Stormwater Resource Management Plans (SRMP) into the IRWM plan. No entity, as far as we know, has provided guidance to IRWMs about how this should be done. SWRCB workshops revealed considerable uncertainty by IRWMs about the degree to the obligations or even the authority to review and/or approve stormwater resource plans once they have been submitted. DWR should use this opportunity to clearly articulate a uniform process for IRWM Plan incorporation of SRMPs. We believe that RWMGs and IRWMs do not have review or approval authority as such a role is not contemplated by the statutory language of SB 985.

Tribal engagement

IRWM needs to ensure adequate tribal engagement throughout the process. DWR needs to have a staffer who is capable of engaging in meaningful outreach with tribes and there should be money set aside specifically to help tribes engage in IRWM. Furthermore there should be a mandate to provide voting seats for tribes on all IRWMP bodies, which tribes can decide to fill or not, similar to what the North Coast IRWMP agreed to. If the Department does not believe this is within their authority to mandate seats, we request instead the Department recommend a tribal seat as an IRWMP best management practice and provide additional points to projects by groups that commit to having a tribal seat on the IRWMP.

Planning grant PSP:

V. Application Instructions

Far too often, especially in planning grant programs, entities or individuals are charged with work that they are not particularly effective at achieving. For this reason, we recommend that the planning grant PSP be revised to include a required statement of qualifications that details professional experience and expertise of each entity responsible for any part of the proposed work plan. Where appropriate applicants should provide written consideration of alternative consultants/organizations/agencies and explain their final selection.

III B. Local Cost Share

It should not be the case, as is implied in the draft PSP, that a “project benefit area” that is 100% DAC/EDA automatically receive a full local cost share waiver. Nor should a reduction be determined by the percent DAC/EDA area within the region. There must be further analysis. Demonstrating “direct

benefit” requires much more than geographical proximity. While developing a new IRWM or improving upon an existing one may be a great benefit to DACs/EDAs in the area, the benefit may be nonexistent, for example if the governance structure of the newly developed GSA excludes them from participation, and, as a consequence, prevents them from moving their projects forward. Rather a blanket funding match waiver needs to be conditioned on tangible evidence of benefit from the IRWM body such as adoption of best practices for DAC involvement. Another means by which DAC benefit can be achieved is including a planning or engagement project specifically for those under resourced area in the scope of work. In addition to proving direct benefit to DACs from the proposed activity, any funding waiver or reduction for such a benefit needs to be proportional to its percent of the total work plan so that the inclusion of DAC activities does not become a means by which IRWM groups can fund their non-DAC related activities.

DAC involvement RFP:

Please note, throughout the remaining portion of our comments, we use “DAC” as shorthand to refer to DAC, EDA and underrepresented communities.

I. Introduction

We commend the Department for requiring that projects have a region-wide application. This will help ensure better coordination, cross-learning, and it maximizes local resources. Applicants who have demonstrated the ability to successfully engage and involve DACs in the past should be encouraged to review and build off their prior work to reach even more residents or further improve upon their past successes. Regions with less experience with DAC involvement should build off of the lessons learned and best practices of other regions to begin this work. These critical funds should promote the desired outcomes listed in Table 3 (page 6 of the draft RFP) and have lasting impacts on DAC involvement in IRWM long after the grant funds are spent. Approved proposals should suggest both immediate and long-last results are likely to occur from the proposed scope of work.

IV. Eligible Costs

We recommend that application costs, with a reasonable cap, be eligible for reimbursement in order to encourage regions to invest time and resources in their applications as an important component of developing meaningful and effective applications.

V. (B): Eligible Activities

A needs assessment is an important opportunity to gain further insight into the needs and priorities of DAC communities throughout the state and will help build a comprehensive picture of DAC water needs. DWR should provide a template for the minimum information required in the needs assessment, which local funding regions can expand upon as desired. The template should include many aspects of potential DAC needs, but in particular a governance assessment will help assess the IRWM/DAC interface. The governance assessment should include at a minimum, a description and evaluation of the current governance structure and related plan financing efforts, including its strengths and weaknesses as it pertains to the participation of DACs of all sizes. The assessment should also consider governance alternatives, their pros and cons, and how DAC participation will be incorporated. When all of the assessments are completed, this information will be invaluable for not only understanding a broader picture of DAC participation in IRWMs but also for providing case studies and references on governance alternatives.

Furthermore, for each activity there needs to be clear deliverables/metrics that set the proposals on a productive and effective path and provide evidence of meaningful and good faith efforts to engage DACs building off best practices. Each IRWM may determine what their deliverables will look like, but

some potential options include: number of DAC participants in meetings, number of outreach meetings, educational materials in the native language of the residents, increased DAC participation at standing meetings, scale of future DAC benefits from projects developed, and DAC resident/agency comments and feedback on proposal deliverables, process and plan components.

We are pleased that the draft RFP encourages applicants to build off prior works and recommendations to the extent feasible. Not only does such an effort maximize the impact of previous state investments in DAC involvement but the more that the more that existing lessons learned, recommendations and best practices are built upon, the more effective involvement will be achieved for this round of investment. We suggest, therefore, that the department go beyond “encouraging” and include a mechanism by which you require applicants to demonstrate that they are building off past work, either by including a description of how their proposal will build off of the existing DAC pilots or potentially by deliberately incorporating these conversations into the proposal review process.

The general activities listed in Table 3 on Page 6 of the draft RFP is a good, well rounded menu of the types of activities that will achieve the stated objective for the funding. We suggest adding one more row for capacity building, which although related to many of the activities already listed, should be called out itself as an important strategy for ensuring that involvement activities continue beyond the individual contracts and that the impacts of involvement continue to produce results for years to come.

VI (D): Statement of Qualifications

A statement of qualifications is extremely important for work with DACs. The statement can help ensure that proposal activities and responsible parties are appropriate for the work plan. The Department should be thorough in their review of these statements and conscientious of these considerations throughout coordination meetings and application reviews.

VI (E): Schedule

We are concerned that two years may not be enough time to effectively realize the outcomes desired by this funding program, though we do recognize the need to ensure progress has been. Without check-ins it may be difficult to capitalize on the implementation funding rounds which cannot be overly delayed for fear of losing momentum in the IRWM groups. We suggest a three year timetable is instead used, where specific milestones must be met at the halfway mark to prove that significant advances are made ahead of the first implementation round.

VII: Reporting Requirements

While we absolutely agree on the importance of including a final report, we hope that reporting requirements do not overshadow or take away from the implementation of involvement activities, especially, but not limited to, areas that have existing DAC pilot studies. The final report should include any required needs assessment and focus on lessons learned, best practices and next steps and in general should be concise and to the point. The Department should critically consider the costs proposed for quarterly and final reporting to ensure that the frequency of reporting and costs of reporting are balanced so as to receive the necessary information but is not an unnecessary impediment to getting the work done.

Tribal inclusion

While the Department states it considers Tribes as part of underrepresented communities, we feel it is a missed opportunity to not specifically mention Tribes by name as intended beneficiaries of this funding opportunity. Appropriate Tribal notification for the development of the involvement proposals should be a requirement.

Prioritizing Funds

Because the objective of the funding is to “ensure balanced access and opportunity for participation in the IRWM planning process” it will be important to critically evaluate the funding proposals and scopes of work to ensure that involvement activities are specifically targeting entities that have not participated, or have struggled to participate, in the past. There are DAC members of IRWMs that have actively participated in IRWM for years, while assisting these agencies through IRWM implementation and planning funding is important, this particular funding opportunity should not be focused on those members.

Addressing Regional Conflict

Finally, because of the need to submit one proposal per funding region, it would be helpful if the final RFP included more detail on how the Department would address and respond to any potential conflicts, for example by stating that if the department finds that keys stakeholders (ie IRWM groups and DACs) were not given adequate opportunity to participate in the proposal development process that the Department would require the region to revisit the proposal with those actors before moving forward with the funding process. Such a statement would give regional stakeholders a clear understanding of what is expected of them and what reasonable opportunities for recourse are available if they do not feel included while ensuring that any one stakeholder are not able to hold the process hostage.

The undersigned groups appreciate the opportunity to provide the above comments. Our Partnership looks forward to working with the Department of Water Resources to ensure that the Integrated Regional Water Management to benefit our public health, our environment and all Californians.

Sincerely,

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