



California Department of Water Resources
Division of Integrated Regional Water Management
Financial Assistance Branch
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Attn: Keith Wallace, Project Manager, California Department of Water Resources
Keith.Wallace@water.ca.gov

CC: Anecita Agustinez, Emily Alejandro & Tracy Billington

May 15, 2014

RE: 2014 Drought Solicitation, IRWM Grant Program Funded by Proposition 84 funds

Dear Keith Wallace,

We wish to thank the staff of DWR for making changes to better engage California Tribes in IRWM programs between the 1st round of the IRWM Grant Program and this 2014[Round 2 IRWM solicitation and the current draft of the 2014 Drought Solicitation, IRWM Grant Program Funded by Proposition 84 funds.

In addition to the comments we previously provided on April 1st regarding the Solicitation Process Improvements in general, which are also accurate, here we respectfully submit the following recommendations to the 2014 Drought Solicitation, IRWM Grant Program Funded by Proposition 84 funds.

- 1) Regarding the term "Tribal participation" in the solicitation package we recommend that IRWM groups receive additional guidance from DWR in this solicitation on what is Tribal participation by stating that participation must be meaningful and include active additions to the discussions at hand. For example: Meeting attendance by Tribal staff who do not provide meaningful input, or content to the discussion, does not constitute "participation." Also, when information is provided by Tribal participants, failure to include that provided information without further discussions and/or agreement with the Tribe providing this input, negates the meaningfulness of that interaction.
- 2) Under the "Public Involvement Process" on pages 33 &34, we recommend adding Tribes with traditional territories so that the sentence reads as follows: "Native American Tribes that have

lands within the region [or that have traditional territories within the region]...” This would be in keeping with Appendix D or page 72 of the solicitation package.

- 3) That when in the solicitation package consultation with Tribes is included as on pages 12 and 71, that it be explicit to state that Tribal Consultation obligations must be fulfilled directly with each individual Tribe impacted (see generally Executive Orders 13084 and 13175, and Obama memo 2009).
- 4) That the solicitation package includes a waiver of the CEQA compliance process for projects executed under Tribal jurisdiction with complementary environmental regulations. The federal trust status of Tribes generally precludes them from CEQA compliance for projects completed under Tribal jurisdiction. Additionally, many Tribes have their own environmental laws and ordinances. The CEQA-compliance requirement, for projects executed under Tribal jurisdiction, is therefore an infringement on Tribal sovereignty.
- 5) Regarding California Labor Code §1771.8 compliance, found on page 21 of the solicitation guidelines package, the state of California respects and acknowledges the inherent right and obligation of Federally Recognized Tribes to exercise sovereign authority over Tribal Territory and Tribal Members, thus cannot impose California regulations onto these sovereign entities. Additionally, the State of California acknowledges Federally Recognized Tribes have established their own Tribal Wage Ordinances and Personnel Policies and Procedures as an exercise of a sovereign entity.
- 6) The solicitation guidelines should include a mechanism to fast-track funding for qualifying Tribes, in order to enable earlier release of funds and/ or release of partial funding in stages throughout the project time-line. As stated in our previous comments, the reimbursement structure of IRWM grant funding is extremely problematic for Tribes. The IRWM grant process is often protracted, and sometimes requires additional proposal amendments or revisions after funding has already been promised. One project applicant received confirmation of funding for the project, but had to revise the scope of work at least three times, over the course of three years.
- 7) Lastly, the accelerated nature of the funding round to 30 days from the typical 60 days after finalization of the Guidelines/PSPs does not acknowledge or respect the nature and scheduling requirements of Tribal governments, nor does it allow time to then integrate those decisions into the regional IRWM group applications. We therefore request that DWR provide 60 days after the final Guidelines/PSPs to receive regional applications.

If you have questions regarding these recommendations please contact us.

Respectfully submitted,



Sherri Norris,
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