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San Francisco Bay Area
Integrated Regional Water Management Plan**
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Mr. Joe Yun
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California Department of Water Resources
P.O. Box 942836
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Subj: Comments on Proposition 84 and 1E Draft Guidelines and Proposal Solicitation Packages

Dear Mr. Yun:

Thank you for the opportunity to comment on the various documents currently under review by the Department of Water Resources which concern implementation of flood control and integrated regional water management planning provisions of Propositions 1E and 84. Obviously, DWR has worked hard to provide clear and thorough documentation of the processes and criteria they will be implementing in considering proposals for funding under these programs. We believe that these documents will provide a solid foundation for conducting this grant program efficiently, and will ameliorate some of the challenges that both DWR and regional water management groups have experienced in the Proposition 50 program.

On behalf of the Coordinating Committee of the San Francisco Bay Area Integrated Regional Water Management Program, I would like to offer the following comments on the various draft documents.

Guidelines IRWM Grant Program - Proposition 84 and 1E - Draft

It is clear that the draft Proposition 84 IRWM Program Guidelines have been developed carefully and thoughtfully and that the draft Guidelines are more detailed and convey higher expectations by an order of magnitude as compared to Proposition 50 IRWM Program Guidelines. These new draft Guidelines, however, create significant additional analytical, information collection and documentation requirements beyond those required in the Proposition 50 program. A number of these requirements appear to exceed even the additional specifications of Propositions 84 and 1E themselves, and the new specifications in legislation such as SB 2X1 and AB 1420. For example, the economic benefit cost analyses required in the program guidelines and the implementation grant guidelines are completely new, and do not appear to be related to any requirements in the propositions or implementing legislation.

Such analyses may appear at first glance to be useful to the deliberations on prioritization and funding of projects within an Integrated Regional Water Management Plan. These analyses are very data-intensive and complex to prepare, and may end up deterring RWMG participants from including their projects for consideration in an IRWMP. The consequence of this barrier could be that there would be lost opportunities for organizations to collaborate in integrating water management projects and achieving synergies, cost savings and other benefits.

By including the requirements for these benefit/cost analyses not only in the implementation grant guidelines - where presumably they would be used as a criterion in determining funding allocations - but also in the program guidelines in general, DWR is requiring RWMGs to conduct these analyses before projects could be included in an IRWMP. This would reduce the number of projects that would likely be in an IRWMP, thereby reducing the scope of the integration effort in any region. Our understanding of DWR's goal, and indeed of the goal of Proposition 84 in general, was that the integrated planning process should be as comprehensive as possible. The additional burden of meeting the requirements of these guidelines is likely to push regional integration efforts in the opposite direction.

In many cases, projects that are included in the IRWMP are generated from regulatory requirements associated with endangered species, public health goals, ecosystem protection needs, etc. In fact, the prioritization criteria for grants in the Proposition 50 program and now in the Proposition 84/1E program specifically give preference for projects that are related to such requirements. These projects may not be cost-effective with respect to the benefit/cost analyses that DWR is now proposing, yet may be planned by various members of a RWMG for other reasons. Furthermore, the benefits of any project may not be easy to quantify with much precision, in either economic or scientific terms, or the process of doing so may be very expensive and time-consuming to conduct.

For all of these reasons, we recommend that DWR reconsider the requirement for the benefit/cost analyses that are currently incorporated in the general program and implementation grant guidelines.

Specific Comments

Pg 12 - Section II-E, para. 2 Though this paragraph applies to Prop 84 and Prop. 1E, it would be good to explicitly state that. Also, clarify that "total project costs" is the "total planning project cost"

Pg 13 - Section II-F Table 1 These Statewide Priorities (to be emphasized under Prop 84 and 1E) appear to be a very different list than for Prop 50. A published comparison between the various IRWM related propositions and which Statewide Priorities they target would be extremely helpful.

Pg 14 – Competition Since all regions which have existing IRWM plans will need to update them to comply with new Prop 84/1E Plan Standards, DWR should establish a minimum planning grant allotment for each of the 11 funding areas to ensure that planning grant funds are spread

throughout the state. A minimum allotment of \$600,000 (\$300,000 regional, \$300,000 inter-regional), for example, would affect only a small amount of the planning funds and reduce uncertainty for "non-competitive regions" that successfully arrived at a single IRWM plan for an entire DWR funding area.

- Pg 15 - Section II G, para 2 Minimum scores should be established before the project proposals are accepted so that there is no chance of applicants lobbying staff to raise or lower the minimum score.
- Pg 15 - Section III A The term "local agencies" does not appear to include regional bodies like councils of governments, per Appendix B of the guidelines. Such councils may not qualify as non-profits under Section 501(c)(3), but these entities may have an interest in applying for grant funds. It is unclear if 'regional' bodies are considered 'local agencies' as defined in Appendix B.
- Pg 29 - Reimbursement We do not agree with the condition that reimbursable costs should be limited to work performed after execution of the grant agreement for both planning and implementation grants. The "effective date" method of Prop 50 was more appropriate. The experience of the Bay Area IRWMP is that significant costs—especially for legal, administrative support and accounting services—may be incurred by the applicant between the grant award and execution of the grant agreement. These costs are directly related to the grant.
- Pg 34 - Reimbursable Costs *"...Reimbursable costs include the reasonable costs of engineering, design, land and easement..."* This definition should explicitly state that planning costs, such as public outreach, are reimbursable.
- Pg 34 - Reimbursable Costs *"...Reimbursable costs include the reasonable costs of...legal fees...and project implementation including administrative costs and incidental costs. Costs that are not reimbursable with grant funding include, but are not limited to: a. Costs, other than those noted above, incurred prior to effective date of a grant agreement with the State..."* Accounting and legal fees, including the cost of staff or consulting attorneys, for work performed between the award of a grant and the execution of a grant agreement are an integral part of a grant project and should be reimbursable. Please confirm that such costs are reimbursable under the proposed Prop 84 and 1E grant guidelines and PSPs. If they are, then please modify or clarify reimbursement provisions elsewhere in the guidelines and PSP to conform.
- Pg. 51 Economic Feasibility 2nd Par states *"a preliminary economic analysis must be included as part of the criteria in the project selection process . . . either a cost effectiveness or benefit-cost analysis may be used"* with reference to a DWR Guidebook (2008). The current Bay Area project selection

process considers preliminary benefit and cost info, but whether it is consistent with the DWR handbook is an open question so firstly, DWR should provide an early opportunity to meet with regions to review the project selection process, especially if the region encompasses the funding area. Secondly, if there are any outstanding issues, the time at which this guideline/standard will take effect must be clear – one could interpret the language to apply to new projects after adoption of an updated IRWMP, or to mean that all projects in the updated IRWMP have adhered to this guideline, or to apply to projects added after the Guidelines are finalized. The Bay Area is now adding IRWMP projects and this timing issue may be important. Please clarify whether the intent here is to require economic analysis per DWR Guidebook for ALL projects included in an IRWM Plan.

Economic analyses are neither required under Prop 84 nor by current IRWM statutes. If it is not possible to remove this requirement, please reduce the importance of economic analysis in scoring of projects. Scoring for economic analysis made up 10/75 pts under Prop 50 and the draft Prop 84 guidelines would boost that to 20/60.

Pg 59 - Data Management

Second Paragraph: This refers to “Standard 6, Integration” but “Standard 6” does not appear to be defined in the document. Integration does consistently fall as fifth in order of other sections and unnumbered lists.

Pg 64 - Land Use Coord.

DWR must recognize that this planning should happen at a local level first and foremost, that this local coordination is most feasible, and there is great value in local coordination. RWMG's should encourage planning and coordination at the local level, and describe processes for facilitating and supporting that local coordination, but, in most cases, it is impractical for RWMG's to be responsible for ensuring that the local coordination occurs. Further, until effective local coordination is occurring, it is unlikely that effective coordination could occur at the region level.

Proposal Solicitation Package

IRWM Planning Grant - Proposition 84 - Draft

Pg 13 - Foreword

A section should be added to the Foreword stating whether or not DWR has all of the funding and authority needed—and DWR has decided to use that authority—to award, enter into grant agreement, and disburse awarded and contract funds in the full amount of the IRWM planning grant program.

Pg. 8 – Funding Match

The funding match should be 25% as in the earlier planning grant round, not increased to 50%. Local agencies and stakeholders are experiencing difficult budgetary conditions and the increased cost

share would make it difficult to adequately update the various sections of the plan as required by the proposed Guidelines.

Pg 11 - *“Proposal Objective: Briefly describe the objectives for the IRWM Plan.”* Should this read “...for the proposed planning project?”

Pg 11 - *“Other Contribution: Provide the total amount of other funds...”* Does this mean the total of the next 3 items, Funding Match, Federal Contribution, and In-kind Contribution?

Pg 11 - *“In-kind Contribution: ...In-Kind Contribution – refers to work performed by the grantee...”* In-kind services performed by “partner” entities in a given regional IRWMP should qualify as a match.

Pg 11 - *“Total project Cost: ...This amount must equal the sum of the contributions listed above.”* The total project cost should also include the requested grant amount.

Pg 14 - Local Agencies: *“Describe any legal agreements among partner agencies and/or organizations that ensure performance of the Proposal and tracking of funds.”* Given the timeframe for submitting applications, partner agencies may not have sufficient time to fully execute agreements. There should be some flexibility in describing how partner agencies and organizations will ensure performance and tracking.

Pg 15 - Non-Profit Organizations: Same provision and same comment as above.

Page 16, 3rd arrow Existing IRWM Plans do not meet the Plan standards. This should be clarified such that applicants should describe which parts of the IRWM Plan meet the standards.

Pg 16 - Attachment 4 Budget: We are glad to see that a 5% limit on direct project administrative expenses is “encouraged” rather than required. Direct administrative costs don’t have a linear correspondence with the grant amount. For grant requests for a few hundred thousand dollars or less, the 5% limit seems tight.

Pg 17 - Attachment 6 AB 1420... *“Applicants, who are urban water suppliers, must provide documentation that they are in compliance with the following, AB 1420 requirements, and Water Meter Implementation requirements.”* And *“If the applicant is an urban water supplier or*

an urban water supplier will be receiving funding from the proposed grant, the ABI420 Compliance Tables 1 and 2...must be completed." These two passages appear to be inconsistent with each other. Please clarify.

Pg 20 – Purpose *"It is also to describe what the applicant must provide DWR to prove it is supplying the appropriate funding match."* But this section doesn't offer any guidance about nature of proof required. Please add such guidance.

Pgs 20 and 21 - Examples 1 & 2: Heading for second column on both tables is "Agency Funding Match". Is the information in those columns meant to be for the applicant's funding match? If so, please change headings to: "Applicant Funding Match".

Pg 21 - Presenting Funding Match: *"Applicants must show agency funding match and grant fund allocations in their budgets. Applicants must also identify the source of the agency funding match."* Please explain the meaning of the term "agency" in both sentences. If it is the same as "applicant", please use the latter term for clarity.

Proposal Solicitation Package

IRWM Implementation Grant - Proposition 84 – Draft

Pg 9 – *"DWR will reserve (not award) the amount of grant funding specified"* if DWR does not receive projects applicable to the water conservation and DAC funding targets. DWR should describe how these targets will be met after all the Prop 84 rounds are completed. If DWR "falls behind" the percentages in the first round it may be prudent to dedicate a future round solely to the specific purpose(s).

General Comments on Proposition 84 Implementation Grant draft PSP

DWR should streamline the project coordination/funding allocation process for regions which coincide with the whole funding area. This includes not requiring such a detailed economic analysis for proposals from a region that covers the entire funding area. Understandably, DWR will want a more detailed analysis for projects from regions that share a funding area because it must competitively decide the grant awards for projects with which it is not familiar. **A streamlined process for regions that match a DWR funding area will be an incentive for other regions to do the same and a reward for regions that already have worked hard to integrate and be inclusive.**

- Consider creating a special category for instances where the region matches the funding area.
- For those regions, DWR should be more concerned with the prioritization method(s), governance / decision making, and inclusiveness; and place less emphasis on the competitive factors needed to vet other regions.

- If DWR intends to overrule or second guess a region's decision the basis for DWR action should be clearly spelled out in the solicitation and/or guidelines. Little is said on that issue.
- Smaller and/or developmental projects, which may help spur innovation and lead to future synergies in a targeted area, should not be underrated or discouraged by DWR's proposed evaluation process.

It would be helpful if more time, perhaps **60 days**, were allowed to submit proposals after the final PSPs are released. If DWR really wants the regions to integrate and exercise an effective and inclusive governance process, then adequate time should be allocated to do so. Additionally, the detailed benefit analysis demanded by the Draft PSP will take time and effort to develop and assemble.

- DWR should consider whether a firm deadline is necessary where a region aligns with a DWR funding area. A preliminary proposal that is subject to back and forth refinement between DWR and regional proponents could lead to a superior result versus treating such a proposal in an ex parte manner as if it were competitive.
- As each applicant may request the amount in column D of Table 2 (pg. 10) even though less than that may be awarded in the current round, DWR should consider how to keep the projects submitted, but not funded eligible for future funding rounds without requiring re-submission in future rounds. In that same vein, DWR should consider whether column D is really the upper limit of what may be requested:
 - DWR received a \$250 million appropriation for the IRWM program in Nov 2009 and even if DWR needs to conduct a subsequent solicitation process for that funding, it does not automatically follow that projects from "non-competitive regions" would require re-submission in future versus simply carrying them forward and moving directly to amending a grant agreement if the region concurs that the priority of un-funded projects is unchanged.

Proposal Solicitation Package

IRWM Storm Water Flood Management Grant - Proposition 1E - Draft

Pg 5 - Section IIA

The term "local agencies" does not appear to include regional bodies like councils of governments, per Appendix B of the guidelines. Such councils may not qualify as non-profits under Section 501(c)(3), but these entities may have an interest in applying for grant funds.

Pg 7 - Section IIC

Please clarify if projects must meet one or all of the Eligible Project Types listed. It appears that a project must not be part of the SPFC, but must it also be consistent with all of the other project types listed? Maybe a better title for this section would be "**Eligible Project Criteria**", a phrase used in Section IIB.

Pg. 7 – Section III

The \$20 million allocated to urban SWFM projects to "reduce the frequency and impacts of flooding in watersheds that drain to the San Francisco Bay" should provide priority or preference based on proximity to San Francisco Bay. Watersheds in the Sacramento and

San Joaquin Valley first drain to the Delta where a significant amount of water is pumped south and **does not drain** to San Francisco Bay. The nexus to San Francisco Bay from upper reach watersheds is much weaker than watersheds that abut the Bay where high tides in the Bay compound flooding problems.

Pg 8-9 - Section V

This section is a bit confusing since the terms “application” and “attachment” seem to be used with the same meaning in various places. It is unclear as to whether attachments must be submitted electronically via the BMS and additionally in hard copy or whether the attachments may be submitted in hard copy only (as appears to be the case from point #2 under “A complete application consists of...”). It is unclear if a CD/DVD of the application/attachments is required or optional. Under Item #2 on page 9, it appears that the full application must be submitted in hard copy format, but this is not stated clearly on page 8 under “A complete application consists of...” because point #2 only refers to ‘attachments’. If application and attachments are the same, please state this.

Pg 10 - Table 3

Under “2 Budget” – “Total Project Cost” is the title of this line item, but the descriptive text refers to “Proposal”. We assume you mean to say you want a list of the cost(s) of the Project(s) in the Proposal and then the total Proposal cost in a summary.

Table 3, Section V

The question number references appear to need updating. It is hard to understand the draft because the questions related to the question numbers do not make sense.

Pg 15 - Attachment 4

The reference to Table 5 in this section is confusing. We think you mean to reference Table 5 in another attachment. Table 5 on page 25 does not relate to budget.

Pg 16 - Attachment 6

Performance measures include decreased flood ‘risk’ but the criteria for submission appears to be a reduction in flood ‘damage’. Please clarify. If a project reduces ‘flood risk’ is that also counted as reducing ‘flood damage’?

Pg 24 - Exhibit A

Does an acquisition project require a letter from the landowner showing willingness to sell?

Pg 26 - Exhibit B

The statements about the timeframe when the funding match can be counted are confusing. The statements seem to be in conflict, can the funding match be counted from Sept 30, 2008 or from the date of the grant agreement execution? Please clarify in more detail or provide examples to show which costs are subject to the 2008 date and which are subject to the date of the grant agreement.

Pg 27 - Exhibit B

Row A states that the admin costs for the entire proposal can not exceed 5%, but can individual projects show admin costs that exceed 5% as long as the total proposal costs do not exceed this amount?

Exhibit C

Table numbers referenced in Exhibit C do not appear to be correct - review difficult.

General Questions on Prop 1E Storm Water Flood Protection Grant draft PSP

Can a project be listed in both the Proposition 84 and Proposition 1E lists? It appears that flood protection project applicants have to choose between Prop 84 and Prop 1E. At one time DWR said it would decide from where the funds would come so applicants wouldn't have to "gamble" on which program to use and then later find out they would have done better by applying under the other grant program. Is DWR expecting one Prop 1E planning and implementation application for the Bay Area, or can there be multiple applications?

Permitting various applicants in a region to be able to apply for Prop 1E implementation grants on their own appears in conflict with the purpose of integrated planning. Prop 1E requires that projects need to be listed in the IRWMP, but yet the governing body of the IRWM region has no role in the application process to confirm whether the project is considered a high priority for the IRWMP region or the four sub-regions established for project prioritization under the San Francisco Bay Area IRWMP.

We wish to express our appreciation to the Department for the considerable time, effort and sensitivity that has been devoted to crafting the subject material. At the same time, we hope to convey that conducting our IRWM program in accordance with the draft material would be daunting. Thank you very much for considering our comments.

Sincerely,



Paul Helliker
Chair