



## Proposition 1 Program Implementation Guidance

The following guidance is offered to departments, boards and conservancies developing Proposition 1 programs. This is general guidance and each program should consult the appropriate bond and implementing statutes to finish structuring the program and the corresponding guidelines.

Proposition 1 provides funding to implement the three objectives of the California Water Action Plan: more reliable water supplies, restoration of important species and habitat and a more resilient and sustainably managed water infrastructure. Each program should implement one or more of these objectives and these objectives should be the focus of all Proposition 1 program guidelines.

### Program Guidelines

**Guidelines Development** - Each program needs to develop and adopt competitive grant or loan program project solicitation and evaluation guidelines. In addition, guidelines need to be reviewed by the Natural Resources Agency for consistency with applicable statutes and with the purposes of the bond measure.

- Per Proposition 1, guidelines are exempt from the Office of Administrative Law process attributed to the development of regulations (79705).
- Prior to developing guidelines, Departments need to submit a program development schedule to Agency. This will allow Agency to plan for peak periods when multiple departments will be submitting materials for review. In addition, as Proposition 1 requires the Agency to post a list of all program and project expenditures to its website, all Departments should submit the title and short description of their proposed program at this time. (Section 79708[a]).
- If the program has previously developed and adopted project solicitation and evaluation guidelines that comply with the requirements of Proposition 1, it may use those guidelines. However, these will still need to be submitted to the Agency for review (Section 79706[a]).
- Before submitting draft guidelines to your board or director for approval to solicit public comments, please send a draft to Agency for initial comments. This will be an initial review to make sure that the general framework of the guidelines is consistent with the bond statute (Section 79708[d]).
- Once approved for submittal by the department's board or leadership, departments then submit draft guidelines to Agency for posting on a designated page on the bond accountability website (Section 79708[d]). In addition, draft solicitation and evaluation guidelines need to be published on the program's website at least 30 days before public meetings on the guidelines (Section 79706[b]).

- Programs need to have three public meetings to consider public comments prior to finalizing the guidelines. With the exception of local conservancies, one meeting needs to be in northern California, one meeting in the central valley of California, and one meeting in southern California. Local conservancies only need to have meetings within their boundaries (Section 79706[b]).
- Proposed final guidelines are submitted to Agency for review and approval (Section 79708[d]). Once the Agency review is complete, departments can finalize via approval by their director or board.
- Final guidelines will be posted to a designated page on the bond accountability website and copies need to be submitted to the fiscal committees and the appropriate policy committees of the Legislature (Section 79716).

### **Guidelines Requirements**

- **Competitive Programs** – At a minimum, competitive programs need to include the following:
  - Well defined solicitation period with a clear start and end date to the application process.
  - Clear scoring criteria and evaluation process.
  - Professional review team - Proposition 1 requires that projects need to be reviewed by professionals in the fields relevant to the proposed project (Section 79707[f]).
- **Leveraging Funds** - Priority needs to be given to projects that leverage private, federal, or local funding or produce the greatest public benefit. The method for giving this priority should be clearly outlined in the program guidelines (79707[b]).
- **Science** - State and local water agencies are required to use the best available science to inform decisions regarding water resources (Section 79707[d]).
- **New or Innovative Practices** -Special consideration needs to be given to projects that employ new or innovative technology or practices, including decision support tools that support the integration of multiple jurisdictions, including, but not limited to, water supply, flood control, land use, and sanitation. The method for providing this special consideration should be clearly outlined in the program guidelines (Section 79707[e]).
- **Signage** - To the extent practicable, projects funded by Proposition 1 should include signage informing the public that the project received funds from the Water Quality, Supply, and Infrastructure Improvement Act of 2014. These requirements should be included in the program guidelines (Section 79707[g]).
- **Eligible Applicants** - Eligible applicants are public agencies, nonprofit organizations, public utilities, federally recognized Indian tribes, state Indian tribes listed on the Native American Heritage Commission’s California Tribal Consultation List, and mutual water companies (Section 79712[a]-[b]).
  - To be eligible for funding under this division, a project proposed by a public utility that is regulated by the Public Utilities Commission or a mutual water company shall have a clear and definite public purpose and shall benefit the customers of the water system and not the investors.

- To be eligible for funding under this division, an urban water supplier shall adopt and submit an urban water management plan in accordance with the Urban Water Management Planning Act (Part 2.6 (commencing with Section 10610) of Division 6).
  - To be eligible for funding under this division, an agricultural water supplier shall adopt and submit an agricultural water management plan in accordance with the Agricultural Water Management Planning Act (Part 2.8 (commencing with Section 10800) of Division 6).
  - In accordance with Section 10608.56, an agricultural water supplier or an urban water supplier is ineligible for funding under this division unless it complies with the requirements of Part 2.55 (commencing with Section 10608) of Division 6.
- **Planning Priorities** - To the extent feasible, projects need to promote state planning priorities consistent with Section 65041.1 of the Government Code and sustainable communities strategies consistent with the provisions of subparagraph (B) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code (Section 79707[i]).
  - **Working Landscapes** – The bond requires that California’s working agricultural and forested landscapes will be preserved wherever possible. To the extent feasible, these watershed objectives funded by Proposition 1 need to be achieved through use of conservation easements and voluntary landowner participation, including, but not limited to, the use of easements pursuant to Division 10.2 (commencing with Section 10200) and Division 10.4 (commencing with Section 10330) of the Public Resources Code and voluntary habitat credit exchange mechanisms (Section 79707[j]).
  - **Eminent Domain** – Proposition 1 cannot be used to fund any acquisitions by eminent domain (Section 79711[g]).
  - **Natural Heritage Preservation Tax Credit** - Any agency acquiring land with Proposition 1 may use the Natural Heritage Preservation Tax Credit Act of 2000 (Division 28 (commencing with Section 37000) of the Public Resources Code) (Section 79711[h]).
  - **Coordination** – Programs need to coordinate with the appropriate resources departments that are doing work in their area or that affect their area. In addition, programs should require that grantees coordinate their activities with the appropriate departments that are also working on similar issues.
  - **Conservation Corps** – Programs should encourage grantees to use the California Conservation Corps to implement projects where feasible. This should be documented in the grant guidelines (Section 79714[c]).
  - **Monitoring and Reporting** - The guidelines need to include monitoring and reporting requirements.
    - **Water Quality Monitoring** – If the program includes water quality monitoring data collection, it needs reported to the SWRCB in a manner that is compatible and consistent with surface water monitoring data systems or groundwater monitoring data systems administered by the SWRCB.

- **Watershed Data** – If the program includes watershed monitoring data collection it needs to the Department of Conservation (DOC) in a manner that is compatible and consistent with the statewide watershed program administered by the DOC.
- **Maximum and Minimum** - Limitations can be placed on the dollar amount of grants or loans to be awarded (Section 79706[a]).

## Fiscal Issues

- **Administrative Costs** - Each program is permitted to use 5 percent of the funds allocated for that program to pay the administrative costs of that program. Appropriations need to be tracked at a level that allows programs to report on this to the Department of Water Resources Statewide Bond Unit (SBU) – similar to past bond measures. The SBU will be publishing this information twice a year in the bond allocation balance reports – January 10<sup>th</sup> and after the final budget has been signed (Section 79703).
- **Planning and Monitoring** - Each program is permitted to use up to 10 percent of funds allocated for that program for planning and monitoring necessary for the successful design, selection, and implementation of the projects authorized under that program (Section 79704).
- **Cash flow** – Cash flow estimates will be produced and reported in a timely manner via the Agency Bonds Consolidated Reporting System (ABCRS). Bond sales currently occur twice a year in the Fall and Spring. Estimates are generally required in early January and in July.
- **Expenditures** - Expenditures will be reported by bond and by bond sale in the Fall of each year as directed by the SBU. These will then in turn be reported, as required, to the State Treasurer's Office (STO).
- **Projects** – New projects will be added to ABCRS and will need to be reviewed by the STO for categorization of expenditures. In addition, if there is a significant scope, the project may need to be reviewed again by the STO.
- **ABCRS** - Programs will continue to report metrics of success and project information (status, location, funding, etc.), through ABCRS. The information will then be posted to the state's bond accountability website (Section 79716).
- **Audits**
  - Similar to past bond measures, the Department of Finance Office of State Audits and Evaluations (OSAE) will be auditing Proposition 1 (Section 79708[a]). Agency will work with the auditors to set up and fund the audit program. An overall audit guide for bond programs was published after passage of Proposition 84 and can be found at: [http://resources.ca.gov/docs/bonds\\_and\\_grants/Bond\\_Accountability\\_and\\_Audits.pdf](http://resources.ca.gov/docs/bonds_and_grants/Bond_Accountability_and_Audits.pdf)
  - If an audit discloses any impropriety, the California State Auditor or the Controller may conduct a full audit of any or all of the activities of that entity.

- The following are the most common findings from past audits and recommendations from the auditors on how to avoid similar findings in the future. Please pay attention to these findings and provide appropriate guidance to staff and to grantees to avoid having similar findings under Proposition 1.

**1. Unsupported Overhead**

- From 2009 to 2015, the auditors questioned over \$1 million in unsupported overhead costs.
- 74% of this amount is due to the grantee adding an unsupported overhead rate to their salary rates (this is separate from fringe benefits).
- In majority of the cases, the Grantor is unaware that the grantee’s salary rate includes an overhead rate.
- In recent case, over 60% of the grant was used to pay for overhead costs which were included in the salary costs.

**Recommendations:**

- If overhead is allowable, set a cap/limit, such as 10%.
- Disallow overhead rates in salary rates, if possible. Alternatively, ask the grantee for a complete breakdown of their salary rates clearly distinguishing actual salary rate (paid), fringe benefits, and overhead.

**2. Unsupported Match**

- From 2009 to 2015, we have questioned over \$2 million in unsupported overhead costs.
- All match costs claimed should be supported similar to grant costs. The Bond Accountability and Audits Guide includes further guidance on this issue.

