



IRWM PROPOSITION 1 IMPLEMENTATION GRANT Frequently Asked Questions

Relating to general program requirements for administering the North Coast Integrated Regional Water Management (IRWM) Proposition 1 Implementation Grant

March 15, 2019 Version

The answers to the questions below apply to all potential local project sponsors, including Tribes. ***Special emphasis is added in italicized text for noteworthy differences or clarification for Tribal projects.*** The following figure summarizes the applicant funding categories and contract requirements.

Note: Many of the answers to questions below are based on the DRAFT 2018 Implementation Grant Solicitation Package (PSP) and DRAFT 2018 IRWM Grant Program Guidelines. Release of the final Guidelines and PSP may result in changes to the contents of this FAQ.

IRWM PROPOSITION 1 IMPLEMENTATION GRANT APPLICANT FUNDING CATEGORIES & CONTRACT REQUIREMENTS	<i>DAC (Project entirely benefits a Community)</i>	<i>Non DAC Community</i>	<i>Tribe (Project entirely benefits a DAC Community)</i>	<i>Tribe (Non DAC Project)</i>	<i>Non-Profit (Project entirely benefits a DAC Community)</i>	<i>Non-Profit (Non DAC Project)</i>
CEQA required for the project	✓	✓	✓	✓	✓	✓
CEQA Completion Required Within 6 months of Award or Prior to Agreement Execution		✓				✓
Planning, Design & CEQA Costs are Eligible for Grant Reimbursement	✓		✓		✓	
Limited Waiver of Sovereign Immunity Required			✓	✓		
Advanced Payment Option up to 50% of Grant Funds	✓		✓		✓	✓
Cost Share Requirement Waived 100%	✓		✓		✓	
Invoice Retention Held until Project Completion (5% first two years, then up to 10%)	✓	✓	✓	✓	✓	✓

Question: Can local project sponsors enter into a grant agreement directly with the Department of Water Resources (DWR) to use these IRWM funds?

No. The North Coast Resource Partnership (NCRP) is the Regional Water Management collaborative group that has been approved by the California Department of Water Resources (DWR) Regional Acceptance Process to be eligible for the Proposition 1 IRWM

funds allocated for the North Coast Funding Area. The NCRP conducts a project solicitation and selection process and submits one integrated proposal to DWR detailing how the collaborative wishes to spend the funds allocated to the North Coast Funding Area. The County of Humboldt has been selected to administer the grant on behalf of the NCRP. The County of Humboldt, as the Regional Administrator, contracts with DWR as the Grantee, then enters into Sub-Grantee agreements with the local project sponsors who were included in the NCRP funding proposal.

Question: When can we anticipate the grant agreement to be fully executed?

After receiving the DWR Grant Award letter, it can take 6 to 12 months for Humboldt County to finalize the grant agreement with DWR; Sub-Grantee agreements with local project sponsors will be executed shortly thereafter.

Question: How does the Sub-Grantee agreement address Tribal Sovereign Immunity?

A Tribal local project sponsor will be required to submit a Resolution of Limited Waiver of Sovereign Immunity relating to the project, prior to the execution of the Sub-Grantee agreement. The resolution is specific to reimbursement of funds for obligations not performed, and ensures Tribes shall receive the same protections as would a California public entity. The waiver will be referenced in and attached as an exhibit, to the Sub-Grantee agreement. The waiver will be limited only to the specific project and for the applicable designated period of time.

Question: What are Disadvantaged Communities (DACs), Severely Disadvantaged Communities (SDACs), and Economically Distressed Areas (EDAs)?

A DAC is a census tract, block, or place that has an annual median household income (MHI) that is less than 80% of the Statewide annual MHI. Currently, more- than 89% of the North Coast Region is categorized as disadvantaged. A SDAC is a census tract, block, or place with an annual MHI that is less than 60% of state MHI. 57% of the North Coast Region is categorized as SDAC. An EDA is an area with a state median household income between 80% and 85% of the statewide annual MHI. While the EDA definition is similar to the DAC definition in utilizing state MHI as a determining factor, it also includes other factors such as financial hardship, unemployment and population density. To find out if your community is a DAC, SDAC, or EDA, use the NCRP's mapping data tool (<https://northcoastresourcepartnership.org/data/>). You may also find DWR's DAC Mapping Tool useful (<https://gis.water.ca.gov/app/dacs/>). Should your community self-identify as a DAC, SDAC, or EDA and this tool does not reflect that please contact NCRP staff to discuss options.

Question: Are there accommodations to encourage projects that benefit DACs, SDACs, and EDAs?

Projects sponsored by a DAC, EDA or proponent of a project that wholly benefits a DAC are not required to submit Funding Match (Local Cost Share). Such projects are also eligible for a 50% advanced payment of grant funds (with grant awards less than \$1 million). It is important to note that if the project proponent is not a DAC, but the project helps address critical water supply or water quality needs of a DAC, they may receive the above benefits. If a portion of the project benefits a DAC, then that portion may be eligible for DAC benefits:

- 76% - 100% benefit to DAC: 100 percent cost share waiver
- 51% - 75% benefit to DAC: 75 percent cost share reduction waiver
- 25% - 50% benefit to DAC: 50 percent cost share reduction waiver
- Less than 25% benefit to DAC: No cost share reduction waiver

CEQA must be completed for projects that provide a water-related benefit entirely to DACs, SDACs and EDAs. However, such projects will be exempt from the requirement to finalize CEQA and attain all permits within 6 months of the final funding award, or prior to the DWR grant execution date, whichever occurs first. *Projects providing water-related benefits entirely to Tribes or projects implemented by Tribes are also exempt from the 6 month requirement.*

Question: Will prevailing wage and Labor Code Compliance apply to the project?

Yes, projects are required to be in compliance with state prevailing rate laws and shall monitor all contracts reimbursed by the grant funds to ensure that prevailing wage provisions of the Labor Code are being met. Labor code Section 1771 is not applicable to public agencies with its own forces. Therefore the work carried out by government agencies, *including Tribes*, using their own employees, is not subject to prevailing wage requirements. Proposition 1 funding does not require a Labor Compliance Program (LCP), by a third party monitoring entity approved by the Director of Industrial Relations.

Question: Will the project be required to comply with California Environmental Quality Act (CEQA)?

Yes, each project proponent, *including Tribes* and DACs, is responsible for complying with CEQA requirements and must submit documentation to DWR for review prior to beginning construction. This is a requirement of using State bond funds, *and includes Tribal projects on Tribal Land*. Some projects will qualify for an exemption from CEQA, while other projects will require a Mitigated Negative Declaration (or in rare cases an Environmental Impact Report).

CEQA and all permits are required to be complete and submitted to DWR within 6 months of funding award and prior to executing the grant agreement. Projects providing a water-related benefit entirely to DACs, EDAs, or *Tribes, or projects implemented by Tribes will be exempt from the 6 month requirement.*

Environmental planning and permitting costs for projects are not an eligible cost for grant reimbursement, unless a project is providing a water-related benefit entirely to DACs, EDAs, or *Tribes, or the project is implemented by a Tribe.*

Information on which state and federal agencies may require permits can be found here: <http://businessportal.ca.gov/registration-permits/environmental-permitting-guide/>

Note: *NEPA may also be required if the project is on Tribal, federal, or cross jurisdictional lands or if federal funds are being used as match.* Please contact NCRP staff for clarification as needed.

Question: What if the project is categorically exempt from CEQA?

If the project is categorically exempt from CEQA, a Notice of Exemption (NOE) must still be filed with the County Recorder or State Clearinghouse, which starts a 35 day statute of limitations period on legal challenges to the agency's decision.

Question: Is DWR the Lead Agency for CEQA compliance?

No, determining the lead agency for CEQA will depend on what type of organization the project proponent is and whether state or local agencies have a role in approving the project.

- If the project proponent is a local public agency (*including Tribes*), the project proponent will be the lead agency for CEQA.

- If the project proponent is not a local agency but the project requires approval from a state or local agency, then one of the approving agencies will be the lead agency for CEQA.
- If the project proponent is not a local agency and no state or local approvals are required, then Humboldt County will serve as the lead agency (but the project proponent will be responsible for completing any required studies and documentation).

DWR will internally review your approved CEQA and NEPA, if applicable, documents and permits to ensure all requirements have been met. This review is required prior to construction implementation approval.

Question: Will local Tribal consultation be needed prior to finalizing CEQA documents?

Lead agencies must comply with AB52, which requires the lead agency to consider project effects on Tribal cultural resources and conduct consultation with California Native American Tribes early during the planning phase and prior to releasing a Mitigated Negative Declaration or Environmental Impact Report. The lead agency must give notice to California Native Tribes that have submitted a request for notice and that are traditionally and culturally affiliated with the geographic area of the project. AB52 does not apply to projects that are Categorical Exempt from CEQA as documented in a Notice of Exemption. For more information and examples of notification to Tribes visit: <http://nahc.ca.gov/codes/>. To identify which Tribe or Tribes should be notified contact the Native American Heritage Commission at:

1550 Harbor Blvd, Suite 100
 West Sacramento, CA 95691
 (916) 373-3710 • Fax: (916) 373-5471
 nahc@nahc.ca.gov

You may also contact the NCRP Tribal Engagement Coordinator, California Indian Environmental Alliance for the most up to date contact information for North Coast Tribes in the project area at sherri@cieawb.org • (510)848-2043.

Question: How are the grant funds dispersed?

There is an optional 50% advanced payment to projects with less than a \$1,000,000 grant award if you are a DAC, non-profit or your project benefits a DAC. The advanced funds are required to be spent within **six** months, with the option to request an extension to 18 months, per DWR's 2018 Integrated Regional Water Management Grant Program Guidelines. If you do not request the advanced payment option, the funds will be paid after the incurred expenses are submitted to DWR and Funding Match has been zeroed out. *The California Water Code §10551 eligibility list did not include Tribes; therefore Tribal projects must meet one of the other requirements listed above to receive the advanced payment.*

Question: Will retention be held on the grant funds?

Yes, 5% to 10% of the grant funds requested for reimbursement will be withheld. The state will withhold 5% of each invoice for an initial period of time (approximately 2 years) and then increase the retention withholding to 10% until the project is complete and a Project Completion Report has been submitted to DWR.

Question: What are the Funding Match Requirements?

Funding Match must be non-State funds and submittal requirements follow the same guidelines as Grant Funding submittals, i.e. Labor compliance applies, state per diem rates, etc. Costs incurred after January 1, 2015 can be used as Funding Match (Local Cost Share). If the project helps address critical water supply or water quality needs of a

DAC, they may receive a waiver from the above requirement. If only a portion of the project benefits a DAC, then that portion may be eligible for DAC benefits:

- 76% - 100% benefit to DAC: 100 percent cost share waiver
- 51% - 75% benefit to DAC: 75 percent cost share reduction waiver
- 25% - 50% benefit to DAC: 50 percent cost share reduction waiver
- Less than 25% benefit to DAC: No cost share reduction waiver

Question: When is Funding Match required to be submitted?

Funding Match invoices must be submitted prior to grant funding invoice submission, on a by task basis (per budget category). If a task does not have a Funding Match requirement, you may invoice for that task while submitting Funding Match invoices on a different task. However, construction implementation Funding Match cannot be submitted until CEQA, permits and final plans & specs have been reviewed by DWR.

Question: What date are project costs eligible for reimbursement?

Eligible project costs reimbursement date will be determined by the date that the DWR awards the grant to the County of Humboldt (on behalf of the NCRP), yet to be determined. Only eligible project costs after that given date can be submitted for reimbursement.

Question: When can we start submitting invoices?

Once the Sub-Grantee Agreement is executed you can start invoicing monthly or quarterly. All Funding Match, per project task, is required to be submitted prior to the reimbursable expenses, and construction activities can only be submitted after DWR has reviewed CEQA and Final Plans & Specs.

Question: How long will it take to receive my reimbursement payments?

Payments are usually received within 3 to 4 months after submittal to the County of Humboldt. There are exceptions that can cause additional delays such as budget amendments and the annual State budget approval at the beginning of each fiscal year. The longest such delay was six months.

Question: When can construction activities and the invoicing for construction costs begin?

You must submit all CEQA documents, final plans & specs and all permits for DWR's review and approval to move forward with construction and submittal of construction match and reimbursement invoices. Funding Match is required to be submitted and zeroed out prior to submitting reimbursable expenses.

Question: How much of the budget can be spent on Project Administration?

You are allowed 10% of the total budget for Project Administration (Budget Task 1) to cover the expenses for reporting, invoicing, contract administration, labor compliance, the monitoring plan, and the final report. Construction Administration is a separate budget included under the Construction Task (Budget Task 4) and does not have a specific limit set for the expenses. Construction Administration includes the expenses for construction oversight, meetings with contractors, inspections, completion of record drawings, bids, verification and review of tests, and processing of payments to the contractor.

Question: Are Indirect Costs Eligible Expenses?

Yes, you are allowed to invoice for indirect costs if the costs are directly associated with the grant. The costs may be reflected in a fully burdened labor rate. If the costs are separate from the labor rates, you will be required to submit a letter verifying how your

agency determines that the indirect costs are directly associated with the specific project (ie. this could be determined by a percentage allocated to the grant derived from your annual budget).

Question: What are the monitoring requirements?

You are responsible for submitting a plan on how you will monitor the project to report on the outcome of the proposed project benefits. Post-performance monitoring and reporting is required for three consecutive years after the project has been completed.

Question: Are Monitoring/Post Performance Monitoring activities eligible grant expenses?

No, it is the responsibility of the Local Project Sponsor (Sub-Grantee) to cover expenses associated with post-performance monitoring and reporting for **three** years after the project is complete.

Question: Where can I find more information about the grant and application process?

If you have questions or need proposal development assistance please contact:

Katherine Gledhill
(707) 795-1235
kgledhill@westcoastwatershed.com

For questions related to Tribal projects please contact:

Sherri Norris, NCRP Tribal Coordinator
(510)848-2043
sherri@cieaweb.org