

OFFICE OF SYSTEMWIDE MULTI-BENEFIT INITIATIVES,
DIVISION OF MULTI-BENEFIT INITIATIVES

SYSTEMWIDE FLOOD RISK REDUCTION PROGRAM GUIDELINES

DRAFT

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Acronyms and Abbreviations

BWFS	Basin Wide Feasibility Study
CVFPB	Central Valley Flood Protection Board
CVFPP	Central Valley Flood Protection Plan
CVFSCS	Central Valley Flood System Conservation Strategy
DMI	Division of Multi-benefit Initiatives
DWR	Department of Water Resources
NGO	Non-governmental organization
O&M	Operations and Maintenance
Program	The Systemwide Flood Risk Reduction Program
PSP	Proposal Solicitation Package
RFMP	Regional Flood Management Plan
SFRRP	Systemwide Flood Risk Reduction Program
SPFC	State Plan of Flood Control
USACE	United States Army Corps of Engineers

1.0 SYSTEMWIDE FLOOD RISK REDUCTION PROGRAM

The Systemwide Flood Risk Reduction Program (Program) oversees the work necessary to implement on-the-ground projects that further the goals and objectives of the Central Valley Flood Protection Plan (CVFPP) and other systemwide priorities as identified by the Administration or the Legislature. State investments in system improvements may be through direct investment in new or improved facilities, or through proposal solicitations. System improvements will generally be implemented through partnership programs among the Department of Water Resources (DWR), Central Valley Flood Protection Board (CVFPB), and United States Army Corps of Engineers (USACE), and in coordination with local public agencies and non-governmental organizations (NGOs).

Program activities may include development of feasibility studies, technical studies, preliminary and final flood system designs, construction documents and specifications, or other memorandums and reports.

The Program may also fund construction, improvement of existing or augmentation to State Plan of Flood Control (SPFC) facilities.

1.1 Division of Multi-benefit Initiatives

DWR's Division of Multi-benefit Initiatives (DMI), Systemwide Project Management and Engineering Support Branch's objective is to implement a variety of multi-benefit projects for flood risk reduction and ecosystem enhancement using multiple funding sources. The Program prioritizes multi-benefit water management strategies through watershed-scale collaborations, and system-scale water and flood planning. DMI strives to:

- Use public funds for projects that maximize value for Californians and the State's ecosystems.
- Maximize use of finite landscapes in the State's waterways and flood system by proposing projects that create multiple benefits to ecosystems, habitats, and species.
- Recognize the interconnectedness of water resources management at the watershed and eco-region scales and respect each region's unique governance, perspectives, needs, and priorities.

1.2 State Plan of Flood Control (SPFC)

The Program described in the CVFPP supports projects within the State Plan of Flood Control. Collectively, the facilities, lands, programs, conditions, and mode of operations and maintenance (O&M) for the State-Federal flood protection system in the Central Valley are referred to as the State Plan of Flood Control (SPFC). This SPFC Descriptive Document (November 2010) was the first time that an inventory of the SPFC has been compiled or referenced in a single document. Until then, much of the information on the SPFC had been individually maintained for each of the many flood protection projects that constitute State-federal flood protection along the Sacramento and San Joaquin rivers and tributaries.

The *SPFC Descriptive Document Update* (December 2016) documented changes to the SPFC between 2010 and 2016 and exists as a reference to be used in conjunction with the 2010 document.

1.3 Central Valley Flood Protection Plan (CVFPP)

The CVFPP, adopted in January 2012 and updated in 2017, pursuant to the Central Valley Flood Protection Act and Water Code sections 9600-9625, established an integrated systemwide approach to improving flood management in the areas currently receiving flood protection from State Plan of Flood Control facilities.

The CVFPP is updated every 5 years to refine system needs, prioritize recommended actions, develop high level implementation schedules and funding plans for the recommended actions, and track progress of implementation actions. In accordance with Water Code requirements, DWR considers the following outcomes to guide investment decisions and project prioritization for system-wide improvements:

1. Urban and rural flood risk reduction and increased resiliency by addressing existing system capacity constraints, lowering flood stages, and providing additional capacity for the purpose of accommodating potentially higher flows in the future.
2. Improved ecosystem functions by integrating the recovery and restoration of key physical processes, self-sustaining ecological functions, native habitats, and species into flood management system improvements.
3. Continued agricultural, natural resource, and economic sustainability. A long-term sustainable operations and maintenance program that provides for flood, ecosystem, and local initiative needs.
4. Improved O&M. Reduce systemwide maintenance and repair requirements by modifying the flood management system in ways that are compatible with natural processes, and adjust, coordinate, and streamline regulatory and institutional standards, funding, and practices for operations and maintenance, including significant repairs.

1.4 Approach to Flood Management

The process to modernize the flood system accelerated in 2007 when the California legislature passed the Central Valley Flood Protection Act (Stats. 2007, ch. 364), directing DWR to prepare the CVFPP. The CVFPP (updated in 2017) was developed with stakeholders and local, State and federal agencies working together to recommend high-level solutions for the flood management system, including ecosystem needs and emerging information regarding climate change.

The 2012 CVFPP also directed DWR to develop a Sacramento River Basin Wide Feasibility Study (BWFS) and a San Joaquin River BWFS. The two BWFSs refined the scale and locations of CVFPP systemwide improvements, and incorporated ecosystem improvement information from the Central Valley Flood Protection Plan Conservation Strategy (Conservation Strategy) and information from locally-led regional flood management plans (RFMPs).

As a result, identification of flood risk reduction projects is guided by the CVFPP and informed by the BWFSSs, the Conservation Strategy, and RFMPs. By drawing information from these sources and ongoing input from stakeholders, DWR develops projects that will reduce flood risk, improve ecosystems and addresses difficult policy issues important to local stakeholders.

1.5 Multi-Benefit Flood Projects

The Program will continue the process of improving public safety by upgrading critically important components of aging SPFC facilities, by providing additional flood system capacity and resiliency, while enhancing ecosystems and providing for other benefits. Multi-benefit flood management projects are developed by DWR as part of the approach to flood management.

Implementation of a systemwide approach to flood management in the Central Valley will increase the flood carrying capacity of the system. Diverting additional flood flows into bypasses reduces flood stages in rivers and contributes to decreased flood risk for urban, small, and rural communities. Additional capacity also provides resiliency to the projected effects of climate change.

Multi-benefit projects will incorporate other important and significant opportunities for aquatic and terrestrial habitat improvement, continued agricultural production, recreation and other benefits. The multi-benefit nature of projects can be achieved through open communication among numerous agencies and local interests over a sustained period of time, thereby contributing to broad support for implementation of flood system improvement projects.

1.6 System Repairs

At times it may be necessary to repair a levee, weir, or other SPFC facility in a manner that does not provide for multiple benefits. While not the primary focus of this Program, such repairs assist in the integrity of the flood system systemwide and may be funded through this Program, as necessary and as funding sources allow.

2.0 PROGRAM IMPLEMENTATION ALTERNATIVES

There are several alternatives for implementing the Program. An integrated systemwide approach to flood risk reduction recognizes that flood management actions are interconnected with other planning and management activities within an integrated and sustainable water resources system, such as: land use planning, coordination across geographic and jurisdictional boundaries, ecosystem and habitat protection and environmental and economic sustainability. An integrated systemwide approach to flood risk reduction can achieve multiple benefits and provide opportunities to integrate ecosystem restoration within flood risk reduction projects. For example, construction of system improvements such as weir expansions and levee setbacks within the existing bypasses, or construction of new bypasses, will provide opportunities to expand and connect habitat within the flood management system, considerably improving the ecosystem while increasing flood carrying capacity and overall resiliency of the system.

The focus of the Program is to implement flood system improvements that have cross-regional benefits and that when taken together offer multi-benefit opportunities to the extent feasible.

As identified in the following sections, program implementation may include directed actions, and proposal solicitations.

2.1 State Led

State led projects are completed by DWR staff from initiation to design and through construction. DWR Project Managers may also use the State contracting process to hire outside contractors to complete specific elements of a project if DWR staff are unavailable or the specific element requires a more specialized skillset.

2.2 Directed Actions

Directed actions are specific projects awarded funding at the discretion of the DWR Director outside of a public proposal solicitation process. Direct expenditure projects are projects proposed by DWR either in response to a solicitation from a stakeholder, another government entity, or on its own initiative. Directed actions by DWR may utilize public entity agreements, also known as project agreements, to partner with local public agencies to complete entire projects or to complete separate elements of larger projects. Directed actions generally depend on the public entity's resource capability and willingness to take on the work.

2.3 Proposal Solicitations

Proposal solicitations are common practice for government agencies to make funds available to other agencies to complete projects based on competitive ranking. Proposal solicitations generally work well to complete multiple smaller scale projects across multiple geographic regions and serves to support flood risk reduction and multi-benefit objectives.

2.4 Envisioned Systemwide Projects

Priority projects that met the goals and objectives envisioned in the CVFPP or other systemwide priorities as identified by the Administration or the Legislature may compete for limited funding for planning, design, and construction include, but are not limited to:

- Yolo Bypass facilities improvement such as expansion of Fremont Weir, Yolo Bypass Sacramento Weir and Sacramento Bypass
- Reservoir Management Projects, including Folsom Dam Joint Federal Project cost sharing
- Feather River-Sutter Bypass multi-benefit improvements
- Flood Plain Storage Projects
- Flood-MAR projects (using flood water for managed aquifer recharge)

3.0 PROJECT PRIORITIZATION

Generally the Program will examine a number of factors when selecting and implementing a project. These factors may take on various degrees of importance based on the needs of the project and funding sources available. Any prioritization and criteria for a specific solicitation

will be defined in a future Proposal Solicitation Package (PSP). Future criteria may include, but are not limited to the following:

- Total project cost
- Flood risk reduction and other benefits, such as ecosystem restoration
- Regional stakeholder interests
- Land use constraints
- Project complexity
- Environmental and federal permitting schedules, etc.

4.0 FUNDING REQUIREMENTS

The Program receives funds from several sources. These include the State's General Fund, funds received through the payment of fees, and general obligation bond proceeds. Each of these funding sources have different requirements as to what projects or activities may be funded as well as how the funds may be used. DWR will allocate available funding based on the requirements of each funding source and how those funds may best be used. Under no circumstances may an applicant or funding recipient request a different funding source be used for its project. The allocation of funds from a specific funding source to a specific project is within the sole discretion of DWR.

In any future proposal solicitations seeking applications for a competitive solicitation, the specific funding source(s) will be clearly stated along with any specific requirements and restrictions of the funds. Currently, the Program anticipates disbursing funds pursuant to six general obligation bond initiatives: Proposition 1E (Pub. Resources Code, § 5096.800 et seq.); Proposition 50 (Wat. Code, § 79500 et seq.); Proposition 84 (Pub. Resources Code, § 75001 et seq.); Proposition 204 (Wat. Code, § 78500 et seq.); Proposition 1 (Wat. Code, § 79700 et seq.); and, Proposition 68 (Pub. Resources Code, § 80000 et seq.). Regardless of the funding source(s), the funding recipient will be required to enter into a funding agreement with DWR. A specific funding agreement template will be provided as an appendix to any future PSP published by DWR. Below are several requirements that will be within a funding agreement with DWR. This list is not exhaustive.

4.1 Requirements for All State Funding Sources

4.1.1 Indemnify and Hold Harmless

As part of the funding agreement, funding recipients shall indemnify and hold harmless the State, its officers, agents, and employees from any and all liability from any claims and damages (including inverse condemnation) arising from the planning, design, construction, repair, replacement, rehabilitation, maintenance, and operation of the project, and any breach of the funding agreement.

4.1.2 Conflict of Interest and Confidentiality

All participants are subject to State conflict of interest laws. Failure to comply with these laws, including business and financial disclosure provisions, will result in the proposal being rejected and any agreement being declared void. Other legal action may also be taken.

Applicable statutes include, but are not limited to, Government Code section 1090 and Public Contract Code sections 10410 and 10411.

As part of the conflict of interest requirements, individuals working on behalf of a funding recipient may be required by the State to file a Statement of Economic Interests (Fair Political Practices Commission Form 700) if it is determined that an individual is a consultant for Political Reform Act purposes.

Funding recipients should be aware that when submitting a proposal to the State, they will waive their rights to the confidentiality of the contents of the proposal. All proposals, as well as all project materials maintained by the State are subject to disclosure pursuant to the California Public Records Act (Gov. Code, § 6250 et seq.).

4.1.3 Labor Code Compliance

As part of the funding agreement, the funding recipient shall agree to be bound by all the provisions of the Labor Code regarding prevailing wages and shall monitor all contracts subject to reimbursement from the funding agreement to assure that the prevailing wage provisions of the Labor Code are being met. Current Department of Industrial Relations (DIR) requirements may be found at: <http://www.dir.ca.gov/lcp.asp>. For more information, please refer to DIR's Public Works Manual at: <http://www.dir.ca.gov/dlse/PWManualCombined.pdf>. The funding recipient will also affirm that it is aware of the provisions of section 3700 of the Labor Code, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance.

4.1.4 California Environmental Quality Act (CEQA)

All activities funded pursuant to the Program must comply with CEQA. (Pub. Resources Code, § 21000 et seq.) Any work that is subject to CEQA and funded under a funding agreement shall not proceed until documents that satisfy the CEQA process are received by the DWR and the DWR has completed its CEQA compliance. Any work funded under the Program that is subject to CEQA shall not proceed until and unless approved by DWR; such approval is fully discretionary. If CEQA compliance by the funding recipient is not complete at the time a funding agreement is executed by the parties, once DWR has considered the environmental documents, it may decide to require changes, alterations, or other mitigation to the Project; or to not fund the Project. Should DWR decide to not fund the Project, the funding agreement shall be terminated.

4.1.5 Competitive Bidding and Procurement

A funding recipient's contracts with other entities for the acquisition of goods, services, and construction of public works with funds provided by the State must be in writing and shall comply with all applicable laws and regulations regarding the securing of competitive bids and undertaking competitive negotiations. If a funding recipient does not have a written policy to award contracts through a competitive bidding or sole source process, the Department of General Services' State Contracting Manual rules must be followed. They are available online at: <https://www.dgs.ca.gov/OLS/Resources/Page-Content/Office-of-Legal-ServicesResources-List-Folder/State-Contracting>.

4.2 Requirements for General Obligation Bond Funds

The source of much of the Program's available funding is the proceeds generated by the sale of tax-exempt general obligation bonds. These are also referred to as GO Bond Funds or Proposition funds. In addition to the requirements applicable to all state funding sources set forth above, there are some unique requirements set forth either in State law or by (federal) Internal Revenue Service regulations applicable to all GO Bond funds. Other requirements may be also be set forth in the specific bond act and these requirements will be stated in any future PSP allocating funds from a specific GO Bond.

4.2.1 Income Restrictions

Any capital asset acquired or constructed in any part with GO Bond funds may not be used to generate income of any kind. The funding recipient shall agree that any refunds, rebates, credits, or other amounts (including any interest) accruing to or received by the funding recipient pursuant to this Program shall be paid by the funding recipient to the State, to the extent that they are properly allocable to costs for which the funding recipient has been reimbursed by the State pursuant to a funding agreement. Additionally, all disbursements from the State to the funding recipient must be deposited in a non-interest-bearing account.

4.2.2 General Overhead and Indirect Costs

GO Bond funds may only be used for direct project costs. General overhead and indirect costs will not be paid. "Indirect Costs" means those costs that are incurred for a common or joint purpose benefiting more than one cost objective and are not readily assignable to the funded project (i.e., costs that are not directly related to the funded project). Examples of Indirect Costs include: central service costs; general administration of the funding recipient; non-project-specific accounting and personnel services performed within the funding recipient's organization; depreciation or use allowances on buildings and equipment; the costs of operating and maintaining non-project-specific facilities; tuition and conference fees; and, generic overhead or markup. This prohibition applies to the funding recipient and any subcontract or sub-agreement for work on the funded project that will be reimbursed by the State.

5.0 GUIDELINE AMENDMENTS

These Guidelines may be amended after completion of the initial proposal solicitation. Amendments to the Guidelines will be publicly posted and made available for comment for at least 45 days.