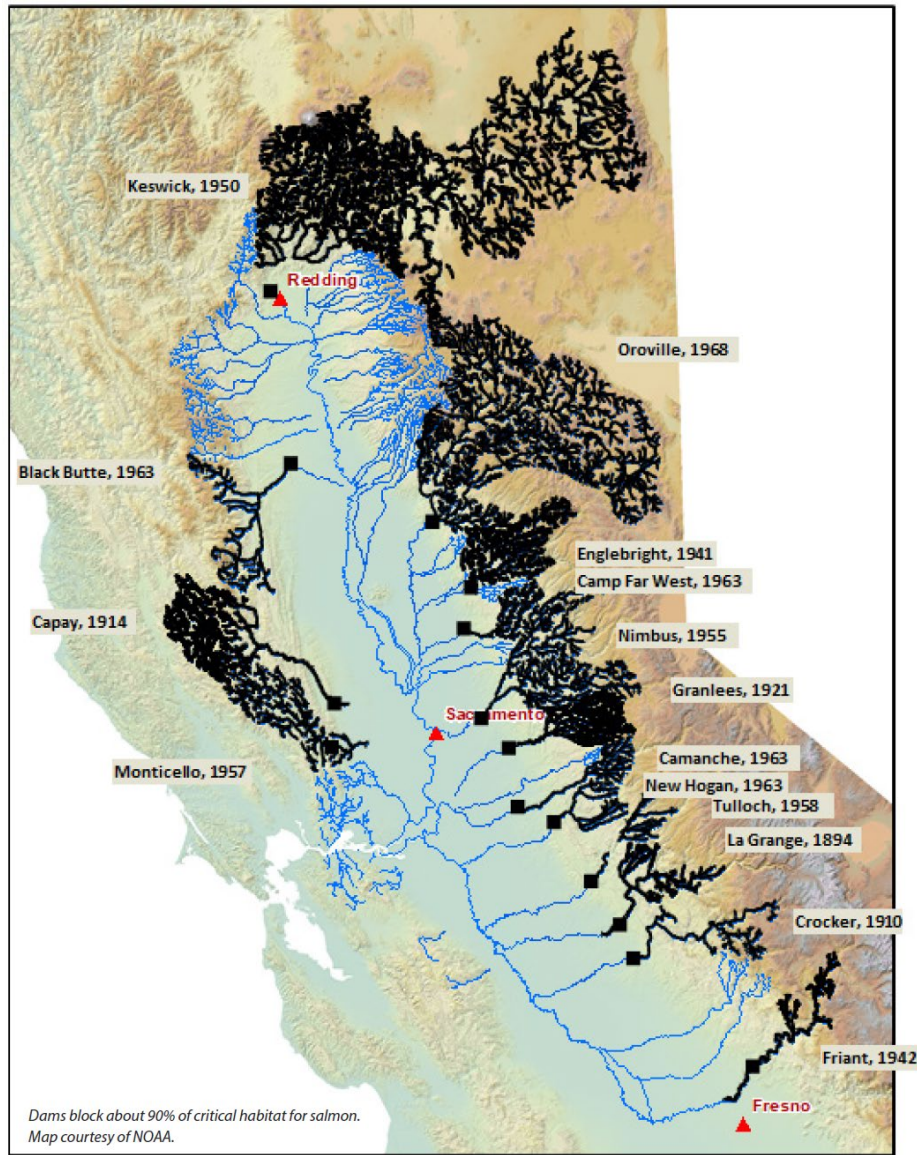


RIVERINE STEWARDSHIP PROGRAM (RSP)

Salmon Coldwater Expansion & Reintroduction

Final Guidelines



Department of Water Resources
Division of Multibenefit Initiatives
715 P Street
Sacramento, CA 95814

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TABLE OF CONTENTS

1.0	INTRODUCTION	6
2.0	PURPOSE AND FOCUS OF FUNDING	6
2.1	RSP Salmon Coldwater Expansion and Reintroduction Focus	6
3.0	ORGANIZATIONAL ALIGNMENT	6
3.1	Division of Multibenefit Initiatives.....	6
3.2	Riverine Stewardship Program.....	7
4.0	POLICIES AND GUIDANCE	7
4.1	California Salmon Strategy for a Hotter, Drier Future	8
4.2	California Water Resilience Portfolio	8
4.3	California Water Action Plan.....	9
4.4	Recovery Plan for the Evolutionarily Significant Units of Sacramento River Winter-run Chinook Salmon and Central Valley Spring-run Chinook Salmon and the Distinct Population Segment of California Central Valley Steelhead .	9
5.0	PROGRAM IMPLEMENTATION ALTERNATIVES	10
5.1	State-Led Implementation of Projects & Technical Assistance	10
5.2	Directed Action.....	11
5.3	Proposal Solicitations for Grant Projects	11
5.4	Envisioned Project Types and Projects	11
6.0	PROJECT PRIORITIZATION	12
6.1	Geographic Scope	12
7.0	FUNDING REQUIREMENTS.....	13
7.1	Requirements for All State Funding Sources	13
7.1.1	Indemnify and Hold Harmless	13
7.1.2	Conflict of Interest and Confidentiality.....	14
7.1.3	Labor Code Compliance.....	14

7.1.4 California Environmental Quality Act (CEQA).....	14
7.1.5 Competitive Bidding and Procurement.....	15
7.1.6 Limited Waiver of Sovereignty.....	15
7.2 Requirements for General Obligation Bond Funds	15
7.2.1 Income Restrictions	15
7.2.2 Ineligible Costs	15
7.2.3 General Overhead and Indirect Costs.....	16
8.0 GUIDELINE AMENDMENTS	17
APPENDIX A – ADVANCE PAYMENT PROCEDURES	18
Application Process	18
Approval Process.....	19
Use of Advance Payment	19
Request for Further Advance Payments	20
Emergency Advance Payment Requests	21
Reduction of Withholding Amount.....	21
APPENDIX B - DEFINITIONS	22

Acronyms and Abbreviations

CEQA	California Environmental Quality Act
CWAP	California Water Action Plan
DIR	Department of Industrial Relations
DMI	Division of Multibenefit Initiatives
DWR	Department of Water Resources
GO	General Obligation (Bonds)
NGO	Non-Governmental Organization
NOAA	National Oceanic and Atmospheric Administration
O&M	Operations and Maintenance
PRC	Public Resources Code
PSP	Proposal Solicitation Package
RSP	Riverine Stewardship Program
SCE&R	Salmon Coldwater Expansion and Reintroduction
SRI	Statewide Restoration Initiatives
SWRCB	State Water Resources Control Board
WQCP	Water Quality Control Plan

1.0 INTRODUCTION

The Riverine Stewardship Program (Program) Salmon Coldwater Expansion & Reintroduction Guidelines (Guidelines) establish eligibility requirements and priorities for selecting projects to implement and support with funding and Technical Assistance. These Guidelines outline how the Program aligns project selection with Department of Water Resources (DWR) and organizational directives and policies, funding source requirements, state laws, and other state guidance as described below. These Guidelines do not replace the Riverine Stewardship Program Grants (RSP Grants) Final Guidelines and Proposal Solicitation Package (2022).

2.0 PURPOSE AND FOCUS OF FUNDING

2.1 RSP Salmon Coldwater Expansion & Reintroduction Focus

California's water and flood control systems rely upon Central Valley rim dams, which will be operated for the foreseeable future. Upon their installation, these dams collectively blocked access to upwards of 90% of high-quality, cold-water spawning and rearing habitats for salmon and other ocean-run species behind them. As temperatures rise and precipitation patterns change, the limited managed spawning habitats below dams will continue to rely on gravel injections and an increasing share of cold reservoir storage to maintain suitable spawning conditions.

The key focus of RSP Salmon Coldwater Expansion and Reintroduction is to improve climate and drought resilience for Central Valley salmonids by guiding the establishment of future reintroduction programs that restore their access to off-limits historical habitats. The Program will fund projects considered necessary, prerequisite, and informative to moving reintroduction programs forward. Returning salmon to the great expanse behind rim dams will also help restore watersheds by returning ocean-derived nutrients and fishing opportunities that have been missing for over half a century.

Since establishing and funding reintroduction programs will require iterative processes to validate ecological and operational feasibility on a per-barrier, watershed-by-watershed basis, the Program will work with Tribes; local, State and federal agencies; and other willing partners to progress through these steps as funding allows.

3.0 ORGANIZATIONAL ALIGNMENT

The Program is organizationally located within the Statewide Restoration Initiatives Branch in the DWR Division of Multibenefit Initiatives. The mission of each of these organizations guides how the Program prioritizes funding in these Guidelines.

3.1 Division of Multibenefit Initiatives

DWR's Division of Multibenefit Initiatives' (DMI) mission is to plan, implement, and

steward multibenefit projects and programs that integrate innovation and nature-based approaches, science, and engineering in partnership with diverse interest groups. The Program will prioritize reintroduction projects that align with this mission and provide multiple benefits to watersheds behind rim dams when feasible.

3.2 Riverine Stewardship Program

The Program is codified in state law (Wat. Code, § 7049) to deliver technical expertise and funding to manage and improve California's natural resources for people and the environment. The Department of Water Resources established the Program to implement watershed-based riverine and riparian stewardship projects by providing technical and financial assistance in support of projects that reduce flood risk, restore and enhance fish populations and habitat, improve water quality, achieve climate change benefits, and in general, ensure resilient ecological functions within rural, urban, or urbanizing areas of the state.

The Program is staffed by a multidisciplinary team of planners, engineers, geologists, ecologists, fisheries biologists, and managers who lead diverse partnerships with Tribes, local, state, and federal agencies, nonprofits, and community groups to inclusively plan, design, and implement practical fish passage and river habitat restoration projects. Together, the Program carries on a quarter-century tradition of operating as a center of innovation for solving crucial fish passage improvement needs around the state.

The Program will prioritize projects that align with the following goals:

- 1) Protect, restore, and enhance the natural environment of riparian systems.
- 2) Support innovative approaches to improve salmonid migration and habitat enhancements that benefit aquatic species by reconnecting aquatic habitat to help fish and wildlife endure drought and adapt to climate change.
- 3) Perform early inclusive engagement and collaboration with Tribes, agencies, nonprofit organizations, resource conservation districts, and community or other special interest groups to identify multibenefit opportunities, local needs, and watershed restoration or enhancement objectives.

4.0 POLICIES & GUIDANCE

Per the requirements of Proposition 4, the Program will conduct Salmon Coldwater Expansion and Reintroduction work that is consistent with the policies and guidelines established by the Water Resilience Portfolio (see below), California's Water Supply Strategy, the Central Valley Flood Protection Plan, and the Sustainable Groundwater Management Act. The Program will also adhere to DWR policies and relevant guidance as outlined below.

The DWR Strategic Plan supports the exploration of nature-based and innovative

solutions to modernize the interface of existing water infrastructure and afford salmonids access to cold-water habitats above dams to adapt to a predicted hotter, drier climate. Access to cold-water habitats is essential for the recovery and persistence of Central Valley salmonid populations. Providing significant expansion of access to cold-water spawning habitats through salmon reintroductions to their historic watersheds is key to addressing the fundamental needs of threatened and endangered salmonids.

The DWR Tribal Engagement Policy supports programs to enable California Tribes to manage and act as caretakers of tribal cultural resources. The Program seeks to build trust, Tribal community capacity, and partnerships through early inclusion and contributions to the planning, design, and implementation of each project.

The Program's work aligns with DWR's Racial Equity Action Plan Strategy 2.1, which calls for working with partners in underrepresented communities to cultivate relationships and mitigate negative impacts.

The Program will prioritize projects that employ nature-based or innovative solutions to expanding suitable spawning habitats, engage and partner early with California Tribes and other locally interested parties on each project, and will focus on building Tribal and local capacity to play a vital role in managing natural resources, including future reintroduction programs. Additionally, the Program will prioritize projects that leverage private, federal, or local funding or produce the greatest public benefits.

4.1 California Salmon Strategy for a Hotter, Drier Future

In 2024, Governor Newsom launched the California Salmon Strategy for a Hotter Drier Future to restore salmon populations amid hotter, drier weather exacerbated by climate change. The Salmon Strategy specifies six priorities and 71 actions that state agencies are already taking to stabilize and recover salmon populations, and additional or intensified actions needed in the coming years.

The Program will prioritize reintroduction projects that may contribute to the following goals in the Salmon Strategy:

- Goal 1 – Remove Barriers and Modernize Infrastructure for Salmon Migration
- Goal 2 – Restore and Expand Habitat for Salmon Spawning and Rearing
- Goal 4 – Modernize Salmon Hatcheries
- Goal 6 – Strengthen Partnerships

4.2 California Water Resilience Portfolio

In 2020, Governor Newsom released the Water Resilience Portfolio, the Administration's blueprint for equipping California to cope with more extreme droughts, floods, and rising temperatures, while addressing long-standing challenges, including declining fish populations, overreliance on groundwater, and the lack of safe drinking water in many communities. The portfolio embraces a

broad, diversified approach in addressing the state's water challenges.

The Program will prioritize reintroduction projects that align with the following Portfolio actions:

- Action 10 – Reconnect aquatic habitat to help fish and wildlife endure drought and adapt to climate change
- Action 11 – Support the expansion of wetlands, including mountain meadows, to create habitat, filter runoff, buffer floods, and recharge groundwater
- Action 14 – Upgrade and maintain state wildlife refuges, hatcheries, and restoration areas
- Action 29 – Partner with key non-state partners to improve coordination and alignment

4.3 California Water Action Plan

In 2014, Governor Brown published the California Water Action Plan (CWAP) as a roadmap to address the state's most pressing water challenges, specifically drought, population growth, and climate change. Its primary purpose was to move California away from crisis-driven responses and toward long-term sustainable water management.

The Program will prioritize reintroduction projects that may align and contribute to the following CWAP Action, in coordination with the Department of Fish and Wildlife:

- Action 4 – Protect and restore important ecosystems
 - Assess Fish Passage at Large Dams
 - Restore Key Mountain Meadow Habitat

4.4 Recovery Plan for the Evolutionarily Significant Units of Sacramento River Winter-run Chinook Salmon and Central Valley Spring-run Chinook Salmon and the Distinct Population Segment of California Central Valley Steelhead

In 2014, NOAA Fisheries published the Recovery Plan for the Evolutionarily Significant Units of Sacramento River Winter-run Chinook Salmon and Central Valley Spring-run Chinook Salmon and the Distinct Population Segment of California Central Valley Steelhead to guide the restoration of three threatened and endangered Central Valley salmonids to persistent, self-sustaining populations.

The Program will prioritize reintroduction projects that align with the core populations and priority recovery actions outlined in the Recovery Plan for the following regions:

- Northern Sierra Diversity Group
- Basalt and Porous Lava Diversity Group
- Southern Sierra Diversity Group and Mainstem San Joaquin River

5.0 PROGRAM IMPLEMENTATION ALTERNATIVES

There are several alternatives for implementing RSP Coldwater Expansion and Reintroduction Projects. The Program will work with all partners to identify projects (and programs) and independently prioritize them for funding in alignment with these Guidelines. The Program will fund priority projects according to one or more of the following alternatives:

5.1 State-Led Implementation of Projects & Technical Assistance

State-Led Implementation describes when DWR staff perform the work of implementing projects in whole or in part. The Program may use the State contracting process to fund Tribes, outside agencies, consultants, or contractors to complete project elements if DWR staff are unavailable or the work requires a more specialized skill set.

The Program defines Technical Assistance as a range of multidisciplinary services provided by Program staff or others to support direct, meaningful benefits to vulnerable populations as part of an approved project or a potential future project that would be eligible for funding under these Guidelines. The Program may fund Tribes, consultants, or other entities to deliver Technical Assistance if DWR staff are unavailable or the work requires a more specialized skill set, and to fund qualifying Tribal participation and workforce development activities.

Examples of Technical Assistance activities include, but are not limited to:

Planning and Design: Project concept development; project design or design criteria including habitat features; cost estimates; and project management.

Environmental and Scientific: Environmental planning; permit preparation; coordination with local, State, and federal regulatory agencies; protected species surveys and monitoring; construction monitoring; environmental compliance; data collection; and project design.

Outreach: Performing outreach to regional and local community interest groups to inform, collect feedback, and build partnerships. Includes meeting facilitation, educational development, and facilitating project update newsletters.

Tribal Participation, Collaboration, and Workforce Development: Outreach and engagement with willing Tribal interest groups, including California Native American Tribes, Tribal representatives, and California Native American nonprofit organizations and community groups to share information and funding for Tribal participation and workforce development. This includes holding regional listening sessions where reintroduction is being proposed to learn about Tribal interests and priorities related to potential projects and to discuss opportunities for collaboration.

5.2 Directed Actions

Directed Actions are specific projects funded at the discretion of the DWR Director or designee outside of a public proposal solicitation process. Directed Actions are proposed by DWR in response to external coordination or on DWR's own initiative, and in full accordance with these Guidelines. Directed Actions by DWR may use 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 depend on the partner entity's resource capability and willingness to take on the work.

5.3 Proposal Solicitations for Projects

Proposal solicitations are a common practice for government agencies to make funds available to other organizations to complete projects based on competitive ranking. Proposal solicitations work well to complete multiple smaller-scale projects across geographic regions and serve multiple objectives when there is a high demand to fund certain project types.

5.4 Envisioned Project Types and Projects

DWR will select projects that include a riverine implementation component, data collection, inclusive outreach and engagement, and planning for the eventual reintroduction of salmonid species into cold-water habitats that are currently inaccessible to anadromous populations. Supported projects may include one or more of the following elements:

- Planning, design, fabrication, modification, and testing of pilot or permanent scale fish capture, segregation, and/or release facilities that serve trap and haul operations or passage facilities around dams or other passage barriers.
- Technical Assistance projects including Tribal participation, engagement, and workforce development for work associated with an in-water project that meets the terms of these Guidelines.
- Reintroduction pilot projects that provide for in river actions to promote egg incubation, juvenile downstream passage, or adult salmonid passage into areas behind dams that were historically available to anadromous species to monitor behavior and survival to inform life cycle modeling and reintroduction planning and permitting.
- Planning and design of hatchery upgrades associated with reintroduction projects or programs, including but not limited to the planning and installation of captive broodstock systems.
- Planning, construction, and/or monitoring of beaver dam analog projects that restore historically available mountain meadows in watersheds suitable for salmon reintroduction to reduce erosion, increase groundwater infiltration (production), and help boost cold water availability for salmonids.

- Climate modeling projects that assess watershed feasibility analyses and species resiliency information necessary to prioritize reintroduction projects and future programs.
- Completed and ongoing projects that exemplify some of the priorities of these Guidelines include:
 - North Fork Feather Above Almanor Fish Passage Feasibility, Phase I
 - Shasta Juvenile Salmon Collection System Pilot Project
 - North Yuba River Spring-run Chinook Salmon Reintroduction

6.0 PROJECT PRIORITIZATION

The Program will examine several factors when selecting and prioritizing projects that align with the aforementioned policies and guidance. These factors may take on various degrees of importance based on the needs of the State, the funding sources available, and their respective requirements. Any prioritization and criteria for a specific solicitation will be defined in a future Proposal Solicitation Package (PSP). Criteria may include, but are not limited to the following:

- Project purpose, strategic fit, and alignment with Program priorities
- Project readiness and sustainability
- Project constraints and opportunities
- Permit and project complexities
- Tribal support and inclusion of Tribal involvement in project planning
- Supported by climate modeling
- Total project cost, partner cost share, and funding availability
- Miles of prospective new spawning habitat supported by the project
- Value of project to future reintroduction program(s)
- Level of commitment to support a future reintroduction program
- Level of support and participation of local and regional interest groups and resource agency partners
- Willingness to explore project alternatives
- Multi-species benefits and watershed scale considerations
- Direct and meaningful benefits to a vulnerable population
- Uses services of the California Conservation Corps, certified community conservation corps, or tribal corps

6.1 Geographic Scope

The Program will fund projects in the foothills and slopes of the Cascades and Sierra Nevada ranges of the Sacramento and San Joaquin River watersheds making up the historical range of salmonids and specifically including footprints behind high rim dams that act as full barriers to the historical habitat behind them. The Program may use climate modeling of water quality, habitats, and water availability to prioritize smaller watersheds within this range that are more resilient to the effects of drought and climate change and are more likely to sustainably

support salmonids well into the future. Project components may include footprints below these dams to support the project and future reintroduction programs, such as hatchery or dam infrastructure modifications to serve upstream passage or the collection, sorting, and/or loading activities required for an adult trap and haul operation.

7.0 FUNDING REQUIREMENTS

The Program receives funds from several sources, including general obligation bond proceeds and the State's General Fund. Each funding source has a different set of requirements governing how the Program may expend respective funding. The Program will allocate available funding based on each source's requirements and the best use of those funds. Under no circumstances may a funding recipient or applicant 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 DWR's sole discretion.

In any future PSP seeking applications, the Program will clearly identify the specific funding source(s) and any requirements and restrictions associated with those funds.

Currently, the Program anticipates committing funds pursuant to the Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024 (Proposition 4; PRC, § 90000 et seq.) to support projects that improve the climate resilience of watersheds for anadromous salmonids. RSP will include signage informing the public that projects received funding from Proposition 4, as applicable.

Regardless of the funding source(s), the Program would require a funding recipient to enter into a funding agreement with DWR. The Program will provide a specific funding agreement template as an appendix to any future DWR solicitation. Below are several requirements that will be within a funding agreement with DWR.

7.1 Requirements for All State Funding Sources

The following describes several requirements included within DWR's funding agreements. This list is not exhaustive. State funding is generally paid in arrears (i.e., the funding recipient incurs a cost, and the State reimburses for that eligible expense). The Program may advance funds to funding recipients based on documented need, per Appendix A – Advance Payment Procedures.

7.1.1 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.

7.1.2 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, § 7920.000 et seq.).

7.1.3 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.

7.1.4 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.

7.1.5 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>.

7.1.6 Limited Waiver of Sovereign Immunity

All funding agreements where the recipient is a federally recognized Tribe shall require a limited waiver of sovereign immunity to be adopted prior to execution of the funding agreement.

7.2 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 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.

7.2.1 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.

7.2.2 Ineligible Costs

Ineligible costs under Proposition 4 include the following:

- Costs incurred prior to the date of final award/approval
- Routine operation and maintenance costs.
- Purchase of equipment that is not an integral part of the project.
- Establishing a reserve fund.
- Purchase of water supply.

- Monitoring and assessment costs for efforts required after project construction is complete, unless required and stated in the work plan.
- Applying for and replacement of existing funding sources (e.g., other grant programs, bridge loans, etc.).
- Costs associated with fundraising or lobbying efforts, which include financial campaigns, solicitation of gifts and bequests, and similar expenses incurred to raise capital or to obtain contributions for the project or any other effort, including food, beverages, and entertainment.
- Support of existing agency requirements and mandates (e.g., punitive regulatory agency requirements).
- Purchase of real property in excess of the minimum required acreage necessary to operate as an integral part of the project as set forth and detailed by engineering and feasibility studies; or, previously purchased real property.
- Costs incurred as part of any necessary response and cleanup activities required under the Comprehensive Environmental Response, Compensation, and Liability Act; Resource Conservation and Recovery Act; Hazardous Substances Account Act; or other applicable law.

7.2.3 General Overhead and Indirect Costs

Indirect costs are expenses that are incurred for a common or joint purpose benefiting more than one objective and are not readily assignable to the funded project (i.e., expenses that are not directly related to the funded project). Examples of indirect costs include but are not limited to: central service costs; general administration of the funding recipient; non-project-specific accounting and personnel services performed by the funding recipient; depreciation or use allowances on buildings and equipment; the costs of operating and maintaining non-project-specific facilities; tuition; conference fees; and, generic overhead or markup. Food and beverages, fundraising, lobbying and entertainment may not be included as indirect costs. Indirect costs are also called overhead.

While most general obligation bonds prohibit reimbursement of indirect costs, Proposition 4 makes some allowances. The Program will allow for indirect cost reimbursement for projects that provide direct and meaningful benefits to vulnerable populations. The funding recipient must state the requested indirect cost rate and may only select one method for the Program's consideration. Whichever of the four methods by which indirect costs may be reimbursed are at the sole discretion of the funding recipient. The methods and required documentation requirements are:

- At the rate set forth in the funding recipient's negotiated federal indirect cost rate pursuant to its negotiated cost rate agreement. The funding recipient must submit a copy of the rate agreement. The rate agreement must be current and effective at the time the application is submitted and signed by both the funding recipient and the applicable federal agency.
- The federal de minimus indirect cost rate, which is up to 15%. The funding recipient may request a rate pursuant to this provision without submitting any information or documentation regarding indirect cost rates.

- At a rate negotiated by the funding recipient with another state agency within the last five years. The funding recipient must submit a copy of the rate agreement. The rate agreement should be current and effective at the time the application is submitted. If it is no longer in effect, the funding recipient will need to certify that the agreement submitted is the most recent version and state the reason(s) that the rate agreement is no longer in effect/was not renewed. The rate agreement, whether current or not, must be signed by both the funding recipient and the applicable State agency.
- At a rate proposed by the applicant. The applicant may submit an indirect cost rate proposal for consideration by DWR if it does not have an existing indirect cost rate agreement with any federal or state agency. Applicants requesting reimbursement for indirect costs must calculate their indirect cost rate by adding together all of its indirect costs and then calculating the indirect cost rate by dividing total allowable indirect costs by total allowable direct costs. All of the costs and grants/projects involved in this calculation must be documented. Documentation of this indirect cost rate must be maintained for the term of any funding agreement using the indirect cost rate (i.e., three years after final payment under the funding agreement). The applicant will need to submit a letter certifying: (1) the rate being requested; (2) that it was calculated using the method stated above and does not include any ineligible costs (e.g. food, beverages, fundraising, lobbying, or entertainment costs); (3) the records calculating the requested indirect cost rate shall be maintained for the term of any funding agreement executed with DWR.

If the funding recipient is approved for indirect costs, the rate will be a separate line item in the funding agreement's budget and will be stated as a specific dollar amount. Any increases in funding will increase the indirect cost dollar amount at the same rate as the original award. Funds may not be "shifted" from other line items into the indirect costs line item of the budget. During the life of the funding agreement, the funding recipient's indirect cost rate will remain the same, regardless of any changes in a funding recipient's indirect cost rate agreement(s) with other entities or a change in the federal de minimus rate.

Any indirect costs incurred by a funding recipient's partners, contractors, subcontractors, consultants, etc. shall be deducted from the funding recipient's indirect cost allocation set forth in the funding agreement's budget line item for indirect costs. Any indirect costs incurred by a funding recipient's partners, contractors, subcontractors, consultants, etc. will NOT be considered direct costs for purposes of reimbursement under the funding agreement. Any such indirect costs will be rejected and not be considered eligible costs.

8.0 GUIDELINE AMENDMENTS

These Guidelines may be amended to account for future funding sources and policy changes. DWR will publicly post amendments to the Guidelines and make them available for comment for at least 45 days.

APPENDIX A – ADVANCE PAYMENT PROCEDURES

Advance payments under State funding agreements are prohibited unless authorized by statute. Below are the procedures by which an entity may apply for and receive advance pay of their award from DWR. Recipients of advance payment have a fiduciary responsibility to the people of the State.

Application Process

Upon approval of the final award, DWR shall notify the awardee in writing of its award and the opportunity to apply for advance payment. The Notice of Award shall include an advance payment form. The awardee shall have up to 90 calendar days from the date of the Notice of Award to return the form and provide all applicable backup documentation if advance payment is requested. If the awardee fails to return all completed forms and backup documentation within 90 calendar days, the awardee has forfeited the right to request advance payment for its award. If documents are incomplete or inadequate, DWR shall reach out as soon as it is aware of the issue to notify the awardee of the issue. Failure of the awardee to respond to DWR's requests for clarification or further documentation shall result in a denial of the request for advance payment. DWR will notify the awardee within 90 calendar days of receipt of a complete advance payment request on its final decision. DWR's final decision is not appealable.

An awardee's application for advance pay must include its most recent financial documents that include sufficient detail to enable DWR to determine the financial and institutional capacity of the awardee, the details of the use of any authorized advance payment, and to determine the risk being taken by DWR on behalf of the taxpayers and/or bond holders providing the funds. Failure to provide adequate documentation shall result in the awardee being deemed ineligible for advance payment. To apply for advance payment, the awardee must:

- Submit a statement of need explaining its need for advance payment. The awardee must submit the most recent three years of verifiable documentation supporting its claim and demonstrating its need. These may include:
 - Most recent audited financial statements.
 - Revenue and cost statements.
 - Other financial statements, including bank statements or reports from an agency's treasury.
 - Tax returns (if applicable).
- Submit a statement explaining the awardee's ability to manage the approved project and its finances. The awardee must submit verifiable documentation supporting its claim. These may include:
 - Audit reports or other financial reviews completed within the last three years.
 - List of its other projects (current and past) including scope, duration, and funding partners.
 - Organization chart of employees responsible for approved project.
- Submit a detailed work plan, budget, and schedule showing how the advance payment will be used. These will need to break down activities and

corresponding expenditures on a quarterly basis.

- For habitat restoration projects, if not previously identified in the awardee's application, the awardee will need to list which threatened and/or endangered species under the federal Endangered Species Act (16 U.S.C. § 1531, et seq.) or California Endangered Species Act (Fish & G. Code, § 2050 et seq.), for which the project is providing habitat.
- For nonprofit (private) awardees, demonstrate it's good standing as a tax-exempt organization.
- For nonprofit (private) awardees, submit verification that all advanced State funds provided shall be deposited into a separate federally insured bank account that either tracks interest earned, or is non-interest-bearing, as required by the DWR.

Some of these documents (e.g., detailed work plan, budget, and schedule) may have been included in your initial application for funding. It is not necessary to resubmit these documents, but if there have been changes since the initial application, please document those changes when submitting your request for advance payment.

Approval Process

Once DWR has received a complete application for advance payment, it shall inform the awardee within 90 calendar days of its decision. The final decision will be in writing and will either be a denial or approval of the request. This decision is not appealable.

If the awardee's request is denied, the awardee may request the reason(s) for denial from DWR. If the awardee's request is approved, the awardee will be notified of the amount approved and the conditions of approval. The maximum amount that may be awarded is 25% of the full award amount or the project's reasonable needs based on an immediate six-month planning period, whichever is the lesser amount. The project's immediate six-month need will be based on the awardee's submissions during the application process.

The notification shall also state the frequency of the accountability and progress reports to be submitted, the timeline by which advance payment funds are to be spent, and any other restrictions deemed necessary by DWR. Accountability report and progress report templates shall be provided to the awardee. The awardee must respond within fourteen calendar days accepting the terms of the advance payment; failure to notify DWR within fourteen calendar days shall be considered as the awardee's refusal to accept the advance payment terms, and the awardee shall no longer be eligible for advance payment.

Note that, although advance payment has been authorized, no disbursement of funds can occur until a funding agreement incorporating the terms and conditions of the advance payment's use has been executed.

Use of Advance Payment

Advance payment funds may be used for any eligible project costs as set forth in your funding agreement and its work plan except for the purchase of real property

or interests in real property. Those expenses must use the existing State process whereby the real property purchase price (plus escrow fees) is deposited into a qualified escrow account after State review of Department of Water Resources and/or Department of General Services-approved appraisals. The “purchase” only includes the amount deposited into a qualified escrow account or costs associated with obtaining financing. This does not include those items necessary and directly related to the due diligence for acquisition of real property or interests in real property (e.g., appraisals, environmental assessments, legal fees, surveys, recording fees, etc.); these may be paid for with advance payment funds.

During any period in which a funding recipient is using advance payment, it shall submit an accountability report and a progress report to the DWR project manager for review and approval.

These reports must be submitted on the time schedule set forth in the funding agreement but shall be no less frequently than once per quarter (i.e., every three months). If a funding recipient is late in submitting any of its required reports, it is grounds for termination of its privilege to continue using advance payment on its existing project and any potential future projects that may receive funding from DWR. Accountability Report and Progress Report templates shall be provided to each funding recipient.

Accountability reports are intended to demonstrate the proper use of the State’s fiscal resources. Accountability reports must include:

- All supporting documentation of funds spent (e.g., receipts, invoices, etc.).
- Any updates to the project’s projected spending plan for the next three months, six months and for the remainder of the project’s implementation period.
- If applicable, a statement that the funds have been deposited and use of advance payment funds were withdrawn from a federally insured, non-interest-bearing account and is separate from other funding sources.
- If applicable, documentation of interest earned during the reporting period. Any interest earned shall be considered part of the funding award and shall be used towards the project.

Progress reports are intended to demonstrate the proper implementation of the project. Progress reports must include:

- Actions taken by the funding recipient on the project.
- A statement of milestones achieved, and problems encountered on the project.
- A statement of whether the project is on schedule.
- If the project is not on schedule, the reasons for the delay and proposed remedy(-ies), and an updated schedule.

Request for Further Advance Payments

Once the initial authorized advance payment has been spent by the funding recipient, further advance payments may be allowed. Further use of advance payments by a funding recipient may only be granted if there was prudent use of the initial advance payment, adherence to all corresponding requirements (e.g., timely submission of deliverables and reports), and compliance with all requirements in the funding agreement. Further advance payments may be

requested in writing up to 90 days in advance of the anticipated exhaustion of the initial amount advanced. However, unless requested by DWR or if there has been a change in circumstances, no additional documentation need be submitted. Further advance payments shall only be permitted in the amount of a project's reasonable needs based on an immediate six-month planning period, or 25% of the full award amount, whichever is the lesser amount. However, under no circumstances may advance payments result in the reduction or elimination of the amount of required withholding (retention) or any required cost share amount. Any determination regarding further advance payment(s) must be made in writing.

Emergency Advance Payment Requests

During the course of implementing a project, a funding recipient may have an emergency arise that may significantly affect its cash flow or available capital. In this case, it may be possible to award a funding recipient and advance payment based on emergency needs. An "emergency" is a sudden, unexpected occurrence, beyond the control of the funding recipient. A funding recipient's mismanagement of its resources or lack of sufficient planning does not constitute an emergency. If a funding recipient has previously been denied a request for advance payment, it is not eligible to receive an emergency advance payment. A request for emergency advance payment is open to any funding recipient that has been previously awarded advance payment (whether it accepted it or not), and any funding recipients that did not apply for an advance when permitted to do so.

To make a request for an emergency advance payment, a funding recipient will need to provide a statement explaining the nature of the emergency and how that emergency necessitates the need for advance payment, along with supporting documentation. If the funding recipient has not previously applied for advance payment, all the documentation required for an initial application for advance payment must be submitted as well. Approval and use of an emergency advance payment is subject to the same requirements as listed above and while the DWR shall endeavor to expedite an emergency request, however the disbursement of funds will be through usual State payment processes.

Reduction of Withholding Amount

Funding agreements are required to have a minimum withholding amount of ten percent (10%) of the total award amount pending the satisfactory completion of the project and submission of all deliverables. (Gov. Code, § 10346; State Contract Manual, vol. 1, § 7.33.) This minimum amount is required unless there is statutory authority permitting a reduction or elimination of the withholding amount.

Water Code section 550 permits DWR to reduce or eliminate the withholding amount for funding agreements with local public agencies that have been approved and receive an advance payment, and the project's purpose is to (1) restore habitat for threatened or endangered species, and/or (2) improve flood protection. For any such project that has also been awarded an amount of \$10,000,000 or more, the withholding amount shall be reduced to five percent (5%) and set forth in the funding agreement.

APPENDIX B – DEFINITIONS

Coldwater reintroduction: The act of restoring access by anadromous populations to historical habitat above high rim dams.

Directed Action: Directed Actions are specific projects funded at the discretion of the DWR Director or designee outside of a public proposal solicitation process.

Direct benefits: Benefits that provide tangible, measurable improvements specifically to the target population or community.

Direct Costs: Costs that are directly tied to and necessary for the implementation of the project being funded.

Disadvantaged community (DAC): a community with a median household income of less than 80 percent of the area average or less than 80 percent of the statewide median household income

Eligible costs: Expenses incurred by the funding recipient during the term of the agreement and for tasks stated in the funding agreement's work plan, which may be reimbursed by DWR.

Eligible funding recipients under Proposition 4: State and local agencies, Tribes, nonprofit organizations, special districts, joint powers authorities, public utilities, local publicly owned utilities, or mutual water companies.

Federally Recognized Tribe: Tribal entities that are recognized as having government-to-government relationship with the United States, with the responsibilities, powers, limitations, and obligations attached to that designation. This includes eligibility for federal programs, services, and protection because of their relationship with the federal government.

Indirect costs: Expenses that are incurred for a common or joint purpose benefiting more than one objective and are not readily assignable to the funded project (i.e., expenses that are not directly related to the funded project).

Local public agency: Any political subdivision of the State of California, including but not limited to any county, city, city and county, district, or certified community conservation corps.

Non-federally Recognized Tribe: Indigenous communities not currently recognized as governments by the federal government, including those that existed prior to the formation of the United States.

Nonprofit organization: A nonprofit corporation qualified to do business in California and qualified under section 501(c)(3) of the Internal Revenue Code.

Severely Disadvantaged Community (SDAC): a community with a median household income of less than 60 percent of the area average or less than 60 percent of statewide median household income.

Technical Assistance: A range of multidisciplinary services provided by Program staff or others to support direct, meaningful benefits to vulnerable populations as part of an approved project or a potential future project that would be eligible for funding under these Guidelines.

Tribe: A federally recognized Native American tribe or a non-federally recognized Native American tribe listed on the California Tribal Consultation List maintained by the Native American Heritage Commission.

Vulnerable population: A subgroup of population within a region or community that faces a disproportionately heightened risk or increased sensitivity to impacts of climate change and that lacks adequate resources to cope with, adapt to, or recover from such impacts. (Note: Tribes are considered vulnerable populations)