

DIVISION OF MULTIBENEFIT INITIATIVES
Facilitating Improvement of Systemwide Habitat

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Acronyms and Abbreviations

DMI	Division of Multibenefit Initiatives
DWR	Department of Water Resources
NGO	Non-governmental organization
O&M	Operations and Maintenance
Program	FISH Program
PSP	Proposal Solicitation Package

1.0 FACILITATING IMPROVEMENT OF SYSTEMWIDE HABITAT

1.1 Division of Multibenefit Initiatives

The goal of DWR's Division of Multibenefit Initiatives (DMI) is to implement programs and projects that reduce flood risks and provide other benefits such as restored fish and wildlife aquatic and associated habitat, improved fish passage, enhanced fish food web production, and public access. DMI uses multiple programs to implement its goals throughout the Sacramento-San Joaquin Delta (Bay-Delta) and tributary watersheds, including the Floodplain Initiative and Systemwide Habitat Program (FISH Program). In all programs employed to achieve its multibenefit goal, including the FISH Program, DMI strives to:

- Use public funds for projects that maximize value for Californians and the State's ecosystems.
- Maximize use of available landscapes in the State's waterways and flood system by developing projects that create multiple benefits for people, ecosystems, habitats, and species.
- Recognize the connectiveness of water resources management at the watershed and regional scales and respect regions' unique governance, perspectives, interests, and priorities.
- Advance and develop innovative, science-based methods for implementing habitat restoration and enhancement.

2.0 PROGRAM IMPLEMENTATION ALTERNATIVES

The FISH Program implements multi-benefit projects to restore or enhance aquatic and associated habitat to benefit fish and wildlife while integrating input from local and regional interests, in an equitable manner.

There are several alternatives for implementing the FISH Program, including through state-led projects, directed actions, and proposal solicitations, as described below.

2.1 State-Led

State-led projects are delivered 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 if a required skillset is not timely available within DWR.

2.2 Directed Actions

Directed actions are specific projects that are awarded funding at the discretion of the DWR Director. These may be projects proposed to DWR either in response to a solicitation from a stakeholder, another government entity, or by DWR programs. Directed actions by DWR may utilize public entity agreements or other State contracting processes to partner with other entities to complete entire projects or to complete separate elements of larger projects. Directed actions include consideration of the other entity's resource and financial capacity, experience, capability, and willingness to take on the work.

2.3 Proposal Solicitations

Proposal solicitations are standard practice for government agencies to make funds available to other public and private entities to complete projects based on competitive ranking. Proposal solicitations generally work well to complete multiple projects across multiple geographic regions and serves to create broad ecosystem benefits.

3.0 PROJECT PRIORITIZATION

The FISH Program will examine several factors when selecting and implementing a project. These factors may take on various degrees of importance based on State and DWR priorities, the needs of the project, and funding sources available. Project prioritization criteria may include, but are not limited to the following:

- Habitat types meeting Conservation Strategy Measurable Objectives
- Acres contributed to Habitat Restoration as outlined in the Term Sheet for Voluntary Agreements to Update and Implement the Bay-Delta Water Quality Control Plan or any successors or amends there to
- Other ecosystem benefits
- Groundwater recharge
- Local and regional interested party needs
- Land use constraints
- State and federal permitting schedules
- Public access opportunities
- Scientific research opportunities
- Total project cost

Scoring criteria and project eligibility requirements for a specific solicitation will be defined in a future Proposal Solicitation Package (PSP).

4.0 FUNDING REQUIREMENTS

The FISH 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 FISH Program anticipates disbursing funds from the General Fund and pursuant to general obligation bond initiatives: Proposition 1 (Wat. Code, § 79700 et seq.); Proposition 68 (Pub. Resources Code, § 80000 et seq.); and, Proposition 13 (Wat. Code § 79000, 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 Reimbursement

Any funding agreement that disburses funds from any State funding source must do so in arrears, meaning on a reimbursement basis. Advance payments are not permitted absent specific, applicable statutory authority allowing for advance payment. Any statutorily authorized advance payments may be limited in amount or be subject to other restrictions or conditions. Whether any advance payments are permitted, and under what conditions it will be permitted, will be set forth in any applicable PSP or funding agreement.

4.1.2 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.

4.1.3 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.).

4.1.4 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.

4.1.5 California Environmental Quality Act (CEQA)

All activities funded pursuant to the FISH 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 DWR and DWR has completed its CEQA compliance. Any work funded under the FISH Program that is subject to CEQA shall not proceed until and unless approved by DWR; such approval is fully discretionary. Any work subject to CEQA that proceeds prior to DWR completing its CEQA compliance responsibilities will not be reimbursed, and that amount will be deducted from any awarded funds.

For an acquired easement under an agreement, a funding recipient shall agree to monitor and enforce the terms of the easement, unless the easement is subsequently transferred to another land management or conservation organization or entity with State permission, at which time monitoring and enforcement responsibilities will transfer to the new easement owner.

4.2 Requirements for General Obligation Bond Funds

FISH Program funding may be derived from the sale of tax-exempt general obligation bonds, 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.

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 the FISH 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; 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.