

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF DRINKING WATER
APRIL 19, 2016**

ITEM 2

SUBJECT

CONSIDERATION OF A PROPOSED RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR OR DESIGNEE TO ENTER INTO A MULTI-YEAR CONTRACT UP TO \$1,500,000.00 FOR ENVIRONMENTAL LABORATORY ACCREDITATION PROGRAM (ELAP) ASSESSOR TRAINING AND LABORATORY ASSESSMENTS.

DISCUSSION

In accordance with the Environmental Laboratory Accreditation Act (ELAA), all laboratories that perform analyses on environmental samples for regulatory purposes must be accredited. Responsibility for enforcement of the ELAA was transferred from the California Department of Public Health to the State Water Resources Control Board (State Water Board), effective July 1, 2014. (Health & Saf.Code §116271.) The Environmental Laboratory Accreditation Program (ELAP) within the Division of Drinking Water ("DDW") administers the ELAA. The State Water Board has delegated the Deputy Director, DDW, all authority under the ELAA.

The federal Safe Drinking Water Act grants states primary enforcement responsibility for public water systems provided that the U.S. EPA determines that the State meets specified requirements. (42 U.S.C. §300g-2.) One of the requirements for obtaining and maintaining primacy is that the State establish and maintain a program for certification of laboratories that conduct analyses of drinking water contaminants. (40 C.F.R.§142.10 (b)(3)(i).) The ELAP fulfills that primacy requirement.

In August 2015, the State Water Board contracted with Southern California Coastal Water Research Project to establish and facilitate an Expert Review Panel to conduct an internal examination of ELAP. The Panel members are five experts in the field of environmental laboratory accreditation. The Expert Review Panel released a final report of findings on October 22, 2015. The report was presented to the State Water Board by the panel chairperson at the Board Meeting on November 4, 2015.

The Expert Review Panel found that ELAP staff members lack the qualifications and expertise necessary to perform on-site laboratory assessments. Their recommendation was to enhance training for ELAP assessors by developing a comprehensive training and on-site audit plan, but the State Water Board does not have the expertise to develop and support such a program.

This item requests the State Water Board approve a resolution granting the Executive Director or designee authority to enter into a contract for up to \$1,500,000.00 with an entity to be selected through the public contracting process to train ELAP staff in assessing laboratories that analyze drinking water contaminants and, in connection with that training, perform assessments of a subsection of those laboratories.

POLICY ISSUE

The federal Safe Drinking Water Act grants the state's primary enforcement responsibility for public water systems provided that the U.S. EPA determines that the State meets specified requirements. (42 U.S.C. §300g-2.) One of the requirements for obtaining and maintaining primacy is that the State establish and maintain a program for certification of laboratories that conduct analyses of drinking water contaminants. (40 C.F.R. §142.10 (b)(3)(i).) The ELAP fulfills that requirement. However, the Expert Review Panel concluded that ELAP staff lack the expertise necessary to perform on-site laboratory assessments, thus jeopardizing the State's ability to meet its regulatory requirement for primacy.

FISCAL IMPACT

The proposed \$1.5 million multi-year contract for ELAP training for assessors who conduct assessments of laboratories that analyze drinking water contaminants, including as part of that training, conducting or assisting in conducting the assessments of some of those laboratories, will be funded from the DWSRF State Program Management-Public Water System Supervision (SPM-PWSS) set-aside account, subject to U.S. EPA approval under the State Water Board's fourth coming state fiscal year 2016-2017 Safe Drinking Water State Revolving Fund Intended Use Plan. The use of the SPM-PWSS set-aside for this ELAP purpose will reduce the amount of planning and construction project financing available to public water systems from DWSRF federal capitalization grants under the Division of Financial Assistance. However, the use of the SPM-PWSS for this ELAP purpose will not reduce the amount of principal forgiveness available for public water systems serving disadvantaged communities.

REGIONAL BOARD IMPACT

None.

HUMAN RIGHT TO WATER ANALYSIS

Staff has considered Section 106.3 of the Water Code (added by Assembly Bill 685 [Stats. 2012, ch. 524]). This proposed action supports the Human Right to Water because it will assist Water Board staff in assuring the data used to make regulatory and public health decisions aimed at ensuring the right to safe, clean water is generated by a competent laboratories and is of known and documented quality.

STAFF RECOMMENDATION

The State Water Board should authorize the Executive Director or designee to enter into a multi-year contract up to \$1,500,000 for Environmental Laboratory Accreditation Program (ELAP) assessor training and laboratory assessments.

<p>State Water Board action on this item will assist the Water Boards in carrying out their mission to preserve, enhance, and restore the quality of California's water resources and drinking water for the protection of the environment and public health.</p>

DRAFT

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2016-

AUTHORIZING THE EXECUTIVE DIRECTOR OR DESIGNEE TO ENTER INTO A MULTI-YEAR CONTRACT UP TO \$1,500,000.00 FOR THE ENVIRONMENTAL LABORATORY ACCREDITATION PROGRAM ASSESSOR TRAINING AND LABORATORY ASSESSMENTS

WHEREAS:

1. In accordance with the Environmental Laboratory Accreditation Act (ELAA), all laboratories that perform analyses on environmental samples for regulatory purposes must be accredited. Responsibility for enforcement of the ELAA was transferred from the California Department of Public Health to the State Water Resources Control Board (State Water Board), effective July 1, 2014. (Health & Saf. Code §116271.) The Environmental Laboratory Accreditation Program (ELAP) within the Division of Drinking Water ("DDW") administers the ELAA. The State Board has delegated the Deputy Director, DDW, all authority under the ELAA.
2. The federal Safe Drinking Water Act grants states primary enforcement responsibility for public water systems provided that the U.S. EPA determines that the State meets specified requirements. (42 U.S.C. §300g-2.) One of the requirements for obtaining and maintaining primacy is that the State establish and maintain a program for certification of laboratories that conduct analyses of drinking water contaminants. (40 C.F.R. §142.10 (b)(3)(i).) The ELAP fulfills that primacy requirement.
3. In August 2015, the State Water Board contracted with Southern California Coastal Water Research Project to establish and facilitate an Expert Review Panel to conduct an internal examination of ELAP. The Panel members are five experts in the field of environmental laboratory accreditation. The Expert Review Panel released a final report of findings on October 22, 2015. The report was presented to the State Water Board by the panel chairperson at the Board Meeting on November 4, 2015.
4. The Expert Review Panel found that ELAP staff members lack the qualifications and expertise necessary to perform on-site laboratory assessments. Their recommendation was to enhance training for ELAP assessors by developing a comprehensive training and on-site audit plan, but the State Water Board does not have the expertise to develop and support such a program.
5. The State Water Board is seeking to improve the ELAP by contracting with a specialty environmental laboratory auditing group to develop and implement an inclusive training program for ELAP assessors and, in connection with that training, perform assessments of a subsection of those laboratories that analyze drinking water contaminants.
6. ELAP and its activities, including a contract for environmental laboratory assessments and assessor training, are necessary for the State Water Board's supervision of California's public water systems.

D R A F T

7. State Program Management-Public Water System Supervision set-aside funding from the current and forthcoming federal Safe Drinking Water State Revolving Fund (DWSRF) capitalization grants is projected to be available for an ELAP environmental laboratory training contract.
8. The Division of Administrative Services will ensure that these contracting activities are in compliance with State contracting laws, regulations, policies, and procedures.

THEREFORE BE IT RESOLVED THAT:

1. The State Water Resources Control Board hereby authorizes the Executive Director or designee to enter into a contract up to \$1,500,000.00 for Environmental Laboratory Accreditation Program assessor training, conditioned upon the availability of sufficient funds from DWSRF capitalization grants.
2. Except as otherwise specifically provided by the State Water Board, the Executive Director, or the Executive Director's designee shall be the duly authorized representative of the State Water Board for the purpose of making a final determination of any dispute arising under or relating to the performance of any contracts to which the State Water Board is a party.
3. This authorization shall remain in full force and effect until modified or revoked by the State Water Board.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on April 19, 2016.

Jeanine Townsend
Clerk to the Board