

# **PROPOSED EMERGENCY REGULATIONS TEXT**

## **TITLE 23. WATERS**

### **DIVISION 3. STATE WATER RESOURCES CONTROL BOARD AND REGIONAL WATER QUALITY CONTROL BOARDS CHAPTER 24. GRANT AND LOAN PROGRAMS**

#### **Article 4. US-Mexico Border Grant Program Under The Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024**

##### **§ 3440. Applicability, Scope, and Purpose.**

Grant funds governed by this Article shall only be used to fund Projects that will address water quality problems arising in the California-Mexico cross-border rivers, river watersheds, and coastal waters, and that meet the purposes of section 91032(j) of the Public Resources Code.

Note: Authority cited: Section 1058, Water Code; section 90135, Public Resources Code. Reference: Sections 90100, 91030, and 91032, Public Resources Code.

##### **§ 3441. Definitions.**

The following definitions shall govern the construction of this Article:

- (a) "Applicant" means a legal entity with the authority to enter into a Funding Agreement with the State Water Board and which has filed an Application, but has not yet executed a Funding Agreement.
- (b) "Application" means the initial set of electronic forms and supporting documentation submitted to the State Water Board to request grant funding for the Project that the Applicant intends to implement.
- (c) "Authorized Representative" means the individual designated by an Applicant who has the authority to sign documents pertaining to an Application and Funding Agreement on behalf of the Applicant, including signing and executing the Agreement.
- (d) "Binational Agreement" means a formal agreement between two nations, including the Treaty of February 3, 1944, "Utilization of Waters of The Colorado and Tijuana Rivers and of the Rio Grande" between the United States and Mexico, and the "Minutes" issued by the International Boundary and Water Commission thereunder.
- (e) "California Environmental Quality Act" or "CEQA" means Division 13 of the Public Resources Code and its implementing regulations.

- (f) "Cooperating Entity" means any organization, co-applicant, consultant, or stakeholder group that is involved in proposing, applying for, or carrying out a Project.
- (g) "Daily Contact" means an individual designated by an Applicant who is able to readily respond to technical questions and informational requests regarding an Application or Project, and who is responsible for coordinating the overall administrative management of a Funding Agreement. This individual may be the same person as an Applicant's Authorized Representative.
- (h) "Deputy Director" means the Deputy Director of the State Water Board's Division of Financial Assistance.
- (i) "Disadvantaged Community" or "DAC" means a community with an annual Median Household Income less than eighty percent (80%) of the statewide annual Median Household Income.
- (j) "Financial Assistance Application Submittal Tool" or "FAAST" means the online tool which Applicants shall use to submit their Applications for Prop.4 Grant funding under this Article.
- (k) "Funding Agreement" means a written agreement between the State Water Board and the Recipient, and any amendments thereto, signed by all parties, which sets forth the terms, provisions, and conditions governing Grant funding and any other State Water Board funding.
- (l) "Grant" means non-repayable financing authorized under section 91032(j) of the Public Resources Code and governed by this Article.
- (m) "Implementation Project" means a Project that involves construction of physical structures, improvement of or changes to existing structures, or physical alteration of land.
- (n) "Indirect Costs" means costs incurred by a Recipient that are not readily identifiable with or directly related to a particular Project but are necessary for the operation of the Recipient as an organization and the performance of its programs and activities.
- (o) "Match Funds" means funds from sources other than Prop. 4 that are made available for a Project beyond the Grant amount requested or awarded, including but not limited to federal grant or loan funding, State grant or loan funding, local or private funding including from the Applicant itself, or donated and volunteer services.
- (p) "Median Household Income" means the household income that represents the median value for the Project Area.
- (q) "Planning or Research Project" means a Project that provides technical, scientific, or planning information, documentation, or deliverables necessary to develop, evaluate, or prioritize future Implementation Projects that advance the goals of section 91032(j) of the Public Resources Code.

- (g) "Project" means the set of activities, described in an Application or in a Funding Agreement, for which Grant funding is sought.
- (h) "Project Area" means the geographical boundaries defined by the Applicant which encompass the area where the Project will be implemented or constructed, including the area where any benefits or impacts of Project implementation or planning activities extend.
- (r) "Project Manager" means the staff person in the State Water Board's Division of Financial Assistance who is assigned to a Project and serves as an Applicant's or Recipient's point of contact regarding a Project or Grant.
- (s) "Project Type" means the categorization of a Project as an Implementation Project or a Planning or Research Project.
- (t) "Proposition 4" or "Prop. 4" means the Safe Drinking Water, Wildfire Prevention, Drought Preparedness, and Clean Air Bond Act of 2024, codified in Division 50 of the Public Resources Code (sections 90000 et seq.).
- (u) "Recipient" means an Applicant with an executed Funding Agreement signed by all parties.
- (v) "Severely Disadvantaged Community" or "SDAC" means a community with a Median Household Income of less than sixty percent (60%) of the Project Area average or less than sixty percent (60%) of the statewide Median Household Income.
- (w) "State Water Board" means the State Water Resources Control Board.
- (x) "Total Maximum Daily Load" means a written plan developed pursuant to section 1313 of title 33 of the United States Code and adopted by a Regional Water Resources Control Board and the State Water Board, or by the U.S. Environmental Protection Agency.
- (y) "Vulnerable Population" means a subgroup of population within a region or community that faces a disproportionately heightened risk or increased sensitivity to impacts of climate change and lacks adequate resources to cope with, adapt to, or recover from such impacts.

Note: Authority cited: Section 1058, Water Code; section 90135, Public Resources Code. Reference: Sections 90050, 90100, 91030, and 91032, Public Resources Code.

#### § 3442. Solicitation.

- (a) The State Water Board shall issue a solicitation notice after these regulations are approved by the Office of Administrative Law, filed with the Secretary of State, and take legal effect.
- (b) The solicitation notice shall list the dates of the application period, the final date Applications may be submitted, and detailed instructions explaining the technological aspects of submitting Applications through the State Water Board's FAAST online system.

(c) The solicitation notice shall be sent via e-mail to all parties enrolled on the State Water Board's Mexico Borders Funding Program electronic mailing list. Enrollment on this list shall take place through the State Water Board's website, at <http://www.waterboards.ca.gov/subscribe>.

Note: Authority cited: Section 1058, Water Code; section 90135, Public Resources Code. Reference: Sections 90100, 91030, and 91032, Public Resources Code.

§ 3443. Submittal of Applications.

Applications must be submitted electronically through the FAAST online system on the State Water Board's website, at <https://faast.waterboards.ca.gov/>. The FAAST online system will be open for electronic Application submissions after the solicitation notice is issued, as of the first date of the application period listed in the solicitation notice. All Applications must be submitted through the FAAST online system by the deadline provided in the solicitation notice in order to be considered for funding.

Note: Authority cited: Section 1058, Water Code; section 90135, Public Resources Code. Reference: Sections 90100, 91030, and 91032, Public Resources Code.

§ 3444. Content of Applications.

A complete Application shall include the following information and documentation:

- (a) A Project title, the name of the Applicant, the location of the Project, and a brief general description of the Project.
- (b) The amount of Grant funding requested.
- (c) The legislative districts implicated by the Project.
- (d) The name of any Cooperating Entity.
- (e) The names and job titles of the Authorized Representative and Daily Contact.
- (f) The name, phone number, and email address of the Daily Contact.
- (g) If the Applicant or a Cooperating Entity was previously party to a Funding Agreement with the State Water Board, information regarding:
  - (1) The Applicant's and/or Cooperating Entity's compliance with and performance under such Funding Agreement;
  - (2) Whether any Funding Agreement between the State Water Board and the Applicant or Cooperating Entity was terminated, whether funds under such Funding Agreement were withheld by the State Water Board, whether the Applicant or Cooperating Entity were notified of a breach of such Funding Agreement, or whether such Funding Agreement has been the subject of an audit which resulted in findings regarding the Applicant's or Cooperating Entity's management of funds.
- (h) A Workplan, not to exceed ten pages, which shall contain the following written sections, information, and documentation, according to Project type:

(1) For Planning or Research Projects:

- (A) A Goals Section with a short description of the goals for the Project.
- (B) A Planning or Research Background and Scope Section, which shall include the following information:
  - (i) A detailed explanation of the purpose of the Project;
  - (ii) Any water quality or public health problems that will be addressed by the Project;
  - (iii) An explanation of how the Project will provide benefits to or contribute to long term water quality goals;
  - (iv) Each task to be performed and each deliverable to be submitted over the course of the Project; and
  - (v) Any additional relevant background information.
- (C) A Benefits Section, which shall include the following information:
  - (i) The water quality and/or public health benefits to be provided by the Project;
  - (ii) Identification of any plan, policy, strategy, or other document published, approved, or adopted by a Federal, State, or local entity which lists or describes the Project as a priority;
  - (iii) The Project Type;
  - (iv) The Project's effect, once completed, on prevention or correction of noncompliance with or violations of a specifically identified Total Maximum Daily Load, policy, permit, or other water quality standard issued or published by a Federal, State, or local entity; and
  - (v) The ways in which the Project will contribute to the reduction of transboundary water pollution and/or its impacts.
- (D) A Budget and Cost Effectiveness Section, which shall include the following information:
  - (i) The methods the Applicant has used to estimate Project costs;
  - (ii) The source(s) of optional or additional Match Funds, if any, the status of such source(s) at the time of writing, and any future events that may affect such source(s);
  - (iii) If no Match Funds have yet been secured by the Applicant, a timeline for securing any Match Funds and a discussion of the likelihood that Match Funds will be secured during such timeframe;
  - (iv) Any property rights that must be secured before Project work may begin, how the Applicant expects to secure such

property rights, and the timeframe the Applicant expects to secure them in;

- (v) Any funding which has been secured for operations and maintenance of the Project once complete and the reliability of those identified funding sources; and
- (vi) The length of the useful life of the project.

(E) If applicable, a DAC and Vulnerable Population Section, which shall include:

- (i) A discussion of the meaningful and direct benefits the Project will provide to a DAC, SDAC, or Vulnerable Population; and
- (ii) A map or other documentation which identifies the proposed Project Area which the State Water Board shall consider when determining whether the Project serves or benefits a DAC, SDAC, or vulnerable population.

(2) For Implementation Projects:

(A) A Goals Section, as described in subsection (h)(1)(A).

(B) An Implementation Background and Scope Section, which shall include:

- (i) A description of specific Project elements, as reflected in the scope of work, that will be used to achieve the Project's goals, objectives, and expected benefits;
- (ii) A description of how the Project will operate after completion;
- (iii) A summary of the expected maintenance activities which the Project will require over its life, and the potential for degradation of the Project's performance; and
- (iv) A description of the existing conditions at the proposed site of the Project.

(C) A Readiness to Proceed Section, which shall include:

- (i) Identification of any documents that have been prepared and/or adopted for the Project in compliance with applicable environmental laws, such as CEQA, or if no such documents have been prepared, a statement describing any documentation that the Applicant expects to be required by applicable environmental laws and the status of the preparation of those documents;
- (ii) Identification of any design plans and specifications have been prepared for the Project, their level of completion expressed as a percentage, and the anticipated date for their completion;

- (iii) A discussion of any permits, land purchases, land easements, access agreements, water rights issues, and consultations that will be required to complete the Project, the status of their acquisition or resolution by the Applicant, and any related potential for delay;
- (iv) A summary of any activities related to Project coordination and outreach with Cooperating Entities; and
- (v) Identification of the entity responsible for the operation and maintenance of the Project.

- (D) A Benefits Section, as described in subsection (h)(1)(C).
- (E) A Budget and Cost Effectiveness Section, as described in subsection (h)(1)(D).
- (F) If applicable, a DAC and Vulnerable Population Section, as described in subsection (h)(1)(E).

- (i) A proposed Project budget, including the expected costs and work durations for major components of the Project.
- (j) A proposed schedule for the Project, including completion dates for major milestones and the start date and completion date for the Project as a whole. If a Project will be completed in phases, one proposed schedule is required for each phase.
- (k) A proposed scope of work for the Project.
- (l) Letters of support, letters demonstrating intergovernmental coordination, Memorandums of Understanding, agreements, or other similar documents relevant to the proposed Project, if any, which the Applicant has received from the public; Federal, State, or local agencies; non-governmental entities; foreign national governments; or Mexican governmental agencies.
- (m) Any supporting planning or technical documents, such as geotechnical reports, hydrology studies, surveys, design reports, plans and specifications, and environmental review documents.
- (n) The Authorized Representative's certification that the content of the Application is true and complete; that the Authorized Representative has authority to submit an Application on behalf of the Applicant; and that the Application shall not be held private or confidential.

Note: Authority cited: Section 1058, Water Code; section 90135, Public Resources Code. Reference: Sections 90050, 90100, 90140, 91030, and 91032, Public Resources Code.

#### § 3445. Applicant Eligibility.

Applicants that are eligible for Grant funding are public agencies, local agencies, 501(c)(3) nonprofit entities, special districts, joint powers authorities, public utilities,

Federally recognized Native American Tribes, non-Federally recognized California Native American Tribes listed on the Native American Heritage Commission's Tribal Consultation List, local publicly owned utilities, and mutual water companies. Bilateral financial institutions are eligible for Grant funding only if federal Match Funds have been secured to cover fifty percent (50%) of the total Project budget, pursuant to section 91032(j)(3) of the Public Resources Code.

Note: Authority cited: Section 1058, Water Code; section 90135, Public Resources Code. Reference: Sections 90100, 90110, 91030, and 91032, Public Resources Code.

**§ 3446. Project Eligibility.**

A Project is eligible for Grant funding if it will address water quality problems arising in the California-Mexico cross-border river watersheds and coastal waters. A Project located outside of California is only eligible for Grant funding if it produces a documented water quality benefit to the State of California and its residents.

Note: Authority cited: Section 1058, Water Code; section 90135, Public Resources Code. Reference: Sections 90100, 91030, and 91032, Public Resources Code.

**§ 3447. Project Evaluation, Scoring, and Selection.**

- (a) Only complete Applications will be considered for Grant funding. An Application is complete when it meets all applicable requirements of section 3444 of this Article. Applicants with incomplete Applications shall be notified by the State Water Board.
- (b) State Water Board staff will review complete Applications for Applicant and Project eligibility. The eligibility of Applicants and Projects will be determined pursuant to sections 3445 and 3446 of this Article. Applications which do not demonstrate both Applicant and Project eligibility will not be considered for Grant funding. Applicants with Applications demonstrating ineligibility will be notified by the State Water Board.
- (c) Complete Applications which demonstrate Applicant and Project eligibility shall undergo technical review. During technical review, State Water Board staff shall award each Project a points-based numerical Project Score, Secondary Score, Cost Effectiveness Score, and Readiness Score. Each of these scores shall be added together to produce the Overall Project Score. State Water Board staff shall award numerical scores according to the following criteria:
  - (1) A Project Score between five (5) and ten (10) points shall be awarded based on a Project's Resource or Impact and Purpose, as shown in the following table:

<b>Resource or Impact</b>	<b>Purpose</b>		
	Corrective	Preventative	Improvement
<i>Water Quality Improvement</i>	10	8	6
<i>Infrastructure Improvement</i>	8	7	6
<i>Habitat Restoration/Restoration</i>	Not Applicable	Not Applicable	8
<i>Planning/Research</i>	7	6	5

(A) For the purposes of this subsection, the following definitions apply:

- (i) A Project qualifies as a “Water Quality Improvement” Resource or Impact when it directly reduces, prevents, or mitigates pollutants or impairments that impact surface water, groundwater, estuaries, coastal waters, or watershed areas along the California-Mexico border. Only Implementation Projects may qualify for this Resource or Impact.
- (ii) A Project qualifies as an “Infrastructure Improvement” Resource or Impact when it repairs, upgrades, replaces, expands, or constructs physical systems that protect public health, water quality or watershed integrity within the California-Mexico border region. Only Implementation Projects may qualify for this Resource or Impact.
- (iii) A Project qualifies as a “Habitat Restoration/Restoration” Resource or Impact when it restores, enhances, or protects natural habitats or ecological functions that contribute to watershed health, pollutant reduction, or ecosystem resilience. Projects with Habitat Restoration/Restoration Resources or Impacts cannot have Corrective or Preventative Purposes. Only Implementation Projects may qualify for this Resource or Impact.
- (iv) A Project qualifies as a “Planning/Research” Resource or Impact if it is a Planning or Research Project.
- (v) A Project’s Purpose is “Corrective” when an Applicant has identified a specific plan, policy, permit requirement, or water quality standard that is currently being violated or exceeded, has documented the extent of the violation or exceedance, and demonstrates a direct connection between the proposed Project’s completion and the correction of the violation or exceedance; or when a Project eliminates or mitigates a public health threat or existing cross-border discharges or pollutant sources.
- (vi) A Project’s Purpose is “Preventative” when an Applicant demonstrates that failure to implement the proposed Project is likely to result in a violation of a plan, policy, permit requirement, or

water quality standard; or likely to cause measurable impairment of water bodies in the California-Mexico border region in the near future. An Applicant must identify the violation or impairment at risk, and demonstrate a direct connection between the completion of the proposed Project and the prevention of the anticipated violations or impairments.

(vii) A Project's Purpose is "Improvement" when an Applicant demonstrates that a Project will provide water quality benefits beyond mere compliance with any plan, policy, permit requirement, or water quality standard; provide long-term resilience or operational benefits; or improve efficiency, reliability, or sustainability of a water quality project or operation; even if these actions are not necessary to address or remedy an existing or imminent violation or exceedance of any plan, policy, permit requirement, or water quality standard. A Project also has an "Improvement" Purpose when an Applicant anticipates the proposed Project will address evolving regulatory requirements, support climate resilience, or enhance watershed or habitat conditions. This is the only Purpose that a Habitat Restoration/Restoration Project may qualify for.

(B) If an Implementation Project has multiple components or phases which qualify for more than one Resource or Impact, the Project will be awarded the Project Score that correlates with the component or phase that has the highest estimated cost to complete. If a Project has more than one Purpose, its Project Score shall be awarded based on the highest scoring Purpose available to the Project. A Project may be awarded a maximum Project Score of ten (10) points.

(2) A Secondary Score of three (3) points shall be awarded to a Project that will benefit a DAC, SDAC, or Vulnerable Population. A Secondary Score of two (2) points shall be awarded to a Project when the Applicant is or has been coordinating binationally or with Mexican governmental agencies to increase effectiveness of the Project, and such coordination is demonstrated by documentation submitted in the Project's Application, pursuant to section 3444(m) of this Article. A Secondary Score of one (1) point shall be awarded to a Project that is described or listed in a Binational Agreement or a plan, policy, or strategy adopted by the State Water Board. Points may be combined such that a Project may be awarded a maximum Secondary Score of six (6) points.

(3) A Cost Effectiveness Score of two (2) points shall be awarded to a Project that has a useful life of more than 20 years. A Cost Effectiveness Score of two

(2) points shall be awarded to a Project for which the Applicant has a secure and consistent source of funding for operations and maintenance of the Project after completion. A Cost Effectiveness Score of two (2) points shall be awarded to a Project when the Applicant or another entity is providing Match Funds of at least five percent (5%) of the total Project cost, or, for bilateral financial institutions, when the Applicant has secured Match Funds greater than fifty percent (50%) of the total Project Cost. Points may be combined such that a Project may be awarded a maximum Cost Effectiveness Score of six (6) points.

(4) A Readiness Score shall be awarded in three categories, as follows:

- (A) Either two (2) points shall be awarded to a Project which has prepared and adopted environmental review and planning documents as required by the California Environmental Quality Act, the Mexican Government, and/or other environmental laws; or one (1) point shall be awarded to a Project which has drafted, but not adopted, such environmental documents. A Project may be awarded a maximum of two (2) points for the status of its environmental review and planning documents.
- (B) Either two (2) points shall be awarded to Projects which have ninety percent to one hundred percent (90%–100%) complete plans and specifications; or one (1) point shall be awarded to Projects which have thirty percent to fifty percent (30%–50%) complete Plans and Specifications. A Project may be awarded a maximum of two (2) points for the status of its plans and specifications.
- (C) Either two (2) points shall be awarded to a Project which has obtained all permits necessary to begin work, as required by Federal, State, local or foreign national agencies; or one (1) point shall be awarded when the Applicant has applied for, but not yet obtained, such permits. A Project may be awarded a maximum of two (2) points for the status of necessary permits.
- (D) The points awarded in each of the three categories described in subsections (c)(4)(A)–(C) shall be added together to produce a Project's Readiness Score. A Project may be awarded a maximum overall Readiness Score of six (6) points.

(d) Once State Water Board staff have calculated the Overall Scores of all Applications, Projects will be ranked by highest to lowest Overall Score. Staff shall recommend the highest-ranking Projects, subject to the amount of available funds, to the Deputy Director in a Recommended Funding List. If aspects of a Project are determined to be ineligible for funding or unnecessary to fulfill the Project's purpose, if a proposed Project budget surpasses the applicable maximum Grant amount described in section 3449 of this Article, if a proposed

Project budget is unreasonable as compared to similar Projects, or if there are insufficient available funds, State Water Boards staff may also use the Recommended Funding List to recommend reducing individual Grant amounts from the amount initially requested.

(e) The Deputy Director shall review the Recommended Funding List for potential errors, omissions, or inconsistencies in the Water Board staff's completeness, eligibility, or technical review. If any are identified, the Deputy Director will require Water Board staff to address such errors, omissions, or inconsistencies and resubmit the corrected Recommended Funding List to the Deputy Director. After the Deputy Director Determines that the Recommended Funding List is correct and consistent with these regulations, the Deputy Director will approve the Recommended Funding List and establish a corresponding Final Funding List, which identifies all Projects selected for an award of Grant funding and sets the Grant amounts for each selected Project. The Deputy Director shall also issue a list of standby Projects that would receive Grant funding in order of highest Overall Score if additional funds should become available. State Water Board Staff shall distribute the Final Funding List through the State Water Board's Mexico Borders Funding Program electronic mailing list, described in section 3442(c) of this Article, and post it on the State Water Board's US-Mexico Border Grant Program website, at [https://www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/swgp/prop\\_4/us-mexico-border/](https://www.waterboards.ca.gov/water_issues/programs/grants_loans/swgp/prop_4/us-mexico-border/).

(f) State Water Board staff shall issue Preliminary Funding Notifications to all Applicants which have been selected for Grant Funding. Preliminary Funding Notifications shall include a statement that the Applicant's Project has been selected for an award of Grant funding, the amount of the Grant award, and a request for the supplemental documentation required by section 3448 of this Article.

Note: Authority cited: Section 1058, Water Code; section 90135, Public Resources Code. Reference: Sections 90050, 90100, 90110, 90140, 91030, and 91032, Public Resources Code.

#### § 3448. Supplemental Documentation.

(a) An Applicant selected to receive Grant funding shall have ninety (90) days after the issuance of a Preliminary Funding Notification to submit:

(1) A copy of an Authorizing Resolution adopted by the Applicant's governing body which identifies the Authorized Representative and authorizes such person to submit an Application, sign documents relating to the Application and Funding Agreement, and execute the Funding Agreement; and

(2) Any documentation necessary to demonstrate compliance with applicable sections of the Water Code that prohibit administration of California State funding to noncompliant entities.

(b) Any Applicant selected to receive a Grant for an Implementation Project and any Applicant which is a non-profit organization, mutual water company, or bilateral financial institution selected to receive a Grant for a Planning or Research Project must submit a legal opinion to the State Water Board together with their signed Grant Funding Agreement. The State Water Board shall also require submission of legal opinions as may be necessary to protect the State in administering its fiduciary obligations. A legal opinion must address any legal concerns regarding the Project and the Applicant, including but not limited to the Applicant's authority to execute the Funding Agreement and implement the Project, the status of any property rights or water rights necessary to implement the Project, the validity of any resolutions adopted by the Applicant, the existence of any conflict between the terms of the Funding Agreement any other obligation of the Applicant, the Applicant's ability to comply with any law, and the status of any litigation against or investigation of the Applicant. The State Water Board shall not sign or execute a Grant Funding Agreement with an Applicant until such legal opinion is received and determined to be satisfactory.

(c) If a Project's total cost is higher than the applicable maximum Grant amount set forth in section 3449 of this Article, the Applicant must provide information to the State Water Board regarding the source(s) of additional funding that will be used to finance the portion of the total Project cost not covered by Grant funding. For Implementation Projects, the Applicant must demonstrate that any necessary additional funding has been secured prior to starting any construction work. The State Water Board shall not reimburse any construction or implementation costs until all necessary additional funding has been secured.

(d) If all required documentation is not submitted to the State Water Board within the applicable timeframe, Grant funding may be withdrawn. If Grant funding is withdrawn, the Deputy Director shall use the withdrawn Grant funds either to provide a Grant to the next highest-ranking Project, or to increase Grant funding to already selected Projects. In this event, the Deputy Director shall reallocate withdrawn funds in the manner that will bring about the greatest water quality benefits, in accordance with the purposes of section 91032 of the Public Resources Code. Any Grant increases must fund activities which complement or further the goals of the already selected Project.

Note: Authority cited: Section 1058, Water Code; section 90135, Public Resources Code. Reference: Sections 90100, 90110, 90140, 91030, and 91032, Public Resources Code; section 529.5, 5103, 10656, and 10608.56, Water Code.

### § 3449. Grant Amount.

The amount of Grant funding provided by a Funding Agreement under this Article shall be based on the reasonable estimated cost for a Project, and subject to the limits set forth in this section.

- (a) The State Water Board shall not award any Grant for a Planning or Research Project that is less than two hundred and fifty thousand dollars (\$250,000) or greater than seven hundred and fifty thousand dollars (\$750,000).
- (b) The State Water Board shall not award any Grant for an Implementation Project that is less than two million dollars (\$2,000,000) or greater than ten million dollars (\$10,000,000).
- (c) No more than three million dollars (\$3,000,000) of the total funds available under section 91032(j) of the Public Resources Code and this Article shall be awarded to Planning and Research Projects.

Note: Authority cited: Section 1058, Water Code; section 90135, Public Resources Code. Reference: Sections 90100, 91030, and 91032, Public Resources Code; section 529.5, Water Code.

### § 3450. Grant Awards.

After an Applicant whose Project has been selected for Grant funding has submitted the supplemental documentation required by section 3448(a) of this Article, State Water Board staff shall prepare a Funding Agreement that conforms with section 3451 of this Article and shall provide it to the Applicant for signature. Upon the State Water Board's receipt of the Funding Agreement with the Applicant's signature and a satisfactory legal opinion as required by section 3448(b) of this Article, the State Water Board shall be authorized to enter into a Funding Agreement at the approved Grant amount. Grant funds are awarded to a Recipient when all parties have signed and executed a Funding Agreement that includes Grant funds.

Note: Authority cited: Section 1058, Water Code; section 90135, Public Resources Code. Reference: Sections 90100, 90110, 91030, and 91032, Public Resources Code.

### § 3451. Grant Terms.

The terms and conditions of a Grant shall be set forth in a Funding Agreement provided to an Applicant by State Water Boards staff for the Applicant's signature. A Recipient and the State Water Board are bound by the terms and conditions within a Funding Agreement from the time the Funding Agreement is signed by all parties. A Recipient has the sole responsibility for the fiscal management of Grant funds, project-specific recordkeeping and reporting, performance of the Project, and all other aspects of

compliance with this Article and the Funding Agreement. The terms and conditions of a Funding Agreement shall include, but are not limited to, the following:

- (a) Grant amount.
- (b) Recipient contact information.
- (c) Grant and Project duration.
- (d) The scope of the Project.
- (e) Deadlines for deliverables, including but not limited to:
  - (i) Completed plans and specifications.
  - (ii) Quarterly Progress Reports which detail activities that took place during the applicable reporting period, and assess cumulative Project effectiveness up to the date of each report. Quarterly progress reports are required even for a reporting period in which no Grant-related activities took place.
  - (iii) A Project Assessment and Evaluation Plan (PAEP) which must include a summary of Project goals, the appropriate measures which will be used to track Project performance and progress, and reasonable measurable performance targets. A Recipient shall notify the Project Manager if the PAEP needs updating during the Funding Agreement term to more accurately track Project progress.
  - (iv) For all Recipients whose Projects include water quality or other monitoring activities, a Monitoring Plan, which must include a description of the monitoring program the Recipient will follow for the duration of the Project, the objectives of the monitoring, constituents being monitored, monitoring methodologies, the frequency and duration of monitoring, and the sampling location(s) for monitoring activities. If a Recipient is relying on data produced under an established pre-existing monitoring program, a Monitoring Plan shall not be required.
  - (v) A Final Project Report, which comprehensively summarizes the progress of the Project over the entire course of implementation and the effectiveness of the Project at completion.
- (f) Important dates, including but not limited to: a construction or work start date, a construction or work completion date, and a final inspection date.
- (g) The scope of the Project.
- (h) A proposed budget for the Project.
- (i) Specific procedures by which the State Water Board agrees to reimburse the Recipient.
- (j) The Recipient's agreement to comply with existing law.
- (k) For Implementation Projects, the Recipient's agreement to install signage at or near the Project site informing the public that the Project received funding from Proposition 4.

- (l) The Recipient's agreement to notify their Project Manager prior to any implementation, monitoring, demonstration, or other implementation activities, and to allow the Project Manager to observe and document such activities.
- (m) Other project-specific terms as may be necessary to protect the State in administering its fiduciary obligations.

Note: Authority cited: Section 1058, Water Code; section 90135, Public Resources Code. Reference: Sections 90050, 90100, 91030, and 91032, Public Resources Code.

#### § 3452. Reimbursement Procedures.

Descriptions of costs that are eligible and ineligible for reimbursement with Grand funds and the procedures for reimbursement of eligible costs are described in section VI.A. of the Proposition 4 US Mexico Border Grant Program Guidelines, adopted and published by the State Water Board on April 21, 2026. Section VI.A. of the Proposition 4 US Mexico Border Grant Program Guidelines is hereby solely and exclusively incorporated by reference, and can be accessed on the State Water Board website, at [https://www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/swgp/prop4/us-mexico-border/](https://www.waterboards.ca.gov/water_issues/programs/grants_loans/swgp/prop4/us-mexico-border/).

Note: Authority cited: Section 1058, Water Code; section 90135, Public Resources Code. Reference: Sections 90100, 90133, 91030, and 91032, Public Resources Code.

#### § 3453. Withdrawal of Funds.

The Deputy Director is authorized to withdraw Grant funds if a Recipient is non-responsive; if there are significant changes to a Project's scope, schedule, or budget; or pursuant to section 3448(c) of this Article. The Deputy Director is authorized to award such withdrawn funds to the next highest-ranking Project not previously selected for funding, or to increase Grant funding to Projects already selected to receive Grant funding. In this event, the Deputy Director shall reallocate withdrawn Grant funds in the manner that would bring about the greatest water quality benefits, in accordance with the purposes of section 91032 of the Public Resources Code. Any increases to an existing Grant must fund activities which complement or further the goals of the existing Project.

Note: Authority cited: Section 1058, Water Code; section 90135, Public Resources Code. Reference: Sections 90100, 90110, 90140, 91030, and 91032, Public Resources Code.