

DEPARTMENT OF WATER RESOURCES

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**AUG 30 2007****RECEIVED****SEP 04 2007**

Mr. Paul Brunner, Executive Director
Three Rivers Levee Improvement Authority
1114 Yuba Street, Suite 218
Marysville, California 95901

TRLIA

Preliminary Eligibility Notification – State-Federal Flood Control System
Modifications Grant Program, FY 2007-08 Early Implementation Projects

Dear Mr. Brunner:

Thank you for your interest in the State-Federal Flood Control System Modifications Grant Program for Fiscal Year 2007-08 Early Implementation Projects (EIP Grant Program). We are pleased to inform you that Segments 2 and 3 of TRLIA's proposed Feather River Levee Repair Project (FRLRP) have passed the first round of eligibility screening described on page 5 of the EIP Grant Program application package. This means that TRLIA is provisionally qualified to receive a maximum estimated State cost share of \$138.51 million, which represents over 69 percent of the total EIP Grant Program allocation for FY 2007-08, and reflects the State's commitment to implement setback levees where physically and economically feasible.

Before the Department of Water Resources (DWR) can make a commitment to fund a share of the eligible project costs of FRLRP Segments 2 and 3, you must complete the application review process described on pages 5-11 of the EIP Grant Program Application package. At this stage of the EIP Grant Program Application process, DWR advises TRLIA of the cost share requirements and TRLIA must provide DWR with the additional materials described below and detailed in Attachment 1.

Cost Share Requirements

The total project cost was estimated in your application to be \$201.30 million. If DWR makes a final decision to accept Segments 2 and 3 of your project, the State cost share provisions would be as follows:

- The State would pay 70 percent of estimated eligible "fix-in-place" costs for Segment 2 - \$53.70 million (70 percent of \$76.71 million [\$77.30 million estimated based on information in the application, minus estimated ineligible design costs incurred prior to November 7, 2006, estimated at \$0.59 million]).

- The State would pay 95 percent of the eligible incremental costs associated with construction of the setback levee in Segment 2 - \$76.76 million (95 percent of \$92.70 incremental cost minus \$8.00 million for ecosystem restoration, \$2.60 million for repair of Site 7 associated with Segment 1 which is not eligible, and \$1.30 million for ineligible Alternative Analysis costs included in the project estimate in the application.)
- The State would pay 70 percent of eligible costs for Segment 3 – \$8.05 million (70 percent of \$11.50 million estimated based on information in the application.)
- The State is supportive of the ecosystem restoration portion of the project and intends to cooperate with TRLIA and the U. S. Army Corps of Engineers (Corps) to implement ecosystem restoration as a component of the Yuba Basin Project, which has yet to be authorized by Congress. Consequently, costs for ecosystem restoration are not being funded under this grant.
- The State will pay none of the costs of Segment 1 of the FRLRP, primarily because TRLIA's application did not adequately address Criterion 6, Levee In-Place Improvement. TRLIA acknowledged that levee setback alternatives for Segment 1 (Feather River below Star Bend) were eliminated at the outset of the FRLRP studies for several reasons, including an earlier conclusion that a setback levee on the lower Bear River would accomplish some of the Feather River benefits that would accrue from a below Star Bend Feather River setback levee. However, to DWR's knowledge no modeling or economic studies were done to quantify the potential benefits of a setback levee in Segment 1 which would connect the proposed Segment 2 Feather River setback levee to the existing Bear River setback. Since the application does not include sufficient information for the State to assess the potential flood risk management benefits of a Segment 1 setback levee, that segment does not meet eligibility Criterion 6.
- The total of all State contributions towards the Feather River Levee Repair Project from the EIP Grant Program would not exceed an estimated \$138.51 million pending any adjustments to be made upon review of estimated ineligible costs incurred prior to bond passage on November 7, 2006.
- TRLIA must provide detailed information (with supporting documentation) for DWR to determine the costs that were incurred on the FRLRP before November 7, 2006. Costs that were incurred prior to this date are not eligible for reimbursement.

Additional Materials Required

TRLIA must provide DWR with the following materials as further detailed in Attachment 1:

- Documentation of Financial Plan and Statement of Financial Capability
- Strategy to Achieve 200 Year Flood Protection
- Acknowledgement of Flood Risk
- Emergency Response Plan
- Permits and Environmental Compliance Documentation
- Hydraulic Modeling Information
- Status of Design

Note that the required Documentation of Financial Plan and Statement of Financial Capability, the Strategy to Achieve 200-Year Flood Protection, and the Permits and Environmental Compliance Documentation must all include information for Segments 1, 2 and 3 of the FRLRP (even though Segment 1 does not qualify for a State cost share under this grant program).

As specified on page 10 of the EIP Grant Program Application package, TRLIA has three weeks from the date of this notification letter to provide DWR with the Financial Plan and Statement of Financial Capability. In order to facilitate final determination of grant eligibility, TRLIA is encouraged to provide the additional information described in Attachment 1 within the same timeframe.

If all of these additional requirements are successfully met, DWR will notify TRLIA of its final decision regarding funding the proposed project. If Segments 2 and 3 of TRLIA's project are accepted, DWR will further require the execution of a Grant Agreement and an associated Operations and Maintenance (O&M) Agreement. The Grant Agreement will set forth the responsibilities of DWR and TRLIA, and describe the procedures by which the EIP Grant will be funded. It is important to note that the amount of the State cost share, once established in the Grant Agreement, will represent the maximum amount of funding for the proposed project from the EIP Grant Program and any cost overruns will be the responsibility of the applicant agency.

One of the responsibilities to be set forth in the Grant Agreement is for TRLIA to commit to fully cooperating with the State in developing an authorized federal project for the area, seeking federal credit for project costs, and sharing the credit in proportion to State and local expenditures on the project.

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At this time, DWR has not made a final decision or a commitment regarding funding for this project. Please be advised that acquiring real property interests or incurring other project expenses prior to approval by DWR of the project and execution of the Grant Agreement and/or acquiring real property or incurring other project expenses in a manner other than as provided in an executed Grant Agreement is done at TRLIA's own risk that such expenses will not be eligible for cost sharing by the State.

Because DWR has not yet made a final decision on this project, DWR retains all of its rights and powers to exercise its full discretion as a Responsible Agency under the California Environmental Quality Act (CEQA) in considering the environmental documentation for the project, and in reaching its own conclusions about the project, including mitigation measures and alternatives, and whether or not to provide funding.

We appreciate your timely attention to this matter. If you have any questions or are unable to provide the identified information within three weeks from the date of this letter, please contact George T. Qualley, Chief of the Flood Projects Office, at (916) 574-0384.

Sincerely,



David A. Gutierrez
Acting Director for FloodSAFE California

Attachments

cc: Honorable Rick Keene
Member of the Assembly
State Capitol, Room 2158
Sacramento, California 95814

Honorable Sam Aanestad
Member of the Senate
State Capitol, Room 2054
Sacramento, California 95814

Mr. Ric Reinhardt, Principal
MBK Engineers
2450 Alhambra Boulevard, Second Floor
Sacramento, California 95817-1125

Attachment 1
Additional Materials Required

Documentation of Financial Plan and Statement of Financial Capability

Before final funding determinations for the EIP Grant Program can be made, TRLIA must provide DWR with the following:

- A letter signed by TRLIA's authorized representative, of its intention to provide the required local cost share for this project and to complete Segments 1, 2, and 3 of the FRLRP (even though Segment 1 does not qualify for a State cost share under this grant program).
- A Financial Plan and Statement of Financial Capability, as described on page 10 of the EIP Grant Program Application package. The Financial Plan and Statement of Financial Capability must be prepared by a Certified Public Accountant or a Certified Governmental Financial Manager, demonstrating that TRLIA has the financial resources necessary to fund its portion of the cost share and should include the following:
 - Evidence of TRLIA's authority to use the identified source or sources of funds.
 - Information on TRLIA's ability to obtain funds sufficient to cover:
 - The non-State cost share of the projected costs of Segments 2 and 3 of the FRLRP
 - 100 percent of any cost overruns on Segments 2 and 3 of the FRLRP
 - TRLIA's plans to finance the anticipated costs of Segment 1 of the FRLRP
 - A credit analysis that demonstrates TRLIA is credit worthy if TRLIA is relying on its full faith and credit to obtain remaining funds (as in the use of general obligation bonds, appropriations, or a repayment agreement).
 - An analysis that demonstrates the projected revenues or proceeds are certain and are sufficient to cover TRLIA's stream of costs through time, if TRLIA is relying on non-guaranteed debt (for example, a particular revenue source or limited tax, or bonds backed by such a source).
 - If TRLIA is relying on third party contributions, comparable data for the third party, together with evidence of its legal commitment to TRLIA.
 - If TRLIA is relying upon federal funding for any part of its project, the analysis must identify such funds and describe the status of TRLIA's efforts to obtain federal funding. The analysis must also include a backup plan for financing in the event federal funds are not appropriated in a timely manner.

- A list of all cash reserves (restricted and unrestricted) and any planned uses of these reserves.

The documentation used in the analysis should include audited financial statements for TRLIA's last three operational years, including balance sheets, income statements, statements of sources and uses of funds, the most recent annual budget and, if applicable, water enterprise fund detail.

If TRLIA will need to obtain loans to secure the remaining funds, information on these loans and the proposed repayment method as outlined in Attachment 7, page 22 of the EIP Grant Program Application must be included.

TRLIA must also provide, as part of its Financial Plan and Statement of Financial Capability, information on current O&M costs, an estimate of the O&M costs after completion of the proposed project with an analysis of the impact of these costs on the current O&M budget, and identification of a source of funds to address any additional O&M costs resulting from implementation of the project.

TRLIA's Strategy to Achieve 200 Year Flood Protection

In the application documents, the overall strategy to get to the 200 year flood protection was mentioned but details were not included. Please include details of the strategy as currently planned, describing known and anticipated flood control infrastructure repairs and improvements in the area. TRLIA must provide information demonstrating that its project will provide at least a 200 year level of flood protection. Since TRLIA's project is part of a multi-phased project, this information must include TRLIA's strategy to ensure that the completed multi-phased project as a whole will achieve that level of flood protection. TRLIA must also explain in detail how the proposed project (Segments 1, 2 and 3) fits into the strategy and provide a schedule to achieve a 200 year level of flood protection. This requirement is detailed on page 9 of the EIP Grant Program Application package.

Acknowledgement of Flood Risk

While TRLIA acknowledged that there will be residual risk of flooding if this project is constructed, no specific quantification was made. TRLIA must define the area to be protected and provide supporting documentation. TRLIA must identify the current level of flood protection provided and the level of flood protection to be provided by the project. TRLIA must also quantify the residual flood risks that will remain following completion of the project.

TRLIA must also obtain formal acknowledgement of the current level of flood risk through a resolution to be adopted and signed by Yuba County. Attachment 2 provides information regarding the form of acknowledgement acceptable to DWR. These requirements are further detailed on page 11 of the EIP Grant Program Application package.

Emergency Response Plan

Prior to completion of the project, TRLIA must provide an Emergency Response Plan as described on page 11 of the EIP Grant Program Application package. The Emergency Response Plan must meet DWR requirements and be updated annually. DWR will develop the Emergency Response Plan in collaboration with TRLIA, utilizing either DWR's consultant at State cost, or TRLIA's consultant at their cost. TRLIA will be responsible for the annual updates.

Permits and Environmental Compliance Documentation

TRLIA must provide copies of all approved permits, approvals, and environmental compliance documents for the proposed project (Segments 1, 2 and 3), including hazardous material site assessments and biological opinions for endangered species, along with a schedule for permits, approvals and/or environmental documents not yet completed, including the start date and the expected date of completion. Please see page 8 and Appendix II of the EIP Grant Program Application package for further information about required permits and approvals.

Hydraulic Modeling Information

While the hydraulic modeling analytical procedures used by TRLIA appear to be adequate, TRLIA had previously expressed willingness to provide hydraulic routings at specific design flows using the Corps' hydraulic model. Therefore, please provide "with and without project" routings using both the MBK and Corps versions of HEC-RAS to compare relative stage reductions (as a result of Segment 2 setback levee) at various flow levels, including at a minimum the 1957 design flow and the 200-year TRLIA project design flow. The objective is to confirm that the Feather River stage reduction associated with the setback levee, as documented in the grant application, is similar at corresponding points along the river regardless of which hydraulic simulation model is used.

Attachment 2

State-Federal Flood Control System Modification Program For Fiscal Year 2007-08 Early Implementation Projects

Flood Risk Acknowledgment

The Cities and Counties encompassing the project area shall include in an adopted resolution the following:

“[City/County] represents its present risk of flood is assessed at a [1 in X year flood event] in the project area. To help meet [City’s/County’s] flood risk responsibilities, [Grantee] shall receive Grant funds from the Department of Water Resources for the purpose of improving flood protection.

The Parties agree that a change in circumstances, or a reevaluation of risk, may change the acknowledged risk of flood. In the event [City/County] proposes a change in the valuation of its flood risk, such a change requires the written concurrence of the Department of Water Resources.”