

DATE: October 19, 2020

TO: Regional Oversight Committee
Safe, Clean Water Program

SUBJECT: ROC Input for potential FY 2021-2022 SIP Programming Guidelines

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Following the first implementation year of the Safe, Clean Water Program (SCWP, or Program), the District and many stakeholders recognized that additional guidance on certain elements may help applicants develop projects that better align with the goals of the Program, as well as assist governance committees in more consistently carrying out their roles and responsibilities.

District staff currently intend to produce FY21-22 SIP Programming Guidelines to clarify certain elements of the Program. Some of the guidance will relate to the Regional Program alone, but some is meaningful to both the Regional and Municipal programs. The five primary elements of clarification are anticipated to be:

1. Programming Partial Funding
2. Applying consistent Disadvantaged Community Benefits program policies
3. Strengthening Community Engagement and Support
4. Clarifying prioritization of Nature-Based Solutions
5. Understanding Water Supply Benefits

The Regional Oversight Committee (ROC) is an independent body of subject matter experts responsible for ensuring SCWP goals are met by providing progress reports and recommendations to the elected governing body of the District (the Board of Supervisors). Given this important role in the Program, the District is seeking formal input in this public forum before drafting any anticipated guidance documents.

The additional Program guidance documents are expected to be informed by the Ordinances and adopted Program guidelines, input from the ROC, and formal and informal stakeholder engagement by District staff. Drafts of the guidance documents are expected to be distributed for public review in late 2020, revised after consideration of all comments, and then adopted by the District for use by all program participants in 2021.

To facilitate input, the District has compiled two items for reference:

- The attached draft framework, which is based on input received to date and intended to help confirm the 'problem statement' for each of the five elements. It also includes potential resolutions that serve merely as conversation starters.
- Appendices with existing Ordinance and guidance language for each element.

Please review and be prepared to provide input at the October 29th ROC meeting.

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1 Introduction

District staff currently intend to produce FY21-22 SIP Programming Guidelines to clarify certain elements of the Program. Some of the guidance will relate to the Regional Program alone, but some is meaningful to both the Regional and Municipal programs. The five primary elements of clarification are anticipated to be:

1. Programming partial funding
2. Applying consistent Disadvantaged Community Benefits program policies
3. Strengthening community engagement and support
4. Clarifying prioritization of Nature-Based Solutions
5. Understanding Water Supply Benefits

Included below for each element is an overview of the problem to-date, what the updated guidelines are currently expected to address, and examples of potential resolutions being considered. Potential resolutions identified are only to help initiate further input and discussion and represent early ideas to potential develop further based on input. Each potential resolution has been developed based on prior conversations with the Regional Oversight Committee, Watershed Area Steering Committees, project developers, cities, NGOs, and other stakeholders. These are not intended to be exhaustive lists of all options under consideration, but rather some ideas to generate further discussion and refinement.

The District will also discuss next steps with appropriate parties, including coordination with the Scoring Committee as applicable. It is possible that resolution for one or all of these may ultimately not fully be developed for inclusion in FY21-22 SIP considerations. This important, and likely iterative, process will be best informed with the continued involvement of all interested stakeholders.

To aid in review of these concepts, language from the existing Program ordinance and guidance documents is included via appendices to this document.

1 Programming partial funding

Overview of the Problem

Certain stakeholders, applicants, and WASC members felt constrained by the inability of the WASC to recommend and program partial funding for a submitted project in the Regional Program. While LACFCD Code Section 18.07.B.2.g states that activities selected for inclusion in a Stormwater Investment Plan should typically be recommended to receive funding for their total estimated cost or requested need, it's understood that there are cases that may warrant flexibility. It is also important to note that unlike most grant programs, SCWP funds are provided in advance, and recommendations in the SIPs are linked to a complex scoring process. Changing funding amounts – especially if it impacts the scope of work, total cost, or benefits provided – could impact the project score and therefore its eligibility or competitiveness in the program.

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Additional guidance for this element is currently anticipated to address:

1. How a WASC can recommend allocating partial funding to a project in a SIP
2. Implications and limitations for the various potential scenarios

Potential Resolutions

- Develop a process for requesting and/or recommending the programming of partial funding
- Create a form for Project applicants to identify their ability and interest in receiving partial funding if full funding is not possible, not likely, and/or not desired by the WASC. This process could be initiated by the WASC or by the Project applicant, but both parties would need to deem the circumstance applicable and appropriate for partial funding.
- Require a project that requests partial funding to achieve the submitted scope and benefits using funding from another source (including, but not limited to a cost share partner, grants, or SCW Municipal Program funds) and/or otherwise be programmed in such a way that re-scoring by the Scoring Committee would still not be required.
 - This could be assumed for at least FY21-22 SIPs, if not longer, as the complexity of the SCWP may prohibit a timely process for re-scoring with the required annual cycle.
- If a partial funding request results in phasing of a project (e.g. Design Only; not intended for phased construction), the phased project could still be scored based on the full proposed Project.
 - Note: Funding for future phases is not guaranteed.

2 Applying consistent Disadvantaged Community Benefit policies

Overview of the Problem

Complying with the disadvantaged community benefit policy in the Program is complex, and asserting what benefits accrue to which communities is not easily quantified.

In the SCWP (LACFCD Code Section 16.03.I), a disadvantaged community benefit is defined as “a Water Quality Benefit, Water Supply Benefit, and/or Community Investment Benefit located in a DAC ***OR*** providing benefits directly to a DAC population.” The Program defines the boundaries of disadvantaged communities using census block data as defined in Water Code section 79505.5.

In Round 1, WASCs struggled to agree about which projects provided a benefit to one or many disadvantaged communities, including confusion about whether a project needed to be located within a disadvantaged community to claim the benefit, and which project attributes would be considered “beneficial.” For those projects that WASCs agreed provided disadvantaged community benefits, there was additional confusion about when and how to quantify that benefit relative to the 110% investment requirement in LACFCD Code Section 18.07.B.2.c: “Funding for ***Projects that provide DAC Benefits*** shall not be less than one hundred and ten percent (110%) of the ratio of the DAC population to the total population in each Watershed Area.”

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To achieve consistency across the Watershed Areas in how this DAC Benefits are interpreted and calculated, the SIP Guidelines are anticipated to include additional clarification about the following issues:

1. Determining which project benefits meet the criteria for “DAC Benefit” based on location and benefit type.
2. Assessing verification of Disadvantaged Community Benefit with either quantitative or qualitative tools, or both.
3. Calculating the Disadvantaged Community Benefit value in the SIP for compliance with the 110% requirement.

Please note that the Projects Module has already been updated to collect more detailed justifications for claimed Disadvantaged Community Benefits to inform discussions and recommendations by each of the governance committees.

Potential Resolutions

Disadvantaged Community Benefit criteria:

- Projects located within a disadvantaged community would count as providing a DAC Benefit if the Project applicant verifies the Water Quality, Water Supply, and/or Community Investment benefits claimed, as described in the next section below.
- Those projects located outside of a disadvantaged community can provide benefits to that community in the form of improved water quality, community investments, and/or increased water supply (as applicable). These benefits can be realized both upstream and downstream of the disadvantaged community but should be verified, as described in the next section below.

Verifying the DAC Benefit:

Project developers can demonstrate (and governance committees determine) that a project provides a DAC Benefit using a quantitative measure, qualitative measure, or a combination thereof.

- **Option 1:** Quantitative Demonstration of DAC Benefit: A project developer can demonstrate Water Quality, Water Supply and/or Community Investment benefits within or benefitting a disadvantaged community using quantitative tools like those embedded in the scoring matrix.
- **Option 2:** Qualitative Demonstration of DAC Benefit: A Project Developer can demonstrate that a Project provides either a Community Investment, Water Quality, or Water Supply Benefit by soliciting and receiving letters from the community that include specific support for those benefits. “Support” would be demonstrated by a representative body of the community, like a neighborhood council, city representative, community group, or other body.
- **Option 3:** Combination of Options 1 and 2, or another alternative altogether.

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Quantification of DAC Benefit as Part of the 110%:

- **Option 1: Scaled DAC Benefit calculation.** The value of a Project that provides a DAC Benefit can be scaled based on identified value criteria. In conjunction with the options in the “Verifying the DAC Benefit” section above, some examples of such a criteria include relative contribution of DAC Benefit, value of DAC Benefit compared to project as a whole, level of demonstrated community support, specified values or percentages for certain benefits (Supply, Quality, Community Investment), or some other evaluative tool. Initial concept ideas could be based on or linked to the Community Support score or established within a Good / Better / Best framework (potentially with both quantitative and qualitative considerations).
- **Option 2: Full value of “DAC Benefit Projects” counts toward 110% (like Round 1).** Any project that provides one or more of a verified Water Supply, Water Quality, or Community Investment Benefit is considered a “DAC Benefit Project” and, in accordance with 18.07.B.2.c, could be counted in its full value toward the 110% for that Watershed Area. For any DAC Benefit Project receiving partial funding, the full value of the partial funding would be counted.

3 Strengthening community engagement and support

Overview of the Problem

Community engagement is asked of every proponent and every recipient. It is a key element of the Safe, Clean Water Program and central to the Watershed Coordination and Regionwide education programs. Projects submitted for inclusion in SIPs must document engagement prior to submittal (though such engagement is not currently required, as the submittals can be at various stages of development) and describe plans for engagement during implementation.

Some stakeholders and some members within the governing committees are concerned about the sufficiency and timing of community engagement, and the appropriate way to document community support for a project. Some believe sufficient quantity, quality, and frequency of engagement is not properly encouraged by the Program, and some feel unable to complete engagement prior to a funding award. Some believe that support from elected leaders, on behalf of the people they represent, is sufficient evidence of community support, while others wish for more direct engagement with people who will be impacted by projects be required. Additionally, it’s key to note that extensive community engagement does not guarantee community support, and a strong demonstration of community support may not necessarily be the result of extensive engagement.

The Projects Module has already been updated to emphasize the importance of community engagement and support and to solicit additional information for committee reference while preparing recommendations. Some aspects of this issue may be addressed in additional guidance related to the fund transfer agreements, in support of engagement for funded projects during implementation.

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The eventual guidelines are anticipated to help clarify the following issues, at a minimum:

1. What “good” community engagement looks like in the SCWP and when it should take place.
2. What regional resources might be able to support and advance pre-submittal engagement.
3. What constitutes a demonstration of community support.

Potential Resolutions

- Provide guidance for Project developers that clarifies specific expectations for “good” community engagement activities based on guidance/input received to date and existing analyses from Cities and other project developers, the Our Water LA Coalition, the Movement Strategy Center, the Mujeres De La Tierra Engagement Project, the Institute for Sustainable Infrastructure Envision (QL3.1), and the Los Angeles County Public Works Communication Plan. Guidance may:
 - Take the form of a scale, from minimal community engagement efforts to maximal efforts, which would be recorded as part of project and WASC reporting efforts.
 - Elaborate on specific collaboration opportunities with and through Watershed Coordinators.
 - Develop potential recommendations to support/foster pre-submittal community engagement.
 - Incorporate some consideration of claimed benefits in relation to letters of support from community representatives or members.
- Expectations for level of community engagement could perhaps be differentiated based on timing and the stage of the project, either pre-feasibility phase, design phase construction phase, or construction phase, etc.
- Consider potential eventual linkage of community engagement to certain project scoring considerations or other programmatic efforts.
- Evaluate and consider additional community engagement requirements and expectations (post-award) in the Fund Transfer Agreements, as appropriate/applicable.

4 Clarifying prioritization of Nature-Based Solutions

Overview of Problem

The SCWP program goal to “prioritize Nature-Based Solutions,” and the definition of Nature-Based Solutions (NBS), allows proponents and WASCs to each make separate judgements on some specifics of what counts as a NBS and whether NBS is being prioritized within the Program.

In line with the matrix of NBS Best Management Practices included with the Funds Transfer Agreements, a standard vocabulary and additional guidance to improve the interpretation, utilization, and prioritization of NBS seems prudent. In the SCWP, a NBS is:

...a Project that utilizes natural processes that slow, detain, infiltrate or filter stormwater or urban runoff. These methods may include replying predominantly on soils and vegetation; increasing the permeability of impermeable areas; protecting protect undeveloped mountains and flood

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plains; creating and restoring riparian habitat and wetlands; creating rain gardens, bioswales, and parkway basins; and enhancing soil through composting, mulching, and planting trees and vegetation, with preference for native species....

The District has held several listening sessions with stakeholders to solicit input on this issue in addition to prior input received to date. Also note that the Projects Module has already been updated to solicit additional information for use by the committees.

There are multiple issues anticipated to be clarified in the SIP Guidelines:

1. What project elements count as “Nature-Based Solutions” and which do not
2. The process WASCs will use to consistently review and discuss NBS when considering recommendations

These two aspects of the guidance would be expected to support both the decision-making processes and the evaluation of how NBS is indeed being prioritized, when able, as a means to addressing needs within the Watershed Area.

Potential Resolutions

Clarifying What Counts as a “Nature-Based Solution”

- Annotate the Nature-Based Solutions matrix (already included in Fund Transfer Agreements and referenced in the Projects Module) to ensure consistent use of terminology and clarify categories to improve effective and standardized use of the matrix when crafting and discussing Projects.
- Develop an additional document that connects the problems that the SCWP was developed to address and which “NBS project types” are typically associated with each. Mapping the challenges to solutions could assist project developers and WASCs in expanding their design thinking and decision-making, as well as in messaging why selected solutions may be most prudent.

Outlining Processes for Developing and Evaluating NBS

- Incorporate the NBS matrix into WASC project evaluation. Project developers would input data into the Projects Modules and self-evaluate their Projects through an NBS filter using the matrix. After the Scoring Committee confirms the NBS evaluation, WASCs can incorporate it as one of the considerations for weighing projects against each other.
- Other long-term guidance to facilitate, point towards, and evaluate the prioritization of NBS.

5 Understanding Water Supply Benefits

Overview of Problem

Water Supply Benefits are a key element of the SCWP, but not all watershed areas or cities necessarily have equal potential to implement water supply projects. Additionally, there remain varying opinions

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about the interpretation of Water Supply Benefits in relation to certain types of activities that may result in such a benefit.

The SCW Program Ordinance defines “Water Supply Benefits” as activities that increase the amount of locally available water supply, provided there is a nexus to Stormwater or Urban Runoff pollution. Activities resulting in this benefit include but are not limited to: reuse and conservation practices, diversion of stormwater or urban runoff to a sanitary sewer system for direct or indirect water recycling, increased groundwater replenishment or available yield, or offset of potable water use.

Furthermore, the Feasibility Study Guidelines include a provision that feasibility studies must demonstrate that captured or diverted water would not otherwise be captured downstream of the project site to avoid double counting of water supply benefits. A footnote was included in the Feasibility Study Guidelines to temporarily allow Projects that capture water that is already captured downstream to be submitted/scored to receive Water Supply benefit points, as applicable, but with the acknowledgment that the District intended to further evaluate actual value added in capturing onsite and/or allowing downstream capacity to remain.

While SCW Program’s multi-benefit philosophy warrants that each Watershed Area (and its project proponents and stakeholders) recognize challenges in certain categories and therefore make it an intentional practice to focus on development of other components of proposed projects, it is also recognized that further guidance is needed related to the Water Supply Benefit. Because the hydrology and size of each watershed area is different, projects in some regions can more easily achieve groundwater storage of large volumes of water. So too, some watershed areas or cities have programmatic or comprehensive approaches to consider, meaning that any one project may provide small or no water supply benefits until future projects are constructed as well.

Additional guidance is anticipated to address how to score and evaluate the Water Supply Benefit of:

1. Projects claiming future Water Supply Benefits that rely on future integrated projects to be implemented.
2. Projects within Watershed Areas where it is believed that 100% of Stormwater runoff is captured/recharged or accounted for in management agreements.
3. Projects that may have no opportunity for Stormwater capture/recharge as “supply.”

Potential Resolutions

- Additional guidance for project proponents and WASC members on developing creative water supply benefit considerations.
- Clarify the interpretation and application of water supply benefits, potentially as the capacity to capture water, rather than the water itself (but still in conjunction with the expected amounts that might be available to capture in the future).