

Safe, Clean Water Program

Implementing Disadvantaged Community Policies in the Regional Program



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Purpose

Experience to-date in the Regional Program reveals that aspects of Safe, Clean Water Program (SCWP) related to providing Disadvantaged Community Benefits require further guidance to better support achieving the outcomes sought. The SCWP emphasizes investments that produce benefits in or directly to disadvantaged communities. Complying with the Disadvantaged Community Benefit policy in the Program is complex, and asserting what benefits accrue to which communities is not easily quantified.

As of May 2021, the District Program is developing a study which, among many things, will review how other funding programs that direct investment in disadvantaged communities have worked to overcome the many challenges that remain when seeking to implement the SCWP policy. That study will inform future guidance, currently expected in the Spring of 2022, in support of Stormwater Investment Plan (SIP) development in the Regional Program for Year 4 (2022-23).

The following interim guidance is intended to support SIP programming for Year 3 (2021-22) by providing information to help Project proponents with application preparation and Watershed Area Steering Committees (WASCs) with consistent evaluation and decision-making during the development of SIP recommendations. As appropriate, this guidance may also be referenced during ongoing discussions at the WASCs for Year 2 (2020-21) recommendations.

Specifically, this guidance includes the following:

1. Clarification of how Project proponents and WASCs can interpret and substantiate a Project’s ability to deliver Disadvantaged Community Benefits;



2. Policies for consistently accounting for the 110% investment provisions within Stormwater Investment Plans;
3. Considerations to inform deliberation and discussion about relationships between communities, municipalities, and census block groups.

Disadvantaged Community Benefit Policies in the Safe, Clean Water Program

One goal of the SCWP, found in Los Angeles County Flood Control District (District) Code Section 18.04 (J), is to “provide Disadvantaged Community Benefits, including Regional Program infrastructure investments, that are not less than one hundred and ten percent (110%) of the ratio of the [disadvantaged community] population to the total population in each Watershed Area.”

Summarizing the ordinance sections and definitions below reveal that the **program goal of investing in disadvantaged communities is achieved by locating beneficial Projects within, or such that the benefits of a Project are directly provided to, census block groups where the median household income is less than 80% of the statewide median household income.**

When a Project has these qualities, and the WASC recommends it for funding, the value of regional SCWP funding that is allocated to the Project in the 5-year Stormwater Investment Plan will be used to calculate fulfillment of the 110% requirement.

Key Definitions

- Section 16.03(H): “Disadvantaged community” means a census block group that has an annual median household income of less than eighty percent (80%) of the Statewide annual median household income (as defined in Water Code section 79505.5).
- Section 16.03(I): “Disadvantaged Community Benefit” means a Water Quality Benefit, Water Supply Benefit, and/or Community Investment Benefit located in a [disadvantaged community] or providing benefits directly to a [disadvantaged community] population.
- Section 16.03(Y): "Project" means the development (including design, preparation of environmental documents, obtaining applicable regulatory permits, construction, inspection, and similar activities), operation and maintenance, of a physical structure or facility that increases Stormwater or Urban Runoff capture or reduces Stormwater or Urban Runoff pollution in the District.
- Section 16.03(NN): "Water Quality Benefit" means a reduction in Stormwater or Urban Runoff pollution, such as improvements in the chemical, physical, and biological characteristics of Stormwater or Urban Runoff in the District. Activities resulting in this benefit include but are not limited to: infiltration or treatment of Stormwater or Urban Runoff, non-point source pollution control, and diversion of Stormwater or Urban Runoff to a sanitary sewer system.

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- Section 16.03 (OO): "Water Supply Benefit" means an increase in the amount of locally available water supply, provided there is a nexus to Stormwater or Urban Runoff capture. Activities resulting in this benefit include, but are not limited to, the following: 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.
- Section 16.03(F): "Community Investment Benefit" means a benefit created in conjunction with a Project or Program, such as, but not limited to: improved flood management, flood conveyance, or flood risk mitigation; creation, enhancement or restoration of parks, habitat or wetlands; improved public access to waterways; enhanced or new recreational opportunities; and greening of schools. A Community Investment Benefit also includes a benefit to the community derived from a Project or Program that improves public health by reducing heat island effect and increasing shade or planting of trees or other vegetation that increase carbon reduction/sequestration and improve air quality.

Other Provisions

- 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. To facilitate compliance with this requirement, the District will work with stakeholders and Watershed Coordinator(s) to utilize existing tools to identify high-priority geographies for water-quality improvement projects and other projects that create DAC Benefits within DACs, to help inform WASCs as they consider project recommendations.
- Section 18.07(B)2.d: Each Municipality shall receive benefits in proportion to the funds generated within their jurisdiction, after accounting for allocation of the one hundred ten percent (110%) return to DACs, to the extent feasible, to be evaluated annually over a rolling five (5) year period.

Regional Program Guidance for Interpreting "Disadvantaged Community Benefit"

The following interim guidance supports ongoing decisions at the WASCs for Year 2 (2020-21), as appropriate, and for both Project proponents and WASCs in Year 3 (2021-22).

1. Projects that provide any of the benefits sought by the SCWP (Water Quality Benefit, Water Supply Benefit, or Community Investment Benefit) directly to a disadvantaged community will be considered as providing the Disadvantaged Community Benefit.
2. Projects where any of the construction effort is within a census block group designated as a disadvantaged community will be considered "within" a disadvantaged community, and therefore providing a Disadvantaged Community Benefit.

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3. Projects where none of the construction effort is within a census block group designated as a disadvantaged community, but where the completed Project will provide a **direct benefit** inside a census block group designated as a disadvantaged community, will be considered as providing a Disadvantaged Community Benefit. If two potential project locations provide substantially equivalent benefits to a Disadvantaged Community but one is physically located within that Disadvantaged Community, the prospective Project developer(s) should pursue the location within the Disadvantaged Community to the extent otherwise feasible.
4. Whether a Project provides a “direct benefit” as used in SCWP policy and within #3 above will be a decision made by WASCs on a project-by-project basis, considering the goals of the SCWP, the benefits provided to the community by each Project, and the area within which those benefits will be felt. See section, “Consideration of Direct Benefit,” below, for additional guidance.
5. The WASC, in its determination of whether a Project provides “direct benefit” to members of a disadvantaged community, should strongly rely on documented public support by members of that community or their elected representatives. Similarly, decisions by the WASC can rely upon the lack of documented public support, or the presence of documented resistance from members of a community. See section, “Community Support,” below, for additional guidance.
6. The designation as to whether a Project is providing a Disadvantaged Community Benefit may be modified from the original application during an agendized discussion of a Project. Any voting WASC member may suggest adjusting the disadvantaged community benefit designation of a Project (in accordance with District Code Section 18.07.B.2.c) as part of a motion related to the formation of a SIP, either to say that a Project claiming a Disadvantaged Community Benefit does not provide one, or that a Project that did not claim to provide a Disadvantaged Community Benefit in the application does provide a benefit. In the latter case, the WASC would need to request additional information about the Disadvantaged Community Benefit from the Project developer, consistent with the questions in the Project Module. See sections titled “Relevant information in the Project Module” and “WASC Tools and Strategies,” below.
7. When a Project judged to be providing benefits to members of a disadvantaged community is included in a recommended 5-year SIP, the total amount of funding provided by the regional program towards the Project is used to make the 110% investment calculation.

Relevant information in the Project Module

All applicants seeking funding through the Regional Program must submit a Feasibility Study, or equivalent, for review by the Scoring Committee and one of nine WASCs. Feasibility Studies are submitted using the web-based Project Module.

The Project Module currently includes the following prompts related to Projects seeking to provide benefits to members of disadvantaged communities:

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- Will the Project provide benefit to a disadvantaged community?
 - *Note that the questions below are posed within the Project Module only if the applicant answers “YES” to this first question.*
- Distance to nearest [disadvantaged community]?
- Describe how the Project will provide benefits to a [disadvantaged community].
- Describe how the Project will provide water quality benefits to a [disadvantaged community].
- Describe how the Project will provide water supply benefits to a [disadvantaged community].
- Describe how the Project will provide community investment benefits to a [disadvantaged community].
- Describe how the Project engaged the benefitting [disadvantaged community] to date.

By default, the Project’s Disadvantaged Community Benefit designation will be displayed as a YES or a NO based on the entries made by Project proponents.

Consideration for “Direct Benefit” Determination

California has two policy systems for identifying disadvantaged communities, one is CalEnviroScreen which is managed by the California Environmental Protection Agency (CalEPA), the other is within the State Water Code and uses a median household income statistical test. In both policy systems, census boundaries are used because the relevant socio-economic and demographic data is differentiated using those boundaries. However, both state policies do not define what a “community” means. The use of the census boundaries as community boundaries is a convention in these programs, not a formal policy. Because a “community” is undefined within the Water Code related policy system, any appropriate geographic boundary that supports the median household income statistical test can be deemed as a “disadvantaged community.”

Unlike the state policy, SCWP directs that Census Block Groups are communities, some of which are disadvantaged, and some of which are not. Functionally, Census Block Groups are rarely perceived as a community by any community members, the agencies that serve them, or the elected representatives at various levels. In fact, Census Tracts and Blocks rarely have any familiarity or utility outside the Census itself, and the use of the demographic data that is differentiated with those boundaries. Census Places, however, are another geographic unit used by the Census and are typically drawn to contain political or social geographies that have meaningfulness for the people who live and work there.

The California Department of Water Resources (DWR) maintains a Disadvantaged Community Mapping Tool for the use across many programs that it administers. The tool is found at the link below and includes both 2016 and 2018 US Census data for analyzing disadvantaged communities. The SCWP currently uses 2016 data to determine the targeted ratios of investment into Disadvantaged Communities but is expected to be updated for the 2022 guidance and roughly every five years. In the tool, Census Places, Tracts, and Block Groups can be viewed to understand their median household income and its relation to the statewide median household income.

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- Link to DWR Disadvantaged Community Mapping Tool: <https://gis.water.ca.gov/app/dacs/>
- Link to CalEPA CalEnviroScreen: <https://oehha.ca.gov/calenviroscreen>

Inglewood Example:

If you calculate the median household income for the city of Inglewood as a Census Place (Figure 1), you find that the city has a median household income below 80% of the statewide median household income, and therefore can be considered a disadvantaged community. However, when you review the many Census Block Groups within the city of Inglewood (Figure 2), you find that some are considered disadvantaged, some severely disadvantaged (defined in the State Water Code as having a median household income below 60% of the statewide median household income), and some are neither.

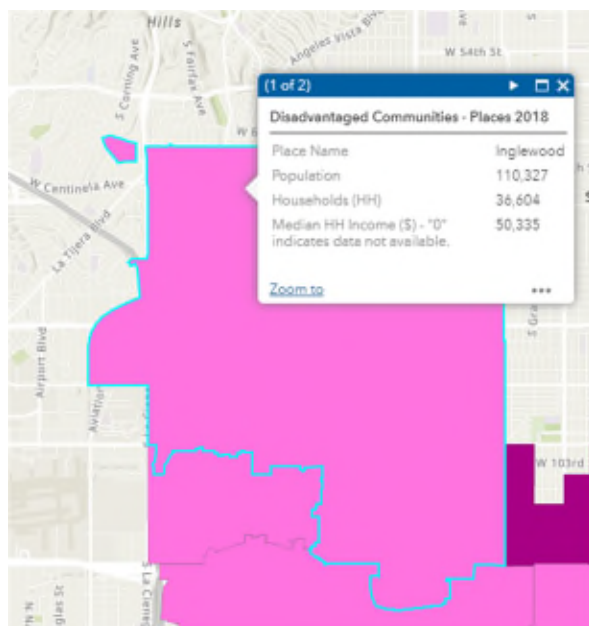


Figure 1 - Inglewood Census Place (DWR Disadvantaged Community Mapping Tool): Pink is disadvantaged, and purple is severely disadvantaged.

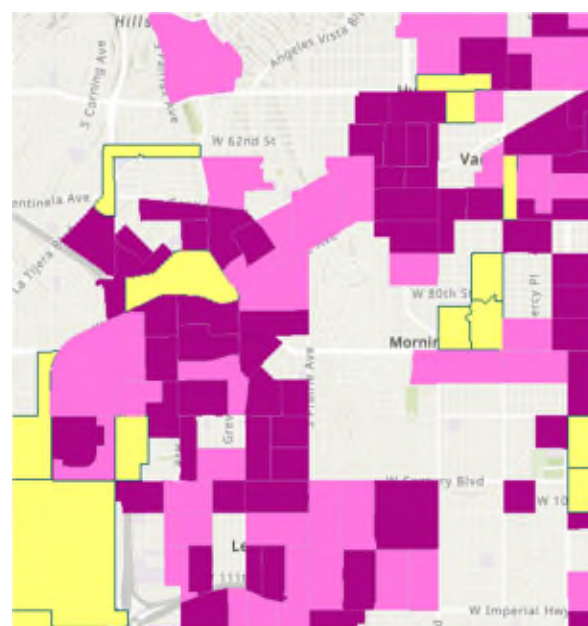


Figure 2 - Inglewood Census Block Groups (DWR Disadvantaged Community Mapping Tool): Pink is disadvantaged, purple is severely disadvantaged, and yellow is missing data.

This example is shared to reveal that a pure focus on Census Blocks may inadvertently omit Projects that are of critical importance to communities that collectively have unmet needs and are therefore intended to benefit from the disadvantaged community policies of the SCWP.

Benefits within a community boundary can be identified formally (like the city of Inglewood) or less formally (like the community of Pacoima, where the median household income calculation using that

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boundary supports the designation of “disadvantaged community”), or when CalEnviroScreen suggests unjust cumulative impacts are experienced inside that boundary. In any such cases, a WASC would be justified considering that Project as providing benefits across the entire area within that boundary. This is reiterated in three steps, below:

1. Is there a formal or informal community boundary more appropriate than Census Block Group boundaries to consider for the benefit area of a particular Project? *If yes...*
2. Using that boundary as a community, does the median householder income statistic or the current CalEnviroScreen tool consider that community “disadvantaged?” *If yes...*
3. Does the WASC wish to recommend that the Project will provide benefits across the entire community boundary?

The following municipalities are within the SCWP boundaries, and are US Census places that have an MHI below 80% of the statewide MHI (2018 data), and therefore could be considered disadvantaged at the scale of the municipality (alphabetical):

- Bell
- Bellflower
- Bell Gardens
- Commerce
- Compton
- Cudahy
- El Monte
- Gardena
- Hawaiian Gardens
- Hawthorne
- Huntington Park
- Inglewood
- Lynwood
- Maywood
- Montebello
- Paramount
- Pomona
- Rosemead
- San Fernando
- South El Monte
- South Gate
- Walnut Park

Community Support

The SCWP places priority on developing community support for Projects that yield Water Quality Benefits, Water Supply Benefits, and Community Investment Benefits. Within the scoring process for regional Projects, points are available for Projects that document community support.

One of the most effective ways to document if a Project will provide benefit to a community is if the community itself says so and expresses support. Project proponents are encouraged to obtain letters of support documenting that communities who will benefit from the Project are, in fact, eager for those Project benefits and supportive of the effort. WASCs too, when considering which communities will benefit from regional Projects, can rely on assertions from communities and their representatives that the Project will provide them benefits. This underscores the importance of empowering community members to voice their perceived benefits through community education and engagement.

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This approach can be very effective when Projects are anticipated to provide regional benefits, some of which will accrue to one or many disadvantaged communities. If a Project proponent engages with members of those communities and their representatives and has received their concurrence that the Project benefits will be felt by their community, this becomes strong evidence that the Project will provide a Disadvantaged Community Benefit.

WASCs can look towards the letters of support that are provided by a Project proponent, or to public engagement during the programming of the SIPs. Public testimony offered during public meetings that expresses how a Project will, or will not, provide benefits to a community can be part of the decision-making process of the WASC as the question of “direct benefit” is settled.

WASC Tools and Strategies

The following strategies are available to the members of WASCs to assist in determining the appropriateness of each Project’s claim of providing, or not providing, benefits to members of disadvantaged communities:

Tools and strategies to evaluate Disadvantaged Community Benefits that WASC members can use during Project evaluation:

- **The WASC can read the justification provided in the application and submitted Feasibility Study about Disadvantaged Community Benefits claimed for the Project.**
- **During presentations by Project proponents, the WASC members can ask questions about the Disadvantaged Community Benefits claimed for the Project.**
- **During the agendaized Project Discussion period, any voting WASC member may suggest modifying the Disadvantaged Community Benefit designation of a Project in accordance with 18.07.B.2.c and the recommended criteria described above as part of a motion related to the formation of a SIP.**
 - **When modifying a Disadvantaged Community Benefit designation from NO to YES, where justification was therefore not provided in the Project Module application and submitted Feasibility Study, the WASC may consider the recommended criteria described herein and seek equivalent information to that solicited in the Project Module and otherwise as necessary.**



Tools and strategies to evaluate Disadvantaged Community Benefits that WASC members can use at any time:

- **WASCs can ask their Watershed Coordinator(s) to evaluate and report to the WASC how the people, city and county agencies, and other stakeholders would describe the preferred Disadvantaged Community Benefits in the Watershed Area.**
- **WASCs can invite informational presentations from agencies, organizations, and other stakeholders to better understand potential Disadvantaged Community Benefits sought and challenges faced in the Watershed Area.**

Long Term Vision for Disadvantaged Community Benefits

The District recognizes that, long-term, additional tools and engagement are needed to enhance efforts across the SCWP to achieve benefits sought by those who live in, work in, and represent disadvantaged communities. While not appropriate to include within this interim guidance, the District anticipates pursuing additional activities and exploring further potential guidance within the following contexts by the year 2025.

- **Developing metrics for tracking and evaluating Disadvantaged Community Benefit:** As noted in the “Purpose” section, the District is facilitating the development of a study that will review how other funding programs that direct investment in disadvantaged communities have worked to overcome the many challenges that remain when seeking to implement the SCWP policy. That study will support future guidance, currently expected in the Spring of 2022, in support of Year 4 (2022-23).
- **Evaluating and sharing accomplishments of Watershed Coordinators:** Watershed Coordinators are a key element within the SCWP for ensuring communities are engaged and able to influence the Regional Program in each Watershed Area. Providing engagement opportunities, education, and technical assistance to members of disadvantaged communities will be fundamental to the watershed coordinators’ work. Future guidance will evaluate and share accomplishments from the watershed coordinators who are joining SCWP in Spring 2021.
- **Evaluating community support or opposition:** One element that is addressed generally in this interim guidance is how the WASCs, the Scoring Committee, and the Regional Oversight Committee can rely on representations of community support or opposition as part of their decision-making. It is expected that future guidance will further describe how community support can additionally influence the SCWP.
- **Assessment of “who benefits” from Projects in the Regional Program:** Both the disadvantaged community investment and the municipal return elements of the Regional Program require



information about how a Project’s benefits are received by specified groups of people. The question of who benefits from a Project or its components is difficult to solve systematically because the characteristics of Projects are so varied. Within SCWP context, asserting whether members of a disadvantaged community ultimately benefit from a Project remains a decision for the Board of Supervisors when they consider adopting a SIP as recommended by the WASCs and ROC.

Work is underway within the District to develop more tools for making these judgments, to support engagement, Project development, WASC deliberation, and quantification of achievement of the SCWP ordinance goals and priorities around targeted funding and the accrual of benefits. The development of these tools includes further engagement opportunities and the resulting tools will support future guidance.

- **Further clarifying what constitutes a “community”:** The current policy, as described above, directs the consideration of Census Block Groups while acknowledging that the Regional Program is conceptually focused on Projects that provide regional benefits. This means that Projects can benefit multiple communities that are distant from the physical Project. When considering “disadvantaged communities” as the beneficiary of investments in the Regional Program, who and what constitutes a “community” requires additional guidance to be developed in collaboration across multiple interested parties in the SCWP. The alignment between scales – the scale of the Regional Program’s focus on Watershed Areas, the scale of community boundaries, and the scale of the benefit area of Projects – is expected to be explored further. Future guidance is intended to include efforts to bring more certainty for community members, elected leaders, municipal and county staff, Project proponents, and decision-making bodies inside SCWP about how to judge or quantify the beneficiaries of a Project.
- **Revisiting inclusive language:** Multiple policies at the state and regional levels, including the SCWP, use the term “disadvantaged community” to explain how aspects of the program are intended to provide enhanced or targeted support to communities that are low-income, pollution burdened, underserved, or historically and currently marginalized or underrepresented. Future guidance within the program may include incorporation of additional inclusive language that better captures the richness and complexity of these communities.
- **Strengthening anti-displacement policies:** The Regional Program Fund Transfer Agreement, when describing the Stakeholder and Community Outreach/Engagement Plan required of every signatory, refers to “activities and measures to mitigate against displacement and gentrification.” It also requires the plan to include commitments to comply with “any County-wide displacement policies” and “specific anti-displacement requirements associated with other funding sources.” The role of Projects in the SCWP Regional Program to support anti-displacement is one that could be strengthened in future guidance, as the County and cities

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adopt additional practices and policies, and as additional policies are added to other funding programs.

- **Advancing workforce development:** The SCWP has explicit goals to support workforce development. Chiefly, this is being carried out within the District Program, as an element of the broader Education Program, and is still early in its development. Many WASCs have considered, and heard public comment regarding, the role of Projects within the Regional Program providing workforce development and jobs that benefit all communities, but also specifically members of disadvantaged communities. Future guidance is expected to discuss the relationship between elements of the Regional Program and the workforce development within the District Program, and how those SCWP elements could leverage benefits to members of disadvantaged communities.