

REQUEST FOR APPROVAL

To: **Howard Levenson**
Deputy Director, Materials Management and Local Assistance Division

From: **Michelle Martin**
Branch Chief, Financial Resources Management Branch

Request Date: August 5, 2014

Decision Subject: Eligibility Criteria and Evaluation Process for the Tire Incentive Program
(Tire Recycling Management Fund, FYs 2014/15 and 2015/16)

Action By: August 19, 2014

Summary of Request:

This request seeks approval of the proposed eligibility criteria and evaluation process for the Tire Incentive Program (TIP) for fiscal years (FYs) 2014/15 and 2015/16.

Staff proposes to conduct the FYs 2014/15 and 2015/16 grant cycles using the same application process, applicant eligibility, project eligibility, and evaluation process as was used in the FY 2013/14 cycle, except as described under *Proposed Changes* and summarized below.

- Add a general cost incentive category.
- Combine the “feedstock conversion” and “rubber combined with other materials” categories and adjust the incentive amount for the combined category.
- Adjust the incentive amount for fine (≤ 50) mesh material.
- Require an eligible business be profitable in two of the most recent three (tax) years.
- Clarify the intent regarding future awards for products which have received a TIP award by removing the requirement that a business have only one outstanding TIP award at a time and require applicants that used less than 50 percent of a prior award be considered for an award only after all other eligible applications.

Recommendation:

Staff recommends approval of the proposed eligibility criteria and evaluation process for the TIP for FYs 2014/15 and 2015/16.

Deputy Director Action:

On the basis of the information and analysis in this Request for Approval and the findings set out herein, I hereby approve the eligibility criteria and evaluation process for the Tire Incentive Program for Fiscal Years 2014/15 and 2015/16.

Dated: 8/19/14



Howard Levenson
Deputy Director

Background and Analysis:

Statutory Authority

CalRecycle receives an annual appropriation from the California Tire Recycling Management Fund (Tire Fund) to administer the California Tire Recycling Act, Senate Bill 937 (Vuich, Statutes of 1990, Chapter 35) (Public Resources Code [PRC] sections 42860 et seq.). PRC section 42872 authorizes CalRecycle to award grants, subsidies, rebates, and loans to businesses or other enterprises involved in activities and applications that result in reduced landfill disposal of used whole tires. PRC section 42872(g) specifically authorizes, "Development and implementation of a waste tire incentive payment program to promote increased demand for waste tires recycled in this state and to promote higher value products." The TIP falls within the authority of PRC section 42872.

The *Five-Year Plan for the Waste Tire Recycling Management Program (Seventh Edition Covering Fiscal Years 2013/14 – 2017/18)* allocates \$4,123,747 each for FYs 2014/15 and 2015/16 for the Tire Derived Product (TDP) Grant Program and the TIP (combined). This amount may change in the next edition of the Five-Year Plan which affects allocations starting in FY 2015/16. CalRecycle has earmarked \$3,000,000 of the initial allocations in each FY for the TIP. Depending on results of the TIP and TDP solicitations, CalRecycle may annually adjust funding between the two programs. Additionally, the Feedstock Conversion Technical Assistance and Material Testing Services contract will be funded from the TDP/TIP allocation with \$300,000 and \$450,000 coming from FYs 2014/15 and 2015/16, respectively.

Background Information

The TIP is a competitive, pilot incentive grant program that proposes to expand commercial (business) demand for different and higher value-added TDPs by providing financial incentives to eligible manufacturers to more competitively price and market their TDPs, thereby increasing sales and market share.

The first TIP solicitation resulted in 10 applications requesting \$2,888,659, of which 7, totaling \$2,627,552, were eligible and received funding. This initial TIP response was well in excess of the \$1,867,031 initially allocated. Based on stakeholder discussions, staff believes that future program interest will be the same or greater than exhibited in the first solicitation. If all of the grantees successfully reach their projections over the nearly two year grant term, they will use a total of 26 million pounds of California-produced crumb rubber made from California-generated tires, including an estimated 2 million pounds of fine (≤ 50) mesh crumb rubber. California crumb rubber use would nearly double from the estimated use in 2013.

Proposed Process and Eligibility

Staff proposes to conduct the FY 2014/15 and 2015/16 solicitations using the application, review, and evaluation process applied in the FY 2013/14 solicitation, except as noted below under *Proposed Changes*. Staff will perform a review of all applications to determine completeness. Complete applications will be evaluated to confirm applicant and project eligibility and determine the recommended incentive amount. The TIP will be reimbursed, as an incentive payment, quarterly for completed sales of eligible TDPs.

Eligible applicants include:

- Manufacturers that produce an eligible product.
- Waste tire processors that also manufacture an eligible product.
- Rubber compounders.
- Manufacturers that produce calendered rubber sheet products.
- Manufacturers that produce products on a contract basis for other companies provided they have that other company's written permission to produce an eligible product and receive the incentive.

To be eligible, an applicant must have been fully operational for at least three years and profitable in two of the most recent three (tax) years (see *Proposed Changes*). Start-up business or individuals (without an otherwise eligible manufacturing business) with an idea for a new or improved TDP are not eligible.

Possible examples of eligible products include, but are not limited to: flooring underlayment, rubberized flooring, conveyer belts, calendered rubber, agricultural harvesting devices, various landscaping and garden products, various building products, traffic cones, delineators, spacers, tire stops, barricades, fencing, asphalt products (that are not eligible under other CalRecycle programs), paints, sealants, coatings, etc. Asphalt products must contain a minimum of five percent crumb rubber in the binder or flux. Pour-in-place playgrounds which use shredded or chunk rubber from California-generated passenger tires (not truck tires or buffings) for the cushion course would be eligible.

Specifically excluded from this program would be: crumb rubber (as an intermediate product), tire-derived aggregate, rubberized pavement, rubber mulch/bark, rubberized sidewalks and tree wells, loose-fill or pour-in-place playgrounds (except as noted above), tiled recreational surfacing, floor and agricultural mats, sports tracks, all weather turf infill and similar type products which have enjoyed significant benefit from the TDP Grant Program and its predecessors.

Applicants will submit an application using CalRecycle's online Grant Management System. Several products may be included in the application, including products and/or materials produced for other companies (with the appropriate written authorization of the applicable companies). Application information will include, but is not limited to: contact and business information, the most recent business Federal tax return and appropriate business and product information. Tax return and other proprietary information appropriately labeled will be treated as a "trade secret" consistent with PRC section 40062. CalRecycle staff will review appropriate information to make a recommendation regarding eligibility and total incentive amount.

TIP awards are subject to a \$50,000 minimum and a \$500,000 maximum. In order to optimize market impact, staff proposes that a grantee may have more than one TIP grant outstanding at any time (see *Proposed Changes*). Staff also is proposing specific changes to reimbursement categories and levels (see Table in *Proposed Changes* for all reimbursement levels).

If there are more requests than available funds (i.e., the program is oversubscribed), priority will be provided to applicants seeking second awards for a previously approved product (see *Proposed Changes*). Other available monies will be allocated in approximately equal amounts for each of the three product categories. Eligible applications will be ranked within each of three

product categories, which are: existing TDPs, feedstock conversion, and fine (≤ 50) mesh (see Table 1 below) according to the greatest amount of crumb rubber projected to be used. If an application has products in more than one category, the amount of crumb rubber for the higher numbered category will be considered for ranking purposes.

Application and reimbursement documentation is subject to review and/or audit by CalRecycle, the Department of Finance, the Bureau of State Audits, and designated representatives of these agencies. Grantees will provide periodic Progress Reports, a Final Report, and Progress Updates for three years after the TIP term end. Grantees are required to use only California crumb rubber during the TIP grant term.

Grantees may pass on all or a portion of the incentive (as a price discount) to the end purchaser of the product and/or other non-TIP products. The incentive may also be used for a myriad of TDP production or selling expenses, such as product development, testing and certification, and marketing and selling costs. TIP funds cannot be used to increase management and/or officer compensation.

Proposed Changes

Staff is proposing five changes. The first three are to add a new general cost incentive, combine the previous Feedstock Conversion and Other Materials categories, and adjust the incentive for fine mesh crumb rubber. The other two changes relate to requiring an eligible business to be profitable in two of the most recent three (tax) years and that future TIP requests for the same products will be considered.

Table 1: Eligible Categories, Products, and Reimbursement Amounts

Categories	Products	Reimbursement per Pound
1. General costs	General costs for a new or existing TDP which may be combined with other categories	5 cents for total crumb rubber used
2. Existing TDPs	An existing TDP which has not benefited from the TDP Grant Program*	10 cents for incremental increase in crumb rubber used
3. Feedstock conversion	An existing or new/improved product currently manufactured with virgin rubber, plastic or other material which will be produced with a minimum of five percent crumb rubber and maybe co-extruded, injected, calendered or otherwise combined	30 cents for total crumb rubber used
4. Fine (≤ 50) mesh	An existing or new/improved product that will use fine (≤ 50) mesh crumb rubber (that must be produced by a California waste tire processor)	40 cents for total crumb rubber used

*TDPs which received minimal benefit (grantee awards for the TDP totaling less than \$1,000,000 since FY 2005/06) or that are reconfigured to serve a different purpose/market are eligible.

1. *General Cost Incentive*

In response to feedback received from stakeholders, staff proposes to add a general cost incentive category. The incentive may be used to cover any general expense such as transportation, production, and material cost. The general incentive, just like product incentives, may not be used to increase management and/or officer compensation. The general incentive will not exceed 25 percent of the total incentive for the product categories. It will be reimbursed based on 5 cents per pound of the crumb rubber portion of all products sold and shipped (regardless of whether the products are included in a TIP award).

Example of Eligible Cost Incentive: Applicant is awarded product incentives totaling \$400,000 and the applicant has crumb rubber product sales of 2 million pounds during the term of the grant. The applicant would be eligible for a maximum of \$100,000 general incentive (2,000,000 pounds x 5 cents = \$100,000).

2. *Combining Feedstock Conversion and Other Materials Categories*

During the initial grant solicitation, there was confusion regarding the difference between the feedstock conversion category and the rubber combined with other materials category. Staff proposes to combine the categories to resolve this confusion.

Feedstock conversion and the use of fine mesh material are high priorities for CalRecycle. However, in the first TIP solicitation, only 13 percent of the total estimated crumb rubber usage was for feedstock conversion or using fine mesh material. In order to encourage additional feedstock conversion and offset a portion of the costs associated with product testing and preparing for product production, staff proposes to increase the incentive for feedstock conversion to 30 cents per pound from the previous 20 cents. A product may receive an incentive under only one product category and the general cost category.

3. *Adjust the Incentive for Fine (≤ 50) Mesh Crumb Rubber*

As previously mentioned, the use of fine mesh crumb rubber is a high priority for CalRecycle. Fine mesh crumb rubber can be used in paints, coatings, higher value-added products, etc. An applicant must purchase fine (≤ 50) mesh crumb rubber; this incentive is not available to applicants that purchase larger mesh crumb rubber and refine it to 50 mesh or smaller. Expanded demand for fine mesh crumb rubber should lead to one or more California waste tire processors investing in the necessary equipment to produce greater quantities of fine mesh crumb rubber. In order to support the expanded use of fine mesh crumb rubber, staff proposes to increase the incentive to 40 cents per pound. This is the mid-price point for 50 mesh California crumb rubber indicated in Table 9 of the CalRecycle June 2012 report, [*Evaluation of Tire Incentives and Extended Producer Responsibility Policies*](#).

4. *Require a Business Be Profitable in Two of the Most Recent Three Years*

By adjusting eligibility to allow a business that may have suffered a temporary loss to still be eligible for the TIP, it provides an opportunity for that business to receive the support necessary to expand its markets and regain a solid financial footing. Accordingly, staff proposes to change the applicant eligibility to require a business be profitable in two of the most recent three (tax) years.

5. *Future Awards for TIP Products*

Since the initial TIP solicitation, grantees have questioned what will happen at the end of the two-year grant term. Grantees have expressed concern whether they will lose necessary financial support before they have firmly established a product in the marketplace. For that reason, staff proposes to eliminate the requirement that a grantee can only have one TIP award outstanding at any time. This will enable a grantee to have multiple products in more than one TIP cycle.

Staff is also proposing that continuation of the incentive for a specific TIP product be subject to a gradual reduction (or “laddering”) of the incentive amount. Specifically, grantees awarded an incentive for an approved product may receive 70% of the incentive in a second TIP award for the same product. If a new product is included in a second award to an eligible business, the new product will receive 100% of the incentive with any previously awarded products receiving 70% of the incentive.

If the program continues beyond the third cycle, then (starting in FY 2016/17) CalRecycle may consider further laddering of the incentive payment, for example to a level of 40% of the incentive, in a third TIP award for the same product. Because the TIP is a pilot program, continuance of the program and additional awards are subject to inclusion of the TIP in future *Five-Year Plans*.

If a cycle is oversubscribed, staff will rank applications as described above and in the following order:

- a. Applicants seeking second awards (for the previously awarded products) for the same product.
- b. Applicants seeking second awards (for the previously awarded products) for the same product and new products. New products will be considered separately and evaluated against other applications containing new products.
- c. Applicants seeking awards for only new products.

This will provide the time and stability of assistance necessary for a product to become firmly established in the marketplace. It will also provide a competitive evaluation process for applications containing new products. The gradual reduction in incentive will allow other applicants to receive TIP awards within the allocated amount, thereby optimizing market development potential. This laddering approach is similar to that used effectively in the Rubberized Pavement Grant Program.

Two other issues need to be addressed – how to allow for product success, and how to ensure that a grantee does not overestimate product sales in its grant application. To allow for product success, second TIP awards (and third TIP award if the program is continued) for the same product(s) will be estimated based on the previous year’s actual sales plus a 25 percent sales growth factor. For example, if product A had sales of 300,000 pounds per year during the first TIP award, the estimate for the same product in the second TIP award would be 375,000 pounds. This would be for purposes of calculating the maximum total award, but actual reimbursement would depend on documented sales up to that amount. Because TIP grant terms are approximately two years, a grantee may receive incentive support for the multiple products for several years.

Table 2 below illustrates how a business may structure awards to optimize the incentive, not including the general cost incentive.

Table 2: Possible Incentive Awards

(Note: each award is for approximately 2 years, but a new cycle starts every year)

Product	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
Product A	100% of incentive		70% of incentive based on 125% of prior year's actual results		40% of incentive based on 125% of prior year's actual results		
Product B		100% of incentive		70% of incentive based on 125% of prior year's actual results		40% of incentive based on 125% of prior year's actual results	

To guard against an applicant overestimating product sales, applicants that used less than 50 percent of a previous TIP award will be considered only after all other eligible applications have been awarded.

Tentative Timeline for FYs 2014/15 and 2015/16

Staff will post a Notice of Funds Available on CalRecycle's website informing potential applicants of the funding, eligibility requirements, deadlines, and other important information. Notices will also be distributed through CalRecycle's Local Assistance and Market Development staff to inform their local jurisdictions, the Grants Management System database, applicable listservs, outreach presentations, and newsletters.

Tentative Dates		Activity
FY 2014/15	FY 2015/16	
October 2014	March 2015	Post Notice of Funds Available, Application, and related instructions and documents on the website
November 2014	May 2015	Applications due
November/ December 2014	May/June 2015	Conduct application evaluation/review process; determine funding for eligible applicants
January 2015	July 2015	Grant awards
January/ February 2015	July/August 2015	Grant Agreements distributed and executed
April 1, 2017	April 1, 2018	Grant term ends

