

REQUEST FOR APPROVAL

To: Mark De Bie
Deputy Director, Waste Permitting, Compliance, and Mitigation Division

From: Wes Mindermann
Senior Waste Management Engineer, Engineering Support Branch

Request Date: April 18, 2013

Decision Subject: Awards for the Solid Waste Disposal and Codisposal Site Cleanup Grant Program (Solid Waste Disposal Trust Fund, FY 2012/13)

Action By: April 26, 2013

Summary of Request:

Staff requests approval for the Solid Waste Disposal and Codisposal Site Cleanup Program (Program) for the illegal disposal site abatement grant. CalRecycle received an eligible application requesting a total of \$12,500 for this competitive grant program. Detailed project information for the grant recommended for approval can be found below.

Recommendation:

Staff recommends approval of the grant award, as listed in Table 1 below totaling \$12,500.

Table 1. Illegal Disposal Site Abatement Grants

Applicant	Total Award
Town of Apple Valley	\$12,500

Funding:

The FY 2012/13 Budget Act allocates \$1,000,000 to the Illegal Disposal Site Abatement Grant Program.

Fund Source	Amount Available	Amount to Fund Item	Amount Remaining	Line Item
SWDTF (FY 2012/13)	\$56,500	\$12,500	\$44,000	Illegal Disposal Site Abatement Grants

Deputy Director Action:

On the basis of the information and analysis in this Request for Approval and the findings set out herein, I hereby conditionally approve the grant award for the Program as listed in Tables 1. The proposed grantee's award is conditioned upon:

1. The full payment within 60 (sixty) days of the date of this grant award of all outstanding debt(s) or scheduled payment(s) owed by the proposed grantee to CalRecycle; and
2. The return by the proposed grantee of a completed and executed Grant Agreement within 60 (sixty) days from the date that CalRecycle staff mails the Grant Agreement.

Condition Subsequent:

After the Grant Agreement has been executed by both parties, the Grant will be subject to the following condition subsequent:

The Grantee may not file for protection under Chapter 9 of the U.S. Bankruptcy Code or declare a fiscal emergency any time within the Grant Performance Period.

On the basis of the information and analysis in this Request for Approval and the findings set out above, I hereby approve the Award from the Solid Waste Disposal and Codisposal Site Cleanup Grant Program (Solid Waste Disposal Trust Fund, FY 2012/13).

Dated: 4/18/13



Mark De Bie
Deputy Director

Attachments:

None.

Background and Findings:

Statutory Authority

Public Resources Code (PRC) Section 48020 et seq. authorizes CalRecycle to expend funds from the Solid Waste Cleanup Trust Fund directly for cleanup, to provide loans to responsible parties who demonstrate the ability to repay, to provide matching grants to public entities for site cleanups, and to provide full grants to public entities for the abatement of illegal disposal sites.

Program Background

The Program addresses the cleanup of solid waste disposal and codisposal sites where the responsible party either cannot be identified or is unable or unwilling to pay for a timely remediation and where cleanup is needed to protect public health and safety or the environment.

Cleanup projects are implemented through contracts, grants, and loans. The California Integrated Waste Management Board (Board) [now the Department of Resources Recycling and Recovery (CalRecycle)] approved Program policies in February and September 1994; March and September 1995; and February, June, and August 1999. Regulations incorporating the approved policies were adopted by the Board in May 2000 and became effective September 11, 2000. In addition, CalRecycle approved the grant scoring criteria and the evaluation process for fiscal years 2012/13 and 2013/14 in August 2012.

As this is a grant, any applicant's need for the funds is to be considered. The grant application has a section for applicants to substantiate the need for the grant funds that is evaluated by staff as part of the General Scoring Criteria. The applicants have expressed that their current funding is inadequate to complete the project. In addition, there is also a section for the substantiation of the threat to public health and safety and/or the environment, which is also evaluated by staff as part of the General Scoring Criteria. Based on the evaluations, the need for funding and threat being remediated are quantified and included in the grant's overall score and subsequent prioritization.

Title 14, California Code of Regulations, section 18904 specifically lists eligible and ineligible remedial actions under the Program and allows CalRecycle to consider approval of any other remedial actions not specified as ineligible. Except as otherwise noted, the proposed project activities are specifically eligible pursuant to the regulations.

Cost recovery is not applicable for this grant since it involves the cleanup of public land maintained for public benefit and use and the entity did not cause or gain a benefit from the disposal of the waste. Thus a grant is appropriate and cost recovery is not applicable as to the public entity. Where grant funds will be used to clean up private parcels, the grantee has agreed to pursue cost recovery on behalf CalRecycle.

Criteria and Process

The Program Eligibility, Scoring Criteria, and Evaluation Process were discussed at the August 8, 2012 CalRecycle meeting. The Notice of Funds Available was placed on the CalRecycle web site for FY 2012/13 on August 20, 2012.

Applications were due March 14, 2013, with a secondary due date of April 15, 2013 for Resolution submission. The application was received requesting a total of \$12,500. Staff reviewed application in accordance with the approved evaluation and scoring criteria. The maximum grant award is lesser of \$500,000 or the remaining balance of the current fiscal year budget for illegal disposal site abatement grants.

Project Information:

The Town of Apple Valley (Town) encompasses 78 square miles of developed and open desert land. The Town attempts to remove illegal dumps quickly to alleviate the threat to public health and safety and also to discourage further illegal disposal sites. While this grant is for the remediation of illegal disposal sites on public properties and right of ways, the labor is being provided through prison crews. Thus the Town is requesting reimbursement with grant funds for a percentage of the salary for the Community Enhancement Officer for actual time spent

coordinating with and/or supervising these crews and on other grant related activities. In addition, the Town is requesting grant funds to offset the disposal cost for approximately 65 tons of waste derived from the remediation of these public sites at the San Bernardino County landfill in Victorville. The Town is further requesting reimbursement for the purchase of equipment consisting of hand tools, safety equipment, and other items that would be used to clean up and remove waste from these public sites. These latter costs are not listed as specifically eligible or ineligible and, therefore, are subject to discretionary approval by CalRecycle.

All the sites being remediated with grant funds are located alongside public roads and other public right of ways, or on other public property owned and maintained for public benefit and use, where indiscriminate dumping has occurred and in no case did the Town cause or gain a benefit from the disposal of waste. Thus the applicant meets the criteria for an illegal disposal site abatement grant, which is essentially a bestowal of funds, making cost recovery inapplicable as to the public entity.

Illegal Dumping Prevention

While the Illegal Disposal Site Abatement Grant Program is intended to be used primarily for site cleanup and remediation, CalRecycle recognizes that key factors for jurisdictions to sustainably control illegal dumping are prevention and enforcement. To that end, while the Town does not propose the use of grant funds for preventative measures for future illegal dumping, it has and does support a zero tolerance for illegal dumping through easy reporting, aggressive investigation and enforcement, and a proactive Community Enhancement Program. In addition to actively looking for illegal dumping, the Town Code Enforcement Department accepts complaints through telephone reports, the internet, and via the Government Outreach application for smart phones. When illegal dumps are located, a thorough investigation is completed to determine who dumped the items or where the debris came from. Illegal dumpers that are identified are issued a misdemeanor citation with a maximum penalty of a \$1,000 fine and/or six months in jail. Subjects caught in the act of dumping can also have their vehicle impounded for 30 days in addition to the citation.

For areas where no party can be identified for the illegal dumping, the Code Enforcement Department attempts to remove the debris as soon as practicable so that any particular area does not become an attractive nuisance and a chronic disposal site. The Town also attempts to alleviate illegal dumping by offering Community Enhancement Events every month for one of the Town's six geographic regions, which enables its citizens to conveniently dispose of solid waste twice a year at no charge. Code Enforcement officers and volunteers distribute flyers to residences inviting the general public to these Community Enhancement Events and the flyers often contain information regarding reporting illegal dumping and other solid waste issues.