

REQUEST FOR APPROVAL

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

From: Scott Walker
Manager, Engineering Support Branch

Request Date: October 19, 2012

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

Action By: October 31, 2012

Summary of Request:

Staff requests approval of grant awards for the Solid Waste Disposal and Codisposal Site Cleanup Program (Program): the legacy disposal site abatement partial grants and the illegal disposal site abatement grants. CalRecycle received three eligible applications requesting a total of \$1,003,844 for this competitive grant program. Detailed project information for the grants recommended for approval is in Attachments A and B.

Recommendation:

Staff recommends approval of three grant awards, as listed in Tables 1 and 2 below totaling \$1,003,844.

Table 1. Legacy Disposal Site Abatement Partial Grants

| Applicant | Total Award |
|---|-------------|
| California Department of Parks and Recreation | \$60,344 |

Table 2. Illegal Disposal Site Abatement Grants

| Applicant | Total Award |
|----------------------------------|-------------|
| Richardson's Bay Regional Agency | \$495,000 |
| City of Palmdale | \$448,500 |

Funding:

The FY2012/13 Budget Act allocates \$1,500,000 to the Legacy Disposal Site Abatement Partial Grant Program and \$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) | \$1,500,000 | \$60,344 | \$1,439,656 | Legacy Disposal Site Abatement Partial Grants |

| | | | | |
|--------------------|-------------|-----------|----------|--|
| SWDTF (FY 2012/13) | \$1,000,000 | \$943,500 | \$56,500 | 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 awards for the Program as listed in Tables 1 and 2. Each proposed grantee's award is conditioned upon:

1. The full payment within 90 (ninety) 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 90 (ninety) 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.

Dated: 11/9/12


 Mark de Bie
 Deputy Director

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 these are grants, any applicant's need for the funds is to be considered. Each 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. In all cases, 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. Unless otherwise noted, specific actions proposed for each project are specifically eligible pursuant to the regulations.

With respect to legacy disposal site abatement partial grants, CalRecycle may award partial grants to public entities to clean up (among other sites) publicly operated solid waste disposal and codisposal sites that have always operated as public facilities. As a grant is essentially a bestowal of funds, cost recovery is not an issue in those cases, even though the public entity grantee is the "responsible party" for the cleanup. Therefore, this applicant is not subject to cost recovery by CalRecycle.

With respect to illegal disposal site abatement grants, cost recovery is not applicable when the grants involve 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. 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 Availability was placed on the CalRecycle web site for FY 2012/13 on August 20, 2012.

Applications were due September 17, 2012, with a secondary due date of October 17, 2012 for Resolution submission. Four applications were received requesting a total of \$1,079,932. Subsequently, one applicant withdrew its application. Staff reviewed the remaining three applications in accordance with the approved evaluation and scoring criteria. The maximum grant award is \$750,000 for legacy disposal site abatement partial grants, and \$500,000 for illegal disposal site abatement grants.

