CALIFORNIA WATERSHED COALITION

California Watershed Network
Sacramento River Watershed Program
Salmonid Restoration Federation
Sierra Nevada Alliance
Sonoma Ecology Center
California Urban Streams Partnership
Northern California Council of
Fly Fishers
California Association of Resource
Conservation Districts
in collaboration with:

Council for Watershed Health

April 2, 2014

Reference: White Paper on Funding Natural Resource Projects & Recommendations.

Brief Background to California's Watershed Restoration Programs

Starting in 1997, Governor Pete Wilson administratively established a Watershed Protection and Restoration Council to explore opportunities and more effectively coordinate resource protection efforts within the state's watersheds. The State was facing the loss of employees performing on-the-ground resource projects and a dramatic transition to local communities, non-profits and volunteers to the provide the care for the lands and streams. By 1999, a State Water Resources Control Board (Water Board) Watershed Protection Program began through the implementation of Proposition 13, the 2000 Water Bond. The enactment of AB 2117, also in 2000, resulted in a joint Water Board and Resources Agency Task Force Report to the Legislature on the water resource management needs of the state and how the hundreds of local agency and community-based watershed organizations deliver critical watershed maintenance and restoration services.

CALFED joined the watershed movement in 2000 by funding watershed coordinators and watershed projects within the watersheds that led to, or received water from the Bay Delta. The Water Board also established a watershed coordinator in each of the nine Regional Board offices supported with Proposition 99 tobacco tax funds. Some of the Regional Boards began re-structuring and implementing their regulatory programs and responsibilities based upon watershed boundaries. AB 2534 (Pavley), enacted in 2002 to implement the Proposition 40 Parks and Water Bond, started the Integrated Watershed Management Program. This legislation created a (public advisory) California Watershed Council and directed the CalEPA and the Natural Resources Agency (Resources Agency) to enter into an MOU to coordinate the new program and other programs between themselves, other agencies and the public. A statewide watershed plan was written with extensive stakeholder involvement and released in 2004 as a Watershed Action Plan for California. A strategic plan prepared by the California Watershed Network, a stakeholder coalition, supplemented this effort.

The Watershed Council met during this time and included more than 300 participants supported by the Administration's recognition of the value of partnerships between the state and local communities. This lead to several years in which watershed-focused restoration work was backed up with knowledge of and appreciation by the Legislature and the Administration for the work performed by both urban and rural watershed councils, resource conservation districts, land owners, the conservation corps and local special districts. In addition, the CALFED watershed grants program created a great deal of constructive communication and interactions among the various parties of the watershed community.

De-Emphasis of Collaborative Watershed Management Structures

The progress made since 1997 in collaboration and integration of watershed restoration has begun to unravel. One positive event that resulted from the dismantling of the CALFED program in 2006 was transferring its watershed program to the Department of Conservation (DOC). The DOC very ably continued the watershed program that CALFED started. However, the Prop 50 Water Bond, enacted in 2003, ignored the Integrated Watershed grants program and instead created a new Integrated Regional Water Management Program (IRWMP). The IRWMP was originally supposed to be a shared program between the Water Board and the Department of Water Resources (DWR) with not less than 50% of the funding to be appropriated to the Water Board. The new program started with regional planning grants and the first project implementation grants were awarded in 2006.

More recently, the Proposition 84 Water Bond, in what is seen by some in the watershed community as a backdoor political maneuver against the Water Board, established DWR as the sole program manager for IRWMP. The Department of Conservation was no longer funded to implement the Integrated Watershed program or fund watershed coordinator positions. The DWR's Urban Streams Restoration Program was hamstrung by conflicting internal regulatory mandates as well as decreased funding and staff. Additionally, the Water Board's regional watershed coordinators were eliminated in 2012 due to the continuing budget cuts that have resulted in the loss of a critical linkage to communities involved in sponsoring local resource protection projects.

Analysis of Current Challenges

Simultaneous with the decline of state collaboration with community-based watershed groups, new requirements have evolved for the application, accounting and payment of project grant funds to local groups. Key issues include the varying treatments for payment of indirect costs in project funding and long delays in the issuance of payment for invoices.

The following comments have been submitted by a core group of highly experienced project managers from across the state and are provided for discussion purposes.

Indirect Costs:

Our partner organizations have reported that state agencies are prohibiting payment for indirect costs, often called overhead. What we have found is that bonds do not prohibit indirect costs; this appears to be a Department of Finance decision. This decision is harmful to the sustainability of organizations and has resulted in inefficiencies and, paradoxically, increased costs to the State. We encourage the State to adopt a policy similar to the federal policy that allows an organization to select an indirect cost calculation method from among several and apply to use that indirect rate within grants and contracts.

In the federal approach, indirect costs are defined, and a methodology is specified. An organization documents past indirect costs as the justification for budgeting the same indirect percentage going forward. We feel that this methodology should be adopted by the State, especially when the affected parties are nonprofit organizations under section 501c3 of the Internal Revenue Code and Resource Conservation Districts both of which have a legally enforceable public-benefit mandate overseen by a board of directors.

On December 26, 2013, the Office of Management and Budget published new guidance for federal awards[1] "[t]o deliver on the promise of a 21st-Century government that is more efficient, effective, and transparent…" The National Council of Nonprofits commented on the importance of these new guidelines as follows: "The new guidance means that nonprofits should be able to focus more on their missions and should be under less pressure to raise additional funds to essentially subsidize governments. In turn, charities with no government contracts or grants could see less competition for scarce philanthropic dollars. This is a major win for the entire charitable nonprofit community."

Following are some quotes from the signatories regarding the impacts of the current state policy of disallowing indirect cost reimbursement:

"When we received our Prop 50 IRWMP grant, 3% was taken off the top by the local administrator of our award, which left us with 2% for managing a multi-year grant – an impossible scenario, especially when you consider the time required for resolving disputes over invoices, questions from DWR staff, and the cost of doing amendments."

"As it is, we've stopped applying for bond-funded grants and now we try to be a subcontractor to the project grantee. This is really inefficient and actually causes increased costs to the state, especially as subcontractors are not restricted in the amount of overhead they charge."

"I know that for 2014, my agency's cost for administrative services (fiscal, human resources, executive director, executive assistant, IT support) came to 14% of the overall budget. We used to get by on 10% but, partly because of increased reporting requirements and a smaller total budget to spread the cost over, last year came in higher than usual."

1 https://federalregister.gov/a/2013-30465

“Indirect costs are real costs. In some ways these organizational costs are the most important expenditures that NGOs or RCD's make - they maintain the fiscal viability of our organizations, so that we can work on the long-term natural resource needs of our communities, and not just build Project A or Project B.”

Excessive Paperwork and Payment Delays:

We are also stressing the harmful costs of too much "accountability." Contract paperwork processing currently required for bond grant funds is excessive and costs the residents of California too much in lost productivity and delayed work. In our experience, the amount of time spent on contract negotiations and invoicing is excessive. Once invoices are approved, it usually takes California agencies over 90 days to send out paper checks.

In contrast, the federal government has established an electronic payment system called ASAP.[2] Under this system, funds are deposited in the grantee’s bank account usually within *one day* of inputting the invoice information.

The Prompt Payment Act requires state agencies to issue payment within 45 calendar days of receipt by the department of an undisputed invoice (see Government Code 927-927.130). If payment is not made within 45 days, the state agency is required to automatically calculate and pay late payment penalties. The Prompt Payment Act restricts the payment of penalties to nonprofit corporations compared to businesses, but nevertheless it is obvious that state agencies are ignoring the PPA when it comes to paying invoices to nonprofit organizations.

Here are some quotes:

“A couple of years ago I completed a $1.135 million project where we had to use a line of credit to cover the up-front payment to contractors/ vendors provision and racked up $2,700 in interest on the line of credit. It was not a reimbursable cost so we lost money on the grant.”

“We have two outstanding invoices that were each submitted more than one year ago.”

“In one case, we spent about 40 hours of staff time going back and forth with agency staff over seven months for a $750 invoice.”

“Compare your experience to this: the US Bureau of Reclamation recently converted to an online system that is blisteringly fast - we get our money in the bank within a day of inputting our expenses on the online system. I mentioned this to someone in Sacramento who was taken aback and said they needed more "accountability" than that. I would love to see California explore this issue - is what they spend on processing invoices really worth it?”

2 http://www.fms.treas.gov/asap/index.html

Recommendations

1. State agencies should be required to implement electronic billing and payments to reduce burdensome paperwork costs and excessive time to receive payment.

2. California should recognize that indirect costs are real costs and adopt the federal methodology. Let's think a little and work towards reasonable indirect rates supported by audited financials.

This paper has been prepared to specifically identify two brewing issues of concern among the community groups that are doing the on-the-ground work caring for our lands and streams. The opinions do not necessarily represent the official viewpoints of the groups shown, but are likely to be key components of efforts to reform how California does business in local communities. We believe that legislation addressing these two critical issues will greatly assist in the continuing abilities of communities to maintain a quality of life that is most important to them.

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