

**INITIAL STATEMENT OF REASONS
Habitat Conservation Fund Program**

GRANT ADMINISTRATION GUIDE

Fish & Game Code Sections: 2721 [*applicable under Fish & Game Code Section 2786(c)*]; 2723(b) [*applicable under Fish & Game Code Section 2786(c)*]; 2725 [*applicable under Fish & Game Code Section 2786(c)*]; 2726 [*applicable under Fish & Game Code Section 2786(c)*]; 2727 [*applicable under Fish & Game Code Section 2786(c)*]; 2728 [*applicable under Fish & Game Code Section 2786(c)*]; 2780, 2781, 2785, 2786, 2787(a), 2787(f), 2788, 2789, 2790, 2791, 2792, 2793, 2794, 2795, 2796, 2797, 2798, 2799, 2799.5, 2799.6

Public Resources Code Sections: 5902(b) [*applicable under Fish & Game Code Section 2785(d)*]; 5910(d) [*applicable under FGC 2787 (a)(3)*]; 5917 [*applicable under Fish & Game Code Section 2787 (a)(3)*]; 5919 [*applicable under Fish & Game Code Section 2787 (a)(3)*]; 5929(a) [*applicable under Fish & Game Code Section 2798*]; 21000 [*applicable under Fish & Game Code Section 2794*]

Revenue & Taxation Code Section 30122 [*applicable under Fish & Game Code Sections 2795(a) and 2796(a)(1)(2)*] – also known as the Cigarette and Tobacco Products Surtax Fund

SPECIFIC PURPOSE OF THE REGULATION

The purpose of the proposed regulation is to implement, interpret, and make specific California Fish and Game (DFG) Code, Sections 2720 through 2729, and Sections 2780, 2781, and 2785 – 2799.6. Specifically, it will establish California Department of Parks and Recreation (Department)'s eligibility, application, grant selection and grant administration requirements for the Habitat Conservation Fund (HCF) Program.

NECESSITY

The HCF Program allocates approximately \$2 million per year to the Department to provide grants to local entities to protect fish, wildlife, and native plant resources, to acquire or develop wildlife corridors and trails, and to provide for nature interpretation programs and other programs which bring urban residents into park and wildlife areas. The California Wildlife Protection Act of 1990, Fish and Game Code, Chapter 9, commencing with Section 2799.5 requires that “reasonable public access to lands...be provided except where direct access may interfere with habitat protection”. The Wildlife Protection Act also defines eligible applicants, match rate, eligible project categories, and the funding distribution between local government and state agencies.

The Department initiated an extensive public review and comment process of the Habitat Conservation Fund Program Procedural Guide, Revised May 2007. This process included in-person public focus groups held in Northern and Southern California. The Department completed a 30-day public comment period in the winter of

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2007 to allow the public to comment on the proposed amendment to the existing regulations.

To further assist applicants, the Department separated the May 2007 procedural guide into eight individual guides. Seven application guides represent each of the seven funding categories. The eighth guide serves as the HCF Grant Administration Guide.

The following information is based on the HCF Grant Administration Guide Draft dated March 31, 2010. This draft incorporates comments from wildlife and outdoor recreation specialists obtained during six focus group meetings held throughout California. Additionally, the Department incorporated feedback obtained from potential applicants during six public technical assistance workshops.

The HCF Grant Administration Guide dated March 31, 2010 assists grantees to administer their grant projects after receiving a grant award.

Process for Grantees

This section clarifies HCF Program requirements and provides forms for grant administration.

Start of Grant Performance Period

This section explains the grant performance period and clarifies when costs can be incurred to qualify for reimbursement. The grantee will have a 5-year time frame for all projects selected for funding, which begins when funds are appropriated in the Budget Act on July 1 of each year.

Contracts

This section clarifies when an applicant becomes a HCF grantee and provides specific requirements pertaining to acquisition grants.

Grant Payments

This section clarifies when grantees can request payments and outlines the special requirements affecting payments to grantees.

End of Grant Performance Period

This section provides information as to when grant funds liquidate and when grantees should submit final project completion packets. Additionally, it provides a timeline outlining when the State Controller's Office is able to process final payments.

Accounting and Audits

Informs grantees of their responsibilities to comply with generally accepted accounting practices, per state and federal requirements. The grantee is required to keep all project records for at least five years following the final grant payment.

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Grant Contract

A sample Grant Contract and its provisions clarifies the terms and conditions upon which a grantee would need to agree. This agreement enables the grantee to receive the grant funds listed on the contract, upon completion of the approved grant scope. The State of California, acting through the Department, agrees to fund the total state grant amount indicated in the approved grant contract.

Special Requirements

This section identifies the two special requirements that must be met by each grantee, unless the requirements are not applicable for specific projects.

Status Reports

The Department requires the grantee to submit Grant Progress Status Reports. There are two forms in this section.

Grantees with Anadromous Salmonids and Trout Habitat, Deer/Mountain Lion Habitat, Rare, Endangered, Threatened, or Fully-Protected Species Habitat, Riparian Habitat, Trails, or Wetlands projects will use the form entitled “Status Report - Acquisition, Enhancement, Restoration, or Development Projects”. These reports demonstrate project progress and help justify the grantee’s need for grant fund payments. The report forms solicit information about pre-construction/pre acquisition costs, funds spent, and enable Department staff to analyze project progress and payment requests.

Grantees with Wildlife Area Activities projects will use the form entitled “Status Report – Wildlife Area Activities Projects”. These reports demonstrate project progress and help justify the grantee’s need for grant fund payments. The report forms solicit information about pre-activity and activity costs, funds spent, and enable Department staff to analyze project progress and payment requests.

Memorandum of Unrecorded Grant Agreement

The Department established the Memorandum of Unrecorded Grant Agreement (MOUGA) to serve as notice to all third parties of certain rights reserved by the Department under the grant agreement with respect to real property acquired or improved with the grant funds. The form is recorded to provide a notice of an agreement between the State of California, acting by and through the Department and the grantee.

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Eligible Costs

Eligible Costs Charts

This section provides clarity and guidance about how the grant funds and the required match may be spent. The section provides rules and examples of acquisition costs, or pre-construction and construction costs (for enhancement, restoration, or development projects), and non-capital outlay costs for Wildlife Area Activities projects. Due to years of experience with project administration and extensive public input, the Department determined that non-construction costs capped at 25% of the grant amount provides an appropriate balance between the public's interest in gaining benefit from capital projects and the grantee's ability to complete capital projects which encompass non-construction costs. This cap reflects the Department's desire to ensure that the grantee incorporates the majority of the grant funds into the capital portion of the project. At the same time, the Department understands that pre-construction costs are an integral part of capital projects.

Scope Change

This section provides the policy and procedures for HCF grant scope changes. To maintain the integrity of the competitive grant award process, the Department carefully evaluates grantees' requests to change the scope of an approved project. The requirements and documents are listed for the grantee.

Grant Payments

This section outlines the three types of payments, which are: advance payments, reimbursement payments and final payments. This section is important because it provides information, timelines, procedures and forms for each type of grant payment for the grantee. The items on the form are required by State Control Agencies to process grant awards. The 20% retention requirement enables the Department to uphold its fiduciary duty and the grantee's contractual agreement to ensure that the project is completed and open to the public prior to the release of all grant funds. The Department's grant administration experience has shown that a 20% retention amount provides sufficient protection of the contractual agreement to complete the project while providing protection of public funds until the project is complete.

Advance Payments

Advance payments are made at the discretion of the Department. The Department reserves the right to disapprove advance payments. This section provides policies, procedures, payment schedules and the documentation required for consideration for the two types of advance payments: (1) acquisition advance and (2) enhancement, restoration, development, or Wildlife Area Activities advances.

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Reimbursement Payments

The reimbursement section provides clarity to the grantee regarding procedures and requirements to request a reimbursement payment for costs that have been paid for by the grantee. The following three possible types of reimbursement payments before the final payment are discussed: (1) acquisition reimbursement, (2) enhancement, restoration, or development reimbursements, and (3) Wildlife Area Activities reimbursements. Charts delineate the requirements and documentation required for all types of reimbursements.

Final Payments

The final payment section provides clarity to the grantee regarding procedures and requirements to request a reimbursement payment for costs that have been paid for by the grantee. The following are the three possible types of final payments that will be processed after project completion process is approved by OGALS: (1) acquisition final payment, (2) enhancement, restoration, or development final payments, and (3) Wildlife Area Activities final payments. Charts delineate the requirements and supporting documentation required for all three types of final payments.

Payment Request Instructions and Form

This section provides information and recommendations to properly complete the Payment Request Form. The Payment Request Form provides a uniform vehicle for the Department to collect the information required from State Control Agencies to process payments. The details are necessary to process a grantee's payment request through the Department's Accounting Office and the State Controller's Office. The Department established project numbers and contract numbers that serve as unique identifiers throughout the grant process. The payment information on the form provides a consistent means for the Department to identify the type and amount of funds, and identifies the mailing address for the warrant. The signature blocks provide assurance that an authorized person requested funds and that the Department has conformed with generally accepted auditing practices for payment requests. The form streamlines and consolidates required payment information provided by all grantees.

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Grant Completion Packet

The grant completion section provides clarity to the grantee regarding procedures, requirements, and forms to request a final payment for costs that have been paid for by the grantee, and after the project is complete.

Project Certification Form

The Project Certification Form establishes certification that the project is complete, and identifying other funding sources used for the project. This certification enables Department staff to proceed with the final inspection and final payment process. The information on the form also serves as an information resource for auditors.

Grant Expenditure Instructions and Form

Grantees use the Grant Expenditure Form to record project costs incurred using the grant, or that will be reimbursed by the grant. This enables Department staff to determine if the costs are eligible and incurred during the contract performance period. The items noted on the form delineate the costs expended on a particular project and ensure that fiscal activity aligns with the project scope. The information on the form serves as a source document for auditors. Step by step instructions assist the grantee in completing the form. Only eligible costs can be listed on the form and charged to the grant.

Force Labor Costs Summary Form

The Force Account Labor Costs Summary Form serves as a document recording project costs claimed against the grant where the grantee's own employees were used to conduct the work. This enables Department staff to determine if the costs are eligible and incurred during the contract performance period. The information on the form serves as a reference for auditors.

Equipment Rental Costs Summary Form

Grantees use the Equipment Rental Costs Summary Form to document recording equipment charges claimed against the grant. This enables Department staff to determine if the costs are eligible and incurred during the contract performance period. The information on the form serves as a reference for auditors.

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Accounting and Audits

This information informs grantees of their compliance responsibilities regarding generally accepted accounting practices recognized by the state. Grants are subject to audit by the Department. Grantees must retain project records for at least five years after final payment was received. The Department has provided a checklist of items the grantee must provide when an audit date and time have been confirmed by the Department. An audit of the project may be performed before or following project completion. The Department provides contact information to enable the grantee to direct questions about audit requirements.

Definitions

The definitions section provides the meanings of capitalized words and terms found in the HCF Grant Application and Grant Administration Guides. These meanings ensure consistent understanding of the HCF program and grant administration terms. The words and definitions found in this section originate from State laws and administrative interpretations.