

GRANTS AND COOPERATIVE AGREEMENTS PROGRAM REGULATIONS

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Documents Incorporated By Reference:

- Environmental Review Data Sheet
- Project Cost Estimate
- General Provisions – Federal Agencies
- Evaluation Criteria - General Criteria
- Evaluation Criteria – Acquisition Project Criteria
- Evaluation Criteria – Development Project Criteria
- Evaluation Criteria – Education and Safety Criteria
- Evaluation Criteria – Ground Operations Project Criteria
- Evaluation Criteria – Planning Project Criteria
- Evaluation Criteria – Restoration Project Criteria

Chapter 15

OFF-HIGHWAY MOTOR VEHICLE RECREATION GRANTS AND COOPERATIVE AGREEMENTS PROGRAM REGULATIONS

ARTICLE 1 – GENERAL PROVISIONS

4970.00. APPLICATION OF CHAPTER

California Code of Regulations (CCR), Title 14, Division 3, Chapter 15 applies only to Grant and Cooperative Agreement Applications received by the Off-Highway Motor Vehicle Recreation (OHMVR) Division on or after January 11, 2010 ~~42, 2009~~.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Sections 5090.01-5090.70, Public Resources Code.

4970.01. DEFINITIONS

The words used in this chapter have the following meanings whenever the words are capitalized:

- (a) "Act" means the Off-Highway Motor Vehicle Recreation Act of 2003, as amended, commencing at PRC Section 5090.01, or any subsequent amended versions.
- ~~(b)~~ "Administrative Costs" ~~means the costs of functions performed in support of the Project.~~
- ~~(e)~~(b) "Applicant" means any entity ~~entities~~ identified in Section 4970.03.
- ~~(d)~~(c) "Application" means a compilation of required information submitted in conformance with these regulations to support a request for funding from the OHMVR Division's Grants program for proposed Project(s).
- ~~(e)~~(d) "Audit" means a comprehensive review in accordance with Generally Accepted Auditing Standards (GAAS), developed by the American Institute of Certified Public Accountants (AICPA) and the Government Auditing Standards issued by the United States (U.S.) General Accounting Office ~~(GAO)~~. The Audit is a review of the Grantee's relevant financial records by the Department of Parks and Recreation Audit Office staff or other Department designee to determine that they support the expenditures authorized in the Project Agreement.
- ~~(f)~~ "Buffer" ~~refers to lands contiguous to existing or proposed OHV recreational areas that reduce noise and other effects to the surrounding lands, for the purpose of sustaining OHV Recreation and/or protecting wildlife habitat, soils and viewsheds.~~
- ~~(g)~~(e) "CEQA" means the California Environmental Quality Act, Public Resource Code (PRC) Section 21000 et seq.; Title 14, CCR, Division 6, Chapter 3, Article 20.
- ~~(h)~~(f) "Conservation" means activities, practices, and programs developed and/or implemented in connection with ongoing OHV Recreation that sustain and preserve soils, plants, wildlife and their habitat, and natural and Cultural Resources as referenced in or required by PRC Sections 5090.10, 5090.35, 5090.50, and 5090.53.
- ~~(i)~~(g) "Cooperative Agreement" means an agreement between the OHMVR Division and a federal agency or a Federally Recognized Native American Tribe for the purposes authorized and defined in PRC Section 5090.50 and these regulations.

- ~~(j)~~(h) "Cultural Resources" are associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage; are associated with the lives of persons important in our past; embody the distinctive characteristics of a type, period, region, or method of construction, or represent the work of an important creative individual, or possess high artistic values; or have yielded, or may be likely to yield, information important in prehistory or history. Cultural Resources also include historical resources. Historical resources include, but are not limited to, any object, building, structure, site, area, place, record, or manuscript that is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California. A resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the California Register of Historical Resources (PRC Section 5024.1, Title 14 CCR, Section 4852).
- ~~(k)~~(i) "Deliverables" means the specific tangible outcomes or work products to be provided, acquired, or produced with the funds made available pursuant to the Project Agreement. Examples include the purchase of a specified property, installation of specified erosion control measures, construction of a restroom, construction of a specified length of fencing, production of a specified number of maps, purchase of specified Equipment, Restoration of a specific area, maintenance of a specific length of trail, completion of research resulting in a written report, and planning that results in a report or reports including any related specified documents.
- ~~(j)~~(j) "Development" means the construction of new, and/or improvement of existing Facilities to improve existing or provide additional opportunities, experiences, or services for OHV Recreation.
- ~~(m)~~(k) "District" means a public or quasi-public governmental entity formed according to law whose mission includes clear legal responsibility for open space, recreation, parks, and resource-related activities that are land based.
- ~~(n)~~(l) "Division Website" means the internet page of the OHMVR Division located at www.ohv.parks.ca.gov.
- ~~(o)~~(m) "Due Diligence" means to conduct or cause to be conducted an investigation of all aspects of property proposed to be acquired and/or developed using OHV Trust Funds, including investigating the suitability of the property for the intended use, and all critical facts and assumptions used in developing the proposed Project that would assist in evaluating the success of the Project in providing OHV Recreational opportunities and to avoid and/or minimize potential risks that could impair the future sustainability of OHV Recreation.
- ~~(p)~~(n) "Ecological" means the interdependence of living organisms within the ecosystem in which the OHV use exists, including the interrelationship and interactions between and among the natural and Cultural Resources and the human activities relating to or affected by OHV use.
- ~~(q)~~(o) "Ecological Restoration" means an intentional activity that initiates or accelerates the recovery of an ecosystem with respect to its health, integrity and sustainability.
- ~~(r)~~(p) "Education" means comprehensive programs that teach OHV safety, environmental responsibility, and respect for private property.

- ~~(s)~~(q) "Educational Institution" means a public or private preschool, elementary, or secondary school, college or university, or institution; the governing board of a school district; or any combination of school districts or counties recognized as the administrative agency for public elementary or secondary schools.
- ~~(t)~~(r) "Equipment" means tangible property that has a normal useful life of at least one year and has a unit acquisition cost of at least \$1,000 (e.g., four identical assets which cost \$400 each, for a \$1,600 total, would not meet the requirement). Equipment does not include expendable items such as personal safety gear, or tires.
- ~~(u)~~(s) "Facility" means the assets of an organization that include: buildings, trails, roads, grounds, parking facilities, and structures such as shade structures, fences, trash enclosures, cattle guards, etc., and includes the systems that support facilities (fuel, electrical, sewer, water, waste, etc.).
- ~~(v)~~(t) "Federally Recognized Native American Tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native Village pursuant to Title 25, Code of Federal Regulations (CFR) Section 83.5(a).
- ~~(w)~~(u) "Grant" means a local agency grant between the OHMVR Division and a city, county, District, State Agency, Educational Institution, or Nonprofit organization for the purposes as authorized and defined in PRC Section 5090.50 and these regulations or a Cooperative Agreement between a federal agency, or a Federally Recognized Native American Tribe, and the OHMVR Division.
- ~~(x)~~(v) "Grantee" means a recipient of a Grant.
- ~~(y)~~(w) "Ground Disturbing Activity" means any earth moving Project-related activity.
- ~~(z)~~(x) "Habitat Management Program (HMP)" means an animal and plant ~~W~~wildlife ~~H~~habitat ~~P~~protection ~~P~~program designed to sustain a Viable Species Composition for the Project Area, pursuant to PRC Sections 5090.35, 5090.50, and 5090.53.
- ~~(aa)~~(y) "Inconsequential Defect" means a defect that, when corrected, does not provide the Applicant an unfair advantage.
- ~~(bb)~~(z) "Indirect Costs" means expenses incurred for the management and administration of a project, which by their nature cannot be readily identified and directly charged to a project (e.g., utility costs, accounting services, contract administration, postage, management personnel, telephone bills, etc.) that have been incurred for purposes common to all Projects, but which cannot be identified and charged directly to each Project without an inordinate amount of tracking and accounting.
- ~~(cc)~~(aa) "Land Manager" means the public agency legally responsible for the proposed Project Area.
- ~~(dd)~~(bb) "NEPA" means the National Environmental Policy Act pursuant to United States Code Title 42, Section 4371; ~~40 Code of Federal Regulations (CFR) part 1500.1 et seq.~~
- ~~(ee)~~(cc) "Nonprofit" means an organization having tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code (IRC).
- ~~(ff)~~(dd) "OHV" means an off-highway motor vehicle as specified in California Vehicle Code (CVC) Section 38006.
- ~~(gg)~~(ee) "OHV Opportunities" means roads, trails, or areas on lands that are open to legal OHV Recreation.

- ~~(hh)~~(ff) "OHV Recreation" means the activity of driving or riding motorized vehicles, on lands to which CVC Division 16.5 applies, for leisure purposes including motorized off-highway access to non-motorized recreation activities.
- ~~(ii)~~(gg) "On-line Grant Application (OLGA)" means the OHMVR Division's web-based application system.
- ~~(jj)~~(hh) "Project" means the activities and Deliverables described in the Project Application to be accomplished with funding through a Project Agreement.
- ~~(kk)~~(ii) "Project Agreement" means a contract executed to formally implement a Project.
- ~~(H)~~(jj) "Project Area" means the physical boundaries within which the activities will be performed and Deliverables will be accomplished as described in the Project Agreement.
- ~~(mm)~~(kk) "Project Description" means the work plan that details the activities to be conducted by the Applicant.
- ~~(nn)~~(ll) "Repair" means to fix, mend, make new, or revitalize to the condition of the habitat that existed prior to authorized or unauthorized OHV use and related damage.
- ~~(oo)~~(mm) "Restoration" means upon closure of the unit or any portion thereof, the return of land to the contours, the plant communities, and the plant covers comparable to those on surrounding lands or at least those which existed prior to OHV use.
- ~~(pp)~~(nn) "Restoration Planning" means identifying appropriate restoration techniques, strategies, and Project implementation, including environmental review associated with the Project.
- ~~(qq)~~(oo) "Viable Species Composition" means that species found in the Project Area have populations with the estimated numbers and distribution of reproductive individuals to enable their continued existence.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
 Reference: Sections 5020.1(j), 5024.1, 5090.07, 5090.10, 5090.11, 5090.32, 5090.35, 5090.50, 5090.53, Public Resources Code; Sections 38001 and 38006, Vehicle Code, 25 CFR Section 83.5(a); Sections 210.3 and 66010.4, Education Code; and U.S. IRC Section 501(c)(3).

4970.05. GENERAL APPLICATION REQUIREMENTS

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- (e) Applicants shall undertake a public review process of their Application.
- (1) All preliminary Applications shall be available on the Division Website the day following the preliminary Application deadline for public review and comment.
 - (2) Applicant shall notice the public no later than the first Tuesday following the first Monday in March. The notice shall be published. The Applicant shall publish instructions in the Applicant's newsletter and/or website. It shall include instructions for regarding accessing the Division Website for Application review and public comments. This notice shall also be mailed and/or emailed to those persons the agency or organization determines most likely to have an interest in or be affected by the Project, and to those who have requested notice.

- (3) Public comments shall be submitted to the Applicant and the OHMVR Division.
- (4) Public comments shall be submitted no later than the first Monday in April.

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- (k) Nonprofit organizations shall ~~demonstrate~~ provide documentation, in the form of an Internal Revenue Service (IRS) letter of determination or publication on the official IRS website, verifying current IRC, Section 501(c)(3) status.
- (l) Educational Institutions and Nonprofit organizations applying for a Grant involving activities on any public lands shall include a written agreement from the ~~appropriate~~ Land Manager authorizing the Applicant to conduct the proposed Project and a description of how the Project fits with the land management goals of the area.
- (m) All city, county, and District, ~~Educational Institution, Nonprofit organizations, and Federally Recognized Native American Tribe~~ Applicants shall submit a Governing Body Resolution providing approval to apply for grant funding from the OHV Trust Fund. ~~authorizing the Application, certified by the clerk of the governing body~~

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Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Sections 5090.32 and 5090.50, Public Resources Code.

Subarticle 1. ENVIRONMENTAL REQUIREMENTS

4970.06.1. California Environmental Quality Act (CEQA) Requirements

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- (b) When a Project request is for funding both CEQA and/or NEPA requirements and actual Project Deliverables, the Project shall be undertaken and funded in two phases as follows:
 - (1) The first phase funds the CEQA or NEPA activities, and
 - (2) The second phase will fund the deliverables, as approved and conditioned by the outcome of the CEQA and/or NEPA document, once the CEQA or NEPA conclusions result in a decision to proceed with the Project Deliverables and the Division gives approval.
- (c) For city, county, District, State Agency, Educational Institution, and Nonprofit organization Applicants only:
 - (1) All city, county, District, State Agency, Educational Institution and Nonprofit organization Applicants shall provide the required documentation for the OHMVR Division to determine that CEQA compliance has been met for each Project. CEQA compliance shall be determined by submitting one of the following for each Project:
 - (A) An Environmental Review Data Sheet (ERDS) documenting the Project is phased pursuant to 4970.06.1(b). A subsequent ERDS shall be prepared prior to Division approval of the second Project phase if a Notice of Determination (NOD) has not been filed at that time, or

- ~~(A)~~(B) Notice of Exemption (NOE) finding that the Project is exempt from CEQA that has been filed for the Project consistent with CEQA Guidelines Section 15062, together with responses to questions required in the ~~Environmental Review Data Sheet (ERDS)~~, or
 - ~~(B)~~(C) An Initial Study/Negative Declaration (IS/ND) or an Initial Study/Mitigated Negative Declaration (IS/MND) for activities that are not categorically exempt, but fit within the definition of activities that may be covered by a Negative Declaration (ND) under CEQA, together with a copy of the ~~Notice of Determination (NOD)~~ filed for the Project, or
 - ~~(C)~~(D) An Environmental Impact Report (EIR) if the proposed activity poses a potentially significant impact as defined in an IS/ND checklist, or meets any of the tests for mandatory findings of significance under CEQA (PRC Section 21083; CEQA Guidelines Section 15065), together with a copy of the NOD filed for the Project, or
 - ~~(D)~~(E) Other documentation indicating the requirements of CEQA have been satisfied ~~in the discretion of the Applicant~~ or the reasons the Applicant believes the Project is categorically exempt or not subject to the CEQA requirements review (CEQA Guidelines Sections 15061(b)(3) or 15378).
- (2) Within 45 calendar days of the final Application submission, the OHMVR Division shall review the Application for environmental compliance.
- (A) If the OHMVR Division needs to clarify information provided pursuant to 4970.06(c)(1), the OHMVR Division shall submit in writing a request for such information from the Applicant, ~~by the Application final filing date.~~ The OHMVR Division shall request the Applicant provide the additional information in writing to the OHMVR Division within ten (10) calendar days of receipt of the request.
 - (B) Applicants that do not return the requested additional information within the ten (10) calendar day limit may have their Applications returned without further processing.
- (3) Notwithstanding 4970.06.1(b)(1), where the Applicant is not a lead agency and CEQA compliance has not otherwise been met, the Applicant shall provide responses to questions required in the ERDS for each Project, and shall also provide adequate information to the OHMVR Division to make a sufficient Project review to determine the appropriate level of CEQA compliance and any additional environmental documentation required.
- (A) Within 45 calendar days of the final Application submission, the OHMVR Division shall review all Projects to determine what additional documentation or information is required for the OHMVR Division to complete the requirements for CEQA, with an assessment of the amount of further CEQA analysis and compliance that may be required. The OHMVR Division cannot commit to completing the added CEQA work needed if the time and resources required exceed the time and resources available to complete the Application selection process.

- (B) If the OHMVR Division determines that it cannot complete the necessary additional CEQA work, it reserves the right to inform the Applicant in writing and return the Application and supporting materials.
- (C) If the OHMVR Division determines that additional information is required for the Project to comply with CEQA and that such work may be completed with existing resources and within the timeframe for the Application process, it will request such additional documentation from the Applicant be returned within ten (10) calendar days of the written request.
 - (1) Applicants who do not return the requested additional information within the ten (10) day time limit may have their Applications returned without further processing.
 - (2) For those Applications that are accepted for further CEQA compliance, the OHMVR Division shall use its best efforts to cause the CEQA compliance work to be completed, ~~in sufficient time for final review of the Applications and approval to issue Project Agreements.~~ However, the OHMVR Division cannot guarantee the Project will be certified as CEQA compliant. Also, the OHMVR Division reserves the right to cease CEQA compliance work if it determines the Project may not be funded in light of the Project evaluation and scoring process and submission of the Project to the OHMVR Division for review and approval.
- (d) For Federal Agencies or Federally Recognized Native American Tribe Applicants only:
 - (1) All federal agencies and Federally Recognized Native American Tribe Applicants shall submit an analysis of the environmental impacts of the proposed Project comparable with the requirements of CEQA.
 - (A) This analysis may be in the form of completed Project-related NEPA compliance documentation for each Project or other comparable documentation prepared by the Applicant. In addition, the Applicant shall submit responses to the ERDS for each Project to allow the OHMVR Division to make a sufficient Project review to determine the appropriate level of CEQA compliance and any additional environmental documentation required from the Applicant to conform the Applicant's environmental analysis to CEQA.
 - (B) If the Applicant is requesting funding for NEPA or other comparable document preparation per Section 4970.06.1(b) prior to implementing the remaining Project Deliverables, the Applicant shall submit an ERDS documenting the Project is phased pursuant to 4970.06.1(b). A subsequent ERDS shall be prepared prior to OHMVR Division approval of the second Project phase if a NOD has not been filed, by the OHMVR Division or other CEQA lead agency, at that time.
 - (2) Within 45 calendar days of the final Application submission, the OHMVR Division shall review all Projects to determine what additional documentation or information is required for the OHMVR Division to

complete the requirements for CEQA, with an assessment of the amount of further CEQA analysis and compliance that may be required. The OHMVR Division cannot commit to completing the added CEQA work needed if the time and resources required exceed the time and resources available to complete the Application selection process.

- (A) If the OHMVR Division determines that it cannot complete the necessary additional CEQA work, it reserves the right to inform the Applicant in writing and return the Application and supporting materials.
- (B) If the OHMVR Division determines that additional information is required for the Project to comply with CEQA and such work may be completed with existing resources and within the timeframe for the Application process, it will request such additional documentation from the Applicant be returned within ten (10) calendar days of the written request.
- (C) Applicants who do not return the requested additional information within the ten (10) day time limit may have their Applications returned without further processing.
- (D) For those Applications that are accepted for further CEQA compliance, the OHMVR Division will use its best efforts to cause the CEQA compliance work to be completed in sufficient time for final review and approval of the Applications for the Project(s). However, the OHMVR Division cannot guarantee the Project will be certified as CEQA compliant. Also, the OHMVR Division reserves the right to cease CEQA compliance work if it determines the Project may not be funded in light of the Project evaluation and scoring process and submission of the Project to the OHMVR Division for review and approval.

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Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5090.02, 5090.32, 5090.35, 5090.50(d)(4), 5090.53, and 21000 et seq., Public Resources Code; USC Title 42, Section 4371; and 40 CFR part 1500.1 et seq.

4970.07. APPLICATION SUBMISSION

- (a) Applications shall be submitted via the ~~Internet~~ internet through the OHMVR Division's OLGA. The OHMVR Division will not accept Applications after the published deadlines pursuant to Table 2 in Section 4970.04.
 - (1) The OLGA is an interactive database that will guide Applicants through the Application process. OHMVR Division staff will provide additional support for Applicants as needed.
 - (2) All Applications shall be submitted via the OLGA.
- (b) All Applicants shall submit preliminary and final Applications by the due date pursuant to Table 2, Section 4970.04. Applicants shall submit a preliminary and final Application to be considered for Grant award. The preliminary Application, shall include for each Project, with the exception of law enforcement Projects, at a minimum:

- (1) Project description,
- (2) Project Cost Estimate, and
- (3) Evaluation criteria,
- (4) For Nonprofit organizations, verification of 501(c)(3) status pursuant to Section 4970.05(k), and
- (5) For Nonprofit organizations and Educational Institutions, a written agreement pursuant to Section 4970.05(l).

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- (d) Preliminary Applications will be reviewed by the OHMVR Division. The OHMVR Division will provide comments to the Applicants, relative to compliance with the Application requirements. Additionally, the OHMVR Division, at its sole discretion, may choose to perform a preliminary Application site visit.

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Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5090.32, and 5090.50, Public Resources Code.

4970.07.2. Final Application Defects

- (a) The OHMVR Division may, but has no obligation, to waive or correct Inconsequential Defects in the final Application.
- (b) The OHMVR Division may contact an Applicant in order to clarify Inconsequential Defects submitted in the Application.
- (c) Projects submitted as the incorrect Project type shall be rejected. Applicants unsure of the correct Project type should contact the OHMVR Division for assistance.
- (d) If duplicate Projects are submitted, the Project(s) with the lower evaluation criteria score will be rejected.
- ~~(d)~~(e) Applications or Projects not in compliance with applicable statute and/or these regulations will be rejected by the OHMVR Division.
- (f) The OHMVR Division shall review the Application and may, at its sole discretion, decrease the requested amount and eliminate activities based on the following considerations:
 - (1) Comparable activities from previous OHV grant projects.
 - (2) Proposed Project activities not compliant with these regulations.
 - (3) Comparisons with similar proposed Project activities, and
 - (4) Generally accepted Equipment purchase/lease costs.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5090.32, and 5090.50, Public Resources Code.

4970.08. ELIGIBLE PROJECT COSTS

- (a) Eligible Project costs are the costs directly related to the work identified in the Project Description. Additionally, the Applicant may receive up to ten percent (10%) reimbursement for Indirect Administrative Costs.
- (b) Examples of eligible costs include but are not limited to:

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- (11) Rent or lease of facilities or Equipment to complete the Project, provided that the lease shall be fair market value or Grantee's actual cost, whichever is less and shall be proportionate to the area of the facility used for the Project. Utilities to operate these facilities are eligible provided the utilities are documented separately from any rent or lease costs,
- (12) Equipment:
 - (A) Equipment purchase or repair shall be requested as part of the Application for a specific Project.
 - (B) Equipment repair shall be due to normal wear and tear and may include major mechanical overhaul or replacement of parts if it is shown by a financial analysis in the Application that repair is more cost effective than the purchase of a new piece of Equipment.
 - (C) Equipment shall be used for OHV related purposes unless the Applicant is funding the portion of the purchase price not dedicated to OHV purposes, and
 - (D) For Nonprofit Applicants, the grant request in the Equipment purchase category cannot exceed \$5000 per item.

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Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Sections 5090.32, 5090.50, Public Resources Code.

4970.10. OPERATION AND MAINTENANCE (O&M)

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- (d) Projects that affect lands identified as inventoried roadless areas by the U.S. Forest Service shall certify that the Project complies with PRC Section 5090.50(b)(1)(C).

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Sections 5024.1, 5090.32, 5090.35, 5090.50 and 5090.53, Public Resources Code.

4970.10.1 Ground Operations (GO)

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- (d) Project-Specific Application Requirements
In addition to the common requirements listed in Section 4970.05, Applications for GO Projects shall include:
 - (1) Project Description
The Project Description shall provide sufficient clarity such that those not familiar with the agency or Project can understand what the Applicant intends to do. The Project Description shall include:
 - (A) A statement of the GO activity the Applicant proposes to undertake such as scraping, grading, planting; erosion control; irrigation system installation and maintenance or other follow-up,

- (B) How the proposed Project relates to OHV Recreation and will add to, enhance, or otherwise sustain OHV Recreation or OHV Opportunity in the Project Area,
- (C) The size of the specific Project Area(s) site(s) in acres and/or miles, and
- (D) The locations and descriptions of existing OHV Opportunities in and around the Project Area.

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Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5024.1, 5090.32, 5090.35, 5090.50 and 5090.53, Public Resources Code.

4970.10.3. Planning

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- (c) Examples of Deliverables
 Planning Deliverables include, but are not limited to the following:
 - (1) Identifying trails or other Facilities for OHV Recreation, including inventories and mapping of roads, trails, and areas,
 - (2) Developing a plan to protect and conserve soils, water, plants, animals, and/or Cultural or other natural resources affected by OHV Recreation, and
 - (3) Preparing an OHV component of a Recreation Management Plan, OHV Plan, or the OHV portion of a General Plan.

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Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.

Reference: Sections 5024.1, 5090.32, 5090.35, 5090.50 and 5090.53, Public Resources Code.

4970.10.4 Acquisition

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- (d) Project-Specific Application Requirements
 In addition to the common requirements listed in Section 4970.05, Applications for acquisition Projects shall include:
 - (1) Project Description
 The Project Description shall provide sufficient clarity such that those not familiar with the agency or Project can understand what the Applicant intends to do. The Project Description shall include:
 - (A) A statement of the procurement activity the Applicant proposes to undertake,
 - (B) How the proposed Project relates to OHV Recreation and will add to, enhance, or otherwise sustain OHV Recreation or OHV Opportunity in the Project Area,
 - (C) Identification of the needs the Project will address,
 - (D) Location of the land to be acquired,

- (E) The total acreage to be acquired,
 - (F) The easements affecting the property,
 - (G) The number of parcels,
 - (H) The location(s) of existing OHV Opportunities in and around the acquisition property and how the Project will affect or relate to that existing OHV Recreation,
 - (I) The total estimated cost of land to be acquired. The estimate shall be based on an appraisal by a certified appraiser to substantiate the value of the property, and
 - (J) The status of Due Diligence.
- (2) Acquisition Plan
The plan shall describe the process for accomplishing the acquisition Project. An acquisition plan shall include the following:
- (A) Acquisition timeline, which shows the steps and timeline for completing the Project, including the preparation and delivery of any reports to be prepared with the funds as a Deliverable,
 - (B) Discussion of the Applicant's ability to accomplish the acquisition Project. The Applicant shall demonstrate the ability to complete the acquisition within the proposed Applicant's timeline, and
 - (C) The Due Diligence undertaken, or to be undertaken, to determine the property is usable for its intended purpose (e.g., Preliminary Title Report and underlying documents under Schedule B, zoning information, Phase 1 Environmental Site Assessment, biotic assessment).
- (3) Project-Specific Maps
Project-specific maps shall include:
- (A) A map(s) identifying the specific roads, trails, areas, and/or related Facilities to be acquired under the Project. The map(s) shall contain enough detail to provide someone unfamiliar with the area the ability to locate the site, and
 - (B) Assessors Parcel Maps, including Assessor Parcel Number (APN), of each parcel to be purchased.

(e) Warranty for OHV use:

- (1) The Applicant shall warrant that the acquired property will be used for OHV Recreation.
- (2) The Applicant shall cause to be inserted in the acquisition deed or other recorded transfer of title document a condition that the property shall be used for OHV Recreation purposes as defined in these Regulations and that the State of California is granted Power of Termination pursuant to California Civil Code section 885.010 et seq. providing that, in the event the property is not used for OHV Recreation, title to the property shall be transferred to the State of California.
- (3) Funds awarded for acquisition shall only be released into an escrow account established for the acquisition. Applicant shall submit all acquisition documentation, including the escrow instructions, to the OHMVR Division for review. OHMVR Division shall have no obligation to release grant funds unless the acquisition transaction conforms to these Regulations.

- (e)(f) **Optional Project-Specific Application Documents**
If Applicants deem it helpful to support their specific Project Application, they may submit up to two (2) pages of Project-specific photos.
- (f)(g) **Evaluation Criteria**
See Appendix, incorporated by reference, for acquisition evaluation criteria.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Sections 5024.1, 5090.32, 5090.35, 5090.50 and 5090.53, Public Resources Code.

4970.11. RESTORATION

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- (f) **Project-Specific Application Requirements**
In addition to the common requirements listed in Section 4970.05, Applications for Restoration Projects shall include:
- (1) **A Project Description**
The Project Description shall provide sufficient clarity such that those not familiar with the agency or Project can understand what the Applicant intends to do. The Project Description shall include:
- (A) Restoration activity(ies) the Applicant proposes to undertake such as grading, planting, and vertical mulching,
 - (B) How the proposed Project relates to OHV Recreation and how OHV Recreation caused the damage,
 - (C) The size of the specific Project Area(s)site(s) in acres and/or miles,
 - (D) Except for scientific and cultural studies or planning Projects, the monitoring that will be implemented, including the methodology that will be used to determine the successful outcome of the Restoration Project,
 - (E) If the Project involves planning for Restoration, a list of all reports, interim or final, or other documents to be produced, and
 - (F) Restoration Projects involving scientific and cultural studies shall include in the description:
 - (i) Goals, objectives, and methodologies to be employed, and
 - (ii) Peer reviews conducted by at least three (3) qualified experts from the scientific discipline or field related to the proposed Project.
 - (G) Except for scientific and cultural studies or planning Projects, a plan to insure the restored area will be protected. This may include law enforcement patrols to prevent intrusion into the Project Area, signs, barriers, or other proactive measures to prevent damage to restored lands.
- (2) **Project-Specific Maps**
Project-specific maps shall include:
A map(s) containing enough detail to provide someone unfamiliar with the area the ability to locate the site(s). The map(s) shall contain the Global Positioning System (GPS) coordinates for the project site(s).

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Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Sections 5024.1, 5090.32, 5090.50, Public Resource Code

ARTICLE 3 – APPLICATION EVALUATION SYSTEM AND FUNDING

4970.14.1. General Criteria

- (a) If general criteria are required as part of the Application, only one (1) set shall be completed. General criteria measure the quality of the Land Manager’s overall OHV program. The Applicants shall answer these questions with respect to the entirety of the OHV operation, including all trails and areas available for OHV Recreation, not just specific Projects or Project Areas.
- (b) General criteria includes but are not limited to the following:
 - (1) OHV Opportunity and services provided,
 - (2) Agency contribution to the overall cost of managing and delivering the OHV Opportunity,
 - (3) Management of natural and Cultural Resources,
 - (4) Effective education of rules/regulations, and
 - (5) Past performance in completing and administering Grant funded Projects.
- (c) Non-land manager Applicants required to complete the general criteria shall cooperate with the Land Manager(s) to obtain the information necessary to complete the general criteria section of the Application.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Sections 5024.1, 5090.32, and 5090.50, Public Resources Code.

4970.14.3 Factual Documentation

- (a) The responses shall be based on and reference factual conditions or statistics ~~referenced to~~ and documented by information contained in documents officially published, maintained, and/or used in the ordinary course of the Applicant’s operations. Published, for purposes of this requirement, means issued in report or other form officially prepared, maintained, and/or used in the ordinary course of the Applicants’ administration of its programs. Examples of factual documentation include, without limitation, management reports, general or management plans, ~~E~~environmental Ddocuments, visitor counts, or other documentation the Applicant has officially adopted for use in its operations.

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Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Sections 5024.1, 5090.32, and 5090.50, Public Resources Code.

4970.15.1. Operation and Maintenance (O&M)

- (a) Within the O&M category, the funds shall be distributed as follows, except as provided in Sections 4970.15.1(c):
 - (1) At least seventy percent (70%) for GO,
 - (2) Up to ten percent (10%) for Development,
 - (3) Up to ten percent (10%) for planning, and
 - (4) Up to ten percent (10%) for acquisition.

- (b) A panel of not less than three (3) individuals shall score each Application deemed compliant with these regulations. The panel shall use the Applicant's responses to general criteria and Project-specific criteria to determine a Project score. The steps for determining the final score are as follows (see Table 4 for an example):
- (1) Calculate the sum of the points received on the general criteria and the points received on the Project-specific criteria. Divide that number by the sum of the total possible points for the general criteria and the total possible points for the Project specific criteria, and
 - (2) Convert the result of the calculation to a percentage which is the final score.

Table 4 – Example of Score Calculation for GO Projects

Final Score = Actual Score/ Possible Score	
General Criteria	90 of 403 <u>105</u>
Project-specific Criteria	52 of 59
$(90 + 52) / (\del{403} \underline{105} + 59) = \del{0.8765} \underline{0.8659}$	
$\del{0.8765} \underline{0.8659} \times 100 = \del{87.65} \underline{86.59}\% = \text{Final Score}$	

- (c) Eligible Projects shall be ranked by score. Projects shall be funded in order of score from highest to lowest until available funds are exhausted, taking into account the Project type funding restrictions in Section 4970.15.1(a). If there are not sufficient GO Project funding requests to consume 70% of the available O&M funding category, the other O&M sub-category Projects shall receive funding in order of score.
- ...

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
 Reference: Sections 5090.32 and 5090.50, Public Resources Code.

4970.15.2. Restoration

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Table 5 – Example of Score Calculation for Restoration Projects

Final Score = Actual Score/ Possible Score	
General Criteria	90 of 403 <u>105</u>
Project-specific Criteria	78 of 83
$(90 + 78) / (\del{403} \underline{105} + 83) = \del{0.9032} \underline{0.8936}$	
$\del{0.9032} \underline{0.8936} \times 100 = \del{90.32} \underline{89.36}\% = \text{Final Score}$	

...

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Sections 5090.32 and 5090.50, Public Resources Code.

4970.15.3. Law Enforcement

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- (c) All compliant law enforcement Projects Applicants will receive base funding in the amount of \$10,000 per Application. The remaining funds in each entity category will be distributed on a proportional basis. The proportional funding is determined by dividing the total funding available within the entity category (less base funding) by the total request amounts within each entity category (less base funding). The resulting percentage is applied to the individual Project request amounts (less base funding) to determine the additional award amount. The total of the base award and additional award, if applicable, is the final Project award amount.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Sections 5090.32 and 5090.50, Public Resources Code.

4970.17. APPEAL PROCESS

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- (d) The receipt of an appeal by the OHMVR Division shall delay the execution of Project Agreements within all project categories until the appeal is resolved.

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Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Sections 5090.32 and 5090.50(i), Public Resources Code.

ARTICLE 4 – PROJECT ADMINISTRATION PROCEDURES

4970.19. PROJECT AGREEMENT

- (a) Upon approval of Projects by the Director of the Department of Parks and Recreation, the OHMVR Division shall prepare and execute the Project Agreement with the Grantee. The Project Agreement sets forth the terms and conditions of the Project.

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Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Sections 5090.32 and 5090.50, Public Resources Code.

4970.19.2. Project Amendments

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- (f) The OHMVR Division shall review the requested amendment and make a determination for approval/disapproval. If the amendment is disapproved, the OHMVR Division will provide written notification to the Grantee with an

Proposed Grants and Cooperative Agreements Program Regulations

explanation why the request was denied. If the amendment is approved, the OHMVR Division will process an Aamendment to the Project Agreement specifying modifications and the revised Project performance period (if applicable). The amendment becomes effective when the OHMVR Division returns the executed amendment to Project Agreement to the Grantee. The OHMVR Division and the Grantee shall retain copies of the amendment to Project the Agreement on file.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Sections 5090.32 and 5090.50, Public Resources Code.

4970.19.4. Project Breach-Termination

Failure of a Grantee to comply with the terms and conditions of the Project Agreement may be treated by the OHMVR Division as a breach of contract. If the OHMVR Division determines there is a breach of the Project Agreement, the OHMVR Division shall give the Grantee written notification that the Grantee has thirty (30) calendar days to cure the breach. If the Grantee does not cure the breach or commenced actions to cure the breach within thirty (30) calendar days or show a diligent progress to cure the breach, the OHMVR Division may terminate the Project Agreement and void the OHMVR Division's obligations. If the OHMVR Division determines breach was due to no fault of the Grantee, the OHMVR Division may waive reimbursement of funds paid or advanced or make payment for any work performed up to the date of termination. In the event of a breach that the OHMVR Division waives, such waiver shall not serve to excuse the future performance of the breached term that was waived or performance of any other term of the Project Agreement. The Project shall remain subject to all record keeping and Audit requirements contained in these regulations.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Sections 5090.32 and 5090.50, Public Resources Code.

4970.19.6. Financial Responsibilities

The acceptance of a Project Agreement creates a legal duty on the part of the Grantee's organization to use the funds made available in accordance with the terms and conditions of the Grant.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Sections 5090.32 and 5090.50, Public Resources Code.

~~Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Sections 5090.32 and 5090.50, Public Resources Code.~~

4970.20. EQUIPMENT MANAGEMENT REQUIREMENTS

The following requirements apply to all Equipment purchased with OHV Trust Funds:

- (a) Equipment shall be used for OHV related purposes unless the Applicant Grantee is funding the portion of the purchase price not dedicated to OHV purposes,

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Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Sections 5090.32 and 5090.50, Public Resources Code.

4970.21. DEVELOPMENT PROJECT PROCEDURES

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- (b) The Grantee shall follow all laws that pertain to public works projects, including the Americans with Disabilities Act (~~ADA~~) and Title 24 Disability Codes (for local agencies), prevailing wages, and local health and safety requirements. For all sub-contracted work, a Notice of Completion is required.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Sections 5090.32, and 5090.50, Public Resource Code;

4970.22. ACCOUNTING PRACTICES

- (a) Record Keeping

Grantees are responsible for maintaining fiscal controls and fund accounting procedures based on Generally Accepted Accounting Principles (~~GAAP~~) approved by the ~~American Institute of Certified Public Accountants (AICPA)~~, the Securities and Exchange Commission (~~SEC~~), the Financial Accounting Standards Board (~~FASB~~), and the American Accounting Association (~~AAA~~). Bill of Sale, Bill of Lading, or Collection Agreements are some examples of proof that materials or Equipment was received. Invoices are also considered valid proof that materials or Equipment was received. Purchase orders are not considered valid proof that materials or Equipment have been received.

- (b) Labor Costs

The Grantee shall document all labor, including all ~~F~~orce ~~A~~ccount, match and volunteer time, on time sheets, or reports produced by an electronic timekeeping system.

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- (d) Record Retention

The Grantee shall retain all financial accounts, documents, and records pertinent to the Project:

- (1) For a three (3) years from the expiration date of the Project Agreement, or
- (2) Until an Audit started during the three (3) years following the expiration of the Project Agreement has been completed; a report is published; and any Audit findings are resolved and/or payment or other correction made with regard to any Audit findings contained in the final Audit report.

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- (f) Matching Funds

- (1) Matching funds may include actual cash contributions toward the Project, cash value for volunteers or salaried employee hours, ~~Administrative~~ Indirect Costs, grants from sources other than this Grant Program, and expenditures of the OHV in-lieu of property tax funds. The match shall be directly related to the Project and must occur within the project

performance period. ~~and t~~The same match may not be used for more than one (1) Project.

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Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Sections 5090.32 and 5090.50, Public Resources Code.

4970.24. PROJECT CLOSEOUT

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- (c) Any request for final payment received after one hundred twenty (120) calendar days, may be ineligible for payment or result in suspension of future payments and reimbursement to the State of any advances or other payments made. The OHMVR Division may also deem the Project closed and forward the Project file to the Department's Audits Office for an Audit.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Sections 5090.32 and 5090.50, Public Resources Code.

Subarticle 1. AUDITS

4970.25.1. Performance Audits

- (a) Performance Audits may include, but are not limited to, review of a Project to determine progress toward its completion, review of the implementation of HMP and Soil Conservation Plan, or other requirements contained in the Project Agreement. Performance Audits may be accomplished by, but are not limited to, desk reviews, questionnaires and other standards of inquiry, site visits, and other means consistent with these regulations.
- (b) Failure to cooperate with Performance Audit requests made pursuant to these regulations may result in denial of payment requests and/or refund to the State of amounts already paid or advanced.
- (c) OHMVR Division staff may conduct a site visit to review the Grantee's Project(s). The site visit may include review of progress towards the accomplishment of Deliverables.
 - (1) Upon twenty-one (21) calendar days notice by OHMVR Division, ~~the a~~ Grantees shall make its Project Areas, applicable documentation, and staff who are knowledgeable about or oversee the Project available to the OHMVR Division for site visits. The Grantee shall also make any reports or plans developed, as a result of a Project Agreement, available for review. In the event the OHMVR Division is not able to provide its own transportation to survey a Project, the Grantee shall make every effort to provide Equipment that may be necessary to conduct the site visit and include a person dedicated to providing a tour of the Project.
 - (2) When the OHMVR Division staff conducts a site visit, staff shall develop a report containing any comments and recommendations with regard to the performance of the Grantee's Project. A copy of the report shall be provided to the Grantee.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Sections 5090.32, 5090.35, 5090.50, and 5090.53, Public Resources Code.

ARTICLE 5 – CONTACTING THE OHMVR DIVISION

4970.26. HOW TO CONTACT THE OHMVR DIVISION

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- (b) Inquiries may also be made directly by phone or e-mail to a Grant Administrator. Consult the OHMVR Division's Website at <http://www.ohv.parks.ca.gov> for a list of Grant Administrators.

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Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code.
Reference: Section 5090.32, Public Resources Code.