

**DEPARTMENT OF PARKS AND RECREATION
OFF-HIGHWAY MOTOR VEHICLE RECREATION DIVISION
GRANTS AND COOPERATIVE AGREEMENTS PROGRAM REGULATIONS**

INITIAL STATEMENT OF REASONS

INTRODUCTION

Public Resources Code Section 5090.01 et seq., also known as the Off-Highway Motor Vehicle Recreation Act of 2003 (Act), as amended, governs off-highway motor vehicle grants and cooperative agreements with cities, counties, districts, federal agencies, federally recognized Native American tribes, nonprofit organizations, educational institutions, and State agencies. The Grants and Cooperative Agreements Program (Program) is administered by the Off-Highway Motor Vehicle Recreation (OHMVR) Division within the Department of Parks and Recreation (Department). The Program allows the State to assist eligible agencies and organizations to develop, maintain, expand and manage high-quality Off-Highway Vehicle (OHV) recreation areas, roads, trails, and other facilities, while responsibly maintaining the wildlife, soils, and habitat in a manner that will sustain long-term OHV recreation. Assistance is provided in the form of project-specific grant funding.

The Department adopted permanent regulations for the Grants and Cooperative Agreements Program, which appear in the California Code of Regulations, Title 14, Division 3, Chapter 15, Sections 4970.00 – 4970.26. These regulations apply to grant and cooperative agreement applications received by the OHMVR Division on or after January 1, 2008. Under the approved regulations, grant funding may be applied for using a two-step application submission process. This process ensures public review and comment, allows for preliminary review by the OHMVR Division, and provides the opportunity for applicants to submit stronger, more competitive final applications. The OHMVR Division requires application submission using the On-Line Grant Application (OLGA) database, a web-based system that allows applicants to develop and submit their application via the internet. After scoring the applications, successful applicants enter into binding project agreements to facilitate the funding of the projects.

Minor revisions were made to the regulations following the completion of the 2008/09 grants cycle, primarily to correct small issues identified during the initial funding cycle under the new the Program regulations.

With the conclusion of the 2009/10 grants cycle, the OHMVR Division identified areas in the regulations needing additional clarity or revision. As a result, the Department proposes to amend portions of CCR Title 14, Division 3, Chapter 15, Sections 4970.00 – 4970.26 and documents incorporated by reference. These amendments will eliminate confusing aspects of the Program, further define

eligible costs, and revise project evaluation criteria to obtain more effective and relevant information for scoring the projects.

MANDATES FOR SPECIFIC ACTIONS OR PROCEDURES OR SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposed amendments do not impose any mandates on agencies or organizations. Participation in the Program is voluntary.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Department did not rely upon any other technical, theoretical, or empirical studies, reports, or documents other than those incorporated by reference in proposing these amendments.

SPECIFIC PURPOSE AND NECESSITY FOR EACH PROPOSED AMENDMENT OF THE REGULATIONS

The following provides the specific purpose and necessity for each proposed amendment to sections in CCR Title 14, Division 3, Chapter 15, § 4970.00 – 4970.26.

4970.00 – APPLICATION OF CHAPTER

Specific Purpose

Section 4970.00 is amended to refer to the date of the current regulation revisions.

Necessity

The amendment to Section 4970.00 is necessary to ensure applicants are using the most up-to-date version of the program regulations.

4970.01 – DEFINITIONS

Specific Purpose

Section 4970.01 is amended to ensure costs for personnel not directly related to a project are not considered as eligible costs by applicants.

Necessity

The amendment to Section 4970.01(z) is necessary to clearly define the term “Indirect Costs” . The definition now encompasses managerial and administrative positions as Indirect Costs. In the 2009/2010 grants cycle, several agencies included overhead positions in their cost estimates that did not appear to be

directly related to the projects, and therefore should not have qualified as direct costs.

4970.05 – GENERAL APPLICATION REQUIREMENTS

Specific Purpose

Section 4970.05 is amended to reference the correct version of the Appendix and to reduce confusion regarding the applicant's required match.

Necessity

The amendment to Section 4970.05(a) is necessary to ensure applicants are using the most up-to-date version of the program regulations.

The amendment to Section 4970.05(f) is necessary to provide clear direction to applicants when calculating the amount of their required matching funds. During the 2009/10 grants cycle, some applicants were confused when determining their matching amount. The amended language instructs the applicant to cross-reference the total project cost each applicant provides on the Project Cost Estimate when determining their match.

4970.08 – ELIGIBLE PROJECT COSTS

Specific Purpose

Section 4970.08 is amended to increase the percentage allowed for Indirect Costs on a project. The Section is also amended to restrict certain property acquisition-related costs to acquisition projects, and specify the level of supervision considered as eligible project costs. Lastly, the amendments define allowable travel expenses and per diem rates for applicants.

Necessity

The amendment to Section 4970.08(a) is necessary to more accurately reflect overhead costs associated with federal agency applicants. Several federal applicants indicated their overhead was greater than 10%. In some instances, agencies compensated by including managerial and administrative positions that did not appear directly related to the projects.

The amendment to Section 4970.08(b)(2) is necessary to define exactly which employee costs are considered eligible for the Program. As noted above, some applicants included numerous managerial and administrative positions that did not appear to have a direct relation to the project. Under the proposed language, only employees directly engaged in a project and their first level supervisor are considered eligible costs. Coupled with the revised definition of "Indirect Costs", the restriction of eligible costs to directly engaged employees and their first level supervisor has the added benefit of freeing up funding for additional projects .

The amendment to Section 4970.08(b)(1) is necessary to clearly restrict the costs for preparation of acquisition contracts, appraisals and negotiations to acquisition projects. This action reduces a point of confusion for some applicants.

The amendment to Section 4970.08(b)(4) is necessary to ensure consistency of specific travel expenses and per diem rates among applicants. In the 2009/10 grants cycle, applicants varied greatly when seeking funding for these expenses. The proposed amendment provides standardized per diem and travel expense guidelines for applicants to reference.

4970.09 – INELIGIBLE PROJECT COSTS

Specific Purpose

The amendment of Section 4970.09(b)(10) specifies that applicants should not seek funding under the Program for costs already reimbursable under existing alternatives.

Necessity

The OHMVR Division administers a variety of funding programs, a number of which are related specifically to winter recreation. Several applicants have requested funding under the Grants and Cooperative Agreements Program for activities that are eligible under these existing alternative programs. The amendment prevents overlap of these funding sources.

4970.13 – EDUCATION AND SAFETY

Specific Purpose

Section 4970.13 is amended to acknowledge flexibility in project deliverables and to revise the specific expectations for applicants in the Education and Safety category.

Necessity

The amendment to Section 4970.13(e) is necessary to remove potential confusion for applicants. By making the text more permissive, it removes the possible misinterpretation that a successful project must include the listed examples.

The amendment to Section 4970.13(f)(1) is necessary to correspond with the Evaluation Criteria – Education and Safety Criteria (Rev. 1/11). Several evaluation questions refer to the message of education projects, but the applicant is not specifically required to identify the message. This amendment makes clear that the main message of an education project must be identified in the project description.

SPECIFIC PURPOSE AND NECESSITY FOR EACH PROPOSED AMENDMENT TO DOCUMENTS INCORPORATED BY REFERENCE INTO THE REGULATIONS

The following provides the specific purpose and necessity for each proposed amendment to documents incorporated by reference.

GENERAL INFORMATION (Rev. 1/11) and PROJECT COST ESTIMATE (REV. 1/11)

Specific Purpose

Applicants are instructed to round their costs to the nearest whole dollar.

Necessity

The amendment to these documents is necessary to eliminate needless work on the part of successful applicants. In the past, successful project awards have been rounded to the nearest thousand dollar, thereby requiring applicants to revise data in the On-Line Grant Application system and provide a revised Project Cost Estimate. Eliminating this unneeded step may also make additional funds available to applicants.

ENVIRONMENTAL REVIEW DATA SHEET (Rev. 1/11)

Specific Purpose

Item 3 is amended to establish consistency with terminology in the California Environmental Quality Act (CEQA).

Necessity

The existing ERDS is confusing some applicants by using terminology slightly different from the referenced CEQA Guidelines Section 15378. Applicants are explaining why their project does not cause adverse or significant impacts, which differs from the requirements under CEQA Guidelines Section 15378. By revising the item to mirror the language in CEQA Guidelines Section 15378, the confusion is alleviated.

HABITAT MANAGEMENT PROGRAM (HMP) PART 2

Specific Purpose

The introductory section is amended to identify situations where applicants rely on information submitted by other applicants. Section I is amended to require applicants to submit a complete HMP each year.

Necessity

The amendment to the introductory section is necessary to identify situations where an applicant (such as a nonprofit or educational institution) is relying on a HMP prepared by the land manager. The existing HMP Part 2 does not collect

information that addresses this scenario, so additional investigation by the Division is required. Any confusion is remedied by simply having the applicant provide the name of the land manager completing the HMP for the project area.

The amendment to the Section I is necessary to instruct applicants to submit a complete HMP regardless of any changes in Table 1. Currently, applicants only need to submit Tables 1-5 if they've already submitted a HMP that's currently in use in the project area, and that HMP has no changes. Thus, information in Tables 2-5 can often only be found in a HMP submitted one or more years ago, making it challenging to find the old information and cross-reference it with the current HMP. The change requires very little work from the applicant as OLGA has a copy feature that will bring existing data forward to the current application.

PAYMENT REQUEST (Rev. 1/11)

Specific Purpose

The Payment Request form is amended to make a user-friendly form that is consistent with the Project Cost Estimate.

Necessity

The Payment Request form will reduce confusion for applicants by clearly identifying the match requirement on the form. Successful applicants are frequently unsure of the match requirement and how to portray it on the existing Payment Request. Additionally, the Payment Request will identify the categories used on the Project Cost Estimate to determine project costs. This will allow applicants to accurately track their expenditures.

EVALUATION CRITERIA – General Criteria (Rev. 1/11)

Specific Purpose

Item 8 is amended to allow more complete description of applicants' OHV education efforts.

Necessity

It is necessary to change the appearance of the question as some applicants did not address all components of the question. The question contains four subparts, but has a single box for description. Changing the layout of the question to add a description box after each subpart will prompt applicants to more fully explain their education efforts and support their chosen response.

EVALUATION CRITERIA – Acquisition Project Criteria (Rev. 1/11)

EVALUATION CRITERIA – Development Project Criteria (Rev. 1/11)

EVALUATION CRITERIA – Education and Safety Criteria (Rev. 1/11)

EVALUATION CRITERIA – Ground Operations Project Criteria (Rev. 1/11)

EVALUATION CRITERIA – Planning Project Criteria (Rev. 1/11)

EVALUATION CRITERIA – Restoration Project Criteria (Rev. 1/11)

Specific Purpose

Each of the Evaluation Criteria in six categories is amended to revise specific project evaluation criteria in order to obtain more effective and relevant information when scoring the projects.

Necessity

A criterion regarding development of the project with public input is common to all six categories (Acquisition #6, Development #9, Education and Safety 6#, Ground Operations #4, Planning #4, and Restoration #7). It is necessary to indicate that public input must occur prior to applicants submitting the preliminary application. In the 2009/10 grants cycle, applicants frequently identified dates after the preliminary application filing date. Dates of meetings and conference calls are now required to verify the public input occurred before the preliminary filing date.

A criterion regarding the use of partnerships to accomplish the project is common to five categories (Development #10, Education and Safety #4, Ground Operations #5, Planning #6, and Restoration #8). During the 2009/10 grants cycle, the role of each identified partner was occasionally uncertain. The revised criterion now requires the applicant to explain how each partner will participate in the project.

A criterion regarding substantial use of sustainable technologies appears in two categories (Development #6 and Ground Operations #8). During the 2009/10 grants cycle, it became apparent there was considerable variation in what applicants consider to be substantial. In order to obtain additional points, the revised criterion now establishes a target by requiring an applicant to use sustainable technology in at least 50% of the project activities.

A criterion regarding substantial use of recycled content building materials appears in the Development category (# 5). During the 2009/10 grants cycle, it became apparent there was considerable variation in what applicants consider to be substantial. In order to obtain additional points, the revised criterion now establishes a target by requiring at least 50% of the building materials in the project to contain recycled content. The 50% threshold is consistent with the directive from the Integrated Waste Management Board to State agencies regarding use of recycled content material.

Three Education and Safety criteria (#8, #9 and #10) are revised in order to effectively assess an educational program. The level of detail provided in the project description frequently did not support the answers provided to the items. As a result, criteria #8 and #9 are revised to clearly relate the given answers to the methods of education presented in criterion #10. Criterion #10 is revised to identify successful methods of education. Demonstrating the relationship

between exposure to the message and the educational methods used will allow for a better-informed evaluation of the education program.

The Planning criteria are amended to include a new criterion (#10). The amendment allows land managers without any existing OHV opportunity to more effectively compete with applicants that currently do have OHV opportunity. By answering "yes" to the question, points are awarded to the project. These additional points will partially offset the lack of points an applicant without OHV opportunity could obtain in the General Criteria, thereby providing a more equitable chance for success and encouraging projects that create opportunity.