



**SBFCA Finance Committee Meeting
1 p.m. – September 10, 2014
1441 Garden Highway, Yuba City, CA**

1. CALL TO ORDER / DISCUSSION & ACTION ITEMS

Review and Recommendation of:

- a. Discussion of Financial Issues Associated with DWR Urban Flood Risk Reduction Program
- b. Updated Financial Impacts of FRWLP Cultural Resource Discoveries

2. PUBLIC COMMENT

3. ADJOURN



Sutter Butte Flood Control Agency

A Partnership for Flood Safety

September 10, 2014

TO: Finance Committee

FROM: Mike Inamine, Executive Director

SUBJECT: Update on Financial Issues Associated with the Department of Water Resources Urban Flood Risk Reduction Program

Recommendation

Staff recommends that the Finance Committee endorse the current financial strategy as described below to secure remaining funding necessary to complete the ongoing FRWLP.

Background

The Urban Flood Risk Reduction (UFRR) Program is a funding program being advanced by the Department of Water Resources (DWR) to implement urban flood protection projects consistent with the 2012 Central Valley Flood Protection Plan (2012 CVFPP). The UFRR program is one of the successor programs to DWR's Early Implementation Program (EIP) under which SBFCA is currently receiving funding for the FRWLP. The first round of UFRR funding will have \$155M available for allocation to local agencies; a second solicitation is expected in 2015.

On July 17, 2014, DWR released the program guidelines, a proposal solicitation package (PSP) and updated cost sharing guidelines, all in draft form. The comment period closed on September 2, 2014. The SBFCA team has conducted a thorough technical review of the draft program documents and has been coordinating with the California Central Valley Flood Control Association on the submission of a consolidated comments package. In addition, because funding through this program is integral to the implementation and success of SBFCA's FRWLP, SBFCA submitted its own letter with comments pertaining to SBFCA's unique circumstances. This letter is attached to this staff report (**Attachment A**).

Discussion

FRWLP State Funding

To date, DWR has committed \$138.8 million to SBFCA through the EIP Program for the design, permitting and construction of a portion of the FRWLP. This funding is summarized below.

Commitment	Funding Amount
Design Grant	\$9,000,000
Area C	\$56,780,000
Area C Gaps, B & portion of D	\$73,084,000
Total EIP Funding	\$138,864,000

SBFCA expects to receive at least 76% cost sharing from the State for the FRWLP, however, it is possible that a portion of the project could be funded up to 81%. In order to complete the FRWLP, SBFCA needs to receive at least an additional \$80 million from DWR, but could receive up to \$95 million depending upon the final cost sharing rate. The estimated range of possible future funding from DWR through the UFRR program is summarized below.

Project Scope	Projected Project Cost	Current Limit of State Funding	Final State Share @ 76% (Low)	Final State Share @ 81% (High)
Design	\$31,947,643	\$23,869,280	\$410,929	\$2,008,311
Project Area C	\$78,444,782	\$43,268,912	\$16,349,122	\$20,271,361
Project Area B	\$48,422,304	\$26,708,984	\$10,091,967	\$12,513,082
Project Area D2	\$81,613,674	\$45,016,824	\$17,009,569	\$21,090,252
Finish Contract	\$48,466,596	\$0	\$36,834,613	\$39,257,943
Total FRWLP 1	\$288,895,000	\$138,864,000	\$80,696,200	\$95,140,950

Upon the receipt of the last of EIP round funding, DWR notified SBFCA that future funding would come through a competitive selection process through the UFRR Program. The last EIP funding commitment letter stated:

“The State proceeding with this \$73.084 million funding agreement amendment does not in any way indicate any intention to provide future project funding, which will be determined through a competitive solicitation process and yet to be finalized Urban Flood Risk Reduction Program requirements.”

It is important to note the specific scope of work covered by the funding committed to date covers work associated with design and permitting of all Project Areas but only construction associated with Project Areas C, B and a portion of D2. Specifically, the reaches and stationing included within the construction funding agreement by Project Area are:

Project Area	Levee Reach	Note	Begin Station	Ending Station
<u>Project Area B</u>				
B	6 to 11	Included	478+68	832+40
<u>Project Area C</u>				
C	12 to 25 (+ Gaps)	Included	832+40	1674+37
<u>Project Area D</u>				
D3	26 to 28	Excluded (No Work)	1674+37	1769+31
D2A	29 to 34	Included	1769+31	2182+00
D2B	35 to 37	Excluded	2182+00	2290+00
D1	38 to 41	Excluded	2290+00	268+00

The State budgeted SBFCA's EIP funds through a process they refer to as "Capital Outlay." Because the EIP Capital Outlay funding budgeted by the State for FRWLP is less than the State's 76% share of the total project cost, SBFCA is in the position of needing to fund work associated with Project Areas C and B at cost share rate in excess of the 24% Local Share for work above the Capital Outlay limit. SBFCA is incurring this additional cost above the Capital Outlay limit with the intent of recouping these costs through future funding agreements with DWR.

SBFCA Progress on balance of FRWLP (Balance of Area D2 and D1)

As the Board and the Committee are aware, SBFCA has been aggressively advancing the entire FRWLP as a singular unified project including, all design, permitting, land acquisition and construction. In particular, this includes strategically advancing work associated with Project Area D. SBFCA has advanced Project Area D by moving forward with land acquisition and permitting, and has included this work as part of the current construction contract. With this approach, SBFCA is strategically advancing work and incurring costs ahead of available funding from the State. This is similar to the advanced efforts that went into the design and commencement of construction work associated with Project Area C in 2013 ahead of having a commitment of construction funding from the State (which was received in April 2014).

The FRWLP must be implemented as a unified project rather than split up according to State funding vehicles for many reasons including: cost effectiveness, financing efficiency, continuity of design and construction, right-of-way acquisition, O&M agreements, schedule, CVFPP requirements for integrated flood management measures, and construction contract and program administration. This approach is not without risk, but is unavoidable. State funding has always been out-of-step with locally implemented projects and this practice is born out of necessity for all recent major Central Valley flood control projects.

UFRR Funding for the FRWLP

SBFCA will be ready to commence construction of Project Area D in April 2015. Given the status of the draft UFRR program guidelines, PSP and cost sharing documents as they stand today, the program will not be in a position to deliver funding for Project Area D construction by April 2015. This is due to a number of State delays and difficulties getting the new UFRR guidelines through its complex approval process. This puts SBFCA in a position of needing to continue to advance fund the project ahead of future State funding. This increases financial risk due to uncertainties surrounding the details of the UFRR program. The following highlights the specific financial risks associated with continuing to advance work ahead of the availability of future State funding and the terms associated with the draft UFRR Guidelines.

- **PSP Funding Limit** - The first solicitation for the UFRR program will be limited to \$155 million dollars. SBFCA will be seeking at least \$80 million to complete the FRWLP, and potentially more, which represents a significant portion of the available funding. The State may be reluctant to award such a large portion of the funding to one recipient.
- **Bifurcation of the FRWLP** - The State may take an incremental approach to evaluating the FRWLP and determine that Project Area D is not within their interest to fund when compared to projects proposed by other agencies.
- **Stranded Credit** - As SBFCA expends funds ahead of having a funding agreement in place, the only way that it can be reimbursed is by receiving credit for the future local share of costs expected to be incurred after a funding agreement is in place. If SBFCA completes too much work before an UFRR grant is in place, there won't be enough costs remaining to apply the credit to thus "stranding the credit."

In order to fix the stranded credit issue described above, SBFCA staff recently worked to facilitate a legislative fix by attempting to get specific budget trailer bill language passed. **Attachment B** to this staff report is a white paper addressing the legislative fix. In summary, the language would have allowed SBFCA to receive reimbursement rather than credit for construction work completed prior to a funding contract. On August 30, 2014, the Senate voted 35-0 for the bill but unfortunately the Assembly had adjourned for recess before the bill was voted on.

Although the fix was not successful, the targeted effort resulted in receiving bi-partisan support from both houses and the Administration. This sets SBFCA up for urgency legislation in January 2015 that will fix the problem. Staff will be working with Senator Nielsen and DWR to explore other alternatives, if only as a backup plan. Ultimately, State lawmakers are now aware of the importance of the project and the necessity of uninterrupted funding.

Staff recommends that SBFCA stay the course with respect to the integrated project and advanced funding approach, and pursue changes to the UFRR guidelines as described in the comment letter attached. Staff will be prepared to provide an overview and update of this information, answer questions, provide clarification and receive any comments and input on this approach from the Committee at the meeting.

Fiscal Impact

Staff is requesting that the Committee endorse the outlined financial strategy for implementing the FRWLP. There is no net budgetary impact as a result of the recommended action.

Attachments

Attachment A - SBFCA Comment Letter dated August 28, 2014 re: DWR Draft UFRR Guidelines

Attachment B - White Paper re: Legislation to Support Flood Project Funding



Sutter Butte Flood Control Agency

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Counties

Butte County
Sutter County

Cities

City of Biggs
City of Gridley
City of Live Oak
City of Yuba City

Levee Districts

Levee District 1
Levee District 9

August 28, 2014

Kelly Fucciolo, Program Manager
Urban Flood Risk Reduction Program
Division of Flood Management
Department of Water Resources
3464 El Camino Avenue Suite 200,
Sacramento, CA 95821

**Subject: Urban Flood Risk Reduction Program – Comments
on Draft Guidelines**

Thank you for this opportunity to comment on the Draft Urban Flood Risk Reduction (UFRR) Program Guidelines. Sutter Butte Flood Control Agency (SBFCA) commends you and your staff for your hard work in developing these guidelines. We appreciate the time and effort required to prepare this important document for public review.

To aid the Department in their review and processing of comments, we have forwarded our technical comments to the California Central Valley Flood Control Association (CCVFCA) so they can be combined and consolidated with comments from other agencies. We are hopeful that this approach will avoid duplication of comments, and will streamline the comment review process for you and your staff. We do, however, have the following comments pertaining to SBFCA's unique circumstances which are separate from CCVFCA's comment submittal.

Schedule

As you are aware, the Feather River West Levee Project (FRWLP) made significant progress in the past year and overcame a number of challenges, thanks in no small part to the technical and financial assistance provided by the Department. At the completion of this year's construction season, we will have 'crested the hill' and will be on track for completion by 2016, becoming the first project to provide 200-year level of protection to a complete urban area since adoption of the Central Valley Flood Protection Plan in 2012 (2012 CVFPP).

To finish the FRWLP by 2016, we must be under construction with the balance of the Area D and Gaps work by April 2015. We have already secured a construction contract with a proven contractor,

acquired local funding, permits, and right of way. However, we are deeply concerned that the two step project selection process outlined in the draft guidelines and draft Project Solicitation Package (PSP) will prevent the State from issuing a funding commitment in time to start work in April of next year. This could cause significant adverse consequences not only for SBFCA's financial capacity but also for remaining State bond funds. Therefore we respectfully suggest that the guidelines be revised to include an abbreviated project selection process for shovel-ready legacy projects with a previously approved Basin Plan (formerly called Area Plan) developed under the former EIP program. As further testimony of our support for emerging DWR and CVFPP policies, the recent FRWLP 2014 EIP amendment package included substantial evidence that the FRWLP is consistent with the 2012 CVFPP State Systemwide Investment Approach (SSIA), even though this was not required under program guidelines. We believe we are in full compliance with the spirit and intent of the new guidelines, but cannot see a realistic timetable to secure a funding agreement commitment in time to take full advantage of what is already a compressed construction schedule.

We fully appreciate the Department's desire to have more input into the planning and development of new projects, and understand the applicability of the two step process to 'new starts.' However, with significant support and input from the Department we have already advanced the FRWLP project to the final construction phase. It would seem redundant, and perhaps wasteful, to revisit the Basin Plan again at this stage, particularly since the recently completed Sutter Basin Feasibility Study confirmed and conforms to the SBFCA/DWR Basin Plan for the urban area. Therefore, we suggest that shovel-ready projects such as the FRWLP be afforded an abbreviated path to funding, either through a directed funding agreement, EIP amendment, or fast-tracked UFRF application submittal. This path will ensure full utilization of the 2015 construction season, and will maximize the cost effectiveness of State bond funds.

Readiness

As mentioned above, the last reach of the FRWLP is now shovel-ready. To get here, the SBFCA Board took substantial financial and political risks, having recognized at an early stage of project development that a single, integrated project was the only affordable option for this economically disadvantaged community. We are grateful that the Department has invested heavily in the project through the EIP program and the Corps' Feasibility Study process, and has shared in these successes. SBFCA has a single source of local funding with limited financing capacity, and as the project has progressed, that capacity has dwindled. Delays in completing the FRWLP will cause SBFCA significant financial distress due to extended overhead, contractor remobilization, additional consultant costs, etc. Therefore, when selecting projects for UFRF funding, we respectfully suggest that the Department continue its practice of placing a high priority on projects that are ready for construction and that continue construction from prior funding agreements, thereby rewarding agencies that have significantly advanced project implementation, in addition to meeting SSIA consistency requirements.

Available Funding

The draft PSP states that the current authorized UFRR funding level is \$155 million. We understand that additional UFRR funding will be made available in the near future, with remaining Proposition 1E funding being allocated/appropriated prior to July 1, 2016. Given that additional UFRR funding will be forthcoming, we recommend that funding priority for the current \$155 million authorization be given to projects which are under construction this fiscal year. Projects not scheduled to start construction until next or later fiscal years, should be programmed and funded based upon their construction start dates so as not to jeopardize funding for ongoing or shovel-ready projects.

In closing, it is vitally important that the UFRR program advance and promote project implementation. Having just completed the Regional Flood Management Planning process for the Feather River Region, SBFCA is well aware of significant 'planning fatigue' and skepticism amongst stakeholders and the public regarding the ability of 'government' to physically implement projects. But with the FRWLP on the cusp of completion, DWR can present a shining example of how our partnership with State government can build actual and necessary projects in a timely and cost effective manner. We are grateful and thankful for the many accomplishments of DWR in producing the strategic and visionary 2012 CVFPP, and we look forward to working with the Department to turn this vision into reality.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Inamine". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mike Inamine
Executive Director

Cc: SBFCA Board Members
Michael Sabbaghian
Keith Swanson
Eric Koch
Gary Bardini

Legislation to Support Flood Project Funding

Summary

The California Legislature has appropriated approximately \$150 million for the future Urban Flood Risk Reduction (UFRR) program (Budget Line #3860-001-6052), funds that would be used to support flood protection projects protecting cities in the Central Valley. Unfortunately, various issues have significantly delayed the Department of Water Resource's (DWR) ability to put the guidelines in place to allow execution of funding agreements. This delay will soon result in projects already in construction grinding to a halt, because the draft UFRR guidelines provide that DWR cannot reimburse local agencies for construction performed prior to the execution of a funding agreement. This legislation would provide that DWR will reimburse agencies for expenditures that are otherwise eligible for funding, allowing construction to continue.

Proposed Language

Notwithstanding any other provision of law, the Department of Water Resources shall provide reimbursement to funding recipients that execute a funding agreement under the urban flood risk reduction program for any expenditure incurred after July 1, 2014 and before execution of the funding agreement without regard to whether the expenditures to be reimbursed were incurred prior to execution of the funding agreement.

Timeline

- Local agencies were first told that the guidelines would be issued in October 2013, resulting in agencies relying upon that timeline.
- The draft guidelines were finally issued, with comments due by Sept 2, 2014.
- Based on historic practices, the final guidelines will not issue until at least November.
- Based on historic practice, the Proposal Solicitation Package (PSP) will not issue until at least December.
- Based on historic practice, funding would not be committed until at least February of 2015.
- Based on historic practice, a funding agreement would not be approved until June of 2015.

Current Practice

Section 7 of the draft DWR guidelines currently provides that "Local credit will only be offered for work performed before the execution of the Funding Agreement; no lump-sum reimbursements. Only work performed after a Funding Agreement is executed may be eligible for reimbursement." Thus, under DWR's practice, absent passage of this language, DWR would not be permitted to reimburse for expenditures prior to the execution of a funding agreement.

The Sutter Butte Flood Control Agency

The Sutter Butte Flood Control Agency (SBFCA) is executing a \$285 million flood protection project to protect Yuba City, Live Oak, Gridley, and Biggs in Sutter and Butte Counties, protecting 95,000 people, \$7 billion in damageable property, and some of the most productive farm land in California. DWR has already provided \$138 million in funding for the Feather River West Levee Project (FRWLP) and the project has been under construction since 2013 after completing all necessary environmental permitting. SBFCA is waiting on the UFRR guidelines to be finalized so that it may receive its next infusion of funding to keep construction going to completion of the project through 2015. Unfortunately, under DWR's current schedule, SBFCA will be forced to stop construction in December of 2014 resulting in tens of millions of dollars of additional costs due to extended overhead, demobilization and remobilization of specialty

construction equipment, and contractor construction claims. However, even with the delay in the guidelines, construction could continue if DWR was provided with legislative authority to provide reimbursement for expenditures incurred after July 1, 2014 and until execution of the new funding agreement.

For information, contact: Bob Reeb – (916) 402-4278
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