



TRIBAL GOVERNMENT CHALLENGE
PLANNING GRANT PROGRAM
TRIBAL COMMENT AND RESPONSES



March 10, 2020

TRIBAL COMMENT ON SOLICITATION & PROGRAM

This document includes comments and questions received from California Native American Tribes on the Strategic Growth Council and California Energy Commission's Tribal Government Challenge Planning Grant Program draft solicitation. The questions and answers published below provide clarification on content in the solicitation. No substantive changes have been made to the solicitation.

Questions Received on Eligibility

Are non-federally recognized California Native American Tribes eligible to apply, so long as they are listed on the Native American Heritage Commission's List of Tribal Governments?

Yes, these Tribes as described are eligible to apply.

Is a California Native American Tribe in Oklahoma or another state eligible for the grant? Must the work be done in California?

If a tribe is on the Native American Heritage Commission's List of Tribal Governments, and if the proposed planning activities are for lands in California, then the Tribe would be eligible to apply.

Are Tribes that do not own lands, but operate on and within their Tribal homelands eligible to apply? For instance, if a Tribe co-manages a park or land with another entity through a memorandum of understanding, but not does hold title to the land, will this Program consider this as eligible?

Yes, this represents an eligible opportunity to apply for funding.

Will the Program consider projects that work towards lands managed for the benefit of Tribes, such as conservation easements, lease agreements, and/or co-management agreements?

If the land is already established for the benefit of the tribe (through easement or agreement), then yes, that project is eligible. However, if a Tribe wishes to establish this easement or agreement, but has not yet established it at the time of application, then it is not eligible for funding.



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Comments Received on the Program

Comment: On page 3, the document shares that there is a total of \$2M dollars available for grants with a minimum award of \$150,000. The minimum award should be reduced to \$50,000 in order to allow for more Tribes to benefit from the grant dollars. There are 169 Tribes in California that would be eligible for funding and by having a high minimum award it creates a very competitive opportunity. Reducing the minimum award would dramatically increase the amount of Tribal communities served resulting in greater measurable accomplishments.

Response: Due to the timing of this program and limited Administrative capacity, we have fixed the funding minimum at \$150,000. A decrease in this amount would require state staff to take significantly more time to enter more grants and grantees into contract, thereby causing delays to all recipients and decreasing the amount of time for implementation of the funds.

Comment: On page 6, the document shares that Tribes must provide limited waivers of sovereign immunity. It is not defined further what Tribes will be waiving for being eligible for the funds, except that it would "cover the scope of the grant agreement" (p. 20). Since the funds are being provided on a reimbursement basis, it is unclear why there is a need for any waivers. If a Tribe has not or is not doing work, then they will not be reimbursed.

Response: The required limited waiver of sovereign immunity is limited to any actual direct damages arising from disputes about the grant agreement between the grantee and SGC and/or CEC. This provision is important to keep in the event that an issue with reimbursements arises that cannot be otherwise resolved.

Comment: If limited waivers of sovereign immunity are going to be required, then there needs to be a process for receiving advance funding. It is highly advocated that CA Strategic Growth Council consider advance funding for this grant program. There are Tribes in CA that have enough cash flow to wait 90 days for reimbursement, but the majority of Tribes will struggle financially while they wait for reimbursement. In addition, on page 18 the document shares that invoices will be submitted on a quarterly basis so a Tribe could be waiting for reimbursement for expenses up to 180 days depending on when bills are paid within the quarter.

Response: Due to the original source of funds, the Interagency Agreement that transfers the funds from the CEC to the SGC, and the restraints the State has on advanced payment, the proposed reimbursement process is the best that can be provided for this funding opportunity. Invoices will be accepted as frequently as monthly for this program to accelerate reimbursements. Agency staff are looking for ways to shorten the reimbursement schedule for future funding opportunities that may have less constraints on the state agencies involved.



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Comment: In Attachment 1 of the document it lists Non-Profit and Other as potential applicants; however, in the eligibility section it lists California Native American Tribes as being the only eligible applicants. Other entities could partner with a Tribe, but the primary applicant is to be a Tribe so the other categories should be removed from the application.

Response: Many unrecognized tribes are organized as non-profit organizations, and they are eligible for this funding. We do intend to only consider those tribes that are NAHC-listed as eligible grant recipients, but that can include non-profit organizations.

Comment: The Tribal Government Challenge Program is important in that it will focus state resources on understanding tribal energy issues and providing assistance to tribes. However, the Tribe [submitting this comment] is concerned that the Tribal Grant Program is currently limited to just planning activities in the energy sector. Some federal resources already exist for tribal energy planning such as the Department of Energy Technical Assistance Program, the Energy and Mineral Development Program and the Tribal Energy Development Capacity Grant through the Department of the Interior. In the experience of the [this] Tribe, funding for implementation of projects has been the biggest challenge in energy development. In the background section of the draft opportunity it shares that the program is funded through the American Recovery and Reinvestment Act of 2009 (ARRA) and that projects should be related to the original ARRA guidelines. ARRA was a stimulus package created to fund “shovel ready” infrastructure projects. The Tribe hopes that, in the near future, funding through the Tribal Government Challenge Program will be expanded to include implementation activities which is consistent with the original purposes of ARRA funding.

Response: The nature of this funding and the time needed to expend the funds prevents the State from funding any project that requires NEPA/CEQA environmental review. State agency staff are seeking future funding opportunities that would be able to fund Tribal project implementation.