



October 20, 2009

Mr. Mike Chrisman, Secretary
California Natural Resources Agency
1416 Ninth Street, Room 1311
Sacramento, CA 95814

Dear Mr. Chrisman:

Management Letter—California Natural Resources Agency, Special Review of Grant Agreements R81713-0 and 40745-15

The Department of Finance (Finance), Office of State Audits and Evaluations, has completed its review of two grants awarded by the California Natural Resources Agency (Agency) to the City of Napa (City) for the Trancas Crossing Park and Trail project. On February 9, 2009, information was provided to our office citing concerns about the project. In accordance with our bond oversight responsibilities, we conducted a limited review of the Agency's awarding practices specifically for these grants. The purpose of this letter is to communicate significant risks associated with the execution of these grants.

Background

Funded from Proposition 50's California River Parkways Grant Program, the Agency awarded grant agreement R81713-0 in January 2007 for \$2.369 million to plan and develop a Napa River trail access point and meadow with native habitat, expand the trail, and add amenities, such as a picnic area, restrooms, and parking. In August 2008, the Agency awarded grant agreement 40745-15 for \$500,000 from Proposition 40's River Parkways Grant Program for riparian habitat restoration and signs. As of July 2009, Proposition 50 expenditures for planning totaled \$352,369; no expenditures for the Proposition 40 grant have been claimed.

Review Results

The Agency's Grant Guidelines and Application (Guidelines) provide applicants with detailed and thorough information regarding the project merits considered when awarding grant funds (see Figure 1). The City's Proposition 50 grant application asserted the necessary project lands, including trail easements, were secured.

Documentation submitted to the Agency included a Notice of Determination indicating land tenure easements were in place. However, our review of public records determined the secured easements stated on the Notice of Determination were unrelated to the trail lands needed to proceed with the project.

Figure 1: Sample of Guideline Provisions

- ✓ Incomplete or ineligible applications will not be evaluated or considered for funding.
- ✓ Projects must be ready to proceed.
- ✓ Provide copies of easements.

Prior to the grant award, Agency grant administrators had questioned the land tenure issue but the grant files do not contain information regarding the outcome of this inquiry.

In discussions with Agency staff, the Agency permits grant funds to be awarded even when project requirements are not entirely met. For those requirements not met, special provisions would be included in the grant agreement acknowledging any critical actions still subject to completion. However, the Agency's actual practices varied from the stated Guidelines because the grant agreements did not include any provisions recognizing the City was in the process of securing land tenure.

As part of our review, we also learned the City may pursue eminent domain proceedings to obtain land for river trail and bridge work. If the City were to obtain the trail land easements through eminent domain, it would then be in the position to hold secure land tenure. However, obtaining easements through eminent domain conflicts with the Agency's Guidelines and the Proposition 50 statute which contain multiple references to a "willing seller."

For the record, the Agency has not disbursed any grant funds for land acquisitions or easements. Also, the Agency stated they have been working with the City since early 2008 to modify the grant agreements to remove the portion of the trail in question due to other considerations.

Recommendations

Because the City had not obtained the required trail land tenure before the grant agreement was put in place, a special provision should have been included to alert both parties of this outstanding requirement. Until the Agency can finalize the grant amendments in question, we recommend the Agency continue to withhold all future payments. The grant agreements, including the budgets, should be aligned with expected project deliverables and comply with applicable laws and regulations.

Going forward, we recommend the Agency include special provisions in all future grant agreements when project requirements have not been met prior to the execution date. We believe such inclusions will improve grant administration and reduce the risk of project failure.

In accordance with Finance's policy of increased transparency, this management letter will be placed on our website. Additionally, pursuant to Executive Order S-20-09, the Agency is required to post this management letter in its entirety to the Reporting Government Transparency website at <http://www.reportingtransparency.ca.gov/> within five working days of the final transmittal.

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We appreciate the Agency's assistance and cooperation during our review. If you have any questions regarding this letter, please contact Frances Parmelee, Manager, at (916) 322-2985.

Sincerely,

Original signed by:

David Botelho, CPA
Chief, Office of State Audits and Evaluations

cc: Mr. Bryan Cash, Deputy Assistant Secretary, California Natural Resources Agency
Ms. Julie Alvis, Deputy Assistant Secretary, California Natural Resources Agency



November 3, 2009

David Botelho, Chief
Department of Finance
Office of State Audits and Evaluations
300 Capitol Mall, Suite 801
Sacramento, California 95814

Dear Mr. Botelho,

Thank you for the thorough review of the Natural Resources Agency's (Agency) Grant Agreements R81713-0 and 40745-15. I would like to clarify a few items for the record in response to the Management Letter dated October 20, 2009, concerning these grants.

First, your staff correctly pointed out that a special provision related to land tenure was not included in the original grant agreement. However, I would note that my staff discovered the land tenure issue early in the process and per our policy recommended a special provision to the grant agreement. Because of this due diligence, the grant was managed as if one were in place, which guaranteed that no construction funds were disbursed prior to resolving the issue.

Second, the management letter infers that the Agency intended to fund an acquisition with these grants and that it could have been through the use of eminent domain. The grant funds were never to be used for acquisition of any land. Therefore no conflict about obtaining land tenure through eminent domain existed nor was ever a possibility. Furthermore, my staff is well aware that Proposition 50 requires acquisitions to be made from willing sellers and not through eminent domain.

I am confident that Agency's current grant management practices were (and are) more than adequate and that state funds were never at risk.

Please contact Bryan Cash, Deputy Assistant Secretary, at (916) 653-6381, should you have any questions.

Sincerely,

Original signed by:

Mike Chrisman
Secretary for Natural Resources

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