

Environment Committee

Meeting date: September 10, 2013

For the Metropolitan Council meeting of September 25, 2013

Subject: Approval of 2013 Clean Water Fund Infiltration and Inflow (I&I) Grant Program Design

District(s), Member(s): All

Policy/Legal Reference: MN Statute Section 114.D.50 (appropriation in HF 1183 conference committee report; and Council Policy 3-3-1 (Grant/Loan approval)

Staff Prepared/Presented: John Atkins, 651-602-1020

Division/Department: MCES c/o Leisa Thompson, 651-602-8101

Proposed Action

That the Metropolitan Council approve the 2013 Clean Water Fund I&I Grant Program Design.

Background

The 2013 Minnesota Legislature, through Clean Water Fund ("Legacy") appropriations, approved \$500,000 the first year and \$500,000 the second year for grants or loans for local infiltration and inflow reduction programs addressing high priority areas in the metropolitan area. This appropriation is available until expended. In August 2013, the Environment Committee approved holding a public meeting to present the grant program design and program guidelines (Attachment 1). Notice of the public meeting was posted on the Council's website and several local publications, as well as promoted by Metro Cities. The public meeting was emceed by Council Member Wendy Wulff and included 15 attendees. While there were public comments made, interested parties also had through August 23, 2013 to submit written comments. Through the written comment period, the Council received no comments; however, three were received and addressed subsequently (Attachment 2).

Rationale

The grants will protect water quality from wastewater spills and reduce the degradation of water supply by putting ground water back into Minnesota aquifers. In addition, the expected improvements in privately owned infrastructure from these grants will benefit the region due to avoiding future regional capital spending on sewer system expansion (unused capacity in the system can be used as planned to accommodate growth as opposed to excess I/I).

Funding

The \$1 million appropriation comes from the Legacy funding approved in April 2013. The funding will be disbursed by the state on a monthly basis.

Known Support / Opposition

Metro Cities and the attendees at the public hearing supported the program design, although some requested modifications, which were responded to as shown (Attachment 3).

I/I Clean Water Grant Program Design

1. Community Eligibility:

- a. Communities eligible include:
 - o The 50 metro area communities eligible under the Public Infrastructure bond grant program offered in 2012(and ongoing)
 - o In addition, during the grant program any communities that receive an I/I surcharge notice for the first time from MCES and are required to take some action will also be eligible.
- b. Communities eligible per (a) above must also must pre-apply and sign a standard Council grant agreement, before any eligible expenses can be submitted for reimbursement. Agreements shall require that communities:
 - o Pass through grants entirely (as is being done by MCES).
 - o Cooperate with pre-qualification requirements of MCES, and screening of eligibility.
 - o Sign certification of work done to receive grants.
 - o Retain records, and cooperate with any audit.
 - o Communicate with retail applicants.
 - o Issue plumbing permits for all eligible repairs.
 - o Report quantitative info of fixes, for our reporting to state.

2. Repair Eligibility:

- a) Grants are only for non-municipal sewer infrastructure (i.e. municipally owned pipes, lift stations and other related appurtenances are **not** eligible).
- b) A prequalification will be mandatory. Retail applicants must submit a dated contractors bid/estimate for the repair to their City.
- c) Types of repairs eligible include:
 - i. Any rehabilitation or service line replacement, either in part or in its entirety, that is owned and maintained by the property owner, between its connection to the municipally owned trunk or lateral system and the first cleanout inside the building shall be eligible for grant reimbursement., and
 - ii. In addition, foundation drain disconnections will be eligible.
 - iii. City owned portions of service laterals under 'Right of Way' qualify subject to all terms and conditions herein as long as the full connection to service line is repaired.
- d) The private service line or foundation drain must be active and serving an occupied building.
- e) All repairs and replacements must be made with materials and methods consistent with local codes.

- f) The completed improvement must be inspected and found acceptable *by the city* having jurisdiction for said improvements.

3. Eligible Costs:

- a. Eligible expenses are for out-of-pocket costs of a repair only, not to include any owner labor costs.
- b. Inspection costs are allowable ONLY if the service line inspected results in eligible repairs.
- c. Eligible expenses are eligible for reimbursement for work inspected no sooner than July 1, 2013.
- d. Grants to be **1/3 of actual, reasonable and verifiable eligible repair costs**, but limited to \$2000 maximum per site. Note: Given that the regional sewer, city sewer and private party all benefit, a City and private match are proposed so funding would be 1/3 regional, 1/3 municipal, and 1/3 private (if total cost is \$6000 or less). However, the City match will not be mandatory (this will not change the MCES grant limit of 1/3 of eligible costs and max of \$2000 per site).

4. Process:

- a) Eligible cities will need to first apply to participate in the program.
- b) Monthly, participating cities screen & submit requests in batch for prequalification approvals.
- i. Each individual request must include the following information:
- Owner name and building address
 - Date of contractor bid/estimate (for use in ranking first come, first served)
 - Type of building (Single Family, Multi-family, Commercial)
 - Type of work proposed
- c) MCES reviews technical details and approves by applicant, within 30 days. MCES to encumber the amounts prequalified. MCES will only approve up to the full amount of the \$1 million appropriation. If qualified applications exceed amount available the date of contractor bid/estimate will be used to determine the ranking of remaining projects to be put on waiting list for further funding when available. If there are multiple applications on the single last day in each FY that cannot be fully funded, MCES will use a random assignment method to select those funded.
- d) Agreements will be sent to cities for signature and, upon return, signed by Council and Purchase Orders payable to the City created.
- e) Cities will notify retail applicants of decisions and that the approved amount is the maximum grant from MCES. In addition that applicant will be required to submit actual receipts for work to get the rebates.
- f) Cities to send in (limited) info to MCES, basically certifying that the work was done and records auditable.
- g) Within 30 days of City request, MCES remits amounts identifiable to specific prequalified projects. Cities choose when to remit to property owner.
- h) MCES to reduce encumbrances. If claims come in less than the prequalified amounts, the released funding will become available for next applications in line.

To MCES Program Designers:

While I generally support the above referenced program, the equity of its design leaves something to be desired.

Specifically, if two services laterals are leaking at the same rate, but one is in a high I & I community and the other is not, MCES will subsidize the high I & I community's repair while the other city would have to pay 100% of the cost.

I understand the goal of reducing I & I, but flow reduction is flow reduction regardless of whether it comes from an high I & I community or not!

This program seems to reward communities that have not been addressing the problem to the detriment of those that have. Our community is not a high I & I city, but I'm sure I could find a lot of service issues that could reduce flows even further thereby saving our customers money. Why not make this program available to everyone as long as you gain a certain reduction of flow per dollar spent. As I said earlier, flow reduction is flow reduction!

Thanks,

Joel R. Hanson
City Administrator
(651) 766-4040
Little Canada

RESPONSE: MCES does not support a change to the grant program design as suggested by Little Canada to allow cities without measured excessive I/I to participate, for the following reasons:

- 1) The appropriation language requires MCES to pick high priority **areas**.
- 2) The \$1 million will likely not be nearly enough; so limiting to high priority areas makes sense.
- 3) It's not true that all I/I flow is created equal. The *rate* of flow compared to the capacity of the pipes (not the volume of flow) is actually the biggest utility management problem and thus the biggest water quality risk (e.g. spills and backups). Our best info about where the rate of flow is a problem is the measured excessive I/I (that leads to the surcharge letters which is the cities we have included).

MCES Staff,

After reading through the Grant Proposal and attending the public hearing on August 13, 2013 I have several comments to make.

1. It was suggested the grant be used to pay for inspection costs.
 - a. The use of grant funds to pay inspection costs would eliminate funds that could be used for repairs, while not having the desired effect of increasing the number of City's with an active I/I inspection program. If grant participation will be limited to inspections that identify necessary repairs it is questionable that it would entice a City to create an inspection program due to potential for high costs of inspections with the uncertainty of reimbursement. Those that are already paying for programs will use a large portion of the grant funds for inspections that are already being done.

RESPONSE: The revised guidelines include inspection costs as eligible ONLY if the inspection results in eligible and reimbursable repairs.

2. It was suggested the grant be used to pay for permit costs.
 - a. The permit cost is generally a very small portion of a repair, and should not be included in items eligible for grant participation. This would equate to the grant being used to pay for City employee time, and should be avoided.

RESPONSE: Staff agree, and as written, permit fees will not be an allowable expense.

3. It was suggested sump pump discharge repairs not be eligible because they are already illegal.
 - a. While sump pump discharges going into the sanitary sewer are illegal, so are drain tile connections, which are being proposed as eligible. The only difference between a drain tile connection and sump pump discharge directed to the sanitary sewer is the addition of a basket and a pump before the sanitary sewer. Sump repairs will lead to lower cost fixes with a higher ROI for the grant funds. The elimination of sump pump discharge repairs would be arbitrary if drain tile corrections are eligible.
 - b. If sump pump discharge repairs are allowed, I would suggest that pumps be ineligible for fund participation. This will eliminate homeowners getting new pumps when their pump functions properly already. In our repair program we have found a large disparity between what contactors charge for a new sump pump.

RESPONSE: Sump pump connection corrections will not be eligible due to questions of legality and the difficulty of justifying use of Legacy funds to correct illegal connections. In addition, as typical sump pump disconnection costs are \$300 or less, the 1/3 grant contribution limit does not warrant the effort to include in the program.

4. The repair process and prequalification should be elaborated upon.
 - a. Cities will need to administer the program, homeowners will solicit quotes and have work done, MCES will encumber money and reimburse after final inspection and submittal by City.
 - i. Require homeowners to obtain a minimum of two (2) quotes for the proposed repair. City, or MCES, will review the quotes and determine eligible portions, and inform homeowner of expected reimbursement.

This will help keep contractors at a reasonable price point, and eliminate some that are historically higher priced.

- ii. Require homeowner to hire licensed/bonded companies. (IE pipe layer, plumber, etc.)
- iii. For lining require the company to be certified installer of product (NuFlow, Permaliner, etc.). This eliminates a few problem companies that have caused issues for various City I/I programs.
- iv. Allow City to reimburse homeowner encumbered amount, and then MCES will reimburse the City directly. This will speed up the payment to homeowners, and allow Cities to provide financing if needed to homeowners for repairs.

RESPONSE: Cities may determine their own specific additional program requirements as long as Council's grant requirements are met.

In regard to the (iv) the grant process mandates cities pay property owners directly and they may provide finance if desired. However, as written, Council will only remit to cities in amounts identifiable to specific prequalified projects based on actual eligible costs incurred, so there might be a difference which the City would have to deal with. MCES staff have not proposed to change the "actual, reasonable and verifiable" requirement which we believe avoids abuse.

5. If the intention is to allow a City to use the funds for their own "private" service lines (ex. from City Hall to the main) include specific language in the final grant agreement.

RESPONSE: The intent of the program is to assist non-municipal property owners, therefore to keep it simple (and differentiated from the City infrastructure grant program all municipal infrastructure is ineligible as written, other than that under right-of-way (if the full connection to the service line is repaired)).

6. Make all eligible reimbursements retroactive to earliest date possible (calendar/fiscal year 2013?). While the effort to obtain funds is appreciated, the timing is unfortunate. Cities that put forth the effort to eliminate large amounts of I/I within the 5 year program are now faced with their residents not receiving any reimbursement for those repairs. Cities that have delayed their programs, and benefitted from the dry conditions in the past 5 years are going to receive money to start making repairs. Our program is almost done, and very few repairs remain. Making the grant funds eligible to residents that made repairs in the past would allow proactive Cities to participate in the funds.

RESPONSE: Eligible expenses are eligible for reimbursement for work inspected no sooner than July 1, 2013. Allowing retroactive claims before that seems like it will stretch the funds too far, and also could be criticized a supplanting other funding, which is not allowed by the state.

Thank you for your time.

**Sincerely,
Jim Hauth
City of Eagan**

Please find the City of Golden Valley's public comments regarding the upcoming private I/I related grant below.

City of Golden Valley public comments regarding \$1 million grant program for I/I related improvements to non-public sewer infrastructure:

- The City of Golden Valley would like to request that the grant reimbursement be modified to cover one half of the private property repair costs up to a maximum of \$2,000 per property.

RESPONSE: MCES is not making mandatory, only recommending the three way cost coverage and in any case the grant maximum remains the same 1/3rd of eligible costs up to a maximum of \$2,000. Not making the City match mandatory was in response to a request by the City of Golden Valley. While we would like to make this more generous, we think the amount of funding available is not nearly enough for the probable demand of a more generous program.

- The City of Golden Valley would like to request clarification on whether or not homes in foreclosure (bank owned homes) can receive this grant if not currently occupied. In specific, can the new home buyer sign an escrow agreement with the City to make the repairs within 60 days of the sale of the property and qualify for this credit if they do not currently own/occupy the home? Will a purchase agreement and I/I escrow agreement drafted by the City suffice in this case?

RESPONSE: MCES agrees a City may do this, as the grant from the City would be received by property owner and can include prospective new home buyers.

- The City of Golden Valley would like to request further clarification on the anticipated length of time for MCES to approve funding for a specific property. With our point-of-sale ordinance, residents are required to complete the repairs prior to the transfer of the property. Thus being said, many sellers are scrambling to complete these repairs within 1-2 weeks of their closing date. If a seller pulls the permit and completes the repairs needed to close on the property prior to gaining approval from MCES, would they then be denied possible funding for not following the proper schedule set by MCES?

RESPONSE: In a case where there is a signed Purchase Agreement, and the City request that we expedite the pre-qualification review, we are willing to do so, on a case by case basis. This would allow home sellers and buyers to know the grant is coming, although the reimbursement may be after the closing is settled.

- The City of Golden Valley would like to request clarification on whether sump pump elimination work (interior home modifications) can be covered under this grant? Or, is the grant specifically for repairs made to the sewer lateral outside the structure?

RESPONSE: Sump pump connection corrections will not be eligible due to questions of legality and the difficulty of justifying use of Legacy funds to correct illegal connections. In addition, as typical sump pump disconnection costs are \$300 or less, the 1/3 grant contribution limit would not justify the work by all parties to make an application and reimbursement.

- The City of Golden Valley would like clarification on whether the grant can cover rehabilitation of privately owned sewer laterals located within public right-of-way?

RESPONSE: Privately owned sewer laterals located within the public right-of-way are eligible but only if the full connection to the sewer lateral is pre-qualified, funded, and repaired.

- The City of Golden Valley would like clarification on whether or not private homeowners who choose to have their sewer costs assessed to their property tax (paid up front by the City) qualify for this credit?

RESPONSE: Private payment terms do not impact eligibility requirements. Therefore, cities may determine payment terms and conditions that best meet their needs and the needs of their constituents.

Thank you,

Mitchell Hoeft, PE
Utility Engineer
City of Golden Valley

QUESTIONS/COMMENTS
AUGUST 13 I/I GRANT PROGRAM PUBLIC MEETING
15 people signed in

Patricia Nauman, Metro Cities:

Comment: Patty provided some legislative context. Metro Cities asked for more dollars, but the process to obtain funding was quite competitive.

There seemed to be some with the perception that the Council has adequate resources to mitigate I/I without the need for additional funding. I/I is not seen as a “glamorous” issue for clean water advocates and is not given a lot of attention. Also, an issue was raised about whether these funds would be e “supplanting” other funds (which is not allowed with “Legacy” funds.

Metro Cities feels this proposed program is effective, user friendly, encourages partnering, and works to address I/I problems. They are supportive of the program’s parameters.

Metro Cities is fine with cities not matching the grant and wants to minimize the cities’ potential administrative burden, and would like to hear from attending city officials what their opinions are about the proposed 1/3, 1/3, 1/3 funding plan.

Bob Cockriel, City of Bloomington:

Question: In some communities, while the service lateral is privately owned between the house and street right-of-way, the portion between the right-of-way and the connection to the main, is city owned. Would work on that portion of the service owned by the municipality be eligible for grant funding? Would grant funding be available to cover city improvement cost for improvements for only that portion within the right-of-way?

Answer: MCES staff responded by stating that any improvement to the service line, regardless of ownership, is a benefit to the system. The \$2,000 grant and rough \$6,000 average cost for service line repairs assume a house to connection-to-main scenario. A proposal to repair, rehabilitate, or replace only a portion of the entire service line might consider some proportioning of the \$2,000 grant amount.

Bob also suggested including city staff and permitting costs.

Comment: In many townhome and apartment complex developments, the conveyance system is entirely private including main laterals within the street as well as the individual service lines leading to the building. These systems can be sources of significant I/I due to their lack of maintenance. This program to fund only the service lines is not sufficient to address the issue regarding the private main systems within these types of developments.

Kristine Giga, City of Roseville:

Comment: Kristine concurred with Bob Cockriel’s comment about private townhome projects, and said the project costs would be different and require more funding.

Jim Hauth, City of Eagan:

Question: What about sump pump redirects? This seems to be a bigger problem than floor drains as Eagan found 1000 sump pump violations compared to 50 floor drains. Allowing sump pumps would make access to this grant money more appealing.

Answer: Sump pump redirects are not in the current proposal but could be considered for inclusion. However, there is concern over funding work that is technically not compliant with the building code and hence illegal. The program results will need to be presented to the State, and we need to be sensitive to what the grants will fund and the State's perception of its use.

Matt Saam, City of West St. Paul:

Question: What documentation will cities need to submit to satisfy the program requirements? At this time, his city may only have video of the inspection or work.

Answer: MCES said that a summary report of the inspections would be sufficient. Staff is not interested in viewing the hours of video footage that a community may have.

Question: Can other street costs be included?

Answer: MCES responded that those costs that can be directly tied to the service line repair are all proposed to be eligible. Examples of these improvement and related costs would be street patching/repair, curb and driveway replacement, landscaping, etc.

Comment: WSP would like to see a higher grant percentage, and closer to the 50% that was used in the 2008 grant program.

Kristy Luger, City of Excelsior:

Question: We don't televise lines so how would we know what qualifies?

Answer: Cities are proposed to be responsible for assuring what qualifies and can set up whatever procedures work for them.

Mark Norgaard, LMK Technologies:

Question: Lining lateral pipes is an option so the connection to the main pipe can't be overlooked, so who will verify that this connection is done correctly?

Answer: MCES stated that state and local codes govern the installation and rehabilitation of private services. Nearly all communities are responsible for issuing permits and inspecting work on private services.

Craig Eldred, City of Waconia:

Comment: We like the program although we may need to change how we currently interact with private parties.

Patty Nauman concluded by surveying the group by a show of hands with two questions:

1. She asked which cities would be interested in participating. All responded yes.
2. She asked whether they would consider matching the grant with 1/3 funding. About half said yes (Golden Valley and Excelsior said definitely no).