

Request for Approval

To: **Zoe Heller**
Acting Deputy Director, Materials Management and Local Assistance
Division

From: **Michelle Martin**
Branch Chief, Financial Resources Management Branch

Request Date: April 29, 2022

Decision Subject: Eligibility Criteria and Evaluation Process for the Rubberized Pavement Grant Program (Tire Recycling Management Fund, Fiscal Years 2022–23 and 2023–24)

Action By: May 17, 2022

Summary of Request

Staff seeks approval of the proposed eligibility criteria and evaluation process for the Rubberized Pavement Grant Program (Program) for fiscal years (FYs) 2022–23 and 2023–24. Staff proposes to use the same eligibility criteria and evaluation process used in FY 2021–22, except as described under the Proposed Changes section and summarized below.

1. Provide priority ranking, funding changes, and lower material minimums to Qualifying Tribal Entities.
2. Provide priority ranking to “first-time” grantees.

Background and Analysis

Statutory Authority

The Department of Resources Recycling and Recovery (CalRecycle) receives an annual appropriation from the California Tire Recycling Management Fund to administer the California Tire Recycling Act (Senate Bill 937, Vuich, Statutes of 1990, Chapter 35) (Public Resources Code [PRC] sections 42860 et seq.). PRC sections 42872 and 42873 allow for the awarding and funding of grants for activities and applications that result in reduced landfill disposal or stockpiling of waste tires. The Program meets the statutory requirements of PRC sections 42872 and 42873.

The draft *Five-Year Plan for the Waste Tire Recycling Management Program* (Eleventh Edition Covering Fiscal Years 2021–22 to 2025–26) Report to the Legislature allocates \$4,209,703 and \$3,998,094 for FYs 2022–23 and 2023–24, respectively, for the Program.

Program Background

The fundamental goal of the Program is to promote the use of rubberized pavement while encouraging the recycling of California-generated waste tires. The Program provides competitive grants to eligible applicants (described below). The grants fund public works projects that use asphalt rubber (also referred to as rubberized asphalt concrete or RAC) hot-mix or rubberized chip seal (collectively referred to as rubberized pavement) materials from only California-generated waste tires.

Proposed Process and Eligibility

Staff will review all applications for completeness and eligibility. Complete applications will be evaluated to confirm project eligibility and determine the recommended grant amount.

Eligible applicants include:

- Local governments (cities, counties, or cities and counties) as defined in PRC section 48617.
- Other local governmental agencies (including regional park districts, special districts, and Joint Powers Authorities (JPA) [where all participating entities are otherwise eligible]).
- Qualifying Tribal Entities (see Proposed Changes).
- State Agencies (only for Class 1 bikeways, greenways, and disability access projects at parks).

Eligible applicants shall:

- Require evidence that applicable public works staff participate in web-based tire-derived aggregate training.
- Require evidence that the applicant (and participating entities if a joint application) shall implement best management practices regarding its vehicle and equipment fleet.

Project Requirements

- Projects must use material that contains a minimum of 300 pounds (equivalent to 15 percent by weight) of tire-derived crumb rubber per ton of rubberized binder.
- The project(s) must be located in California.
- Only California-generated waste tires, processed in California, shall be used in the crumb rubber portion of the project(s).
- Recycled end-of-life crumb rubber that meets all specifications and standards may be used, as appropriate, with prior written permission from the Grant Manager.
- Hot-mix project(s) must use a minimum of 2,000 tons of asphalt rubber hot-mix material, with the exception of Qualifying Tribal Entities, which must use a minimum of 1,000 tons of asphalt rubber hot-mix material (see Proposed Changes).
- Chip seal project(s) must use a minimum area of 40,000 square yards of chip seal material, with the exception of Qualifying Tribal Entities, which must use a minimum area of 20,000 square yards of chip seal material (see Proposed Changes).

Because of the amount of paving material used, disability access, Class 1 bikeways, and greenway¹ projects may be combined with eligible roadway projects in order to satisfy Program minimums.

Applicants awarded Program grants are not eligible to apply in the following year. Reimbursement decreases (to 70 percent and 40 percent of the applicable base rate) as grantees gain experience using rubberized pavement and recognize the cost-effective benefits of using the material. This is reflected in the table below, where hot-mix applications are categorized into three groups based on the number of previous Rubberized Pavement Grants (columns 1 and 2).

To address the cost differences in rubberized pavement throughout the state, applicants are categorized into one of two geographically based Tiers (columns 3 and 4). In addition, joint applicants receive the full (Tier 1 or Tier 2) base rate, regardless of the reimbursement rate that a lead or participating jurisdiction would otherwise receive if submitting an individual application.

¹ A greenway is a travel corridor for pedestrians, bicycles, non-motorized vehicle transportation, recreation, or a combination thereof, located along natural landscape features, such as an urban watercourse.

Program Categories and Reimbursement Rates (Individual Applicants)

Grant Category	Number of Previous RAC Grants ²	Tier 1 (Applicants in the following counties: Los Angeles, Orange, Ventura, San Bernardino, & Riverside)	Tier 2 (Applicants in all counties not in Tier 1)
RAC-1	0–1	Total grant award is based on 100 percent of the \$10 per ton base rate (\$10 per ton). \$20 per ton for Qualifying Tribal Entities (see Proposed Changes).	Total grant award is based on 100 percent of the \$20 per ton base rate (\$20 per ton). \$40 per ton for Qualifying Tribal Entities (see Proposed Changes).
RAC-2	2–3	Total grant award is based on 70 percent of the \$10 per ton base rate (\$7 per ton). \$14 per ton for Qualifying Tribal Entities (see Proposed Changes).	Total grant award is based on 70 percent of the \$20 per ton base rate (\$14 per ton). \$28 per ton for Qualifying Tribal Entities (see Proposed Changes).
RAC-3	4–5	Total grant award is based on 40 percent of the \$10 per ton base rate (\$4 per ton). \$8 per ton for Qualifying Tribal Entities (see Proposed Changes).	Total grant award is based on 40 percent of the \$20 per ton base rate (\$8 per ton). \$16 per ton for Qualifying Tribal Entities (see Proposed Changes).
Chip Seal	0–5	50 cents per square yard \$1 per square yard for Qualifying Tribal Entities (see Proposed Changes).	\$1 per square yard \$2 per square yard for Qualifying Tribal Entities (see Proposed Changes).

The maximum grant award is \$250,000 for individual applications, \$350,000 for joint applications, and \$500,000 for Qualifying Tribal Entities (see Proposed Changes).

If CalRecycle receives more requests for funding than provided for with available monies (i.e., if the program is oversubscribed), consistent with existing practice, initially available funding will be allocated (approximately) 67 percent to RAC hot-mix projects and 33 percent to rubberized chip seal projects. The actual amount allocated to hot-mix and chip seal is subject to change, depending on the amount of eligible applications received.

² RAC categories are based on the number of previously funded Rubberized Asphalt Concrete Use, Targeted RAC Incentive, and Rubberized Pavement for RAC hot-mix and chip seal grants. Chip Seal eligibility is based on the number of previously funded rubberized Chip Seal.

Proposed Ranking

Staff will use the following process to prioritize funding recommendations for eligible applicants:

1. As required by statute³, applicants with a median household income less than 80 percent of the statewide median household income and whose grant request seeks a majority of funding (greater than 50 percent) for a greenway shall be given priority funding.
2. Applicants applying as a Qualifying Tribal Entity (see Proposed Changes).
3. Applicants applying as a “first-time” grantee (see Proposed Changes).
4. Applicants applying as a joint application.
5. Applications categorized as RAC-1 projects will be funded before any RAC-2 projects and all RAC-2 projects will be funded before any RAC-3 projects. In the event of ties within any of the RAC or chip seal categories, the following tiebreakers will be applied in sequential order:
 - a. Applicants that did not receive funding in the previous two fiscal years.
 - b. Applicants that propose to use the greatest amount of crumb rubber material in their project(s).
6. If applicant satisfied either of the inducement requirements described in the Application Guidelines and Instructions document, the applicant will:
 - a. Be ranked/elevated one “grant category” above the RAC category for which they would otherwise qualify, and/or;
 - b. Have priority funding within the Chip Seal category.
7. Applicants that were awarded any rubberized asphalt concrete grants in the previous three fiscal years, but either withdrew a grant or used less than 50 percent of a grant award, will only be considered after all other eligible applicants are recommended for award.

Proposed Changes

Staff is proposing changes from the past grant cycle as indicated below.

1. **Provide priority ranking, funding changes and lower material minimums to Qualifying Tribal Entities.**

Qualifying Tribal Entities have been eligible applicants under this Program for over a decade; however, CalRecycle has not received an eligible application. Staff believes this may be related to the high costs of undertaking these paving projects. The overall cost of these projects can be millions of dollars. Because of this, many tribal entities may not have the capital infrastructure to undertake a multi-year, multi-million-dollar project and only receive reimbursement for a small fraction of the overall cost. To

³ [Public Resources Code § 42872.6](#)

(http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PRC§ionNum=42872.6.) requires that applicants with a median household income (MHI) less than 80 percent of the statewide median household income and whose grant request seeks a majority of funding (greater than 50 percent) for a greenway shall be given priority funding.

address this significant barrier to entry, staff is proposing the following for tribal entities:

- a. Priority ranking for tribal entities. This priority shall take place after MHI/Greenways and before “first-time” grantees. See Proposed Ranking section above.
- b. Double the maximum grant award to \$500,000.
- c. Double the reimbursement rate. See table.
- d. Lower the minimum use requirement to 1,000 tons for hot-mix projects and 20,000 square yards for chip seal projects.

These proposed changes align with CalRecycle’s equity policy of prioritizing tribal entities for this Program.

2. Provide priority ranking to “first-time” grantees.

One of the fundamental goals of this market development Program is “to encourage first-time or limited users of RAC”. “First-time” grantees are applicants with zero previous RAC grants. In previous cycles, there are instances where first-time users are not awarded due to their low placement in the ranking order. By allowing first-time grantees a higher-ranking order, CalRecycle continues to encourage first-time users and ensure their paving project is funded. This change is consistent in staff’s effort to further develop the rubberized pavement market. This priority shall take place after Qualifying Tribal Entities and before Joint Applicants. See Proposed Ranking section list above.

Tentative Timeline for Fiscal Years 2022–23 and 2023–24

Staff will post a Notice of Funds Available on CalRecycle’s website that includes the funding, eligibility requirements, deadlines, and other important information. Notices will be distributed through CalRecycle’s Local Assistance and Market Development staff to inform local jurisdictions, the Grants Management System database, applicable listservs, outreach presentations, and newsletters.

August 2022: Post Notice of Funds Available, application, and related instructions and documents on the website

September 2022: Question and Answer Period

October 12, 2022: Applications due

November 2022: Conduct application evaluation/review process and determine funding for eligible applicants

January 2023: Grant Agreements distributed and executed

April 1, 2025: Grant term ends

The FY 2023–24 grant cycle timeline will be similar to the tentative FY 2022–23 grant cycle.

Please refer to [CalRecycle's website](https://calrecycle.ca.gov/Tires/Grants/Pavement/), (<https://calrecycle.ca.gov/Tires/Grants/Pavement/>) for more information.

Recommendation

Staff recommends approval of the proposed eligibility criteria and evaluation process for the Rubberized Pavement Grant Program for FYs 2022–23 and 2023–24.

Deputy Director Action

On the basis of the information and analysis in this Request for Approval and the findings set out herein, I hereby approve the eligibility criteria and evaluation process for the Rubberized Pavement Grant Program for FYs 2022–23 and 2023–24.

Zoe Heller
Acting Deputy Director

Dated