

E Environment Committee

Meeting date: June 8, 2010

For the Metropolitan Council Meeting of June 23, 2010

ADVISORY INFORMATION	
Date:	June 3, 2010
Subject:	Approval of Municipal Publicly-Owned Infrastructure Infiltration/Inflow (I/I) Grant Program and Program Guidelines
District(s), Member(s):	All
Policy/Legal Reference:	2010 MN Bonding Bill Subd. 3 "Metropolitan Cities Inflow and Infiltration Grants", Council Policy 3-3-1 (Grant/Loan Approval), and Water Resource Management Policy Plan
Staff Prepared/Presented:	Jason Willett 651-602-1196
Division/Department:	MCES c/o William G. Moore 651- 602 1162

Proposed Action

That the Metropolitan Council approves the municipal publicly-owned infrastructure infiltration/inflow (I/I) grant program and program guidelines.

Background

Improvements in public municipal infrastructure that reduce I/I will benefit the region because future capital spending on sewer system expansion can be avoided (unused capacity in the system can be used to accommodate growth rather than I/I), and spill risk and wasted resources will be reduced. Moreover, since 2007, the Council has required municipalities with excessive I/I to spend money to begin to mitigate the excessive peaks (the I/I Local Mitigation or Surcharge program). This has put financial stress on the cities and their sewer rates. Metro Cities championed a bill and the state has made \$3 million available to help.

A public meeting was held to gather input on the proposed guidelines on May 25, 2010. Approximately 20 people attended the meeting and made comments on the proposed guidelines. A staff summary of the notes is Attachment B. The only written comment received (to date) is Attachment C (if additional comments are received by June 4th, they will be distributed at the meeting). Prior to the formal public meeting, the proposed guidelines were presented to the I/I Demand Charge Task Force for their review and input.

Rationale

The appropriation of the money requires that the Council adopt program guidelines.

Funding

The \$3 million grant program was included in the 2010 state bonding bill. The funding is available now but will be disbursed by the state to the Council only on a reimbursement basis. The Council's guidelines provide funding to the municipalities also on a reimbursement basis. Therefore the Council will only incur a small amount of interest expense (after reimbursing the municipalities and before getting reimbursed by the state); this small expense will be taken from wastewater fund earnings.

Later in the year, MCES will amend its 2010 budget to show part of the funding (coming in and going out) in this calendar year.

Known Support / Opposition

All public comments that were received have been addressed. There is no known opposition to the I/I Municipal Grant Program or the proposed guidelines.

Attachment A

Municipal Publicly-Owned Infrastructure Inflow/Infiltration Grants State Requirements and Council Guidelines

State Requirements from the appropriation:

- The grant must be for capital improvements in municipal wastewater collection systems to reduce the amount of inflow and infiltration (I/I) to the Metropolitan Council's (Council) metropolitan sanitary sewer disposal system.
- To be eligible for a grant, a city must be identified by the Metropolitan Council as a contributor of excessive inflow and infiltration.
- Grants from this appropriation are for up to 50 percent of the cost to mitigate I/I in the publicly-owned municipal wastewater collection systems.
- Grant awards will be based on applications from eligible cities that identify eligible capital costs and include a timeline for inflow and infiltration mitigation construction.

State Requirements for Capital Improvements (bond dollars):

- The infrastructure to be fixed must be owned by the city receiving the grant.
- If applicable to the project, the non-public benefit should be 5% or less.
- The project benefit must last more than one fiscal period.
- The capital expenditure must be made to a "fixed asset" (land, buildings, land improvement, equipment).
- A fixed asset being acquired must be "long-lived" (at least 10 years).
- An expenditure to improve a fixed asset already owned must (a) comprise a substantial improvement or expansion of a fixed asset, (b) extend the useful life or substantially increase the value of a fixed asset, and (c) not be predictable or recurring.
- Normal operating and other overhead costs will not qualify.
- Release of funds to Council will be on a reimbursement basis (that is, only after Council pays city).

Council Proposed Guidelines:

- State requirements, including but not limited to the above listed requirements, are incorporated in the Council guidelines.
- Eligible communities are those that have been on a past, current, or future Council excess I/I list and have committed to I/I mitigation work under that program (the I/I Local Source Mitigation = Surcharge program since 2007).
- Cities must sign a standard grant agreement to be developed by the Council to be eligible.
- Only construction costs will qualify.
- Eligible project costs will be limited to I/I mitigation improvements, including but not limited to:
 - Manhole rehabilitation, sealing, and abandonment
 - Storm sewer cross connection elimination
 - Pipe lining projects only if supportive information is provided that demonstrates system susceptibility to I/I (Council approval needed).
 - Other eligibility limitations will be specified in the grant proposal solicitation
- No costs of studies, engineering or planning shall be eligible.
- Grants shall be for a percentage of actual, reasonable and verifiable project construction costs. The percentage shall be determined by the process described below.
- Grant proposals must include a timeline for project completion.
- Qualified spending on approved projects can occur between July 1, 2010, and June 30, 2012.
- Grant awards will be paid on a reimbursement basis (that is, city will get paid from Council only after work is done and payment is made to contractors).

Proposed Process:

- Council will request grant proposals (the RFP) from all eligible communities. The RFP will include a draft agreement, with all terms final except for the dollars to be awarded and the work details.
- After all proposals are received, Council will review eligibility of proposed expenses and determine a Preliminary Minimum Allocation (PMA) of grant funds based on this formula:
 - Council, in its sole discretion, shall determine the eligibility of the costs submitted; but will attempt to be uniform in application and consistent with the above guidelines.
 - Part 1: Each submitting community will receive the lesser of \$50,000 or 50% of the submitted eligible project costs, and
 - Part 2: The remainder of the \$3 million will be allocated to all communities proportional to 50% of the total eligible amount submitted, net of Part 1. The allocation to any community under this part shall be reduced as necessary to make sure that the total of the two parts does not exceed 50% of eligible costs (as required by law).
- All cities getting a PMA then will be given a chance to withdraw partially (reduce the work being submitted for grants) or withdraw fully (this might happen if the PMA is materially less than anticipated and the community is unable or unwilling to budget the remainder). Each proposing City must notify Council (by a date certain) of their intent to remain in the grant program or withdraw.
- Council will re-proportion the Part 2 grant funds after excluding fund requests withdrawn partially or fully. This will determine the Final Reimbursement Allocation (FRA) and associated FRA percentage (based on the total eligible costs).
- Council will provide final Grant agreements, to be executed by a date certain.
- Payment requests are made to Council and reviewed prior to submission to the State. Once approved, Council will pay the city and request the reimbursement from the State.
- If a project's final eligible capital expenses are more than the approved FRA, no additional grant funds will be given. If actual spending is less than projected, the FRA percentage will not be increased, so the program will end with a small amount of funds un-awarded.
- If additional funds are appropriated by the legislature in 2012, the remaining amount (as described in preceding paragraph) will be rolled in with those funds for a second round of grants. If not, the remaining funds will be awarded to participants by re-proportioning the Part 2 grant funds, subject to the 50% maximum.
- The Council reserves the right to change these guidelines, if in its sole discretion the results of the process do not equitably allocate the funds.

ATTACHMENT B

PUBLIC MEETING NOTES

\$3 Million I/I Grant Program
May 25, 2010 Public Meeting Minutes

Introduction: Made by I/I Task Force Chair, Wendy Wulff, Council Member, District 16. Kris Sanda, Council Member, District 10 was also in attendance.

Introductions by all audience members

Presentation of program: Made by Jason Willett, Director of Finance, MCEC

Questions and Comments

Q: Matt Saam, Director of Public Works, West St. Paul

Would work such as restoration, landscaping, etc. related to I/I mitigation work be eligible for grant funds?

R: Yes, but only if the restoration was necessary to complete the I/I mitigation work.

Q: Jason Ziemer, Administrator, Maple Plain

Can a community opt out after the final allocation is made since an agreement won't have been signed yet?

R: The current proposal has only a one-time opt out option. If there were more opportunities for a community to opt-out, the grant award for every grantee should be re-calculated (to maximize its use) each time anyone dropped out. The grant agreement will be available to a community prior to its full commitment and our expectation is that after the one withdrawal period that all communities will sign. If a community did not sign the grant agreement, the money will likely not be reallocated until the end of the program.

Patricia Nauman, Executive Director, Metro Cities

She stated that Metro Cities will attempt to pursue additional funds during the 2012 Legislative Session. During discussions with legislators for this program, legislators indicated that they wanted a fair and equitable method for distributing the funding. The original language in the bill, stated that funds would be made available to communities *currently* on the Council's I/I Surcharge List. However this was removed in the final version of the bill. The grant program guidelines were presented to the I/I Demand Charge Task Force, and it was determined that using all the Council's lists of I/I Surcharge communities was fair and consistent with the intent of the funding. She also said that they supported that the eligible work in the proposed guidelines be consistent with the Surcharges to cities under the Local Mitigation program. Ms. Nauman indicated that Metro Cities suggested retroactivity for eligibility back to April 1, 2010 and is still open to that. However she recognized that the I/I Task Force had a consensus to support the July 1, 2010 date.

Q: Bill Quintus, Ess Brothers

What is the deadline for applications?

R: September 15, 2010 is proposed.

Q: Mitchell Berg, Administrator, Bayport

Will State reporting and other requirements be applicable for grant funding such as Buy American, WBE, MBE, and Davis Bacon Act requirements?

R: The Council will clarify State requirements and incorporate them in the agreement. We do not intend to add such requirements unless required to do so.

- Q: **Marcus Thomas, Bolten & Menk**
Noted that the application form requests an estimate for the amount of I/I that will be removed through implementation of the grant project and a completion schedule. Asked whether these were factors in the grant priority ranking process?
- R: No. The completion schedule is a specific requirement from the State appropriation, so there must be one included. The estimation of I/I removed as part of the project, is anticipated to be information that the State will want sometime during the program. However, the I/I estimate will not be used in a priority ranking of the applications.
- Q: Asked if the estimate of the amount of I/I that is requested on the application form be moved to the end of the application and labeled for "information purposes only" as its current position made it look like it was the most important consideration for funding.
- R: Council will relocate the request for the estimated amount of I/I removed to another location on the application form.
- Q: **Jessie Struve, Utility Engineer, Edina**
Noted that the grant agreements as proposed are due by January 1, 2011. Suggested to move this to March 1, 2011 to take into account project bid documents will more likely be completed for bidding and that cost estimates will be better defined.
- R: Council will consider this. However, since the first disbursement to any community may not be made until after all agreements are executed and returned to the Council, moving the deadline from January 1 to March 1 could delay disbursements.
- Q: **Shawn Sanders, Director of Public Works, Stillwater**
Asked how long after the specified project completion date could expenses be submitted?
- R: It's proposed that expenses could be submitted quarterly. However, all work would need to be completed by July, 1, 2012, and reporting of the eligible expenses will be due shortly thereafter, so we can determine if there will be a remainder disbursement.
- Q: **Jason Ziemer, Administrator, Maple Plain**
Is the \$3 Million Grant program amount sufficient to fund everyone with the minimum \$50,000 or 50% of their projects.
- R: Yes, based on the 46 eligible communities, if each applied for a grant with a total project amount of at least \$100,000, a total of \$2.3 Million would be encumbered (by Part 1 of the allocation process).
- Q: **Chuck Lewis, Brown and Caldwell Consultants**
Asked whether peak flow attenuation basins (storage) would be eligible for grant funds?
- R: Not as proposed, only those capital improvement costs associated with I/I mitigation work that removes sources would be eligible under the program.
- Q: **Jessie Struve, Utility Engineer, Edina**
Asked about the 50% eligibility for pipe lining versus the 100% coverage for joint sealing. In his opinion, joint sealing improvements frequently fail shortly after being completed, whereas pipe lining is more permanent and effective choice.
- R: Staff indicated that the proposed eligibility is consistent with the current I/I Local Mitigation Program. This was intentionally proposed to assist communities to satisfy any current I/I work mitigation plans and their surcharge expense requirements.

ATTACHMENT C – Written Comments received

From: Jesse Struve [mailto:JStruve@ci.edina.mn.us]
Sent: Wednesday, June 02, 2010 12:29 PM
To: Willett, Jason; Colvin, Kyle; Patricia Nauman
Subject: 20100602 Edina's comments on \$3 million grant program

Jason,

Here are my comments regarding the \$3 million I&I grant program.

1. First I would like to request the date for the submission of the Grant program be moved from Sept 15 to a later date (maybe sometime in December). This is because it will allow Cities a bit more time to process our options on how we want to proceed. This will also allow us to utilize our own staff rather than having to use consultants to put together the project.
2. We feel CIPP lining should be reimbursable for more than the 50% which is allowed in the current I&I reduction program. If we have a section of pipe where we see issues at every joint (for clay pipe this is every 2-3') and do a lining project we only get reimbursed 50%. If we however use joint repairs / grouting we would get 100% reimbursed. It also would probably be cheaper to line this section of pipe versus using joint repairs on all the joints. Also we have found that joint repairs are not as durable in the long term as CIPP lining. We request CIPP lining be either increased to 100% reimbursable or we can at least present the case for greater reimbursement if we can demonstrate it would be cheaper to use CIPP lining over joint repairs.
3. We also request that none of the funds are to be used for sanitary sewer service repairs. Even though a portion of the service is considered public infrastructure in many communities, we feel this would violate the MN statute which requires non-public benefit must be 5% or less. Even though some communities considered a portion of the service public infrastructure, it only serves one household and would benefit a private homeowner.

Thank you for your consideration.

Jesse Struve, PE
Utility Engineer
City of Edina

direct: 952.903.5713
fax: 952.826.0389
jstruve@ci.edina.mn.us

From: Clancy, Jeannine [mailto:JClancy@ci.golden-valley.mn.us]
Sent: Thursday, June 03, 2010 4:11 PM
To: Colvin, Kyle; Willett, Jason
Cc: 'Patricia Nauman'
Subject: Comment regarding Municipal Publicly Owned Infrastructure Grants Guidelines

Thanks for the opportunity to comment on the proposed referenced grant guidelines. I would like to suggest that I/I work done in the 2010 construction season be eligible. Therefore, cities could submit programs and invoices for work done beginning April 1, 2010.

I appreciate you considering this comment.

Jeannine Clancy | Director of Public Works | City of Golden Valley
7800 Golden Valley Road | Golden Valley, MN 55427 | 763-593-8035 | 763-593-3988(Fax) | 763-593-3968 (TTY) | jclancy@ci.golden-valley.mn.us

