

Eligibility in the PL84-99 RIP

The Rural LMA Work Group (WG) was established in late 2012 with the purpose of serving as a forum for the California Central Valley Flood Control Association to identify problems that are unique to rural areas and seek solutions for inclusion in the Regional Flood Management Plans. The Rural LMA WG identified eleven topics of interest and has prepared a paper describing each topic from the perspective of the Rural LMA WG. These papers continue to be developed by the Rural LMA WG and are therefore subject to revision.

Topic Statement

Inactive status in the Rehabilitation and Inspection Program (RIP) results in a loss of eligibility for Federal PL 84-99 rehabilitation assistance (i.e., funding) following an emergency event and Sponsors and LMAs would therefore be faced with rehabilitating damaged levees using all non-Federal funds. It is difficult for Rural LMAs to design, implement, and fund rehabilitation of levees following an emergency event without Federal assistance. If LMAs are unable to fund or otherwise implement repairs, it is unclear who would make the repairs and if this responsibility would fall on the State as the non-Federal sponsor.

Description of Topic

Levee systems are inspected through the USACE RIP. Systems that receive unacceptable ratings through either routine or periodic continuing eligibility inspections are placed on inactive status in the RIP which affects the amount and type of Federal funding assistance for which a non-Federal sponsor may be eligible following a flood event.

A system status of inactive in the RIP results in a loss of PL 84-99 rehabilitation assistance following a flood event. It does not necessarily result in a loss of FEMA NFIP certification or accreditation nor does it result in a loss of Federal assistance for emergency flood fighting. A system status of active in the RIP does not guarantee rehabilitation assistance will be provided, only that it is eligible. Rural LMAs may have difficulty meeting the benefit cost ratio requirements in order to receive the rehabilitation assistance.

Flood control works that are eligible for USACE's RIP program, either Active or Inactive, are ineligible for assistance from FEMA for emergency repairs and permanent restoration. Although, FEMA may provide assistance for the placement and removal of flood fighting measures (e.g., sandbags, buttresses) on flood control works that are eligible for USACE's RIP program if such activity is necessary to eliminate an immediate threat to life, public health and safety, or improved property.

Loss of eligibility in the PL 84-99 RIP would mean that the LMAs and the State of California would have to fully fund rehabilitation following a high water event. Neither the State nor the Rural LMAs do not have sufficient budgets to fund the increased rehabilitation costs and it is unlikely that the State.

The State now requires a local partnership agreement for many new projects including those funded under Propositions 1E and 84. Clauses in this agreement, also referred to as a "local O&M agreement", include a requirement for the LMA "to continue to participate in and comply with the policies and procedures of the

USACE Rehabilitation and Inspection Program” as well as Section 208.10. It is unclear how this requirement and the inability to meet this requirement affect rural LMAs.

Relevance to the RFMP

System-Wide Improvement Frameworks (SWIFs) provide one avenue to maintain eligibility in the RIP and thus receive rehabilitation assistance while addressing long-term maintenance or repair deficiencies. It is anticipated that several LMAs in the region will pursue SWIFs and thus it will be important to consider how implementation of these SWIFs will be funded and implemented to optimize system performance and resiliency.

Although development of SWIFs as part of the regional planning process is ineligible under the current guidelines, there may be regional or system-wide opportunities to address commonly identified deficiencies. For example, regions may consider appropriate vegetation standards in their region and develop a regional variance per those standards; the State may consider a cost-share funding program to assist rural LMAs in evaluating, repairing, and/or removing encroachments; there will be opportunities for regional projects to develop regional mitigation and or restoration areas to offset impacts of local repairs; or there may be opportunities for funding programs to obtain additional O&M easements in areas that have historically had less so that rural LMAs are able to adequately maintain the inspected areas in the future and thus maintain eligibility in the RIP.