

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

January 27 - 28, 2020

TO: Chairman and Members, Hawaiian Homes Commission
Through: Andrew Choy, Acting Planning Program Manager *K*
FROM: Gigi Cairel, Grants Specialist *GCairl*
Subject: For information only - US Department of Agriculture
Rural Development Water and Environmental Program
project financing

RECOMMENDED MOTION/ACTION

None; for information only.

BACKGROUND

The Department of Hawaiian Home Lands (DHHL) owns and operates four (4) water utility systems statewide. All are potable water systems, except for the Pu'ukapu system on Hawai'i island.

- Ho'olehua water system, Moloka'i
- Anahola Farm Lots water system, Kaua'i
- Kawaihae water system, Hawai'i
- Pu'ukapu (non-potable) water system, Hawai'i

The Ho'olehua and Anahola water systems are over 80 years old and 30 years old, respectively, and are in need of major capital improvements. These systems suffer from inconsistent water pressure to homestead lots, high energy costs, leaks, and exposure to security threats and vandalism.

In 2016 and 2018, US Department of Agriculture Rural Development (USDA RD) Water and Environmental Program (WEP) awarded over \$28 million in federal loan and grant funds to improve the Ho'olehua and Anahola Farm Lots Water Systems. DHHL committed to over \$16 million. Today, the estimated project costs are \$44.3 million - \$31.3 million for Ho'olehua and \$13 million for Anahola. DHHL is expected to advance funds for the projects and USDA RD will reimburse DHHL with WEP funds. See Exhibit A.

At the November 2018 Hawaiian Homes Commission (HHC) meeting, an informational workshop and submittals (Items H-1 and H-2) were presented and included project descriptions, costs, and project financing packages. See Exhibits B and C.

DISCUSSION

Anahola Farm Lots Water System improvements

Project need

- Aging infrastructure
 - 0.5 MG steel storage tank has reached its useful life
 - Replace distribution lines, meters, backflow preventers, fire hydrants
- Inconsistent water pressure
- Improve system safety and security
 - Emergency inter-tie with County water system is highly vulnerable to vandalism

Project objectives

- Increase operational efficiencies and system reliability
- Replace the 0.5MG steel storage tank with a 0.5MG concrete tank
- Address water pressure issues by creating dual pressure zone areas
- Repair/replace system components including distribution lines, fire hydrants, water meters and backflow preventers
- Improve system safety and security, particularly at the emergency inter-tie with the County system

The project will not add new users to the system or expand the current service area beyond the existing homesteads in the Bay View residential subdivision and the Anahola Farm Lots.

Ho'olehua Water System Improvements

Project need

- Aging infrastructure
- Low water pressure
- Un-accounted for water due to leaks
- High energy costs to run the well pumps
- System components are inaccessible 24/7
- System is vulnerable to vandalism
- Maintenance building is inadequate to store water system equipment and supplies

Project objectives

- Increase operational efficiencies and system reliability
- Reduce energy costs

- Achieve 24/7 access to system components
- Address water pressure issues
- Repair/replace system components
- Increase fire protection
- Improve system safety and security

The project will not add new users to the system or expand the current service area beyond the existing homesteads in Ho'olehua and Kalama'ula.

US Department of Agriculture Rural Development Water and Environmental Program

The USDA RD WEP provides funding for clean and reliable drinking water and waste disposal systems serving rural communities. The WEP program is widely used across the nation by rural towns and federally-recognized tribes, with populations of less than 10,000. But, in Hawaii, only DHHL, the County of Hawaii, and small, private homeowner associations have used WEP funds. USDA RD WEP is generally under-utilized in Hawaii, resulting in a reduction of federal budget allocations to the WEP over the years and WEP funds for Hawaii moved to other states with a waiting list of shovel-ready projects.

USDA RD WEP funds are used to serve the needs of current rural residents without access to safe drinking water and sanitary waste disposal systems. Consequently, new construction and lot development projects are usually not eligible for USDA RD WEP funds. But, in DHHL's case, USDA RD and DHHL reached an understanding that DHHL's planned, rural communities constituted a "virtual community" eligible for WEP funds.

USDA RD WEP funds are offered at very low-interest rates, up to a 40-year re-payment term and potentially funding 100% of a project using a combination of loans and grants. The combination of grants to loans depends on several factors, like borrower's ability to re-pay the loan, median household income of the project area, and the USDA WEP budget allocation for federal grant funds.

Congressional set-aside for USDA RD WEP grant funds for DHHL

Starting in federal fiscal year 2009/2010, Congress allocated \$5M per year to the USDA WEP budget for DHHL and residents of Hawaiian Home Lands (the DHHL Grant Set-Aside), then reduced to \$1 million per year and, finally, deleted from the USDA WEP budget. USDA RD informed DHHL that they do not have rules to award federal grant funds to fund all project costs with federal grant funds, except in certain locations and for emergencies.

Since 2008, DHHL partnered with Nā Kupa'a o Kūhiō (501c3 Nonprofit) to access the DHHL Grant Set-Aside. USDA RD awarded \$19 million to fund 7 water and sewer projects serving DHHL homesteads. For a complete and detailed list of projects and funding see Exhibit D.

After these projects were funded, DHHL learned that the DHHL Grant Set-Aside had accumulated to almost \$20 million, despite the funding of the 7 projects. DHHL then discovered that instead of using the DHHL Grant Set-Aside, USDA RD had used USDA RD National Office loan and grant funds and special funds from the American Recovery and Reinvestment Act (ARRA or "federal stimulus"). The only project funded by the DHHL Grant Set-Aside was the project for the DHHL Ka'ulu'okah'i homestead (formerly East Kapolei Increment IIB) of about \$1.5 million

In federal fiscal year 2015/2016, USDA RD informed DHHL that the \$5M annual grant set-aside was no longer allocated in USDA's budget and that the then \$20 million balance of the DHHL Grant Set-Aside would be "de-obligated" or returned to USDA RD and unavailable to DHHL. By federal statute, funds allocated but unspent after 5 years are de-obligated.

In 2016, DHHL submitted 3 applications (which included the DHHL Ho'olehua and Anahola water systems) to USDA RD to use the DHHL Grant Set-Aside. All applications were funded with the DHHL Grant Set-Aside in 2016, but \$3.6 million balance remained. USDA encouraged DHHL to apply for additional funds, so DHHL re-evaluated project costs. In 2018, DHHL applied for and received a combination of loan and grant awards under WEP, which completely draws down the DHHL Grant Set-Aside. Because the 2018 awards were a combination loan/grant, USDA reverted to their standard program.

Benefits and Challenges

Benefits for DHHL to use the USDA RD WEP program are as follows:

- Leverages State CIP and DHHL Trust resources (approximately 1.75 federal funds/ DHHL funds)
- Allows DHHL to implement improvements in a timely manner
 - Improvements are needed to protect public health and safety, increase operational efficiencies, and help keep water rates affordable for beneficiaries

Challenges to implement the USDA RD WEP funds are many, including the following summarized in Table 1 below.

TABLE 1
Challenges

Challenge	DHHL Response
5-year Federal statutory limit to spend down funds <ul style="list-style-type: none"> • 2016 grant award expires 2021 • 2018 loan/grant award expires 2023 	DHHL target to start construction by July 2020
WEP program rules has a prescribed order of priority on how funds are to be spent <ol style="list-style-type: none"> (1) DHHL contribution (2) USDA WEP Loan funds (3) USDA WEP Grant funds (2016) (4) USDA WEP Grant funds (2018) 	DHHL will advance its own funds
Interim construction loan	DHHL intends to self-fund construction.
USDA WEP grant funds disbursed by reimbursement	DHHL may request to be reimbursed as frequently as monthly
State versus Federal construction documents	DHHL and USDA negotiated final documents
Federal loan documents	DHHL and USDA currently negotiating

NEXT STEPS

Implement the USDA RD WEP Funds

WEP has a prescribed priority order on how project funds are to be spent and how USDA RD disburses WEP funds. For the DHHL projects, the following is the WEP prescribed order. Refer to Exhibit E for Anahola and Exhibit F for Ho'olehua.

- Priority 1 - Applicant contribution (2016 commitment)
- Priority 2 - USDA RD WEP Supplemental Loan (2018 award)
- Priority 3 - USDA RD WEP Grant Set-Aside (2016 award)
- Priority 4 - USDA RD WEP Supplemental Grant (2018)

It is DHHL's intent to fully utilize all WEP loan and grant funds. However, DHHL is aware that WEP has a stipulation that should there be remaining funds at construction completion, USDA may de-obligate such funds. Per WEP rules, any reduction in funds will be first applied to the oldest USDA RD grant award, which also happens to be the WEP Set-Aside. For the DHHL projects, the amount of un-used funds will be first taken out from the 2016 grant, then the 2018 grant. If there are more un-used funds, then WEP loan funds will be applied as an extra payment towards the USDA RD loan.

Execute DHHL construction contracts

In 2016, USDA RD obligated only grant funds to DHHL, with a DHHL contribution of its own funds. USDA RD regulations required DHHL, as a state agency, to use its own State of Hawaii

construction documents as opposed to the federal standard construction documents. Only the Anahola Phase 1 project was bid out and contract executed in July 2018 using State of Hawaii documents. In September 2018, for both projects, DHHL was awarded additional funds in a combination of WEP loan and grant funds. USDA RD notified DHHL that the department was no longer exempted from using the Federal standard documents.

As of January 9, 2020, USDA RD concurred on a modified set of construction documents.

DHHL to negotiate, finalize and execute USDA RD WEP loan documents

In November 2018, HHC delegated authority to the Chairman to negotiate with USDA RD the final loan terms and conditions and to execute related loan documents. DHHL is currently reviewing the loan documents.

CONCLUSION

The department is in continuous communication with USDA RD to address these matters above and is working diligently and collaboratively to find mutually-agreeable alternatives. The primary benefit to accessing the USDA RD federal funds today is to leverage DHHL resources that would otherwise be used for new homestead lot development to address the applicant wait list. Total federal funds for these two projects is \$28.2 million - \$11.5 federal loan and \$16.7 federal grant.

RECOMMENDATION

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