

Changes to the modified language are shown in double underline for new text and double strikethrough for deleted text.

**California Code of Regulations**  
**Title 14. Natural Resources**  
**Chapter 15. Off-Highway Motor Vehicle Recreation Grants and Cooperative**  
**Agreements Program Regulations**

**4970.01. Definitions.**

The words used in this chapter have the following meanings whenever the words are capitalized:

- (a) "Act" means the Off-Highway Motor Vehicle Recreation Act of 2003, as amended, commencing at PRC Section 5090.01, or any subsequent amended versions.
- (b) "Applicant" means any entity identified in Section 4970.03.
- (c) "Application" means a compilation of required information submitted in conformance with these regulations to support a request for funding from the OHMVR Division's Grants program for proposed Project(s).
- (d) "Audit" means a comprehensive review ~~in accordance with Generally Accepted Auditing Standards (GAAS), developed by the American Institute of Certified Public Accountants (AICPA) and the Government Auditing Standards issued by the United States (U.S.) General Accounting Office.~~ The Audit is a review of the Grantee's relevant financial records under the Project Agreement, performed by the Department of Parks and Recreation Audits Office staff or other Department's designee to determine that they support the expenditures authorized in the Project Agreement.
- (e) "CEQA" means the California Environmental Quality Act, Public Resource Code (PRC) Section 21000 et seq.; Title 14, CCR, Division 6, Chapter 3, Article 20.
- (f) "Conservation" means activities, practices, and programs that protect and sustain soils, plants, wildlife, habitats, and cultural resources in accordance with the standards adopted pursuant to PRC Section 5090.35.
- (g) "Cooperative Agreement" means an agreement between the OHMVR Division and a federal agency or a Federally Recognized Native American Tribe for the purposes authorized and defined in PRC Section 5090.50 and these regulations.
- (h) "Cultural Resources" are associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage; are associated with the lives of persons important in our past; embody the distinctive characteristics of a type, period, region, or method of construction, or represent the work of an important creative individual, or possess high artistic values; or have yielded, or may be likely to yield, information important in prehistory or history. Cultural Resources also include historical resources. Historical resources include, but are not limited to, any object, building, structure, site, area, place, record, or manuscript that is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California. A resource shall be considered by the lead agency to be "historically significant" if the

resource meets the criteria for listing on the California Register of Historical Resources (PRC Section 5024.1, Title 14 CCR, Section 4852).

- (i) "Deliverables" means the specific tangible outcomes or work products to be provided, acquired, or produced with the funds made available pursuant to the Project Agreement. Examples include the purchase of a specified property, installation of specified erosion control measures, construction of a restroom, construction of a specified length of fencing, production of a specified number of maps, purchase of specified Equipment, Restoration of a specific area, maintenance of a specific length of trail, completion of research resulting in a written report, and planning that results in a report or reports including any related specified documents.
- (j) "Development" means the construction of new, and/or improvement of existing Facilities to improve existing or provide additional opportunities, experiences, or services for OHV Recreation.
- (k) "District" means a public or quasi-public governmental entity formed according to law whose mission includes clear legal responsibility for open space, recreation, parks, and resource-related activities that are land based.
- (l) "Division Website" means the internet page of the OHMVR Division located at [www.ohv.parks.ca.gov](http://www.ohv.parks.ca.gov).
- (m) "Due Diligence" means to conduct or cause to be conducted an investigation of all aspects of property proposed to be acquired and/or developed using OHV Trust Funds, including investigating the suitability of the property for the intended use, and all critical facts and assumptions used in developing the proposed Project that would assist in evaluating the success of the Project in providing OHV Recreational opportunities and to avoid and/or minimize potential risks that could impair the future sustainability of OHV Recreation.
- (n) "Ecological" means the interdependence of living organisms within the ecosystem in which the OHV use exists, including the interrelationship and interactions between and among the natural and Cultural Resources and the human activities relating to or affected by OHV use.
- (o) "Education" means comprehensive programs that teach OHV safety, environmental responsibility, and respect for private property.
- (p) "Educational Institution" means a public or private preschool, elementary, or secondary school, college or university, or institution; the governing board of a school district; or any combination of school districts or counties recognized as the administrative agency for public elementary or secondary schools.
- (q) "Equipment" means tangible property that has a normal useful life of at least one year and has a unit acquisition cost of at least \$5,000 (e.g., five identical assets which cost \$1,000 each, for a total of \$5,000, would not meet the requirement). Equipment must be motorized and does not include expendable items such as personal safety gear, or tires.
- (r) "Facility" means the assets of an organization that include: buildings, trails, roads, grounds, parking facilities, and structures such as shade structures, fences, trash enclosures, cattle guards, etc., and includes the systems that support facilities (fuel, electrical, sewer, water, waste, etc.).

- (s) "Federally Recognized Native American Tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native Village pursuant to Title 25, Code of Federal Regulations (CFR) Section 83.5(a).
- (t) "Good Standing" means that the Grantee is at all times adhering to the statutes and regulations governing the Grants and Cooperative Agreements Program and that the Grantee does not have any outstanding refund(s) due to the Department from any other grant(s) program(s) administered by the Department.
- (u) "Grant" means a local agency grant between the OHMVR Division and a city, county, District, State Agency, Educational Institution, State Recognized Native American Tribe, Certified Community Conservation Corps, or Nonprofit organization for the purposes as authorized and defined in PRC Section 5090.50 and these regulations or a Cooperative Agreement between a federal agency, or a Federally Recognized Native American Tribe, and the OHMVR Division.
- (v) "Grantee" means a recipient of a Grant.
- (w) "Ground Disturbing Activity" means any earth moving Project-related activity. The act of installing and/or replacing a sign, placing of boulders or other materials (other than fencing) to delineate a Facility, maintenance or replacement of existing fence lines that do not require disturbance beyond replacement of fence posts and wire or existing component, or sweeping sand/dirt from a paved road are not considered a "Ground Disturbing Activity".
- (x) "Habitat Management Program (HMP)" means an animal and plant wildlife habitat protection program designed to sustain a Viable Species Composition for the Project Area, pursuant to PRC Sections 5090.50 and 5090.53.
- (y) "Heavy Equipment" means self-propelled, self-powered or pull-type equipment and machinery, including generators weighing 5,000 pounds or more, primarily employed for construction, industrial, and forestry uses (e.g., water tender, backhoe, mini-excavator, and SWECO tractor).
- (z) "Inconsequential Defect" means a defect that, when corrected, does not provide the Applicant an unfair advantage.
- (aa) "Indirect Costs" means the cost of any activity that does not directly result in the completion of the ~~PPP~~Project and/or the management or administration of a ~~PPP~~Project (e.g., utility costs, accounting services, contract administration, postage, management personnel, telephone bills, etc.).
- (bb) "Land Manager" means an entity legally responsible for the proposed Project Area.
- (cc) "Medical" means a person requested medical aid and was treated by emergency service personnel.
- (dd) "NEPA" means the National Environmental Policy Act pursuant to United States Code Title 42, Section 4371; 40 CFR part 1500.1 et seq.
- (ee) "Nonprofit" means an organization having tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code (IRC).
- (ff) "OHV" means an off-highway motor vehicle as specified in California Vehicle Code (CVC) Section 38006.
- (gg) "OHV Opportunities" means roads, trails, or areas on lands that are open to legal OHV Recreation.

- (hh) "OHV Recreation" means the activity of driving or riding motorized vehicles, on lands to which CVC Division 16.5 applies, for leisure purposes including motorized off-highway access to non-motorized recreation activities.
- (ii) "On-line Grant Application (OLGA)" means the OHMVR Division's web-based application system that guides Applicants through the Application process. OHMVR Division staff provides technical support for Applicants as needed.
- (jj) "Project" means the activities and Deliverables described in the Project Application to be accomplished with funding, through a Project Agreement, which includes both Grant funds and matching funds, a Project Agreement.
- (kk) "Project Agreement" means a contract executed between a Grantee and the Department to formally implement a Project.
- (ll) "Project Area" means the physical boundaries within which the activities will be performed and Deliverables will be accomplished as described in the Project Agreement.
- (mm) "Project Description" means the work plan that details the activities and Deliverables to be conducted by the Applicant as part of the Project.
- (nn) "Repair" means to fix, mend, make new, or revitalize to the condition of the habitat that existed prior to authorized or unauthorized OHV use and related damage.
- (oo) "Restoration" means upon closure of the unit or any portion thereof, the return of land to the contours, the plant communities, and the plant covers comparable to those on surrounding lands or at least those which existed prior to OHV use.
- (pp) "Restoration Planning" means identifying appropriate restoration techniques, strategies, and Project implementation, including environmental review associated with the Project.
- (qq) "State Recognized Native American Tribe" means a non-federally recognized tribe that is listed on the Tribal Contact List maintained by the Native American Heritage Commission.
- (rr) "Viable Species Composition" means that species found in the Project Area have populations with the estimated numbers and distribution of reproductive individuals to enable their continued existence.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code. Reference: Sections 5020.1(j), 5024.1, 5090.07, 5090.10, 5090.11, 5090.32, 5090.35, 5090.50, 5090.53, Public Resources Code; Sections 38001 and 38006, Vehicle Code; 25 CFR Section 83.5(a); Sections 210.3 and 66010.4, Education Code; and U. S. IRC Section 501(c)(3).

#### **4970.05.1. General Application Requirements.**

- (a) The ~~2008~~ Grants and Cooperative Agreements Program Regulations – Appendix (Rev. ~~4/19~~1/21) (hereinafter Appendix) and all of its contents and subsequent revisions adopted through the rulemaking process are hereby incorporated by reference.
- (b) Applications shall establish how each proposed Project is directly related to OHV Recreation in the Project Area specified in the Application. Proposed Projects will

- be screened by the OHMVR Division prior to scoring. Those Applications that do not establish a direct relation to OHV Recreation shall be rejected.
- (c) Subject to the discretion of the OHMVR Division as specified in Section 4970.07.2, any Application determined by the OHMVR Division to be non-compliant with these requirements may be disqualified.
  - (d) Each Applicant may submit only one (1) Application for each Grants Cycle. The Application may contain multiple Projects.
  - (e) Applicants shall undertake a public review process of their Application and complete the Public Review Process (Rev. 1/21) form (refer to Appendix, incorporated by reference).
    - (1) All preliminary Applications shall be available on the Division Website the day following the Application deadline for public review and comment.
    - (2) Applicant shall notify the public of the opportunity to review and comment on the ~~P~~preliminary Application no sooner than the start of the current Grants Cycle and no later than the first Tuesday following the first Monday in March. The notice shall include instructions for accessing the Division Website for Application review and public comments. Public notification efforts shall include at least one of the following:
      - (A) Notice mailed and/or emailed to those persons the Applicant determines most likely to have an interest in or be affected by the Application, and to those who have requested notice,
      - (B) Publication on Applicant's website,
      - (C) Publication in local newspaper,
      - (D) News release,
      - (E) Public meeting or hearing conducted by the Applicant, held either in-person or virtual.
    - (3) Public comments shall be submitted to the Applicant and the OHMVR Division.
    - (4) Public comments shall be received no later than 5:00 pm Pacific standard time on the first Monday in May.
  - (f) All Applicants shall provide matching funds or the equivalent value of services, or material, in an amount not less than twenty-five percent (25%) of the total Project cost as identified on the Project Cost Estimate (Rev. 1/11) (refer to Appendix, incorporated by reference), except for the category of Restoration, which shall not be less than ten percent (10%) of the total ~~pp~~Project cost.
    - (1) All items of expense applied ~~towards match~~towards match must directly further the activities and Deliverables described in the Project Application and be accomplished with funding through a Project Agreement and shall be documented the same as any other item of expense.
    - (2) The same match expenses shall not be duplicated for multiple Projects.
    - (3) Cash value for volunteer time shall be determined using, and shall not exceed, the Independent Sector California volunteer hourly time rate as of the start of the Grants Cycle for which the cost is being requested~~agency's hourly reimbursement rate for the paid classification that most closely matches the duties performed by the volunteer.~~ Information on the

Independent Sector California volunteer hourly time rate can be found on the Division Website.

- (4) Cash value for salaried employee time shall be based on the agency's hourly reimbursement rate for the classification.
- (45) Any item of expense that would be eligible as a Project cost is also eligible as a match.
- (g) All Applicants shall provide a Project Cost Estimate (Rev. 1/11) (see refer to Appendix, incorporated by reference) for each requested Project.
- (h) All Applicants shall complete an inventory of Equipment ~~for items purchased with OHV Trust Funds acquired with funds from this Grants program within the last five years still in use.~~
- (i) All Applicants, except those applying solely for law enforcement, shall complete the Applicant Certifications.
- (j) Additional requirements within the Appendix, incorporated by reference, shall be completed as applicable.
- ~~(k) Nonprofit organizations shall provide documentation, in the form of an Internal Revenue Service (IRS) letter of determination or publication on the official IRS website, verifying current IRC, Section 501(c)(3) status.~~
- ~~(k)~~ An Applicant applying for a Grant involving activities on any public lands not managed by the Applicant shall include written permission from the Land Manager authorizing the Applicant to conduct the proposed Project ~~and a description of how the Project fits with the land management goals of the area.~~
  - (1) The written permission must be on Land Manager's letterhead and signed by the authorized representative of the Land Manager.
  - (2) The written permission shall contain a current signature and date. The date of required letter must not be more than six (6) months prior to the beginning of the Grants Cycle for that Project in which the Project will be applied for and no later than the Preliminary Application submission date.
  - (3) The written permission must specifically identify the proposed Project(s) and a description of how the Project(s) fits with the land management goals of the area.
- ~~(m)~~ All city, county and District Applicants shall submit a governing body resolution providing approval to receive ~~for a~~ Grant funding from the OHV Trust Fund.
- ~~(m)~~ All Applicants shall comply with the environmental application requirements contained in Section 4970.06.
- ~~(o)~~ Nonprofit organizations shall provide IRS Form 990 (or something to the equivalent) from the previous year.
- ~~(p)~~ Certified Community Conservation Corps shall provide the official certification letter received from the California Conservation Corps indicating certification status.
- (o) An Applicant under Departmental, local government, or Attorney General investigation for a violation of these regulations, use of documented unsound business practices, or under allegations of fraud, may not submit an Application until and unless the investigation is complete and any monies have been repaid.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code. Reference: Sections 5090.32 and 5090.50, Public Resources Code

**4970.06.1. California Environmental Quality Act (CEQA) Requirements and National Environmental Policy Act (NEPA) Requirements.**

- (a) The OHMVR Division is required to comply with CEQA before approving each Grant.
- (b) When a Project request is for funding both CEQA and/or NEPA requirements and actual Project Deliverables, the Project shall be undertaken and funded in two phases as follows:
  - (1) The first Project phase funds the CEQA and/or NEPA activities, and
  - (2) The second Project phase will fund the ~~d~~Deliverables, as approved and conditioned by the outcome of the CEQA and/or NEPA document, once the CEQA and/or NEPA conclusions result in a decision to proceed with the Project Deliverables and the OHMVR Division gives prior approval.
  - (3) Other than CEQA and NEPA activities, no Project Deliverables will be funded until a CEQA review has been completed for the entire Project.
- (c) For city, county, District, State Agency, Educational Institution, State Recognized Native American Tribes, Certified Community Conservation Corps, and Nonprofit organization Applicants only:
  - (1) All city, county, District, State Agency, Educational Institution, State Recognized Native American Tribes, Certified Community Conservation Corps, and Nonprofit organization Applicants shall provide the required documentation for the OHMVR Division to determine that CEQA compliance has been met for each Project. CEQA compliance shall be determined by submitting one of the following for each Project:
    - (A) An Environmental Review Data Sheet (ERDS) documenting the Project is phased pursuant to Section 4970.06.1(b). A subsequent ERDS shall be prepared prior to OHMVR Division approval of the second Project phase if a Notice of Determination (NOD) has not been filed at that time, or
    - (B) A Notice of Exemption (NOE) finding that the Project is exempt from CEQA that has been filed for the Project consistent with CEQA Guidelines Section 15062, together with responses to questions required in the ERDS, or
    - (C) An Initial Study/Negative Declaration (IS/ND) or an Initial Study/Mitigated Negative Declaration (IS/MND) for activities that are not categorically exempt, but fit within the definition of activities that may be covered by a Negative Declaration (ND) under CEQA, together with a copy of the NOD filed for the Project, or
    - (D) An Environmental Impact Report (EIR) if the proposed activity poses a potentially significant impact as defined in an IS/ND checklist, or meets any of the tests for mandatory findings of significance under CEQA (PRC Section 21083; CEQA Guidelines Section 15065), together with a copy of the NOD filed for the Project, or

- (E) Other documentation indicating the requirements of CEQA have been satisfied or the reasons the Applicant believes the Project is categorically exempt or not subject to the CEQA review (CEQA Guidelines Sections 15061(b)(3) or 15378).
- (2) Within 45 calendar days of the final Application submission, the OHMVR Division shall review the Application for environmental compliance.
  - (A) If the OHMVR Division needs to clarify information provided pursuant to Section 4970.06(c)(1), the OHMVR Division shall submit in writing a request for such information from the Applicant. The OHMVR Division shall request the Applicant provide the additional information in writing to the OHMVR Division within ten (10) calendar days of receipt of the request.
  - (B) Applicants that do not return the requested additional information within the ten (10) calendar day limit may have their Applications returned without further processing.
- (3) Notwithstanding 4970.06.1(c)(1), where the Applicant is not a lead agency and CEQA compliance has not otherwise been met, the Applicant shall provide responses to questions required in the ERDS for each Project, and shall also provide adequate information to the OHMVR Division to make a sufficient Project review to determine the appropriate level of CEQA compliance and any additional environmental documentation required.
  - (A) Within 45 calendar days of the final Application submission, the OHMVR Division shall review all Projects to determine what additional documentation or information is required for the OHMVR Division to complete the requirements for CEQA, with an assessment of the amount of further CEQA analysis and compliance that may be required. The OHMVR Division cannot commit to completing the added CEQA work needed if the time and resources required exceed the time and resources available to complete the Application selection process.
  - (B) If the OHMVR Division determines that it cannot complete the necessary additional CEQA work, it reserves the right to inform the Applicant in writing and return the Application and supporting materials.
  - (C) If the OHMVR Division determines that additional information is required for the Project to comply with CEQA and that such work may be completed with existing resources and within the timeframe for the Application process, it will request such additional documentation from the Applicant be returned within ten (10) calendar days of the written request.
- (1) Applicants who do not return the requested additional information within the ten (10) day time limit may have their Applications returned without further processing.
- (2) For those Applications that are accepted for further CEQA compliance, the OHMVR Division shall use its best efforts to cause the CEQA compliance



work to be completed. However, the OHMVR Division cannot guarantee the Project will be certified as CEQA compliant. Also, the OHMVR Division reserves the right to cease CEQA compliance work if it determines the Project may not be funded in light of the Project evaluation and scoring process and submission of the Project to the OHMVR Division for review and approval.

- (d) For federal agencies or Federally Recognized Native American Tribe Applicants only:
- (1) All federal agencies and Federally Recognized Native American Tribe Applicants shall submit an analysis of the environmental impacts of the proposed Project comparable with the requirements of CEQA.
    - (A) Completed Project-related NEPA, which must include a signed decision memo, finding of no significant impact, or record of decision, must be submitted.
    - (B) Clearly identify which sections are relevant to the Project.
    - (C) Submit responses to the ERDS.
    - (D) If the Applicant is requesting funding for NEPA or other comparable document preparation per Section 4970.06.1(b) prior to implementing the remaining Project Deliverables, the Applicant shall submit an ERDS documenting the Project is phased pursuant to Section 4970.06.1(b). A subsequent ERDS shall be prepared prior to OHMVR Division approval of the second Project phase if a NOD has not been filed, by the OHMVR Division or other CEQA lead agency, at that time.
  - (2) Within 45 calendar days of the final Application submission, the OHMVR Division shall review all Projects to determine what additional documentation or information is required for the OHMVR Division to complete the requirements for CEQA, with an assessment of the amount of further CEQA analysis and compliance that may be required. The OHMVR Division cannot commit to completing the added CEQA work needed if the time and resources required exceed the time and resources available to complete the Application selection process.
    - (A) If the OHMVR Division determines that it cannot complete the necessary additional CEQA work, it reserves the right to inform the Applicant in writing and return the Application and supporting materials.
    - (B) If the OHMVR Division determines that additional information is required for the Project to comply with CEQA and such work may be completed with existing resources and within the timeframe for the Application process, it will request such additional documentation from the Applicant be returned within ten (10) calendar days of the written request.
    - (C) Applicants who do not return the requested additional information within the ten (10) day time limit may have their Applications returned without further processing.

- (D) For those Applications that are accepted for further CEQA compliance, the OHMVR Division will use its best efforts to cause the CEQA compliance work to be completed. However, the OHMVR Division cannot guarantee the Project will be certified as CEQA compliant. Also, the OHMVR Division reserves the right to cease CEQA compliance work if it determines the Project may not be funded in light of the Project evaluation and scoring process and submission of the Project to the OHMVR Division for review and approval.
- (e) An agency may not rely on mitigation measures as a basis for concluding a Project is categorically exempt.
- (f) When an ERDS is required, one ERDS shall be provided for each individual Project, even if more than one (1) Project falls under the same Project type. If an individual Project addresses more than one (1) site, every site under that Project shall be clearly addressed in the ERDS.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code. Reference: Sections 5090.02, 5090.32, 5090.50(d)(4), 5090.53 and 21000 et seq., Public Resources Code; USC Title 42, Section 4371; and 40 CFR part 1500.1 et seq.

**4970.08. Eligible Project Costs.**

- (a) Eligible Project costs are the costs directly or indirectly related to the work identified in the Project Description. Additionally, the Applicant-Grantee may receive reimbursement up to fifteen percent (15%) of the requested amount direct funded amount for Indirect Costs.
- (b) Examples of eligible costs include, but are not limited to:
  - (1) For acquisition ~~PPP~~Projects only, preliminary acquisition costs for contract preparation, acquisition appraisal, and negotiation.
  - (2) Costs for an employee directly engaged in OHV Project implementation, or the first level supervisor of said employee, subject to the following:
    - (A) Costs shall be computed according to the prevailing wage (for contracted services) or salary scale (for Applicant's-Grantee's staff), and may include benefits (i.e., vacation, sick leave, and social security contribution) that are customarily charged by the Grantee or contractor. Personnel benefit ~~charges~~ costs shall be calculated in proportion to the actual time worked on an OHV Project.
    - (B) Costs charged to an OHV Project shall be computed on actual time worked on the Project and supported by timesheets and attendance records or comparable documentation describing the work performed on the OHV Project.
    - (C) Costs for overtime are allowed under the Grantee's established overtime policy.
    - (D) Costs for direct Project supervision.
  - (3) Stipends paid as per diem costs to volunteers only when a volunteer is working at a remote location for three or more consecutive days. A remote location is considered to be further than fifty (50) miles from

volunteer's headquarters. Per diem allowances shall be as stated in Section 4970.08(b)(4).

- (4) Travel expenses and per diem for federal agencies shall follow the policies of the federal agency requesting the funds with regard to travel reimbursement and shall not exceed the established federal rates. All non-federal agency ~~Applicants~~ Grantees shall follow the policy established by the State of California for its employees with regard to travel reimbursement and shall not exceed the rates paid to Exempt, Excluded, and Represented State of California employees. The State of California travel reimbursement rates are posted on the California Department of Human Resources website located at <http://www.dpa.ca.gov/personnel-policies/travel/hr-staff.htm> [www.calhr.ca.gov](http://www.calhr.ca.gov).
- (5) Supplies and materials, including personal safety items, may be purchased for a specific OHV Project or may be drawn from a central stock, provided the items are claimed at a cost no higher than the original purchase price paid by the Grantee.
- (6) Construction activities, from site preparation (e.g., demolition, excavation, grading, etc.) through completion of the structure or Facility.
- (7) Relocation costs that result from the displacement of a person and/or business, in accordance with California Government Code Sections 7260-7277 or the agency's applicable law if different from California law.
- (8) Grantee insurance premiums for hazard and liability insurance for an OHV Facility.
- (9) ~~Transportation costs for moving~~ The cost of transporting material(s), supplies, and personnel from a location outside the Project Area to and from a Project site.
  - (A) Nonprofit Grantees shall be limited to reimbursement for cost of transportation to and from the Project site, up to one hundred (100) miles in each direction. Any cost exceeding the 100 mile maximum may be claimed only as match. All transportation costs shall be stated as a "per mile" charge cost in the Project Cost Estimate (Rev. 1/11) (refer to Appendix, incorporated by reference) and shall not exceed the federal-Internal Revenue Service standard mileage business rate provided as of the start of the Grants Cycle for which the cost is being requested.
  - (B) All other Grantees may be reimbursed for cost of transportation from base of operations to Project site. The base of operations is considered the centralized location where the majority of Equipment is stored.
- (10) Preparation and publication of maps, videos, and/or handouts may be included as part of any related Project. Maps, videos and/or handouts that display the OHV Trust Fund logo shall be reviewed and approved by the OHMVR Division prior to publication.
- (11) Rent or lease of facilities or Equipment to directly complete the Project, provided that the rental or lease shall be fair market value or Grantee's actual cost, whichever is less. Rental or lease of facilities and shall be

proportionate to the area of the facility used for the Project. Utilities to operate these facilities are eligible provided the utilities are documented separately from any rent or lease costs. Facilities not required in order to directly complete the Project shall only be eligible as an indirect cost.

- ~~(12) Equipment cost for Nonprofit Grantee.~~  
~~When claiming a “per mile” fee, it shall be stated as a “per mile” charge in the Project Cost Estimate and shall not exceed the federal Internal Revenue Service standard mileage business rate provided as of the start of the grant cycle for which the cost is being requested.~~
- ~~(A) The maximum Grant requested for Equipment purchases shall not exceed \$30,000 per Applicant.~~
- ~~(B) All Equipment purchases shall list the State of California, Department of Parks and Recreation, OHMVR Division as the lien holder and the Grantee shall obtain OHMVR Division approval prior to disposition.~~
- ~~(C) The cost of Equipment shall be necessary for the Project and shall not exceed the minimum requirements necessary to successfully accomplish the Project.~~
- ~~(D) Equipment acquired solely with funds outside this Grants program.~~
  - ~~1. A daily use fee may be charged in accordance with the Applicant’s local fair market rental rates but shall never exceed the Grantee’s actual cost, and/or~~
  - ~~2. A per mile fee for the cost of operating Equipment during Project activities may be charged for a maximum of one hundred and fifty (150) miles per day. Any amount beyond the 150 mile maximum amount may only be charged as match.~~
- ~~(E) Equipment acquired within this Grants program.~~
  - ~~1. A daily use fee may not be charged.~~
  - ~~2. A per mile fee may be charged for the cost of operating Equipment up to the amount listed in 4970.08(b)(12)(D)(2).~~
- ~~(F) Grantee may charge a per mile fee, up to 100 miles in each direction, for transporting Equipment to and from the Project site.~~
- ~~(G) Heavy Equipment acquired solely with funds outside this Grants program.~~
  - ~~1. A daily use fee may be charged according to Applicant’s local fair market rental rates, but shall never exceed the Grantee’s actual cost; the use fee shall cover the use of the Heavy Equipment and general maintenance during the duration of the Project.~~
  - ~~2. Tires and major repairs may be requested after justifying need to and approval by the OHMVR Division prior to purchase. In order to justify the need for tires, the Grantee must provide photos showing the condition of the tires needing replacement; photos must include the tires and the piece of Heavy Equipment on which the tires are installed.~~

~~For major repairs, the Grantee must provide a financial analysis explaining why the repair is more cost effective than the purchase of a new piece of Heavy Equipment.~~

- ~~(H) Heavy Equipment purchased with funds from this Grants program.
  1. Grantee may not charge a use fee.
  2. Tires and major repairs may be requested after justifying need to and approval by the OHMVR Division prior to purchase. In order to justify the need for tires, the Grantee must provide photos showing the condition of the tires needing replacement; photos must include the tires and the piece of Heavy Equipment on which the tires are installed. For major repairs, the Grantee must provide a financial analysis explaining why the repair is more cost effective than the purchase of a new piece of Heavy Equipment.~~
- ~~(I) Grantee may charge an amount to transport Heavy Equipment from the Heavy Equipment's normal storage location to the Project site. The amount shall be based upon the Applicant's local fair market costs for such transportation.~~
- ~~(13) Equipment cost for all other Grantees
  - ~~(A) The cost of Equipment shall be necessary for the Project and shall not exceed the minimum requirements necessary to successfully accomplish the Project.~~
  - ~~(B) Equipment acquired solely with funds outside this Grants program.
    1. A daily use fee may be charged in accordance with the Applicant's local fair market rental rate but shall never exceed the Grantee's actual cost.
    2. A per mile for the cost of operating Equipment during Project activities may be charged but shall never exceed the Grantee's actual cost.~~
  - ~~(C) A daily use fee may not be charged for Equipment purchased with funding from this program. A per mile charge is allowed for the cost of operating Equipment.~~
  - ~~(D) Grantee may charge a per mile fee for transporting Equipment from base of operations to Project site. The base of operations is considered the centralized location where the majority of Equipment is stored.~~
  - ~~(E) Heavy Equipment acquired solely with funds outside this Grants program.
    1. A daily use fee may be charged according to Applicant's local fair market rental rates, but shall never exceed the Grantee's actual cost; the use fee shall cover the use of the Heavy Equipment and general maintenance during the duration of the Project.
    2. Tires and major repairs may be requested after justifying need to and approval by the OHMVR Division prior to purchase. In order to justify the need for tires, the Grantee~~~~

~~must provide photos showing the condition of the tires needing replacement; photos must include the tires and the piece of Heavy Equipment on which the tires are installed. For major repairs, the Grantee must provide a financial analysis explaining why the repair is more cost-effective than the purchase of a new piece of Heavy Equipment.~~

- ~~(F) Heavy Equipment acquired with funds from this Grants Program.
  - 1. Grantee may not charge a use fee.
  - 2. Tires and major repairs may be requested after justifying need to and approval by the OHMVR Division prior to purchase. In order to justify the need for tires, the Grantee must provide photos showing the condition of the tires needing replacement; photos must include the tires and the piece of Heavy Equipment on which the tires are installed. For major repairs, the Grantee must provide a financial analysis explaining why the repair is more cost-effective than the purchase of a new piece of Heavy Equipment.~~
- ~~(G) Grantee may charge an amount to transport Heavy Equipment from the Heavy Equipment's normal storage location to the Project site. The Amount shall be based upon the Applicant's local fair market costs for such transportation.~~
- ~~(H) The per mile fee shall not exceed the federal Internal Revenue Service standard mileage rate provided as of the start of the Grant Cycle for which the cost is being requested.~~

~~(1412) Costs associated with site-specific Project planning such as design, permitting, or CEQA or NEPA analysis.~~

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code. Reference: Sections 5090.32 and 5090.50, Public Resources Code.

#### **4970.09. Ineligible Project Costs.**

- (a) Costs not associated with the Project Description are not eligible for reimbursement.
- (b) Examples of ineligible Project costs include, but are not limited to:
  - (1) Expenditures outside the Project performance period as specified in the Project Agreement,
  - (2) Any purchase made and not directly used on the Project as specified in the Project Agreement may be disallowed.
  - ~~(23)~~ Work or services performed outside of the Project Description in the Project Agreement,
  - ~~(34)~~ Any interest expense, discount not taken, deficit or overdraft, or bonus payment,
  - ~~(45)~~ Charges-Costs for a contingency reserve or other similar reserve,
  - ~~(56)~~ A damage judgment against the Grantee,
  - ~~(67)~~ Workers' compensation claims,
  - ~~(78)~~ Travel claims not related to the Project,

- (89) Employee relocation (moving expenses resulting from duty station or assignment change),
  - (910) Charges incurred contrary to the policies and practices of the Grantee,
  - (4011) Any Project cost more appropriately funded by other OHMVR Division programs or reimbursed by any other funding source. No Grant funds and/or match funds shall be expended at any property owned and/or managed by the Department, with the exception of education and safety Project activities that teach children under the age of eighteen (18) OHV skills within State Vehicular Recreation Areas owned and/or managed by the Department, provided that the Department derives no financial value from the Project,
  - (4412) Awards, trophies, or plaques, or any other Project recognition activity,
  - (4213) Replacement or repair of Equipment not properly used, secured or maintained; or, where the OHMVR Division determines that the cause of the damage was the fault of the Grantee, and
  - (4314) Restoration Project funds shall not be used for the Development or maintenance of trails for motorized use.
- (c) If eligibility of costs ~~are~~ is in question, the ~~Applicant~~ Grantee ~~should~~ may seek clarification from the OHMVR Division.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code. Reference: Sections 5090.32 and 5090.50, Public Resources Code.

**4970.13. Education and Safety.**

- (a) Purpose  
Provide public awareness for responsible OHV Recreation and/or provide safety programs.
- (b) Available Funding  
Five percent (5%) of the funds appropriated by the Legislature for the Grants program shall be expended for Projects within the Education and safety category.
- (c) The minimum and maximum funding requests are as follows:
  - (1) The minimum Project request shall be no less than \$10,000, and
  - (2) The maximum request per Applicant is \$200,000 within the Education and safety category.
- (d) Eligible Applicants  
Refer to Table 1 in Section 4970.03(b).
- (e) Examples of Deliverables
  - (1) Education program Deliverables may include, but are not limited to the following:
    - (A) Classroom and/or field training,
    - (B) Maps and brochures,
    - (C) Internet website, trail and interpretive signage, and
    - (D) Voluntary sound testing station.
  - (2) Safety program Deliverables may include, but are not limited to the following:
    - (A) Search and rescue,

- (B) Safety equipment loan program, and
  - (C) First aid stations.
- (f) Project-Specific Application Requirements  
 In addition to the common requirements listed in Section 4970.05, Applications for Education and safety Projects shall include a Project Description. The Project Description shall provide sufficient clarity such that those not familiar with the Applicant or Project can understand what the Applicant intends to do. The description shall include:
- (1) Background  
 Provide a brief description of the Applicant or Land Manager's organization/program (e.g., location and types of recreation available),
  - (2) A list of Project Deliverables the Applicant proposes to undertake, including the primary message of Education projects,
  - (3) How the proposed Project relates to OHV Recreation and will add to, enhance, or otherwise sustain OHV Recreation or OHV Opportunity in the Project Area,
  - (4) Identification of the needs the Project will address,
  - (5) Location where training/services will be conducted, and
  - (6) If the proposed Project contains an Education element, a description of how the Project teaches OHV safety, environmental responsibility, and respect for private property.
  - ~~(7) If the proposed Project contains an Education element, identification of how the education follows the ATV Safety Institute, Motorcycle Safety Foundation, and/or Recreational Off Highway Vehicle Association curriculum or identification of a curriculum that is subject to approval by the Division~~
- (g) Optional Project-Specific Application Documents  
 If Applicants deem it helpful to support their specific Project Application, the following documents may be submitted:
- (1) Project-specific photos – up to two (2) pages, and/or
  - (2) Project-specific maps.
- (h) Evaluation Criteria  
~~See Refer to~~ Appendix, incorporated by reference, for Education and safety evaluation criteria Safety Criteria (Rev. 1/19).

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code. Reference: Sections 5090.32 and 5090.50, Public Resources Code.

#### **4970.17.1. Contingency Lists.**

After the awards of Grants are finalized for a particular Grants Cycle, at its sole discretion and upon funding availability, the OHMVR Division may create a Project contingency lists for the various Grant funding categories.

- (a) The lists shall be established through the competitive process during that Grants Cycle and shall include only Projects that fall below the Grant funding availability as published in the ~~Final~~ AAwards.
- (b) The list of Projects shall be listed in order of score, from highest to lowest.



- (c) Funds unencumbered from a Grant category from previous Grants Cycles shall only be used for the same Grant category in a contingency list.
- (d) Projects from the contingency list shall be funded as funds from previous Grants Cycles become available. Projects shall be funded in order of score until all funds are exhausted.
- (e) Applicants shall be in Good Standing at the time the contingency list is created in order to be placed on the list.
- (f) The contingency list shall expire at 5:00pm Pacific Time on the Friday before the start of the next Grants Cycle.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code. Reference: Sections 5090.32 and 5090.50(i), Public Resources Code.

**4970.19.4. Project Breach-Termination.**

- (a) Failure of a Grantee to comply with the terms and conditions of the Project Agreement may be treated by the OHMVR Division as a breach of contract. If the OHMVR Division determines there is a breach of ~~the Project Agreement~~ contract, the OHMVR Division shall give the Grantee written notification that the Grantee has thirty (30) calendar days from the date of written notification to cure the breach. If the Grantee does not cure the breach of contract or commence actions to cure the breach within thirty (30) calendar days or show diligent progress to cure the breach, the OHMVR Division may terminate the Project Agreement and void the OHMVR Division's obligations.
- (b) If the OHMVR Division determines a breach of contract was due to no fault of the Grantee, the OHMVR Division may waive reimbursement of funds paid or advanced or make payment for any work performed up to the date of Project Agreement termination. In the event of a breach of contract that the OHMVR Division waives, such waiver shall not serve to excuse the future performance of the breached term that was waived or performance of any other term of the Project Agreement.
- (c) ~~The Any terminated~~ Project shall remain subject to all record keeping and Audit requirements contained in these regulations.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code. Reference: Sections 5090.32 and 5090.50, Public Resources Code.

**4970.22. Accounting Practices.**

- (a) Record Keeping  
Grantees are responsible for maintaining all Project-related Project-related records in a condition to reliably support~~fiscal controls and fund accounting procedures based on Generally Accepted Accounting Principles approved by the AICPA, the Securities and Exchange Commission, the Financial Accounting Standards Board, and the American Accounting Association. Bill of Sale, Bill of Lading, or Collection Agreements are some examples of proof that materials or Equipment was received. Invoices are also considered valid proof that materials or Equipment was received. Purchase orders are not considered valid proof that~~

materials or Equipment have been received all costs incurred under the Project, both directly paid under the grant and match. This requirement extends to contractors and subcontractors providing goods or services under the Grant.

(b) Labor Costs

The Grantee shall document all labor, including all force account, match and volunteer time, on time sheets, or reports produced by an electronic timekeeping system.

(c) Transportation

A logbook or source document shall identify the operator, date of activity, items transported, number of miles charged to the Project, and contain a signature of the operator.

(ed) Equipment Use-Operation

A logbook or source document shall identify the operator, date of activity, work performed, ~~and number of miles~~ charged to the Project, and contain a signature of the operator.

(de) Record Retention

The Grantee shall retain all Project records, including, but not limited to, financial accounts, documents, and other records pertinent to the Project:

- (1) For three (3) years from the ~~expiration~~ Project Agreement end date of the Project Agreement, or
- (2) Until an Audit ~~started during the three (3) years following the expiration of the Project Agreement~~ has been completed; a final Audit report is published issued; and any Audit findings are resolved and/or payment or other correction made with regard to any Audit findings contained in the final Audit report.

(ef) Payment Advances

Advances shall be placed in a separate interest-bearing account (if the Grantee is legally able to do so). The interest accrued from this account shall be documented and shall only be expended in accordance with the Project Agreement. The unspent interest earned on the OHV Trust Funds shall be returned to the OHMVR Division at the end of the Project.

(fg) Matching Funds

- (1) Matching funds may include actual cash contributions toward the Project, cash value for volunteers or salaried employee hours, Indirect Costs, grants from sources other than this Grant Program, and expenditures of the OHV in-lieu of property tax funds. The match shall be directly related to the Project and must occur within the ~~per~~ Project performance period. The same match may not be used for more than one (1) Project.
- (2) Project costs identified as match shall be documented the same way as other Project expenditures. Volunteer hours of work and salaried employees shall be documented through a log or report identifying the name of the volunteer or employee, dates worked, hours worked, and duties performed. All logs shall have a current signature of both the volunteer and volunteer supervisor
- (3) Cash value for volunteer time ~~may~~ shall be determined using, and shall not exceed, the Independent Sector California volunteer hourly time rate

as of the start of the Grants Cycle for which the cost is being requested hourly reimbursement rate for the paid classification that most closely matches the duties performed by the volunteer. Information on the Independent Sector California volunteer hourly time rate can be found on the Division Website.

- (4) Cash value for salaried employee time shall be based on the agency's hourly reimbursement rate for the classification.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code. Reference: Sections 5090.32 and 5090.50, Public Resources Code.

#### **4970.23.1. Payment Advances.**

- (a) Generally, advances are not allowed. However, if extenuating circumstances exist, the OHMVR Division may consider granting an advance. To request an advance, the Grantee shall submit to the OHMVR Division an Advance Justification Request (New 1/19) and Payment Request DPR 364 (new 2019), ~~hereby incorporated by reference, (refer to Appendix, incorporated by reference)~~ to explain the need for the advance. The OHMVR Division will provide written notification to the Grantee of approval/disapproval for the advance. Requests for an advance typically may not be more than half the total amount of the Grant and shall include a summary list of proposed Project expenditures. The sum of the proposed Project expenditures shall match the amount indicated on the Payment Request form.
- (b) Subsequent requests for advances shall document how previous advance funds were expended as follows:
- (1) Purchases: paid invoices and/or receipts,
  - (2) Services: paid invoices and/or receipts,
  - (3) Timekeeping and equipment logs: transaction register or other electronically generated reports,
  - (4) Training and travel: paid invoices and/or receipts,
  - (5) A Project Accomplishment Report (~~new 2019~~), ~~hereby incorporated by reference (refer to Appendix, incorporated by reference)~~,
  - (6) GPS coordinates and photos of Project areas where activities were conducted, as applicable, and
  - (7) Maps and/or any electronic data (such as .shp, .gpx or .kml files) of Project areas where activities were conducted, as applicable.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code. Reference: Sections 5090.32 and 5090.50, Public Resources Code.

#### **4970.23.2. Reimbursement Payments.**

Requests for reimbursement shall include the following documentation:

- (a) Purchases: paid invoices and/or receipts,
- (b) Services: paid invoices and/or receipts,
- (c) Timekeeping and equipment logs: transaction register or other electronically generated reports,

- (d) Training and Travel: paid invoices and/or receipts,
- (e) A Project Accomplishment Report ~~(new 2019), hereby incorporated by reference~~ (refer to Appendix, incorporated by reference), and
- (f) Maps and/or any electronic data (such as .shp, .gpx or .kml files) of Project area(s) where activities were conducted, as applicable.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code. Reference: Sections 5090.32 and 5090.50, Public Resources Code.

**4970.24.1. Project Documentation.**

- (a) The Grantee shall submit an Expenditure Workbook (new 2019) and Payment Request DPR 364 (Rev. 1/19), ~~hereby incorporated by reference, (refer to Appendix, incorporated by reference)~~ marked "FINAL" to the Department within one hundred twenty (120) calendar days after the completion of the Project, or the Project end date as specified in the Project Agreement or amendment to the Project Agreement, whichever comes first. The Grantee shall include the following documentation with the final payment request:
  - (1) A Project Accomplishment Report ~~(new 2019), hereby incorporated by reference~~ (refer to Appendix, incorporated by reference),
  - (2) All documents supporting the Project expenditures claimed under the payment request,
  - (3) Two (2) copies of all reports as indicated in the Project Agreement for any Project that requires a report or reports as part of its Project Description. Monitoring results shall be reported to the OHMVR Division at the end of the Project,
  - (4) For all sub-contracted work, a Notice of Completion,
  - (5) Photos of Equipment purchased through the Project, including OHV sticker and Vehicle Identification Number, and
  - (6) Photos of completed Projects, as applicable.
- (b) Final payment requests cannot be processed until the Department has received all supporting documentation to support Project expenditures claimed, including documentation that the Grantee has fulfilled its match commitment. An amount equal to any unmet match commitment will be withheld from the final payment.
- (c) Any request for final payment received after one hundred twenty (120) calendar days after the completion of the Project, or the Project end date as specified in the Project Agreement ~~shall~~ may be ineligible for payment or result in suspension of future payments and reimbursement to the State of any advances or other payments made. The OHMVR Division may also deem the Project closed and forward the Project file to the Department's Audits Office for an Audit.
- (d) When the Department determines there is a refund due to the State, the Grantee shall remit the refund due within sixty (60) calendar days from the written notification to the Grantee by the Department.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code. Reference: Sections 5090.32 and 5090.50, Public Resources Code.

#### **4970.24.2. Project Performance Review.**

- (a) Department staff shall conduct a ~~per~~ Project performance review of all Projects. Project performance reviews may include, but are not limited to, review of a Project to determine progress toward its completion, review of the implementation of HMP and Soil Conservation Plan, or other requirements contained in the Project Agreement.
- (b) Project performance reviews may be accomplished by, but are not limited to, desk reviews, questionnaires and other standards of inquiry, site visits, and other means consistent with these regulations.
- (c) Project performance reviews may be conducted prior to the end of the Project performance period.
- (d) Failure to cooperate with performance review requests made pursuant to these regulations may result in denial of payment requests and/or refund to the State of amounts already paid or advanced.
- (e) Department staff may conduct a site visit to review the Grantee's Project(s). The site visit may include review of progress towards the accomplishment of Project Deliverables.
  - (1) The Department ~~shall~~ may provide the Grantee adequate notice prior to the visit and the Grantee shall make its Project Areas, applicable documentation, and staff who are knowledgeable about or ~~oversee~~ manage the Project available to the Department for site visits. The Grantee shall also make any reports or plans developed, as a result of a Project Agreement, available for review. In the event the Department is not able to provide its own transportation to survey a Project, the Grantee shall make every effort to provide Equipment that may be necessary to conduct the site visit and include a person dedicated to providing a tour of the Project.
  - (2) When the Department staff conducts a site visit, staff shall develop a report containing any comments and recommendations with regard to the performance of the Grantee's Project. A copy of the final report shall be available to the Grantee upon request.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code. Reference: Sections 5090.32 and 5090.50, Public Resources Code.

#### **4970.25.1. Financial Audits of Grantees.**

- (a) The Department's ~~of Parks and Recreation,~~ Audits Office shall conduct ~~an a~~ financial Audit of at least twenty percent (20%) of the Grantees annually. ~~A Project is subject to Audit at any time within three years following the end of the project performance period~~ Grantees are subject to audit at any time during the Project pPerformance pPeriod, or up to three (3) years following OHMVR Division approved final payment or Project completion, whichever is latest.
- (b) ~~The OHMVR Division will forward Grant Projects to the Department of Parks and Recreation, Audits Office for a financial Audit as appropriate. The Grantee shall cooperate with the Audits Office during an Audit. Requested records, documents,~~

~~and files pertaining to the expenditures or other fiscal and/or programmatic elements of the Grant shall be provided.~~

- (eb) Failure to fully complete Project Deliverables as agreed in the Project Agreement; and/or to maintain records supporting the Project expenditures made pursuant to the Project Agreement, these regulations, and any other applicable law; and/or failure of such records to support Project expenditures claimed and payments received, shall be grounds for an Audit exception requiring refund of amounts paid.
- (dc) ~~The Department of Parks and Recreation, Audits Office will coordinate with the OHMVR Division staff in order to confirm the completion of Deliverables. The Department may inspect and/or make copies of any books, records, or reports of the Grantee pertaining to all Projects~~ related costs and activities. Grantee agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Grantee must include a similar right of the State to audit records and interview staff in any subcontract related to performance under the Project Agreement.
- (ed) Upon completion of an aAudit, if there is a refund due to the State, the Grantee shall remit the refund due within sixty (60) calendar days from the written notification to the Grantee by the OHMVR Division.

Note: Authority cited: Sections 5001.5 and 5003, Public Resources Code. Reference: Sections 5090.32, 5090.50 and 5090.53, Public Resources Code.