REQUEST FOR APPROVAL

To: **Mark Leary**
Deputy Director

From: **Howard Levenson**
Assistant Director

Request Date: September 1, 2010

Decision Subject: Approval of Applicant Eligibility, Project Eligibility and the Evaluation Process for the Tire-Derived Product Grant Program (Tire Recycling Management Fund, Fiscal Year 2010/11)

Action By: September 24, 2010

Summary of Request:
This memo seeks approval of the proposed applicant eligibility, project eligibility and the evaluation process for the Tire-Derived Product Grant Program (TDP Program) for Fiscal Year (FY) 2010/11. Based on stakeholders' comments and staff's analysis of past TDP Program cycles, staff recommends the following changes:

- Remove private low-income, non-profit private schools (K-12) and Community Housing Development Organizations as eligible applicants to eliminate confusion and because there has not been an eligible applicant in the past three years.
- Remove the large school grant award differential ($250,000 versus $150,000) to eliminate confusion and because there has not been a qualifying applicant in the past two years.
- Implement process changes to the grant application and evaluation process to improve verification of the source of waste tire material, provide greater protection of proprietary information, and clarify eligibility for reimbursement provisions for retread tires.

Staff will consider additional changes to the TDP Program for FY 2011/12, based on analyses in the Tire Program Evaluation Report (currently being finalized) and on subsequent management direction that will be reflected in the next edition of the Five-Year Plan for the Waste Tire Recycling Management Program. The Five-Year Plan will be the subject of a CalRecycle workshop in November 2010 and will be considered for approval in spring 2011.

Recommendation:
Staff recommends approval of the proposed applicant eligibility, project eligibility and the evaluation processes for the TDP Program for FY 2010/11.

Deputy Director Action:
On the basis of the information and analysis in this Request for Approval and the findings set out herein, I hereby approve the proposed applicant eligibility, project eligibility and the evaluation process for the TDP Program for FY 2010/11.

Dated: September 22, 2010

Mark Leary
Deputy Director

Background Information

The Tire-Derived Product Grant Program (TDP Program) is designed to promote markets for recycled-content products derived from waste tires generated in California and decrease the adverse environmental impacts created by unlawful disposal and stockpiling of waste tires. The TDP Program provides grants for the purchase of various tire-derived products including, but not limited to: landscape mulch or bark, playgrounds, tracks, sidewalks, sport surfacing, traffic safety products, etc.

The project must be located in California and use a minimum of 2,500 Passenger Tire Equivalents (PTE) from California-generated waste tires. Truck tire buffings are not eligible for reimbursement due to their relatively strong market demand.

Currently, eligible applicants include: public entities (state agencies, cities, counties, school districts, qualifying Indian Tribes, etc.); private schools defined as low income non-profit schools qualified for the National School Lunch Program and listed on the California Department of Education Private School Affidavit List and includes kindergarten through twelfth grade (K-12); and low income housing organizations, certified as Community Housing Development Organizations (CHDO) by the California Department of Housing and Community Development. Private schools and CHDOs were added as eligible Applicants by the California Integrated Waste Management Board, the predecessor to CalRecycle, at its July 17, 2007 meeting.

The maximum grant amount is $150,000 (except for "large school districts" with enrollment over 43,000, see "Eligible Applicants" below for additional information). Reimbursement is based on the actual cost of materials, tax and shipping, subject to a maximum of $5 per PTE.

The TDP Program provides funding and has contributed to the establishment or expansion of many businesses which produce TDPs. However, the types of products and projects eligible for funding have not changed significantly in many years. CalRecycle is currently working with RW Beck to evaluate CalRecycle's tire market development programs. Based on the analyses in the resulting report and subsequent policy direction from management in the next edition of the Five-Year Tire Plan, staff will consider additional changes to the TDP Program in FY 2011/12. As noted above, the Five-Year Plan will be the subject of a CalRecycle workshop in November 2010 and will be considered for approval in spring 2011. Accordingly, businesses and potential applicants should view the existing TDP Program as applicable for FY 2010/11 only and not make long-term decisions based on the current TDP Program.

Statutory Authority

CalRecycle receives an annual appropriation from the California Tire Recycling Management Fund (Tire Fund) to administer the California Tire Recycling Act, Senate Bill 937, (Vuich, Statutes of 1990, Chapter 35), Public Resources Code (PRC) Sections 42860 et seq. PRC Section 42873 provides for awarding grants for activities and applications that result in reduced landfill disposal or stockpiling of waste tires. The TDP Program is one of the grant programs that fall within the authority of PRC 42873.

At its May 19, 2009 meeting, CalRecycle adopted the *Five-Year Plan for Waste Tire Recycling Management Program – (5th Edition Covering Fiscal Years 2009/10-2013/14)*. The Plan identifies funding for the TDP Program in the amount of $3,400,000 for FY 2010/11.

Analysis and Findings

Process

Staff will conduct the FY 2010/11 grant cycle using the application review and evaluation process applied in past cycles (except as noted below). Staff will post a Notice of Funds Available (NOFA) on CalRecycle's website informing potential Applicants of the funding, eligibility requirements, deadlines and other important information, and notify potentially interested entities through the TDP Program listserv, various publications and newsletters.

Staff will perform a review of all applications to determine completeness. Complete applications will be evaluated to confirm applicant and project eligibility and determine the recommended funding amount. The recommended funding amount will be based on the estimated number of PTEs for the project(s) and the estimated cost, subject to a maximum eligible amount of $5 per PTE. Based on past cycles it is possible that the program will be over-subscribed, in which case a random selection process will be used to determine funding recommendations.

Eligible Applicants

In 2007 private schools and CHDOs, meeting the criteria discussed below, were added as eligible applicants. As discussed below, since that time no eligible applications have been received from either of these entities. All other eligible applicants are governmental entities.

For private schools to be eligible, they must be low income non-profit schools qualified for the National School Lunch Program and listed on the California Department of Education Private School Affidavit List. Project eligibility for private schools excludes projects that could be used to promote educational functions, such as recreational projects. Since 2007 staff has received several inquiries from private schools regarding the eligibility criteria; however, no qualifying applications have been received to date.

Eligibility for low income housing organizations requires that they be certified as CHDOs by the California Department of Housing and Community Development. In FY 2008/09 staff conducted targeted outreach to CHDOs and requested the California Department of Housing and Community Development's to post a NOFA on its website; however, the Department denied this request . There have been no inquiries or applications from CHDOs since they were added as eligible applicants in 2007.

The remaining eligible applicants are governmental entities, many of whom lack funding for the types of projects available under this grant program. The current budget shortfall being faced by most local governments is expected to increase the number of applications for this grant program, which routinely has been oversubscribed. To address the anticipated increase in staff's workload due to the expected increase in the number of applications and to ensure that all grant funds go to governmental entities, staff requests the removal of private schools and CHDOs as eligible applicants for this program.

Grant Amount

In 2008, the maximum grant award amount for "large school districts" (with enrollment over 43,000) was increased to $250,000 versus $150,000 for all other school districts. Since adding this differential grant award eligibility requirement, no large school districts have applied for awards in excess of $150,000.

In order to reduce confusion, streamline the TDP Program and more effectively leverage limited grant resources, staff recommends eliminating the large school differential grant award amount.

Evaluation Process

Improved Verification of the Source of Recycled Tire Material: Stakeholders have requested that CalRecycle strengthen its verification of the source of recycled waste tires used in the TDP Program. Staff has responded by revising the Tire-Derived Product Certification (CalRecycle 227). Changes include requiring supporting documentation tracing the source of the recycled waste tire material back to the processor of the California-generated waste tires. Staff will seek input from stakeholders regarding the effectiveness of these improvements in verifying sources.

Protection of Proprietary Bid Information: Stakeholders have requested that CalRecycle take appropriate measures to reduce the ability of competitors to use proprietary information provided to Applicants to estimate project costs and submit grant requests. It is not uncommon for a vendor to market its product and provide proprietary project bid information to an Applicant only to have key information listed on CalRecycle's web site, thus enabling competitors to underbid the original vendor.

Staff, in consultation with Legal Counsel, believes that CalRecycle can simultaneously support a competitive market, protect proprietary information and provide appropriate project disclosure to ensure transparency and appropriate use of taxpayer monies. Staff proposes to revise the CalRecycle 227 to indicate that the number of pounds (or PTE) and price of recycled waste tire material is confidential and proprietary information, except when used to document a completed project. This will allow staff to publically disclose aggregated, not detailed, information regarding the pounds (or PTE) of recycled waste tires and an average cost per PTE for all Applicants.

Information on costs and PTE is relevant at the Application phase only for determining eligibility and a recommended grant award. Actual, not estimated (or bid) information is provided as required documentation to complete a project and will support programmatic and reporting needs. However, since a project is often completed one or two years after the bid was prepared, disclosure in the final report of the number of pounds (or PTE) of recycled waste tire material and the actual cost per pound (or PTE) will have a minimal competitive impact on the vendor.

Clarification of Eligibility for Reimbursement for Retread Tires: Although the purchase of retread tires is currently eligible, there has been confusion regarding the amount eligible for reimbursement under the TDP Program. For example, a retread truck tire is comprised of two main elements: a reusable tire "casing" which weighs approximately 90 pounds and the new tread (also referred to as the "cap") which is approximately 27 pounds. Although the casing contains steel and other materials and the cap may or may not contain recycled rubber, TDP Program reimbursement is based on the entire retread tire weight. For a typical retread truck tire, the weight would be 117 pounds or 5.85 PTE. Weights and reimbursements for light duty truck

tires or other tires would be adjusted accordingly. Retread tires are subject to the same reimbursement as other tire-derived products of the actual cost of materials, tax and shipping, subject to a maximum of $5 per PTE. Staff recommends clarifying language be developed for the TDP Program's web site pages and Application Guidelines document.

Effect of Proposed Changes

- **Eligible Applicants** will be public entities: California cities, counties, public colleges, public universities, school districts, qualifying California Indian tribes, park districts, special districts, and public recreational facilities, fire departments, police departments, and State agencies.
- **Grant amount** will be the estimated project cost (subject to a maximum of $5 per PTE), with a maximum grant amount of $150,000.
- **Tire-Derived Product Certification** (CalRecycle 227) will require verification of the source of the recycled tire material and state that the information is confidential and proprietary, except when used to document a completed project.
- **Retread tire reimbursement** will be based on the weight of the tire, subject to the maximum of $5 per PTE.

Proposed Timeline for FY 2010/11

Date	Activity
October 27, 2010	Issue the Notice of Funds Available to interested parties via TDP Program's listserv; post Application packet on CalRecycle's web site
October 27 – November 17, 2010	Conduct Question and Answer Period
January 12, 2011 - 3:00 P.M.	Application Deadline
February 11, 2011 - 3:00 P.M.	Resolution and Environmentally Preferable Purchases & Practices Policy Requirement Deadline
March/April 2011	Conduct Random Selection Process to determine order of applicant funding
April 2011	Consider recommended grant awards
April/May 2011	Mail Grant Agreement packages
Notice to Proceed - March 31, 2013	Grant term