

Report to the Twenty-Ninth Legislature
2017 Regular Session

WATER SECURITY GRANT PROGRAM



Prepared by the

Commission on Water Resource Management
Department of Land and Natural Resources
State of Hawaii

In response to
Act 172, Session Laws of Hawaii 2016

November 2016

WATER SECURITY GRANT PROGRAM

I. PURPOSE

The purpose of Act 172, Session Laws of Hawaii 2016 (Act 172), is to establish a two-year pilot program for a water security advisory group to enable public-private partnerships that increase water security by providing matching state funds for projects and programs that:

1. Increase the recharge of groundwater resources;
2. Encourage the reuse of water and reduce the use of potable water for landscaping irrigation; and
3. Improve the efficiency of potable and agricultural water use.

II. ACT REQUIREMENTS

Act 172 requires the Department of Land and Natural Resources (Department) to establish a two-year pilot program to develop public-private partnerships to increase water security; establish an advisory group to advise the Department on the priority of proposals for projects and programs to increase water security; and recommend the award of state matching funds. The last contract for a project or program recommended for approval by the Water Security Advisory Group shall be executed by June 30, 2018.

The Act also requires the Department to submit an annual report on the pilot program to the Governor and Legislature prior to the convening of the 2017 and 2018 Legislative Sessions. The reports shall include:

1. Summary of all the projects and programs approved to increase water security by improving recharge of groundwater, reducing the use of potable water for irrigation, or encouraging the reuse of water;
2. Proposals for future projects and programs;
3. A financial report for the preceding fiscal year; and
4. Objectives and budget projections for the following fiscal year.

III. PROGRAM STATUS

The Department's Commission on Water Resource Management (Commission) was assigned to implement Act 172. The Commission has not previously administered any grant programs and does not have any staff that possesses the requisite expertise or knowledge in grant program administration. The Commission has been reaching out to other divisions and agencies that have experience in grant program administration, such as the Department's Division of Forestry and Wildlife's Watershed Partnership Program, the Hawaii Invasive Species Council, Hawaii Tourism Authority, and Department of Health, in order to develop an efficient and appropriate process.

The Commission has also been researching procurement requirements. The Act does not provide an exemption from Chapter 103D, Hawaii Revised Statutes (HRS) – Hawaii Public Procurement Code. The Commission understands that the competitive sealed proposals method

of procurement is the most appropriate method. While the Commission has taken the required procurement training, it has not previously employed the competitive sealed proposals method of procurement. There also appears to be a conflict between the Act and existing statutes. The Office of Information Practices has clarified that the Sunshine Law would apply to the Water Security Advisory Group, but there is a requirement for confidentiality under Chapter 103D, HRS. The Commission met several times with the State Procurement Office (SPO). SPO advised the Commission as to exemptions that are needed to comply with provisions of the Act.

In addition to procurement issues, other identified issues include: the process for approval of recommended priority projects; potential conflict of interest for advisory group member organizations to receive grants; certification of the matching funds; application of Chapter 343, HRS – Environmental Impact Statements; project ownership; and liability. The Commission will continue working with the Department of the Attorney General (AGs) and other state agencies having appropriate jurisdiction to resolve these matters.

Due to limited staff resources and pre-existing workload, the Commission has been exploring the possibility of contracting out some of the tasks associated with the administration of the grant program. As stated in the Department’s testimony to the Legislature, existing staff resources are insufficient to take on this additional task. The Commission is still researching which aspects of the program can be done by a third party and which must be done by staff.

It will be challenging to implement this Act given current staffing levels and other ongoing projects and commitments. However, the Commission will continue to work diligently to implement this Act.

1. Formation of the Water Security Advisory Group

The Commission is preparing a public notice to solicit applications for the water security advisory group. Applicants shall be evaluated based on the requirements established in the Act.

2. Summary of Projects

No project proposals have been awarded funding.

3. Proposal for Future Projects and Programs

There are no proposals for future projects and programs.

4. Financial Report for Fiscal Year (FY) 17

The Commission has not yet requested release of \$750,000 appropriated under Act 172.

5. Objectives and Budget Projections for FY 18

The Commission plans to award projects by FY18 using the existing \$750,000 appropriation.

IV. ACTION ITEMS

The Commission will continue to implement the provisions of Act 172 with the following actions:

1. Establish the Water Security Advisory Group with the Department's Chairperson's approval and conduct meetings.
2. Request the Governor's release of funding.
3. Coordinate with the AGs, SPO, and State Ethics Commission to ensure compliance with applicable laws and rules.
4. Initiate the process of soliciting competitive sealed proposals to select projects that fulfill the purposes of Act 172 by establishing an evaluation committee and preparing a request for proposals.