

M e m o r a n d u m

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Subject : Use of Proposition 204 Bond Monies to Create Endowments to Fund Long-Term Operations and Maintenance for Category III Projects

QUESTIONS

1. Can Proposition 204 bond funds be used to pay for long-term restoration activities necessary for ecosystem restoration actions on properties acquired with Category III funds?
2. Can the recipient of Prop. 204 bond funds place the money in an endowment account to generate income to fund long-term restoration activities necessary for ecosystem restoration actions on properties acquired with Category III funds?

ANSWERS

1. Proposition 204 bond funds may be used by a private recipient (i.e., a non-profit corporation) to pay for long-term restoration activities necessary for ecosystem restoration actions on properties acquired with Category III funds, provided that the funds are used in a manner that enhances the life of the capital asset. CALFED has made a prior policy decision that Category III funds cannot be used to replace existing funding for ongoing agency programs.
2. A private recipient can place Prop. 204 bond funds in an endowment account to generate income to fund long-term restoration activities necessary for ecosystem restoration actions, with several limitations:
 - a. The endowment-generated income must be used for enhancement of the capital asset; and
 - b. There cannot be any obligation for the endowment principal or interest, or any benefits therefrom, to be returned to the State.

POLICY ISSUES

- The principal of an endowment cannot be returned to the State. Any funds allocated to a private party to establish an endowment are sunk costs. CALFED cannot require that the principal be returned to the State at any time or under any circumstances.
- If an endowment creates a surplus beyond what is required for restoration activities necessary for ecosystem restoration actions on the acquired properties, the surplus cannot be returned to the State.
- If the entity acquiring the property transfers ownership of the property to a state agency, there can be no obligation that income from the endowment be used to pay for long-term restoration activities on the state-owned property. Thus, the endowment will no longer serve its purpose if a private entity intends to transfer acquired properties back to the State.
- There is a need for long-term oversight of whether the recipient of long-term restoration funds spends those funds as required. Currently, CALFED contracts are limited to a 3-year term.

DIFFERENT APPROACHES TO THE ENDOWMENT ISSUE

- Do not allow Prop. 204 bond funds to be used for endowments. This approach would require private entities acquiring land for ecosystem restoration to find other sources of funds for long-term restoration activities necessary for ecosystem restoration actions.
- Allow endowments only for the two current projects with the following limitations:
 1. Funds can only be used by the private entity to benefit the properties owned by the private entity;
 2. The private entity agrees to a long-term (more than 3-year) reporting and monitoring program; and
 3. The private entity agrees not to transfer ownership of the properties it acquires with Prop. 204 funds and restores using income from an endowment established with Prop. 204 funds.

cc: Marian Moe
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