

Meeting Notes



Stantec

Pre-RFR Information Session Round 3 Restoration Plan and Supplemental Environmental Assessment Massachusetts Housatonic River Watershed Restoration Program

Date/Time: August 5, 2013 / 5:30 pm
Place: Lenox Library, Lenox, Massachusetts
Next Meeting: Not Scheduled
Attendees: Karen Pelto (MassDEP), Trustee Representative, MA SubCouncil;
Kenneth Munney (USFWS), Trustee Representative, MA SubCouncil;
Robin MacEwan and Diane Rossini (Stantec);
Public Attendees (see Attendance Sheet, Attachment 1)
Absentees: N/A
Distribution: Project Website (www.ma-housatonicrestoration.org)

Item:

Introduction

The meeting formally commenced at 5:40 pm. Karen Pelto (KP) provided background information and summarized the purpose of the meeting as informing interested parties of the release of the *Final Round 3 Restoration Plan and Supplemental Environmental Assessment* [Round 3 RP/SEA] and providing information regarding the Request for Responses (RFR) that will be posted later this year. The Massachusetts SubCouncil (MA SubCouncil), Stantec, and audience members (10 at the commencement of meeting), introduced themselves and their affiliation. Audience members were notified of the available printed copies of the meeting agenda and presentation and were asked to sign-in using the attendance sheet provided.

Slideshow Presentation

At 5:45 pm, Robin MacEwan (RM) began the Pre-RFR Information Session presentation, which consisted of a 26-slide PowerPoint presentation. RM presented an overview of the Housatonic River Watershed Restoration Program and a summary of the Final Round 3 RP/SEA, including an overview of the purpose of the document, the goals for Round 3 funding, project eligibility, and next steps. KP conducted the balance of the presentation, which provided an overview of the RFR process and an explanation of the Round 3 proposal review and selection process.

Open Forum¹

At 6:20 pm, the presentation transitioned into a general question and answer session. Questions posed by the audience and answers provided by the MA SubCouncil are summarized below.

¹ Questions and answers documented here are paraphrased and do not represent direct quotes.

Note: at the time of the public meeting, the MA SubCouncil was not able to answer all questions. Where indicated below under the headings “MA SubCouncil Follow-up Response”, answers have been augmented with additional information not available at the time of the public meeting.

Public Question 1: *At what point will the MA SubCouncil no longer be able to answer questions regarding specific, potential Round 3 projects?*

Response: *Ken Munney (KM) stated that, once the RFR is released, the MA SubCouncil will no longer be able to address questions about specific, potential projects or proposals.*

KP indicated that it is anticipated that the RFR will be released in September or October and that, following release of the RFR, the MA SubCouncil will only be able to address questions regarding clarification of the administrative requirements of the RFR and the Round 3 RP/SEA.

Public Question 2: *Will matching gifts of parcels have to adhere to the required timeframes for proposal review and parcel closings as described in the Round 3 RP/SEA?*

Response: *KP stated that the MA SubCouncil will need to look into the answer to this question and will attempt to provide a response prior to the release of the RFR.*

MA SubCouncil Follow-Up Response: *Qualifying matching gifts must be documented as gifted on or after the date of the Final Round 3 RP/SEA and before the contract end-date of selected projects. When a project is selected for implementation following Phase II review and a contract is executed to fund acquisition of a parcel, the end date of that contract will constitute the deadline for all matching gifts.*

Public Question 3: *When in the process can an applicant close on a property acquisition?*

Response: *KP indicated that, to remain eligible for Round 3 funding, the closing date of a land protection project must occur no earlier than the date of the formal announcement from the MA SubCouncil that a proposal has been selected to advance from Phase 1 to Phase 2 of the proposal review process.*

Public Question 4: *Can Phase 2 due diligence funding be awarded to selected applicants if the due diligence was conducted prior to selection of the proposal to advance to Phase 2?*

Response: *KP stated that applicants that advance to Phase 2 will be awarded funding for required due diligence work that is to be performed as a part of Phase 2. However, the MA SubCouncil needs to confirm whether procurement*

rules allow for reimbursement for funds expended for due diligence prior to award of the due diligence contract in Phase 2.

KP noted that applicants may be able to identify funds previously expended on due diligence as “matching funds”.

MA SubCouncil Follow-Up Response: *Costs cannot be reimbursed for due diligence conducted prior to issuance of the Round 3 RFR; however, these costs may be reimbursable if they are incurred between the release date of the Round 3 RFR and notification of selection of projects at the conclusion of Phase I of the review process.*

Due diligence costs incurred prior to the RFR issue date, but after the Final Round 3 RP/SEA may be considered as a matching gift and as demonstration of project feasibility.

Public Question 5: *Can properties that have already been purchased apply for Round 3 funding?*

Response: *KM indicated that the cost of previously purchased parcels cannot be reimbursed with Round 3 funding; however, if the land is not currently protected in perpetuity, applicants could apply for Round 3 funding of a Conservation Restriction (CR), or other form of protection in perpetuity, for previously purchased land.*

Public Question 6: *If a property could be either purchased in fee or protected through a CR, should each option be presented in separate proposals or in one proposal identifying multiple options?*

Response: *KP stated that the answer to this question may differ on a case-by-case basis, but that it is likely generally better to submit a single proposal for each property/project.*

RM noted that multiple options presented within a single proposal may present challenges relative to proposal scoring and selection. The answer to this question may require additional consideration.

MA SubCouncil Follow-Up Response: *Each individual proposal for Round 3 funding should identify only a single proposed approach for land acquisition or protection. Multiple options (e.g., fee or CR) should not be presented within a single proposal. Each proposal will receive only a single score from the review team; scoring for multiple options within a single proposal is not possible.*

Public Question 7: *If a property is already protected under a CR, can it still apply?*

Response: *KP responded that a property that is already protected in perpetuity is not eligible for Round 3 funding.*

Public Question 8: *Can Round 3 funding be applied to restoration of a parcel?*

Response: *KP responded that only land acquisition and land protection projects are eligible for Round 3 funding. Other actions, including habitat restoration, may be valuable but are not the focus of Round 3 funding.*

Public Question 9: *Is there a restriction on how Round 3 funding is used? Can funding be applied to administrative costs associated with a CR as well as to the purchase cost of the CR?*

Response: *KP indicated Round 3 funding can be used to support administrative and purchase costs associated with land acquisition and land protection projects.*

Public Question 10: *Is an applicant required to state in the proposal how funds paid to an entity for land acquisition or land protection will be spent?*

Response: *KM stated that funds awarded are for purchase or protection of land. The MA SubCouncil does not need to know what the seller intends to do with the payment received and this information is not considered in review of project proposals.*

MA SubCouncil Follow-Up Response: *Selected applicants must document project costs as necessary for reimbursement/payment purposes. Selected applicants will be required to provide documentation of acquisition transactions (e.g., Purchase and Sale Agreement, settlement statement, recording of title) as a prerequisite to payment with Round 3 NRD funds.*

Public Question 11: *If habitat improvement is anticipated as a component of a project that involves land protection, can proposed habitat improvement work be described in the application?*

Response: *KM indicated that Round 3 is specifically dedicated to procurement and protection of land for the purpose of habitat conservation. Although habitat improvement work may be beneficial and may be allowed to occur following land acquisition or protection with Round 3 funding, it cannot be considered as part of the Round 3 proposal selection process.*

KM noted that, while implementation of planned habitat improvements/restoration cannot be funded with Round 3 funds, plans for such work may be relevant to proposal review.

MA SubCouncil Follow-Up Response: *In particular, see the "Coordination and Integration" criterion in the Project Budget category of evaluation criteria identified in the Restoration Project Selection Procedure (available on the project website at: <http://www.ma-housatonicrestoration.org>). This criterion*

considers whether, how, and to what extent a project is coordinated or integrated with other ongoing or planned actions in the Housatonic River watershed. Restoration projects that can be efficiently coordinated with other actions may achieve cost savings and the MA SubCouncil is particularly interested in projects that enable synergistic benefits to injured natural resources and their services (i.e., a combination of activities that produces benefits greater than the sum of the individual activities).

Public Question 12: *Will the RFR specify the number and type of appraisals that will be required?*

Response: *KP indicated that appraisal requirements will be specified in the RFR.*

Public Question 13: *Are there specific guidelines for what activities are acceptable on land protected under a CR? Is agriculture acceptable on land protected under a CR?*

Response: *KP indicated that CR projects funded with Round 3 funding will need to comply with the Commonwealth's CR guidelines, including those addressing allowed and restricted uses. Passive recreational use, including fishing and trail walking/hiking, is typically allowed on land protected by a CR. The MA SubCouncil will confirm additional applicable requirements and restrictions.*

MA SubCouncil Follow-Up Response: *The Commonwealth's CR guidelines allow for ongoing agricultural uses within CR's. However, applicants should note that the purpose of Round 3 funding is specifically "land acquisition to conserve habitat" and that eligible projects must address at least one of the two "habitat restoration" categories (Aquatic Biological Resources & Habitat or Wildlife Resources & Habitat) as described in the Final Round 3 RP/SEA. Proposed site uses must be compatible with, and protective of, habitat conservation goals. Ongoing agricultural use of a CR funded with Round 3 funds may be considered if the applicant demonstrates that the proposed CR, and related agricultural land use, provides habitat conservation value.*

Public Question 14: *There is an 8-acre, former industrial site in the center of Great Barrington near the river. The site is a brownfield with potential contamination issues requiring remediation. Could Round 3 funds be used for purchase of a CR or purchase of a site for required wetland mitigation associated with planned remediation work?*

Response: *KP stated that Round 3 funding could be used to purchase a CR but could not be used to fund compensatory mitigation required by permit.*

KM reiterated that NRD funding cannot fund required mitigation projects but it is possible that a land protection or acquisition project could be funded if mitigation requirements were addressed through other means.

MA SubCouncil Follow-Up Response: *In the case of contaminated sites, any required remediation must be completed in accordance with applicable state and federal regulations. Furthermore, applicants must demonstrate that any required remediation has been completed prior to, or concurrent with, completion of Phase 2 due diligence.*

Public Question 15: *Does the MA SubCouncil recommend that an entity interested in preserving multiple parcels submit a single proposal addressing all parcels or submit separate proposals for each parcel?*

Response: *KP and KM stated that unless the properties are strongly linked (e.g., physically contiguous), the projects should be submitted as separate proposals.*

MA SubCouncil Follow-Up Response: *The MA SubCouncil generally recommends that proposals involving acquisition of multiple, contiguous parcels as a part of a unified plan to conserve habitat be submitted as a single proposal; whereas, proposals involving acquisition of multiple, discontinuous parcels be submitted as separate proposals. Multiple options for proposal alternatives (e.g., including multiple alternatives for parcel combinations) should not be presented in a single proposal. Each proposal will receive only a single score from the review team; scoring for multiple options within a single proposal is not possible.*

Public Comment 1: *It is helpful that there are two, separate review phases (Phase 1 and Phase 2) and that due diligence costs are reimbursed.*

Response: *No response.*

Public Question 16: *Could an applicant submit a map identifying specific, potential parcels and request feedback from the MA SubCouncil?*

Response: *KP stated that, yes, the MA SubCouncil can review materials and answer project-specific questions up until the date that the RFR is released.*

Public Question 17: *Would it be helpful for the MA SubCouncil to be informed of potential projects prior to release of the RFR?*

Response: *KP stated that it is not necessarily helpful unless the project proponent has a specific, related question for the MA SubCouncil. If project proponents pose specific questions, the MA SubCouncil may be able to provide feedback regarding application development related to proposal review and scoring.*

KM agreed and reiterated that proposals will be evaluated the same regardless of whether the MA SubCouncil has been provided with advance notice about a potential project.

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The meeting adjourned at 6:44 pm.

The foregoing is considered to be a true and accurate record of items discussed. If discrepancies or inconsistencies are noted, please contact Robin MacEwan of Stantec at 413.584.4776.

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