



Williamson Act Participation & Open Space Subvention Act Survey 2014

Instructions for completing and submitting forms

General Information

It is important to note that Open Space Subvention funding has once again been eliminated from the budget. *Despite the elimination of payment funding, the information requested in these forms is critical in order to document the level of participation in the program and the impact the loss of payments is having on local governments.* This information is also utilized in the biennial Williamson Act Status Report which provides information to the Legislature and general public regarding the status of the Program among counties and cities.

These forms contain numerous “comments” to facilitate preparation. These comments can be viewed by placing the mouse pointer over the cell containing a red triangle in the upper right-hand corner. These comments are included to help provide instruction specific to that cell or section.

The form also uses **macros**. By following these instructions to enable macros, the form should automatically upload applicable data and allow you to fill in the required information.

*A **macro** is a series of commands or functions that automate certain tasks. If your computer automatically disables macros you may need to change your computer’s security level for macro virus protection. When the Security Warning appears at the top of the page select **Options> Enable Content>**
OK. Alternatively, in the “Tools” menu, point to “Macro”, and then click “Security.” Change the security level to either “Medium” or “Low.” If prompted, choose to enable macros.*

Reporting Period

Information reported on these forms should reflect enrollment and changes affecting enrollment as of the **January 1, 2014** lien date. The forms should be completed and returned to the Department of Conservation no later than **October 31, 2014**.

Department of Conservation Contact Information

If you have any question you are encouraged to contact Heather Anderson by phone at (916)324-0869 or email at Heather.Anderson@conservation.ca.gov.

The completed, signed forms and additional required documentation should be mailed to:

Heather Anderson
Department of Conservation
Division of Land Resource Protection
801 "K" Street, MS 18-01
Sacramento, CA 95814

Additional Required Information

The California Code of Regulations (Title 14, Division 6) specifies the information a county or city is required to report on the forms as well as any additional documentation required. These regulations specify the following documentation must be included (in addition to the signed and completed forms):

- A Resolution by the governing body authorizing the filing of the report and designating an authorized representative.
- A map showing the lands reported in the categories on the forms. Maps may be submitted in hardcopy, however, it is the preference of the Department to receive GIS data. Specific requirements for the map and/or GIS data can be found at the following links:

<http://www.conservation.ca.gov/dlrp/lca/lrcc/Documents/Williamson%20Act%20Program%20Regulations.pdf>

<http://www.conservation.ca.gov/dlrp/lca/ossdp/Documents/CCR%2014111%20reporting%20requirements.pdf>

***Please note:** Many of the submittals we have received over the last several years have not met the requirements listed in the regulations referenced above. It is important that the map and/or GIS data submitted provide all of the information listed in the regulations.

- If changed since the previous submittal, a sample of each form of contract, agreement, scenic restriction, or open space easement used for placing land under enforceable restriction.
- If changed since previous submittal, a copy of the Open Space element (or equivalent) of the governing body's general plan.
- If changed since previous submittal, the governing body's rules for administration of agricultural preserves.

Specific Issues

The following information is being provided in hopes of clarifying specific issues that have appeared in reporting over the last few years.

Reporting Period

Be sure you are reporting for the specified timeframes. For FY 14/15 you should be providing enrollment data and changes affecting enrollment as of **January 1, 2014**. Therefore, if a change occurred **subsequent** to the January 1, 2014 lien date, it would not be reported on the form for this Fiscal Year.

SB 618 (Solar Use Easements)

Effective January 1, 2012 Senate Bill 618 (Wolk, Chapter 596, Statutes of 2011) authorizes parties to a Land Conservation Act Contract (city or county and landowners), after approval by the Department of Conservation, and a consultation with the Department of Food and Agriculture, to mutually agree to rescind the contract in order to simultaneously enter into a solar-use easement.

The forms currently do not provide a place for counties/cities to report for changes to enrollment as a result of a solar use easement. Until such time as the forms are amended, the Department *requests* that counties that have entered into solar use easements report the following information by including such information in a cover letter or some other attached documentation. The Department *request* counties/cities provide the following information for any **finalized** solar use easements:

- Assessor's Parcel Number; Land Conservation Act Contract Number; Owner's Name; number of acres of Prime, Non-Prime, Farmland Security Zone (and applicable category), and whether or not the contract was continuing or in nonrenewal at the time of

rescission. This is similar to information the Department requires when reporting a cancellation.

Reminder: Report only those Solar Use Easements that were **completed and affect** enrollment as of the lien date of January 1, 2014.

Rescission and Simultaneous Re-entry

The rescission of an existing contract and simultaneous re-entry into a new contract(s) does not typically need to be reported unless it results in a change in enrollment.

- If an existing continuing contract is rescinded and a new contract entered into with no change in the total number of acres under contract, there is **no need** to report this.
 - If there are changes to the number of acres within the contract boundaries designated as *prime* or *nonprime*, these revised acreage values should be reported as adjustments.
 - If there is new acreage enrolled, only the additional acreage should be reported as New Enrollment. You can provide a brief explanation of what occurred on Form 103.
- If an existing contract in nonrenewal is rescinded and a new contract is entered into you should report this in the following manner:
 - The rescission of the nonrenewed contract should be reported as a non-renewal withdrawn. Although this is not technically what occurred, it will remove the acreage from nonrenewal and add it back into the overall total of continuing contracts. If there is no increase in the total number of contracted acres there is no need to report anything additional.
 - If there is an increase in the total number of contracted acres, only those additional acres should be reported as New Enrollment in order to reflect this change to enrollment. You can provide a brief explanation of what occurred on Form 103.

In recent years several counties have been reporting rescission as cancellations and re-entry as new enrollments. Rescission and re-entry are not cancellations and should not be reported as such. Please follow the instructions here or contact the Department if you have a specific question that is not answered by these instructions or need further clarification.

Cancellations

A **cancellation** is the immediate termination of an enforceable restriction by a landowner. Cancellation requires board/council approval and proof that all contingencies/conditions of cancellation are met, including payment of a cancellation fee. In the case of an FSZ contract, cancellation requires final approval from the Director of Conservation (Government Code §51280 et seq. and §51297).

Acreage should be reported as a cancellation only if the cancellation has been **finalized** during the reporting period (see above) and was approved utilizing the process outlined in the Government Code. If the cancellation was finalized subsequent to January 01, 2014 it would not be reported on this FY's forms.

If the contract did not go through the cancellation process outlined in Government Code §51280 et seq. or §51297 it should not be reported as a cancellation. Review these instructions to determine if it should be reported in another manner and/or contact the Department to discuss how the change should be reported.

City Annexations

A city annexation is the reorganization of enforceably restricted land from the county's jurisdiction to the city's jurisdiction. Restrictions may or may not terminate upon annexation. If it was determined a valid protest was filed by the city, the contract would terminate upon annexation (GC §51243.5). If no such protest was filed or the protest was not deemed valid, the city must succeed to the contract (GC § 51235).

Report annexations pursuant to a city protest filed prior to January 1, 1991 pursuant to GC §51243-51243.5. As indicated on the form you must provide the name of the City and date of the resolution pursuant to Government Code §56844.2 that the City will not succeed to the contract.

If a proper protest was not filed, the contract is not automatically terminated upon annexation.

Public Acquisitions

A public acquisition is the immediate termination of an enforceable restriction through eminent domain or in-lieu of eminent domain, by a public agency for the purposes of a public improvement (GC §51290 et seq.). A public improvement includes "*facilities or interests in real property, including easements, rights-of-way, and interests in fee title, owned by a public agency or person*" (GC §51290.5).

If the land is not acquired through eminent domain or in-lieu of eminent domain, the contract remains in full force and effect (GC § 51295).

Only report those public acquisitions that were completed pursuant to GC §51290 et seq. during the reporting period (see above). If a public agency acquired property subject to a contract which remains in full force and effect the contracted acreage must still be reported as part of the county's/city's continuing contracted acreage (even if the property is no longer locally assessed).

Contracted land owned by a Public Agency (not acquired through the Public Acquisition process)

If land is acquired by a public agency and it was not done through eminent domain or in lieu of eminent domain (as outlined above), the contract remains in full force and effect. In some instances the land will be assessed by the Board of Equalization rather than the local assessor. In this case, the property is subject to state assessment pursuant to section 721 and section 721.5 of the Revenue and Taxation Code and section 19 of Article XIII of the California Constitution. Even if the property is state assessed and **not** eligible to receive subvention payments, the contract remains in place. Therefore, we ask that it be reported in the following manner:

- *The total contracted acreage should be reported on Form 101 in Row A. Although this is not the most accurate reflection of why the property is no longer eligible for subvention payments, it allows for the contract to be accounted for as an active contract and will appear in the total enrollment for the county or city. In future years we may amend the forms to include such scenarios, however, for now we ask these contracts be accounted for in this manner.*

Keep in mind, the act of a public agency acquiring the property does not necessarily result in the removal of the contract. Unless one of the procedures listed above was followed (city protest/annexation, public acquisition, or cancellation) the contract remains in place. This is true for property owned by federal, state, and local governments.

Any questions regarding the *assessment* of state properties should be directed to the California State Board of Equalization at (916) 274-3270. General questions regarding the *assessment* of enforceably restricted land should be directed to the California State Board of Equalization at (916) 274-3350.

Eligibility

Acreage which is subject to an enforceable restriction (e.g., Land Conservation Act contract) and is assessed pursuant to Revenue and Taxation Code §§ 423, 423.3, 423.4, or 423.5, or 426 (if previously assessed under 423.4 and eligible pursuant to GC §16142(c)). The governing body having jurisdiction over the land must have a local open space plan as required by GC § 65563.

The following types of lands are **not** eligible to receive Open Space Subvention Act payments:

- Acreage devoted to residential use and assessed pursuant to Revenue and Taxation Code §428.
- Acreage assessed under Revenue and Taxation Code §426 due to contract nonrenewal. The sole exception is for farmland security zone contracted land previously assessed under Revenue and Taxation Code §423.4 and eligible pursuant to GC §16142 (c).
- Acreage enforceably restricted pursuant to the Open Space Easement Act of 1974.
- Parcels subject to contracts which are of less than 40 acres for Open Space Land of Statewide Significance, unless such parcels are contiguous to other restricted land comprising more than 40 acres total, are subject to a written joint management agreement involving noncontiguous parcels which total more than 40 acres, or the board or council specifically find these parcels will sustain commercial agricultural use.
- Contracted acreage that is valued lower under Revenue and Taxation Code § 110.1 than under §§ 423, 423.3, or 423.5; and
- Acreage restricted under agricultural conservation easements that were not executed and approved pursuant to the provisions of Public Resources Code § 10200 through 10277 or GC §§ 51256 and 51256.1.

Additional information/instruction is provided on the *Instructions* page of the form. As noted above, comments are included throughout the forms in order to provide direction specific to that section or cell. Do not hesitate to contact the Department should you have any questions or need clarification regarding this process.