

RECLAMATION

Managing Water in the West

WaterSMART Grants: Water Marketing

Draft Project Types and Evaluation Criteria for Review and Comment



**U.S. Department of the Interior
Bureau of Reclamation
Policy and Administration**

November 2016

I. Overview

With this document, Reclamation is seeking public comments on draft eligible projects types and evaluation criteria for a new WaterSMART Grants funding opportunity for water marketing. Section I of this document provides a summary of the new funding opportunity, a description of the selection process, award information and applicant eligibility. Section II describes eligible project types and evaluation criteria, for public comment.

Summary

In fiscal year (FY) 2017, the Bureau of Reclamation (Reclamation) will implement a new category of WaterSMART Grants to provide funding for the development of water marketing strategies. Reclamation will allocate approximately \$3 million in to the new Water Marketing Funding Opportunity Announcement (FOA), depending on demand for this and other WaterSMART funding opportunities. This new funding category -- **WaterSMART Grants: Water Marketing (Water Marketing FOA)** -- will provide an opportunity for applicants to conduct planning activities to develop a water marketing strategy to establish or expand water markets or water marketing transactions.

For the purposes of the **Water Marketing FOA**, “water marketing” refers to water rights transactions (e.g., the lease, sale or exchange of water or water rights) undertaken in accordance with state and federal laws, between willing buyers and sellers. A “water market” refers to a formal arrangement, based on a set of rules and/or water management agreements, to allow for water rights transactions within a specific geographic area. A “water marketing strategy” consists of planning activities including engineering, hydrologic, legal, economic, and other types of analysis, and the development of rules, legal agreements, software and logistical arrangements (also referred to as a “framework”) for water marketing. The specific activities that may be included in a water marketing strategy developed under the program are described in more detail in Section II of this document, with a request for public comments.

Water markets between willing buyers and sellers can be used to help water users meet demands efficiently in times of shortage, thereby helping to prevent water conflicts. However, water marketing is a complex task that requires in-depth analysis to evaluate water supply and demand, determine consumptive use, quantify potential injury to downstream users, explore infrastructure requirements, and build relationships with basin stakeholders, among other things. Additionally, the considerations, and the level and type of analyses needed for each water marketing strategy will vary depending on planning efforts to date, the size/number of transactions being considered, the extent to which water marketing is ongoing in the area, and the specific water supply and demand needs being addressed. Accordingly, Reclamation’s Water Marketing FOA will be designed to be flexible, to allow applicants to design a water marketing strategy appropriate for their needs.

As described in Section II, Eligible Project Types, below, we have created a basic framework for strategies developed under the program that include the following three elements: (1) Outreach and partnership building; (2) scoping and planning activities; and (3) development of a water marketing framework. However, the specific tasks within each element may vary for different water marketing strategies according to the needs of the applicant, and the work they have completed to date. For example, some applicants may need to focus on scoping and planning activities. Other applicants that have already completed significant scoping and planning may focus more of their funding and efforts on the development of a water marketing framework.

Reclamation's **Water Marketing FOA** will also be flexible enough to allow for water marketing strategies to be scaled to support large, complex water markets extending across an entire river basin or region, as well as strategies that would support a small number or even a single water marketing transaction. Rather than focusing solely on the geographic scale of a potential water market, the evaluation criteria will focus on the potential benefits of the water marketing transaction(s) being addressed.

The evaluation criteria that will be used to prioritize proposals for funding under the **Water Marketing FOA** -- described in Section II of this document with a request for public comment -- will place some priority on strategies that will support larger water markets with more transactions, over those supporting an individual transaction or a small number of water marketing transactions. However, the criteria will also prioritize water marketing strategies that are more likely to result in the implementation of water marketing transactions immediately upon their completion, which may benefit strategies supporting an individual transaction, or a small number of transactions. Evaluation criteria will also give weight to proposed strategies that will provide significant benefits, such as meeting an important water supply need or decreasing the likelihood of conflicts over water. Proposals that include stakeholder support, are well thought out, and that include detailed descriptions of milestones, schedules and budgets will also be prioritized.

The Water Marketing FOA will be posted on www.grants.gov in February 2017, following public review and comment on the draft project types and criteria described in this document. The **Water Marketing FOA** will require a minimum 50% non-Federal cost share contribution and Reclamation will be separating proposals in to two funding groups, one for those proposals seeking up to \$200,000 in Federal funds, and another for proposals seeking up to \$400,000.

The **Water Marketing FOA** will not include funding for any on-the-ground construction projects. While Reclamation recognizes that new measurement devices and infrastructure may be needed to support the implementation of a water marketing strategy, several other WaterSMART funding opportunities provide funding for these types of projects. See the discussion of "ineligible projects," below, for more information on other WaterSMART funding opportunities that provide funding for on-the-ground construction projects.

Phased Selection Process

Reclamation will use a phased process for the selection of proposals under the **Water Marketing FOA**. Under this process, applicants will initially submit a short pre-proposal limited to 10 pages, describing the project and addressing the criteria. The pre-proposals will be evaluated by an Application Review Committee (ARC), which will determine whether the proposed project fits the scope and intent of the FOA. At this stage, proposals may be eliminated from further consideration if they do not meet the intent of the FOA. If a pre-proposal is selected to move forward to the proposal stage, the ARC may provide feedback to the applicant regarding areas that should be clarified or where additional information is needed. Applicants will be notified whether to submit a full proposal. Full proposals will require a full description of the project, a detailed budget and budget narrative, and full compliance with all financial assistance requirements identified in the FOA.

Authority

The FOA for this program will be issued under the authority of Section 9504(a) of the Secure Water Act, Subtitle F of Title IX of the Omnibus Public Land Management Act of 2009, Public Law 111-11 (42 United States Code 10364).

Award Information

Total Project Funding: Reclamation expects to make approximately \$3 million in FY 2017 WaterSMART Grants funding available for **WaterSMART Water Marketing Grants**.

Project Funding Limitations:

Funding Group I: Up to \$200,000 per agreement for a water marketing strategy that can be completed in up to two years.

Funding Group II: Up to \$400,000 in Federal funds for a water marketing strategy that can be completed within three years.

Cost-Sharing Requirements: The Federal share (Reclamation's share in addition to any other sources of Federal funding) of any one proposed water marketing strategy shall not exceed 50 percent of the total costs.

Eligibility Information

Eligible Applicants

Under P.L. 111-11, Section 9502, an eligible applicant is a State, Indian tribe, irrigation district, water district, or other organization with water or power delivery authority.

Applicants must also be located in the western United States or Territories as identified in the Reclamation Act of June 17, 1902, as amended and supplemented; specifically: Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming, American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands.

Those not eligible include the following entities:

- " Federal governmental entities
- " Institutions of higher education
- " Individuals

Ineligible Projects

- " Feasibility studies.
- " Plans or studies that examine the viability of any project or program not related to Water Marketing.
- " Planning efforts more appropriately funded under a different WaterSMART funding opportunity, including Drought Contingency Plans funded under the Drought Response Program, watershed management plans funded under the Cooperative Watershed Management Program, or Basin Studies funded under the Basin Study Program.
- " On-the-ground construction projects more appropriately funded under a different WaterSMART funding opportunities, including: Drought Resiliency Projects funded under the Drought Response Program; WaterSMART Grants: Water and Energy Efficiency Grants, or WaterSMART Grants: Small-Scale Water Efficiency Projects; or Watershed Management Projects funded under the Cooperative Watershed Management Program.

For questions about these other funding opportunities visit our website, <http://www.usbr.gov/watersmart/>, or contact one of the following program leads:

- (1) Drought Response Program – Darion Mayhorn, 303-445-3121, dmayhorn@usbr.gov
- (2) Cooperative Watershed Management Program – Avra Morgan, 303-445-2906, aomorgan@usbr.gov

- (3) Basin Study Program – Amanda Erath, 303-445-2766, aerath@usbr.gov
- (4) WaterSMART Grants – Joshua German, 303-445-2839, jgerman@usbr.gov

Eligible Projects and Evaluation Criteria: For Public Comment

Opportunity to Comment

Reclamation invites other Federal agencies, the public, not-for-profit organizations, or states, tribes and local governments to comment on the draft eligible project types and evaluation criteria included within this document, by **January 6, 2017**. Comments on the draft eligible project types and criteria may be sent to **Ms. Avra Morgan at aomorgan@usbr.gov or to the address below:**

Bureau of Reclamation
Attention: Avra Morgan
84-51000
PO Box 25007
Denver, CO 80225-0007

Eligible Projects: Water Marketing Strategies

In general, Water Marketing Strategies funded under this program will address each of the elements (1)-(3) described immediately below. However it is not mandatory that the strategy include all of the sub-tasks listed under each element. The applicant can substitute appropriate sub-tasks or may provide explanation that certain sub-tasks have already been completed. However, it is also important that sub-tasks identified by the applicant support an overarching water marketing strategy. For example, proposals primarily focused solely on one sub-task, such as hydrologic analyses or software development, which are not strongly linked to the development of a more comprehensive water marketing strategy, are not eligible. In some cases, if the applicant has already completed significant work on a particular element, Reclamation may consider a proposal that excludes that element (so long it is explained in the proposal and prior work is summarized in the final report), with adequate support and explanation from the applicant.

The three elements of a water marketing strategy include:

- (1) Outreach and partnership building** – Informing and obtaining input from potential market participants and stakeholders within the relevant geographic areas, which may include but is not limited to:
 - " Conducting outreach to potential partners, participants, and interested or affected stakeholders in the area through public meetings, webinars, notices, or other forms of communication;

- " Hosting workshops to gather input and feedback on the development of the water marketing strategy.

(2) Scoping and planning activities – Studies to explore the potential to develop a new water market or transaction(s), or expand an existing water market, which may include, but are not limited to, the following types of analyses:

- " Financial or economic analysis to identify potential buyers and sellers, assess demand for the water market, and research the cost of implementing the water market;
- " Research of different water marketing approaches to support development of administrative or institutional requirements for implementation of a water market/transaction;
- " Analysis of water rights issues or legal requirements, including legal mechanisms for transferring water within the relevant area, and legal constraints on existing water rights (type and place of use requirements or other constraints)¹;
- " Quantification of water rights, consumptive use, diversions, and return flows to determine how much water is available for marketing and to avoid impacts to downstream water users;
- " Analysis of economic, social or community impacts of potential market/transaction(s);
- " Hydrologic or engineering studies related to water supply, use of existing infrastructure (e.g., for water storage, delivery, or transfer), new infrastructure requirements (e.g. interties to connect participants' water supply), or hydrologic impacts of water marketing transactions.

(3) Development of a water marketing framework – Development of a proposed approach for establishing a new water market or transaction(s) or expanding an existing water market, based on scoping and planning activities. This element includes tasks immediately preceding the implementation of the market or transaction(s) and tasks that improve the functioning of an existing market. Work for this element may include, but is not limited to:

- " Description of operating plan for the water market/transactions(s), including how the water market will operate, the administrative structure and institutional components, the participants, water rights, and infrastructure involved;
- " Development of the rules and requirements needed to make the water market function;
- " Development of the specific contracts or agreements supporting the proposed water marketing transactions;
- " Description of process used to monitor transactions;

¹ Funding may be used for legal assistance including the assessment of different water marketing agreements, contracts, or other legal mechanisms, and the drafting of those instruments. However, funding may not be used for the preparation of a specific water court case and funding for legal assistance may not exceed 30 percent of the total grant request.

- " Development of water marketing support tools, including software, databases, registries, dashboards or models that would help facilitate potential or existing water markets.

Required Deliverable: All water marketing strategies must include the development of a written report, analyzing and summarizing all work undertaken. The report should include the water marketing framework, and a description of all activities conducted, lessons learned, and outstanding issues to be resolved before the water market can be implemented or expanded, and any steps that might be taken to resolve those issues. In cases where relevant work conducted prior to the receipt of a Water Marketing Grant is used to address one of the elements or sub-tasks, such work must be summarized in the final report.

Draft Evaluation Criteria for Review and Comment

The following draft evaluation criteria, listed in order of priority, will be used by the Application Review Committee to rank proposals submitted under the WaterSMART Water Marketing FOA. A more detailed description of the type of information that applicants can use to address each criterion will be included in the FOA. Reclamation is seeking public comment on the following criteria, see page 6 for instructions on submitting your comments.

The following criteria are listed in descending order of priority.

Evaluation Criterion A: Water Marketing Benefits

This criterion evaluates the benefits that are expected to result from the potential water market/transaction(s) related to the project. This criterion will consider a variety of project benefits, including:

- " The size of the market (number of potential transactions, number of participants, amount of water, and geographic scope);
- " The extent of benefits to water supply, including benefits to agricultural, municipal/industrial, tribal and environmental water needs, taking into consideration:
 - o " Will the market/transaction address a water supply shortfall?;
 - o " What is the nature and severity of the shortfall and which sectors are affected?;
 - and
 - o " How will the market/transaction address the shortfall? Will it benefit multiple sectors?;
 - o " Is the duration of the market/transaction sufficient to address the stated need?;
- The extent to which the market/transaction will help meet certain objectives, including:
 - o " Increasing resiliency to drought;
 - o " Reducing the likelihood of conflicts over water;

- o " Providing instream flows for ecological, species, recreation or water quality objectives;
- o " Sustaining agricultural communities while still reducing diversions; or
- o " Demonstrating a water marketing approach that is innovative and which may be applied by others.
- " The extent to which the water market/transaction(s) will be ready to proceed immediately to implementation upon completion of the strategy, taking into consideration:
 - o " The applicant's plans and urgency;
 - o " The nature and complexity of the issues to be resolved; and,
 - o " The extent to which the applicant has already completed components of elements (1), (2), and (3), described above, for the proposed market or transaction.

Evaluation Criterion B: Level of Stakeholder Support and Involvement

This criterion evaluates the extent to which the potential water market or transaction(s) is supported by a diverse set of stakeholders; how interested and affected parties will be engaged and kept informed; and how any potential opposition will be addressed. Note that the appropriate level of stakeholder involvement will vary depending on the scope of the water marketing strategy and the complexity of the issues involved.

- " The extent to which a diverse set of stakeholders (appropriate for the scale and breadth of the proposed market or transaction(s) have committed to be involved in the planning process, either as members of the study team, by contributing cost-share or in-kind services, or otherwise engaging in the planning process;
- " The extent to which other stakeholders who may be affected by the potential water market/transaction will be actively engaged and allowed to provide input to the planning process;
- " The extent of any opposition to the proposed market/transaction and how that opposition will be addressed within the planning process. Opposition will not necessarily result in fewer points; and
- " Potential negative impacts to third parties that may result from the market/transaction and how those potential impacts will be addressed through the planning process.

Evaluation Criterion C: Readiness to Proceed

This criterion evaluates the extent to which the applicant is capable of proceeding with the development of the proposed water marketing strategy upon entering into a financial assistance agreement, taking into consideration:

- " Inclusion of a detailed schedule with appropriate milestones;

- " Whether the approach to conduct the water marketing strategy is sound and includes the appropriate work necessary to accomplish the study goals;
- " The extent to which the budget is appropriate for the work proposed;
- " Whether staff with the necessary expertise to complete the study has been identified; and
- " Whether existing data/models of a sufficient quality are available to allow the study to be completed within the timeframe for the grant.

Evaluation Criterion D: Planning Efforts Supporting the Project

This criterion evaluates the extent to which the potential water market is supported by prior planning efforts, including a:

- " WaterSMART Basin Study;
- " Water management plan;
- " Water conservation plan;
- " Drought contingency plan; or
- " Other planning efforts

Evaluation Criterion E: Nexus to Reclamation

This criterion evaluates the extent of the potential water market's nexus to a Reclamation project or activity, taking into consideration:

- " How the potential water market/transaction(s) is connected to or will affect a Reclamation project;
- " If the proposal is consistent with Reclamation law and operations;
- " If the potential water market/transaction(s) will help Reclamation meet trust responsibilities to any tribes; and
- " If the potential water market will support implementation of a relevant Department of Interior initiative