BUREAU OF RECLAMATION

Notice of Funding Opportunity No. R24AS00007

# WaterSMART Drought Response Program: Drought Resiliency Projects for Fiscal Year 2024

**U.S. Department of the Interior**

August 2023

# Mission Statements

The U.S. Department of the Interior protects and manages the Nation's natural resources and cultural heritage; provides scientific and other information about those resources; honors its trust responsibilities or special commitments to American Indians, Alaska Natives, and affiliated Island Communities.

The mission of the Bureau of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public.

**Cover Photo** – Lake Meade, 2022. (Bureau of Reclamation)

# Synopsis

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| **Federal Agency Name:** | Department of the Interior, Bureau of Reclamation, Water Resources and Planning Office |
| **Funding Opportunity Title:** | WaterSMART Drought Response Program: Drought Resiliency Projects for Fiscal Year (FY) 2024 |
| **Announcement Type:** | Notice of Funding Opportunity (NOFO) |
| **Funding Opportunity Number:** | R24AS00007 |
| **Assistance Listing Number:** | 15.514 |
| **Dates:**<br>(See NOFO Sec. D.4) | Application due date: Electronically submitted applications must be submitted by Tuesday, November 7, 2023, 11:59 pm Mountain Daylight Time (MDT)<br>Approved Paper Submissions must be received by Tuesday, November 7, 2023, 4:00 pm Mountain Daylight Time (MDT) |
| **Eligible Applicants:**<br>(See NOFO Sec. C.1) | **Drought Resiliency Projects: Tasks A-C**<br>**Category A:** States, Tribes, irrigation districts, and water districts; state, regional, or local authorities whose members include one or more organizations with water or power delivery authority; and other organizations with water or power delivery authority.<br>Category A applicants must be located in the Western United States or United States Territories, including Alaska, Arizona, California, Colorado, Hawaii, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming, American Samoa, Guam, the Northern Mariana Islands, the Virgin Islands, and Puerto Rico.<br>**Category B:** Nonprofit conservation organizations that are acting in partnership and with the agreement of an entity described in Category A.<br>Category B applicants must be in the United States or one of the Territories identified above.<br>**Domestic Water Supply Projects: Task D**<br>A State, Tribe, irrigation district, water district, or other organization with water or power delivery in one of the following states or territories: 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, or the Virgin Islands. |
| **Recipient Cost Share:**<br>(See NOFO Sec. C.2) | Domestic Water Supply Projects for Tribes for disadvantaged communities (Task D projects) require a five percent non-Federal cost-share[1]. All other projects require a non-federal cost-share of at least 50 percent or more of total project costs is required. |

[1] Non-Federal cost-share for Domestic Water Supply Projects is waivable upon request. See Section C.2 for more information.

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| **Federal Funding Amount**<br>(See NOFO Sec. B.2) | **Drought Resiliency Projects Tasks A-C:**<br><br>Funding Group I: Up to $500,000 per agreement for a project that can be completed within two years.<br>Funding Group II: Up to $2,000,000 per agreement for a project that can be completed within three years. Projects in this group may be funded on an annual basis. Funding for the second and third years of the project is contingent upon future appropriations.<br>Funding Group III: Up to $5,000,000 per agreement for a project that can be completed within three years. Projects in this group may be funded on an annual basis. Funding for the second and third years of the project is contingent upon future appropriations.<br><br>**Domestic Water Supply Projects Task D:**<br><br>Up to $10,000,000 per agreement that can be completed within three years. |
| **Estimated Number of Agreements to be Awarded:**<br>(See NOFO Sec. B) | Approximately 25 to 40 projects contingent upon available Federal appropriations. |
| **Intergovernmental Review:**<br>(See NOFO Sec. D.5) | An intergovernmental review may be required for applications submissions from a U.S. state or local government prior to submission. Applicants should contact their State's Single Point of Contact (SPOC) to comply with the state's process under Executive Order 12372. www.whitehouse.gov/wp-content/uploads/2020/04/SPOC-4-13-20.pdf |

# Application Checklist

This table summarizes the information you are required to submit with your application.

| ✓ | Mandatory Application Components: | Required Content Page |
|---|---|---|
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| | Technical Proposal (Use Project Narrative Attachment Form to upload in Grants.gov) | 22 |
| | Budget Narrative (Use Budget Narrative Attachment Form to upload in Grants.gov) | 25 |
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# Acronyms and Abbreviations

| | |
|---|---|
| ARC | Application Review Committee |
| ASAP | Automated Standard Application for Payments |
| BIL | Bipartisan Infrastructure Law |
| CE | Categorical Exclusion |
| CEC | Categorical Exclusion Checklist |
| CEJST | Climate and Economic Justice Screening Tool |
| CFR | Code of Federal Regulations |
| CWA | Clean Water Act |
| DOI | U.S. Department of the Interior |
| EA | Environmental Assessment |
| EIS | Environmental Impact Statement |
| E.O. | Presidential Executive Order |
| ESA | Endangered Species Act |
| FAIN | Federal Award Identification Number |
| FAPIIS | Federal Award Performance Integrity Information System |
| FGDC | Federal Geospatial Data Committee |
| FOIA | Freedom of Information Act |
| FONSI | Finding of No Significant Impact |
| FY | Fiscal Year |
| GIS | Geographic Information Systems |
| IRA | Inflation Reduction Act |
| OMB | Office of Management and Budget |
| OM&R | Operations, Maintenance, and Replacement |
| NAICS | North American Industry Classification System |
| NEPA | National Environmental Policy Act |
| NHPA | National Historic Preservation Act |
| NOAA | National Oceanic and Atmospheric Administration |
| NOFO | Notice of Funding Opportunity |
| NRCS | Natural Resources Conservation Service |
| P.L. | Public Law |
| PSC | Product Service Code |
| Reclamation | Bureau of Reclamation |
| SAM | System of Award Management |
| SPOC | Single Point of Contact |
| TAP | Technical Assistance Program |
| UEI | Unique Entity Identifier |
| U.S.C. | United States Code |
| USFWS | U.S. Fish and Wildlife Service |
| WaterSMART | Sustain and Manage America's Resources for Tomorrow |
| WIIN | Water Infrastructure Improvements for the Nation |

# Contents

# Section A. Program Description

## A.1. Authority

This Notice of Funding Opportunity (NOFO) is 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 (P.L.) 111-11 (42 United States Code (U.S.C.) 10364), as amended, and the Inflation Reduction Act of 2022, P.L. 117-169, Section 50231.

## A.2. Background, Purpose, and Program Requirements

The U.S. Department of the Interior's (DOI) WaterSMART (Sustain and Manage America's Resources for Tomorrow) Program provides a framework for Federal leadership and assistance to stretch and secure water supplies for future generations in support of the Department's priorities. Through WaterSMART, the Bureau of Reclamation (Reclamation) leverages Federal and non-Federal funding to work cooperatively with States, Tribes, and local entities as they plan for and implement actions to increase water supply reliability through investments in existing infrastructure and attention to local water conflicts.

Drought conditions across the West impact a wide range of communities and sectors, including agriculture, cities, Tribes, the environment, recreation, hydropower producers, and others. While waves of precipitation have hit the Western United States since December of 2022, as of August 3, 2023, the U.S. Drought Monitor indicates that more than 51 percent of the land in the United States is still in abnormally dry to exceptional drought conditions. The WaterSMART Drought Response Program supports a proactive approach to drought by providing financial assistance to develop and update comprehensive drought plans (Drought Contingency Planning) and implement projects that will build long-term resilience to drought (Drought Resiliency Projects).

Collaboration with a multitude of customers, partners, and stakeholders is essential to identifying successful strategies to address complex water management issues such as drought. Collaborations are central to Reclamation's approach to addressing drought in the West, and WaterSMART's Drought Response Program supports the goals of the Interagency Drought Relief Working Group established in March 2021 and the National Drought Resiliency Partnership formed in 2016 to enhance Federal coordination of drought activities.

The WaterSMART Drought Response also provides support for priorities identified in Presidential Executive Order (E.O.) 14008: Tackling the Climate Crisis at Home and Abroad and aligned with other priorities, such as those identified in E.O. 13985: Advancing Racial Equity and Support for Underserved Communities Through the Federal Government. The WaterSMART Drought Response will advance the Biden-Harris Administration's Justice40 Initiative. Established by E.O. 14008, the Justice40 Initiative has made it a goal that

40 percent of the overall benefits of certain federal investments, such as climate, clean energy, and other areas, flow to disadvantaged communities.[2]

For further information on the Drought Response Program, please see [www.usbr.gov/drought](www.usbr.gov/drought). For further information on the WaterSMART Program, please see [www.usbr.gov/WaterSMART](www.usbr.gov/WaterSMART).

With the passage of the Inflation Reduction Act (IRA), Reclamation is able to offer an opportunity that provides up to 100 percent of the cost for the planning or design of domestic water supply projects that benefit disadvantaged communities or households that do not have reliable access to domestic water supplies. Tribes, territories, and other disadvantaged communities are encouraged to reach out to the Program Coordinator contact in *Section G – Federal Awarding Agency Contacts*, to learn more about this opportunity. If your project is selected, some technical assistance may be available, contingent on Reclamation staff availability.

## A.3. Notice of Funding Opportunity Purpose and Objectives

This NOFO's objective is to invite eligible applicants to submit proposals for projects that can increase water management flexibility—making our water supply more resilient. This helps to prepare for and address the impacts of drought and water supply shortages. Projects that may be funded under this NOFO are divided into four task areas (Task A, B, C, or D), and a brief summary of each task area is provided below. For more detailed information regarding task areas, please see *Section C.4. Eligible Projects*.

Applicant eligibility and required non-federal cost-share vary by task area. Please see *Sections C.1. Applicant Eligibility* and *Section C.2. Cost Sharing or Matching* for detailed information.

- **Drought Resiliency Projects: Tasks A-C (50 percent non-federal cost-share required)**
  - Task A: Increasing the Reliability of Water Supplies through Infrastructure Improvements.
  - Task B: Increasing the Reliability of Water Supplies Through Groundwater Recovery.
  - Task C: Projects to Improve Water Management through Decision Support Tools, Modeling, and Measurement.

  Proposals submitted under Tasks A-C need to demonstrate that the proposed project is supported by an existing drought planning effort. It is a well-established principle that

[2] For more information, *see* E.O. 14008, Tackling the Climate Crisis at Home and Abroad (Jan. 27, 2023), [https://www.federalregister.gov/documents/2021/02/01/2021-02177/tackling-the-climate-crisis-at-home-and-abroad](https://www.federalregister.gov/documents/2021/02/01/2021-02177/tackling-the-climate-crisis-at-home-and-abroad); Justice40 Initiative, [https://www.whitehouse.gov/environmentaljustice/justice40/](https://www.whitehouse.gov/environmentaljustice/justice40/).

proactively identifying resiliency projects through drought planning, in advance of a crisis, is far more cost effective than emergency response. As stated on the University of Nebraska's Drought Resources website, droughtresources.unl.edu/why-plan:

> *One frequently cited estimate from the Federal Emergency Management Agency is that "mitigation"—taking steps ahead of time to prevent known impacts from a natural disaster—saves $4 for every $1 expended. Planning ahead is generally seen as more efficient and more effective than measures taken in crisis mode. Drought researchers have found that after-the-fact assistance to farmers, for example, is expensive and doesn't necessarily reach the right people.*

- **Domestic Water Supply Projects: Task D (Five percent non-Federal cost-share is required[3])**

  Task D: Construction of domestic water supply projects for Tribes or disadvantaged communities that do not have reliable access to water supplies.

  Proposals submitted under Task D need to demonstrate that the primary purpose of the proposed project is to provide domestic water supplies to communities or households that do not have reliable access to domestic water supplies and that the project will benefit Tribes or disadvantaged communities.

## A.4. Other Related Funding Opportunities

- **WaterSMART Drought Contingency Planning**. Financial assistance is provided under the Drought Response Program, on a 50/50 cost share basis, to develop a drought contingency plan or to update an existing plan.

- **WaterSMART Environmental Water Resources Projects**. Projects focus on environmental benefits developed as part of a collaborative process to help carry out an established strategy to increase the reliability of water resources. Reclamation provides cost-share funding for projects that include water conservation and efficiency projects that result in quantifiable and sustained water savings and benefit ecological values; water management or infrastructure improvements to mitigate drought-related impacts to ecological values; and watershed management or restoration projects benefitting ecological values that have a nexus to water resources or water resources management.

[3] Non-Federal cost-share for Domestic Water Supply Projects is waivable upon request. See Section C.2 for more information.

The Federal share of the cost of an infrastructure improvement or activity may be **up to 75 percent** of the cost of the infrastructure improvement or activity, if certain conditions are met.

- **WaterSMART Grants: Water and Energy Efficiency Grants**. Financial assistance is provided, on a 50/50 cost share basis for projects that conserve and use water more efficiently; increase the production of hydropower; mitigate conflict risk in areas at a high risk of future water conflict; and accomplish other benefits that contribute to water supply reliability in the Western United States.

- **WaterSMART: Title XVI Congressionally Authorized Water Reclamation and Reuse Projects**. Through this NOFO, funding is available for planning, design, and construction of congressionally authorized Title XVI Projects.

- **WaterSMART: Title XVI Water Infrastructure Improvements for the Nation (WIIN) Water Reclamation and Reuse Projects**. Through this NOFO, funding is available for planning, design, and construction of Title XVI Projects and desalination projects that are eligible under Section 4009(c) of the WIIN Act.

- **Native American Affairs Technical Assistance Program (TAP)**. Reclamation's Native American Affairs TAP provides technical assistance to assist Tribes to develop, manage, and protect their water and related resources. Cost sharing is not required.

- **Inflation Reduction Act Section 50231**. A request for proposals from the Native American and International Affairs Office will be circulated in 2023 to solicit project proposals for planning, design, or construction of water projects to provide domestic water supplies to disadvantaged communities or households that do not have reliable access to domestic water supplies.

For information on the funding opportunities listed above, visit the WaterSMART Program website at www.usbr.gov/waterSMART or the Native American Affairs Program Technical Assistance Program website at www.usbr.gov/native/programs/TAPprogram.html

# Section B. Award Information

## B.1. Total Funding

This NOFO will allocate available program funds including fiscal year (FY) 2024 enacted appropriations for the Drought Program, funding available under the Bipartisan Infrastructure Law (BIL), P.L. 117-58, and funding made available through the IRA, P.L. 117-169. Applications submitted under this NOFO also may be considered if additional funding becomes available in FY 2024 or thereafter. Applicants that are identified for BIL funding will need to meet additional requirements, including Buy American and Wage Rate Requirements (Davis-Bacon Act). See *Section F.2.10 Buy America Domestic Preference* and *Section F.2.11 Additional Bipartisan Infrastructure Law Requirements: Wage Rate Requirements* for more information.

## B.2. Expected Award Amounts

Multiple applications for funding may be submitted for consideration under this funding opportunity, provided that the project scopes are not duplicative. See *Section C.3.1 Multiple Applications* for more information.

### B.2.1. Drought Resiliency Projects: Tasks A-C

*Maximum Award: $5,000,000*

*Minimum Award: $25,000*

If an applicant intends to submit applications for the same project under multiple funding groups, the project scope and overall project budget should be scaled accordingly.

The Federal share (Reclamation's share in addition to any other sources of Federal funding) of any one proposed project shall not exceed 50 percent of the total project costs. Generally, the non-Federal share of project costs must be expended at the same or greater rate as the Federal share of project costs.

Applicants are invited to submit proposals under the following funding groups for Tasks A-C:

**Funding Group I:** Up to $500,000 in Federal funds provided through this NOFO will be available for projects that generally should be completed in two years.

**Funding Group II:** Up to $2,000,000 in Federal funds provided through this NOFO will be available for larger projects that may take up to three years to complete. Projects in this group may be funded on an annual basis, and if so, funding for the second and third years of the project is contingent upon future appropriations.

**Funding Group III:** Up to $5,000,000 in Federal funds provided through this NOFO will be available for larger projects that may take up to three years to complete. Projects in this group may be funded on an annual basis, and if so, funding for the second and third years of the project is contingent upon future appropriations.

### B.2.2. Domestic Water Supply Projects for Tribes or Disadvantaged Communities: Task D

*Maximum Award: $10,000,000*

*Minimum Award: $25,000*

Applicants are invited to submit proposals under Task D for the construction of domestic water supply projects for Tribes or disadvantaged communities that do not have reliable access to water supplies. Up to $10,000,000 in Federal funds provided through this NOFO will be available for projects that generally should be completed in three years.

## B.3. Anticipated Award Funding and Dates

*Anticipated Award Date:* October 31, 2024

*Anticipated Project Completion Date:* October 31, 2026 – October 31, 2027, dependent on Funding Group or Task.

## B.4. Number of Awards

Approximately 25 to 40 awards, depending on the amount of funding requested by each applicant and the amount of funding available, will be awarded under this NOFO. More awards may be made if additional funding becomes available.

## B.5. Type of Award

Project awards will be made through grants or cooperative agreements as applicable to each project. If a cooperative agreement is awarded, the recipient should expect Reclamation to have substantial involvement in the project. Substantial involvement by Reclamation may include:

- Collaboration and participation with the recipient in the management of the project and close oversight of the recipient's activities to ensure that the program objectives are being achieved.

- Oversight may include review, input, and approval at key interim stages of the project.

## B.6. Technical Assistance

By request, Reclamation can provide technical assistance after award of the project. If you plan to receive Reclamation's assistance, you must account for these costs in your budget. Technical assistance should be discussed with Reclamation staff prior to applying. To discuss available assistance and these costs, contact the Program Coordinator identified in *Section G. Agency Contacts.*

# Section C. Eligibility Information

## C.1. Eligible Applicants

Applicant eligibility varies by project category, otherwise referred to as Task Area (Task); therefore, please carefully review applicant eligibility for the Task in which you are applying. For more detailed information regarding eligibility per Task, please see *Section C.4. Eligible Projects*.

### C.1.1. Eligible Applicants for Drought Resiliency Projects: Tasks A-C

***Category A applicants:***

- States, Tribes, irrigation districts, and water districts;
- State, regional, or local authorities, the members of which include one or more organizations with water or power delivery authority; and
- Other organizations with water or power delivery authority.

Category A applicants must be located in one of the following States or Territories: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming, American Samoa, Guam, the Northern Mariana Islands, the Virgin Islands, and Puerto Rico.

***Category B applicants:***

Nonprofit conservation organizations that are acting in partnership with and with the agreement of an entity described in Category A.

To be eligible, Category B applicants should include with their application a letter from the Category A partner stating that the Category A partner:

- Is acting in partnership with the applicant;
- Agrees to the submittal and content of the application; and
- Intends to participate in the project in some way (e.g., by providing input, feedback, or other support for the project).

**Note:** Partners do not necessarily need to contribute cost-share funding.

Category B applicants must be in the United States or one of the Territories identified above.

### C.1.2. Eligible Applicants for Domestic Water Supply Projects: Task D

A State, Tribe, irrigation district, water district, or other organization with water or power delivery in one of the following states or territories: 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, or the Virgin Islands.

### C.1.3. Ineligible Applicants

Those not eligible include, but are not limited to, the following entities:

- Federal governmental entities
- Institutions of higher education
- Individuals
- 501(c)6 organizations

## C.2. Cost Sharing or Matching

Applicant cost-share requirements for projects funded under this NOFO are dependent on the project type.

**Note: In accordance with provisions of Public Law 95-134, Title V, § 501 (1977) (codified at 48 U.S.C. 1469a), as amended by Public Law 96-205, Title V, § 601, this cost-sharing requirement is not applicable to American Samoa, Guam, the Northern Mariana Islands, or the Virgin Islands.**

- ***Drought Resiliency Projects Tasks A-C:*** Applicants must be capable of cost sharing ***50*** percent or more of the total project costs.

  The total project cost is defined as the total allowable costs incurred under a Federal award and all required cost share and voluntary committed cost share contributions, including third-party contributions.

  Cost share may be made through cash, costs contributed by the applicant, or third-party in-kind contributions. Third-party in-kind contributions include the value of non-cash contributions of property or services that benefit the federally assisted project and are contributed by non-Federal third parties, without charge. Cost-share funding from sources outside the applicant’s organization (e.g., loans or state grants) should be secured and available to the applicant prior to award. Please see *Section D.2.3.12 Official Resolution* and *Section D.2.2.13 Letters of Funding Commitment* for more information regarding the documentation required to verify commitments to meet cost sharing requirements.

Other sources of Federal funding may not be counted towards the required cost share. The exception to this requirement is where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs, such as awards to Tribal organizations under P.L. 93-638, as amended. *If it is determined that the Federal funding cannot be applied towards the non-Federal cost share, the work associated with the funding may be removed from the proposed project.*

- ***Drought Resiliency Projects Task D:*** Domestic Water Supply Projects for Tribes or disadvantaged communities. A five percent non-Federal cost-share or match is required.

  For Task D projects only, applicants may request a cost-share waiver. Upon applicant request and with concurrence from the Secretary of Interior, Reclamation may reduce or waive the five percent non-Federal cost share requirement for Task D projects if an overwhelming Federal interest and a significant financial need are identified. If the funding plan identifies less than five percent non-Federal cost share match, include the request for a cost-share reduction or waiver in the proposal. The request must include information and documentation addressing the factors set forth immediately below.

  Reclamation will use the following factors when considering whether to reduce or waive the non-Federal cost share requirement. Please address each of the following criteria and provide an explanation for the applicability of each criterion with supporting documentation:

  - Overwhelming Federal Interest. Reclamation will make a determination of whether an overwhelming Federal interest exists based on factors such as the programs and policies of the President and the Secretary of the Department of the Interior.

  - Financial Hardship. In determining whether a significant financial need exists the following factors will be considered:
    - The population-weighted median household income and average unemployment rate within the study area and the state based on the latest available data from the U.S. Census Bureau's American Community Survey (https://www.census.gov/programs-surveys/acs/data/data-tables.html).
    - Family poverty level for the state as estimated by guidelines published annually by the U.S. Department of Health and Human Services (aspe.hhs.gov/poverty-guidelines)
    - A current financial statement of the applicant and a statement that the applicant does not possess sufficient funds or assets to pay for all or part of the required cost share.

  For more information regarding cost share waivers, please contact the program coordinator identified in Section G. Agency Contacts.

### C.2.1. Cost Share Regulations

All cost-share contributions must meet the applicable administrative and cost principles criteria established in 2 Code of Federal Regulations (CFR) Part 200, available at www.ecfr.gov.

### C.2.2. Third-Party In-Kind Contributions

Third-party in-kind contributions may be in the form of equipment, supplies, and other expendable property, as well as the value of services directly benefitting and specifically identifiable to the proposed project. Applicants may not include as part of their cost share for projects funded under this NOFO the cost or value of third-party in-kind contributions that have been, or will be, relied on to satisfy a cost-sharing or matching requirement for another Federal financial assistance agreement, a Federal procurement contract, or any other award of Federal funds. Applicants should refer to 2 CFR §200.434 for regulations regarding the valuation of third-party in-kind contributions.

## C.3. Other

### C.3.1. Multiple Applications

Multiple applications for funding may be submitted for consideration under this funding opportunity, (for example, an applicant may submit a proposal for funding under Funding Group I, a separate proposal under Funding Group II, and a separate proposal under Funding Group III) provided that the project scopes are not duplicative. In general, for Tasks A-C, no more than $5,000,000 will be awarded to any one applicant under this NOFO, and no more than $10 million will be awarded to any one applicant under Task D. Category B applicants may be considered for multiple awards of up to $15,000,000 if the Category A partners are different for each project selected. In general, if you are seeking funding for multiple project components, and the components are interrelated or closely related (e.g., a project to construct a new storage and conveyance system coupled with a decision support tool for operation of the system), you should combine these in one application. However, if the projects are only loosely related or are independently operated, you should submit them as separate applications.

### C.3.2. Excluded Parties

Reclamation conducts a review of the SAM.gov Exclusions database for all applicant entities and their key project personnel prior to award, and ineligibility conditions apply to this Federal program. If entities or key project personnel are identified in the database as ineligible, prohibited/restricted, or otherwise excluded from receiving Federal contracts, certain subcontracts, or certain Federal assistance and benefits, Reclamation cannot award funds to them.

## C.4. Eligible Projects

In general, under this NOFO, Reclamation will provide funding for projects that increase water supply reliability and build long-term resilience to drought, reducing the need for emergency response actions. Drought resiliency can be defined as the capacity of a community to cope with and respond to drought.

To be eligible for funding under this NOFO, the proposed project should be beyond routine water management activities or activities required by state law for conservation and efficiency. The proposed project should also help avoid the need for emergency response actions, such as water hauling programs and temporary infrastructure and have ongoing benefits to build long-term resilience.

Applicants may apply for funding in the following four task areas (Task A, B, C, or D) described below. ***Please see sections C.1.1. and C.1.2. to ensure you are an eligible applicant for the task area in which you are applying. Tasks A-C eligible applicants are outlined in Section C.1., and Task D eligible applicants are outlined in C.1.2.***

In general, you may seek funding under one application for multiple project components that include one or a combination of tasks if the project components are interrelated or closely related (e.g., a project to construct a new storage and conveyance system [Task A] coupled with a decision support tool for operation of the system [Task C]). However, if the projects are only loosely related, separate applications need to be submitted. Applications including multiple projects that are independently operated may not be considered for funding.

One phase of a larger project may be eligible for funding under this program, so long as the phase proposed for funding will generate benefits to address drought resiliency or water supply reliability, independent of completing additional phases. Certain restrictions apply to phased projects that include water reclamation, reuse, desalination, and water storage. Please see *Section C.4.2.3. Water Reclamation, Reuse and Desalination* and *C.4.2.4. Small Surface Water and Groundwater Storage Projects* for more information.

Other projects that are similar to those tasks listed below may be submitted for consideration and will be allowed to the extent that they are consistent with program authorization and goals.

Proposed projects will be reviewed by the Program Office to determine whether the project type is eligible for evaluation.

***Projects may be prioritized to ensure balance among the program task areas (described below) and to ensure that the projects address the goals and objectives of the NOFO.***

### C.4.1. Task A—Increasing the Reliability of Water Supplies through Infrastructure Improvements

Even small investments in infrastructure can improve resiliency to drought by increasing water management flexibility and providing alternative sources of water supply. For example, constructing new surface water intakes or new conveyance system components, such as pipes or pumping plants, can provide water managers with much needed options to deliver water from alternative sources or support voluntary water transfers during drought. Likewise, aquifer recharge facilities can support water banking in wet years for use in dry years and sustainable conjunctive use programs. **(Please note that Task A projects do not include the construction or rehabilitation of wells. Please see Task B for well construction and rehabilitation.)**

Task A projects include, but are not limited to the following:

- **System modifications or improvements.** Projects that will increase flexibility of water conveyance and deliveries, facilitating access to water supplies in times of drought. Projects include, but are not limited to:
  - Constructing or modifying surface water intakes to access supplies when water levels are low (e.g., at dead pool), or to allow access at different locations.
  - Constructing new conveyance system components (pipelines, canals, pumping plants, etc.) to increase flexibility to deliver water from different sources, to facilitate voluntary water marketing or to deliver water from alternative sources.
  - Constructing interties between water conveyance systems to increase options for water deliveries.
  - Installing barriers or other facilities to prevent saltwater intrusion into surface supplies.
- **Storing water and/or recharging groundwater supplies.** Projects that enable the capture or storage of additional water supplies that can be made available during drought. Projects include, but are not limited to:
  - Developing or expanding small-scale surface water storage facilities such as off-stream storage ponds.
  - Installing water towers and storage tanks to store water for municipal and domestic use.
  - Installing recharge ponds or injection wells to increase recharge of surplus, inactive, or reclaimed water. Recharged water can serve multiple purposes such as sustainable conjunctive use in times of drought, deterring saltwater intrusion into freshwater aquifers, and limiting additional land subsidence.
- **Developing alternative sources of water supply including water treatment.** Projects that develop alternative water supplies to build resiliency to the impacts of drought. Projects include, but are not limited to:
  - Constructing or expanding small-scale water treatment facilities to treat impaired groundwater, municipal wastewater, stormwater runoff, for environmental, agricultural, or potable purposes.
  - Constructing stormwater capture and reuse systems, including green stormwater infrastructure solutions such as rain gardens, cisterns, and bioswales.
  - Installing residential grey water and rain catchment systems.

**Note for applicants applying for recharge basins:** Multiple recharge basins in one application will be considered as one project (or a phase of a larger project, if applicable) and the total project costs cannot exceed $10 million (*see Section C.4.2.4.*) to be eligible under this NOFO.

### C.4.2. Task B—Increasing the Reliability of Water Supplies Through Groundwater Recovery

As water managers continue to face vulnerabilities due to drought and climate change, diversification of water supplies is critical for water security. The sustainable use of groundwater and recovery of recharged water are vital to building drought resiliency and supporting public health. Aquifer storage and recovery programs are becoming an important water management tool and the water recovered from these programs are being used for municipal and industrial water supplies, irrigation, and ecosystem restoration.

Wells funded under Task B of this NOFO are to be used for supplemental supplies during times of drought, to serve communities that are or are potentially facing a public health crisis due to a lack potable water, or to recover previously recharged/stored water. This NOFO is not intended to provide funding for wells that are part of a long-term planning effort to support increased need due to population growth or increased irrigation demands. *However, if you are a Tribe or disadvantaged community that doesn't currently have reliable access to domestic water supplies and are looking to construct a domestic water supply system, please see Domestic Water Supply Projects: Task D below (Section C.4.1.3).*

Projects under Task B may include, but are limited to following:

- Constructing wells to provide back-up water supplies during times of drought.
- Constructing extraction wells at groundwater banks or other recharge areas to improve extraction and return capabilities during dry years.

**Note for applicants applying for groundwater recovery well projects:** Applications under Task B for groundwater recovery projects (including rehabilitation and the treatment of well water) will be limited to one well per application, and applicants will be limited to two well applications under this NOFO, even if the total requested federal cost-share is less than the funding limitations set forth in Section B.2.

### C.4.3. Task C—Projects to Improve Water Management through Decision Support Tools, Modeling, and Measurement

Task C Projects are intended to help provide entities with water use information and tools to monitor the onset of drought, detect different levels of drought that may trigger certain drought mitigation and response actions, and identify potential strategies to address drought. Task C Projects also include developing tools that facilitate water marketing between willing buyers and sellers to redistribute water supplies to meet other existing needs or uses (e.g., agricultural, municipal, or dedication to in-stream flows).

Task C Projects include, but are not limited to the following:

- **Developing water management, water marketing, and modeling tools to help communities evaluate options and implement strategies to address drought.**
    - Developing online decision support tools to help communities identify alternative water supplies or water management options in times of drought.
        - For example, in 2019, Reclamation awarded the Texas Water Development Board with a Drought Resiliency Grant to modify their existing drought prediction tool to provide more accurate probabilistic forecast of average May through July rainfall, reservoir levels, and reservoir storage across the state by county. The project was completed in 2022, and the forecasts are updated bi-weekly and made accessible for water managers through the Water Data for Texas website: www.waterdatafortexas.org/reservoirs/statewide.
    - Developing new models or improving existing models for analyzing and predicting drought conditions. Such models should be based on proven methods to analyze drought frequency, duration, and intensity, as opposed to research type efforts.
    - Developing water budgets and tiered pricing programs that incentivize decreased consumptive use. Tiered pricing can be paired with water budgets to reward customers who use less water by charging lower rates for water in a lower tier. For example, Tier I pricing can include a relatively low price for indoor water use within a budgeted amount (e.g., 55 gallons per person per day). Reasonable water use above that amount—assumed to be for outdoor use—would be included within Tier 2 pricing at a higher cost than Tier 1. Tier 3 would establish an even higher price for all water use that exceeds the total water budget.
    - Real-time operational modeling to track supply conditions and demands. Modeling can be used to analyze different operational scenarios to optimize pumping capacities, evaluate user restrictions, water delivery needs, etc., and determine how to best meet other compliance standards such as temperature control points, water quality, or Endangered Species Act (ESA)-related requirements.
    - Assessing water quality with respect to the level of drought to determine appropriate measures to protect water quality for fish and wildlife, agriculture, and human consumption (e.g., water quality testing or constructing groundwater monitoring wells).
    - Developing tools to facilitate water marketing, connecting willing sellers and willing buyers that want to participate in the buying, selling, leasing, or exchanging of water.
- **Installing water measurement equipment and monitoring instrumentation devices to accurately track water supply conditions** (e.g., stream flow measurement structures, flow meters, well level instruments, reservoir level monitors).

*Projects that primarily install meters or other water measurement devices are considered routine water management activities and are, therefore, not eligible for funding under this program as a standalone project.* However, meters or other measuring devices are eligible as a necessary sub-component of another eligible Drought Resiliency Project as described in Tasks A-C.

Eligible measurement projects may include, but are not limited to:

- Installing and/or modifying monitoring equipment associated with stream flow measurement devices, water level sensors, etc.
- Installing dual municipal meters to track indoor versus outdoor water use, allowing water purveyors to control or discourage landscape irrigation and other outdoor uses in times of drought.

### C.4.4. Task D— Domestic Water Supply Projects for Tribes or Disadvantaged Communities

Task D projects are for the construction of domestic water supply projects of which the primary purpose is to provide domestic water supplies to Tribal or disadvantaged communities that do not have reliable access to water supplies. This can include the development of new supplies and/or associated infrastructure for treatment and delivery. Please note that total project costs under Task D cannot exceed $10,000,000.

### C.4.5. Ineligible Projects

Projects not eligible for funding under this NOFO include scientific research, water hauling, education and outreach, land fallowing, cover cropping, and reimbursement for economic losses resulting from drought.

Other projects that are not eligible for funding under this NOFO are identified immediately below.

#### *C.4.5.1. Operations, Maintenance, and Replacement*

In accordance with Section 9504 of the Secure Water Act, projects that are considered normal Operations, Maintenance, and Replacement (OM&R) are not eligible for funding under this NOFO. OM&R is described as system improvements that replace or repair existing infrastructure or function without providing increased efficiency or effectiveness of water distribution over the expected life of the improvement. Examples of ineligible OM&R projects include:

- Replacing malfunctioning components of an existing facility with the same components
- Improving an existing facility to operate as originally designed
- Performing an activity on a recurring basis, even if that period is extended (e.g., 10-year interval)

- Sealing expansion joints of concrete lining because the original sealer or the water stops have failed
- Sealing cracks in canals and/or pipes, including those sealant projects intended to improve facilities with inherent design and construction flaws
- Replacing broken meters with new meters of the same type
- Replacing leaky pipes with new pipes of the same type

Applicants that have questions regarding OM&R are encouraged to contact the Program Coordinator (see *Section G. Agency Contacts*) prior to the application deadline for further information.

#### *C.4.5.2. Water Conservation Projects*

Projects primarily focused on water conservation are not eligible under this NOFO, including:

- Lining or piping canals to conserve water
- Installing landscape irrigation measures
- Turf replacement
- Water metering and measurement projects are ineligible as a standalone project but may be included if paired with another project that is eligible under Tasks A-C, as a necessary subcomponent of that task

Projects that will result in water conservation as a secondary consideration, such as decision support tools that improve operational efficiency, are eligible under this NOFO, so long as they are consistent with the eligible projects described in Tasks A-C in Section C.4.

#### *C.4.5.3. Water Reclamation, Reuse and Desalination*

Any projects or project elements that are part of a congressionally authorized Title XVI Water Reclamation or Reuse Project are not eligible for funding under this NOFO.

Any projects or project elements that are part of a water desalination or recycling project eligible for funding under Section 4009(a) or 4009(c) of the WIIN Act, P.L. 114-322 are not eligible for funding under this NOFO.

In addition, if a water desalination, reclamation, or recycling project has a total estimated project cost of more than $20 million, that project is not eligible under this NOFO and should be pursued under the Title XVI Water Reclamation and Reuse Program or the WaterSMART Desalination Planning and Construction Program. *Note, this applies to phases or project elements of a desalination, reclamation, or recycling project that are part of a larger project with a total estimated project cost of more than $20 million.*

See the Title XVI-Water Reclamation and Reuse webpage, www.usbr.gov/watersmart/title, for more information.

#### *C.4.5.4. Small Surface Water and Groundwater Storage Projects*

An application for funding of a small surface or groundwater storage project (including groundwater recharge) with a total estimated project cost of more than $10 million, or that is a phase of a larger project that exceeds $10 million, is not eligible under this NOFO. Applicants proposing such projects may wish to consider Reclamation's Small Storage Program. See the Small Storage Program webpage, www.usbr.gov/smallstorage, for more information.

#### *C.4.5.5. Domestic Water Supply Projects*

An application proposing a domestic water supply project to serve Tribes or disadvantaged communities with a total estimated project cost of more than $10 million, or that is a phase of a larger project that exceeds $10 million, is not eligible under this NOFO. Reclamation is currently developing a comprehensive implementation plan for domestic water supply projects authorized under P.L. 117-169. Reclamation will post more information as it becomes available at www.usbr.gov/inflation-reduction-act. In addition, water supply projects of which the primary benefit is not to serve a Tribe or disadvantaged community is not eligible under this NOFO.

#### *C.4.5.6. Water or Land Purchases*

Proposals to use Federal funding to purchase water or land are not eligible under this NOFO. Applicants seeking funding to purchase water in a drought emergency should request emergency drought assistance under Reclamation's Drought Response Program. See the WaterSMART Drought Response Program webpage, www.usbr.gov/drought, for more information.

#### *C.4.5.7. Emergency Drought Response Projects*

Emergency drought response projects that provide temporary benefits, including projects involving temporary facilities (e.g., temporary pipes and pumps). Applicants seeking funding drought emergency relief should request emergency drought assistance under Reclamation's Drought Response Program. See the WaterSMART Drought Response Program webpage, www.usbr.gov/drought, for more information.

#### *C.4.5.8. Drought Contingency Planning*

Development or updates of drought contingency plans are not eligible under this NOFO but may be eligible for funding under Reclamation's WaterSMART Planning and Design NOFO.

#### *C.4.5.9. Building Construction*

Proposals to construct a building are not eligible for Federal funding under this NOFO (e.g., a building to house administrative staff or a building to house promotion of public awareness for water conservation).

### *C.4.5.10. Pilot Projects*

Proposals to conduct a pilot study to evaluate technical capability, economic feasibility, or viability for full-scale implementation or to test an unproven material or technology are not eligible for Federal funding under this NOFO.

### *C.4.5.11. On-Farm Improvements*

Projects to conduct on-farm improvements are not eligible under this NOFO. Applicants interested in on-farm improvements should contact the U.S. Department of Agriculture and Natural Resources Conservation Service (NRCS) to investigate opportunities for Federal assistance. For more information on NRCS programs, including application deadlines and a description of available funding, please contact your local NRCS office or see www.nrcs.usda.gov for further contact information in your area.

Applicants interested in projects for water delivery systems improvements that will enable farmers to make additions on-farm improvements in the future should consider Reclamation's Water and Energy Efficiency Grants. See the WaterSMART Water and Energy Efficiency Grants webpage, www.usbr.gov/watersmart/weeg, for more information.

### *C.4.5.12. Projects Receiving Other Federal Financial Assistance*

Projects or activities that are funded under another Federal financial assistance agreement are not eligible for funding under this NOFO.

# Section D. Application and Submission Information

## D.1. Address to Request Application Package

This document contains all information, forms, and electronic addresses required to submit an application. If you are unable to access this information electronically, you can request paper copies of any of the documents referenced in this NOFO by emailing the Financial Assistance contact listed in Section G of this NOFO.

## D.2. Content and Form of Application Submission

All applications must conform to the requirements described in this section.

### D.2.1. Application Format and Length

The technical proposal and criteria section (defined below) shall be limited to a maximum of ***25*** consecutively numbered pages. If this section of the application exceeds *25* pages, only the first *25* pages will be evaluated. **The full application, including attachments, cannot exceed *125* pages. If the application exceeds *125* pages, only the first *125* pages will be considered in the evaluation.**

The font shall be at least 12 points in size and easily readable. Page size shall be 8½ by 11 inches, including charts, maps, and drawings. Margins should be standard 1-inch margins. Oversized pages will not be accepted.

Applications will be prescreened for compliance to the above page number limitation. Excess pages will be removed and not considered in the evaluation of the proposed project.

### D.2.2. Application Content

The application should include the items identified as Mandatory Application Components in the Application Checklist located on page ii to be considered complete. To facilitate fair and timely reviews, it is highly recommended that application packages be structured in the order identified in the Application Checklist.

Applications will be screened for completeness and compliance with the provisions of this NOFO. A complete application must include all the items identified as Mandatory Application Components in the Application Checklist. Any application which fails to include these items will be deemed ineligible and will not be considered for funding.

Following awards of funding, Reclamation may post successful applications on the Reclamation website, www.usbr.gov/watersmart after conducting any redactions determined necessary by Reclamation, in consultation with the successful applicant. See *Section F.2.6. Freedom of Information Act* (FOIA).

### *D.2.2.1. Mandatory Federal Forms*

The application must include the following standard Federal forms. Questions regarding forms should be referred to the Financial Assistance Point of Contact under *Section G.1 Reclamation Financial Assistance Contact.*

**Mandatory Federal Forms Note:** Applications submitted by consultants must contain an SF-424 and SF-424B that is manually signed by an authorized representative of the entity applying. These forms are available at www.grants.gov/web/grants/forms/sf-424-family.html.

**SF-424: Application for Federal Assistance**

A fully completed SF-424: Application for Federal Assistance form signed by a person legally authorized to commit the applicant to performance of the project must be submitted with the application. Applications that fail to include a SF-424 by the submission deadline will be considered ineligible and will not pass initial screening.

If you request more than $100,000 in Federal funding, you must certify that all statements in 43 CFR Part 18, Appendix A-Certification Regarding Lobbying are true. The Authorized Official's signature on the appropriate SF-424, Application for Federal Assistance form represents the entity's certification of the statements in 43 CFR Part 18, Appendix A.

*Failure to submit a signed SF-424 with a valid UEI number will result in the elimination of the application from further consideration.*

**SF-424A or SF-424C Budget Information Form**

A fully completed SF-424A Budget Information – Non-construction Programs or SF-424C Budget Information – Construction Programs must be submitted with the application.

*Failure to submit an SF-424A or SF-424C will result in the elimination of the application from further consideration.*

**SF-424B or SF-424D Assurances Form**

A SF-424B – Assurances – Non-construction Programs or SF-424D Assurances – Construction Programs signed by a person legally authorized to commit the applicant to performance of the project must be submitted with the application.

*Failure to submit a signed SF-424B or SF-424D will result in the elimination of the application from further consideration.*

### *D.2.2.2. Technical Proposal*

Submission of a technical proposal (limited to 25 pages) is mandatory and must be received by the application deadline.

While an application will not be removed from consideration if the technical proposal does not address each of the following, it is highly recommended that applicants address each component listed below to ensure that your proposal is competitive.

**Title Page**

Provide a brief, informative, and descriptive title for the proposed work that indicates the nature of the project. Include the name and address of the applicant, and the name and address, email address, and telephone number of the Project Manager.

**Table of Contents**

List all major sections of the proposal in the table of contents.

**Executive Summary**

The executive summary should include:

- The applicant name, city, county, and state and a brief explanation of how you meet the applicant eligibility requirements (See Section C.1).
- The Task Area you are applying under (Task A, B, C, or D) and what funding group, if applicable. Funding groups are only applicable to Tasks A-C.
- If applying under Task areas A-C, indicate whether you are a Category A applicant or Category B applicant. If you are a Category B applicant, please briefly explain how you are acting in partnership with a Category A partner. Note: If you are a Category B applicant, you should include a letter from the Category A partner confirming that they are partnering with you and agree to the submittal and content of the application (see *Section C.1. Eligible Applicants*). See *Section D.2.2.8. Letter of Partnership* for additional information.
- A one-paragraph project summary that provides the location of the project, a brief description of the work that will be carried out, any partners involved, and recent drought conditions in your project area. Describe how this project is expected to help alleviate impacts of those conditions or other concerns in the area. Identify any plans or other planning documents that support the project. This information will be used to create a summary of your project for our website if the project is selected for funding.

> ***Example:*** *The Town of Apple Valley, located in San Bernardino County in Southern California, will convert the source of irrigation water at five locations from potable water to reclaimed water by constructing a pipeline that will transport reclaimed water from the Apple Valley Water Reclamation Plant, and retrofitting the existing irrigation system at each site to utilize reclaimed water. Irrigating with reclaimed water will reduce use of potable groundwater—*

*reducing the demand on the stressed Mojave River Groundwater Basin and adding 961 acre-feet of water per year during periods of drought.*

- State the length of time and estimated completion date for the proposed project including the construction start date (mm/yr).
  **Note: proposed projects should not have an estimated construction start date that is prior to October 31, 2024.**

- State whether or not the proposed project is located on a Federal facility or will involve Federal lands, and what work will occur on the Federal facility or Federal lands.

- Provide relevant background information about the applicant and service area such as services provided, population served, irrigated acres served, crops grown in the project area, etc.

- Include details regarding the applicant's or applicant partner's water supplies. This should include water delivered or diverted from all water sources including water supply contracts, water rights, applicant or partner owned wells, and any other long-term water supplies that are part of the water use portfolio (e.g., drainage from upstream users, reclaimed/recycled water, water transfer agreements, etc.). Include the total amount of water available in an unconstrained year (in acre-feet) and the 10-year average annual water supply (in acre-feet).

**Project Location**

Provide specific information on the proposed project location or project area, including a map showing the geographic location. For example, [project name] is located in [county and state] approximately [distance] miles [direction, e.g., northeast] of [nearest town]. The project latitude is {##°##'N} and longitude is {###°##'W}.

**Project Description**

Provide a more comprehensive description of the technical aspects of your project, including the goals and objectives of the project, work to be accomplished, and the approach to complete the work. This description should provide detailed information about the project including materials and equipment and the work to be conducted to complete the project. This section provides an opportunity for the applicant to provide a clear description of the technical nature of the project and to address any aspect of the project that reviewers may need additional information to understand.

*Please do not include your project schedule and milestones here; that information is requested in response to the Readiness to Proceed and Project Implementation criterion in Section E.1.2.5. In addition,* ***avoid*** *discussion of the benefits of the project, which are also requested in response to evaluation criterion in Section E.1.1. Evaluation Criterion A—Project Benefits. This section is solely intended to provide an understanding of the technical aspects of the project.*

*Please note that if the work for which you are requesting funding is a phase of a larger project, only describe the work that is reflected in the budget and exclude description of other activities or components of the overall project.*

#### D.2.2.2.1. Performance Measures

All applicants are required to propose a brief summary describing the performance measure that will be used to quantify actual benefits upon completion of the project. Quantifying project benefits is an important means to determine the relative effectiveness of various water management efforts, as well as the overall effectiveness of the project.

*Program funding may be used to establish a monitoring and data management plan or to install necessary equipment to monitor progress. However, program funding may not be used to measure performance after project construction is complete (these costs are considered normal operation and maintenance costs and are the responsibility of the applicant).*

#### D.2.2.2.2. Evaluation Criteria

*Section E.1. Evaluation Criteria* provides a detailed description of each criterion and sub-criterion and the points associated with each. The evaluation criteria portion of your application should thoroughly address each criterion and sub-criterion in the order presented to assist in the complete and accurate evaluation of your proposal.

**It is suggested that applicants copy and paste the evaluation criteria and sub-criteria in *Section E.1. Evaluation Criteria* into their applications to ensure that all necessary information is adequately addressed.**

### *D.2.2.3. Project Budget*

The total project cost is the sum of all allowable items of costs, including all required cost sharing and voluntary committed cost sharing, including third-party contributions, that are necessary to complete the project. Please include the following chart (Table 1) to summarize all funding sources. Denote in-kind contributions with an asterisk (*).

Table 1. —Summary of Non-Federal and Federal Funding Sources

| FUNDING SOURCES | AMOUNT |
|---|---|
| **Non-Federal Entities** | |
| 1. | $ |
| 2. | $ |
| 3. | $ |
| **Non-Federal Subtotal** | $ |
| **REQUESTED RECLAMATION FUNDING** | $ |

Submission of a budget narrative is mandatory. The budget narrative provides detailed information on the items included in the budget Object Class Categories on the SF-424A (non-construction projects) or Cost Classification categories identified on the SF-424C (construction projects). The budget narrative must clearly identify ***all*** items of cost (**total estimated project cost**), ***including those that will be contributed as non-Federal cost share by the applicant (required and voluntary), third-party in-kind contributions, and those that will be covered using the funding requested from Reclamation***, and any requested pre-award costs. The types of information to describe in the narrative may include, but are not limited to, those identified in the Budget Narrative Guidance attached to this NOFO (Attachment A). Applicants may elect to use the Budget Detail and Narrative spreadsheet (Attachment B to this NOFO) for their budget narrative. Costs, including the valuation of third-party in-kind contributions, must comply with the applicable cost principles contained in 2 CFR Part 200, available at the electronic CFR (www.ecfr.gov).

**Please note: The Budget Detail Attachment Form in Grants.gov is to be used to upload the budget proposal.**

*Failure to submit a budget narrative will result in the elimination of the application from further consideration.*

#### *D.2.2.4. Environmental and Cultural Resources Compliance*

If the project includes monitoring, measurement, or other field work, environmental and cultural resources compliance may be required. Proposals that include on the ground activities should answer the questions from *Section H.1. Environmental and Cultural Resource Considerations* in this section.

#### *D.2.2.5. Required Permits or Approvals*

In the Evaluation Criteria (*Section E.1.5. Evaluation Criterion E-Readiness to Proceed and Project Implementation*) applicant should discuss whether any permits or approvals are necessary and explain the plan for obtaining such permits or approvals.

Note that improvements to Federal facilities that are implemented through any project awarded funding through this NOFO must comply with additional requirements. The Federal government will continue to hold title to the Federal facility and any improvement that is integral to the existing operations of that facility. Please see P.L. 111-11, Section 9504(a)(3)(B). Reclamation may also require additional reviews and approvals prior to award to ensure that any necessary easements, land use authorizations, or special permits can be approved consistent with the requirements of 43 CFR Section 429 and that the development will not impact or impair project operations or efficiency.

#### *D.2.2.6. Overlap or Duplication of Effort Statement*

Applicants should provide a statement that addresses if there is any overlap between the proposed project and any other active or anticipated proposals or projects in terms of activities, costs, or commitment of key personnel. If any overlap exists, applicants must provide a description of the overlap in their application for review.

Applicants should also state if the proposal submitted for consideration under this program does or does not in any way duplicate any proposal or project that has been or will be submitted for funding consideration to any other potential funding source—whether it be Federal or non-Federal. If such a circumstance exists, applicants must detail when the other duplicative proposal(s) were submitted, to whom (Agency name and Financial Assistance program), and when funding decisions are expected to be announced. If at any time a proposal is awarded funds that would be duplicative of the funding requested from Reclamation, applicants must notify the NOFO point of contact immediately.

#### *D.2.2.7. Conflict of Interest Disclosure Statement*

Per 2 CFR §1402.112, "Financial Assistance Interior Regulation" applicants should state in the application if any actual or potential conflict of interest exists at the time of submission. Submission of a conflict-of-interest disclosure or certification statement is mandatory prior to issue of an award.

**Applicability**

This section intends to ensure that non-Federal entities and their employees take appropriate steps to avoid conflicts of interest in their responsibilities under or with respect to Federal financial assistance agreements.

In the procurement of supplies, equipment, construction, and services by recipients and by sub recipients, the conflict-of-interest provisions in 2 CFR§200.318 apply.

**Notification**

Non-Federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to the DOI awarding agency or pass-through entity in accordance with 2 CFR §200.112.

Recipients must establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or eliminate identified conflicts of interest. The successful applicant is responsible for notifying the Financial Assistance Officer in writing of any conflicts of interest that may arise during the life of the award, including those that have been reported by sub recipients.

**Restrictions on Lobbying**

Non-Federal entities are strictly prohibited from using funds under a grant or cooperative agreement for lobbying activities and must provide the required certifications and disclosures pursuant to 43 CFR §18 and 31 USC §1352.

**Review Procedures**

The Financial Assistance Officer will examine each conflict-of-interest disclosure on the basis of its particular facts and the nature of the proposed grant or cooperative agreement and will determine whether a significant potential conflict exists and, if it does, develop an appropriate means for resolving it.

**Enforcement.**
Failure to resolve conflicts of interest in a manner that satisfies the government may be cause for termination of the award. Failure to make required disclosures may result in any of the remedies described in 2 CFR §200.339, Remedies for noncompliance, including suspension or debarment (see also 2 CFR §180).

#### *D.2.2.8. Uniform Audit Reporting Statement*

All U.S. states, local governments, federally recognized Indian Tribal governments, and non-profit organizations expending $750,000 USD or more in Federal award funds in the applicant's fiscal year must submit a Single Audit report for that year through the Federal Audit Clearinghouse's Internet Data Entry System . U.S. state, local government, federally recognized Indian Tribal governments, and non-profit applicants must state if your organization was or was not required to submit a Single Audit report for the most recently closed fiscal year. If your organization was required to submit a Single Audit report for the most recently closed fiscal year, provide the Employer Identification Number (EIN) associated with that report and state if it is available through the Federal Audit Clearinghouse website.

#### *D.2.2.9. SF-LLL: Disclosure of Lobbying Activity (if Applicable)*

If applicable, a fully completed and signed SF-LLL: Disclosure of Lobbying Activities form is required if the applicant has made or agreed to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. *This form cannot be submitted by a contractor or other entity on behalf of an applicant*.

#### *D.2.2.10. Letters of Support*

You should include any letters from interested stakeholders supporting the proposed project. To ensure your proposal is accurately reviewed, please attach all letters of support as an appendix. Letters of support received after the application deadline for this NOFO will not be considered in evaluating your proposed project.

#### *D.2.2.11. Letter of Partnership (Category B Applicants)*

Category B applicants should submit a Letter of Partnership from the Category A partner, stating that they are acting in partnership with the applicant and agree to the submittal and content of the application (see *Section C.1. Eligible Applicants*). However, if the project is selected, a Letter of Partnership must be received prior to award.

### *D.2.2.12. Official Resolution*

If selected, the applicant must provide prior to award an official resolution adopted by your organization's board of directors or governing body, or, for state government entities, an official authorized to commit the applicant to the financial and legal obligations associated with receipt of a financial assistance award under this NOFO, verifying:

- The identity of the official with legal authority to enter into an agreement
- The board of directors, governing body, or appropriate official who has reviewed and supports the application submitted
- That your organization will work with Reclamation to meet established deadlines for entering into a grant or cooperative agreement

An official resolution meeting the requirements set forth above is mandatory before an award of funding will be made.

### *D.2.2.13. Letters of Funding Commitment*

If a project is selected for award under this funding opportunity and cost share funding is anticipated to be provided by a source other than the applicant, the third-party cost share must be supported with letters of commitment prior to award. Letters of commitment should identify the following elements:

- The amount of funding commitment
- The date the funds will be available to the applicant
- Any time constraints on the availability of funds
- Any other contingencies associated with the funding commitment

Cost-share funding from sources outside the applicant's organization (e.g., loans or State grants) should be secured and available to the applicant prior to award. Reclamation will not execute a financial assistance agreement until non-Federal funding has been secured or Reclamation determines that there is enough evidence and likelihood that non-Federal funds will be available to the applicant after executing the agreement.

## D.3. Unique Entity Identifier (UEI) and System for Award Management (SAM)

Each applicant (unless the applicant is an individual or Federal awarding agency that is excepted from those requirements under 2 CFR 25.110 (b) or (c), or has an exception approved by the Federal awarding agency under 2 CFR 25.110 (d) is required to:

- Be registered in SAM before submitting an application. Instructions for registering are available at [sam.gov/content/home](sam.gov/content/home)

- Provide a valid UEI in the application
- Maintain an active SAM registration with current information at all times during which it has an active Federal award or plan under consideration by a Federal award agency

Meeting the requirements set forth above is mandatory.

### D.3.1. Register with the System for Award Management

Each applicant must be registered in SAM before submitting its application. Register on the SAM.gov website. The "Help" tab on the website contains User Guides and other information to assist you with registration. The Grants.gov "Register with SAM" page also provides detailed instructions. You can also contact the supporting Federal Service Desk for help registering in SAM. Once registered in SAM.gov, entities must renew and revalidate their SAM.gov registration at least once every 12 months from the date previously registered. Entities are strongly encouraged to revalidate their registration as often as needed to ensure their information is up to date and reflects changes that may have been made to the entity's Internal Revenue Service information.

See the "Submission Requirements" section of this document below for more information on SAM.gov registration.

**There is no cost to register with SAM.gov**. There are third-party vendors who will charge a fee in exchange for registering entities with SAM.gov; **please be aware you can register and request help for free.**

NOTE: An organization's SAM.gov registration process may take six weeks or more to complete, so please allow sufficient time to ensure applications are submitted before the closing date.

***Applicants that do not have an active SAM registration will not be able to submit an electronic application in Grants.gov.***

### D.3.2. Obtain a Unique Entity Identifier

You are required to register in SAM.gov and obtain a UEI prior to submitting a Federal award application. A UEI will be assigned to entities upon registering in SAM.gov.

## D.4. Submission Date and Time

The submission deadline for applications submitted electronically in Grants.gov is:

**November 7, 2023, by 11:59 p.m. Mountain Daylight Time (MDT)**.

The submission deadline for applications submitted by mail, overnight delivery, or courier is

**November 7, 2023, by 4:00 p.m. Mountain Daylight Time (MDT).**

Proposals received after the application deadline will not be considered unless it can be determined that the delay was caused by Reclamation or there were technical issues with the Grants.gov application system. *Note that difficulties related to an applicant's Grants.gov profile (e.g., incorrect organizational representative), uploading documents to Grants.gov, or an applicant's SAM.gov registration are not considered technical issues with the Grants.gov system*.

If for any reason applicants are unable to submit their application through Grants.gov, they may provide a paper copy of their full application by mail or courier.

### D.4.1. Application Delivery Instructions

Applications may be submitted electronically through Grants.gov (www.grants.gov) or a hard copy may be submitted to either one of the following addresses. **We strongly encourage you to use Grants.gov to submit your proposal if possible.** Under no circumstances will applications received through any other method (such as e-mail or fax) be considered eligible for award.

By mail, express/overnight delivery, or courier services:

Bureau of Reclamation
Upper Colorado Regional Office
Attn: Karen Shubert
125 South State Street, Room 8100
Salt Lake City, Utah 84138-1147

If you are submitting a paper application, please notify Karen Shubert at kshubert@usbr.gov for approval no later than 2:00 p.m. Mountain Daylight Time on November 7, 2023.

### D.4.2. Instructions for Submitting the Project Application

Each applicant should submit an application in accordance with the instructions contained in this section.

#### *D.4.2.1. Applications Submitted Electronically*

Electronic applications must be submitted through Grants.gov. Applicant resource documents and a full set of instructions for registering with Grants.gov and completing and submitting applications online are available at: www.grants.gov/applicants/apply-for-grants.html.

Application submission requires prior registration through Grants.gov, which may take up to 21 days. See the registration instructions available at https://www.grants.gov/web/grants/applicants/registration.html. **In addition, please note that the Grants.gov system only accepts applications submitted by individuals that are registered and active in SAM as both a user and an Authorized Organizational Representative.**

Applicants have experienced significant delays when attempting to submit applications through Grants.gov. Applicants are encouraged to submit applications several days prior to the application deadline. If you are a properly registered Grants.gov applicant and encounter problems with the Grants.gov application submission process, you must contact the Grants.gov Help Desk to obtain a case number. This case number will provide evidence of your attempt to submit an application prior to the submission deadline. If you are unable to submit your application through Grants.gov, you may provide a paper copy of the full application by mail or courier, as described in Section D.4.2.2 below.

***Late applications will not be considered unless it is determined that the delay was caused by Reclamation mishandling or technical issues with the Grants.gov application system.*** Please note that difficulties related to an applicant's Grants.gov profile (e.g., incorrect organizational representative), uploading documents to Grants.gov, or an applicant's SAM registration are not considered technical issues with the Grants.gov system. To document a delay due to a technical issue in Grants.gov, you must furnish a Grants.gov help desk ticket number to the Financial Assistant contact listed in Section G of the NOFO.

#### *D.4.2.2. Applications Submitted by Mail, Express Delivery or Courier Services*

Please follow these instructions to submit your application by mail, express delivery, or courier services.

- We request that applicants submitting their application by mail or courier include a brief explanation in their application regarding why they had to submit by mail rather than electronically using grants.gov.
- Applicants should submit one copy of all application documents for hardcopy submissions. Only use a binder clip for documents submitted. Do not staple or otherwise bind application documents.
- Hard copy applications may be submitted by mail, express delivery, or courier services to the addresses identified in this NOFO.
- Materials arriving separately will not be included in the application package and may result in the application being rejected or not funded. This does not apply to letters of support, funding commitment letters, or official resolutions.

#### *D.4.2.3. Acknowledgement of Application Receipt*

Applicants will receive an e-mail acknowledging receipt of the application from Grants.gov. In addition, you will receive an email acknowledgement when your application is successfully downloaded from Grants.gov. Applicants can confirm receipt of hardcopy through the tracking tools for their packages.

## D.5. Intergovernmental Review

Prior to application submission, U.S. state and local government applicants should visit the OMB Office of Federal Financial Management website and view the "State Point of Contact (SPOC) List" to determine whether their application is subject to the state intergovernmental review process under Executive Order (E.O.) 12372 "Intergovernmental Review of Federal Programs." States not on the list do not participate in the intergovernmental review process, and therefore do not have a SPOC. If you are located within a State that does not have a SPOC, you may send application materials directly to a Federal awarding agency. If your state is on the list, contact the designated entity for more information on the state's prior review requirements for Federal assistance applications (https://www.whitehouse.gov/wp-content/uploads/2020/04/SPOC-4-13-20.pdf).

## D.6. Funding Restrictions

### D.6.1. Pre-Award Costs

Pre-award costs are those incurred prior to the effective date of a Federal award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award.

Eligible pre-award costs associated with the proposed project must be incurred after the posting date of this funding opportunity and are limited to costs related to the planning and design of the project including, but not limited to engineering and design, modeling, environmental and cultural studies, and permitting. If the proposed project is selected, the pre-award costs will be reviewed to determine if they are consistent with program objectives and are allowable in accordance with the authorizing legislation. Proposed pre-award costs must also be compliant with all applicable administrative and cost principles criteria established in 2 CFR Part 200 and all other requirements of this funding opportunity.

Note: Any incurrence of costs in the performance of the project prior to the issuance of a financial assistance award is at the applicant's own risk. No legal liability on the part of Reclamation for any payment may arise until funds are made available, in writing, by a Reclamation Grants Officer.

### D.6.2. Project Cost Restrictions

**Proposal costs.** The costs for preparing and submitting an application in response to this funding opportunity, including developing data necessary to support the proposal, are not eligible project costs and must not be included in the project budget.

**Monitoring costs.** Program funding may be used to establish a monitoring and data management plan or to install necessary equipment to monitor progress. However, program funding may not be used to measure performance after project construction is complete (these costs are considered normal operation and maintenance costs and are the responsibility of the applicant).

**Other project costs.** The costs for the purchase of water or land, or to secure an easement other than a construction easement are not eligible project costs under this funding opportunity.

### D.6.3. Environmental and Regulatory Compliance Costs

Depending on the potential impacts of the project, Reclamation may be able to complete its compliance activities without additional cost to the successful applicant. Where environmental or cultural resources compliance requires significant participation by Reclamation, Reclamation will add a line item for costs incurred by Reclamation to the budget during development of the financial assistance agreement and cost shared accordingly (i.e., withheld from the Federal award amount). Any costs to the successful applicant associated with compliance will be identified during the process of developing a final project budget for inclusion in the financial assistance agreement.

### D.6.4. Indirect Costs

You may include indirect costs that will be incurred during the development or construction of a Project, which will not otherwise be recovered, as part of your Project budget. Show the proposed rate, cost base, and proposed amount for allowable indirect costs based on the applicable cost principles for your organization. It is not acceptable to simply incorporate indirect rates within other direct cost line items.

If you have never received a Federal negotiated indirect cost rate, your budget may include a *de minimis* rate of up to 10 percent of modified total direct costs. For further information on modified total direct costs, refer to 2 CFR§200.68.

If you do not have a federally approved indirect cost rate agreement and are proposing a rate greater than the de minimis 10 percent rate, include the computational basis for the indirect expense pool and corresponding allocation base for each rate. Information on "Preparing and Submitting Indirect Cost Proposals" is available from the Department's Interior Business Center, Office of Indirect Cost Services, at https://ibc.doi.gov/ICS/icrna.

If the proposed project is selected for award, the successful applicant will be required to submit an indirect cost rate proposal with their cognizant agency within 3 months of award. The Federal awarding agency that provides the largest amount of direct funding to your organization is your cognizant agency for indirect costs, unless otherwise assigned by the White House Office of Management and Budget (OMB). If the Department of the Interior (DOI) is your organization's cognizant agency, the Interior Business Center (IBC) will negotiate your indirect cost rate. Contact the IBC by phone 916-930-3803 or email at ICS@ibc.doi.gov. Visit their website ibc.doi.gov/ICS/icrna, for information regarding email submission forms.

Organizations must have an active Federal award before they can submit an indirect cost rate proposal to their cognizant agency. Failure to establish an approved rate during the award period renders all costs otherwise allocable as indirect costs unallowable under the award. Recipients may not shift unallowable indirect costs to another Federal award unless specifically authorized to do so by legislation.

# Section E. Application Review Information

## E.1. Evaluation Criteria

The evaluation criteria portion should be addressed in the technical proposal section of the application. Applications should thoroughly address each criterion and any sub-criterion in the order presented below. **Applications will be evaluated against the evaluation criteria listed below.** It is suggested that applicants copy and paste the below criteria and sub-criteria into their applications to ensure that all necessary information is adequately addressed.

If the work described in your application is a phase of a larger project, only discuss the benefits that will result directly from the work discussed in the technical project description and that is reflected in the budget, not the larger project.

| Evaluation Criteria Scoring Summary | Points: |
|---|---|
| A. Project Benefits | 30 |
| B. Planning and Preparedness | 20 |
| C. Severity of Actual or Potential Drought Impacts to be Addressed by the Project | 15 |
| D. Presidential and DOI Priorities | 15 |
| E. Readiness to Proceed and Project Implementation | 10 |
| F. Nexus to Reclamation | 5 |
| G. Stakeholder Support for Proposed Project | 5 |
| ***Total*** | ***100*** |

***Note: Projects may be prioritized to ensure balance among the program task areas and to ensure that the projects address the goals and objectives of the NOFO.***

### E.1.1. Evaluation Criterion A—Project Benefits (30 points)

Up to **30 points** may be awarded based on the expected drought resiliency and other benefits of the proposed project. Proposals containing a well-supported and detailed description of both quantifiable and qualitative benefits will receive the most points under this criterion.

#### *E.1.1.1. Sub-criterion A1: Available Water Supplies and Water Better Managed*

The purpose of this criterion is to ensure that funding is prioritized for projects that will provide significant benefits to drought resiliency and water supply reliability and will be evaluated accordingly. ***For this criterion, your project will be evaluated under either Sub-Criterion A1.a: Adds to Available Water Supplies or Sub-Criterion A1.b: Water Better Managed.***

Generally, projects that increase access to water supplies that are **not currently available to an entity** is considered under **Sub-Criterion A1.a**: **Adds to Available Water Supplies**. Projects may include, but are not limited to, recharge basins, conveyance to bring new supplies into a service area including groundwater extraction, recycled water use, stormwater capture, treatment of unusable water supplies due to contamination, etc.

Projects that are considered under **Sub-Criterion A1.b**: **Water Better Managed** generally include projects that improve the delivery efficiency of water **already available to an entity**. Project types under Sub-Criterion A1.b: Water Better Managed may include, but are not limited to, regulating reservoirs, new conveyance to deliver available surface water (e.g., contracted water supplies not associated with flood flows) to those not able to receive surface water, upgrading infrastructure for more efficient deliveries (e.g., connecting pipelines and canals within a service area), water treatment of supplies already being utilized to ensure continued use, etc.

*You need to determine if your project best falls under Sub-Criterion A1.a: Adds to Available Water Supply or Sub-Criterion A1.b: Water Better Managed and only respond to the relevant sub-criterion. If your proposed project has elements of both sub-criterion (e.g., groundwater extraction well and a modeling tool to inform groundwater extraction operations, you may elect to answer both sub-criterions.*

*In some cases, the ARC may determine that the project is a better fit under a different Sub-Criterion than initially determined by the applicant. In such cases, the ARC may choose to score the application under the Sub-Criterion they deem most appropriate*.

Should you have any questions regarding your project and which sub-criterion is the most appropriate, please contact the Program Coordinator identified in *Section G Agency Contacts*.

**NOTE:** All Task C projects as described in Section C.4.1.3. will be evaluated under sub-criterion A1.b: Water Better Managed, and all Task D projects as described in Section C.4.1.4. will be evaluated under Sub-Criterion A1.a: Additional Water Supplies.

### Sub-Criterion A1.a: Adds to Available Water Supplies

### Drought Resiliency Projects Tasks A-C: Please address the following:

- How will the project build long-term resilience to drought? How many years will the project continue to provide benefits?
- What percentage of the total water supply does the additional water supply represent? How was this estimate calculated?
- What is the estimated quantity of additional supply the project will provide and how was this estimate calculated? Provide this quantity in **acre-feet per year** as the average annual benefit over ten years (e.g., if the project captures flood flows in wet years, state this and provide the average benefit over ten years or longer including dry years).

- Provide a qualitative description of the degree/significance of the benefits associated with the additional water supplies.

**Domestic Water Supply Projects Task D: Please address the following:**

- Provide a detailed description of the community that the project will serve. The Climate and Economic Justice Screening Tool (CEJST) developed by the White House Council on Environmental Quality is a geospatial mapping tool that utilizes publicly available, nationally consistent data sets related to climate change, the environment, health, and economic opportunity to identify disadvantaged communities. In addition to identifying specific census tracts that are disadvantaged, the CEJST considers the lands of Federally Recognized Tribes as disadvantaged communities. In addition, regardless of whether a Federally Recognized Tribe has land, all Federally Recognized Tribal entities are considered disadvantaged communities for the purposes of the Justice40 Initiative[1].

  Using the CEJST's methodology and data information, describe the community's environmental, climate, socioeconomic, or other burdens. The CEJST's methodology and data information can be accessed at [screeningtool.geoplatform.gov/en/methodology#16.49/36.631671/-105.181974](screeningtool.geoplatform.gov/en/methodology#16.49/36.631671/-105.181974).

- Proposals need to demonstrate that the primary purpose of the proposed project is to provide domestic water supplies to communities our households that do not have reliable access to domestic water supplies.

  - Describe the need for the domestic water supply project including any prominent public health and safety concerns, interruptions in supply or other reasons that the community does not currently have reliable access to domestic water supplies.

  - Explain how the proposed project will increase reliable access to domestic water supplies. Provide this quantity in acre-feet per year the average annual benefit that the domestic water supply project will provide. How many people is it estimated to serve? How were these estimates calculated (average benefit and population)?

- How many years will the project continue to provide benefits?

[1] Addendum to the Interim Implementation Guidance for the Justice40 Initiative, M-21-28, on using the Climate and Economic Justice Screening Tool (CEJST), M-23-09, (Jan. 27, 2023), [https://www.whitehouse.gov/wp-content/uploads/2023/01/M-23-09_Signed_CEQ_CPO.pdf](https://www.whitehouse.gov/wp-content/uploads/2023/01/M-23-09_Signed_CEQ_CPO.pdf).

**Sub-Criterion A1.b: Water Better Managed**

- How will the project build long-term resilience to drought? How many years will the project continue to provide benefits?

- How will the project improve the management of water supplies? For example, will the project increase efficiency, increase operational flexibility, or facilitate water marketing (e.g., improve the ability to deliver water during drought or access other sources of supply)? If so, how will the project increase efficiency or operational flexibility?

- What is the estimated quantity of water that will be better managed as a result of this project? How was this estimate calculated? Provide this quantity in **acre-feet per year** as the average annual benefit over ten years (e.g., if the project captures flood flows in wet years, state this and provide the average benefit over ten years or longer including dry years).

- What percentage of the total water supply does the water better managed represent? How was this estimate calculated?

- Provide a qualitative description of the degree/significance of anticipated water management benefits.

- Will the project make new information available to water managers? If so, what is that information and how will it improve water management?

**Regardless of Sub-Criterion, if the proposed project includes any of the following components, applicants need to provide the additional information requested below for the specific project type. This additional information will be used in evaluating and scoring the proposal.**

**Salt Water Barriers**

- What supply of water is the barrier protecting and to what degree is the comprehensive protection?

- What is the protected water supply mainly used for?

**Wells**

***Proposals that do not sufficiently address the questions listed below will not be considered for funding.***

- What is the estimated capacity of the new well(s), and how was the estimate calculated?

- How much water do you plan to extract through the well(s), and how does this fit within and comply state or local laws, ordinances, or other groundwater governance structures applicable to the area?

- Will the well be used as a primary supply or supplemental supply when there is a lack of surface supplies?

- Does the applicant participate in an active recharge program contributing to contributing to groundwater sustainability?

- Provide information documenting that proposed well(s) will not adversely impact the aquifer it/they are pumping from (overdraft or land subsidence). At a minimum, this should include aquifer description, information on existing or planned aquifer recharge facilities, a map of the well location and other nearby surface water supplies, and physical descriptions of the proposed well(s) (depth, diameter, casing description, etc.). If available, information should be provided on nearby wells (sizes, capacities, yields, etc.), aquifer test results, and if the area is currently experiencing aquifer overdraft or land subsidence.

- Describe the groundwater monitoring plan that will be undertaken and the associated monitoring triggers for mitigation actions. Describe how the mitigation actions will respond to or help avoid any significant adverse impacts to third parties that occur due to groundwater pumping.

Wells funded under this NOFO are to support communities and other entities facing water supply shortages due to drought or have public health and safety concerns. Wells funded under this NOFO are to be used for supplemental supplies during times of drought, to serve communities that are or are potentially facing a public health crisis due to a lack potable water, or to recover previously recharged/stored water.

***This NOFO is not intended to provide funding for wells that are part of a long-term planning effort to support increased need due to population growth or increased irrigation demands.***

**New Water Marketing Tool or Program**

- How does the new tool or program increase the flexibility of acquiring water on the open market?

- What is the scope of water users and uses that will benefit?

- Are there any legal issues pertaining to water marketing that could hinder project implementation (e.g., restrictions under Reclamation or state law or contracts, or individual project authorities).

**Metering/Water Measurement Projects**

- To what extent are the methods tested/proven?

- To what degree will the project improve the ability to predict the onset of drought earlier and/or with more certainty?
- To what degree will the project improve the ability to anticipate the severity and magnitude of drought?
- To what degree will the project improve the likelihood/timing of detecting mitigation action triggers?
- Explain why this is a necessary sub-component of another eligible Drought Resiliency Project as described in Tasks A, B, and C.

#### *E.1.1.2. Sub-criterion A2: Environmental & Other Benefits*

**Sub-Criterion A2.a: Climate Change**

Pursuant to E.O. 14008: Tackling the Climate Crisis at Home and Abroad, consider the degree to which the application demonstrates that the proposed project will contribute to climate change resilience and adaptation.

For additional information on the impacts of climate change throughout the Western United States, see www.usbr.gov/climate/secure/docs/2021secure/2021SECUREReport.pdf. To describe how the project will address and build resilience to climate change, consider the following, but only answer if applicable to your project:

- In addition to drought resiliency measures, does the proposed project include other natural hazard risk reductions for hazards such as wildfires or floods?
- Will the proposed project establish and use a renewable energy source?
- Will the proposed project reduce greenhouse gas emissions by sequestering carbon in soils, grasses, trees, and other vegetation?
- Does the proposed project include green or sustainable infrastructure to improve community climate resilience?
- Does the proposed project seek to reduce or mitigate climate pollutions such as air or water pollution?
- Does the proposed project have a conservation or management component that will promote healthy lands and soils or serve to protect water supplies and its associated uses?
- Does the proposed project contribute to climate change resiliency in other ways not described above?

**Sub-Criterion A2.b: Environmental Benefits**

Water supply reliability projects often provide environmental benefits in addition to water supply reliability benefits for other users. Ecological resiliency is crucial to sustain ecosystems that can respond to and recover from external stressors resulting from climate change and drought.

This sub-criterion will be scored based on **planned, direct benefits** that will result from project implementation. Applicants that can quantify the direct benefits and provide reasonable support will receive the most points in this sub-criterion. Example project types that may receive points in this category may include, but are not limited to, increasing storage to augment stream flows during dry periods to protect endangered species or improving water quality or providing water for wildlife habitat areas.

- Does the project seek to improve ecological climate change resiliency of a wetland, river, or stream to benefit to wildlife, fisheries, or habitats? Do these benefits support an endangered or threatened species?
- What are the types and quantities of environmental benefits provided, such as the types of species and the numbers benefited, acreage of habitat improved, restored, or protected, or the amount of additional stream flow added? How were these benefits calculated?

Will the proposed project reduce the likelihood of a species listing or otherwise improve the species status?

**Sub-Criterion A2.c: Other Benefits**

This sub-criterion will be scored based on the project's contributions to addressing water sustainability in other ways **not previously described** in the application. For example (but not limited to):

- Will the project assist States and water users in complying with interstate compacts?
- Will the project benefit multiple sectors and/or users (e.g., agriculture, municipal and industrial, environmental, recreation, or others)? Describe the associated sector benefits.
- Will the project benefit a larger initiative to address sustainability?
- Will the project help to prevent a water-related crisis or conflict? Is there frequently tension or litigation over water in the basin?

## E.1.2. Evaluation Criterion B—Planning and Preparedness (20 points)

Up to **20 points** may be awarded based on the extent that the proposed project is supported by an existing planning effort. Such plans do not require Reclamation approval and may include plans prepared by someone other than the applicant (e.g., an existing state, county, municipal, or other plan is acceptable).

The purpose of this criterion is to ensure that funding is prioritized for projects that have a foundation in collaborative planning efforts. Proposals that demonstrate that the proposed project is clearly supported by an existing plan will be awarded the most points under this criterion. While the proposed project may be supported by multiple planning efforts, please provide specific details related to only **one** relevant plan.

*Please note that this criterion does not address the benefits of the project and the description should be limited to the extent to which a plan supports the project. Project benefits are addressed under Section E.1.1. Evaluation Criterion A—Project Benefits.*

**Drought Resiliency Projects Tasks A-C:** For purposes of evaluating this criterion, please address the following:

- Explain how the applicable plan addresses drought. Proposals that reference plans clearly intended to address drought will receive the most points under this criterion.
  - Does the drought plan contain drought focused elements (e.g., a system for monitoring drought, drought projections that consider climate change, identification of drought mitigation projects, drought response actions, and an operational and administrative framework)?
  - Describe how the drought plan includes consideration of climate change impacts to water resources or drought.
- When was the plan developed and how often is it updated?
- Was the drought plan developed through a collaborative process?
  - Describe who was involved in preparing the plan and whether the plan was prepared with input from stakeholders with diverse interests (e.g., water, land, or forest management interests; and agricultural, municipal, Tribal, environmental, and recreation uses)? Describe the process used for interested stakeholders to provide input during the development of the plan.
  - If the plan was prepared by an entity other than the applicant describe whether and how the applicant was involved in the development of the plan. If the applicant was not involved in the development, explain why.
- Describe how your proposed drought resiliency project is supported by an existing drought plan.
  - Does the drought plan identify the proposed project as a potential mitigation or response action? How is the proposed project prioritized in the drought plan?
  - Does the proposed project implement a goal or need identified in the drought plan? Is the supported goal or need prioritized within the plan?

- Attach relevant sections of the plan that are referenced in the application, as an appendix to your application. These pages will be included in the total 125-page count for the application.

**Domestic Water Supply Projects Task D:** For purposes of evaluating this criterion, please address the following:

- Describe any prior planning efforts related to the proposed project.
- Was the plan developed through a collaborative process?
  - Describe who was involved in preparing the plan and whether the plan was prepared with input from stakeholders with diverse interests (e.g., water, land, or forest management interests; and agricultural, municipal, Tribal, environmental, and recreation uses)? Describe the process used for interested stakeholders to provide input during the development of the plan.
  - If the plan was prepared by an entity other than the applicant describe whether and how the applicant was involved in the development of the plan. If the applicant was not involved in the development, explain why.
- If the referenced plan was not developed collaboratively, please explain why. For example, the planning effort is focused on a very small area or concerns internal to the applicant.
- Does the plan include elements of drought planning? If so, please describe.

### E.1.3. Evaluation Criterion C—Severity of Actual or Potential Drought or Water Scarcity Impacts to be addressed by the Project (15 points)

Up to **15 points** may be awarded based upon the severity of actual or potential drought or water scarcity impacts to be addressed by the project. Proposals that address more urgent needs will receive higher priority consideration on this criterion than proposals that address less significant needs and impacts. **Do not repeat information already discussed in Criterion A or B.**

**Describe the severity of the impacts that will be addressed by the project:**

- Describe recent, existing, or potential drought or water scarcity conditions in the **project area**.
  - Is the project in an area that is currently suffering from drought, or which has recently suffered from drought or water scarcity? Please describe existing conditions, including when and the period of time that the area has experienced drought or water scarcity conditions. Include information to describe the frequency, duration, and severity of current or recent conditions. You may also provide information relating to

historical conditions. Please provide supporting documentation (e.g., Drought Monitor, droughtmonitor.unl.edu).

  - Describe any projected increases to the severity or duration of drought or water scarcity in the project area resulting from changes to water supply availability and climate change. Provide support for your response (e.g., reference a recent climate informed analysis, if available).

- What are the ongoing or potential drought or water scarcity impacts to specific sectors in the **project area** if no action is taken (e.g., impacts to agriculture, environment, hydropower, recreation, tourism, forestry, etc.), and how severe are those impacts? Impacts should be quantified and documented to the extent possible. For example, impacts could include, but are not limited to:

  - Whether there are public health concerns or social concerns associated with current or potential conditions (e.g., water quality concerns including past or potential violations of drinking water standards, increased risk of wildfire, or past or potential shortages of drinking water supplies? Does the community have another water source available to them if their water service is interrupted?).

  - Whether there are ongoing or potential environmental impacts (e.g., impacts to endangered, threatened or candidate species or habitat).

  - Whether there are local or economic losses associated with current water conditions that are ongoing, occurred in the past, or could occur in the future (e.g., business, agriculture, reduced real estate values).

  - Whether there are other water-related impacts not identified above (e.g., tensions over water that could result in a water-related crisis or conflict).

### E.1.4. Evaluation Criterion D—Presidential and DOI Priorities (15 points)

Up to **15 points** may be awarded based on the extent that the project demonstrates support for the Biden-Harris Administration's priorities, *including E.O. 14008: Tackling the Climate Crisis at Home and Abroad, E.O. 13985: Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, and the President's memorandum, *Tribal Consultation and Strengthening Nation-to Nation Relationships.* Points will be allocated based on the degree to which the project supports the priorities listed and whether the connection to the priority(ies) is well supported in the application. **Describe, in detail, how the proposed project supports a priority(ies) below**. **Note: Domestic Water Supply Projects (Task D) must address the criteria below to explain how the project will benefits Tribes and/or disadvantaged communities.**

#### *E.1.4.1. Disadvantaged or Underserved Communities*

Points will be awarded based on the extent to which the project directly serves disadvantaged or underserved communities.

E.O. 14008 and E.O. 13985 affirm the advancement of environmental justice and equity for all through the development and funding of programs to invest in disadvantaged or underserved communities. For the purposes of this criterion, Tribes and insular areas (American Samoa, Guam, the Northern Mariana Islands, or the Virgin Islands) are considered disadvantaged.

- Please use the White House Council on Environmental Quality's interactive Climate and Economic Justice Screening Tool, available online at Explore the map – Climate & Economic Justice Screening Tool (https://screeningtool.geoplatform.gov) to identify the disadvantaged communities that will benefit from your project.

- If applicable, describe how the proposed project will serve or benefit a disadvantaged or underserved community, identified using the tool described above. For example, will the project improve public health and safety by addressing water quality, add new water supplies, provide economic growth opportunities, or provide other benefits in a disadvantages or underserved community?

#### *E.1.4.2. Tribal Benefits*

Points will be awarded based on the extent to which the Project will honor the Federal government's commitments to Tribal Nations.

- Does the proposed project directly serve and/or benefit a Tribe? Benefits can include, but are not limited to, public health and safety by addressing water quality, new water supplies, economic growth opportunities, or improving water management.
- Does the proposed project support Reclamation's Tribal trust responsibilities or a Reclamation activity with a Tribe?

### E.1.5. Evaluation Criterion E—Readiness to Proceed and Project Implementation (10 points)

Up to **10 points** may be awarded based upon the extent to which the proposed project is capable of proceeding upon entering into a financial assistance agreement. Please note, if your project is selected, responses provided in this section will be used to develop the scope of work that will be included in the financial assistance agreement. Please note that information provided in the budget section and *Section H.1 Environmental and Cultural Resource Considerations* will be utilized when assessing this criterion. However, there is no need to repeat the budget information or H.1. information in this section of the proposal.

Applications that include a detailed project implementation plan (e.g., estimated project schedule that shows the stages and duration of the proposed work, including major tasks, milestones, and dates) will receive the most points under this criterion. ***Please also see Section B.2. regarding eligible lengths of projects for this NOFO.***

- Describe the implementation plan of the proposed project. Please include an estimated project schedule that shows the stages and duration of the proposed work, including major tasks, milestones, and dates. Milestones may include, but are not limited to, the following: design, environmental and cultural resources compliance, permitting, construction/installation.

***Milestone/Schedule Example:***

| Milestone / Task / Activity | Planned Start Date | Planned Completion Date |
|---|---|---|
| Task 1 Project Management | October 2023 | October 2026 |
| Task 2 Environmental Compliance | October 2023 | March 2024 |
| Task 3 Bidding | March 2024 | May 2024 |
| Task 4 Construction | June 2024 | October 2026 |

- Describe any permits or approvals that will be required (e.g., water rights, water quality, stormwater, or other regulatory clearances). Include information on permits or approvals already obtained. For those permits and approvals that need to be obtained, describe the process, including estimated timelines for obtaining such permits and approvals.

- Identify and describe any engineering or design work performed specifically in support of the proposed project.

- Describe any land purchases that must occur before the project can be implemented.

- Describe any new policies or administrative actions required to implement the project.

### E.1.5. Evaluation Criterion F—Nexus to Reclamation (5 points)

Up to **5 points** may be awarded if the proposed project is connected to a Reclamation project or Reclamation activity. Previously awarded grants do not constitute as a nexus under this criterion.

Describe the nexus between the proposed project and a Reclamation project or Reclamation activity. Please consider the following:

- Does the applicant have a water service, repayment, or O&M contract with Reclamation?

- If the applicant is not a Reclamation contractor, does the applicant receive Reclamation water through a Reclamation contractor or by any other contractual means?

- Will the proposed work benefit a Reclamation project area or activity?

- Is the applicant a Tribe?

### E.1.6. Evaluation Criterion G—Stakeholder Support for Proposed Project (5 Points)

Up to **5 points** may be provided based on the level of stakeholder support for the proposed project. Applications that demonstrate support for the project from a diverse array of stakeholders will receive the most points under this criterion.

- Describe the level of stakeholder support for the proposed project. Are letters of support from stakeholders provided? Are any stakeholders providing support for the project through cost-share contributions or through other types of contributions to the project?

- Explain whether the project is supported by a diverse set of stakeholders, as appropriate, given the types of interested stakeholders within the project area and the scale, type, and complexity of the proposed project. For example, is the project supported by entities representing agricultural, municipal, Tribal, environmental, or recreation uses?

## E.2. Review and Selection Process

Reclamation reserves the right to remove applications that do not meet the objectives of this NOFO. Awards will be made for projects most advantageous to the Federal Government. Award selection may be made to maintain balance among the eligible projects listed in this NOFO. The evaluation process will be comprised of the steps described in the following subsections.

### E.2.1. First Level and Threshold Screening

Reclamation will conduct an initial review and threshold screening of each application submitted in response to this NOFO to determine whether the Applicant is eligible, and the application is complete and submitted on time. If Reclamation determines the Applicant is ineligible or non-responsive, Reclamation will notify the Applicant.

All application packages will be screened to ensure that:

- The application meets the completeness, eligibility and timeliness requirements stated in this NOFO.
- The applicant meets the unique entity identifier and SAM registration requirements stated in this NOFO.
- The application meets the content requirements of the NOFO package, including submission of a technical proposal and budget narrative.
- The application contains executed mandatory forms SF-424, Application for Financial Assistance and SF-424B/D, Assurances Form, and a completed SF-424A/C, Budget Information Form.

A complete application must include all requirements described in the above bullets. Any application which fails to include these requirements will be deemed ineligible and will not be considered for funding. Reclamation reserves the right to remove an application from funding consideration during the initial screening; does not include a SF-424; does not include a technical proposal or does not include a budget narrative. In that event, Reclamation will send notification of elimination to the applicant.

If an application is missing other information, Reclamation may reach back to request that information within a specified timeframe.

### E.2.2. Application Review Committee (ARC)

The technical merit of the application will be reviewed by an ARC, made up of experts in relevant disciplines selected from across Reclamation. Evaluation criteria will comprise the total evaluation weight as stated in the *Section E.1. Evaluation Criteria*.

Applications will be scored against the evaluation criteria and the ARC will also review the application to ensure that the project is eligible and meets the objective of this NOFO.

During ARC review, Reclamation may contact applicants to request clarifications to the information provided, if necessary.

### E.2.3. Red-Flag Review

Following the results of the ARC review, Reclamation offices will review the top-ranking applications and will identify any reasons why a proposed project would not be feasible or otherwise advisable, including environmental or cultural resources compliance issues, permitting issues, legal issues, or financial position. Additionally, the Red-Flag Review will address several of the determinations listed in *Section A.2. Program Requirements.*

Positive or negative past performance by the applicant and any partners in previous working relationships with Reclamation may be considered, including whether the applicant is making significant progress toward the completion of outstanding financial assistance agreements and whether the applicant is in compliance with all reporting requirements associated with previously funded projects.

In addition, during this review, Reclamation will address any specific concerns or questions raised by members of the ARC, conduct a preliminary budget review, and evaluate the applicant's ability to meet cost share as required.

### E.2.4. Managerial Review

Reclamation management will prioritize projects to ensure the total amount of all awards does not exceed available funding levels. Management will also ensure that all projects meet the scope, priorities, requirements, and objectives of this NOFO. Management may also prioritize projects to ensure that multiple project types are represented. After completion of the Managerial Review, Reclamation will notify applicants whose proposals have been selected for award consideration.

### E.2.5. Pre-Award Clearances and Approvals

The following pre-award clearances and approvals must be obtained before an award of funding is made. If the results of all pre-award reviews and clearances are satisfactory, an award of funding will be made once the agreement is finalized (approximately one to three months from the date of initial selection). If the results of pre-award reviews and clearances are unsatisfactory, consideration of funding for the project may be withdrawn.

#### *E.2.5.1. Environmental Review*

Reclamation will forward the proposal to the appropriate Reclamation regional or area office for completion of environmental compliance. To the extent possible, environmental compliance will be completed before a financial assistance agreement is signed by the parties; however, in most cases, the award can be completed with the release of funds contingent on completion of environmental compliance and receipt of a written Notice to Proceed from the Reclamation Grants Officer. The financial assistance agreement will describe how compliance will be carried out. Ground-disturbing activities (e.g., installation of a stream gage, biological or water quality monitoring) may not occur until environmental compliance is complete and a Notice to Proceed is issued by the awarding Reclamation Grants Officer.

#### *E.2.5.2. Budget Analysis and Business Evaluation Review*

A Reclamation Grants Officer will also conduct a detailed budget analysis and complete a business evaluation and responsibility determination. During this evaluation, the Reclamation Grants Officer will consider several factors that are important, but not quantified, such as:

- Allowability, allocability, and reasonableness of proposed costs;
- Financial strength and stability of the applicant;
- Past performance, including satisfactory compliance with all terms and conditions of previous awards, such as environmental compliance issues, reporting requirements, proper procurement of supplies and services, and audit compliance;
- Adequacy of personnel practices, procurement procedures, and accounting policies and procedure, as established by applicable OMB circular.

## E.3. Federal Award Performance Integrity Information System

Prior to making an award with a Federal total estimated amount greater than $150,000, Reclamation is required to review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently Federal Award Performance Integrity Information System [FAPIIS]) (see 41 U.S.C. §2313).

Applicants, at their option, may review information in the designated integrity and performance systems accessible through SAM and comment on any information about themselves that a

Federal awarding agency previously entered and that is currently in the designated integrity and performance system accessible through SAM. Reclamation will consider any comments by the applicant, in addition to the other information in FAPIIS, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in 2 CFR §200.205 Federal awarding agency review of risk posed by applicants.

## E.4. Anticipated Announcement and Federal Award Dates

Reclamation expects to contact potential award recipients and unsuccessful applicants in Spring 2024, subject to the timing and amount of final appropriations. Financial assistance agreements will be awarded to applicants that successfully pass all pre-award reviews and clearances. Award recipients will be contacted individually to discuss the time frame for the completion of their agreement.

# Section F. Federal Award Administration Information

## F.1. Federal Award Notices

Successful applicants will receive by electronic mail, a notice of selection signed by a Reclamation Grants Officer. This notice is **not** an authorization to begin performance.

## F.2. Administrative and National Policy Requirements

See the "DOI Standard Terms and Conditions" for the administrative and national policy requirements applicable to Department awards.

### F.2.1. Automated Standard Application for Payments Registration

All applicants must also be registered with, and willing to process all payments through, the Department of Treasury Automated Standard Application for Payments (ASAP) system. All recipients with active financial assistance agreements with Reclamation must be enrolled in the ASAP system under the appropriate Agency Location Code(s) and the UEI prior to the award of funds. If a recipient has multiple UEIs, they must separately enroll within the system for each unique UEI and/or Agency. All of the information on the enrollment process for recipients, including the enrollment initiation form, will be sent to you by ASAP system staff if selected for award.

*Note that if your entity is currently enrolled in the ASAP system with an agency other than Reclamation, you must enroll specifically with Reclamation in order to process payments.*

### F.2.2. Environmental and Cultural Resources Compliance

All projects being considered for award funding will require compliance with National Environmental Policy Act (NEPA) before any ground-disturbing activity may begin. Compliance with all applicable state, Federal and local environmental, cultural, and paleontological resource protection laws and regulations is also required. These may include, but are not limited to, Clean Water Act (CWA), ESA, National Historic Preservation Act (NHPA), consultation with potentially affected Tribes, and consultation with the State Historic Preservation Office.

Reclamation will be the lead Federal agency for NEPA compliance and will be responsible for evaluating technical information and ensuring that natural resources, cultural, and socioeconomic concerns are appropriately addressed. As the lead agency, Reclamation is solely responsible for determining the appropriate level of NEPA compliance. Further, Reclamation is responsible to ensure that findings under NEPA, and consultations, as appropriate, will support Reclamation's decision on whether to fund a project.

Depending on the potential impacts of the project, Reclamation may be able to complete its compliance activities without additional cost to the recipient. Where environmental or cultural resources compliance requires significant participation by Reclamation, some costs anticipated to be incurred by Reclamation will be added as a line item to the budget during development of the financial assistance agreement and cost shared accordingly. Any costs to the recipient associated with compliance will be identified during the process of developing a final project budget for inclusion in the financial assistance agreement. A portion of Reclamation's estimated cost to complete environmental and cultural compliance activities may be withheld from the initial obligation of Federal funding. After compliance activities are completed, any remaining Federal funding will be obligated to the Agreement.

*Note, if mitigation is required to lessen environmental impacts, the applicant may, at Reclamation's discretion, be required to report on progress and completion of these commitments. Reclamation will coordinate with the applicant to establish reporting requirements and intervals accordingly.*

**Under no circumstances may an applicant begin any ground-disturbing activities (e.g., grading, clearing, and other preliminary activities) on a project before environmental and cultural resources compliance is complete and a Reclamation Grants Officer provides written notification that all such clearances have been obtained. This pertains to all components of the proposed project, including those that are part of the applicant's non-Federal cost-share. An applicant that proceeds before environmental and cultural resources compliance is complete may risk forfeiting Reclamation funding under this NOFO.**

### F.2.3. Approvals and Permits

Recipients shall adhere to Federal, State, Territorial, Tribal, and local laws, regulations, and codes, as applicable, and shall obtain all required approvals and permits. Recipients shall also coordinate and obtain approvals from site owners and operators.

### F.2.4. Geospatial Data and Data Tools

All geospatial data collected for or produced through the use of the Department of the Interior financial assistance funds are required to meet all relevant standards established by the Federal Geospatial Data Committee (FGDC) as authorized by Geospatial Data Act of 2018, P.L. 115-254, Subtitle F – Geospatial Data, §751-759C, codified at 43 U.S.C. §2801–2811. The Department requires fully compliant metadata on all Geographic Information Systems (GIS) files developed for financial assistance projects. If a funded financial assistance project involves acquiring or collecting geospatial data, the successful applicant is required to search GeoPlatform.gov to determine that no existing Federal, State, local or private data meet the Government's needs and are available at no cost before acquiring or collecting additional geospatial data.

Any spatially explicit data or tools developed in the performance of an award made under this NOFO must be developed in industry standard formats that are compatible with geographic information system platforms.

### F.2.5. Intangible Property (2 CFR §200.315)

Title to intangible property (see definition for Intangible property in § 200.1) acquired under a Federal award vest upon acquisition in the non-Federal entity. The non-Federal entity must use that property for the originally authorized purpose and must not encumber the property without approval of the Federal awarding agency. When no longer needed for the originally authorized purpose, disposition of the intangible property must occur in accordance with the provisions in §200.313(e) Equipment (of this CFR).

The non-Federal entity may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a Federal award. The Federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

The non-Federal entity is subject to applicable regulations governing patents and inventions, including government wide regulations issued by the Department of Commerce at 37 CFR §401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Awards, Contracts and Cooperative Agreements."

### F.2.6. Real Property (2 CFR §200.311)

Real property, equipment, and intangible property, that are acquired or improved with a Federal award must be held in trust by the non-Federal entity as trustee for the beneficiaries of the project or program under which the property was acquired or improved (2 CFR §200.316 *Property trust relationship*). Title to real property acquired or improved under a Federal award will vest upon acquisition in the non-Federal entity. Except as otherwise provided by Federal statutes or by Reclamation, real property will be used for the originally authorized purpose as long as needed for that purpose, during which time the non-Federal entity must not dispose of or encumber its title or other interests. When real property is no longer needed for the originally authorized purpose, the non-Federal entity must obtain disposition instructions from Reclamation. As required by 2 CFR §200.329 *Reporting on real property*, recipients will be required to submit reports on the status of real property acquired or improved under a financial assistance agreement issued under this NOFO.

### F.2.7. Requirements for Agricultural Operations under P.L. 111-11, Section 9504(a)(3)(B)

In accordance with Section 9504(a)(3)(B) of P.L.111-11, grants and cooperative agreements under this authority will not be awarded for an improvement to conserve irrigation water unless the applicant agrees to both of the following conditions:

- Not to use any associated water savings to increase the total irrigated acreage of the applicant and

- Not to otherwise increase the consumptive use of water in the operation of the applicant, as determined pursuant to the law of the state in which the operation of the applicant is located.

### F.2.8. Title to Improvements P.L.111-11, Section 9504(a)(3)(D)

If the activities funded through an agreement awarded under this NOFO result in a modification to a portion of a federally owned facility that is integral to the existing operations of that facility, the Federal government shall continue to hold title to the facility and the improvements thereto. Title to improvements, P.L.111-11, Section 9504(a)(3)(D) that are not integral to existing water delivery operations shall reside with the project sponsor.

### F.2.9. Operation and Maintenance Costs under P.L.111-11, Section 9504(a)(3)(E)(iv)

The non-Federal share of the costs for operation and maintenance of any infrastructure improvement funded through an agreement awarded under this NOFO shall be 100 percent.

### F.2.10. Liability under P.L.111-11, Section 9504(a)(3)(F)

Except as provided under r 28 U.S.C. Chapter 171 (commonly known as the Federal Tort Claims Act), the United States shall not be liable for monetary damages of any kind for any injury arising out of an act, omission, or occurrence that arises in relation to any facility created or improved through an agreement awarded under this NOFO, the title of which is not held by the United States.

### F.2.11. Buy America Domestic Preference

As required by Section 70914 of the Bipartisan Infrastructure Law (also known as the Infrastructure Investment and Jobs Act), P.L. 117-58, on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products under this program.

Recipients of an award of Federal financial assistance are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

1. All iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

2. All manufactured products used in the project are produced in the United States—this means that the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the

minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and

3. All construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

For further information on the Buy America preference, please visit www.doi.gov/grants/BuyAmerica. Additional information can also be found at the White House Made in America Office website: www.whitehouse.gov/omb/management/made-in-america/.

#### *F.2.11.1. Waivers*

When necessary, recipients may apply for, and the Department of the Interior (DOI) may grant, a waiver from these requirements, subject to review by the Made in America Office. The DOI may waive the application of the domestic content procurement preference in any case in which it is determined that one of the below circumstances applies:

1. Non-availability Waiver: the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality;

2. Unreasonable Cost Waiver: the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent; or

3. Public Interest Waiver: applying the domestic content procurement preference would be inconsistent with the public interest.

There may be instances where an award qualifies, in whole or in part, for an existing DOI general applicability waiver as described at: www.doi.gov/grants/BuyAmerica/GeneralApplicabilityWaivers. If the specific financial assistance agreement, infrastructure project, or non-domestic materials meets the criteria of an existing general applicability waiver within the limitations defined within the waiver, the recipient is not required to request a separate waiver for non-domestic materials.

If a general applicability waiver does not already apply, and a recipient believes that one of the above circumstances applies to an award, a request to waive the application of the domestic content procurement preference may be submitted to the financial assistance awarding officer in writing. Waiver requests shall include the below information. The waiver shall not include any Privacy Act information, sensitive data, or proprietary information within their waiver request.

Waiver requests will be posted to www.doi.gov/grants/buyamerica and are subject to public comment periods of no less than 15 days. Waiver requests will also be reviewed by the Made in America Office.

1. Type of waiver requested (non-availability, unreasonable cost, or public interest).
2. Requesting entity and Unique Entity Identifier (UEI) submitting the request.
3. Department of Interior Bureau or Office who issued the award.
4. Federal financial assistance listing name and number (reference block 2 on DOI Notice of Award)
5. Financial assistance title of project (reference block 8 on DOI Notice of Award).
6. Federal Award Identification Number (FAIN).
7. Federal funding amount (reference block 11.m. on DO Notice of Award).
8. Total cost of Infrastructure expenditures (includes federal and non-federal funds to the extent known).
9. Infrastructure project description(s) and location(s) (to the extent known).
10. List of iron or steel item(s), manufactured goods, and construction material(s) the recipient seeks to waive from Buy America requirements. Include the name, cost, countries of origin (if known), and relevant Product Service Code (PSC) or North American Industry Classification System (NAICS) code for each.
11. A certification that the recipient made a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and nonproprietary communications with the prime contractor.
12. A statement of waiver justification, including a description of efforts made (e.g., market research, industry outreach) by the recipient, in an attempt to avoid the need for a waiver. Such a justification may cite, if applicable, the absence of any Buy America-compliant bids received in response to a solicitation.
13. Anticipated impact if no waiver is issued.

Approved waivers will be posted at www.doi.gov/grants/BuyAmerica/ApprovedWaivers; recipients requesting a waiver will be notified of their waiver request determination by an awarding officer.

Questions pertaining to waivers should be directed to the financial assistance awarding officer.

#### *F.2.11.2. Definitions*

"Construction materials" include an article, material, or supply that is or consists primarily of non-ferrous metals, plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables), glass (including optic glass), lumber, or drywall.

"Construction materials" do **not** include cement or cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives.

"Domestic content procurement preference" means all iron and steel used in the project are produced in the United States, the manufactured products used in the project are produced in the United States, or the construction materials used in the project are produced in the United States.

"Infrastructure" includes, at a minimum, the structures, facilities, and equipment for, in the United States, roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property. Infrastructure includes facilities that generate, transport, and distribute energy.

"Project" means the construction, alteration, maintenance, or repair of infrastructure in the United States.

### F.2.12. Additional Bipartisan Infrastructure Law and Inflation Reduction Act Requirements: Wage Rate and Signage Requirements

Section 41101 of the Bipartisan Infrastructure Law requires that all laborers and mechanics employed by contractors or subcontractors in the performance of construction, alteration, or repair work on a project assisted in whole or in part by funding made available under the Bipartisan Infrastructure Law (P.L. 117-58) shall be paid wages at rates no less than those prevailing on similar projects in the locality as determined by the Secretary of Labor in accordance with 40 U.S.C. IV., Chapter 31 (also known as the Davis-Bacon Act).

Any award made in whole or in part by BIL or IRA funding will contain a term and condition that requires Investing in America signage at project sites. Information and guidelines regarding Investing in America signage can be found at https://www.whitehouse.gov/wp-content/uploads/2023/02/Investing-in-America-Brand-Guide.pdf.

## F.3. Reporting Requirements and Distribution

If the applicant is awarded an agreement as a result of this NOFO, the applicant will be required to submit the following reports during the term of the agreement. Recipients will also be required to have a system in place to comply with these reporting requirements (see 2 CFR §170.210 for additional information).

### F.3.1. Financial Reports

Recipients will be required to submit a fully completed form SF-425: Federal Financial Report on at least twice a year and with the final performance report. The SF-425 must be signed by a person legally authorized to obligate the successful applicant.

### F.3.2. Interim Performance Reports

The specific terms and conditions pertaining to the reporting requirements will be included in the financial assistance agreement. Interim performance reports will be submitted at least twice a year and will include:

- A comparison of actual accomplishments to the milestones established by the financial assistance agreement for the period
- The reasons why established milestones were not met, if applicable
- The status of milestones from the previous reporting period that were not met, if applicable
- Whether the project is on schedule and within the original cost estimate
- Any additional pertinent information or issues related to the status of the project

### F.3.3. Final Performance Report

Recipients will be required to submit a final performance report encompassing the entire period of performance no later than 120 calendar days after the period of performance end date. The final performance report must include, but is not limited to, the following information:

- Whether the project objectives and goals were met.
- Discussion of the benefits achieved by the project, including information and/or calculations supporting the benefits.
- How the project improves long-term ecological value.
- How the project demonstrates collaboration.
- Any work products developed as a result of funding provided under this agreement. These products may include, but are not limited to, any data or tools developed in the performance of the Project.
- Photographs documenting the project are also appreciated, but not required.

## F.4. Disclosures

### F.4.1. Conflict of Interest

Recipients must notify the program immediately in writing of any conflict of interest that arise during the life of their Federal award, including those reported to them by any subrecipient under the award. Recipients must notify the program in writing if any employees, including subrecipient and contractor personnel, are related to, married to, or have a close personal relationship with any Federal employee in the Federal funding program or who otherwise may have been involved in the review and selection of the award. The term employee means any individual engaged in the performance of work pursuant to the Federal award.

### F.4.2. Other Mandatory Disclosures

The Non-Federal entity or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that receive a Federal award including the terms and conditions outlined in 2 CFR 200, *Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters* are required to report certain civil, criminal, or administrative proceedings to SAM.gov. Failure to make required disclosures can result in any of the remedies described in 2 CFR §200.338 *Remedies for noncompliance*, including suspension or debarment.

## F.5. Data Availability (2 CFR §1402.315)

All data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, valuation products or other scientific assessments in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual, resulting from a financial assistance agreement is available for use by the Department of the Interior, including being available in a manner that is sufficient for independent verification.

The Federal Government has the right to:

1. Obtain, reproduce, publish, or otherwise use the data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, or other scientific assessments, produced under a Federal award; and

2. Authorize others to receive, reproduce, publish, or otherwise use such data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, or other scientific assessments, for Federal purposes, including to allow for meaningful third-party evaluation.

## F.6. Freedom of Information Act

Please note that any application submitted for funding under this NOFO may be subjected to a FOIA request (5 U.S.C. §552, as amended by P.L. No. 110-175), and as a result, may be made publicly available.

In response to a FOIA request for research data relating to published research findings produced under a Federal award that were used by the Federal government in developing an agency action that has the force and effect of law, the Federal awarding agency must request, and the non-Federal entity must provide, within a reasonable time, the research data so that they can be made available to the public through the procedures established under the FOIA. If the Federal awarding agency obtains the research data solely in response to a FOIA request, the Federal awarding agency may charge the requester a reasonable fee equaling the full incremental cost of obtaining the research data. This fee should reflect costs incurred by the Federal agency and the non-Federal entity. This fee is in addition to any fees the Federal awarding agency may assess under the FOIA (5 U.S.C. 552(a)(4)(A)).

Published research findings mean when:

- Research findings are published in a peer-reviewed scientific or technical journal; or
- A Federal agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law. "Used by the Federal government in developing an agency action that has the force and effect of law" is defined as when an agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law.

Research data means the recorded factual material commonly accepted in the scientific community as necessary to validate research findings, but not any of the following: preliminary analyses, drafts of scientific papers, plans for future research, peer reviews, or communications with colleagues. This "recorded" material excludes physical objects (e.g., laboratory samples). Research data also does not include:

- Trade secrets, commercial information, materials necessary to be held confidential by a researcher until they are published, or similar information which is protected under law; and
- Personnel and medical information and similar information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, such as information that could be used to identify a particular person in a research study.

# Section G. Federal Awarding Agency Contacts

An informational webinar will be held in August 2023. The webinar will provide general information about the Drought Resiliency Projects NOFO, and individuals will have the opportunity to ask questions.

An additional webinar will be held for successful applicants in spring 2024 following their notice of selection to review next steps and pre-Financial Assistance Agreement procedures.

## G.1. Reclamation Financial Assistance Contact

Questions regarding application and submission information and award administration may be submitted to:

Name: Karen Shubert
Email: kshubert@usbr.gov
Phone: 801-524-3663

*Note that staff availability on the day of the NOFO closing will be limited*. **Please include the NOFO number R24AS00007 in the subject.**

## G.2. Reclamation Program Coordinator Contact

Questions regarding applicant and project eligibility and application review may be submitted to:

Name: Sheri Looper
By email: slooper@usbr.gov
By Phone: 303-445-2232

# Section H. Other Information

The following is a brief overview of NEPA, NHPA, and ESA. While these statutes are not the only environmental laws that may apply, they are the Federal laws that most frequently do apply. Compliance with all applicable environmental laws will be initiated by Reclamation concurrently, immediately following the initial recommendation to award a financial assistance agreement under this NOFO. The descriptions below are intended to provide you with information about the environmental compliance issues that may apply to your projects.

## H.1. Environmental and Cultural Resource Considerations

To allow Reclamation to assess the probable environmental and cultural resources impacts and costs associated with each application, all applicants should respond to the following list of questions focusing on NEPA, ESA, and NHPA requirements. Please answer the following questions to the best of your knowledge and note that this information will be used in evaluating the project's readiness to proceed and project implementation. If any question is not applicable to the project, please explain why. The application should include the answers to the following questions:

- Will the proposed project impact the surrounding environment (e.g., soil [dust], air, water [quality and quantity], animal habitat)? Please briefly describe all earth-disturbing work and any work that will affect the air, water, or animal habitat in the project area. Please also explain the impacts of such work on the surrounding environment and any steps that could be taken to minimize the impacts.

- Are you aware of any species listed or proposed to be listed as a Federal threatened or endangered species, or designated critical habitat in the project area? If so, would they be affected by any activities associated with the proposed project?

- Are there wetlands or other surface waters inside the project boundaries that potentially fall under CWA jurisdiction as "Waters of the United States?" If so, please describe and estimate any impacts the proposed project may have.

- When was the water delivery system constructed?

- Will the proposed project result in any modification of or effects to, individual features of an irrigation system (e.g., headgates, canals, or flumes)? If so, state when those features were constructed and describe the nature and timing of any extensive alterations or modifications to those features completed previously.

- Are any buildings, structures, or features in the irrigation district listed or eligible for listing on the National Register of Historic Places? *A cultural resources specialist at your local Reclamation office or the State Historic Preservation Office can assist in answering this question.*

- Are there any known archeological sites in the proposed project area?
- Will the proposed project have a disproportionately high and adverse effect on low income or minority populations?
- Will the proposed project limit access to and ceremonial use of Indian sacred sites or result in other impacts on Tribal lands?
- Will the proposed project contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area?

### H.1.1. National Environmental Policy Act

NEPA requires Federal agencies such as Reclamation to evaluate, during the decision-making process, the potential environmental effects of a proposed action and any reasonable mitigation measures. Before Reclamation can make a decision to fund an award under this NOFO, Reclamation must comply with NEPA. Compliance with NEPA can be accomplished in several ways.

Depending upon the degree and significance of environmental impacts associated with the proposal:

- Some projects may fit within a recognized **Categorical Exclusion (CE)** to NEPA (i.e., one of the established categories of activities that generally do not have significant impacts on the environment). If a project fits within a CE, no further NEPA compliance measures are necessary. Use of a CE can involve simple identification of an applicable **Department CE** or documentation of a **Reclamation CE** using a **Categorical Exclusion Checklist (CEC)**. If a CE is being considered, Reclamation will determine the applicability of the CE and whether extraordinary circumstances (i.e., reasons that the CE cannot be applied) exist. *That process can take anywhere from 1 day to about 30 days, depending upon the specific situation.*
- If the project does not fit within a CE, compliance with NEPA might require preparation of an **Environmental Assessment/Finding of No Significant Impact (EA/FONSI)**. Generally, where no CE applies but there are not believed to be any significant impacts associated with the proposed action, an EA will be required. The EA is used to determine whether any potentially significant effects exist (which would trigger the further step of an **Environmental Impact Statement (EIS)**, below). If no potentially significant effects are identified, the EA process ends with the preparation of a FONSI. *The EA/FONSI process is more detailed than the CE/CEC process and can take weeks or even months to complete. Consultation with other agencies and public notification are part of the EA process.*

- The most detailed form of NEPA compliance, where a proposed project has potentially significant environmental effects, is completion of an **EIS** and **Record of Decision.** An EIS requires months or years to complete, and the process includes considerable public involvement, including mandatory public reviews of draft documents. It is not anticipated that projects proposed under this program will require completion of an EIS.

During the NEPA process, potential impacts of a project are evaluated in context and in terms of intensity (e.g., will the proposed action affect the only native prairie in the county? Will the proposed action reduce water supplied to a wetland by 1 percent? or 95 percent?). The best source of information concerning the potentially significant issues in a project area is the local Reclamation staff that has experience in evaluating effects in context and by intensity.

Reclamation has the sole discretion to determine what level of environmental NEPA compliance is required. If another Federal agency is involved, Reclamation will coordinate to determine the appropriate level of compliance. *You are encouraged to contact your regional or area Reclamation office. See www.usbr.gov/main/offices.html with questions regarding NEPA compliance issues. You may also contact the Program Coordinator for further information (see Section G. Agency Contacts).*

### H.1.2. National Historic Preservation Act

To comply with Section 106 of the NHPA, Reclamation must consider whether a proposed project has the **potential to cause effects to historic properties**, before it can complete an award under this NOFO. Historic properties are cultural resources (historic or prehistoric districts, sites, buildings, structures, or objects) that qualify for inclusion in the National Register of Historic Places. In some cases, water delivery infrastructure that is over 50 years old can be considered a historic property that is subject to review.

If a proposal is selected for initial award, the successful applicant will work with Reclamation to complete the Section 106 process. Compliance can be accomplished in several ways, depending on how complex the issues are, including:

- If Reclamation determines that the proposed project does not have the potential to cause effects to historic properties, then Reclamation will document its findings and the Section 106 process will be concluded. *This can take anywhere from a couple of days to one month.*

- If Reclamation determines that the proposed project could have effects on historic properties, a multi-step process, involving consultation with the State Historic Preservation Officer and other entities, will follow. Depending on the nature of the project and impacts to cultural resources, consultation can be complex and time consuming. The process includes:

  - A determination as to whether additional information is necessary.
  - Evaluation of the significance of identified cultural resources.
  - Assessment of the effect of the project on historic properties
  - A determination as to whether the project would have an adverse effect and evaluation of alternatives or modifications to avoid, minimize, or mitigate the effects.
  - A Memorandum of Agreement is then used to record and implement any necessary measures. *At a minimum, completion of the multi-step Section 106 process takes about two months.*

- Among the types of historic properties that might be affected by projects proposed under this NOFO are **historic irrigation systems** and **archaeological sites.** An irrigation system or a component of an irrigation system (e.g., a canal or headgate) is more likely to qualify as historic if it is more than 50 years old, if it is the oldest (or an early) system/component in the surrounding area, and if the system/component has not been significantly altered or modernized. In general, proposed projects that involve ground disturbance, or the alteration of existing older structures, are more likely to have the potential to affect cultural resources. However, the level of cultural resources compliance required, and the associated cost, depends on a case-by-case review of the circumstances presented by each proposal.

You should contact your State Historic Preservation Office and your local Reclamation office's cultural resources specialist to determine what, if any, cultural resources surveys have been conducted in the project area. See www.usbr.gov/cultural/crmstaff.html for a list of Reclamation cultural resource specialists. If an applicant has previously received Federal financial assistance, it is possible that a cultural resources survey has already been completed.

### H.1.3. Endangered Species Act

Pursuant to Section 7 of the ESA, each Federal agency is required to consult with the U.S. Fish and Wildlife Service (USFWS) or the National Oceanic and Atmospheric Administration (NOAA) Fisheries Service to ensure any action it authorizes, funds, or carries out is not likely to **jeopardize the continued existence of any endangered or threatened species or destroy or adversely modify any designated critical habitat.**

Before Reclamation can approve funding for the implementation of a proposed project, it is required to comply with Section 7 of the ESA. The steps necessary for ESA compliance vary, depending on the presence of endangered or threatened species and the effects of the proposed project. A rough overview of the possible course of ESA compliance is:

- If Reclamation can determine that there are no endangered or threatened species or designated critical habitat in the project area, then the ESA review is complete and no further compliance measures are required. *This process can take anywhere from one day to one month.*

- If Reclamation determines that endangered or threatened species may be affected by the project, then a **Biological Assessment** must be prepared by Reclamation. The Biological Assessment is used to help determine whether a proposed action may affect a listed species or its designated critical habitat. The Biological Assessment may result in a determination that a proposed action **is not likely to adversely affect** any endangered or threatened species. If the USFWS/NOAA Fisheries Service concurs in writing, then no further consultation is required, and the ESA compliance is complete. *Depending on the scope and complexity of the proposed action, preparation of a Biological Assessment can range from days to weeks or even months. The USFWS/NOAA Fisheries Service generally respond to requests for concurrence within 30 days.*

- If it is determined that the project **is likely to adversely affect listed species**, further consultation (**formal consultation**) with USFWS or NOAA Fisheries Service is required to comply with the ESA. The process includes the creation of a **Biological Opinion** by the USFWS/NOAA Fisheries Service, including a determination of whether the project would **jeopardize** listed species and, if so, whether any **reasonable and prudent** alternatives to the proposed project are necessary to avoid jeopardy. Nondiscretionary **reasonable and prudent measures** and **terms and conditions** to minimize the impact of incidental take may also be included. Under the timeframes established in the ESA regulations, the Biological Opinion is issued within 135 days from the date that formal consultation was initiated, unless an extension of time is agreed upon.

The time, cost, and extent of the work necessary to comply with the ESA depends upon whether endangered or threatened species are present in the project area and, if so, whether the project might have effects on those species significant enough to require formal consultation.

ESA compliance is often conducted parallel to the NEPA compliance process and, as in the case of a CEC, documented simultaneously. The best source of information for ESA compliance in a particular project area is the local Reclamation environmental staff. They can help determine the presence of listed species and possible effects that would require consultation with the USFWS or NOAA Fisheries Service. In addition, you can contact your regional or area Reclamation office at [www.usbr.gov/main/offices.html](www.usbr.gov/main/offices.html) with questions regarding ESA compliance issues.