

RECLAMATION

Managing Water in the West

U.S. Department of the Interior
Bureau of Reclamation

NOTICE OF INTENT TO AWARD

This Funding Announcement is not a request for applications. This announcement is to provide public notice of the Bureau of Reclamation's intention to fund the following project activities without full and open competition.

ABSTRACT	
Funding Announcement	BOR-PN-17-N018
Project Title	Lewiston Orchards Water Exchange Project Lead
Recipient	Nez Perce Tribe
Principal Investigator / Program Manager	Bobby Hills, Project Manager
Anticipated Federal Amount	\$160,000
Anticipated Non-Federal Amount	\$0
New Award or Continuation?	New
Anticipated Period of Performance	October 1, 2017 through September 30, 2021
Award Instrument	Grant
Statutory Authority	Indian Tribal Water Resources Development, Management, and Protection: P.L. 108-7, Div. D, Title II, Section 201, 117 Stat. 144 (codified at 43 USC 373d)
CFDA # and Title	15.519 Indian Tribal Water Resources Development
Single Source Justification Criteria Cited	Unique Qualifications
Reclamation Point of Contact	Melinda Ritacco Grants Officer 208-378-5103

OVERVIEW

The Lewiston Orchards Project (LOP) is a Federal Reclamation project located near Lewiston, Idaho within the Lapwai Creek watershed, tributary to the Clearwater River in the Columbia River basin. Lewiston Orchards Irrigation District (LOID) operates and maintains the LOP. The LOP provides water to approximately 22,000 patrons for residential irrigation purposes within a 3,828 acre service area. The current system draws water from Craig Mountain, utilizes storage in Waha Lake and Soldier's Meadow Reservoir, and conveys water through a gravity system to Mann Lake. The gravity conveyance system is primarily located on the Nez Perce Tribe (Tribe) Reservation (Reservation).

Features of the LOP are primarily located within the Reservation. Ongoing LOP diversions are in conflict with tribal interests and affect Endangered Species Act (ESA)-listed Snake River steelhead. The Bureau of Reclamation (Reclamation) seeks to incrementally replace the current surface-water system with a multi-well groundwater system, to decommission the surface-water diversion system, and allow for the exchanged surface water to be protected instream. These measures include improvements that specifically benefit the Tribe and its members.

Currently, the LOP uses water for irrigation by diverting surface water from within the Lapwai Creek watershed, which is primarily located within the Reservation, along with a small amount from the Captain John Creek drainage, which is outside the reservation and tributary to the Snake River. The annual water availability is often insufficient to meet LOID system demands and contractual obligations, resulting in use restrictions for LOID patrons. Many features and facilities associated with the LOP also are in need of substantial repair, maintenance, and in many cases, total replacement. All these activities come at great cost to Reclamation and LOID. In addition, the LOP facilities and operations are in conflict with tribal cultural and natural resource interests. LOP surface diversions seasonally reduce water availability and connectivity within the Lapwai Creek watershed, resulting in negative impacts to the ESA-listed steelhead using the watershed. Litigation between the Federal government and the Tribe over the effects of the LOP has been stayed while a comprehensive resolution of the Tribes' legal issues is pursued.

In a 2009 Memorandum of Understanding, the Lower Clearwater Exchange Project (LCEP) stakeholders set forth the goal of seeking a reliable, quality water supply for LOID, and permanently resolving ESA and Federal tribal trust issues surrounding the LOP. In 2011, the LCEP group completed a Rural Water Supply Program (RWSP) Appraisal Study which evaluated alternatives to meet the group's objectives. The LOP Water Exchange and Title Transfer Project (Project) evolved out of the well field alternative evaluated in the LCEP's Appraisal Study.

Reclamation and LOID have jointly funded a pilot well to test the viability of the regional aquifer and overall Project. Testing of the pilot well production capacity confirmed the well produces its targeted flow rate and the regional aquifer will likely support more wells in the same general location. With the success of the pilot well and completion of environmental compliance, the project is continuing into the next phase with the construction of a power substation and additional wells.

RECIPIENT INVOLVEMENT

The general activities to be performed by the NPT are:

1. **Coordination and participation as Tribe's primary technical contact.** Participate in all regular coordination meetings of the Lewiston Orchards Project. Provide assistance with coordination of information and developing the legislation required to transfer necessary titles and work with the parties to seek partners.

2. **Provide assistance with the development of Management Agreements.** Provide assistance to the Tribe and Idaho Department of Fish and Game to develop a management agreement with regards to recreation, fishing, etc. for Reservoir A, Soldiers Meadow Reservoir, and Lake Waha. Provide assistance to the BIA and LOID to develop a management and operations agreement for the use of Reservoir A.
3. **Provide assistance during the construction phase.** Assist LOID in potential land acquisition for wells, piping, and appurtenant facility construction. Assist LOID and Reclamation in acquiring any city/county/state/federal requirements for construction. Assist LOID in a solution for electricity and a substation necessary for the well field.
4. **Provide assistance in developing interim operations for LOID.** After the pilot well is completed, by April 1st of each year, participate with LOJD and other parties in developing an annual plan using modeling and analysis to characterize the water year and how LOID operations are projected to meet the flows for successive wells.
5. **Provide assistance in implementing methodology for water exchange values.** Assist in review of application of the methodology described in the Water Exchange. Coordinate with LOID, NOAA and Reclamation in delineating bypass flows at the Sweetwater and Webb Creek diversion on an annual basis, and develop a plan accordingly identifying how to allocate the available water between Sweetwater and Webb Creeks.
6. **Provide assistance in securing water rights.** Assist in developing an agreement that will describe with certainty the method of transferring LOP water rights from Reclamation to the BIA in trust for the Contractor so as to allow permanent protection of the water right as described in the Water Exchange to benefit the Nez Perce Tribe and its members.

RECLAMATION INVOLVEMENT

There is no anticipated involvement from Reclamation.

Reclamation did not solicit full and open competition for this award based the following criteria:

(4) UNIQUE QUALIFICATIONS

Single Source Justification Description:

Reclamation's intention to fund this project without full and open competition is based upon NPT's ownership of the land upon which majority of the LOP distribution and delivery system is located; NPT's familiarity and vested interest in the project; and NPT's availability to work with Reclamation allowing them to meet strict deadlines.

STATUTORY AUTHORITY

Sec. 201: In order to increase opportunities for Indian Tribes to develop, manage, and protect their water resources, in fiscal year 2003 and thereafter, the Secretary of the Interior, acting through the commissioner of the Bureau of Reclamation, is authorized to enter into grants and cooperative agreements with any Indian Tribe, institution of higher education, national Indian organization, or tribal organization pursuant to 31 USC 6301-6308 (the Grant and cooperative Agreement Act). Nothing in this Act I intended to modify or limit the provisions of the Indian Self Determination Act (25 USC 45 et seq).

SINGLE-SOURCE JUSTIFICATION

DEPARTMENT OF THE INTERIOR SINGLE SOURCE POLICY REQUIREMENTS

Department of the Interior Policy (505 DM 2) requires a written justification which explains why competition is not practicable for each single-source award. The justification must address one or more of the following criteria as well as discussion of the program legislative history, unique capabilities of the proposed recipient, and cost-sharing contribution offered by the proposed recipient, as applicable.

In order for an assistance award to be made without competition, the award must satisfy one or more of the following criteria:

- (1) Unsolicited Proposal – The proposed award is the result of an unsolicited assistance application which represents a unique or innovative idea, method, or approach which is not the subject of a current or planned contract or assistance award, but which is deemed advantageous to the program objectives;
- (2) Continuation – The activity to be funded is necessary to the satisfactory completion of, or is a continuation of an activity presently being funded, and for which competition would have a significant adverse effect on the continuity or completion of the activity;
- (3) Legislative intent – The language in the applicable authorizing legislation or legislative history clearly indicates Congress' intent to restrict the award to a particular recipient of purpose;
- (4) Unique Qualifications – The applicant is uniquely qualified to perform the activity based upon a variety of demonstrable factors such as location, property ownership, voluntary support capacity, cost-sharing ability if applicable, technical expertise, or other such unique qualifications;
- (5) Emergencies – Program/award where there is insufficient time available (due to a compelling and unusual urgency, or substantial danger to health or safety) for adequate competitive procedures to be followed.