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	R15AN20004
Project Title	Walker Basin Water Rights Administration
Recipient	Nevada Division of Water Resources (NDWR)
Principal Investigator / Program Manager	Robert Zeisloft, Section Chief, Water Rights
Anticipated Federal Amount	$350,000.00
Cost Share	0%
Total Anticipated Award Amount	$350,000.00
New Award or Continuation?	New
Anticipated Period of Performance	Five years
Award Instrument	Grant
Statutory Authority	Agricultural Act of 2014, Title II, Section 2507, Public Law 113-79 Enacted February 7, 2014
CFDA # and Title	15.508 - Providing Water to At-Risk Natural Desert Terminal Lakes
Single Source Justification Criteria Cited	(4) Unique Qualifications
Reclamation Point of Contact	Vivian Davis, vdavis@usbr.gov

OVERVIEW

Walker Lake is the terminus of the Walker River. Water diversions for farming have reduced natural inflow to Walker Lake and resulted in an 80% decrease in total volume and an eight-fold increase in salinity to over 20,000 mg/l. The Walker Basin Restoration Program, managed by

the National Fish and Wildlife Foundation (NFWF), was established by Congress as part of Public Law 111-85 in October 2009. The Program's core purpose is to restore and maintain Walker Lake. Walker Lake is critical to recovery of the threatened Lahontan cutthroat trout (LCT) and is an important stopover for common loons and other migratory birds. However, the many decades of depleted freshwater inflows have resulted in declines of lake elevation and increases in lake salinity, which today threaten its complete ecological collapse.

In order to reverse Walker Lake's decline, this conservation program seeks to increase stream flows to Walker Lake through a comprehensive basin-wide strategy that relies on voluntary water transactions, water management initiatives, and various conservation and research programs. This is being accomplished through an integrated mix of efforts based on the authority and funding provided by P.L. 111-85.

The NDWR is responsible for regulating the appropriation and reallocation of Nevada's public waters. Every water rights transaction proposed by NFWF, whether for transfer to Walker Lake or as a local management program on withdrawn agricultural lands, is subject to Nevada's water laws and administered by NDWR.

The objectives of the grant are for work related to required State of Nevada water right hearings for processing NFWF transfer applications, including significant time required to prepare for and conduct hearings and review tens to hundreds of technical supporting documents. NDWR will hire a senior-level engineer to process water rights change applications, assist in the hearings process, and oversee water-level and pumpage inventories related to the Walker Basin Restoration Program.

RECIPIENT INVOLVEMENT

The position to be funded by the grant is for the following principal purposes in the Walker River Basin in Nevada:

- Review complex applications submitted to the Nevada State Engineer for the appropriation of surface and underground water in the Walker River Basin using sound hydrology and engineering knowledge.
- Write permit terms and complete field investigations as necessary.
- Conduct research on protested applications, attend hearings, and assist with the preparation of rulings as required for processing pending applications.
- Oversee the data collection and preparation of groundwater use inventories in Mason and Smith Valley.
- Oversee and collect water level data from an extensive groundwater monitoring network.

RECLAMATION INVOLVEMENT

No substantial involvement on the part of Reclamation is anticipated for the successful completion of the objectives to be funded by this award. Reclamation's involvement on the grant will be to provide technical assistance when requested and implement oversight of federal stewardship responsibilities, including monitoring of project performance and financial accountability and reporting in accordance with the terms of the grant agreement.

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.

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

(4) UNIQUE QUALIFICATIONS

Single Source Justification Description:

The National Fish and Wildlife Foundation (NFWF) is acquiring water rights from willing sellers for transfer to the terminal Walker Lake for the restoration of habitat for fish and wildlife. The Nevada Division of Water Resources (NDWR) processes all applications for such transfers.

Associated water rights actions that are carried out by NFWF to manage their acquisitions are extensive and require significant NDWR resources.

The Nevada Division of Water Resources (NDWR) is the state agency responsible for the regulatory compliance and administration of all water rights in Nevada, including water rights acquired by the National Fish and Wildlife Foundation's Walker Basin Restoration Program. NDWR is therefore the entity that is uniquely qualified to have a person on staff to administer the Walker Basin Program acquisitions. NDWR has the required technical expertise to comply with Nevada State water rights laws which is required under this grant. NDWR also has the cost sharing ability to fully fund the staff position to implement the water rights administration tasks of the grant.

STATUTORY AUTHORITY

Agricultural Act of 2014
Title II, Section 2507
Public Law 113-79
Enacted February 7, 2014

SEC. 2507. TERMINAL LAKES.
Section 2507 of the Farm Security and Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171) is amended to read as follows:

''SEC. 2507. TERMINAL LAKES ASSISTANCE.
''(a) DEFINITIONS.—In this section:
''(1) ELIGIBLE LAND.—The term 'eligible land' means privately owned agricultural land (including land in which a State has a property interest as a result of State water law)—
''(A) that a landowner voluntarily agrees to sell to a State; and
''(B) which—
''(i)(I) is ineligible for enrollment as a wetland reserve easement established under the agricultural conservation easement program under subtitle H of the Food Security Act of 1985;
''(II) is flooded to—
''(aa) an average depth of at least 6.5 feet;
Or
''(bb) a level below which the State determines the management of the water level is beyond the control of the State or landowner;
Or
''(III) is inaccessible for agricultural use due to the flooding of adjoining property (such as islands of agricultural land created by flooding);
''(ii) is located within a watershed with water rights available for lease or purchase; and
''(iii) has been used during at least 5 of the immediately preceding 30 years—
''(I) to produce crops or hay; or

''(II) as livestock pasture or grazing.

''(2) PROGRAM.—The term 'program' means the voluntary land purchase program established under this section.

''(3) TERMINAL LAKE.—The term 'terminal lake' means a lake and its associated riparian and watershed resources that is—

''(A) considered flooded because there is no natural outlet for water accumulating in the lake or the associated riparian area such that the watershed and surrounding land is consistently flooded; or

''(B) considered terminal because it has no natural outlet and is at risk due to a history of consistent Federal assistance to address critical resource conditions, including insufficient water available to meet the needs of the lake, general uses, and water rights.

''(b) ASSISTANCE.—The Secretary shall—

''(1) provide grants under subsection (c) for the purchase of eligible land impacted by a terminal lake described in subsection (a)(3)(A); and

''(2) provide funds to the Secretary of the Interior pursuant to subsection (e)(2) with assistance in accordance with subsection (d) for terminal lakes described in subsection (a)(3)(B).

''(c) LAND PURCHASE GRANTS.—

''(1) IN GENERAL.—Using funds provided under subsection (e)(1), the Secretary shall make available land purchase grants to States for the purchase of eligible land in accordance with this subsection.

''(2) IMPLEMENTATION.—

''(A) AMOUNT.—A land purchase grant shall be in an amount not to exceed the lesser of—

''(i) 50 percent of the total purchase price per acre of the eligible land; or

''(ii)(I) in the case of eligible land that was used to produce crops or hay, $400 per acre; and

''(II) in the case of eligible land that was pasture or grazing land, $200 per acre.

''(B) DETERMINATION OF PURCHASE PRICE.—A State purchasing eligible land with a land purchase grant shall ensure, to the maximum extent practicable, that the purchase price of such land reflects the value, if any, of other encumbrances on the eligible land to be purchased, including easements and mineral rights.

''(C) COST-SHARE REQUIRED.—To be eligible to receive a land purchase grant, a State shall provide matching non-Federal funds in an amount equal to 50 percent of the amount described in subparagraph (A), including additional non-Federal funds.

''(D) CONDITIONS.—To receive a land purchase grant, a State shall agree—

''(i) to ensure that any eligible land purchased is—

''(I) conveyed in fee simple to the State; and

''(II) free from mortgages or other liens at the time title is transferred;

''(ii) to maintain ownership of the eligible land in perpetuity;

''(iii) to pay (from funds other than grant dollars awarded) any costs associated with the purchase of eligible land under this section, including surveys and legal fees; and

''(iv) to keep eligible land in a conserving use, as defined by the Secretary.

''(E) LOSS OF FEDERAL BENEFITS.—Eligible land purchased with a grant under this section shall lose eligibility for any benefits under other Federal programs, including—

''(i) benefits under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.);

''(ii) benefits under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.); and

''(iii) covered benefits described in section 1001D(b) of the Food Security Act of 1985 (7 U.S.C. 1308–3a).

''(F) PROHIBITION.—Any Federal rights or benefits associated with eligible land prior to purchase by a State may not be transferred to any other land or person in anticipation of or as a result of such purchase.

''(d) WATER ASSISTANCE.—

''(1) IN GENERAL.—The Secretary of the Interior, acting through the Commissioner of Reclamation, may use the funds described in subsection (e)(2) to administer and provide financial assistance to carry out this subsection to provide water and assistance to a terminal lake described in subsection (a)(3)(B) through willing sellers or willing participants only—

''(A) to lease water;

''(B) to purchase land, water appurtenant to the land, and related interests; and

''(C) to carry out research, support, and conservation activities for associated fish, wildlife, plant, and habitat resources.

''(2) EXCLUSIONS.—The Secretary of the Interior may not use this subsection to deliver assistance to the Great Salt Lake in Utah, lakes that are considered dry lakes, or other lakes that do not meet the purposes of this section, as determined by the Secretary of the Interior.

''(3) TRANSITIONAL PROVISION.—

''(A) IN GENERAL.—Notwithstanding any other provision of this section, any funds made available before the date of enactment of the Agricultural Act of 2014 under a provision of law described in subparagraph (B) shall remain available using the provisions of law (including regulations) in effect on the day before the date of enactment of that Act.

''(B) DESCRIBED LAWS.—The provisions of law described in this section are—

''(i) section 2507 of the Farm Security and Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171) (as in effect on the day before the date of enactment of the Agricultural Act of 2014);

''(ii) section 207 of the Energy and Water Development Appropriations Act, 2003 (Public Law 108–7; 117 Stat. 146);

''(iii) section 208 of the Energy and Water Development Appropriations Act, 2006 (Public Law 109–103; 119 Stat. 2268, 123 Stat. 2856); and

''(iv) section 208 of the Energy and Water Development and Related Agencies Appropriations Act, 2010 (Public Law 111–85; 123 Stat. 2858, 123 Stat. 2967, 125 Stat. 867).

‘‘(e) FUNDING.—

‘‘(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out subsection (c) $25,000,000, to remain available until expended.

‘‘(2) COMMODITY CREDIT CORPORATION.—As soon as practicable after the date of enactment of the Agricultural Act of 2014, the Secretary shall transfer to the ‘Bureau of Reclamation— Water and Related Resources’ account $150,000,000 from the funds of the Commodity Credit Corporation to carry out subsection (d), to remain available until expended.