



— BUREAU OF —  
RECLAMATION

**Notice of Funding Opportunity No. R23AS00326**  
**Region 8: Lower Colorado Basin Region**

# **Fish and Wildlife Coordination Act Program Financial Assistance for Fiscal Year 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; and 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: Yuma East Wetlands, Yuma, AZ. (Reclamation/Jed Blake).

## Acronyms

ARC	Application Review Committee
ASAP	Automated Standard Application for Payments
CE	Categorical Exclusion
CEC	Categorical Exclusion Checklist
CFR	Code of Federal Regulations
CWA	Clean Water Act
DM	Departmental Manual
DOI	U.S. Department of the Interior
EA	Environmental Assessment
EIS	Environmental Impact Statement
EO	Executive Order
ESA	Endangered Species Act
FAIR	Financial Assistance Interior Regulation
FAPIIS	Federal Awardee Performance and Integrity Information System
FONSI	Finding of No Significant Impact
FTHL	Flat-tailed horned lizard
FWCAP	Fish and Wildlife Coordination Act Program
FY	Fiscal Year
LCB	Lower Colorado Basin
MTDC	Modified total direct cost
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NICRA	Negotiated indirect cost rate agreement
NOFO	Notice of Funding Opportunity
OMB	Office of Management and Budget
P.L.	Public Law
Reclamation	Bureau of Reclamation
SAM	System for Award Management
SF	Standard Form
SPOC	State Point of Contact (for intergovernmental review)
UEI	Unique Entity ID
USC	United States Code

WIIN Act

YAO

Water Infrastructure Improvements for the Nation Act

Yuma Area Office

## Synopsis

<b>Federal Agency Name:</b>	Department of the Interior, Bureau of Reclamation, Lower Colorado Basin Region 8.
<b>Funding Opportunity Title:</b>	Fish and Wildlife Coordination Act Program Financial Assistance for Fiscal Year 2023
<b>Announcement Type:</b>	Notice of Funding Opportunity (NOFO)
<b>Funding Opportunity Number:</b>	R23AS00326
<b>Catalog of Federal Domestic Assistance (CFDA) Number:</b>	15.517
<b>Dates:</b> (See NOFO Sec. D.4)	Application due date: Thursday, June 1, 2023, 4:30 p.m. Pacific Daylight Time
<b>Eligible Applicants:</b> (See NOFO Sec. C.1)	Applicants eligible to receive financial assistance to fund activities under this NOFO include: 00 – State governments 01 – County governments 02 – City or township governments 04 – Special district governments 06 – Public and State controlled institutions of higher education 07 – Native American tribal governments (Federally recognized) 11 – Native American tribal organizations (other than Federally recognized tribal governments) 12 – Nonprofits having a 501(c)(3) status with the IRS, other than institutions of higher 20 – Private institutions of higher education 22 – For profit organization other than small businesses 23 – Small businesses
<b>Recipient Cost-Share:</b> (See NOFO Sec. C.2)	No cost sharing requirement under this NOFO
<b>Federal Funding Amount:</b> (See NOFO Sec. B.1)	Up to \$55,000 per applicant
<b>Estimated Number of Agreements to be Awarded:</b> (See NOFO Sec. B.4)	One
<b>Intergovernmental Review:</b> (See NOFO Sec. D.5)	This NOFO is subject to Executive Order 12372, "Intergovernmental Review of Federal Programs." A list of states that have elected to participate in the intergovernmental review process is available here <a href="https://www.whitehouse.gov/wp-content/uploads/2020/04/SPOC-4-13-20.pdf">https://www.whitehouse.gov/wp-content/uploads/2020/04/SPOC-4-13-20.pdf</a> .



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## Section A. Program Description

### A.1. Authority

This Notice of Funding Opportunity (NOFO) is issued under the authority of the Fish and Wildlife Coordination Act of 1934, Public Law (P.L.) 85-624, 16 United States Code (U.S.C.) §661, et.seq., as amended; as limited by the Secretary of the Interior delegation of authority at 255 Departmental Manual (DM) 1.1B to:

- (a) conduct activities for the improvement of fish and wildlife habitat associated with water systems or water supplies affected by Bureau of Reclamation (Reclamation) projects, including but not limited to fish passage and screening facilities at any non-Federal water diversion or storage project within the region;
- (b) plan, design, construct, and monitor, including acquire lands or interest therein as needed, instream habitat improvements, including but not limited to fish passage screening facilities at off-site locations (as negotiated on privately owned lands and facilities not associated with a Reclamation project); and
- (c) monitor and evaluate the effect of Reclamation actions on fish and wildlife resources including ESA-listed species.

### A.2. Notice of Funding Opportunity Purpose and Objectives

Reclamation's Yuma Area Office (YAO) periodically makes funding available for conducting activities for Threatened and Endangered species and their habitats under Section 7(a)1 of the Endangered Species Act (ESA) under the Fish and Wildlife Coordination Act Program (FWCAP). The objective(s) of this NOFO is to fund projects for activities in support of YAO's endangered species and environmental restoration programs in Federal fiscal year (FY) 2023 (October 1, 2022, through September 30, 2023).

The map below shows the YAO management areas covered under this NOFO.



The Bureau of Reclamation manages, develops, and protects water and related resources in an environmentally and economically sound manner in the interest of the American public. Reclamation has a major responsibility, in partnership with water users, states, and other interested parties, to help improve water resource management and water use efficiency in the western United States. More efficient water use is a key component of Reclamation's water resource management strategy. Through coordination with our stakeholders, FWCAP supports the Department of the Interior's (DOI) priorities, including:

- Creating a conservation stewardship legacy;
- Utilizing our natural resources;
- Restoring trust with local communities;
- Striking a regulatory balance;
- Modernizing our infrastructure; and
- Achieving our goals and leading our team forward.

Reclamation priorities are also supported through this program, including:

- Increasing water supplies, storage, and reliability under WIIN Act (Water Infrastructure Improvements for the Nation) and other authorities to benefit farms, families, businesses, and fish and wildlife;
- Streamlining regulatory processes and removing unnecessary burdens to provide more water and power supply reliability;
- Leveraging science and technology to improve water supply reliability to communities;
- Addressing ongoing drought;
- Improving the value of hydropower for Reclamation power customers;
- Improving water supplies for tribal and rural communities; and
- Promoting title transfer opportunities.

### **A.3. Program Requirements**

**Proposed projects should seek to include conservation and improvement programs, habitat conservation, and riparian restoration projects.**

All proposals will be evaluated against the Evaluation Criteria stated in *Section E – Application Review Information* of this NOFO.

Projects to be considered should address one of the following task component areas:

- Wetland and riparian habitat restoration, enhancement, and protection;

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- Tracking fish and wildlife movement, habitat monitoring, collection, analysis of invertebrates, and/or genetics studies; or
- Surveying and monitoring of fish and wildlife.

Projects to be considered should consider:

- Demonstration of long-term studies of native riparian habitat restoration;
- Specific emphasis of plant genetic variation and its effect on community structure; or
- Demonstrated skill in the propagation and long-term survival of Lower Colorado Basin native riparian species.

## Section B. Federal Award Information

### B.1. Total Funding

Approximately \$55,000 is available for this NOFO.

Reclamation will determine the final amount of Federal funding available for award under this NOFO once final FY 2023 appropriations have been made. This NOFO may be canceled if appropriations are insufficient to support new awards.

### B.2. Expected Award Amount

*Maximum Award: \$55,000*

*Minimum Award: \$1*

The maximum award amount in Federal funds may be awarded to an applicant over the 2-year period, with no more than \$55,000 total amount to be available for entire project period.

### B.3. Expected Award Funding and Anticipated Dates

*Anticipated Award Date: 09/01/2023*

Reclamation expects to contact potential award recipients and unsuccessful applicants in Summer 2023 (or later if necessary), subject to the timing of final FY 2023 appropriations.

*Anticipated Project Completion Date: 08/01/2025*

## **B.4. Number of Awards**

Approximately one award, depending on the amount requested by each applicant and the amount of Federal funding available, will be awarded under this NOFO.

## **B.5. Type of Award**

Project awards will be made through grants agreements.

## **B.6. Technical Assistance**

At your request, Reclamation can provide technical assistance after award of the project. If you receive Reclamation's assistance, you must account for these costs in your budget. To discuss available assistance and these costs, contact the program coordinator identified in *Section G. Federal Awarding Agency Contact(s)*.

# **Section C. Eligibility Information**

## **C.1. Eligible Applicants**

- 00 – State governments
- 01 – County governments
- 02 – City or township governments
- 04 – Special district governments
- 06 – Public and State controlled institutions of higher education
- 07 – Native American tribal governments (Federally recognized)
- 11 – Native American tribal organizations (other than Federally recognized tribal governments)
- 12 – Nonprofits having a 501(c)(3) status with the IRS, other than institutions of higher
- 20 – Private institutions of higher education
- 22 – For profit organization other than small businesses
- 23 – Small businesses

Note: The Application Review Committee (ARC) has the discretion to determine which group an applicant is eligible for.

### **C.1.1. Ineligible Applicants**

Those not eligible are:

- Federal governmental entities
- Individuals

## **C.2. Cost Sharing or Matching**

No cost sharing is required under this NOFO.

Should an applicant choose to provide any cost-sharing, it may be made through cash or in-kind contributions from the applicant or third-party partners; however, all cost-share contributions must meet the criteria established in the Office of Management and Budget (OMB) administrative and cost principles circulars applicable to the applicant.

Project costs that have been incurred prior to the date of award of the project may be submitted for consideration as an allowable portion of the recipient's cost-share for the project. Reclamation will review the proposed pre-award costs to determine if they are allowable in accordance with the authorizing legislation and applicable cost principles.

If cost-share is included in the proposed budget, all cost-share contributions must meet the applicable administrative and cost principles criteria established in 2 Code of Federal Regulations (CFR) Part 200.

## **C.3. Donations and In-Kind Contributions**

Donations and in-kind contributions constitute the value of noncash contributions that benefit a federally assisted project. If provided, these contributions may be in the form of real property, equipment, supplies and other expendable property, as well as the value of goods and services directly benefiting and specifically identifiable to the proposed project or program. The cost or value of 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 may not be relied on to satisfy the cost-share requirement for FWCAP Grant applications. Applicants should refer to 2 CFR §200.434 for regulations regarding the valuation of in-kind donations and contributions, available at [www.ecfr.gov](http://www.ecfr.gov).

## C.4. Other

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

## C.5. Eligible Projects

Applicants can apply for funding for activities that seek to include conservation and improvement programs, habitat conservation, and riparian restoration projects.

### C.5.1. Projects to be considered should address one of the following task component areas:

- Wetland and riparian habitat restoration, enhancement, and protection;
- Tracking fish and wildlife movement, habitat monitoring, collection, analysis of invertebrates, and/or genetics studies; or
- Surveying and monitoring of fish and wildlife.

### C.5.2. Projects to be considered should consider:

- Demonstration of long-term studies of native riparian habitat restoration;
- Specific emphasis of plant genetic variation and its effect on community structure; or
- Demonstrated skill in the propagation and long-term survival of Lower Colorado Basin native riparian species.

# Section D. Application and Submission Information

## D.1. Contact to Request Application Package

This document contains all information, forms, and electronic addresses required to obtain the information 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 grants management specialist, Sharon Opfermann at [sopfermann@usbr.gov](mailto:sopfermann@usbr.gov).

## 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 total technical proposal and criteria section (defined below) shall be limited to a maximum of **15** consecutively numbered pages. If this section exceeds **15** pages, only the first **15** pages will be evaluated. 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 must include the following elements to be considered complete:

- Mandatory Federal Forms
  - SF-424 Application for Federal Assistance
  - SF-424A Budget Information for Non-Construction Projects
  - SF-424B Assurances for Non-Construction Activities

These forms may be obtained at [www.grants.gov/web/grants/forms/sf-424-family.html](http://www.grants.gov/web/grants/forms/sf-424-family.html).

- Technical proposal and evaluation criteria (limited to **15** pages), which should include:
  - Title Page
  - Table of Contents
  - Executive summary
  - Project location
  - Technical project description
  - Evaluation criteria
- Project budget, which should include:
  - Funding plan and letters of funding commitment
  - Budget proposal
  - Budget narrative
- Environmental and cultural resources compliance, if applicable.
- Required permits or approvals.
- Letters of support for the project and letters of participation (will not count towards the page limitation).
- Official resolution (will not count towards the page limitation).

To facilitate fair and timely reviews by the ARC, it is highly recommended that application packages be structured in the order identified above.

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

The application must include the following standard Federal forms for an application to be considered complete. Incomplete applications will be screened as ineligible and will not proceed to a merit evaluation by the ARC. Questions regarding forms should be referred to the Financial Assistance Point of Contact under *Section G. Federal Awarding Agency Contact(s)*.

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

A fully completed SF-424 Application for Federal Assistance 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 properly signed SF-424 may result in the elimination of the application from further consideration.

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 Unique Entity Identifier (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/SF-424C Budget Information 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/SF-424D Assurances for Non-Construction/Construction Programs signed by a person legally authorized to commit the applicant to performance of the project shall be included.

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

### **D.2.2.2. Technical Proposal Content**

#### **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, e-mail address, and telephone of the Project Manager.

#### **Table of Contents**

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

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### **Technical Proposal and Evaluation Criteria**

The technical proposal and evaluation criteria must be submitted and it should (limited to 15 pages) include:

- (1) Executive summary
- (2) Project location
- (3) Technical project description
- (4) Evaluation criteria

### **Executive Summary**

The executive summary should include:

- The date, applicant name, city, county, and state.
- A one paragraph project summary that briefly describes the work proposed, including how project funds will be used to accomplish specific project activities, and briefly identifies how the proposed project contributes to accomplishing the goals of this NOFO (see *Section C.5 - Eligible Projects*)
- State the length of time and estimated completion date for the proposed project (month/year).
- Whether or not the proposed planning efforts are focused on a Federal facility or will involve Federal land.

### **Task Component Area**

On a separate line, on the first page of the Project Narrative, clearly identify which task component area will be addressed through the proposed activity/project.

To assure your proposal receives the points it deserves, applicants are strongly encouraged to explain how your proposed project relates to the Evaluation Criteria outlined in *Section E1*. DO NOT attempt to address ALL the criteria. Applicants must select the ONE task component area that most directly applies to the proposed activity/project and must address the criteria for that ONE selected component area. If your project has aspects of more than one area, you must choose which one is the better fit or best describes the primary reason for the project.

### **Project Location**

If you are selected for funding, Reclamation may request additional detail regarding your project location.

### **Problem Statement**

Describe the problem to be solved by the proposed project, including why current approaches or technologies are insufficient and how the proposed approach or technology improves on current shortcomings. Include information on what is already known, either due to previous research done or a literature review. Describe how the proposed work aligns with one or more of the objectives shown in Section A.2. *Notice of Funding Opportunity Purpose and Objectives*.

**Work Plan and Schedule**

Provide a work plan based on the technical approach and project activities. The work plan should include a schedule showing individual tasks with significant milestones identified for the work to be accomplished (see Table 1 as an example). Clearly and concisely convey this schedule using a table, Gantt chart, project network diagram, or any other visual format. Multi-year applications should include such information for each year of the proposed activity. Time for final report preparation as described in Section F.3. *Reporting Requirements and Distribution* should also be included in the work plan.

**Table 1. Milestones**

Milestone/Task/Activity	Planned Start Date	Planned Completion Date

**Technical Project Description**

The technical project description should describe the work, including specific activities that will be accomplished. This section provides an opportunity 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. As part of this discussion, please address the following:

- **Applicant Category:** Please indicate whether you are seeking funding as a Group described under *Section C.1. Eligible Applicants*
- **Eligibility of Applicant:** Please write a narrative summary indicating how the applicant meets the eligibility requirements, as described in *Section C.1. Eligible Applicants*.
- **Goals:** Discuss your organization’s preliminary goals and objectives for this project.
- **Approach:** Provide a comprehensive description of your planned approach for this project.

Describe the technical approach and/or proposed research and testing activities to be conducted under the project. Include enough detail on the proposed technology or approach to permit a comprehensive evaluation of the proposal. The applicant’s understanding will be established not only by the proposed approach, but also by identifying potential challenges that will be faced throughout the proposed testing, and mitigation strategies for these challenges.

Describe in detail the tasks to be conducted, including the development of the final technical report. For each task, describe planned activities and expected outcomes and milestones. Describe the staff levels and expertise, the number of staff hours, and the schedule for completing each task.

*This section is solely intended to provide an understanding of the technical aspects of the project. Please note, if the work for which you are requesting funding is a phase of a larger project, please only describe the work that is reflected in the budget and exclude description of other activities or components of the overall project. Please do not duplicate information.*

## **Evaluation Criteria**

*Section E.1. Technical Proposal: Evaluation Criteria* provides a detailed description of each criterion, and sub-criterion and 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.

***Copying and pasting the evaluation criteria and sub-criteria in Section E.1. Technical Proposal: Evaluation Criteria into your applications is suggested to ensure that all necessary information is adequately addressed.***

*Failure to submit a technical project description will result in the elimination of the application from further consideration.*

### **D.2.2.3. Project Budget**

The project budget must be submitted and it should include:

- (1) Budget proposal
- (2) Budget narrative

Incurrence of pre-award costs is not authorized without prior written approval of the awarding Grants Officer. Per 2 CFR 200.458, pre-award costs are those incurred prior to the effective date of the Federal award or subaward directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work. If the proposed project is selected, the awarding Reclamation Grants Officer will review the proposed pre-award costs to determine if these costs 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 Code of Federal Regulations (CFR) Part 200, available at [www.ecfr.gov](http://www.ecfr.gov), and all other requirements of this NOFO.

*Please note that the costs for preparing and submitting an application in response to this NOFO, including developing data necessary to support the proposal, are not eligible project costs under this NOFO and must not be included in the project budget. In addition, budget proposals must not include costs for the purchase of water or land, or to secure an easement other than a construction easement. These costs are not eligible project costs under this NOFO.*

### **Budget Proposal and Funding Plan**

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 2) to summarize all funding sources. Denote in-kind contributions with an asterisk (\*).

**Table 2. Summary of Non-Federal and Federal Funding Sources**

FUNDING SOURCES	AMOUNT
<b>Non-Federal Entities</b>	
1.	
2.	
3.	
<b>Non-Federal Subtotal</b>	
<b>REQUESTED RECLAMATION FUNDING</b>	

The budget proposal should include detailed information on the categories listed below and must clearly identify *all* items of 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 (Table 3).

**Table 3. Total Project Cost Table**

SOURCE	AMOUNT
Costs to be reimbursed with the requested Federal funding	\$
Costs to be paid by the applicant	\$
Value of third-party contributions	\$
<b>TOTAL PROJECT COST</b>	<b>\$</b>

**Budget Narrative**

Submission of a budget narrative is mandatory. An award will not be made to any applicant who fails to fully disclose this information. The budget narrative provides a discussion of, or explanation for, items included in Section B of the SF-424A. 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](http://www.ecfr.gov)).

In addition, please identify whether the budget proposal includes any project costs that may be incurred prior to award. See requirements below.

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

**D.2.2.4. Pre-Award Costs**

If the proposed project is selected, the awarding Reclamation Grants Officer will review the proposed pre-award costs 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 NOFO.

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*Please note that the costs for preparing and submitting an application in response to this NOFO, including the development of data necessary to support the proposal, are not eligible project costs under this NOFO and must not be included in the project budget.*

The budget proposal shall include any project costs that may be incurred prior to award. For each cost, describe:

- The project expenditure and amount
- The date of cost incurrence
- How the expenditure benefits the project

### ***D.2.2.5. Environmental and Cultural Resources Compliance***

Please answer the questions from *Section H.1. Environmental and Cultural Resource Considerations* in this section.

### ***D.2.2.6. Required Permits or Approvals***

You should state in the application whether any permits or approvals are required 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.2.2.7. 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 must 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 or the Program Coordinator immediately.

**D.2.2.8. Conflict of Interest Disclosure Statement**

*Conflict of Interest Disclosure Per the Financial Assistance Interior Regulation (FAIR)*, 2 CFR §1402.112, you should state in your application if any actual or potential conflict of interest exists at the time of submission.

**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 Grants Officer in writing of any conflicts of interest that may arise during the life of the award, including those that have been reported by subrecipients.

**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 U.S.C §1352, as described in the SF-424 section above.

**Review Procedures**

The Grants 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.2.2.9. Uniform Audit Reporting Statement**

All U.S. states, local governments, federally recognized tribal governments, and non-profit organizations expending \$750,000 in U.S. dollars or more in Federal award funds in your organization's fiscal year must submit a Single Audit report for that year through the Federal

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Audit Clearinghouse's Internet Data Entry System in accordance with 2 CFR §200 subpart F. U.S. state, local government, federally recognized 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 at <https://facides.census.gov/>.

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

Please include letters from interested stakeholders supporting the proposed project. To ensure your proposal is accurately reviewed, please attach all letters of support/partnership letters as an appendix. Letters of support received after the application deadline for this NOFO will not be considered in evaluating your proposed project. These letters do not count within the 15-page maximum.

### ***D.2.2.11. Official Resolution***

Include 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. If you are unable to submit the official resolution by the application deadline because of the timing of board meetings or other justifiable reasons, the official resolution may be submitted to Sharon Opfermann at [sopfermann@usbr.gov](mailto:sopfermann@usbr.gov) up to 30 days after the application deadline. This resolution does not count within the 15-page maximum.

## **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:

### **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, entities must renew and revalidate their SAM 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 to the entity’s IRS information.

**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.**

### **D.3.2. Obtain a UEI Number**

Provide a valid Unique Entity Identifier (UEI) in the application. You are required to register in SAM.gov prior to submitting a Federal award application and obtain a UEI which has replaced the Data Universal Numbering System (DUNS) number. A UEI will be assigned to entities upon registering with SAM.

### **D.3.3. Obtain a UEI Number**

Continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency. The Federal awarding agency may not make a Federal award to an applicant until the applicant has complied with all applicable UEI and SAM requirements and, if an applicant has not fully complied with the requirements by the time the Federal awarding agency is ready to make a Federal award, the Federal awarding agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

## **D.4. Submission Date and Time**

*Due Date for Applications: Thursday, June 1, 2023, 4:30 p.m. Pacific Daylight Time*

Applications must be submitted (not postmarked by) no later than this due date and time.

Electronic proposals received after the application deadline will not be considered unless it can be determined that the delay was caused by Reclamation 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.

#### **D.4.1. Application Delivery Instructions**

Applications submitted electronically through Grants.gov ([www.grants.gov](http://www.grants.gov)). Under no circumstances will applications received through any other method (such as e-mail or fax) be considered eligible for award.

#### **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 also available at [www.grants.gov/applicants/apply-for-grants.html](http://www.grants.gov/applicants/apply-for-grants.html).

- Please note that submission of an application electronically requires prior registration through Grants.gov, which may take 7 to 21 days. ***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.***
- Because applicants have experienced significant delays when attempting to submit applications through Grants.gov, you are encouraged to submit your application 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.

***You must ensure that your proposal arrives by the date and time deadline stated in this NOFO. 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.***

##### ***D.4.2.2. 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.

### **D.5. Intergovernmental Review**

This NOFO is subject to E.O. 12372, “Intergovernmental Review of Federal Programs”. A list of states (and their associated Single Points of Contact [SPOCs]) that have elected to participate in the intergovernmental review process are listed on the Office of Management and Budget’s website at <https://www.whitehouse.gov/wp-content/uploads/2020/04/SPOC-4-13-20.pdf>.

Applicants in these states must contact their state’s SPOC to find out about and comply with the state’s process under Executive Order 12372.

## D.6. Funding Restrictions

### D.6.1. Environmental and Regulatory Compliance Costs

Prior to awarding financial assistance, Reclamation must first ensure compliance with Federal environmental and cultural resources laws and other regulations (i.e., “environmental compliance”). Every project funded under this program will have environmental compliance activities undertaken by Reclamation and the successful applicant.

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.6.2. 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 the 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 §200.1.

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 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](mailto:ICS@ibc.doi.gov). Visit their website <https://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. Technical Proposal: 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 (Table 4) against the evaluation criteria listed below.** 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.

**Table 4. Sample of Application Review Committee Proposal Evaluation Scoring**

Evaluation Criteria Scoring Summary	Points
A. Project A1. Projects to be considered should address one of the following task component areas A2. Projects to be considered should consider	<b>Max 25</b>
B. Goals and Objectives	<b>Max 25</b>
C. Personnel and Institutional Qualifications	<b>Max 15</b>
D. Demonstration	<b>Max 15</b>
E. DOI Priorities	<b>Max 10</b>
F. Reclamation Priorities	<b>Max 10</b>
<b>Total</b>	<b>100</b>

*Note: Projects may be prioritized to ensure balance among the program task component areas and to ensure the projects address this NOFO’s goals and objectives.*

#### E.1.1. Evaluation Criterion A. Project (max 25 points)

Proposed projects should seek to include conservation and improvement programs, habitat conservation, and riparian restoration projects.

##### **E.1.1.1. Sub-criterion No. A1. Projects to be considered should address one of the following task component areas:**

- Wetland and riparian habitat restoration, enhancement, and protection;

- Tracking fish and wildlife movement, habitat monitoring, collection, analysis of invertebrates, and/or genetics studies; or
- Surveying and monitoring of fish and wildlife.

**E.1.1.2. Sub-criterion No. A2. Projects to be considered should consider:**

- Demonstration of long-term studies of native riparian habitat restoration;
- Specific emphasis of plant genetic variation and its effect on community structure; or
- Demonstrated skill in the propagation and long-term survival of Lower Colorado Basin native riparian species.

**E.1.2. Evaluation Criterion B. Goals and Objectives (max 25 points)**

The extent to which the stated goals and objectives and methods are specific, measurable, appropriate, and realistic to achieve within the time and budget proposed.

**E.1.3. Evaluation Criterion C. Personnel and Institutional Qualifications (max 15 points)**

Past experience to demonstrate capability and capacity of the principal investigator(s), staff, and laboratory, and their experience bringing similar projects to completion on time and within budget, especially over the past two years.

**E.1.4. Evaluation Criterion D. Demonstration (max 15 points)**

The proposal identifies how it will meet the FWCAP Strategy's planning action.

**E.1.5. Evaluation Criterion E. DOI Priorities (max 10 points)**

May be awarded based on the extent that the proposal demonstrates how the project supports the Department's priorities. Please address only those priorities that are applicable to your project. A project will not necessarily receive more points simply because multiple priorities are addressed. Points will be allocated based on the degree to which the project supports one or more of the priorities listed, and whether the connection to the priority(ies) is well supported in the proposal.

The following are the Department's priorities:

1. *Creating a conservation stewardship legacy second only to Teddy Roosevelt*
  - a. Utilize science to identify best practices to manage land and water resources and adapt to changes in the environment.
  - b. Examine land use planning processes and land use designations that govern public use and access.
  - c. Revise and streamline the environmental and regulatory review process while maintaining environmental standards.
  - d. Review the Department's water storage, transportation, and distribution systems to identify opportunities to resolve conflicts and expand capacity.
  - e. Foster relationships with conservation organizations advocating for balanced stewardship and use of public lands.
  - f. Identify and implement initiatives to expand access to Department's lands for hunting and fishing.

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- g. Shift the balance towards providing greater public access to public lands over restrictions to access.
2. *Utilizing our natural resources*
  - a. Ensure American Energy is available to meet our security and economic needs.
  - b. Ensure access to mineral resources, especially the critical and rare earth minerals needed for scientific, technological, or military applications.
  - c. Refocus timber programs to embrace the entire ‘healthy forests’ lifecycle.
  - d. Manage competition for grazing resources.
3. *Restoring trust with local communities*
  - a. Be a better neighbor with those closest to our resources by improving dialogue and relationships with persons and entities bordering our lands.
  - b. Expand the lines of communication with Governors, state natural resource offices, fish and wildlife offices, water authorities, county commissioners, tribes, and local communities.
4. *Striking a regulatory balance*
  - a. Reduce the administrative and regulatory burden imposed on U.S. industry and the public.
  - b. Ensure that ESA decisions are based on strong science and thorough analysis.
5. *Modernizing our infrastructure*
  - a. Support the White House Public/Private Partnership Initiative to modernize U.S. infrastructure.
  - b. Remove impediments to infrastructure development and facilitate private sector efforts to construct infrastructure projects serving American needs.
  - c. Prioritize Department’s infrastructure needs to highlight:
    1. Construction of infrastructure.
    2. Cyclical maintenance.
    3. Deferred maintenance.

### **E.1.6. Evaluation Criterion F. Reclamation Priorities (max 10 points)**

May be awarded based on the extent that the proposal demonstrates how the project supports Reclamation’s priorities. Please address only those priorities that are applicable to your project. A project will not necessarily receive more points simply because multiple priorities are addressed. Points will be allocated based on the degree to which the project supports one or more of the priorities listed, and whether the connection to the priority(ies) is well supported in the proposal.

The following are Reclamation’s priorities:

1. Increase water supplies, storage, and reliability under WIIN and other authorities to benefit farms, families, businesses, and fish and wildlife.
2. Streamline regulatory processes and remove unnecessary burdens to provide more water and power supply reliability.
3. Leverage science and technology to improve water supply reliability to communities.

4. Address ongoing drought.
5. Improve the value of hydropower to Reclamation power customers.
6. Improve water supplies for tribal and rural communities.
7. Title transfer.

## **E.2. Review and Selection Process**

Proposals will be evaluated, and the recipient selected by Reclamation's YAO program office staff. Reclamation reserves the right to reject any and all applications which do not meet the requirements of this NOFO, or which are outside the scope of FWCAP Grants. Awards will be made for projects most advantageous to the Government. Award selection may be made to maintain balance among the program tasks listed in *Section C5 – Eligible Projects*. The evaluation process will be comprised of the steps described in the following subsections.

### **E.2.1. Initial Screening**

All application packages will be screened to ensure that:

- The applicant meets the completeness and eligibility requirements stated in this NOFO.
- The applicant meets the UEI and SAM registration requirements stated in this NOFO.
- The application meets the content requirements of the NOFO package, including submission of a technical proposal, responses to the evaluation criteria, and budget proposal and narrative.
- The application contains properly executed forms SF-424 Application for Financial Assistance, SF-424B/D Assurances Form, and SF-424A/C Budget Information Form.

Reclamation reserves the right to remove an application from funding consideration if it does not pass all Initial Screening criteria listed above. An applicant that has submitted an application that is determined to be ineligible for funding will be notified along with other applicants, or sooner, if possible.

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

Evaluation criteria will comprise the total evaluation weight as stated in the *Section E.1. Technical Proposal: Evaluation Criteria*.

If the proposed activity/project meets the first-level screening, then a review is conducted by a technical review committee. This evaluation committee is comprised of the Lower Colorado Basin FWCAP Program Manager and other technical specialists who will rank proposals based on the evaluation criteria listed above in *E.1 Technical Proposal: Evaluation Criteria*. Technical factors will comprise 100 points of the total evaluation weight. Individual technical factors, and significant sub-factors, are described in *Evaluation Criteria*, with their respective evaluation weights.

During ARC review, Reclamation may contact applicants to request clarification 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. 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**

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, and requirements of FWCAP.

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

After completion of the Managerial Review, Reclamation will notify applicants whose proposals have been selected for award consideration and will forward their applications to the appropriate Reclamation office for completion of environmental compliance.

Reclamation will also complete a business evaluation and responsibility determination. During these evaluations, the Grants Officer will also consider several factors that are important, but not quantified, such as:

- Pre-award clearances, determinations, reviews, and approval;
- Allowability, allocability and reasonableness of proposed costs;
- Financial strength and stability of the organization;
- 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; and/or
- Adequacy of personnel practices, procurement procedures (2 CFR §200.317-323), and accounting policies and procedures.

If the results of all pre-award reviews and clearances are satisfactory, an award of funding will usually be made within three months once the agreement is finalized after the 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 Office or YAO for completion of environmental compliance, if applicable. 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***

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 procedures, as established by applicable OMB circulars.

### **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 the Federal Award Performance Integrity Information System, 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.

## 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” at <https://www.doi.gov/grants/doi-standard-terms-and-conditions> for the administrative and national policy requirements applicable to Reclamation and 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 ASAP under the appropriate Agency Location Code(s) prior to the award of funds. If a recipient has multiple UEI numbers, they must separately enroll within ASAP for each unique UEI Number 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 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 the 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), Endangered Species Act (ESA), National Historic Preservation Act (NHPA), consultation with potentially affected tribes, and consultation with a 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. Environmental and cultural resources compliance costs are considered project costs. These costs will be considered in the ranking of applications.

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 costs anticipated to be incurred by Reclamation as a line item to the budget during development of the financial assistance agreement and cost shared accordingly. 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.

*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 monitoring, measurement, or other ground-disturbing activities before environmental and cultural resources compliance is complete and Reclamation 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 GIS platforms.

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

Title to intangible property acquired under a Federal award vests upon acquisition in the non-Federal entity (see §200.1 *Intangible Property*). 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,

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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. However, per 2 CFR 200.315 (b) 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 §200.330 *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. Wage Rate Requirements (Davis-Bacon Act)**

Section 41101 of the Bipartisan Infrastructure Law requires that all laborers and mechanics employed by contractors or subcontractor 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 not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code (commonly referred to as the Davis-Bacon Act).

### **F.2.8. Buy America Domestic Procurement 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 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](http://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/](http://www.whitehouse.gov/omb/management/made-in-america/).

### ***Waivers***

When necessary, recipients may apply for, and the Department of the Interior 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](http://www.doi.gov/grants/BuyAmerica/GeneralApplicabilityWaivers). If the specific financial

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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 Grants 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](http://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 UEI submitting the request.
3. Department of Interior Bureau or Office that 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 DOI 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 PSC or 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](http://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 Grants Officer.

### ***Definitions***

“Construction materials” includes 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” does **not** include cement and 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 also includes facilities that generate, transport, and distribute energy.

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

### **F.2.9. Cost Share/Match Waiver for Insular Areas**

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, DOI has determined that any requirement for local matching funds to be provided by insular governmental entities shall be waived, notwithstanding any other provision of law. Any matching funds otherwise required by law to be provided by government entities of an insular area are waived.

The areas defined by Public Law 95-134, Title V, §501 (1977), as amended (48 U.S.C. §1469a), include the Virgin Islands, Guam, American Samoa, and the islands formerly referred to as the “Trust Territory of the Pacific Islands”: the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

## **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. Interim and Final Financial Reports**

Recipients will be required to submit a fully completed form SF-425 Federal Financial Report on at least a semiannual basis and a final financial report. The final Financial SF-425 must be signed by an authorized official representative 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 semiannually, which 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. The final performance report must include, but is not limited to, the following information:

- Whether the project objectives and goals were met.
- Photographs documenting the project are also appreciated.

### **F.3.4. Real Property Reports**

Recipients and subrecipients are required to submit status reports on the status of real property acquired under the award in which the Federal government retains an interest. The required frequency of these reports will depend on the anticipated length of the Federal interest period. If applicable, Reclamation will include recipient-specific real property reporting requirements, including the required standard form or data elements, reporting frequency, and report due dates, in the Notice of Award.

## **F.4. Disclosures**

### **F.4.1 Conflict of Interest Disclosures**

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. 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.5.1. Freedom of Information Act**

Please note that any application submitted for funding under this NOFO may be subjected to a Freedom of Information Act (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 Freedom of Information Act (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)).

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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.

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 Contact(s)

There will be no pre-application conference. Organizations or individuals interested in submitting applications in response to this NOFO may direct questions to the Reclamation personnel identified below.

### G.1. Reclamation Grants Contact

Questions regarding application and submission information and award administration may be submitted to the attention Sharon Opfermann at [sopfermann@usbr.gov](mailto:sopfermann@usbr.gov). Please note that staff availability on the day of the NOFO closing will be limited.

### G.2. Reclamation Program Coordinator

Questions regarding applicant and project eligibility and application review may be submitted to the attention of Nick Heatwole:

By e-mail: [nheatwole@usbr.gov](mailto:nheatwole@usbr.gov)

By phone: 928-343-8111

## Section H. Other Information

The following is a brief overview of NEPA, NHPA, and ESA. This information is only relevant to proposals that include measurement, monitoring, and field work. 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 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 consider the following list of questions focusing on the NEPA, ESA, CWA, and NHPA requirements. Please answer the following questions to the best of your knowledge. If any question is not applicable to the project, please explain why. The application should include the answers to:

- 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?

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- 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 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 may 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 (Justin DeMaio at [jdemaio@usbr.gov](mailto:jdemaio@usbr.gov) or 702-293-8359) to determine what, if any, cultural resources surveys have been conducted in the project area. If an applicant has previously received Federal financial assistance, it is possible that a cultural resources survey has already been completed.

## **H.2. Endangered Species Act**

Pursuant to Section 7 of the ESA, each Federal agency is required to consult with the USFWS or the 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. An overview of the possible course of ESA compliance includes:

- 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 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 generally responds 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 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.

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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 concerning the compliance with the ESA in a particular project area is the local Reclamation environmental staff who can be helpful in determining the presence of listed species and possible effects that would require consultation with the USFWS. Contact NEPA Coordinator Toshi Yoshida at [tyoshida@usbr.gov](mailto:tyoshida@usbr.gov) or 702-293-8132 with questions regarding ESA compliance issues.