

## NOTICE OF INTENT TO AWARD

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

ABSTRACT	
<b>Funding Announcement</b>	R10AS20012
<b>Project Title</b>	<b>Recovery Act</b> - Water Conservation Through Irrigation System Purchase Program
<b>Recipient</b>	Westlands Water District
<b>Principle Investigator (if applicable)</b>	
<b>Total Anticipated Award Amount</b>	\$3,700,000.00
<b>Cost Share</b>	50%
<b>New Award or Continuation?</b>	New Award
<b>Anticipated Length of Agreement</b>	2 years
<b>Anticipated Period of Performance</b>	Date of execution to April 1, 2012
<b>Award Instrument</b>	Grant Agreement
<b>Statutory Authority</b>	Omnibus Public Land Management Act of 2009, P.L. 111-11, Section 9504(a)
<b>CFDA Number</b>	15.507
<b>Single Source Justification Criteria Cited</b>	Justification Criterion: (2) Continuation and (4) (Unique Qualifications, of the Department of Interior Single Source Policy Requirements
<b>Reclamation Point of Contact</b>	Mary Sims, <a href="mailto:msims@usbr.gov">msims@usbr.gov</a> , Phone Number 916-978-5149

## OVERVIEW

Westlands Water District (District) is located in western Fresno and Kings Counties. The District extends 70 miles from Mendota on the north to Kettleman city on the south.

Currently the District services 604,000 acres with 567,800 irrigable acres. In 1961 the federal government signed a joint venture agreement with the State of California for Federal construction of the San Luis Unit of the Central Valley Project. The San Luis Canal (SLC) was complete in 1968 and Westlands began receiving water deliveries thereafter.

The water source delivered to Westlands Water District is pumped from the Sacramento-San Joaquin Delta via the SLC. The District has contracts with the Bureau of Reclamation (Reclamation) to deliver in excess of 1,150,000 acre feet (af) per year. The District has approximately 3,000 af of municipal and industrial usage annually plus 3,000 af supplied to Lemoore Navy Air Station. The balance of the total

allocation is used for irrigation. The District serves 700 family-owned farms as well as approximately 6,000 af/year, for, municipal and industrial (M&I) use within the boundaries of the District.

Drainage in the Westlands area has been a problem. This project is part of an implementation plan cited in an ongoing litigation.

### **RECIPIENT INVOLVEMENT**

The District agrees to:

1. Purchase irrigation systems for qualified farmers growing on drainage impaired lands (installation costs excluded). The farmer will repay 50% of the cost to the District over 5 years. The 50% Reclamation cost share will serve as an incentive to the farmer and will not have to be repaid.
2. Administer irrigation equipment loan and incentive program.
3. Track the performance of the irrigation equipment loan and incentive program.

### **RECLAMATION INVOLVEMENT**

No substantial involvement is anticipated by Reclamation.

### **SINGLE-SOURCE JUSTIFICATION**

<b>DEPARTMENT OF THE INTERIOR SINGLE SOURCE POLICY REQUIREMENTS</b>
Department of the Interior Policy (505 DM 2) requires a written justification which explains why competition is not practicable for each single-source award. The justification must address one or more of the following criteria as well as discussion of the program legislative history, unique capabilities of the proposed recipient, and cost-sharing contribution offered by the proposed recipient, as applicable.
In order for an assistance award to be made without competition, the award must satisfy one or more of the following criteria:  <ol style="list-style-type: none"><li>(1) Unsolicited Proposal – The proposed award is the result of an unsolicited assistance application which represents a unique or innovative idea, method, or approach which is not the subject of a current or planned contract or assistance award, but which is deemed advantageous to the program objectives;</li><li>(2) Continuation – The activity to be funded is necessary to the satisfactory completion of, or is a continuation of an activity presently being funded, and for which competition would have a significant adverse effect on the continuity or completion of the activity;</li><li>(3) Legislative intent – The language in the applicable authorizing legislation or legislative history clearly indicates Congress’ intent to restrict the award to a particular recipient of purpose;</li><li>(4) Unique Qualifications – The applicant is uniquely qualified to perform the activity based upon a variety of demonstrable factors such as location, property ownership, voluntary support capacity, cost-sharing ability if applicable, technical expertise, or other such unique qualifications;</li><li>(5) Emergencies – Program/award where there is insufficient time available (due to a compelling and unusual urgency, or substantial danger to health or safety) for adequate competitive procedures to be followed.</li></ol>



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

## (2) CONTINUATION

There has been litigation over the solution of drainage in the Westlands area. This project is part of an implementation plan cited in the case. In its Order of July 22, 2009 (*Doc. #740*), the Court directed the Federal Defendants to submit a report to the Court “identifying what specific actions will be taken to provide drainage to the San Luis Unit and a specific time table to implement drainage.” Federal Defendants, through Bureau of Reclamation (Reclamation) have identified specific actions (as stated in the Declaration of Donald R. Glaser *Doc #743-2 of case #1:88-cv-00634-OWW-DLB* filed in the United States District Court for the Eastern District of California) for providing drainage service that can be implemented during federal fiscal year 2010. In FY 2010, Reclamation intends to implement two kinds of drainage service actions within Westlands Water District (District): (1) a project to treat drainage-impaired groundwater; and (2) a suite of water conservation actions designed to reduce and manage drainage source water.

## (4) UNIQUE QUALIFICATIONS

The District is in a unique position to assist Reclamation with the report and declarations, because of the location, and property ownership. The District can assist Reclamation’s implementation of the feature re-evaluation to provide agricultural drainage service to the San Luis Unit. The proposed project includes drainage reduction measures, by providing split grant/loan assistance to water users for the purchase of efficient irrigation equipment that will ultimately reduce shallow groundwater table from the root zones of drainage impacted lands.

In order to help quantify the benefits of the project and to assist the water users in operating the equipment to optimize efficiency, the District also proposes offering mobile lab services to those water users that participate. The District will match Reclamation funding for a program to install equipment that will improve irrigation efficiency. Using existing revolving funds, the District will purchase irrigation systems for qualified farmers growing on drainage impaired lands.

## STATUTORY AUTHORITY

Omnibus Public Land Management Act of 2009, P.L. 111-11.

### SEC. 9504. WATER MANAGEMENT IMPROVEMENT.

#### (a) Authorization of Grants and Cooperative Agreements.--

(1) Authority of secretary.--The Secretary may provide any grant to, or enter into an agreement with, any eligible applicant to assist the eligible applicant in planning, designing, or constructing any improvement--

(A) to conserve water;

(B) to increase water use efficiency;

(C) to facilitate water markets;

(D) to enhance water management, including increasing the use of renewable energy in the management and delivery of water;

(E) to accelerate the adoption and use of advanced water treatment technologies to increase water supply;

(F) to prevent the decline of species that the United States Fish and Wildlife Service and National Marine Fisheries Service have proposed for listing under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) (or candidate species that are being considered by those agencies for such listing but are not yet the subject of a proposed rule);

(G) to accelerate the recovery of threatened species, endangered species, and designated critical habitats that are adversely affected by Federal reclamation projects or are subject to a recovery plan or conservation plan under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) under which the Commissioner of Reclamation has implementation responsibilities; or

(H) to carry out any other activity--

(i) to address any climate-related impact to the water supply of the United States that increases ecological resiliency to the impacts of climate change; or

(ii) to prevent any water-related crisis or conflict at any watershed that has a nexus to a Federal reclamation project located in a service area.

(2) Application.--To be eligible to receive a grant, or enter into an agreement with the Secretary under paragraph (1), an eligible applicant shall--

(A) be located within the States and areas referred to in the first section of the Act of June 17, 1902 (43 U.S.C. 391); and

(B) submit to the Secretary an application that includes a proposal of the improvement or activity to be planned, designed, constructed, or implemented by the eligible applicant.

(3) Requirements of grants and cooperative agreements.--

(A) Compliance with requirements.--Each grant and agreement entered into by the Secretary with any eligible applicant under paragraph (1) shall be in compliance with each requirement described in subparagraphs (B) through (F).

(B) Agricultural operations.--In carrying out paragraph (1), the Secretary shall not provide a grant, or enter into an agreement, for an improvement to conserve irrigation water unless the eligible applicant agrees not--

(i) to use any associated water savings to increase the total irrigated acreage of the eligible applicant; or

(ii) to otherwise increase the consumptive use of water in the operation of the eligible applicant, as determined pursuant to the law of the State in which the operation of the eligible applicant is located.

(C) Nonreimbursable funds.--Any funds provided by the Secretary to an eligible applicant through a grant or agreement under paragraph (1) shall be nonreimbursable.

(D) Title to improvements.--If an infrastructure improvement to a federally owned facility is the subject of a grant or other agreement entered into between the Secretary and an eligible applicant under paragraph (1), the Federal Government shall continue to hold title to the facility and improvements to the facility.

(E) Cost sharing.--

(i) Federal share.--The Federal share of the cost of any infrastructure improvement or activity that is the subject of a grant or other agreement entered into between the Secretary and an eligible applicant under paragraph (1) shall not exceed 50 percent of the cost of the infrastructure improvement or activity.

(ii) Calculation of non-federal share.--In calculating the non-Federal share of the cost of an infrastructure improvement or activity proposed by an eligible applicant through an application submitted by the eligible applicant under paragraph (2), the Secretary shall--

(I) consider the value of any in-kind services that substantially contributes toward the completion of the improvement or activity, as determined by the Secretary; and

(II) not consider any other amount that the eligible applicant receives from a Federal agency.

(iii) Maximum amount.--The amount provided to an eligible applicant through a grant or other agreement under paragraph (1) shall be not more than \$5,000,000.

(iv) Operation and maintenance costs.--The non-Federal share of the cost of operating and maintaining any infrastructure improvement that is the subject of a grant or other agreement entered into between the Secretary and an eligible applicant under paragraph (1) shall be 100 percent.

(F) Liability.--

(i) In general.--Except as provided under chapter 171 of title 28, United States Code (commonly known as the "Federal Tort Claims Act"), the United States shall not be liable for monetary damages of any kind for any injury arising out of an act, omission, or occurrence that arises in relation to any facility created or improved under this section, the title of which is not held by the United States.

- (ii) Tort claims act.--Nothing in this section increases the liability of the United States beyond that provided in chapter 171 of title 28, United States Code (commonly known as the ``Federal Tort Claims Act").
- (c) Mutual Benefit.--Grants or other agreements made under this section may be for the mutual benefit of the United States and the entity that is provided the grant or enters into the cooperative agreement.
- (d) Relationship to Project-Specific Authority.--This section shall not supersede any existing project-specific funding authority.
- (e) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section \$200,000,000, to remain available until expended.