

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	
Funding Announcement	R11AS20010
Project Title	Program to Provide Water to Pyramid Lake (NV)
Recipient	Pyramid Lake Paiute Tribe
Principle Investigator (if applicable)	Mervin Wright Jr.
Total Anticipated Award Amount	\$17,200,000.00
Cost Share	N/A
New Award or Continuation?	New Award
Anticipated Length of Agreement	5 years
Anticipated Period of Performance	Date of Execution through September 30, 2016
Award Instrument	Grant Agreement
Statutory Authority	Public Law 107-171: Farm Security and Rural Investment Act of 2002 (Farm Bill) enacted 5/13/02, amended 6/18/08 and 10/28/09 and Public Law 108-7, Omnibus Appropriations Bill enacted 2/20/03
CFDA Number	15.508
Single Source Justification Criteria Cited	Justification Criterion (4) (Unique Qualifications) of the Department of Interior Single Source Policy Requirements
Reclamation Point of Contact	Name/Title: Vivian Davis, Grants Management Specialist Email: vdavis@usbr.gov Phone Number: (916) 978-5543

OVERVIEW

The Desert Terminal Lakes Program began with enactment of Public Law 107-171, the Farm Security and Rural Investment Act of 2002. To date, Congress has provided a total of \$375 million to the Bureau of Reclamation and specified that the funds be used by the Secretary of the Interior, acting through the Commissioner of Reclamation, to provide water to at-risk natural desert terminal lakes and to remain available until expended. Further legislation specified that the Commissioner of Reclamation shall provide water and assistance only for the Pyramid, Summit, and Walker Lakes in the State of Nevada. This grant will provide funding to the recipient to provide water to Pyramid Lake, located within the Pyramid Lake Indian Reservation.

RECIPIENT INVOLVEMENT

- 1) To accomplish the goals of the Water Quality Settlement Agreement (WQSA) and Water Rights Retirement (Compensation) Program (WRCP) in an efficient and financially responsible manner;
- 2) To work with the City of Fernley to lease, acquire and exchange as much water as possible to increase surface flows to Pyramid Lake within the funding constraints;
- 3) To further the goals and objectives outlined in the WQSA and the WRCP;
- 4) To manage and use the water rights acquired through the Program to augment instream flows in the Truckee River in order to maintain and preserve the lower Truckee River and Pyramid Lake;
- 5) To build and improve upon prior WQSA and WRCP experiences; and
- 6) To work in a professional manner with all of the Program partners and participants.
- 7) To acquire land and water within and/or contiguous to the Pyramid Lake Paiute

RECLAMATION INVOLVEMENT

No Substantial involvement is anticipated by the Bureau of Reclamation.

SINGLE-SOURCE JUSTIFICATION

DEPARTMENT OF THE INTERIOR SINGLE SOURCE POLICY REQUIREMENTS

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

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

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

- (5) Emergencies – Program/award where there is insufficient time available (due to a compelling and unusual urgency, or substantial danger to health or safety) for adequate competitive procedures to be followed.

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

(4) UNIQUE QUALIFICATIONS

The ongoing Water Quality Settlement Agreement (WQSA) program has been implemented by two of the various federal, state and local parties that were signatories to the agreement, the Pyramid Lake Paiute Tribe and the Local Governments. The Local Governments are nearing the end of their obligation (to spend \$12 million for water rights acquisitions) to the WQSA. They will continue to own and manage water rights in perpetuity in cooperation with the Tribe to benefit water quality in the Truckee River. The Tribe is the remaining party who desires to continue the implementation of the WQSA program. If the grant for continued implementation was to go to another entity, that entity would have to become a party to the WQSA, which would require the agreement of the Tribe and other parties; the Tribe will not consent to adding additional parties.

As a Trust responsibility, the United States would have to ensure that the acquired water rights and the Tribe were protected in perpetuity, decades beyond the end of the grant funding. If another entity were unable or unwilling to own and manage the acquired water rights they would have to convey the acquired water rights to the Tribe or Local Governments. Either entity would need to agree to such a conveyance and assume the associated costs (water right transfer, on-going operation and maintenance requirements). The Tribe is not inclined to agree to such a conveyance. The Tribe has a track record of implementation, has operated in a cost effective and efficient manner and will do so in the future. They are the logical and prudent recipient of the funding to continue funding acquisitions for the WQSA.

STATUTORY AUTHORITY

**Public Law 107-171: Farm Security and Rural Investment Act of 2002
(Farm Bill) enacted 5/13/02, amended 6/18/08 and 10/28/09**

SEC. 2507 - DESERT TERMINAL LAKES

- (a) Transfer - Subject to subsection (b) and paragraph (1) of section 207(a) of Public Law 108-7 (117 Stat. 146), notwithstanding paragraph (3) of that section, on the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary of Agriculture shall transfer \$175,000,000 of the funds of the Commodity Credit Corporation to the Bureau of Reclamation Water and Related Resources Account, which funds shall —*
- (1) be used by the Secretary of the Interior, acting through the Commissioner of Reclamation, to provide water to at-risk natural desert terminal lakes; and*
 - (2) remain available until expended.*

enacted 2/20/03

SEC. 207. RESTORATION OF FISH, WILDLIFE, AND ASSOCIATED HABITATS IN WATERSHEDS OF CERTAIN LAKES.

(a) IN GENERAL.--In carrying out section 2507 of Public Law 107 171, the Secretary of the Interior, acting through the Commissioner of Reclamation, shall--

(1) subject to paragraph (3), provide water and assistance under that section only for the Pyramid, Summit, and Walker Lakes in the State of Nevada;

(2) use \$1,000,000 for the creation of a fish hatchery at Walker Lake to benefit the Walker River Paiute Tribe; and

(3) use \$2,000,000 to provide grants, to be divided equally, to the State of Nevada, the State of California, the Truckee Meadows Water Authority, and the Pyramid Lake Paiute Tribe, to implement the Truckee River Settlement Act, Public Law 101-618.

(b) ADMINISTRATION.--The Secretary of the Interior, acting through the Commissioner of Reclamation, may provide financial assistance to State and local public agencies, Indian tribes, nonprofit organizations, and individuals to carry out this section and section 2507 of Public Law 107-171.