

NOTICE OF INTENT TO AWARD

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

ABSTRACT	
Funding Announcement	R11AS20013
Project Title	Walker Basin Restoration Program - Water Rights Acquisition
Recipient	National Fish and Wildlife Foundation
Principal Investigator / Program Manager	Thomas Kelsch Director Conservation Programs
Anticipated Federal Amount	\$88,000,000.00
Cost Share	None
Total Anticipated Award Amount	\$88,000,000.00
New Award or Continuation?	Continuation
Anticipated Period of Performance	Date of Execution to December 31, 2014
Award Instrument	Grant
Statutory Authority	Public Law 107-171 as amended by Public Law 110-246 and Public Law 111-85; Section 2507 DESERT TERMINAL LAKES.
CFDA # and Title	15.508 Providing Water to At-Risk Natural Desert Terminal Lakes
Single Source Justification Single Source Justification Criteria Cited	(4) Unique Qualifications
Reclamation Point of Contact	Maria E. Castaneda, (916) 978-5148, mcastaneda@usbr.gov

OVERVIEW

The proposed project will provide \$88.0 million to the National Fish and Wildlife Foundation under the authority provided by Section 2507(b)(2) of P.L. 107-171 as amended to augment the water rights purchase funding provided previously under Grant Agreement No. R10AP2007. That Agreement provides \$118.2 million to the Foundation to administer and implement the Walker Basin Restoration Program. Included in that total was \$75.0 million for Acquisition of which \$72.5 million was allocated for the Purchase of Water Rights and related interests from willing sellers (i.e., “land, water appurtenant to the land, and related interests...in the Walker River Basin, Nevada” in accordance with Section 208 of Public Law 109-103, as amended).

By January 2011 the Foundation had closed escrow on a total of five acquisitions from willing sellers at a total cost of \$23.492 million. At least five additional acquisition agreements are pending, and discussions are underway with many potential new sellers who have approached the Foundation in recent months. Based on this experience, it is anticipated that the entire \$72.5 million in allocated purchase funds will have been fully utilized before the end of 2012. The proposed project will therefore make use of additional funding to sustain the purchase of land, water appurtenant to the land, and related interests from willing sellers in the Walker River Basin, Nevada. The period of performance would commence upon date of execution of this modification, and would continue through December 31, 2014.

RECIPIENT INVOLVEMENT

The Foundation will use the additional funds to continue the purchase of land, water appurtenant to the land, and related interests in the Walker River Basin, Nevada. Specifically, the additional funds will be used to make direct payments to willing sellers (Grantors) for the purchase and sale of offered property interests as confirmed by Grant Bargain and Sale Deeds at close of escrow; to make any deposits into escrow required in advance of such closings; and to cover all associated closing costs.

RECLAMATION INVOLVEMENT

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

SINGLE-SOURCE JUSTIFICATION

<p>DEPARTMENT OF THE INTERIOR SINGLE SOURCE POLICY REQUIREMENTS</p>
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<p>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</p>

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:

Single Source Justification Description:

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

(4) UNIQUE QUALIFICATIONS

The National Fish and Wildlife Foundation (NFWF) is uniquely qualified to receive \$88 million in Desert Terminal Lake Funding to acquire water in the Walker Basin, Nevada. NFWF has been at the forefront of water acquisitions in the West for over a decade starting with acquisitions in the Columbia Basin. The knowledge and experience NFWF gained in the Columbia Basin has been expanded to many other western states and most significantly to the Walker Basin, NV. NFWF has been acquiring water rights in the Walker Basin since 2009 and is the only entity acquiring water rights and completing water transactions for the benefit of Walker Lake an at risk desert terminal Lake in Nevada; there is no other entity able to acquire water rights for this

purpose in the Walker Basin. NFWF has developed the capacity to implement a large scale water acquisition program in this area. NFWF has a local office in the Walker Basin from which it operates. The Foundation has developed key relationships with water right holders, the Federal watermaster, the Walker River Irrigation District, and the Nevada Department of Water Resources and other key partners. NFWF has also developed processes for completing the significant due diligence requirements associated with acquiring water and transferring it instream for environmental benefits. In the last year NFWF has completed five water transactions totaling \$22, 492,436. NFWF currently has three more acquisitions pending along with over 30 additional water rights holders who have expressed an interest in selling water rights; the funding from this grant modification would assist with purchasing water rights from these willing sellers. The unique institutional knowledge that NFWF has developed on water markets and the operation of the Walker Basin along with the establishment of a local office and existing acquisition program makes NFWF the only entity capable and qualified to lead a multi-million dollar annual acquisition program in the Walker Basin.

STATUTORY AUTHORITY

Public Law 107-171 (Farm Security and Rural Investment Act of 2002; May 13, 2002; 116 STAT. 134) as amended by Public Law 110-246 (Food, Conservation, and Energy Act of 2008; June 18, 2008; 122 STAT. 1651) and Public Law 111-85 (Energy and Water Development Appropriations Act, 2010; Oct. 28, 2009; 123 Stat. 2845)

(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 Interior, acting through the Commissioner of Reclamation, to provide water to at-risk natural desert terminal lakes; and

(2) remain available until expended.

(b) PERMITTED USES. *In any case in which there are willing sellers, the fund described in subsection (a) may be used –*

(1) to lease water;

(2) *to purchase land, water appurtenant to the land, and related interests in the Walker River Basin in accordance with section 208(a)(1)(A) of the Energy and Water Development Appropriations Act, 2006 (Public Law 109-103; 119 Stat. 2268); and*

(3) for efforts consistent with researching, supporting, and conserving fish, wildlife, plant, and habitat resources in the Walker River Basin.

Public Law 109-103 (Energy and Water Development Appropriations Act, 2006; Nov. 19, 2005; 119 STAT. 2247) as amended by Public Law 111-85 (Energy and Water Development Appropriations Act, 2010; Oct. 28, 2009; 123 Stat. 2845)

(a) ACTION BY SECRETARY.

(1) PROVISION OF FUNDS-

(A) IN GENERAL.-Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171), the Secretary [of the Interior] shall provide not more than \$70,000,000 to the University of Nevada or the National Fish and Wildlife Foundation –

(i) *to acquire from willing sellers land, water appurtenant to the land, and related interests in the Walker River Basin, Nevada; and*

(ii) to establish and administer an agricultural and natural resources center, the mission of which shall be to undertake research, restoration, and educational activities in the Walker River Basin relating to–

(I) innovative agricultural water conservation;

(II) cooperative programs for environmental restoration;

(III) fish and wildlife habitat restoration; and

(IV) wild horse and burro research and adoption marketing-; and

(iii) to design and implement conservation and stewardship measures to address impacts from activities carried out---

(I) under clause (i); and

(II) in conjunction with willing landowners.

Public Law 111-85 (Energy and Water Development Appropriations Act, 2010; Oct. 28, 2009; 123 Stat. 2845)

Section 208

(a) Of the amounts made available under section 2507 of the Farm Security and Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171), the Secretary of the Interior, acting through the Commissioner of Reclamation, shall—

(1) provide, subject to subsection (b), \$66,200,000 to establish the Walker Basin Restoration Program for the primary purpose of restoring and maintaining Walker Lake, a natural desert terminal lake in the State of Nevada, consistent with protection of the ecological health of the Walker River and the riparian and watershed resources of the West, East, and Main Walker Rivers...

(b) (1) The amount made available under subsection (a)(1) shall be--

(A) used, consistent with the primary purpose set forth in subsection (a)(1), to support efforts to preserve Walker Lake while protecting agricultural, environmental, and habitat interests in the Walker River Basin; and

(B) allocated as follows:

- (i) \$25,000,000 to the Walker River Irrigation District, acting in accordance with an agreement between that District and the National Fish and Wildlife Foundation--
 - (I) to administer and manage a 3-year water leasing demonstration program in the Walker River Basin to increase Walker Lake inflows; and
 - (II) for use in obtaining information regarding the establishment, budget, and scope of a longer-term leasing program.
- (ii) *\$25,000,000 to advance the acquisition of water and related interests from willing sellers authorized by section 208(a)(1)(A)(i) of the Energy and Water Development Appropriations Act, 2006 (Public Law 109-103; 119 Stat. 2268).*
- (iii) \$1,000,000 for activities relating to the exercise of acquired option agreements and implementation of the water leasing demonstration program, including but not limited to the pursuit of change applications, approvals, and agreements pertaining to the exercise of water rights and leases acquired under the program.
- (iv) \$10,000,000 for associated conservation and stewardship activities, including water conservation and management, watershed planning, land stewardship, habitat restoration, and the establishment of a local, nonprofit entity to hold and exercise water rights acquired by, and to achieve the purposes of, the Walker Basin Restoration Program.
- (v) \$5,000,000 to the University of Nevada, Reno, and the Desert Research Institute--
 - (I) for additional research to supplement the water rights research conducted under section 208(a)(1)(A)(ii) of the Energy and Water Development Appropriations Act, 2006 (Public Law 109-103; 119 Stat. 2268);
 - (II) to conduct an annual evaluation of the results of the activities carried out under clauses (i) and (ii); and
 - (III) to support and provide information to the programs described in this subparagraph and related acquisition and stewardship initiatives to preserve Walker Lake and protect agricultural, environmental, and habitat interests in the Walker River Basin.