

## **Operating Criteria of the Small Water Project Program of the Wyoming Water Development Program**

### **A. Introduction:**

The purpose of the Small Water Project Program (SWPP) is to participate with land management agencies and sponsoring entities in providing incentives for improving watershed condition and function. Projects eligible for SWPP grant funding assistance include the construction or rehabilitation of small reservoirs, wells, pipelines and conveyance facilities, springs, solar platforms, irrigation works, windmills and wetland developments. Projects should improve watershed condition and function and provide benefit for wildlife, livestock and the environment. Projects may provide improved water quality, riparian habitat, habitat for fish and wildlife and address environmental concerns by providing water supplies to support plant and animal species or serve to improve natural resource conditions.

These criteria provide the Wyoming Water Development Commission (WWDC) and the Wyoming Water Development Office (WWDO) with general standards for evaluating and prioritizing applications for funding from the SWPP. In addition, the criteria serve as a tool to coordinate with the public and other state and federal agencies.

### **B. Legal and Institutional Constraints:**

1. Sponsoring Entity: Pursuant to W.S. 99-3-1903(k)(i) and W.S. 99-3-1904(m)(i)<sup>1</sup>, funding is available only to eligible public entities.

2. Eligible public entities are defined by state statute and include, but are not limited to, conservation districts, watershed improvement districts, water conservancy districts, irrigation districts, municipalities, a joint business council of the Eastern Shoshone and Northern Arapaho Indian Tribes, the Business Council of the Eastern Shoshone Indian Tribe, the Business Council of the Northern Arapaho Indian Tribe, or other approved assessment districts formed in accordance with Wyoming law.

3. Project Description: Pursuant to W.S. 99-3-1903(k)(iii) and W.S. 99-3-1904(m)(iii), the SWPP may provide for construction or rehabilitation and replacement of small dams, windmills, spring development, pipelines, etc., to impound, develop and convey water for livestock, wildlife, irrigation, environmental and recreational purposes.

4. Project Funding: Pursuant to W.S. 99-3-1903(k)(vii) and 99-3-1904(m)(vii), a small project is a project where the maximum financial contribution from the commission is thirty-five thousand dollars (\$35,000.00) or less.

### **C. Small Water Project Program Definitions:**

1. Small Reservoir: Small reservoirs may be eligible for funding through the SWPP.

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<sup>1</sup> For reference and identification only special statute numbers [appearing in Title “99” of the Wyoming Statutes] have been assigned to selected water projects by the Legislative Service Office.

2. Well: A well may be eligible for funding depending on the depth of the well and scope of the project. Projects that propose to drill into unproven aquifers, as determined by the WWDO, may be eligible for the SWPP at the discretion of the WWDC. Such discretion will be exercised in cases including, but not limited to, cases where the well does not meet the minimum requirements of the project in terms of quality and quantity.

The determination of unproven aquifer status will be clearly communicated by the WWDO prior to the issuance of notice to proceed so the project sponsor may decide to cancel the project before funding is committed. If the sponsor decides to proceed with a well into an unproven aquifer they should be prepared to pay the drilling cost with the understanding that reimbursement for eligible expenses will be contingent upon meeting minimum water quality and quantity requirements.

3. Solar Platforms: Construction of solar platforms may be eligible for funding through the SWPP.

4. Pipelines and Conveyance Facilities: Rehabilitation of existing pipelines or conveyance facilities or construction of new pipelines or conveyance facilities may be eligible for funding through the SWPP.

5. Springs: Improving flows of existing springs and installation of collection facilities associated with springs may be eligible for funding through the SWPP.

6. Wetland Development: Development of wetlands where multiple benefits accrue may be eligible for funding through the SWPP.

7. Environmental: Projects that provide for stream bank stability, water quality improvements, or erosion protection may be eligible for funding through the SWPP.

8. Irrigation: Irrigation projects may be eligible for funding through the SWPP.

9. Windmill: Rehabilitation of existing windmills or construction of new windmills may be eligible for funding through the SWPP.

10. Rural Community Fire Suppression: Supply and storage projects for rural community fire suppression may be considered for funding through the SWPP.

11. Recreational: Projects for recreational purposes may be considered for SWPP funding.

**D. Application and Evaluation Process:**

1. Small water projects must adequately demonstrate a public benefit. Public benefit may be demonstrated for projects included in WWDC Watershed Studies. Eligible projects may be located on Federal, State, public, or private lands.

2. Applications shall be received by November 15 of each calendar year. Applications meeting criteria requirements will be considered during the regularly scheduled WWDC meeting in March. Applications shall include a project application, detailed project description, description of public benefit, outline of financial and technical contributions, project location map, project cost estimates and any letters of authorization or commitment of participation that may be available from other funding sources.

3. Projects that improve watershed condition and function, provide multiple benefits, and meet the funding criteria specified in W.S. 99-3-1903(k)(vii) or W.S. 99-3-1904(m)(vii), as described in B.4 herein, are eligible for consideration.

4. The sponsoring entity will be required to address the WWDC and provide testimony and other additional supporting evidence that justifies SWPP funding whenever the public benefit documentation, as required in W.S. 99-3-1903(k)(viii)(c) and W.S. 99-3-1904(m)(viii)(c), submitted with the application is deemed to be insufficient by the WWDO.

5. In order to establish priorities for both New Development and Rehabilitation projects, and to utilize available program funds effectively and efficiently, it is necessary to develop priorities. A project's priority will be assigned based on the projects primary purpose, secondary benefits may be considered at the Commission's discretion. Project priorities in order of preference, are defined as follows.

#### Account I Project Priorities

- (1.) Source Water Development
- (2.) Storage
- (3.) Pipelines, Conveyance Facilities, Solar Platforms, and Windmills
- (4.) Irrigation
- (5.) Environmental
- (6.) Recreational

#### Account II Project Priorities

- (1.) Diversion structures and Spring Developments
- (2.) Storage
- (3.) Pipelines, Conveyance Facilities, Solar Platforms, and Windmills
- (4.) Irrigation other than the above
- (5.) Environmental
- (6.) Recreational

6. Projects that have completed the following requirements prior to application will be classified as "Shovel Ready", and may be considered as a funding priority at the Commission's discretion.

- Permit procurement
- State and Federal agency notifications
- Land procurement, right of way, or easement acquisition

- Have finalized all other financial agreements

To establish completion of the above listed requirements, the project applicant may be asked to submit additional documentation as determined by the Commission at the time of application.

7. In the case of limited funding for this program the WWDC will prioritize the applications according to project priority.

8. The Commission may take into consideration a Sponsor's existing back log of previously funded projects that are not completed, when awarding grants for new projects.

**E. Project Development:**

1. The sponsoring entity shall adhere to appropriate design standards for small water projects. Plans may be provided by the NRCS, an appropriate land management agency or a registered Professional Engineer and/or registered Professional Geologist.

2. Project water rights shall be in good standing with the State of Wyoming prior to construction of the project.

3. If the sponsoring entity initiates the construction process without prior written notification by the Commission, the sponsoring entity shall bear all costs resulting from said action.

**F. Program Expenditures:**

1. Project Description: Projects that develop unused and/or unappropriated water will be considered SWPP New Development Projects and will be funded from SWPP Account I, which is funded by appropriations from Water Development Account I [W.S. 41-2-124(a)(i)]. Projects that improve completed water projects, decrease operation and maintenance costs, and/or improve efficiency of use of existing water supplies will be considered SWPP Rehabilitation Projects and will be funded from SWPP Account II, which is funded by appropriations from Water Development Account II [W.S. 41-2-124(a)(ii)].

2. Project Funding: W.S. 99-3-1903(k)(vii) and W.S. 99-3-1904(m)(vii) as described in B.4 herein, establish the funding limitations for the SWPP.

3. Activities eligible for SWPP funding include design, permit procurement, project land procurement, construction engineering (design and construction inspections), project materials and invoiced contractor expenses. In-kind contributions are only eligible for installation of project materials that were purchased specifically for the project as documented by invoices.

4. Required permits and clearances shall be obtained prior to construction of the project. Copies of the final permits and clearances must be submitted to the WWDO before the WWDO will issue the notice to proceed for construction. WWDC funds may be used as necessary to secure the technical assistance required to complete permitting activities before construction commences.

5. The sponsoring entity shall provide the WWDO an operation and maintenance plan for the estimated life of the project.

6. SWPP funds shall not be used to refinance projects that have already been completed. SWPP funds shall not be used to augment the operating budget of a sponsor or any other entity. Maintenance costs, as determined by the WWDO, are not eligible expenditures under the SWPP. SWPP funding is limited to a one-time construction of a new project or a single rehabilitation of an existing project.

7. A Project Agreement between the WWDC and the sponsoring entity, which documents the roles and responsibilities of the project participants, must be finalized prior to expenditure of SWPP funds. Changes, modifications, revisions or amendments to the Project Agreement may be granted by the WWDC.

8. Construction contractors shall be selected using a competitive bid process.

9. Upon project completion, WWDC funds will be disbursed when a certified bill is received from the sponsoring entity including statement of completion, before and after photographs, project longitude/latitude coordinates and an affidavit of publication documenting final settlement as required under W.S. 16-6-116 if the Sponsor determines the Project meets the definition of a "public work" as defined in W.S. 16-6-101(ix).

10. If the sponsoring entity submits a certified bill, WWDC funds can be disbursed for a component of a project upon receipt of a certification by the project engineer that the component provides a beneficial use and functions in the manner intended. Retainage on the cost of the component may be held until conditions described in F.9 are met.

11. Upon receipt of WWDC funds, the sponsoring entity shall promptly pay outstanding obligations.

12. Unexpended funds allocated under the Project Agreement will revert to SWPP Account I or SWPP Account II, as appropriate, upon the expiration date of the Project Agreement. Expiration dates may be extended in writing by the WWDC.