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**GUIDANCE DOCUMENT  
SMALL WATER PROJECTS PROGRAM  
WYOMING WATER DEVELOPMENT COMMISSION**

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## **Chapter 1 Program Eligibility**

Small Water Project applications are due by November 15<sup>th</sup> of each year. Applications may be downloaded from the Small Water Project Program website at:

[https://wwdc.state.wy.us/small\\_water\\_projects/small\\_water\\_project.html](https://wwdc.state.wy.us/small_water_projects/small_water_project.html)

Applications may be submitted digitally to the Small Water Project Program Manager ([Jodie.Pavlica@wyo.gov](mailto:Jodie.Pavlica@wyo.gov)), or by mail to 6920 Yellowtail Rd, Cheyenne, WY 82002. Applications must be fully completed and signed by an authorized representative of the applying public entity. Applications must also contain a map of the project area that documents the location of the project and the proposed project components.

## **Public Entities**

Applications for Small Water Projects may be submitted by eligible public entities as defined by the program criteria. Applications cannot be accepted from landowners.

The public entity is accepting several important responsibilities with a successful application to the Small Water Project Program. Successful Applicants (Sponsor's) will enter into a contractual arrangement with the Water Development Commission. Under this agreement sponsors are required to provide project designs, specifications, proof of permits, certify that a project has met all legal requirements necessary for construction, submit the project payment request, and make sure that all necessary deadlines are met prior to the expiration of the Project Agreement. It is important for the project sponsor to know that the Water Development Office (WWDO) is available to help with these tasks, but the responsibility for their completion is ultimately that of the sponsor. In other words, the WWDO will not allow the project sponsor to apply for the project, then turn over their responsibilities to the landowner.

## **Public Benefit**

The Small Water Project Program is a State of Wyoming Funded Grant Program. Eligible projects will improve watershed condition and function, provide multiple benefits, and meet the funding criteria specified by Wyoming Statutes.

Wyoming Statutes 99-3-1903(k)(viii)(c), and 99-3-1904(m)(viii)(c) require that the public benefit of the project be substantiated by the project sponsor. Section 24 of the project application is provided for the Sponsor to document these benefits. This information will be quoted in the recommendation that is submitted for the Commission's approval at their March meeting. If the Commission believes that the public benefit is inadequate to justify the project grant they may ask the project sponsor to testify, to assist them in their decision to fund the project.

## **Estimated Total Project Cost**

Section 29 of the project application includes the Sponsor's Estimated Total Project Cost. This value is used to determine the requested grant. The program legislation allows a 50% grant on eligible project expenses up to \$35,000. The sponsor's estimated total project cost is not adjusted by the WWDO, therefore it is important for the project sponsor to include in that estimate all eligible expenses, including estimates for contingencies. The WWDO can not authorize additional grant funding for the project after the project application is accepted and approved for funding by the Commission at their March meeting.

## Project Readiness

Section 31 in the application gives project sponsors who wish to apply for shovel ready status the opportunity to document their readiness for construction. This step is not required for an application to be complete and recommended for funding. This is only required for projects that wish to seek a shovel ready funding priority. (Please refer to Chapter 3 for more information.) If a project sponsor is not seeking shovel ready status then it is better if the application and map are all that is provided. Project checklists are not helpful at this stage because the project design is incomplete, and as a result there are too many final details to be completed for the checklist to be relevant.

## Chapter 2 Eligible Projects

Section C in the program criteria documents eligible project types. Projects are defined according to 11 specific definitions outlined in this section. Project eligibility is further determined by public benefits accrued as described in the previous chapter.

### Small Reservoirs

The program criteria include small reservoirs as an eligible project type. The criteria do not limit the size of the reservoir, the use of the reservoir, or the cost of the reservoir. Project applications will be reviewed for public benefit and constructability based on the project description provided in the application. Project funds may also be used to rehabilitate existing small reservoirs.

### Wells

Wells and their appurtenances may be eligible for program funding depending on the depth of the well and scope of the project. Well appurtenances may include pumps, power sources (either fixed in place solar or conventional electric service), storage tanks, troughs, and any plumbing necessary to make the project function in the manner intended. In most cases these items are required to put the water to beneficial use which is a prerequisite for payment.

Wells are divided into two categories, those that are drilled into proven aquifers and those that are drilled into unproven aquifers. The distinction of a proven vs unproven aquifer determines the requirements upon which the project is eligible for payment, with the primary difference being in the acceptance of risk.

If the proposed well is targeting an unproven aquifer, then the sponsor accepts the risk of proceeding with the project, knowing that if the quality or quantity of the well isn't sufficient to meet the demands of the project that they will have to bear the full cost. The program criteria explain this distinction in further detail. In order to facilitate the determination of a proven or unproven aquifer the project sponsor is required to provide a geologic report on the proposed well site prior to the issuance of Notice to Proceed. The geologic report will be reviewed by a professional geologist at the Water Development Office. If the proposed well is determined to be targeted for an unproven aquifer then the sponsor will be notified prior to the issuance of Notice to Proceed so that they may decide if they want to accept the risk associated with this designation.

### Solar Platforms, Pipelines & Conveyance Facilities, Windmills

Solar Platforms, Pipelines & Conveyance Facilities, and Windmills are all eligible for program funding. These project components are frequently bundled with other project components like wells, and may be new construction or the rehabilitation of existing facilities. Stock water troughs and storage tanks are also eligible for funding as they are required to beneficially use the water, and beneficial use of the water is required before funds can be issued. Larger projects that may need to be phased, such as long stock water pipelines, are eligible for program funding as long as each phase provides a beneficial use of the water when it is complete.

### Spring Development

Improving flows of existing springs and installation of collection facilities associated with springs may be eligible for program funding. These projects are frequently bundled together with tanks and solar systems.

## **Wetland Development**

The development of wetlands may be eligible for funding through the program. Wetland projects must provide multiple benefits in addition to those discussed in the public benefit section of the application.

## **Environmental Projects**

Environmental projects are defined as those that provide for stream bank stability, water quality improvements, or erosion protection. Projects in this category often provide multiple benefits that improve not just water quality but stream habitat as well. Projects outside of this definition may be eligible for funding under another project definition such as wetland development, recreational, or small reservoir.

## **Irrigation Projects**

Program criteria states that Irrigation Projects may be eligible for funding through the program. This document attempts to provide guidance to the project sponsors as to which irrigation projects are eligible and which are not. See the list below for more details:

1. On Farm Improvements: On farm improvements such as center pivots and their appurtenances are not eligible for small water program funding. These projects don't meet the public benefit requirements outlined earlier in this document.
2. Ditch to pipe conversions: The conversion of an earthen ditch to pipe is an eligible project, with the understanding that the program will not pay for gated pipe for the same reason that center pivots are not eligible.
3. Diversion structures: Diversion structures are eligible projects, including those that are designed to be fish friendly using rock check structures.
4. Large projects that need to be phased: Large projects that may need to be phased are eligible for program funding as long as each phase provides a beneficial use of water when it is complete. As an example, the WWDC won't provide reimbursement funds for a well that is not pumping water into a stock tank. The same rule applies for larger irrigation projects, each phase must be complete and function on its own.

## **Rural Community Fire Suppression**

Projects eligible for rural community fire suppression include projects that are in keeping with the larger Agency mission of "Supply, Transmission, and Storage". Projects that would not be eligible include: distribution lines, fire hydrants, irrigation systems for the purposes of green area buffer zones, etc.

## **Recreational**

Recreational projects may be considered for funding through the Program. Projects must meet the same public benefit standards required of other projects. Eligible projects might include, but are not limited to: stream channel projects for the purposes of habitat improvement, fish passage, or fish screens.

## **Ineligible Projects/Expenses**

Over the years there have been several project types that are regularly requested that are not recommended for funding. Those are listed below.

1. Cleaning or reshaping an earthen ditch: This is considered maintenance and is therefore not eligible for project funding.
2. Flumes and Measurement Devices: These expenses are the responsibility of the permit holder and not eligible expenses in the program.
3. On Farm Projects: These projects often have a difficult time providing the necessary public benefit documentation required by the legislation.
4. Drinking Water Projects: Projects of this type do not comport with the original intent of the program and therefore are not eligible.
5. Fencing: Fencing is only eligible as it is used to protect the infrastructure that is installed by the program. Program funds shall not be used to fence off riparian areas or wetland habitats.
6. Distribution Systems for Rural Community Fire Suppression: The installation of water distribution lines for the purposes of Rural Community Fire Suppression are not eligible for funding. Eligible projects must focus on supply, storage, and/or transmission.
7. Rehabilitation of a structure that has already been rehabilitated once. Program criteria limit projects to a one-time construction of a new project, a single rehabilitation of an existing project, or eligible subsequent appropriations provided the total grant doesn't exceed \$35,000.
8. Completed Projects: Program criteria prohibit the use of funds for the purposes of refinancing projects that have already been completed.
9. Sponsor budgets: Program criteria prohibit funds being used to augment operating budgets. Therefore, sponsors may not send invoices for employee time unless those employees are Licensed Professional Engineers or Geologists whose time was directly used to prepare Small Water Project deliverables.
10. Maintenance: Program criteria prohibit the use of funds for the purposes of maintenance.
11. Personal Items used to complete the project: Items like tools, fuel, generators, and extended warranties that were purchased through the course of the project are not eligible for reimbursement.

## **Chapter 3 Project Evaluation**

New project applications are due by November 15<sup>th</sup>. This gives the Office time to evaluate the number of applications and prepare a request for funding the Small Water Program accounts with approval by the Commission and Select Water Committee at their December\January meetings.

Applications will be reviewed for eligibility and completeness by the Water Development Office and recommendations on specific projects will be made to the Commission and Select Water Committee at their March meetings. Applications may be downloaded at the following website.

[https://wwdc.state.wy.us/small\\_water\\_projects/small\\_water\\_project.html](https://wwdc.state.wy.us/small_water_projects/small_water_project.html)

### **Project Description**

This is an important part of the project application not only for describing the project in general terms to understand the larger picture benefits, but also for specifically detailing the project components that are proposed for installation. This information is used to determine eligibility and is included in the recommendation that is presented to the Commission for their approval. Any project changes that may be requested later in the project are first compared to the project description that was approved by the Commission. No changes will be approved by the office without Commission consideration if they are outside of the approved project description.

Additionally, the sponsor shall identify if the work is to be performed on a project that has already been funded by the Small Water Project Program, and if so, provide the previous project's name, the year the previous grant was awarded, and the total amount of SWPP funds disbursed by the Commission under the previous Small Project. Additionally, the project description shall contain enough detail to describe both projects and why it is necessary to split up the work. It is important to understand that the total amount of all WWDC appropriations for the same site shall not exceed \$35,000.

### **Project Location (Private, State, Federal)**

Eligible projects may be located on Federal, State, other public, or private lands. Items 26 and 27 are included in the project application to document the owner of the land that the project is being constructed on and the owner of the project components that are being installed. Because these two owners are not always the same, this information is used to determine what documentation will be required for Notice to Proceed. If the project is being installed by someone who is different than the person who owns the land that it is being installed on, then a letter of approval will be required from the landowner prior to the issuance of construction. This saves money on formal legal authorizations, but still documents the landowner's awareness and acceptance of the project. These letters can come from federal agencies, private landowners, or public entities like the State of Wyoming.

### **Project Partners**

Section 25 in the application is titled "Project Participants". This is the section of the application that documents who will be contributing to the project and what their role will be. Things like financial and technical oversight should be listed here. This data will help the Office determine if the project is ready for grant funding or if more project development time is required before a grant is awarded.

## Project Priorities

Project priorities were established in the program criteria to effectively and efficiently utilize available program funds when the demand for grant dollars exceeds availability. Project priorities are listed below. Please note that the program priorities are not directly equivalent to the eligible project definitions identified in Chapter 2. This is because the project priorities are primarily looking at the purpose of the project, not the project type. In order to assign the new project applications to a priority, the Office relies heavily on the Project Description, the project components table, detailed cost estimates, and the public benefits statement provided with the application.

As an example, if a stock water project application is received and the single largest expense is the pipeline, then it will probably be classified as a priority 3 project. Whereas a similarly named stock water project whose largest expense is a well might be classified as a priority 1 project. Listed below with the project priority are some example projects and where they might fit into the priority system.

### Account I Priorities

1. Source Water Development: Wells, New Spring Developments
2. Storage: New Small Reservoirs, Wetlands
3. Pipelines, Conveyance Facilities, Solar Platforms, and Windmills: Stock water systems, pipelines, etc.
4. Irrigation: New irrigation infrastructure (not rehabilitation of an existing system)
5. Environmental: Stream bank stabilization projects
6. Recreational: Fish or habitat projects not associated with irrigation system improvements

### Account II Priorities

1. Diversion Structures and Spring Developments: Rehabilitation of existing diversions and spring developments
2. Storage: Rehabilitation of a washed-out stock pond, wetland restoration if an embankment is required
3. Pipelines, Conveyance Facilities, Solar Platforms, and Windmills: Rehabilitation of existing systems
4. Irrigation other than the above: Rehabilitation of turnouts or other in canal structures
5. Environmental
6. Recreational

## Shovel Ready

Projects that are ready for construction before applying for Program funding may request a "shovel ready" classification. Projects receiving this classification may be considered as a priority at the Commission's discretion. This is usually represented with a #1 priority, as the projects would be ready to start as soon as the contracts are signed putting the Commission's money to work on the ground sooner. In order to qualify as a "Shovel Ready" project the application must include the following:

1. Completed 100% design plans
2. Specifications as necessary to instruct a contractor in proper construction
3. Letters of authorization from landowners as necessary
4. Before photos
5. One Call Notifications or other utility crossing approvals

6. All necessary permits, rights of way, and/or easements
7. Finalization of all other necessary financial agreements

If these items are provided with the application, a Notice to Proceed Review will be completed to establish the project's readiness for construction.

### Limited Funding Analysis

Program Criteria allow the Commission to prioritize applications according to project priority during times of limited funding. New projects applications will be assigned a priority according to their primary project purpose as outlined in the project description and public benefits sections. It is recommended that the project sponsor include a detailed cost estimate with their application that includes a breakdown of project costs. This will allow the Office to better understand where project funds will be spent, which will allow for a more accurate classification of project priority.

Project Application funding will be cut off at an even priority, no effort will be made to fund projects in the next highest priority if not all of the projects within that priority can be funded. Any remaining funds would then stay in the Small Water Program Accounts and roll over to be used the next year. Additionally, 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.

## Chapter 4 Project Development & Construction

After new project applications are approved by the Commission and Select Water Committee, projects will require the approval and signature of the sponsors governing body on a Project Agreement between the State of Wyoming and the sponsoring district. The project sponsor may proceed with project development after the final signed document is received by the Water Development Office.

### Sponsors' Responsibilities

The sponsor is responsible for acquiring all necessary access agreements, permits, plans, specifications, change orders, operation & maintenance plans, funding participation & construction budgets, and any other document deemed necessary by the Commission. These documents will be submitted to the Office for review with the signed and completed checklists available for download at the Small Water Projects Program website. The documentation described above should be submitted to the Office prior to the start of any construction.

### Notice to Proceed

The previous section discusses the documents that the Sponsor is required to provide the Office before written authorization to begin with construction will be issued. That written authorization is called "Notice to Proceed". The purpose of the review is to document the Sponsor's readiness to begin construction, and to document the project components that are being installed. This documentation will be used to ensure correct payments when reimbursement for completed construction is requested at the end of the project. **If the Sponsor initiates the construction process without prior written notification by the Commission to proceed with the project, then the Sponsor shall bear all costs resulting from said action.**

### Project Sponsor Checklists

To aid the project sponsor with their project development responsibilities and to help with communication between the Office and Sponsor, checklists were developed. The first is the Project Sponsor Checklist. It includes a list of items that are required by the Office, and several more items that are often required by other State and Federal Agencies. Many of these items will be required before Notice to Proceed will be issued. For those components that are not always required, like a 404 permit, there is a NA box for the sponsor to check on the form. The Project Sponsor Checklist was designed to be filled out and signed right before the Sponsor is ready to submit a project for a Notice to Proceed Review, so the sponsor can use it to ensure the package is complete. It is much less helpful when this checklist is provided with the project application (unless shovel ready). This is because in most cases the project still has to complete final designs and acquire permits when the application is submitted, and that process often changes the sponsors answers on the checklist.

The second checklist that is required by the office is the Sage Grouse Analysis Sheet. The purpose of this checklist is to document the projects location relative to Sage Grouse Core Area and specific Sage Grouse Leks. Based on the answers provided in this document, guidance in the Notice to Proceed Letter will be given regarding project construction timing.

### Project Changes After Funding Award

It is common with all types of construction for unexpected things to happen while working on a project. Small Water Projects are no exception. Therefore, it is important for project sponsors to stay in touch

with the Office when changes are necessary to ensure that there are no problems with payments upon completion. Sponsors should either call or email the office before committing to any changes that might affect funding. The Office will document the change and provide a written approval for the sponsor's records.

The exception to this would be if the changes were significant enough to bring the project outside of the description originally provided to the Commission in the Recommendation when the initial application was approved. In that case, approval for a proposed change might have to wait until approval could be obtained at an upcoming Commission Meeting.

## Bid Process

Program criteria require that construction contractors be selected using a competitive bid process. Sponsors should establish a procedure with their boards that is fair, open, and well documented. Records should be kept for the bid process on each project so they are available if they are requested by the Commission.

## Certification of Completed Project

Program criteria require that the project engineer certify the project is functioning in the manner intended and providing a beneficial use of water before funds can be disbursed. In practice, this is sometimes difficult for project sponsors, so the Office also accepts a letter of inspection from a federal agency stating they have inspected the project and it is functioning in the manner intended and providing a beneficial use of water. Inspections by the project sponsor are not an acceptable substitute for the letter from a federal agency or for signed as-built plans from the Engineer.

## Project Timeline

New Projects will expire on December 31<sup>st</sup> approximately 2 ½ years following the signatures on the project agreement. The bullets below give an overview of project deliverables and timelines:

- 1) Applications are due by November 15<sup>th</sup>. Project funding is awarded at the March Commission and Select Water Committee meetings the following spring.
- 2) Immediately following the project approval, agreements are sent to the Sponsors for signature by the respective district board.
- 3) After the sponsor signs the Project Agreement, all copies are sent back to the Office for additional processing. At this time the sponsor may begin to acquire permits, final designs, specifications, access letters (if necessary), before photos, and any other documentation required for construction.
- 4) When the documentation addressed in the previous item is complete, the project sponsor should assemble the required documentation along with signed copies of the Project Sponsor and Sage Grouse Checklists, available from the Small Water Website, and send to the Small Water Projects Program Manager ([Jodie.Pavlica@wyo.gov](mailto:Jodie.Pavlica@wyo.gov)) for review.
- 5) After the previous documents have been reviewed, the Office will provide any questions or comments to the sponsor via email. Once the Project Sponsor satisfactorily addresses the questions/comments, a Notice to Proceed Letter will be issued. This letter authorizes the project sponsor to begin construction. **If construction begins before the date on the Notice to Proceed Letter, then according to the program criteria it is ineligible for program funding.**
  - a) Project sponsors may, however, with acceptable documentation, purchase off the shelf materials (such as pipe and troughs) in advance of the notice to proceed letter, as long as they

are willing to accept the risk that if the plans are changed by the final plan review and the purchased materials are not longer required, they are solely responsible for those costs. This exception does not include the construction of custom items such as diversion boxes that are sized specifically for the project in the final plans.

- 6) Once the Sponsor receives their Notice to Proceed Letter, construction may begin. Project criteria require the selection of a construction contractor through a competitive bid process. The project sponsor is responsible for establishing the process through which Contractors are selected, and for maintaining a record of the bid process should the Office request a copy of the records.
- 7) After completion of project construction, the project sponsor will need to prepare a payment request for reimbursement of expenses. It is important that project sponsors keep very close track of project invoices as payment can only be made based on itemized invoices. Similarly, an "Affidavit of Publication" should be provided to document final settlement and the completion of the 41-day advertising period if the project Sponsor determines the project to be a "public work" as defined in W.S. 16-6-101 (a)(ix).
- 8) After receipt of the complete payment request package, the Office will review the documents provided by the project sponsor and provide any comments. Once the questions/comments are addressed then project funds are released to the project sponsor. Project sponsors are paid for 50% of invoiced eligible expenses up to \$35,000 not to exceed the approved grant amount. Remaining grant funds will revert to the small water program accounts for use on other projects. Program legislation allows for progress payments to be made throughout the project, but program criteria limit these types of payments to components that are providing beneficial use of water. In practice, most project sponsors prefer one payment request at the end of the project.

# Chapter 5 Payments & Funding

## Eligible Expenses

Small Water Program funds may be used for design, permit procurement, project land procurement, construction engineering, project materials, and invoiced contractor expenses.

In kind expenses, such as labor and materials are also eligible for reimbursement as long as they were purchased specifically for the project as documented by invoices. All invoices/receipts will be reviewed for ineligible items such as tools, extended warranties, personal items, portable generators, fuel, and fencing beyond that which is necessary for protection of the installed infrastructure. In kind invoices will also be reviewed for mileage and hourly labor rates. The Office understands that these rates will vary across the state, so no preapproved mileage and labor rates are provided. However, the sponsor will need to document the rates used should there be a need to review their reasonableness.

## Required Documentation

Program Criteria lists several items that are required of each small water project. In addition to the items in the Criteria, the office also has a few items that are required before final payment can be made. The required submittals are listed below.

- Operation and Maintenance Plan
- Certified Pay Request from Sponsor
- Contractor Invoices signed by the Project Sponsor
- Before & After Photos
- Latitude & Longitude Coordinates
- Affidavit of Publication of Final Settlement if the project is determined to be a "public work" by the project sponsor.
- Final As-Built Drawings, or a Letter of Certification that the project is providing beneficial use and functioning in the manner intended from a Federal Agency
- Finalized SEO Paperwork for Wells

Many of these items are required before notice to proceed is issued. However, because of their importance, a review of the file will be conducted before final payment is made to make sure that they are present.

## Key Dates for Payment

Regarding the final payment, there are two key dates that the project sponsor needs to be aware of. The first is the date that Notice to Proceed was issued. **Construction activities that occur before the date Notice to Proceed was issued are not eligible for program funds.** All invoices that are submitted for reimbursement will be compared to the date that Notice to Proceed was issued, for eligibility.

The second date that is important for each project is the expiration date listed in the Project Agreement. Project expiration dates are always set for December 31<sup>st</sup>, so working back from that date the following schedule is set for project sponsors who are finishing their projects in the final year of the agreement.

- Final payment requests need to be turned into the Office by December 1<sup>st</sup> so there is time for review and corrections, if necessary, before the expiration date at the end of the month.

- For those projects where the project sponsor determines the small water project meets the definition of a public work as defined in W.S. 16-6-101(ix), an affidavit of publication documenting the final settlement will be required. An affidavit of publication will be issued at the conclusion of the 41-day advertising period described in W.S. 16-6-116. To ensure that the advertising period is completed by December 1<sup>st</sup>, construction should be finalized in early October.

Utilizing the above dates as a starting point, a letter is sent to all project sponsors with expiring projects in May. The letter lists the projects that are expiring and the dates listed above for their reference when discussing project completion schedules with landowners and contractors.