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Terminology

Act	=	Federal Water Pollution Control Act (Clean Water Act)
Bureau	=	Surface Water Quality Bureau
CWA	=	Federal Clean Water Act
DFA	=	New Mexico Department of Finance and Administration
USEPA	=	United States Environmental Protection Agency
FFY	=	Federal Fiscal Year
NMAC	=	New Mexico Administrative Code
NMED	=	New Mexico Environment Department
NMSA	=	New Mexico Statutes Annotated
NPDES	=	National Pollutant Discharge Elimination System
State	=	State of New Mexico
SFA	=	Solicitation for Applications
SWQB	=	Surface Water Quality Bureau
TMDL	=	Total Maximum Daily Load
WQL	=	Water Quality Limited

SOLICITATION FOR APPLICATIONS TO CONDUCT WATER QUALITY MANAGEMENT PLANNING

I. INTRODUCTION

Purpose

The Surface Water Quality Bureau (Bureau or SWQB) of the New Mexico Environment Department (NMED) requests applications from **regional public comprehensive planning organizations** to conduct water quality management planning as defined under sections 205(j) and 303(e) of the of the Federal Water Pollution Control Act, a.k.a., Clean Water Act (CWA). Please refer to Attachment 1. These funds are made available through a Solicitation for Applications (SFA). In response to this SFA, NMED seeks detailed quotes (i.e., project proposals) to conduct water quality management planning. While all applications focused on water quality management planning are welcomed, those that address the State's water quality goals to preserve, protect, and improve the water quality in New Mexico are likely to be rated highest. In this respect, NMED encourages applicants to submit project proposals focused on Total Maximum Daily Loads (TMDLs), Use Attainability Analyses (UAAs or other water quality management planning activities that will directly address identified water quality impairments but do not overlap with development of watershed-based plans that are eligible for funding through NMED's 319(h) program. Project proponents selected for funding will enter into a Sub-Grant Agreement with NMED.

Regional public comprehensive planning organizations are defined as regional planning agencies, councils of governments, conservation districts, irrigation districts, counties, cities and towns, and other non-federal or non-state public planning agencies. Such organizations must be chartered with appropriate powers as a unit of New Mexico local government, an independent sub-state agency, or an interstate organization under an interstate agreement of which New Mexico is a party. Organizations operating as an arm of the state or federal government are not eligible. Please see Attachment 2 for further guidance.

Scope of Sub-Grant

The scope of the sub-grant shall encompass the work and other requirements detailed in Section III.

Funding

Funding for the work program is dependent on the receipt of federal grants authorized under Section 604(b) of the federal Clean Water Act and allocated in Fiscal Year (FY) 2024. Award of funds will be made pursuant to the competitive application process.

The Bureau expects to receive federal funds under Section 604(b) of the federal Clean Water Act (CWA) on an annual basis with FY24 funds anticipated to be available July 1, 2023. Continued funding under the 604(b) program will be contingent upon both the continued receipt by the Bureau of these federal funds and on the receipt of eligible project proposals through the competitive application process.

Time Period

The project period of awards made under this SFA will be one year from the award of the contract.

Background

Section 604(b) of the CWA requires the U.S. Environmental Protection Agency (EPA) to reserve each year for each State 1% or \$100,000, whichever is greater, of its share of Title II funds for statewide water quality management planning. In the case of New Mexico, the amount reserved in FY24 is anticipated to be \$170,050. Section 205(j)(3) of the CWA provides, with certain exceptions, that 40%, or \$68,020, of these funds be allotted to **regional public comprehensive planning organizations** (defined on page four of this SFA) for water quality management planning activities that contribute to the State water quality management program. Any water quality management planning activities, as defined in sections 205(j) and 303(e) of the CWA, are eligible.

Under this SFA, selected and funded projects will be included in the State's CWA Section 604(b) grant workplan submitted to EPA, and EPA will have oversight of the State's workplan. Once approval has been granted by EPA, the Bureau will have oversight of the selected sub-recipient's workplan and will be required to report progress on the sub-recipient's work to EPA. Further, EPA guidance requires that in managing the selection and funding process, States clearly communicate their water quality goals, program priorities, and prospective projects.

State Water Quality Goals

The State water quality goals are to preserve, protect and improve water quality in New Mexico in order to protect the designated uses of these waters and to contribute to the general public welfare.

State Program Priorities

Section 303(d) of the federal CWA requires that each State identify those waters for which existing required pollution controls are not stringent enough to meet State water quality standards. For these waters, States are required to establish TMDLs. Implementation of Section 303(d) of the CWA has traditionally emphasized point source wasteload allocations, which are enforced by incorporating them into National Pollutant Discharge Elimination System (NPDES) permits as discharge limits. Nonpoint sources are generally included as a separate component of a TMDL because of the difficulty in measuring water quality impacts and the effectiveness of controls. However, experience has shown that controlling point source discharges does not necessarily ensure attainment of water quality standards, especially when nonpoint sources are a significant contributor to water quality problems. Applications submitted for this funding should focus on water quality management planning activities outside of those eligible for funding under SWQB's Section 319 Non-Point Source Management Program.

State Prospective Projects

The Bureau is engaged in several activities to assess and protect the quality of New Mexico's waters. The Department has developed lists of surface waters impaired by pollutants and, to the extent currently possible, has identified causes and sources of these pollutants (see <https://www.env.nm.gov/surface-water-quality/303d-305b/>). Over the past few years, this effort has been expanded to include the evaluation of impacts of all sources of pollution of surface waters and of implementation programs to manage those impacts. Completion of TMDLs, UAAs, or other water quality planning for New Mexico's Water Quality Limited (WQL) surface waters is a necessary and high priority step in the overall process of assessing and managing these impacts and is essential to protect surface water quality in a watershed. In addition, eligible projects may support development of water quality management plans, development of load and wasteload allocations for impaired waterbodies, reviews and revisions of water quality standards, and collection and analysis of ambient monitoring data.

received during the open Q & A period and will post the responses to the NMED website for review by all applicants by **5:00 pm Mountain Time on February 17, 2023**. It is the applicant's responsibility to check the SWQB website for the most recent updates, including questions and answers and addendums.

Applications must be received electronically by the SWQB no later than **5:00 pm Mountain Time on February 28, 2023**. Applicants must email project proposals to Heidi.Henderson@env.nm.gov with the subject line: **"FY24 604b Grant Application."** The email properties header will reflect the date and time submissions are received. Application submissions received after the deadline will not be considered eligible. NMED is not responsible for any errors or delays caused by technology-related issues, even if they are caused by NMED.

Applications submitted via any other method, including but not limited to fax, mail, in-person deliveries, will not be accepted.

The contents of any applications will not be disclosed so as to be available to competing applicants during the negotiation process.

Application Evaluation

Each application will be evaluated by the Bureau. All applications will be reviewed for compliance with the requirements stipulated in this SFA. Applications found not to be in compliance will be eliminated from further consideration. If necessary, applicants submitting project proposals may be provided an opportunity for discussion and revision of the proposals after submission to the Bureau and prior to award, for the purpose of obtaining the best project.

Subgrant Award

Before award of the sub-grant, the project selected must be approved by EPA as part of the Bureau's workplan for Fiscal Year 2024 funding under Section 604(b) of the Act.

The Bureau reserves the right to reject any or all applications when it is in the best interest of the State to do so.

Successful applicants will be invited to enter into a Sub-Grant Agreement with NMED, following the format in the Sample Agreement (Attachment B of the SFA Notice; <https://www.env.nm.gov/subgrants/>).

II. APPLICATION SPECIFICATIONS

1. The work program proposed to conduct water quality management planning must be for no more than a one-year period.
2. The application must contain a brief narrative summary describing the work program. In addition, the application must, at a minimum, document the following:
 - that the applicant is an eligible regional public comprehensive planning organization;
 - that the proposed work is an eligible water quality planning activity as defined under sections 205(j) or 303(e) of the CWA;
 - that the proposed work is focused within the applicant's planning boundaries;
 - that the proposed work will result in a clearly defined water quality planning product; and
 - how the implementation of the proposed project could further the State's water quality goals.
3. Identify necessary resources to carry out the entire project.

For each water quality planning task/deliverable contained in the application work plan, the following information must be provided:

- A brief narrative statement of purpose and task summary;
 - Estimated effort in staff time;
 - Estimated nature and amount of assistance to be requested from Bureau staff;
 - Estimated cost, including a separate identification of indirect costs. The cost responses must be based on the applicant's attached fee schedules. The fixed cost must include all fringe benefits and overhead, as well as contractor and/or subcontractor personnel, if appropriate. New Mexico gross receipts taxes, travel and per diem are excluded from the proposed maximum hourly rates but must be shown separately on the invoice. However, at no time will employee per diem rates be more than the allowable amounts posted by the State of New Mexico in 2.42.2 of the New Mexico Administrative Code ("NMAC") for each relevant fiscal year. Applicants must include a complete Time and Materials Fee Schedule for all activities listed in the sample project work plan. The applicant must also include any other elements of cost that are appropriate for the proposed project.
4. Applications must document assigned staff capable of effectively managing and completing the proposed work. To the extent possible, applications should indicate how work will be completed utilizing in-house staff, without contracting or subcontracting work to outside entities. Applications must contain a listing and identification of proposed project staff members, their responsibilities, and their qualifications including relevant work history.
 5. Each task description must also include a description of and time frame for completion and submission of concrete, measurable outputs, including any interim outputs. Examples of acceptable outputs include, but are not limited to, the following: Public meetings held to solicit data or input; field sampling dates and/or laboratory submission of water samples; or preparation of reports summarizing how tasks were completed. Applicants are encouraged to identify a contingency plan in the event that weather, staff, or other resources are not available as originally planned.

6. For projects that will include data collection and lab analysis, the work plan must identify quality assurance and quality control measures equivalent to those in the Bureau's Quality Assurance Project Plan (QAPP) and Standard Operating Procedures (SOPs). These measures must specifically address all proposed data collection activities and lab analyses. Additionally, the proposal must identify a timeline for the development of a Project-specific Quality Assurance Project Plan (P-QAPP) which allows adequate time for P-QAPP review and approval prior to the beginning of the planned sampling.

EVALUATION FACTORS

Applications will be evaluated based on the following factors:

Evaluation Criteria	Possible Points
Application demonstrates that the (future) sub-recipient is an eligible regional public comprehensive planning organization, the proposed activities constitute water quality planning as defined by the CWA, and the proposed work focuses within sub-recipient’s jurisdiction.	25
Application contains a clear statement describing the proposed water quality management project.	25
Project goals align well with SWQB water quality goals.	50
The project recognizes applicable TMDLs, UAAs, or other water quality management activities and directly addresses identified 303(d) Listed waters in the watershed.	25
The project considers climate change and incorporates sustainability features, green infrastructure, water reuse, and/or other innovative concepts to promote watershed resilience.	25
The application demonstrates how the proposed project is outside the scope of activities currently addressed by the 319 (h) grant program.	25
The application identifies the role, responsibilities and qualifications of the Project Manager and documents the qualifications of other staff through relevant work history.	25
The application recognizes the importance of stakeholder involvement and demonstrates the effective use of this resource in the project.	25
The descriptions of the project tasks and associated schedule are clear and well developed.	50
Project timelines appear reasonable and feasible.	25
Cost of the project is relative to the proposed scientific rigor in the planning project.	50
Costs of individual project components are fair relative to market conditions.	25
Total Points Possible	375

APPENDIX 1

RELEVANT SECTIONS FROM THE CLEAN WATER ACT

205(j)

(1) The Administrator shall reserve each fiscal year not to exceed 1 per centum of the sums allotted and available for obligation to each State under this section for each fiscal year beginning on or after October 1, 1981, or \$100,000, whichever amount is the greater.

(2) Such sums shall be used by the Administrator to make grants to the States to carry out water quality management planning, including, but not limited to—

(A) identifying most cost effective and locally acceptable facility and non-point measures to meet and maintain water quality standards;

(B) developing an implementation plan to obtain State and local financial and regulatory commitments to implement measures developed under subparagraph (A);

(C) determining the nature, extent, and causes of water quality problems in various areas of the State and interstate region, and reporting on these annually; and

(D) determining those publicly owned treatment works which should be constructed with assistance under this title, in which areas and in what sequence, taking into account the relative degree of effluent reduction attained, the relative contributions to water quality of other point or nonpoint sources, and the consideration of alternatives to such construction, and implementing section 303(e) of this Act.

(3) In carrying out planning with grants made under paragraph (2) of this subsection, a State shall develop jointly with local, regional, and interstate entities, a plan for carrying out the program and give funding priority to such entities and designated or undesignated public comprehensive planning organizations to carry out the purposes of this subsection. In giving such priority, the State shall allocate at least 40 percent of the amount granted to such State for a fiscal year under paragraph (2) of this subsection to regional public comprehensive planning organizations in such State and appropriate interstate organizations for the development and implementation of the plan described in this paragraph. In any fiscal year for which the Governor, in consultation with such organizations and with the approval of the Administrator, determines that allocation of at least 40 percent of such amount to such organizations will not result in significant participation by such organizations in water quality management planning and not significantly assist in development and implementation of the plan described in this paragraph and achieving the goals of this Act, the allocation to such organization may be less than 40 percent of such amount.

303(e)

(1) Each State shall have a continuing planning process approved under paragraph (2) of this subsection which is consistent with this Act.

(2) Each State shall submit not later than 120 days after the date of the enactment of the Water Pollution Control Amendments of 1972 to the Administrator for his approval a proposed continuing planning process which is consistent with this Act. Not later than thirty days after the date of submission of such a process the Administrator shall either approve or disapprove such process. The Administrator shall from time to time review each State's approved planning process for the purpose of insuring that such planning process is at all times consistent with this Act. The Administrator shall not approve any State permit program under title IV of this Act for any State which does not have an approved continuing planning process under this section.

(3) The Administrator shall approve any continuing planning process submitted to him under this section which will result in plans for all navigable waters within such State, which include, but are not limited to, the following:

- (A) effluent limitations and schedules of compliance at least as stringent as those required by section 301(b)(1), section 301(b)(2), section 306, and section 307, and at least as stringent as any requirements contained in any applicable water quality standard in effect under authority of this section;
- (B) the incorporation of all elements of any applicable areawide waste management plans under section 208, and applicable basin plans under section 209 of this Act;
- (C) total maximum daily load for pollutants in accordance with subsection (d) of this section;
- (D) procedures for revision;
- (E) adequate authority for intergovernmental cooperation;
- (F) adequate implementation, including schedules of compliance, for revised or new water quality standards, under subsection (c) of this section;
- (G) controls over the disposition of all residual waste from any water treatment processing;
- (H) an inventory and ranking, in order of priority, of needs for construction of waste treatment works required to meet the applicable requirements of sections 301 and 302.

604(b)

RESERVATION OF FUNDS FOR PLANNING.—Each State shall reserve each fiscal year 1 percent of the sums allotted to such State under this section for such fiscal year, or \$100,000, whichever amount is greater, to carry out planning under sections 205(j) and 303(e) of this Act.

APPENDIX 2

EPA GUIDANCE ON REGIONAL PUBLIC COMPREHENSIVE PLANNING ORGANIZATIONS



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

Attachment C

OCT 27 1987

MEMORANDUM

OFFICE OF
WATER

SUBJECT: Organizations that Qualify as Regional Public Comprehensive Planning Organizations (RPCPO) and Interstate Organizations (I/O) Under Section 205(j)(3) of the CWA, as Amended

FROM: F. Scott Bush, Director, Analysis and Evaluation Division (WH-586)

TO: Rick Claggett, Chief
Water Quality Management Section
U.S. EPA, Region VIII

I have reviewed the letter from the Wyoming Department of Environmental Quality which you forwarded with a request for our guidance on the eligibility of certain Wyoming agencies as RPCPOs and IOs. My conclusions which have been coordinated with the Office of General Counsel are as follows:

1. Municipal Governments - eligible.
2. County Governments - eligible.
3. 208 Designated State Agencies - ineligible. Pass through is not intended to fund arms of the State government. 208 designation is not a criterion for 205(j)(3) eligibility.
4. 208 Designated Federal Agencies - ineligible. Pass through is not intended to directly fund Federal Agency activities. This would not preclude RPCPOs/IOs contracting with Federal Agencies such as the Geological Survey to carry out their work plans for use of 205(j)(1) funds.
5. Conservation Districts - eligible, if the District is chartered with appropriate powers as a unit of local government, an independent substate agency, or as an interstate agency under an interstate agreement to which Wyoming is a party. If it operates as an arm of the State or Federal government it would not be eligible.

202

10-04-14 07:14 AM

6. Resource Conservation and Development (RC & D) Projects - ineligible, unless a "Project" is chartered with appropriate powers as a unit of local government, as an independent substate agency, or as an interstate organization under an interstate agreement to which Wyoming is a party and the Project is not an arm of the State or Federal government.
7. The Wyoming Association of Conservation Districts - ineligible, unless the Association is chartered with appropriate powers as a unit of local government, as an independent substate agency, or as an interstate organization under an interstate agreement to which Wyoming is a party and the Association is not an arm of the State or Federal government.
8. The Colorado River Basin Salinity Control Forum - ineligible, unless the Forum is chartered with appropriate powers as an independent interstate organization under an interstate agreement to which Wyoming is a party, or as a unit of local government or an independent substate agency and the Forum is not an arm of the State or Federal government.
9. Irrigation and/or Drainage Districts - eligible, if a District is chartered with appropriate powers as a unit of local government, an independent substate agency, or as an interstate organization under an interstate agreement to which Wyoming is a party. If it operates as an arm of the State or Federal government it would not be eligible.

If there are additional considerations with regard to the status of any of the listed organizations, please provide me the details. If you have questions, please call me (382-5389) or have your staff call Henry Cooke (382-7159).