WATER LEASE AND TRANSFER

GRANT APPLICATION SOLICITATION

**November 2016**

**GENERAL INSTRUCTIONS**

OWEB’s Water Lease and Transfer Grants support projects that plan for or implement the acquisition of an interest in water from willing sellers for the purpose of increasing instream flow to address habitat and species conservation needs and improve water quality in accordance with OAR 695-046-0010. Grants can fund strategic planning and development, project design, landowner outreach, and other activities associated with water acquisitions, including the cost of acquiring an interest in water and associated due diligence, and monitoring activities to ensure the interest is being maintained through time.

OWEB has contracted with the National Fish and Wildlife Foundation (NFWF) to develop, oversee, and implement the solicitation, evaluation, and review of water acquisition grants. NFWF will provide review results and funding recommendations to the OWEB Board and Agency staff.

To apply for an OWEB Water Lease and Transfer Grant:

STEP 1: Contact Scott McCaulou ([Scott.McCaulou@nfwf.org](mailto:Scott.McCaulou@nfwf.org)) to obtain login information for NFWF’s Online Application System.

STEP 2: Complete this 2016 OWEB Water Acquisition Supplement (attached to this solicitation), including the required attachments listed in Section III.

STEP 3: Log in to NFWF’s Online Application System and follow instructions to complete the online application. Upload the 2016 OWEB Water Acquisition Supplement and required attachments with your online application.

STEP 4: Send a confirmation email to [Scott.McCaulou@nfwf.org](mailto:Scott.McCaulou@nfwf.org) to notify NFWF that the proposal is complete and ready for review.

**SUBMISSION OF GRANT APPLICATION**

Grant applications must be submitted online to NFWF on or before December 15, 2016.

Contact: **Scott McCaulou, Program Director**

Columbia Basin Water Transaction Program

National Fish and Wildlife Foundation

503-417-8700 ext. 6004

[Scott.McCaulou@nfwf.org](mailto:Scott.McCaulou@nfwf.org) **OWEB CONTACT**

For questions related to this OWEB supplement.

Contact: Jillian McCarthy, Partnerships Coordinator

Oregon Watershed Enhancement Board

503-986-0033

[Jillian.McCarthy@oregon.gov](mailto:Jillian.McCarthy@oregon.gov)

**2016 OWEB SUPPLEMENTAL QUESTIONS FOR**

**WATER LEASE AND TRANSFER GRANTS**

**Section I**

**APPLICANT INFORMATION**

**Name of Project**:

**OWEB dollars requested**:       **Total cost of project**:

**This project will service the area of**:

|  |  |
| --- | --- |
| **County or Counties:** | **Township, Range, Section(s)** |
|  |  |

**Applicant**: **Technical Contact** (if different than applicant):

|  |  |
| --- | --- |
| **Organization**: | **Organization**: |
| **Contact Person**: | **Contact Person**: |
| **Address**: | **Address**: |
|  |  |
| **Email**: | **Email**: |
| **Phone**: | **Phone**: |
| **Fax**: | **Fax**: |
| **Website**: | **Website**: |

**Applicant Organization Type**:

Local Government  Non-Profit  Tribe  Watershed Council

Soil and Water Conservation District  Individual  Irrigation District

**Has this application been previously submitted for OWEB funding?**   Yes  No

**If yes, what was the application number, and describe how the application has been modified**:

**Section II**

1. **CURRENT WATER RIGHT HOLDER INFORMATION**

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| --- |
| **Water Right Certificate Number**: |
| **Name**: |
| **Address**: |
| **Email**: |
| **Phone**: |
| **Fax**: |

1. **PROJECT INFORMATION**
2. **Describe the proposed acquisition including the purchase price, amount requested, the habitat and species conservation needs, and conservation goals of the project. Include a statement about who will maintain the water interest after it is purchased or leased.** (200 word limit)
3. **What is the relative importance of the site’s habitat and species values at the watershed and basin scale?**
4. **How does the project relate to other watershed restoration and protection efforts in the watershed?**
5. **What water quality parameters does the project propose to affect directly?**
6. **What is the current condition and trend of water quality in the project area?**

Contact the Oregon Department of Environmental Quality’s Water Quality Program for more information, if needed (<http://www.oregon.gov/DEQ/WQ/pages/index.aspx>).

1. **Primary Activity Proposed:**

Short Term Instream Lease

Split Season/Use Instream Lease

Time-Limited Instream Transfer

Permanent Instream Transfer

Water Use Agreements that result in protectable instream flows

Conserved Water Projects as determined by the OWRD’s Allocation of Conserved Water Program

1. **What is the current land use(s) on the property to which the water right is appurtenant?**
2. **What are the land uses on adjacent properties?**
3. **What are the anticipated economic and social effects of the project on the local and regional economy and community, including potential effects on the local tax base?**
4. **Is the proposed water lease or transfer located in a high priority area as identified in *The Oregon Plan Streamflow Restoration Priorities*** (2001, available at <https://www.oregon.gov/owrd/pages/mgmt_opsw.aspx>)?  Yes  No

**If not, how does the proposed lease or transfer benefit the conservation needs of priority habitats and species and the conservation goals of the project?**

1. **Why is the proposed lease or transfer of the water interest the best method to accomplish the proposed protection, restoration, or improvement in habitat or water quality?**

**Section III**

**REQUIRED ATTACHMENTS**

Upload the following required attachments to your application. Please clearly name each attachment with the number and attachment name (e.g., ‘6 Location Map’).

* **1 OWEB Budget & Match Form** (Attachment 1 to this supplement – separate excel spreadsheet): OWEB funds may be applied toward reasonable costs related to the planning and/or implementation of water acquisitions, including purchase price and purchase option fees, monetary interest on loans, staff costs, water-owner outreach activities, due diligence activities, including appraisal or valuation and OWRD application costs, legal fees, transfer and closing fees, and monitoring costs associated with the acquisition. Verification of secured match funding totaling 25% of the actual water acquisition project cost is required prior to the release of any OWEB grant funds.
* **2 Land Use Form** (Attachment 2 to this supplement): OWEB requires that all watershed projects comply with the Statewide Planning Goals by ensuring compatibility with acknowledged comprehensive plans. The Land Use Form is the document OWEB requires to ensure a project’s compatibility with local comprehensive plans. **The Land Use Form does NOT need to be submitted with the application, but must be submitted prior to OWEB signing a grant agreement and releasing project funds.** OWEB will only release project funds if the project is either not regulated by, or is compatible with, the local comprehensive plan and zoning ordinance.
* **3 Legal Requirement Form** (Attachment 3 to this supplement): This form acknowledges that, if OWEB awards funds for the project, the applicant is willing and capable of the contractual and performance obligations required under the OWEB water lease and transfer grant program.
* **4 Grant Administration and Indirect Cost Selection Form** (Attachment 4 to this supplement)**:** This form is to meet Federal 2 CFR requirements.
* **5 Racial and Ethnic Impact Statement Form** (Attachment 5 to this supplement)**:** This form satisfies Oregon Law that requires applicants to include a racial and ethnic impact statement with each grant application.
* **6 Location Map**: On a USGS 7.5 min topographic quad map, show the location of the point(s) of diversion, instream reach, and place(s) of use of the water interest proposed for lease or transfer. Map should be on 8½” x 11” paper and include a legend and north arrow.
* **7 Conservation Plans:** If applicable, reference and provide links to current conservation plans that identify the habitats or species present in the river or stream, or in the river reach affected, as a protection priority. Reference pages that are specific to the property, river reach, habitats, or species from the most important and relevant conservation plans.
* **8 Letters or Documentation of Support:** Attach letters documenting support for the proposed project. Please combine all letters of support into a single pdf.
* **9 Water Right Holder Letter:** Attach a letter from the current water right holder(s) stating that they are in discussion with the grant applicant about transferring or leasing the water right interest.
* **10 Fair Market Value Appraisal:** Attach a fair market value appraisal or other OWEB Board-approved valuation of the water right interest to be acquired. The appraisal or valuation must have been completed within the year prior to the grant deadline. Contact OWEB staff for more information about appraisal or other approved valuation methods.
* **11 Irrigation District Statement:** If applicable, attach a statement regarding whether the lands served are within an irrigation district or similar organization that conveys water to the subject water right(s).
* **12 Ownership and Lien Report:** Attach an ownership and lien report for the property to which the water right is appurtenant.
* **13 Option, Purchase, or Lease Agreement:** Attach a copy of the written option, purchase, or lease agreement for the subject water lease or transfer, including the agreed-upon purchase or lease price for the water interest.
* **14 Donation/Funds Transfer Statement:** Attach a statement of whether the seller or lessor of the water interest is contractually required by the written option, purchase, or lease agreement, or other related documents, to donate or transfer funds to the buyer, applicant, or a third party who has assisted with or facilitated the proposed lease or transfer. **Note:** Disclosure of contractually required donations or payments that exceed 15% of the purchase or lease price for the water interest must be made in writing to the Executive Director of the Oregon Watershed Enhancement Board in order to be considered for funding. Disclosure of amount is not required until after an initial staff recommendation has been prepared on the grant application.
* **15 Water Right Assessment:** Attach an assessment of the reliability of the water right for providing instream benefits, including:
  1. A written statement from Oregon Water Resources Department (OWRD) that describes the extent to which the water right has historically been met and whether regulation has been or may be required on the stream in question regarding the proposed right; and
  2. A signed statement from the current holder of the portion of the water right proposed to be transferred or leased instream or the landowner to which the water right is appurtenant stating that the water has been used over the past five years in accordance with the terms and conditions of the right or that the right is not subject to forfeiture under ORS 540.610.

**Section IV**

**APPLICANT QUALIFICATIONS**

Applicants who are currently ‘Qualified Local Entities’ (QLE’s) under NFWF’s Columbia Basin Water Transaction Program **do not need** to complete this section.

NFWF will use the following general criteria to evaluate whether applicants have a sound program to acquire interests in water rights to address the conservation needs of habitats and species and improve water quality in a water-quality-limited area. Successful responses will meet the following basic qualifications:

1. **Demonstrate an ability to negotiate, structure, and execute water transactions in areas where insufficient instream flow has been identified as a limiting factor for fish, wildlife, or water quality.**
2. **Demonstrate an ability or potential capacity to fully implement water transactions with no impermissible injury to other adjacent private landowners.**
3. **Document specific skills, abilities, experience, or credibility with key constituents, including water managers, local stakeholders, relevant Native America tribes, landowners, fish and wildlife agencies, and conservation groups.**
4. **Demonstrate an ability or potential capacity to implement transactions that will conform to the requirements of all applicable local and state laws, rules, and regulations. This includes but is not limited to all laws, rules, and regulations that govern water resources.**
5. **Demonstrate knowledge of applicable laws, regulations, and water transaction processes sufficient to implement transactions, or present a plan for accessing pertinent legal expertise in water resources, particularly in the area of changing or transferring water rights.**
6. **Be willing to work cooperatively with OWEB, OWRD, and private and other public stakeholders.**
7. **Be able to consider and accommodate state and local economic and social issues.**
8. **Demonstrate an ability to monitor and enforce agreements through contractual compliance monitoring as well as instream flow gauging to ensure protected flows are instream. This includes the ability and willingness to report shortfalls in anticipated flows to the OWRD Watermaster and request timely enforcement of instream water rights.**
9. **Summarize any past water transaction projects in which the applicant has participated. The summary should include a brief description of the elements of the transaction, including the applicant’s involvement in the state regulatory approval process, if any.**
10. **Demonstrate any experience in having received and/or managed grant funds for programs and/or projects.**
11. **Identify key organizations responsible for implementing the response. Identify the scope of responsibility of the personnel. Include a brief statement of the relevant experience of the key personnel.**

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| logo_transparent_10% | ATTACHMENT 1  **OWEB BUDGET & MATCH FORM**  **WATER LEASE AND TRANSFER GRANT** |

See separate Excel spreadsheet attachment

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| logo_transparent_10% | ATTACHMENT 2  **LAND USE INFORMATION FORM** |

*This information is needed to determine if the proposed project complies with statewide planning goals and is compatible with local comprehensive plans (ORS 197.180).* ***The form must be submitted at the time of application (OAR 695-050-0035(1)(a)) with the applicant completing at least #1 below.***  *The completed and signed form must be submitted before OWEB releases grant funds. OWEB will release grant funds only if the project either is not regulated by, or is compatible with, the local comprehensive plan and zoning ordinance. If a project is regulated by the local comprehensive plan and zoning ordinance, OWEB will void grant agreements for projects the county determines to be incompatible with the local comprehensive plan and zoning ordinance. If the county requires additional local approvals for a project regulated by the local comprehensive plan and zoning ordinance, OWEB will not release grant funds until these conditions are satisfied.*

1. **TO BE COMPLETED BY THE APPLICANT/GRANTEE**

Applicant/Grantee Name:

Project Name:

**2. TO BE COMPLETED BY CITY/COUNTY OR TRIBAL PLANNING OFFICIAL**

Complete this section only after section 1, above, has been completed. Check the box below that applies:

This project is not regulated by the local comprehensive plan and zoning ordinance.

This project has been reviewed and is compatible with the local comprehensive plan and zoning ordinance.

This project has been reviewed and is not compatible with the local comprehensive plan and zoning ordinance.

Compatibility of this project with the local planning ordinance cannot be determined until the following local approvals are obtained:

      Conditional Use Permit       Development Permit

      Plan Amendment       Zone Change

      Other

An application has      has not      been made for the local approvals checked above.

**\*** Signature of Local Official Date

Print Name:       Phone:

Title:       Email:

***\*Must be an authorized signature from your local City/County or Tribal Planning Department,***

***regardless of which box is checked above.***

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| logo_transparent_10% | ATTACHMENT 3  **LEGAL REQUIREMENTS** |

AGREEMENTS: I/we, Name of Organization , of \_City, State , hereby make application for financial assistance under the terms and conditions of the Oregon Watershed Enhancement Board in the amount of $      . The total cost of the project is $       as shown on page 1.

I/we understand that if this proposal is funded, I/we will be required to:

* Sign a Grant Agreement, subject to legal sufficiency review by the Oregon Department of Justice, containing the terms and conditions upon which funds will be released, a certification to comply with state, federal and local regulations, and a release of liability for the State of Oregon;
* Provide evidence of final approval by the Oregon Water Resources Department of the instream lease or transfer prior to the disbursement of any grant funds for actual transaction costs. Grant funds may be adjusted to reflect the quantity and timing of water protected instream as specified in the approved instream lease or transfer;
* Agree to use the water interest consistent with Article XV, Section 4b of the Oregon Constitution;
* Agree that the OWEB Board’s approval is required before conveyance of the water interest to another party or termination of a water right lease or time-limited transfer funded in part with Board funds prior to the end of its term;
* Agree that if the water interest acquired with Board funds is used in a manner inconsistent with Article XV, Section 4b of the Oregon Constitution, or is transferred without Board approval, that Board funds shall be repaid with interest due and payable from the effective date of the Grant Agreement described above at the rate provided for in ORS 82.010; and,
* Submit periodic monitoring reports, as required, to OWEB on the project's performance.

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:      \_

Title: \_     \_

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| logo_transparent_10% | ATTACHMENT 4  **GRANT ADMINISRATION AND INDIRECT COST SELECTION FORM** |

This form is to meet Federal 2 CFR requirements. Part One will certify the applicant is a legal entity. Part Two selects the type of indirect rate the applicant is requesting in the application. Part Three applies ***only*** if you select an OWEB Negotiated Indirect Cost Rate.

**PART ONE:**

Grantee Organization Legal Name:

Sub-recipients or grantees ***must*** be legal entities. Identify your organizational type as one of the following:

State or local government: FEIN       DUNS:

Non-profit organization: FEIN       DUNS:

Institution for Higher Education: FEIN       DUNS:

Individual (not eligible for indirect or administrative costs)

If you do not have a DUNS number, please see <http://fedgov.dnb.com/webform/index.jsp> to obtain one.

**PART TWO:**

Applicant must select one of the following indirect rates. This rate will apply for the life of this grant, including any future extensions for time, and cannot be changed.

**Federally Negotiated Indirect Cost Rate.** We have an approved indirect cost rate with a Federal (cognizant) agency. A copy of our most recently approved rate agreement is attached; if necessary, we will provide a more current rate once it is approved. No additional receipts will be required for this indirect cost rate.

Our current Federally Negotiated Indirect Cost Rate is      %.

**Federally Accepted *de minimis* Indirect Rate.** We have never received a federally negotiated indirect cost rate. We request as a condition of this grant to charge a flat *de minimis* indirect cost rate of 10% of modified total direct costs (MTDC). No additional receipts will be required for this indirect cost rate.

**OWEB Negotiated Indirect Cost Rate.** We do not currently plan to obtain a federally negotiated indirect rate. We would like to negotiate an indirect rate of modified total direct costs (MTDC.) Receipts for our indirect cost pool will be required for rates above 10%.

We request an indirect rate of      % (not over 15%) (fill out Part Three.)

**PART THREE (select only if you are asking for an OWEB Negotiated ICR:**

Applicants who select an OWEB Negotiated Indirect Cost Rate must select a cost allocation plan.

**Less than 10%, no receipts required.** If the rate is below 10%, OWEB will allow the billing to follow the *de minimis* rules (no receipts.)

**Receipt billing.** Grant administration costs are charged to grants on an item-by-item basis. Receipts for items $250 and over must be submitted. All receipts must be kept and provided to OWEB on request.

**Cost allocation.** The applicant has accounting practices in place that support charging costs to a cost allocation pool and must submit cost allocation supporting documentation for allocations $250 and over. Most agencies divide administration costs either on FTE, time worked, or as a percentage of their modified total direct costs (MTDC.)

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| logo_transparent_10% | ATTACHMENT 5  **RACIAL AND ETHNIC IMPACT STATEMENT**  *This form is used for information purposes only and must be included with the grant application.* |

Chapter 600 of the 2013 Oregon Laws require applicants to include with each grant application a racial and ethnic impact statement. The statement provides information as to the disproportionate or unique impact the proposed policies or programs may have on minority persons1 in the State of Oregon if the grant is awarded to a corporation or other legal entity other than natural persons.

1. The proposed grant project policies or programs could have a disproportionate or unique positive impact on the following minority persons:

Indicate all that apply:

Women  Asians or Pacific Islanders

Persons with Disabilities  American Indians

African-Americans  Alaskan Natives

Hispanics

1. The proposed grant project policies or programs could have a disproportionate or unique negative impact on the

Indicate all that apply:

Women  Asians or Pacific Islanders

Persons with Disabilities  American Indians

African-Americans  Alaskan Natives

Hispanics

1. The proposed grant project policies or programs will have no disproportionate or unique impact on minority persons.

If you checked numbers 1 or 2 above, on a separate sheet of paper, provide the rationale for the existence of policies or programs having a disproportionate or unique impact on minority persons in this state. Further provide evidence of consultation with representative(s) of the affected minority persons.

I HEREBY CERTIFY on this      day of      , 20     , the information contained on this form and any attachment is complete and accurate to the best of my knowledge.

Signature:

Printed Name:

Title:

1 “Minority persons” are defined in SB 463 (2013 Regular Session) as women, persons with disabilities (as defined in ORS 174.107), African-Americans, Hispanics, Asians or Pacific Islanders, American Indians and Alaskan Natives.