



OWEB Water Acquisition Grant Program

Overview and Guidance

Program Purpose

The Water Acquisition Grant Program considers grant applications that acquire an interest in water from a willing seller or lessor, or to implement projects that result in contractually protected instream flow. The program purpose is to maintain or restore instream flows to benefit watersheds and native fish and wildlife habitat.

The Oregon Watershed Enhancement Board (OWEB) encourages prospective applicants to coordinate with state agencies such as Oregon Water Resources Department (OWRD), Oregon Department of Fish & Wildlife (ODFW), Oregon Department of Environmental Quality (ODEQ), and Tribal and federal fish and wildlife agencies to better understand their priorities, how the proposed project aligns with those priorities, and/or how any other agency voluntary flow protection programs could be utilized. Applicants are also strongly encouraged to schedule a consultation with OWEB staff before submitting an application.

OWEB allocates funding for water acquisition projects to other entities. This may result in the State of Oregon or other entities holding the interest in water rights. OWEB does not itself hold an interest in water rights funded by grants.

Eligible Project Types

Any proposal to acquire an interest in water that results in protected instream flows is eligible for funding consideration. This could be through OWRD's Allocation of Conserved Water Program, instream leasing or transfers, or other mechanisms.

Projects must result in Legally or Contractually Protected Instream Flows to address either:

- Identified conservation needs of habitats and species as determined by ODFW or
- Improving water quality in a water-quality-limited area as determined by ODEQ.

Eligible project types include, but are not limited to, the following:

- **Instream Lease:** the conversion of all or a portion of an existing water use to an instream water right for a specified time period. The use must be a type that is legally eligible to be transferred instream for that time period.
- **Split-Season Use Instream Lease:** an instream lease in which the water right can be used for both the existing purpose of the water right and for an instream purpose. The split-season instream lease must take place during the same season defined by the water right and during the same calendar year. The water must not be used for the existing purpose during the period in which water is to be protected instream.

- **Time-Limited Instream Transfer:** an instream transfer that is not permanent. The water right will revert back to its original use at the end of the period of time specified in the final order approving the instream transfer, or upon determination by OWRD that other conditions for termination have been met, in accordance with the final order.
- **Conserved Water Projects through OWRD's Allocation of Conserved Water Program:** this voluntary program allows a water user who conserves water (e.g., through efficiency improvements) to use a portion of that water on additional lands and allows for new uses of water. In exchange for granting the user the right to allocate a portion of the conserved water, at least 25% of the conserved water is dedicated to instream use. OWEB funds can be used to cover the costs of the efficiency improvements (e.g., piping or lining of canals and ditches, converting to drip irrigation). However, the portion of conserved water returned instream increases with the percentage of public funds used for efficiency improvements. For example, if OWEB funds 50% of the efficiency improvements, 50% of the conserved water must be transferred instream. The higher the percentage of conserved water proposed to be transferred instream, the more competitive the water acquisition grant application is likely to be.
- **Conserved water projects that utilize the Deschutes Basin Alternative Pathway,** or similar OWRD instream water conservation programs that may be developed in the future. The Deschutes Basin Alternative Pathway refers to water conservation projects being implemented by irrigation districts in the Upper Deschutes Basin to improve Oregon spotted frog habitat.
- **Permanent Instream Transfer:** the permanent conversion of all or a portion of an existing water use to an instream water right. The water use must be legally eligible to be transferred.
- **Water Use Agreement:** legal agreement between a water right holder and an eligible grant applicant to conserve water or achieve protected instream flow. Examples of water use agreements include minimum flow agreements and forbearance agreements.

Evaluation Criteria

Water acquisition grant applications will be evaluated using the following criteria:

1. The significance of the projected ecological outcomes, including how the proposed water acquisition project:
 - a. Achieves or helps to achieve any state, federally, or Tribally supported flow target.
 - b. Addresses limiting factors identified in conservation plans for habitat conservation needs or water quality;
 - c. Provides benefits to impacted species and life stages;
 - d. Monitors and tracks project impacts over time;
 - e. Monitors project compliance and project outcomes.

2. How the water right's ownership, demonstration and quantification of use, validity, reliability, protectability, and seniority will result in instream flow improvements. If the project is utilizing the OWRD's Allocation of Conserved Water program, the priority date of the conserved instream water right shall be the same as the original right (including the same minute).
 3. The alignment of proposed costs with the work necessary to accomplish the objectives described in the application, including:
 - a. How the proposed cost of the Legally or Contractually protected instream flow is consistent with local or regional market conditions;
 - b. How the term of the water acquisition project is appropriate to meet the habitat, species, or water quality needs; and
 - c. If the project is utilizing the OWRD's Allocation of Conserved Water program, or other Department-administered instream flow water conservation program, the project cost relative to the amount of water that will be protected instream, with a preference for projects with a higher percentage of water transferred instream than what is required by the Allocation of Conserved Water program.
 4. How the proposed activities are part of a strategic effort or long-term vision for restoring instream flows in the watershed, including how the proposed water acquisition project:
 - a. Complements other habitat conservation actions and needs;
 - b. Will lead to future expansion of instream flow restoration;
 - c. Addresses ODFW or other federal or Tribal fish and wildlife agency priorities for aquatic habitat, or ODEQ water quality management or implementation plans, if established.
 5. The capacity and qualifications of the applicant, including staff or consultants to be retained, to accomplish the proposed water acquisition project activities described in the application and to sustain the projected ecological outcomes over the project term.
- Climate Change resiliency considerations: Water Acquisition criteria no longer include a reference to how the proposed project contributes to climate change resiliency. However, OWEB's overarching Division 5 Rules for all of OWEB's grantmaking programs do state that grant applications shall also be evaluated, whenever possible, on:
- 1) How engagement with, and input from, local communities disproportionately impacted by climate change has informed or will inform the project.
 - 2) How changing climate conditions are incorporated into the project and how the project will contribute to durable adaptation and resilience for ecosystems, including human communities.

- 3) How consideration of greenhouse gas emissions or long-term carbon sequestration or storage has informed the project.

Eligible Costs and Budget

Water acquisition grant funds may be applied toward reasonable costs, as determined by OWEB, related to the implementation of water acquisition projects, including:

- The purchase price and the purchase option fees associated with acquisition of an interest in water.
- The cost of water conveyance or water use efficiency project elements, such as equipment, supplies, and contracted services for installation, that result in Legally Protected
- Instream Flow using OWRD's Allocation of Conserved Water program, or other Department-administered instream flow water conservation program.¹
- The monetary interest on bridge loans needed to secure the interest in water prior to when funding will be available for distribution through the program.
- The staff and contracting costs incurred as part of designing the project and acquiring the interest in water.
- The cost of outreach activities necessary for the funded water acquisition project.
- The cost of due diligence activities, including appraisal or valuation of the interest to be acquired, water right review, title report, permitting, assessment of the timing and extent of water use and regulation associated with the interest in water, the applicant's legal and other fees incurred through the water acquisition project transaction, and other customary due diligence activities.
- The closing fees related to the acquisition of an interest in water.
- The cost of monitoring the Water Acquisition Project to certify that the water interest is being used and managed consistent with intent of grant application, allowing for any conditions listed in the Grant Agreement.

Other reasonable costs, as determined by OWEB, for project planning and outreach with holders of a Water Use Subject to Transfer, related to development of the proposed Water Acquisition Project or future eligible Water Acquisition Projects in the same basin or a portion

¹ **For irrigation infrastructure projects: The applicant should** describe how the proposed cost of achieving this protected instream flow is consistent with local or regional market conditions. If the cost of the irrigation infrastructure improvement exceeds the market value of water in the same basin, describe why the requested amount of public investment in the project is reasonable.

thereof. These costs must be necessary for carrying out eligible programs that lead to development of eligible Water Acquisition Projects. The maximum amount that may be requested per grant application for these costs is up to 25% of the OWEB ask within a grant application with a cap of \$50,000 per grant application. **IMPORTANT:** OWEB will only pay for the in-ground components of an irrigation system.

IMPORTANT: Water acquisition projects that include any of the following are NOT eligible for OWEB water acquisition grant funds:

- Project activities (such as irrigation efficiency construction work or materials, or water transactions, among others) that occurred more than 18 months prior to the water acquisition grant application deadline.
- The value of water as part of an instream lease, instream water transfer, or water use agreement on a property where OWEB land acquisition grant funds purchased a property and irrigated acres were part of the land appraisal valuation. In this case, OWEB water acquisition grant funds may pay for staff work and associated costs necessary to complete an instream water transfer, but shall not pay for costs of the interest in water itself.
- Funding requests for only project planning and/or outreach; all proposed projects must include on-the-ground implementation of a water acquisition project.

Grant application budget guidance is contained in the [GoBIG guidance document](#) (Guidance on Budgeting In Grants). There is no maximum award amount. **As part of the application budget, applicants must demonstrate that they are seeking or have secured an amount of match that is equal to at least 25% of the total amount of funds they are requesting from OWEB.** Match guidance can be found in the Water Acquisition grant program administrative rules, [OAR 695-046-0190](#). Match is defined as any contribution to a project that is non-Board funds, and OAR 695-005-0030(2) requires all applications to demonstrate a matching contribution is being sought at the time of application. Match may be cash or an in-kind contribution. At the time you submit an application, your match funding does not have to be secured. Applications must show that at least 25% match, has been sought. Prior to any payment of grant funds, the grantee must provide proof that 25% match has been secured.

Cultural Resources Compliance may be necessary if requesting funding for an irrigation efficiency or irrigation modernization project that involved ground-breaking activities and the project is in an anadromous region of the state. If these conditions apply to your project, then add costs for cultural resources review and permitting if you have not already completed cultural compliance and do not have a federal agency partner covering that cost. See the [Protecting Cultural Resources](#) Webpage in the Manage Your Grant section of the OWEB website.

How To Apply

The water acquisition grant application is part of [OWEB's online grant application system](#). **OWEB strongly recommends that applicants submit their grant applications at least three working days in advance of the application deadline.** Verifying and submitting the grant application at least three days in advance allows time for applicants to address problems during the submission process. All applications must be successfully submitted through OWEB's online grant application system (OGMS) by 5 pm on the application due date. ***A pre-application consultation is highly recommended.***

How Applications Will Be Reviewed

Grant applications will be reviewed by a technical review team (TRT) comprised of state, Tribal, and federal agency staff who are knowledgeable about water rights and instream water right transfers, water transactions, water valuation, fish and wildlife habitat needs, and water quality. This team will coordinate with agency representatives in the affected area to ensure understanding of local needs. The TRT will evaluate each application based on the information provided and the evaluation criteria as described in [OAR 695-046-0190](#), and recommend the project as fund, fund with conditions, or do not fund. Staff will review the recommendations from the TRT and make a statewide funding recommendation to the Board based on available resources. The OWEB staff recommendation, as represented in the staff report to the Board, will be made available to all applicants, TRT members, and the Board at least two weeks before the Board meeting where funding decisions are to be made.

Public Outreach

OWEB values public and community engagement in its grant decision-making. The agency seeks Tribal and public comment from diverse perspectives to make the best possible granting decisions and ensure outcomes benefit all Oregonians to the greatest extent possible. The [public outreach process for OWEB's Water Acquisitions grant program](#) is summarized online.