



WATER ACQUISITION GRANT PROGRAM

OVERVIEW AND GUIDANCE

Oregon Watershed Enhancement Board

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.

OWEB encourages prospective applicants to coordinate with state agencies such as Oregon Water Resources Department (OWRD), Oregon Department of Fish & Wildlife (ODFW), and Oregon Department of Environmental Quality (ODEQ) 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 Oregon Water Resources Department (OWRD) 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 Oregon Department of Fish & Wildlife (ODFW); or
- Improving water quality in a water-quality-limited area as determined by Oregon Department of Environmental Quality (ODEQ).

Eligible project types include, but are not limited to, the following¹:

- **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 allowing 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

¹ Legal definitions for these types of projects are included in the program administrative rules for the water acquisitions grant program (OAR 695.046.0020).

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 application is likely to be.

- **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 professionally accepted flow target during the period of use;
 - 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 compliance²; and
 - f. Contributes to climate change resiliency.
- 2) The alignment of proposed costs with the work necessary to accomplish the objectives described in the application, including:
 - a. Evidence of the ownership, use, validity, and reliability of the water right;
 - b. How the proposed cost of the protected instream flow is consistent with local or regional market conditions; and
 - c. How the term of the water acquisition project is appropriate to meet the habitat, species, or water quality needs.
- 3) 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; and/or
 - d. Promotes collaborative basin planning efforts, including efforts under the state Integrated Water Resources Strategy.
- 4) 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.

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.

² Compliance and implementation monitoring is a requirement of this grant. Refer to the [CBWTP Flow Restoration Accounting Framework](#), for guidance and an example of how to create and implement a flow monitoring plan and how benefits to fish and wildlife and water quality can be documented.

- 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 costs incurred as part of 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, title report, 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 efficiency improvements in a Conserved Water Project approved through OWRD's Allocation of Conserved Water Program.
- The cost of monitoring the water acquisition project to certify that the water interest is being used and managed to protect or restore native fish or wildlife habitats.

Grant application budget guidance is contained in the GoBig guidance document (<https://www.oregon.gov/oweb/Documents/GoBIG.pdf>). 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 percent 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.

How to Apply

The Water Acquisition grant application is part of [OWEB's online grant application system](#). An OWEB Grant Management System (OGMS) username and password are required to access the online application.

How Applications Will Be Reviewed

Once a grant application is submitted, the following process will be used to review all applications:

- 1) OWEB will enlist a technical review team to examine water acquisition grant applications. The technical reviewers will evaluate each application based on the information provided and the evaluation criteria as described in the water acquisitions grant program administrative rules, Oregon Administrative Rule (OAR) 695.046.0196.
- 2) The project description and evaluation recommendations for all projects will be forwarded from the technical review team to OWEB staff.
- 3) Staff will review the recommendations from the technical review team and make a statewide funding recommendation to the Board based on available resources. The staff recommendation, as represented in the staff report to the Board, will be made available to all applicants, technical review teams, and the Board at least two weeks before the Board meeting where funding decisions are to be made.

Public Comment

OWEB will provide a public comment opportunity on grant applications for water acquisition projects being considered by the Board. OWEB will conduct a public notification and comment process for each water acquisition application. The process will give the public a meaningful opportunity to receive information about projects and provide input for the Board's consideration. Applicants are encouraged to engage with the community, including local government officials, about the proposed project prior to submitting an application to facilitate a more fully informed public process.

A public notice soliciting written public comment will be published through OWEB's GovDelivery listserv. OWEB will also send a public comment notice to the counties with jurisdiction in the project areas. Public notice will include a summary of the projects and instructions for accessing the public-facing components of the submitted applications. Any public comments received at least 14 days before the Board meeting at which the applications are to be considered by the Board will be included in the packet provided to the Board. The public will also be invited to provide oral comments at the Board meeting at which the grant applications are considered.