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Recipients and subrecipients are required to submit status reports on the status of real property acquired under the award in which the Federal Government retains an interest. The required frequency of these reports will depend on the anticipated length of the Federal interest period. Reclamation will include recipient-specific real property reporting requirements, including the required standard form or data elements, reporting frequency, and report due dates, in the Notice of Award when applicable.

## **F.4 Disclosures**

### **F.4.1 Conflict of Interest Disclosures**

Recipients must notify the WaterSMART Program immediately in writing of any conflict of interest that arises during the life of their Federal award, including those reported to them by any subrecipient under the award. Recipients must notify the WaterSMART Program in writing if any employees,<sup>2</sup> including subrecipient and contractor personnel, are related to, married to, or have a close personal relationship with any Federal employee in the Federal funding program or who otherwise may have been involved in the review and selection of the award.

### **F.4.2 Other Mandatory Disclosures**

The Non-Federal entity or applicant for a Federal award must disclose in writing, in a timely manner, to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that receive a Federal award, including the terms and conditions outlined in 2 CFR 200, Appendix XII – Award Term and Condition for Recipient Integrity and Performance Matters, are required to report certain civil, criminal, or administrative proceedings to SAM.gov. Failure to make required disclosures can result in any of the remedies described in 2 CFR §200.338, including suspension or debarment.

## **F.5 Data Availability (2 CFR §1402.315)**

All data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, valuation products or other scientific assessments in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual, resulting from a financial assistance agreement is available for use by the Department of the Interior, including being available in a manner that is sufficient for independent verification.

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<sup>2</sup> The term “employee” means any individual engaged in the performance of work pursuant to the Federal award.

















- A Memorandum of Agreement is then used to record and implement any necessary measures. *At a minimum, completion of the multistep Section 106 process takes about 2 months.*
- Among the types of historic properties that might be affected by projects proposed under this NOFO are **historic irrigation systems** and **archaeological sites**. An irrigation system or a component of an irrigation system (e.g., a canal or headgate) is more likely to qualify as historic if it is more than 50 years old, if it is the oldest (or an early) system/component in the surrounding area, and if the system/component has not been significantly altered or modernized. In general, proposed projects that involve ground disturbance, or the alteration of existing older structures, are more likely to have the potential to affect cultural resources; however, the level of cultural resources compliance required, and the associated cost, depends on a case-by-case review of the circumstances presented by each proposal.

You should contact your State Historic Preservation Office and your local Reclamation office's cultural resources specialist to determine what, if any, cultural resources surveys have been conducted in the project area. See [www.usbr.gov/cultural/crmstaff.html](http://www.usbr.gov/cultural/crmstaff.html) for a list of Reclamation cultural resource specialists. If an applicant has previously received Federal financial assistance, it is possible that a cultural resources survey has already been completed. See [www.usbr.gov/cultural/crmstaff.html](http://www.usbr.gov/cultural/crmstaff.html) for a list of Reclamation cultural resource specialists.

## H.2 Endangered Species Act

Pursuant to Section 7 of the ESA, each Federal agency is required to consult with the U.S. Fish and Wildlife Service (USFWS) or the National Oceanic and Atmospheric Administration (NOAA) Fisheries Service to ensure any action it authorizes, funds, or carries out is not likely to **jeopardize the continued existence of any endangered or threatened species or destroy or adversely modify any designated critical habitat**.

Before Reclamation can approve funding for the implementation of a proposed project, it is required to comply with Section 7 of the ESA. The steps necessary for ESA compliance vary depending on the presence of endangered or threatened species and the effects of the proposed project. A rough overview of the possible course of ESA compliance is:

- If Reclamation can determine that there are no endangered or threatened species or designated critical habitat in the project area, then the ESA review is complete, and no further compliance measures are required. *This process can take anywhere from 1 day to 1 month.*

- If Reclamation determines that endangered or threatened species may be affected by the project, then a **Biological Assessment** must be prepared by Reclamation. The Biological Assessment is used to help determine whether a proposed action may affect a listed species or its designated critical habitat. The Biological Assessment may result in a determination that a proposed action is **not likely to adversely affect** any endangered or threatened species. If the USFWS/NOAA Fisheries Service concurs in writing, then no further consultation is required, and the ESA compliance is complete. *Depending on the scope and complexity of the proposed action, preparation of a Biological Assessment can range from days to weeks or even months. The USFWS/NOAA Fisheries Service generally respond to requests for concurrence within 30 days.*
- If it is determined that the project is **likely to adversely affect listed species**, further consultation (**formal consultation**) with the USFWS or NOAA Fisheries Service is required to comply with the ESA. The process includes the creation of a **Biological Opinion** by the USFWS/NOAA Fisheries Service, including a determination of whether the project would **jeopardize** listed species and, if so, whether any **reasonable and prudent** alternatives to the proposed project are necessary to avoid jeopardy. Non-discretionary **reasonable and prudent measures and terms and conditions** to minimize the impact of incidental take may also be included. Under the timeframes established in the ESA regulations, the Biological Opinion is issued within 135 days from the date that formal consultation was initiated unless an extension of time is agreed upon.

The time, cost, and extent of the work necessary to comply with the ESA depends on whether endangered or threatened species are present in the project area and, if so, whether the project might have effects on those species significant enough to require formal consultation.

ESA compliance is often conducted parallel to the NEPA compliance process and, as in the case of a CEC, documented simultaneously. The best source of information for ESA compliance in a particular project area is the local Reclamation environmental staff. They can help determine the presence of listed species and possible effects that would require consultation with the USFWS or NOAA Fisheries Service. In addition, you can contact your regional or area Reclamation office at [www.usbr.gov/main/offices.html](http://www.usbr.gov/main/offices.html) with questions regarding ESA compliance issues.