



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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In Reply Refer to:
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OCT 29 2009

REC'D - BLM - NSO

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9:00 A.M.

DECISION MEMORANDUM

To: Executive Committee

Through: Partner's Working Group

From: Rosemary Thomas
District Manager

Subject: Request to Modify the Lincoln County Land Act (LCLA)/Lincoln County Conservation, Recreation, and Development Act (LCCRDA) Implementation Agreement

The Ely District Office, in coordination with the Partners Working Group, the BLM Nevada State Office, and other partners, is proposing changes to the *LCLA/LCCRDA Implementation Agreement* (Implementation Agreement) including: revisions to the ranking criteria for the Lincoln County Archaeological Initiative (LCAI), revisions to the nomination and selection process for all project categories, the procedure to incorporate public participation in developing priorities for each round of funding, and clarification of the Special Account Reserve (SAR) language.

Executive Committee approval is required for the procedural and criteria changes in order to implement them. Please review the recommended Implementation Agreement revisions below and the attached supporting documents.

1. Procedural changes to the proposal and selection process

Issue: Currently the Implementation Agreement does not define a process for submittal and review of project proposals that meets Federal acquisition regulations.

Background: The current nomination and selection process, as described in the Implementation Agreement, follows a similar process to the SNPLMA process where entities submit nominations which are reviewed and ranked by subgroups or teams and the Partners Working Group (PWG). The nominations are then open for public review. The proposals and any public comments are then reviewed by the Executive Committee (EC) and recommended for approval, in the case of the LCLA expenditures, by the BLM Director. SNPLMA projects are implemented by the sponsoring agency (Federal, state or local government), a contractor or grantee. The process for

selecting a contractor or grantee is undertaken after approval of the projects by the Secretary by the agency sponsors pursuant to the agencies acquisition regulations and/or requirements.

During implementation of Round 1 of the LCAI, it became apparent that using a process similar to the SNPLMA process was unworkable for the following reason. Unlike SNPLMA, the LCAI is open to private entities and universities as well as state and Federal agencies to submit project proposals. Information submitted by private entities and universities in the proposal may be proprietary and therefore require safeguarding above what the current selection and public review process may provide.

Recommendation: Revise the Implementation Agreement to include the new proposal and selection procedures as outlined below.

The revised Implementation Agreement process is intended to address the issue identified in the Background section above by changing the process to meet the requirement as a competitive selection process pursuant to Federal acquisition regulations. The revised process would also move the timing of public input from review of proposals to input on funding priorities prior to the call for proposals.

To ensure that the proposal and selection process provides for fair and open competition and protects proprietary information, input from the procurement staff of the BLM, FWS and FS has been obtained. The new process is described in more detail below:

1. With input from the public, funding priorities are selected and finalized by the appropriate teams (similar to the Sub-Groups in SNLMA).
2. An announcement is published in FedBizOps.gov and/or Grants.gov requesting proposals be submitted for the current Round.
3. Proposals are submitted to the contracting officer or assistance officer identified in the announcement.
4. The proposals are reviewed and ranked by the team, agency overhead is added into the proposed budget and a recommendation for funding is forwarded to the PWG.
5. The PWG reviews the recommendation, changes are made as necessary, and it is then forwarded to the Executive Committee.
6. The Executive Committee reviews the recommendation, changes are made as necessary and a final recommendation is forwarded to the BLM Director.
7. BLM's Director approves funding for the selected proposals.
8. The successful applicants are notified of the decision to approve funding for their project.

2. Clarification of the Special Account Reserve (SAR) language.

Issue: There are three issues with the current Implementation Agreement language which need to be addressed.

The requirement that the Director approve a \$10,000 SAR for each Round includes a typo regarding the amount of funding which was intended to be \$100,000 since later in the same section it speaks to a \$100,000 SAR.

The Implementation Agreement states that the PWG has authority to approve SAR requests under \$100,000 for unanticipated shortfalls in approved projects, safety issues that pose an imminent threat and require immediate remediation, and unique opportunities or unanticipated circumstances that warrant quick response. This language conflicts with the current LCLA delegation from the Secretary to the Director which does not provide further delegation to the PWG for approval of expenditures.

The Implementation Agreement does not differentiate approval authority between SAR funding for shortfalls on currently approved projects versus requests for new proposals or acquisitions for safety issues that pose an imminent threat and require immediate remediation or unique opportunities or unanticipated circumstances that warrant quick response. The LCLA delegation is such that approval of SAR requests for project funding shortfalls are addressed by the Executive Committee and all other SAR requests should be approved by the BLM Director. To conform with the delegation, the Implementation Agreement should be changed to identify approval of new or emergency projects by the Director.

Recommendation: Revise the Implementation Agreement as follows:

- “During each Round, the Director, Bureau of Land Management may be asked to approve up to \$100,000 for either LCCRDA or LCLA Special Account Reserves.”
- Delete any authority for the PWG to approve SAR requests.
- Allow the Executive Committee authority to approve SAR requests for shortfalls only.
- Any requests for new proposals or acquisitions for safety issues that pose an imminent threat and require immediate remediation or unique opportunities or unanticipated circumstances that warrant quick response must be approved by the BLM Director.

3. Lincoln County Archaeological Initiative Criteria Revisions

Background: Currently, the evaluation criteria do not contain language that is necessary to conform to Federal Acquisition Regulations contracting procedures. The proposed revisions (attached) are needed to address the revised nomination and selection process as described in Change #1 above. These revisions were previously approved by the PWG and the EC by e-mail on July 8th, 2009. Inclusion in this Decision Memo is for documentation only.

Recommendation: Revise the Implementation Agreement to include the revisions to Lincoln County Archaeological Initiative criteria.

Action Needed:

Partners Working Group members should provide their vote regarding the above recommendations to Mike Holbert, Chair of the Partners Working Group.

Partners Working Group Decision: The signature below indicates the decision made by majority vote on the above Ely District Office recommendation.

BY: Michael R. Holbert, Partners Working Group Chair

	<i>12/14/2009</i>
Approve Ely District Office Recommendation	Date

Approve Alternate Recommendation (Refer to rationale provided below)	Date
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Disapprove (Refer to rationale provided below)	Date
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If the Partners Working Group (PWG) disagrees with the Ely District Office recommendation and/or approves an alternate action, please explain below:

The PWG will notify the Executive Committee of its decision and return the original signed document to the Ely District Office to be maintained in the administrative record.

Executive Committee Decision: By signature below, indicate the decision made by majority vote on the above recommendation of the Partners Working Group (PWG).

BY: Ron Wenker, Executive Committee Chair

	<i>January 8, 2010</i>
Approve Above PWG Recommendation	Date

Disapprove PWG Recommendation (Refer to rationale provided below.)	Date
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If the Executive Committee disagrees with the Partners Working Group recommendation and/or approves an alternate action, please explain below:

The Executive Committee will notify the Partners Working Group of its decision and return the original signed document to the Ely District Office to be maintained in the administrative record.

Appendix C-1

Archaeological Resources Evaluation Criteria

Instructions for preparing a proposal:

All proposals must comply with instructions in the General Statement of Agency Needs. If selected, the proponents must obtain permits when required by Federal, State and/or local regulation/policy and should factor this in to the proposal. Additionally, the proponents must meet the Secretary of the Interior's qualifications for cultural resource personnel, maintain security of cultural resource information, and prepare cultural resource data in formats compatible with the Nevada Cultural Resource Information System (NVCRIS).

Lincoln County Land Act of 2000 funds shall only be used for the inventory, evaluation, protection and management of "archaeological resources" as defined in the Archaeological Resources Protection Act of 1979.

Proposals received by the specified due date will be scored and subsequently ranked based on the following criteria.

Criterion I: Meets the archaeological resource goals of the Lincoln County Archaeological Initiative.

20 points

The proposal demonstrates that it will meet archaeological resource goals of the Lincoln County Archaeological Initiative. The goals are:

- 1) Preserve, protect, monitor, restore, maintain, and/or enhance archaeological resources in place for the public, conservation, scientific, or traditional uses which will result in improved resource management practices;
- 2) Conserve through inventory, evaluation, protection monitoring, and restoration archaeological collections and records;
- 3) Utilize, share, and interpret the results of archaeological research with academia, management, tribes and the public;
- 4) Increase public outreach and participation in archaeology;
- 5) Complements and supports existing plans of the agency to which the proposal applies such as land use and resource management plans.

Criterion II: Response to the priority (ies) stated in the General Statement of Agency Needs.

60 points

The proposal provides a strong response to the priority (ies) stated in the General Statement of Agency Needs. The proposal outlines a research and/or work plan for the archaeological resource(s) that have been targeted under one of the priorities. The proposal identifies 1) purpose and archaeological context of the project, 2) methodology, 3) reporting and other products describing results, 4) work schedule or timeline, and 5) detailed description of deliverables and associated costs.

Criterion III: Capability

10 points

The proposal demonstrates specialized experience, equipment and facilities to carry out the proposal. The proposal identifies specialized experience, expert or specialized personnel, specialized services, equipment, and facilities to conduct the elements of the research and/or work plan. Federal agencies and local governments will be rated neutral (5 points).

Criterion IV: Past Performance

10 points

The proposal demonstrates a past record of performance on similar work performed for federal, state, local, or private entities with respect to cost, type of work, quality of work and ability to meet schedule by providing three references of recent and relevant work performed within the past three years. References must include: Project title, agency/organization for which the work was performed, Award Number, dollar amount, brief description of the work, name, and phone of contact. Offerors without recent or relevant references shall submit a statement to such effect in order to be considered as having a 'neutral' Past Performance (5 points).

Evaluation Total: 100 points

Price

Selection is determined by considering the Total Points of each proposal, and Cost (not just Cost). To be considered, proponents must prepare Attachment 1-Expanded 3 Year Budget and Appendix B-1, Archaeological Resources Estimated Necessary Expenses & Key Milestone Dates.