



Questions and Answers about the Columbia Basin Water Transactions Program Request for Quotations: Legal Support for Water Transactions in the Columbia Basin

November 18, 2021

NFWF accepted questions about the RFP in writing through November 16, 2021. All questions and answers have been posted on NFWF's [website](#) so that all offerors have access to them at the same time. Similar questions have been combined.

1. Can you share the Criteria for Competitive Applications?

The criteria for competitive applications is listed as follows (more information can be found on page 3 of the RFQ):

- Understanding of the Scope of Work (Weight 10%)
- Technical Approach (Weight 20%)
- Qualifications of Proposed Personnel (Weight 30%)
- Contractor's Past Performance (Weight 20%)
- Budget (Weight 20%)

2. What is the annual range of total Qualified Local Entity (QLE) water transaction proposals? How many QLEs submit proposals that proceed through execution of an enforceable landowner agreement in a typical year?

The CBWTP typically reviews 35-50 proposals per year. In 2022, CBWTP will have eight QLEs who are eligible to submit transaction proposals.

3. Is legal responsible for looking for or finding any due diligence information outside of what the QLE submits via proposal? Is the legal review mainly a review of materials generated by the QLE?

The CBWTP legal consultant will be responsible for the review of all necessary documents in order to see the transaction through from proposal to activation. This may include review of water transaction proposals, draft and signed landowner agreements or signed letter of intents, documentation of water rights, state agency orders, and title review requirements. These documents are mainly generated by the QLEs, however, there may be documents generated by NFWF or BPA that may need additional review.

4. Does legal have access to a NFWF/CBWTP/NPCC hydrologist outside of the TAC? Do members of the TAC provide any additional capacity directly to legal outside the immediate review of applications related to follow up support to QLEs or to advise NFWF on program strategies and improvements?

The legal consultant will be encouraged to work directly with other NFWF consultants, including our monitoring/data experts to assist with transaction review and other questions. Members of TAC will be able to answer questions outside of proposal review and can provide additional support regarding follow-up to QLEs and advise NFWF on program improvements.

5. What are the expectations for annual number of physical, in-person, face-to-face TAC meetings or other QLE-related outreach or other meetings? What locations?

There will be at least three virtual TAC meetings per year that the legal consultant will be required to attend. In addition, CBWTP holds two “QLE Meetings” per year that the legal consultant will be encouraged to attend. Typically, these meetings are held in person at a location in the Columbia Basin but are currently conducted via webinar until travel restrictions are lifted. Other meetings (in person or webinar) may occur but will not be required of the legal consultant without previous discussion.

6. Has NFWF approved a specific budget (or range of acceptable fees) for external legal spending related to this RFQ or considered a draft budget range at the present time? Is this considered a fixed bid contract or is it structured on the variability of the total number of water transaction proposals or the total number of hours that might arise on any particular due diligence review?

We cannot share information about the budget for this evaluation. The proposed cost should be adequate for the level of effort necessary for providing robust findings. The final scope and budget for the evaluation will be negotiated between NFWF and the selected contractor. This is considered a fixed budget contract for the listed period of performance.

7. In order to provide a more accurate task-based budget, could NFWF present to those submitting proposals a representative transaction package?

More information on the water transaction review and approval process, including an outline of the proposal questions, can be found [here](#). Please see Attachment 1 for the Water Transaction Proposal Form. Example legal documents such as landowner agreements cannot be shared until a contractor is selected.

8. What is the depth of support that most QLEs typically require during the development of a typical transaction? Have most issues been historically covered via phone calls or brief email correspondence, or do QLEs sometimes require detailed legal memos or similar forms of significant written work product?

Typically, the NFWF legal consultant does not get involved in the development of a typical transaction. The legal consultant may answer questions from a QLE before a transaction is proposed for administrative or structural clarifications, however, involvement typically begins once a landowner agreement has been drafted. Most issues or questions are resolved over the phone, in a virtual meeting, or via email.

9. To help inform an apples-to-apples style comparison between proposed budgets submitted by Contractors, are there any uniform assumptions NFWF would like applicants to incorporate within the specific scope of work for each task (e.g., average number of project documents per QLE application, average number of QLEs who submit proposals during the three transaction solicitations per year, number of material turns of the landowner agreement anticipated, etc.)?

Applicants should anticipate an average of 35-50 proposals to review (along with associated documents) from eight QLEs.