

**New Mexico Interstate Stream Commission
Arizona Water Settlements Act (AWSA) - New Mexico Unit Fund**

2024 New Mexico Unit Fund Pilot Cycle Policy

Purpose and Introduction

The New Mexico Interstate Stream Commission (NMISC or Commission) is authorized “to investigate, protect, conserve, and develop New Mexico’s waters including both interstate and intrastate stream systems.”¹ In accordance with these authorizations, the Commission administers the New Mexico Unit Fund (Unit Fund) under the Arizona Water Settlements Act (AWSA)² and the New Mexico Unit Fund Act.³ Under the New Mexico Unit Fund Act, “money in the fund shall be used to pay the costs of water utilization projects to meet water supply demands in the southwest water planning region of New Mexico that encompasses Catron, Grant, Hidalgo and Luna counties, as determined by the Commission in consultation with the Water Trust Board (WTB).”⁴ Through this process, the WTB evaluates projects, including the project’s environmental impacts, and recommends projects to the Commission. The Commission has “final decision-making authority over which projects are funded.”⁵ Under this final decision-making authority, the Commission may opt to fully fund, partially fund, or not fund a project recommended by the WTB.

Funding through the Unit Fund may assist the Southwest Region to use and conserve its limited water resources through coordinated, strategic, efficient, and sustainable project planning, development, and implementation. Communities may utilize the Unit Fund to secure the tools and funding they need to make informed decisions related to their water infrastructure development and watershed health in the face of challenges such as prolonged drought, flooding, and fire.

While the Commission has funded projects from the Unit Fund in the past, statutory changes to the New Mexico Unit Fund Act in 2021 generated a need for the NMISC to jointly develop a process for funding in coordination with the WTB. During the Commission’s March 5, 2024, meeting, the NMISC staff presented a timeline to jointly develop and implement a Pilot Cycle to inform future funding cycles. The NMISC and WTB intend to use the Pilot Cycle to create, test, and refine an application process for future funding cycles that:

- Provides clarity for applicants including clear division of roles between WTB and NMISC.
- Acknowledges the need for an initial technical evaluation and consideration of technical capacity in the region.
- Allows for flexibility to accommodate various stages of applicant readiness i.e., planning, engineering, construction.
- Considers fund distributions to cover multiple geographies, population areas, urgency of need, and project types.
- Evaluates applicant capacity for long-term asset management as well as operations and maintenance needs.
- Includes targeted public outreach to solicit input to assist in preparing the application process.

Through the Pilot Cycle, the NMISC may fund planning or design components for water utilization projects that meet water supply demands. As the agencies develop their respective roles in light of the 2021 changes to the New Mexico Unit Fund Act, such efforts are intended to enable the NMISC and WTB to “learn by doing” and consider lessons-learned to adapt any future processes and inform any future policies that may be developed after the expiration of Pilot Cycle.

¹ NMSA 1978, § 72-14-3, available at <https://nmonesource.com/nmos/nmsa/en/item/4402/index.do#72-14-3>.

² Arizona Water Settlements Act, Pub. L. No. 108–451, 118 Stat. 3478 (2004).

³ NMSA 1978, § 72-14-45, available at <https://nmonesource.com/nmos/nmsa/en/item/4402/index.do#72-14-45>.

⁴ NMSA 1978, § 72-14-45(c), available at <https://nmonesource.com/nmos/nmsa/en/item/4402/index.do#72-14-45>.

⁵ NMSA 1978, § 72-14-45(c), available at <https://nmonesource.com/nmos/nmsa/en/item/4402/index.do#72-14-45>.

Section I: Pilot Cycle Eligible Entities and Projects

Eligible entities for the Pilot Cycle include any political subdivision of the state, any public entity, local governments, including counties, cities, acequias, irrigation districts, and mutual domestic water consumers associations. Additionally, eligible entities include nongovernmental organizations with a fiscal agent that is a political subdivision of the state.

Funding from the Pilot Cycle may support planning or design components of water utilization projects that accomplish one or more of the following:

- Promote conservation and efficient use of the state’s limited water supplies.
- Establish and support water delivery systems or treatment systems that are hydrologically and fiscally sustainable and meet state and federal statutory and regulatory requirements.
- Support watershed health through projects that restore riparian ecosystems, improve water quality, or mitigates damage to water resources from wildfire.

Eligible planning or design projects in the Pilot Cycle include the following:

- Planning Projects:
 - a. Applicants may apply for funds to support the development of planning documents and reports for water utilization projects. Such development may include technical feasibility investigation including long-term compliance, long-term operation, maintenance, and repair needs, and cost-benefit analysis.
 - i. Technical Plans may include Professional Engineering Reports (PER), Water Conservation Plans, Tank Inspection Reports, or other technical plans up to 30% design and with a cost-benefit analysis including environmental impacts and compliance.
 - b. Applicants may apply for funds to develop System Documents that will support planning efforts that contribute to local capacity.
 - i. System Documents may include Asset Management Plans, System Assessments, Water Conservation Plans, 40-year Water Plans, Hydrogeology Assessments, and any federal environmental compliance documents.
 - ii. Each Applicant may apply for funds to collect water data to support an Applicant’s planning project, which will also be made accessible to comply with modern water data standards and best practices identified by the agencies collaborating on the New Mexico Water Data Act.
- Design Projects:
 - a. Applicants may apply for funds to support the development of plans and specifications for projects that have a PER or acceptable technical memoranda that must include consideration of environmental impacts and compliance of the project along with mitigated or ameliorated effects.
 - i. Design-advancing activities may include full design from 60 – 90% completed with specifications and cost estimates plus preparation of bid documents.
 - ii. Each Applicant may apply for funds to collect water data to support an Applicant’s design project, which will also be made accessible to comply with modern water data standards and best practices identified by the agencies collaborating on the New Mexico Water Data Act.

Section II: NMISC and WTB Pilot Cycle Process Roles

The NMISC and WTB will coordinate on the Pilot Cycle application and evaluation process. The WTB will develop the application form, evaluate projects – including environmental impacts – and make recommendations to the Commission, which may determine whether to fund the recommended project partially or fully. The process below generally outlines the respective roles of the NMISC and WTB in the application evaluation and award process. Through the Pilot Cycle, the NMISC and WTB will learn and adapt together to test and refine both the process and each agency's role to meet the requirements of the New Mexico Unit Fund Act and serve the Southwest Region into the future.

1. WTB evaluates submitted application forms to determine whether an application is complete and meets eligibility requirements.
2. WTB reports on the results of the applications received.
3. WTB recommends applications to the Commission for funding.
4. The Commission may consider WTB project recommendations and any public comment.
5. The Commission decides which projects will be partially or fully funded.
6. If the Commission does not agree with all or some of the WTB project recommendations, specific justifications will be documented during the meeting.
7. NMISC notifies all grant applicants and WTB within 30 days of the Commission's decision regarding each applicant's allocation.

Section III: Pilot Cycle Application Process and Verification

Applicants will submit applications to the NMFA on behalf of the WTB. After the application period closes, the WTB will evaluate whether an application is complete. The NMISC will require the following information, at a minimum, to consider application for funding:

1. A description of the nature of the overall water utilization project which includes planning or design, including the scope of the work or statement of work to be performed, as applicable.
2. Description that the project is a water utilization project that meets water supply demands.
3. Identification of the total amount of available funds being requested from the Unit Fund, including funds for project management assistance, and disclosure of any available matching funding.
4. Information regarding land ownership, easements and/or water rights associated with the project, including written documentation from the New Mexico Office of the State Engineer (OSE) verifying that the project or program will use existing water rights in good standing, or an explanation of steps the applicant intends to take to secure such water rights or remedy any permit requirements, if applicable.
5. Information showing that the applicant is a political subdivision of the state authorized by statute to receive public funds or has a fiscal agent that is a political subdivision of the state.
6. A resolution enacted at a public meeting held in accordance with the provisions of the applicant's bylaws or other organizing document, and/or in accordance with the Open Meetings Act if applicable, authorizing the applicant to submit an application.
7. Identification of potential data sources and method to gather data in alignment with the New Mexico Water Data Act.

Section IV: Pilot Cycle Evaluation

For the Pilot Cycle, the WTB will evaluate projects, including their environmental impacts, proposed within the Southwest Region and will recommend projects to the Commission. Utilizing its established evaluation process, or similar, WTB will make publicly available the criteria an application must provide to be determined “complete” and the criteria WTB will utilize to evaluate applications in making its recommendations to the Commission.

In order to consider Pilot Cycle funding recommendations from the WTB, the NMISC requires that the applicant demonstrate that the proposed project is a water utilization project that meets water supply demands in the Southwest Region, in accordance with Section 212(i) of the AWSA and New Mexico Unit Fund Act.

In addition to the considerations above, the NMISC will require the following elements to be considered when identifying the benefits and costs of proposed projects:

1. Contribution to regionalization goals.
2. Contribution to system resiliency.
3. Contribution to water security.
4. Contribution to the economic health of the local community.
5. Ability to protect, enhance, or maintain cultural lifeways or resources.
6. Level of local community engagement and participation.

To the greatest extent possible, the NMISC will seek to fund efforts that represent functional stand-alone phases that can be completed within 12-24 months from the date entering into a funding agreement. While matching funds and/or in-kind contributions are encouraged, Commission approval of recommended projects will be irrespective of the availability of matching funds and in-kind contributions.

Section V: Pilot Cycle Grant Agreement

After the Commission approves a funding allocation to a qualified entity, the NMISC will work to develop a funding agreement with the recipient. All funding agreements shall be on a reimbursement basis.

Statutory Reference: NMSA 1978, § 72-14-3; NMSA 1978, § 72-14-45; Arizona Water Settlements Act, Pub. L. No. 108-451, § 212(i), 118 Stat. 3478 (2004) New Mexico Water Data Act (NMSA 1978, §§ 72-4B-1 to 72-4B-4).

Original Issue Date: September 24, 2024

Expiration Date of this Policy: June 30, 2025

This 2024 New Mexico Unit Fund Pilot Cycle Policy is adopted, approved, and effective on this 24th day of September 2024, by a vote of 9 in favor, 0 opposed, and 0 abstaining.