

## **2016 Local Entity Non-Competitive Mitigation Program Request for Proposals**

**Program purpose:** This non-competitive mitigation program is designed to help offset the negative socioeconomic impacts caused by the agricultural land fallowing program, occurring in defined periods of time from **July 1, 2014 to June 30, 2017**.

Although this program is intended to offset the negative socioeconomic impacts caused by agricultural land fallowing, it is not intended to be, and cannot be, a full or precise measure of the damages sustained by any individual applicant. Awards under this program are set and/or capped, and are intended to only-partially mitigate applicant's losses, rather than to make applicants whole. The Local Entity is not responsible either for agricultural land fallowing, nor the damages sustained in relation thereto, and applicants must not rely on the Local Entity as an adequate remedy for any loss purportedly sustained.

**Eligible applicants:** Farm service providers and displaced tenants in the IID water service territory who are not IID employees, or spouses or household members of IID employees, and who were directly impacted by agricultural land fallowing occurring during the period of **July 1, 2014 through June 30, 2017**.

**Deadline for claims submission:** 5 p.m. Monday, December 5, 2016

**Application forms:** Application forms may be downloaded from the IID website located at [www.iid.com/water/water-conservation/local-entity](http://www.iid.com/water/water-conservation/local-entity). Applicants are responsible for checking the web site regularly for updates. An application packet may also be requested from the Local Entity staff listed below.

### **Local Entity staff:**

#### **To request applications and ask questions:**

Candace Nelson	<a href="mailto:candace@ivlocalentity.com">candace@ivlocalentity.com</a>	(760) 791-6797
Gustavo Reza	<a href="mailto:gustavo@ivlocalentity.com">gustavo@ivlocalentity.com</a>	(760) 791-7213
Gilbert Grijalva	<a href="mailto:gilbert@ivlocalentity.com">gilbert@ivlocalentity.com</a>	(760) 457-6843

#### **To submit applications and appeals, or ask general questions:**

Sandra Corella	333 E Barioni Blvd, Imperial, CA	(760) 339-9422
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**Only hand-delivered applications** that comply with this RFP will be accepted.

### **Application Workshops:**

Monday, Sept. 26, 2016	10 a.m.	IID Board Room 1285 Broadway, El Centro, CA
Monday, Sept. 26, 2016	2 p.m.	IID Board Room 1285 Broadway, El Centro, CA

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## Section I Definitions

1. **Appellant:** Applicant making an appeal regarding the nature of an award recommendation or the failure to make an award recommendation as to the claims sought.
2. **Applicants:** Farm service providers or displaced tenants within the IID water service territory who are not IID employees or spouses or household members of IID employees, and who were directly affected by the enrollment of one or more fields into the IID's agricultural following program.

For the purposes of the per-applicant cap, multiple applicants sharing common ownership, as determined by the Local Entity, will be treated as a single applicant.

3. **Awarding entity:** The Local Entity, in connection with the Imperial Irrigation District.
4. **Award funding:** For the **2014-2015** following year, **\$5,214,317** is available for mitigation through this program. For the **2015-2016** following year, **\$2,924,082** is available for mitigation through this program. For the **2016-2017** following year, **\$4,223,440** is available for mitigation through this program.

If the award funding applicable to a given following year exceeds the amount distributable to applicants in that following year as determined under this RFP, that excess may (although need not) be allocated by the Local Entity to any other following year or distributed to applicants whose approved claims exceed the per-applicant cap. Initial award prorations will be based on the total amount of approved claims in relation to the amount of funds available for each following year, and subject to a per applicant mitigation funding cap of **\$100,000** for any single following year. Subsequent funding allocations may exceed this cap if excess mitigation funding is available, subject to authorization by the Local Entity and at its sole discretion.

5. **Claim form:** Any of several Excel documents an applicant must fully complete in order to file a claim under this RFP, or the printed versions thereof.
6. **Displaced tenant:** A person or entity who/which managed the commercial production of and performed eligible activities on an agricultural crop or crops on land in the water service territory that tenant (and immediate family members of tenant) did not have any ownership interest in during the invoice period. *Displaced tenants will only be eligible for mitigation on fields listed on the 2014 Calendar Year Following Program List.*
7. **Fallowed field(s):** A land parcel that was enrolled in IID's agricultural land following programs during one or more of the following years covered by this RFP. Lands fallowed for renewable energy project purposes and covered by IID's temporary land conversion following policy are not eligible for this program.

8. **Fallowing period:** The period of time, **between July 1, 2014 and June 30, 2017**, during which a field was enrolled in an IID fallowing program.

This time period may be less than a full fallowing year, or may overlap into more than one fallowing year. The 2016 Local Entity program master list will identify the fallowing period for each fallowed field included under this RFP.

9. **Fallowing year(s):** A one-year time period that encompasses all of the fallowing that occurred within that year, and for which a specific amount of mitigation funds are set aside. The following fallowing years are defined under this RFP:

**July 1, 2014 - June 30, 2015** (2014-2015 fallowing year).

**July 1, 2015 - June 30, 2016** (2015-2016 fallowing year).

**July 1, 2016 - June 30, 2017** (2016-2017 fallowing year).

10. **Farm service provider:** A person or entity who/which provided products or performed services in connection with the agricultural industry in the water service territory during the invoice period for the fallowed field(s) for which mitigation is being requested.

11. **Funding program:** The 2016 Local Entity Non-Competitive Mitigation Program.

12. **IID employee(s):** Employee(s) and contractor(s) of IID (including part-time or temporary employees, contract employees, consultants, and vendors who are paid or reimbursed by IID, and the principals and employees of such consultants and vendors). IID employees and the spouses and household members of IID employees are not eligible to participate in the program for a period ending one year following termination of such relationship.

13. **IID website:** [www.iid.com](http://www.iid.com)

14. **Immediate family members:** Spouses, siblings, parents, children and any other persons residing at the same household whether or not related.

15. **Invoice period:** The period of time for which applicants must provide verification that they provided a product or service to a fallowed field in order to receive mitigation under this RFP.

IID will assign the crop based on actual past crop data from IID field records using a consistent methodology and a similar term as the fallowing period.

The invoice period(s) for each fallowed field will be identified on the 2016 Local Entity program master list included under this RFP.

16. **Landowner:** A person or entity who/which owned, or managed on behalf of the owner, a fallowed field in the water service territory, and/or who acted as Farm Unit Manager or participated in enrolling the field into an IID agricultural land fallowing program.

17. **Local Entity:** The Imperial Irrigation District Board of Directors, when acting as the LE, functions to make available grants and other funds in order to help offset the socioeconomic impacts of the agricultural land fallowing implemented by IID in furtherance of the Quantification Settlement Agreement and related agreements. The agricultural land fallowing and socioeconomic mitigation is governed in part by an agreement known as the Revised Fourth Amendment, as modified and amended, to the agreement between IID and San Diego County Water Authority for the transfer of conserved water, dated October 10, 2003.

This agricultural land fallowing was purposed to create conserved water for transfer and for environmental mitigation. These measures directly produced a loss of business and tax revenue, employment income and consumer spending within the agriculture-related sector and consequently collateral impacts upon local businesses, individuals and governments within Imperial County.

18. **Water service territory:** The area of Imperial County that receives water service from the IID.

## Section II Overview

1. **Program format:** Non-Competitive - claims will be reviewed, approved and/or denied based on their own merit and adherence to the program guidelines.
2. **Deadlines for claims submission:** All claims must be submitted in their entirety no later than **5:00 p.m. on Monday, December 5, 2016.**
3. **Program purpose:** The primary objective of the program is to mitigate the negative socioeconomic impacts of the IID agricultural land fallowing program during the fallowing periods.

The Board of Directors recognizes that Imperial County suffered economic hardships as a result of agricultural land fallowing implemented by the IID in furtherance of the QSA. This program focuses on Imperial Valley farm service providers and tenants who were **directly impacted** by the fallowing of specific agricultural fields during the fallowing periods covered by this RFP.

(See the attached 2016 Local Entity program master list.)

4. **Award proration:** Awards will be proportionally distributed based on the amount of funds available for each fallowing year divided by the total amount of approved claims.
5. **Award cap: No applicant may receive more than one hundred thousand dollars (\$100,000.00)** in mitigation funds for any single fallowing year. For the purposes of this cap, multiple applicants with common ownership as determined by the Local Entity, will be treated as a single applicant.

### Section III Claims Eligibility

In order to apply for any level of funding under this program, applicant must establish, with reasonable clarity and certainty that applicant fully conforms to the following criteria:

1. Applicant must be a farm service provider or displaced tenant. Displaced tenants will only be eligible for mitigation on fields listed on the 2014 Calendar Year Fallowing Program list.
2. Applicant may not be an IID employee or a spouse or household member of an IID employee.
3. Applicant must provide verification that during the invoice period, applicant maintained a principal place of business within the IID water service territory by one of the following means:
  - A. Submit a business license documentation establishing the applicant's place of business within the water service territory; or
  - B. Produce other documentary evidence establishing with reasonable certainty and clarity the applicant's place of business within the water service territory.
4. Applicants already identified on the 2014 Calendar Year Fallowing Program list are eligible for mitigation under this program at the rates listed and do not need to submit additional mitigation claim forms for the fields and dates listed.
5. Applicant must submit verification that it provided a product or service directly connected to a fallowed field during the invoice period. Documentation must be sufficient to reasonably demonstrate that the applicant completed the claimed activities. The LE may, at its discretion, request additional documentation.

Verification will be established in the following manner:

- A. Applicant will provide the following:
  - i. **Copies of invoices** verifying that applicant billed the appropriate entity for the product or service for which applicant is requesting mitigation during the invoice period. Invoices must include the following information, which should be highlighted on the invoice:
    - a. Invoice number;
    - b. Name and address of applicant, which will match the name and address on the claim form;

- c. Name and address of the grower or other entity responsible for payment of the invoice, which will match the information on the IID's records for that parcel during the relevant time period;
- d. Date the product or service was provided, which will be during the invoice period;
- e. Canal and gate designation of the field where the product or service was provided, which will match the fallowed field upon which the claim is made;
- f. Description of the product or service provided, which will match the product or service for which mitigation is being requested.

For each product or service type for which mitigation is being requested on a particular fallowed field and fallowing period, applicant must provide at least one invoice. The LE may, at its discretion, request additional invoices for products or services that are typically provided multiple times during a growing season.

- ii. **Verification of payment** of the supplied invoices by the responsible entity shown on the invoice may be required at the discretion of the LE.

B. If applicant is a displaced **tenant**, applying for mitigation on a field listed on the 2014 Calendar Year Fallowing Program List, applicant may alternatively provide the following documentation for the fields on which they manage the production of crops:

- i. A **copy of the Schedule(s) of Moveable Farm Equipment** (Form 571-F Schedule D and other relevant schedules), along with the first page of the Agricultural Property Statement (Form 571-F) filed with the Imperial County Assessor for the Invoice Period. These documents will:
  - a. Include the name, address and signature of the entity that possesses the equipment, which will match the name and address of the applicant;
  - b. Identify the date on which the information was valid, which shall be within the Invoice Period;
  - c. Show that applicant owned the appropriate equipment to complete the activities being claimed, and that the equipment was in sufficient quantities and condition to perform the claimed activities on applicant's farm, in accordance with

generally accepted practices among the Imperial Valley farming community;

- d. Be an exact copy of the document(s) filed with the Imperial County Assessor for the date(s) shown on the form (non-relevant information may be blacked out or redacted).

#### Section IV

### **Claims Submission Guidelines**

1. Claims under this program are limited to those that fall within the generally accepted practices among the Imperial Valley farming community. Only those activities that typically occur between initial field preparation for a crop and harvest, terminating at the initial point of sale of the crop, are included.
2. All claims are subject to proration based on available funds.
3. Separate claim forms must be submitted for each fallowed field, following year and crop for which a claim is being made. If an invoice period overlaps into more than one following year, a claim form must be completed for each following year in order to receive mitigation for the entire period. All claim forms must be fully completed.

Applicants listed on the 2014 Calendar Year Following Program List need not submit additional claim forms for mitigation on those fields for the 2014-15 Following Year.

4. If the products or services for which an applicant is requesting mitigation require a license or permit, the LE may, at its discretion, request verification that the applicant held the appropriate license(s) or permit(s) during the invoice period when the applicant provided the products or services.
5. Guidelines for submission:
  - A. For each claim, the applicant must select the applicable claim form(s) that correspond to the crop grown on the fallowed field during the invoice period. Each form sets out activities consistent with generally accepted practices among the Imperial Valley farming community related to the subject crop.
  - B. For Farm Service Provider applicants, each claim form should be accompanied by a copy of each invoice submitted for verification. The invoice(s) should be clipped or attached to the claim form.
  - C. Applicants will not be the same entity as the Landowner on the fallowed field, nor will applicant or applicant's immediate family members have any ownership interest in or common ownership with the landowner.
  - D. Claim amounts are based on typical yields expected in the Imperial County.

- E. Claims on fields that have been multiple-cropped will be limited to crop combinations that are consistent with the generally accepted practices among the Imperial Valley farming community.
- F. Claims will be limited to certain activities as identified on the claim forms, and will be limited to the **following crops** exclusively:
  - i. **Alfalfa Hay Production on Beds;**  
*growing season July 1 – June 30*
  - ii. **Alfalfa Hay Production, Flat Planted;**  
*growing season July 1 – June 30*
  - iii. **Alfalfa Seed Production;**  
*growing season March 1 – July 31*
  - iv. **Bermuda Grass Hay Production;**  
*growing season July 1 – June 30*
  - v. **Bermuda Grass Seed Production;**  
*growing season March 1 – July 31*
  - vi. **Kleingrass Hay Production;**  
*growing season July 1 – June 30*
  - vii. **Oat Production;**  
*growing season November 1 – April 30*
  - viii. **Rye Grass Production;**  
*growing season October 1 – May 31*
  - ix. **Sudan Grass Hay Production;**  
*growing season April 1 – September 30*
  - x. **Wheat Production**  
*growing season November 1 – June 30.*
- G. If a portion of the invoice period falls outside the following period, mitigation rates for that crop will be prorated based on the portion of the invoice period that falls within the following period.
- H. If an invoice period overlaps into more than one following year, mitigation rates will be prorated based on the portion of the invoice period that falls within each following year. A claim form must be completed for each following year in order to receive mitigation for the entire invoice period.
- I. Invoices for products or services provided before or after the invoice period may be eligible for mitigation if it can be reasonably demonstrated that the activity was directly related to producing or harvesting during the invoice period.

- J. Tenant claims will not be allowed on land owned by IID. Applicants may not file a claim on fallowed fields for which applicant or applicant's immediate family member received a payment from IID as a displaced tenant for the relevant following period.

Section V

**Claims Submission Requirements**

- 1. Any applicant that does not meet the substantive or procedural requirements for the submission of claims as set forth in this RFP is ineligible for funding and will be summarily disqualified
- 2. The LE will make available to interested applicants a USB digital media storage device containing all of the following documents (application packet):
  - A. This 2016 Local Entity Non-Competitive Mitigation Program Request for Proposals;
  - B. 2016 Local Entity program master list;
  - C. Claim summary form;
  - D. All program claim forms; and
  - E. IRS Form W-9: Request for Taxpayer Identification Number and Certification;

The application packet may be picked up from:

Sandra Corella  
IID Water Administration Department  
J-1 Building  
333 E Barioni Boulevard  
Imperial, California.

The application packet may also be obtained by contacting either of the LE staff listed below:

<b>Candace Nelson</b>	candace@ivlocalentity.com	(760) 791-6797
<b>Gustavo Reza</b>	gustavo@ivlocalentity.com	(760) 791-7213
<b>Gilbert Grijalva</b>	gilbert@ivlocalentity.com	(760) 457-6843

Applicant is required to appropriately and completely fill out and submit by hand delivery the application packet and all relevant documents by the deadline for claims submission. The claim summary form and IRS form W-9 must be completed and submitted by all applicants. The remaining forms must be completed and submitted only where applicable.

- 3. Final application packet must consist of the printed and identical electronic versions. All required forms and verification documents must be saved on a USB

digital storage device, AND must be hand delivered by the deadline for claims submission along with one copy of the printed paper set (hard copy) showing applicant's original dated signatures. With the exception of the signature, both hard copy and electronic versions must be identical.

4. Applicants may not add activities or otherwise amend or modify a claim form in any way once it has been submitted to the LE.
5. The electronic version of the claim summary form completed and submitted by applicant should be saved on the USB as:  
    [ApplicantName]\_2016\_Summary.xlsm”
6. The electronic version of the claim form(s) completed and submitted by applicant should be saved on the USB as:  
    “[ApplicantName]\_[Following Year]\_ [canal][gate]\_[crop].xlsm”
  - A. The claim form(s) will identify, for each individual claim submitted by the applicant:
    - i. The associated canal and gate designation;
    - ii. The associated grower name and landowner name for the invoice period;
    - iii. The amount of funds sought under the claim; and
    - iv. The corresponding following year for the claim.
7. Applicant must identify the following year(s) for which they are requesting mitigation on a fallowed field. If a following period overlaps into more than one following year, a claim form must be completed for each following year for which applicant wishes to receive mitigation.
8. Each hard copy claim form submitted must contain an original dated signature by the applicant.
9. For each claim, applicant must select the appropriate claim forms:
  - A. Applicant must select the appropriate claim form that corresponds to the crop grown on the fallowed field in question during the invoice period. Claim forms set out the activities recognized by the LE as consistent with generally accepted practices among the Imperial Valley farming community related to the subject crop. The LE will only admit claims under the claim form(s) submitted for the activities identified in connection with the following authorized crops:
    - i. Alfalfa Hay Production on Beds;
    - ii. Alfalfa Hay Production, Flat Planted;

- iii. Alfalfa Seed / Hay Production;
  - iv. Bermuda Grass Hay Production;
  - v. Combination Bermuda Grass Seed / Hay Production;
  - vi. Kleingrass Hay Production;
  - vii. Oat Production.
  - viii. Rye Grass Production.
  - ix. Sudan Grass Hay Production;
  - x. Wheat Production;
- B. The following items on each claim form must be identified in the appropriate space on the form: following year, canal and gate, claimant, grower, landowner, and activities.

Section VI  
**Submission of Claim Application Packet**

1. Following publication of the RFP on the IID web site, [www.iid.com](http://www.iid.com), there will be a period of at least 45 calendar days for preparation and submission of the application packets prior to the deadline for claims submission.
2. The LE staff will hold a series of public workshops to fully explain the RFP application process and assist interested applicants in the preparation and submission of their application packets. The workshop schedule will be posted on the IID web site.
3. The entire application packet must be contained within an envelope and hand delivered by the deadline for claims submission to:

Sandra Corella  
 IID Water Administration Department  
 J-1 Building  
 333 E Barioni Boulevard  
 Imperial, California.

4. The following information must be included on the outside of the envelope containing the application packet when presented for submission:

2016 LE Non-Competitive Mitigation Program  
 [Applicant Name]  
 [Applicant Mailing Address]

5. The LE will provide each applicant with a submission receipt form acknowledging the receipt of the application packet.

## Section VII Claim Legitimacy

1. The LE will evaluate all claims to determine if they meet the eligibility criteria as set forth in this RFP.
2. The LE may reject any applicant's claim in its entirety, or any component of the claim, if the application or any significant portion thereof fails to meet reasonable standards of accuracy, sensibility, credibility and trustworthiness, or to the extent that any farming activity described in the claim is not consistent with the generally accepted practices among the Imperial Valley farming community.
3. An entire claim, or any component of the claim, may be rejected if the claim is not consistent with the requirements of this RFP or if, in the view of the LE, the information in the claim does not reasonably establish that the applicant provided the relevant product or service to the relevant field during the invoice period.
4. An entire claim, or any component of the claim, may be rejected if the applicant or applicant's immediate family members are determined by the LE to be the same entity as the landowner, or to have ownership interest in or common ownership with the landowner or their immediate family members.
5. **Non-Circumvention.** By responding to this RFP, applicant agrees that it will not engage in any activity or course of conduct intended to hinder, defeat and/or take undue advantage of the substance of this RFP, and its intended objectives. The parties agree that Cal. Civ. Code Section 3528, which provides that "the law respects form less than substance," as applied to this RFP will govern the overriding interpretation. The LE reserves the right to reject applicant's claims for any reason in its unfettered discretion.
6. An entire claim, or any component of the claim, may be rejected if the applicant is determined by the LE to be an IID employee or the spouse or household member of an IID employee.
7. Under no circumstances will any single entity be awarded more than one hundred thousand dollars (\$100,000.00) for any single following year during the initial funding award, regardless of the authenticity or legitimacy of the claims submitted. For the purposes of this cap, multiple applicants who share common ownership, as determined by the LE, will be considered a single entity.
8. In case the LE receives overlapping or inconsistent claims from one or more applicants, the LE reserves the right to reject some or all of such claims or to reconcile inconsistencies in an equitable and reasonable manner.

9. The LE, upon review of the application packets, reserves the right to request additional documentation deemed by the LE to be appropriate and necessary.
10. If an applicant is determined by the LE to have submitted fraudulent documentation, forged signatures on claim forms, or otherwise purposely attempted to deceive or defraud the program, all claims submitted by the applicant under this RFP will be denied, and the applicant will be barred from receiving funding under all future Local Entity programs.

Section VIII  
**Claim Evaluation and Preliminary Recommendations**

1. Once the deadline for claims submission has expired, the LE will proceed to evaluate all claims presented for responsiveness to this RFP and the criteria set forth herein. Claims that are preliminarily determined to be in compliance with the program and are recommended for award will be posted on the IID web site. To the extent that the LE determines that any claims do not comply with the guideline parameters established within this RFP, and such claims are preliminarily determined to not be in compliance with the program, such results will also be posted on the IID web site.

Section IX  
**Appeal Process**

1. The LE will establish a two-member appeal panel responsible for evaluating and resolving any appeal regarding the preliminary recommendations. The appeal panel will be made up of two members of the LE.
2. An applicant may appeal the nature of an award recommendation or the failure to make an award recommendation as to some or all of the claims sought in a claim Application on or before the 20<sup>th</sup> calendar day following the Board of Directors meeting where such recommendation was presented. Appeals must be made in writing and delivered in person to:

Sandra Corella  
IID Water Administration Department  
J-1 Building  
333 E Barioni Boulevard  
Imperial, California

When submitting the appeal, the following information must be included on the envelope containing the appeal documents:

2016 LE Non-Competitive Mitigation Program – Appeal  
[Applicant Name]  
[Applicant Mailing Address]

3. The appeal panel will convene a public hearing(s) (appeal hearing) in which the merits of each appeal will be addressed. The appellant will be provided with advance notice of at least five (5) business days of the specific time and place for the appeal hearing.
4. At the appeal hearing the appellant will be provided a reasonable opportunity to present appellant's case to the appeal panel. The matters and/or issues presented by appellant at the appeal hearing must be confined to the scope of the matters and/or issues raised within the written appeal. No matters and/or issues may be considered by the appeal panel if they were not raised in the written appeal, unless there is a finding by the appeal panel that there exists good cause that the matter/issue was not raised in the written appeal.
5. The appeal panel will make a ruling on the appeal within a reasonable period of time after the appeal hearing, and recommend such ruling to the LE. Such ruling will become final once ratified by the LE.

#### Section X

#### **Notification of Final Results and Monetary Awards**

1. Once the LE ratifies any appeal rulings and all recommendations are made concerning the claims, the final results are final. Notification will be posted on the IID web site.
2. The notification will also contain the information pertaining to the monetary awards assigned to each claim. The LE will assign monetary awards by prorating the amounts available in each following year with the total amount of approved claims within the corresponding year.
3. If funding applicable to a given following year exceeds the amount distributable to applicants in that following year as determined under this RFP, that excess may (although need not) be allocated by the Local Entity to any other following years or distributed to applicants whose approved claims exceed the per-applicant cap.

#### Section XI

#### **General Notifications**

1. The notifications of actions taken by the LE and staff will be accomplished by postings on the IID web site.

#### Section XII

#### **Award Administration Information**

1. The LE may modify this RFP as deemed necessary to maintain the overall integrity of the program. Such modifications may include, among other things, suspension

and re-announcement of the program, modification of award funding or awarded amounts, etc.

Section XIII  
**Post-Award Audit**

1. All claim awards will be subject to reasonable audit by the LE concerning document verification and program eligibility and compliance. All applicants must agree to and cooperate with such audits as a condition of participation in this program.