

Water Prize Competition Center

Frequently Asked Questions

Question 1: Who is eligible to compete in Federal prize competitions?

Answer: If applicable, you should consult your organization's ethics office, and Section 24 of the American COMPETES Reauthorization Act of 2010, which limits eligibility to win a prize to entities/individuals that:

- 1. Have agreed to the rules of the competition*
- 2. Are either (a) in the case of an entity, incorporated in and maintain a primary place of business in the United States, or (b) in the case of an individual, a citizen or permanent resident of the United States*
- 3. Are not a Federal entity or Federal employee acting within the scope of employment*
- 4. Assume risks and waive claims against the Federal Government and its related entities*
- 5. Obtain liability insurance or demonstrate financial responsibility, in amounts determined by the head of an agency, for claims by third parties and the Federal Government*

In addition, Section 24 provides that:

An individual or entity shall not be deemed ineligible because the individual or entity used Federal facilities or consulted with Federal employees during a competition if the facilities and employees are made available to all individuals and entities participating in the competition on an equitable basis.

Question 2: Can foreign organizations and citizens participate in prize competitions under the American COMPETES Reauthorization Act of 2010?

Answer: Yes. The law states that only United States (U.S.) citizens/organizations are eligible to win prizes. However, submissions can be entertained from all comers regardless of whether they are U.S. citizens/entities, but prizes—whether monetary or otherwise—may not be awarded to non-U.S. citizens/entities under the authority of the Act. Many individuals participate simply to share their expertise, for the recognition, and/or they want to help solve water-related problems that face the Nation and the world.

Question 3: The law states a Federal entity acting within the scope of their employment is not eligible to win a prize. What does this mean?

Answer: A Federal entity could be a Federal agency or an organization or individual that is currently funded (directly or indirectly) by the Federal Government to conduct work within the technical domain represented by the specific challenge, or has previously been funded by the Federal Government for work which will constitute any part of the prize challenge submission.

Question 4: Can you help me better understand the eligibility limitations on Federal employees?

Answer: You should always check with your agency ethics officer to understand all the policies and rules specific to your agency. The law states Federal employees acting within the scope of employment are not eligible to win prizes. The scope of your employment means you are not eligible to win prizes in federally sponsored prize competitions for work performed during your duty hours, or that falls within the scope of your duties as a Federal employee. The scope of your employment may also extend to work performed on your own time, so all Federal employees should consult their agency Ethics Officer prior to competing in a prize competition if the technical domain represented by the specific challenge is similar to your position description or specific Federal duties. As a Federal employee operating within the scope of your employment, you are welcome to solve the federally sponsored prize competitions, but you will not receive additional monetary compensation.

Question 5: Can Federal agencies collaborate with outside parties to offer prize competitions?

Answer: Funding for the prize design, administration, and monetary award may come not only from federally appropriated funds, but also from the private sector. Funding from a non-Federal entity may be accepted under the authority of 15 USC 3719(m)(1). However, no private sector entity may be given “special consideration” in return for such donations. Where necessary, such collaboration must also employ standard funding agreement procedures and mechanisms (e.g., an Interagency Agreement if the funding collaboration is with another Federal entity).

Question 6: Can non-Federal entities or individuals collaborate with Federal agencies to contribute subject matter experts for designing and judging the competition?

Answer: Yes. Federal agencies may contract for, and some agencies (including the Bureau of Reclamation), can accept volunteer collaborating services to assist with the design, judging, or others aspects of administering the prize competition. However, individuals or organizations that collaborate on the design, judging, or other aspects of administering a prize competition will not be eligible to compete in the same prize competitions offered by the sponsoring agency(s).

Question 7: Can other Federal and non-Federal organizations and individuals suggest topics that a Federal agency should consider for prize competitions?

Answer: Yes. The law says that in selecting topics for prize competitions, the head of an agency shall consult widely both within and outside the Federal Government, and may empanel advisory committees. You can suggest topics via the link provided at www.usbr.gov/research/challenges.

Question 8: Who may be appointed to judge the winner(s)?

Answer: Judge(s) may come from within or outside the Federal Government, as well as the private sector. Any committee, board, commission, panel, task force, or similar entity, created solely for the purpose of judging prize competitions is exempted from the Federal Advisory Committee Act (5 U.S.C. App.) under 15 USC § 3719(k)(4).

In addition, agencies are prohibited from appointing any judge who (1) has personal or financial interests in a competition, (2) is an employee, officer, director, or agent of any entity that is a registered participant in a competition, or (3) has a familial or financial relationship with an individual who is a registered participant (15 USC § 3719(k)(2)(A) and (B)).

Question 9: How is intellectual property managed?

Answer: While the details of intellectual property rights will be specified in participation rules issued for each individual prize competition, the Federal Government may not gain an interest in the intellectual property submitted to a prize competition without the written consent of the submitting participant (15 USC § 3719(j)(1)). However, the Federal Government may negotiate a license for the use of intellectual property developed by a prize participant (§ 3719(j)(2)).

Question 10: What are the terms of a right-to-use license and how does that work?

Answer: Generally, when a right-to-use license is pursued, the Bureau of Reclamation will have prize competitors agree, in exchange for being awarded a prize associated with a specific prize competition, *to grant the U.S. Government a nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention, or have the invention practiced throughout the world by or on behalf of the U.S. Government for research or other U.S. Government purposes.*

Question 11: If I grant the Federal Government a right-to-use license, can I commercialize and/or license my invention to others?

Answer: Yes... and we hope that you do. A nonexclusive, right-to-use license allows the competitor to maintain ownership of their intellectual property and pursue license agreements with others to commercialize or use the invention. When an invention has an attractive commercial market, or when the application of the invention is facilitated by having it made available to users as a manufactured product, the Federal Government encourages competitors to commercialize their inventions into market-ready products and create associated business opportunities for themselves. This not only ensures that the Federal Government has ready access to their mission accomplishments, but it helps grow the economy, creates jobs, and helps U.S. industry to better compete in a global economy.