

Reclamation Manual

Directives and Standards

Subject:	Reclamation Standard Water-Related Contract Articles, Article 1: Contracts with Third Parties (Federally Assisted Programs)
Purpose:	To commit Reclamation's Standard Contract Article 1 to the Reclamation Manual, introduced by a brief description and direction regarding its use, for the benefit of making it easily accessible and promoting Reclamation-wide consistency in its use and content.
Authority:	The Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), and acts amendatory and supplementary thereto; 40 U.S.C. §§ 3131 – 3133 ¹ ; 48 CFR 28.102 (Federal Acquisition Regulations).
Approving Official:	Director, Office of Program and Policy Services
Contact:	Office of Program and Policy Services; Contract Services Office, 84-56000

1. **Contracts with Third Parties (Federally Assisted Programs).** This article is included in contracts that authorize the contractor to undertake construction activities for Reclamation and to enter into further contracts for that purpose. It requires the contractor to advertise prospective contracts for equipment or supplies costing \$25,000 or more and to select the lowest bidder unless otherwise approved by the United States. It also establishes performance bond requirements and excludes the United States from participation in third-party contracts. The charts included in Reclamation Manual Policy PEC P10 specify which contract types require standard article 1.

2. Reclamation Standard Contract Article 1.

(Federally Assisted Programs)

CONTRACTS WITH THIRD PARTIES²

(a) The Contractor shall advertise each construction (as construction is defined in the Federal Acquisition Regulations), equipment, or supply contract exceeding \$25,000 (twenty-five thousand dollars) for competitive bidding. Any action proposed by the Contractor other than

¹Formerly cited as 40 U.S.C. § 270a, *et seq.* The provisions in the cited sections were enacted by various public laws over time, most notably the Miller Act of 1935 (c. 642, 49 Stat. 793) and Title IV, subsection 4104(b) of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103-355). Public Law 107-217 replaced those public laws by enacting Title 40 of the U.S. Code into law (see House Report No. 107-479).

²Approved 2/71; Revised 11/84; Input 10/89; Revised 01/02.

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making the award to the lowest responsible bidder shall be subject to review by the Contracting Officer.

(b) For all construction contracts exceeding \$100,000 (one hundred thousand dollars), the Contractor shall require construction contractors to furnish performance bonds equal to at least 100 percent of the contract price and payment bonds equal to (1) at least 50 percent of the contract price for contracts not exceeding \$1,000,000 (one million dollars), (2) at least 40 percent of the contract price for contracts exceeding \$1,000,000 (one million dollars) but not exceeding \$5,000,000 (five million dollars), and (3) \$2,500,000 (two million five hundred thousand dollars) for contracts exceeding \$5,000,000 (five million dollars). Supply and equipment contractors may be required to furnish performance bonds on supply or equipment contracts exceeding \$100,000 (one hundred thousand dollars) when the contract calls for substantial progress payments before delivery of end items.³

(c) The United States shall not be a party to or obligated in any manner by contracts entered into between the Contractor and other parties pursuant to this contract.

³Performance and payment bond criteria for construction contracts is provided in 48 CFR 28.102. Section 4104(b) of the Federal Acquisition Streamlining Act of 1994 increased the dollar amount required for bid and performance bonds from \$25,000 (twenty-five thousand dollars) to \$100,000 (one hundred thousand dollars). However, the Contracting Officer may, in the interest of the protection of the government, establish an amount between \$25,000 (twenty-five thousand dollars) and \$100,000 (one hundred thousand dollars).