

United States Department of the Interior

BUREAU OF RECLAMATION

Washington, D.C. 20240

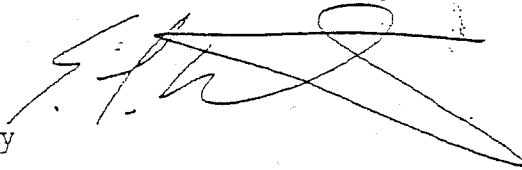
IN REPLY REFER TO:

D-5200

JUL 7 1999

MEMORANDUM

To: Regional Director, PN, MP, LC, UC, GP
Attention: PN-1000, MP-100, LC-1000, UC-100, GP-1000

From: Commissioner 

Subject: Ability-to-Pay Policy

This memo affirms the ability-to-pay policy, and provides guidance on implementation, as put forth in the memorandum dated March 25, 1994, which stated that Reclamation would do ability-to-pay reviews on a 5-year basis. The March 25, 1994 memorandum was in response to the Office of Inspector General Audit "Repayment of Irrigation Investments by Water Districts: 93-I468", issued February 8, 1993. The audit included a recommendation that Reclamation should provide for the periodic reexamination of ability to pay computations and that the resulting adjustments would be incorporated into water service and repayment rates in all new contracts and in all existing contracts when they are renewed or amended.

Regional Directors are authorized to amend contracts to include a provision for reexamination every 5 years. We are now at the point where such a provision must be incorporated in numerous contract activities, and we are providing the following guidance to assist you in implementation.

Periodic reviews will occur every 5 years. A full ability-to-pay study will be performed every 10 years. Reviews at the 5-year interval will be based on economic indicators. Further information will follow regarding these indicators. Based on past experience, Reclamation's staff costs and other study costs associated with the 5-year reviews, up to approximately \$10,000, are generally administrative costs unrelated to specific contracting actions, and thus they shall be considered nonreimbursable by the contracting entities for up to \$10,000. Likewise, for all full reviews occurring at 10-year intervals or if required at the 5-year interval, past experience suggests that 50 percent of costs are generally administrative costs and will thus be nonreimbursable. Regional Directors have the responsibility to plan and budget for these reviews. Costs for the initial determination of ability-to-pay and other such determinations related to specific new, amended, or renewed contract actions will remain fully reimbursable.

Other provisions of the March 25, 1994 memorandum relative to the periodic review remain in place and are reiterated here for the purpose of completeness. The contract term should provide that rates will be adjusted upward based on increases in irrigators' ability-to-pay. It should also provide that the rates will be adjusted downward if the ability-to-pay declines; provided, however, that the downward adjustment cannot result in the lengthening of the repayment period beyond that allowed by Reclamation law. The basis of negotiation should include the mechanism for setting the floor to the lowest rate which may be established by the adjustment provision in the contract. This policy shall apply unless otherwise directed by project-specific legislation or by a determination that Reclamation's action conflicts with State law.

Where consistent with general Reclamation law, project-specific legislation, regulation and policy governing disposition of revenues, the first priority for the use of any funds received from increased payments shall be to reduce the assistance provided by power revenues. The second priority shall be to reduce the repayment period. This policy shall not be construed as "authorizing or permitting lump sum or accelerated repayment of construction costs" as described in section 213 of the Reclamation Reform Act of 1982.

Questions regarding this policy may be directed to either Mr. Larry Schluntz, D-5200, (303) 445-2901 or Ms. Sandie Simons, D-5200 (303) 445-2902.

Concur



Non-Concur _____

JUL 13 1999

Assistant Secretary-Water and Science