

D-5200
WTR-4.00

MAY 22 1998

MEMORANDUM

To: Regional Director, PN, MP, LC, UC, GP
Attention: PN-3300, MP-440, LC-4450, UC-284, GP-2100

From: **Acting** Margaret Sibley
FOR Director, Program Analysis Office

Subject: Guidance for Submitting a Request for a Variance from the 25-Year Term of Contract Policy

Wayne O. DeBon

The purpose of this memorandum is to clarify the procedure for requesting a variance from the 25-year term of contract policy.

In a memorandum dated May 19, 1993, subject, "Policy for Terms of Contracts," the policy limiting new or renewed long-term contracts to 25-year terms was established. Then on September 11, 1997, a memorandum also subject "Policy for Terms of Contract," was provided to all regions. This memorandum established the opportunity to request a variance from the 25-year term of contract policy.

In summary, the September 1997 memorandum provides that for non-water related contracts, payment capacity will lay the foundation to determine the length of the repayment period. Therefore, if it is determined that according to a contractor's payment capacity that the obligation cannot be repaid unless the term of contract is more than 25 years, and no other funds are available, then a contract for more than 25 years is justified. For water related contracts, contractors have the opportunity to contract for more than 25 years if they are willing to implement measures that will improve project efficiency and/or operational flexibility. If Reclamation accepts these measures, the contractor must then commit to them in their contract.

In the attached memorandum dated February 24, 1998, the Commissioner delegated the authority to approve variances for terms of contracts greater than 25 years to this office. The following is to clarify the procedure to request a variance and what information will be necessary to accompany such a request.

First, authority shall be requested to enter negotiations for a term longer than 25 years. This request is made to the Commissioner and may be accomplished either at the time the original basis of negotiation (BON) is submitted, or as an amendment to a BON. If you are certain of conditions that will be committed to in the contract, these may be addressed in the BON for

approval and the following step may be omitted. However, deviation from the approval will require that the next step be followed.

During or following negotiations, the second step is to submit a request for approval of the negotiated terms that would justify a longer term of contract. This request will delineate all the quantifiable measures the contractor is willing to commit to in the contract, explain how project efficiency and/or operational flexibility will be benefitted from such measures being implemented, and how the United States will benefit by allowing a longer term of contract.

To conclude, Reclamation's policy remains that the maximum term of contract is 25 years. However, to request a variance from the 25-year term of contract policy, a two-step process shall be followed. The first step is to request the authority to negotiate a longer term of contract, and the second step is to request approval for the quantifiable measure negotiated with the contractor.

Attachments

cc: Manager, Portland OR, Attention: LCA-1000
 Manager, Yakima WA, Attention: UCA-1000
 Manager, Boise ID, Attention: SRA-1000
 Manager, Grand Coulee WA, Attention: GCP-1000
 Manager, Folsom CA, Attention: CC-100
 Manager, Fresno CA, Attention: SCC-100
 Manager, Shasta Lake CA, Attention: NC-100
 Manager, Klamath Falls OR, Attention: KO-100
 Manager, Carson City NV, Attention: LO-100
 Manager, Sacramento CA, Attention: CVO-100
 Manager, Phoenix AZ, Attention: PxAO-1000
 Manager, Yuma AZ, Attention: YAO-1000
 Manager, Boulder City NV, Attention: LCDFO-1000
 Manager, Boulder City NV, Attention: BCOO-1000
 Manager, Temecula CA, Attention: SCAO-1000
 Manager, Albuquerque NM, Attention: ALB-100
 Manager, Grand Junction CO, Attention: WCN-CDeAngelis
 Manager, Provo UT, Attention: PRO-100
 Manager, Farmington NM, Attention: FCO-100
 Manager, Salt Lake City UT, Attention: UC-600
 Manager, Billings MT, Attention: MT-100
 Manager, Grand Island NE, Attention: NK-AM
 Manager, Loveland CO, Attention: EC-100
 Manager, Mills WY, Attention: WY-100
 Manager, Austin TX, Attention: TX-100
 Manager, Bismarck ND, Attention: DK-100

bc: W-1000, W-1500, W-6000, W-5000, D-5200

WBR:SKersteins/SSimons:dh:5/22/98:(303)445-2894
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