

Justification for Variance

Non-Water-Related Contracts

The length of the repayment period for non-water-related contracts, such as contracts for repayment of obligations incurred under the Reclamation Safety of Dams Act, the Rehabilitation and Betterment Act, the Drainage and Minor Construction Act, and the Small Reclamation Projects Act, will be based on capture of full payment capacity. The 1993 policy memorandum sets a maximum term of 25 years. The existing practice that if payment capacity is sufficient to pay in less than 25 years, the lesser repayment period will be utilized shall continue. If payment capacity identifies a longer term of contract is justified, and there are no other appropriate sources of district funds to repay the obligation, then a longer term of contract will be granted. Variance for such contracts must be supported by a basis of negotiation submitted for Commissioner approval.

Water-Related Contracts

Contracting entities should demonstrate that to effectively implement measures to improve project efficiency and/or operational flexibility, a contract for greater than 25 years would be required. The contracting entities must commit in the contract to undertake such measures. Detailed supporting documentation should be submitted for consideration. Such measures may include, among others, initiatives to effect water conservation, initiatives to facilitate water transfers, enhancement of instream flows, recreation, flood control, water reuse, desalination, protection of Indian trust assets, land resource management, fish and wildlife conservation and enhancement, and water quality protection and improvement.

Regions' bases of negotiation must contain for consideration an analysis of the financial advantages to the United States for either entering a contract term for longer than 25 years or entering a contract term for 25 years or less. This analysis should include whether the United States will be better or worse off in present value terms.

This memorandum does not repeal the existing policy establishing a 25-year maximum term of contract. It provides criteria for Reclamation to use in determining if a variance is justified as provided in the 1993 policy memorandum.

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