



— BUREAU OF —
RECLAMATION

PEC 05-03 Stakeholder Outreach

Overview of Substantive Changes

- Regions requesting AIA funding for reserved works/non-reimbursable XM
- Requesting additional funding for awarded work when costs change
- Project beneficiaries' applications on transferred works
- Recovering reserved works reimbursable costs under existing contracts
- XM Justification Report changes to cost allocation
- Setting the interest rate
- Standard form for required reporting from operators
- Streamlining internal process by combining funding and contracting authorization



Process for Reserved Works/Non-Reimbursable XM

- Paragraph 5.E. (page 5) addresses regional requests for Aging Infrastructure Account (Account) funding for non-reimbursable XM costs based on the Solicitor's finding that those uses of the Account are authorized.
 - Removes need for external applications for reserved works/Non-reimbursable XM.

5. Aging Infrastructure Account Application and Funding Process. The funds in the AIA are accessed through a process outlined below.

- E. Regional Funding Requests. Regional offices may also request funding from the AIA for reserved works XM or XM costs that Reclamation is otherwise required to pay. 12 Regional funding requests must be uploaded to the AIA SharePoint Site by the deadline for uploading applications established for the year. Requests must include the information listed in Paragraph 5.D. that is relevant, including financial and repayment information if there are reimbursable costs and a request for extended repayment. Indications in the submitted materials of the level of support from the project beneficiaries responsible for repayment of any reimbursable costs may be a factor in prioritizing regional funding requests.



Post-Award Cost/Funding Changes

- Paragraph 5.J. (page 6) addresses the requirements/process for requesting funding changes based on changes to the scope, schedule, or budget associated with XM work already awarded AIA funding.
5. Aging Infrastructure Account Application and Funding Process. The funds in the AIA are accessed through a process outlined below.
 - J. Change Management. If a change in the scope, schedule, or budget of AIA-funded XM occurs, the established regional representative will submit a change management request to the SharePoint Site. The Review Team will review submitted change management requests and provide recommendations to Reclamation leadership.



Transferred Works Beneficiaries as Applicants

- Paragraph 6.A.(3) (page 6) addresses cases where project beneficiaries, rather than the operator, requests funding for transferred works XM.

6. Requirement of a Contract

A. Transferred Works. XM repayment contracts are required where funds are advanced to operating entities or project beneficiaries, pursuant to 43 U.S.C. 510b(b)(2).

3. Funding Advanced to Project Beneficiaries for Transferred Works XM. For transferred works, a project beneficiary (rather than the operating entity) may request and receive funding for its costs associated with XM work. Reclamation must enter a repayment contract with the entity receiving funding in these cases. Whether a contract with the operating entity covering allowable uses of the funding and associated reporting requirements is also necessary will be determined case by case and will depend on the degree to which the operating entity is contractually or otherwise legally accountable to the project beneficiary receiving funding from Reclamation. The Basis of Negotiation (BON) (see Paragraph 9) will state and explain the Region's intended approach.



Recovering Reserved Works Costs without a New Contract

- Paragraph 6.B. (page 7) recognizes that reimbursable reserved works XM costs can be recovered under existing contracts with the Commissioner's approval.

6. Requirement of a Contract

- B. Reserved Works. Reimbursable reserved works XM costs can be recovered through a new repayment contract or an existing contract requiring the contractor to pay OM&R costs.¹³ Extended repayment of XM costs under an existing contract cannot exceed that contract's term and requires the Commissioner's written authorization.



Potential Justification Report Changes to Cost Allocation

- Paragraph 8.A. (page 8) recognizes potential cost allocation changes through XM Justification Reports.

8. Contracting and Contract Requirements.

- A. Allocation of Costs. Reclamation will allocate costs for XM and EXM work in accordance with the allocation of OM&R costs for the project or facility that is in effect when it incurs costs or advances funds for XM work, subject to any modified cost allocation formally identified in an XM Justification Report prepared for support of the work, in accordance with CMP 09-04, provided the modified cost allocation and initiation of changes to the cost allocation are compliant with the Paragraph 8 of RM Policy, Allocation of Operation and Maintenance Costs (PEC P07). For EXM granted reduced repayment, 35 percent of the funds advanced and allocable to the operating entity is non-reimbursable



Setting the Interest Rate

- Paragraph 8.C.(2) (page 8 - 9) addresses requirements for establishing an interest rate for reimbursable XM costs.

8. Contracting and Contract Requirements

C. Repayment Terms

- 2) Interest. Reclamation will assess interest on all reimbursable XM costs regardless of the project purpose to which the costs are allocated.
 - a) Source of the Rate. The interest rate for reimbursable XM costs is the rate determined by the Secretary of the Treasury for the fiscal year in which the XM commences¹⁶ and corresponding to the applicable reimbursement period. The rates can be found in the Range of Maturities (Table 1) at <https://www.treasurydirect.gov/government/interest-rates-andprices/certified-interest-rates/annual/>.
 - b) When Interest is Assessed. Reclamation will assess interest through completion of repayment, beginning on the date it advances funds for transferred works XM and on the date it expends funds for reserved works XM.
 - c) When the Interest Rate is Set. The applicable Treasury rate is the rate effective as of the beginning of the fiscal year in which the funded work is commenced. For purposes of establishing the interest rate for reimbursable AIA funding, the work commences when expenditures have been made on work for which the AIA funding has been awarded,¹⁷ including at least one of the following:
 - i. Planning
 - ii. Design
 - iii. environmental compliance
 - iv. Permitting
 - v. actual construction.



Reporting Forms

- Paragraph 8.I. (pages 10 - 11) requires use of a standard form for transferred works operators reporting requirements under XM repayment contracts.

8. Requirement of Contract

- I. Required Reporting. Contracts for repayment of transferred works XM costs must require the contractor to submit annual progress reports and quarterly Standard Form SF-425, Federal Financial Report, until the RD declares the XM work substantially complete.



Streamlined Internal Contracts Process

- Paragraph 9.B. (page 11) combines the BON process and the regional application submission process.

9. **BON Requirements.** BONs and approval memoranda are required for all XM repayment contracts, and for all XM funding advances except advances for EXM meeting the requirements of Paragraph 6.A.(2). For the general BON process requirements, see RM D&S, Preparing Bases of Negotiation for New, and Amendatory Water Service, Repayment, and Related Contracts (PEC 06-01).
 - B. **AIA Funded XM.** RLAD will treat a region's submission of applications under Paragraph 5.D.(6) as a blanket BON requesting authority to execute the associated repayment contracts, or to extend repayment of reserved works XM costs under existing contracts, as long as the submitted material includes the information required under this Paragraph 9 and PEC 06-01. The Commissioner's formal award of AIA funding will constitute the BON approval delegating authority to enter repayment contracts and to otherwise extend repayment, as applicable, for the funded submissions that include the required information



Questions?

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