

Reclamation Manual

Directives and Standards

Subject:	Advance Collection of Reimbursable Costs for Water-Related Contracting Activities
Purpose:	To provide requirements for advance collection of non-Federal funds to cover the costs of reimbursable water-related contracting activities. The benefit of this Directive and Standard is consistent application of these requirements by Bureau of Reclamation offices and personnel.
Authority:	The Reclamation Act of 1902 (Act of June 17, 1902; 32 Stat. 388); Reclamation Extension Act (Act of August 13, 1914; 38 Stat. 686); The Omnibus Adjustment Act (Act of May 25, 1926; 44 Stat. 636); Interior Department Appropriation Act for 1928 (Act of January 12, 1927; 44 Stat. 957; 43 U.S.C. § 397a), and the Reclamation Project Act of 1939 (Act of August 4, 1939; 53 Stat. 1187).
Approving Official:	Director, Mission Assurance and Protection Organization (MAPO)
Contact:	Reclamation Law Administration Division (84-55000)

1. **Introduction.** In developing and administering water-related contracts, Reclamation incurs various costs, which fall within the meaning of operation and maintenance (O&M) costs. Consistent with Federal reclamation law, O&M activities should be funded in advance by the beneficiaries associated with the particular contract action. The purpose of this Directives and Standards (D&S) is to provide the requirements to fund Reclamation's costs in advance of negotiating, preparing, reviewing, executing, and performing water-related contracting activities.
2. **Applicability.** This D&S applies to Reclamation staff conducting water-related contracting activities.
3. **Direct Charge.** Reclamation staff will collect funds to cover estimated reimbursable costs from beneficiaries prior to beginning water-related contracting activities. The amount of non-Federal funds will be based on an estimate of the actual costs Reclamation expects to incur. Actual costs include salary, overhead, travel, materials, and other costs as applicable. If actual costs exceed the initial estimate, Reclamation will collect additional funds before incurring additional costs. If actual costs are less than the initial estimate the remaining funds will be refunded to the beneficiaries.
4. **Exemptions.** Reclamation will not collect funds in advance in the following situations:
 - A. Where explicitly prohibited by legislation or executive order.
 - B. Right-of-way application, leases, license, permits, etc., for the use of project lands and facilities for which fees are covered under a variety of authorities. (43 CFR Part 429)

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- C. Where the United States is already committed by statute to perform an activity benefitting the public generally and the costs associated with that activity would be incurred even though specific individuals and entities may be incidentally benefitted. Examples include statutorily-prescribed land use planning and programmatic environmental impact statements.
 - D. Where the water-related contract activities are undertaken for the primary benefit of a party other than the contractor or its benefactor. Examples include contracts for the acquisition of water for Federal purposes or contracts benefitting the public generally. This exception does not apply where a water-related contract activity is intended to mitigate harm to the public interest. An example is a contract requiring that a certain percentage of water be used for instream flows or a certain amount of habitat be created as a prerequisite for authorizing a contractor to take some action.
 - E. Where the amount is de minimis or is equaled or exceeded by the cost of recovering it.
 - F. Where the contract already provides for the recovery of administrative costs.
5. **Definitions – Reimbursable Water-Related Activities.** Activities that would be considered reimbursable include: new water-related contracts, i.e., water service, repayment, O&M, , drought, rehabilitation and betterment, temporary water, extraordinary and emergency O&M, contract renewal, land inclusions and exclusions, National Environmental Policy Act compliance, water transfers and exchanges, title transfer, and contract amendments.
6. **Review Period.** The originating office will review this release every 4 years.

RECLAMATION MANUAL TRANSMITTAL SHEET

Effective Date: _____

Release No. _____

Ensure all employees needing this information are provided a copy of this release.

Reclamation Manual Release Number and Subject

Summary of Changes

NOTE: This Reclamation Manual release applies to all Reclamation employees. When an exclusive bargaining unit exists, changes to this release may be subject to the provisions of collective bargaining agreements.

Filing instructions

Remove Sheets

Insert Sheets

All Reclamation Manual releases are available at <http://www.usbr.gov/recman/>

Filed by: _____

Date: _____