

Reclamation Manual

Directives and Standards

- Subject:** Safety of Dams (SOD) – Modification Reports for Congressional Review
- Purpose:** Establish the need for submitting SOD modification reports to the Congress.
- Authority:** The Reclamation Safety of Dams Act of 1978 (Act of November 2, 1978, Public Law 95-578, 92 Stat. 2471), as amended.
- Contacts:** Dam Safety Office, D-1440, Contract Services Office, D-5600
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1. **Background.** Section 5 of the SOD Act prohibits the Secretary of the Interior from obligating funds in excess of \$1,250,000 (October 1, 2003, price levels), as adjusted to reflect any ordinary fluctuations in construction costs indicated by applicable engineering cost indexes, for carrying out actual construction for 30-calendar days from the date the Secretary has transmitted a modification report on an existing dam to the Congress. The modification report consists of a finding by the Secretary that modifications are required to insure the safety of an existing dam. Procedures for identifying, communicating, and documenting decisions are described in Reclamation Manual (RM), Policy FAC P02, *Decisions Related to Dam Safety Issues*.
2. **Scope.** This directive applies to all SOD work associated with dams that are either owned by Reclamation or are included as part of an authorized Reclamation project. This directive establishes the requirements for determining the need for submitting SOD Modification Reports to the Congress. Specific direction is provided on the \$1,250,000, as adjusted for inflation, obligation limit for carrying out “actual construction” and what costs are considered to be “actual construction.” In addition this directive and standard clarifies repayment is based on total project costs.
3. **Definitions.**
 - A. **Total Project Cost.** Total project costs include the actual construction costs, project formulation and compliance costs, and design and construction management costs.
 - B. **Actual Construction Cost.** This is the amount awarded, including modifications and claims, for a construction contract.

Examples of the costs associated with Total Project Cost and Actual Construction Cost and the requirements for modification report submittals to the Congress are provided in [www.usbr.gov/ssle/dam safety/documents/AppendixA20041116.pdf](http://www.usbr.gov/ssle/dam%20safety/documents/AppendixA20041116.pdf)

4. **Modification Report.** Reclamation may obligate up to \$1,250,000, as adjusted for inflation, for actual construction on SOD work without providing a modification report to the Congress. The \$1,250,000 limitation applies only to funds expended for actual

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construction costs, not total project costs. In the special case where “actual construction” is difficult to define, a decision memorandum from the Dam Safety Office is required. Reclamation should prepare a high, best, and low estimate for actual construction costs. The “high” construction cost estimate should be used as the basis for determining if a modification report is required. In addition, Reclamation will include estimates of potential future activities required to accomplish the risk reduction action.

5. **Repayment Obligation.** In accordance with the Commissioner’s policy memorandum “Cost Reimbursability for Cultural Resources Activities Related to Safety of Dams Actions” dated April 1, 1997, the repayment obligation is determined based on the “total project costs” less allowable cultural resource costs. In several cases where actual construction contract costs approached the \$1,250,000, the total project costs have been in the range of \$1.8 to \$2.2 million after the reduction for cultural resource costs. In this example, the \$1.8 to \$2.2 million is the total project cost from which the repayment obligation is determined.

6. **Documents.** The justification document to the Commissioner for review and approval for projects costing \$1,250,000, as adjusted for inflation, or less is developed by the Dam Safety Office, D-1440. The approval memorandum for the SOD repayment contract is developed by the Contract Services Office, D-5600. The approval memorandum notes the status of the justification document; however, it does not serve as the Commissioner’s approval for the justification document.