

# Reclamation Manual

## Directives and Standards

<b>Subject:</b>	Donations
<b>Purpose:</b>	To establish Bureau of Reclamation requirements on donations. The benefit of this Directive and Standard (D&S) is to ensure consistent application of the requirements to accept donations.
<b>Authority:</b>	“Reclamation Law <sup>1</sup> ” as applicable beginning with the Reclamation Act of 1902, 374 Departmental Manual (DM) 6
<b>Approving Official:</b>	Deputy Commissioner, Policy, Administration, and Budget
<b>Contact:</b>	Human Resources Program Management Group, 84-25100

1. **Purpose.** This Reclamation Manual D&S establishes new requirements for the acceptance, utilization, recognition, and, where appropriate, solicitation of donations. These requirements are intended to be practical standards under which Reclamation may use its donation acceptance authorities, while maintaining integrity, impartiality, and public confidence.
2. **Definitions.**
  - A. **Donations.**
    - (1) For purposes of this D&S, the term “donations” includes gifts and refers to something of value received from an outside source without consideration or an exchange of value. Funds or other items received as a result of a competitively awarded grant from a foundation are also covered by the term “donation.”
    - (2) The following is **not** considered a donation and therefore not included in the definition: in-kind services or contributions where the entity providing the service or contribution is receiving a benefit in exchange for the service or contribution, or is required pursuant to a cost-share or other agreement or requirement to provide the service or contribution.
  - B. **Authorized Employee.** For the purposes of this D&S, the term “authorized employee” means the Deputy Commissioner, Policy, Administration, and Budget; Director, Administration; Director, Office of Program and Policy Services; and the Regional Directors. These positions have been officially delegated or redelegated this authority in the memoranda dated July 26, 2006, and August 10, 2006. To determine the level of authority delegated to each of these positions, please refer to the delegation memoranda.

<sup>1</sup>As used here, the term “Reclamation law” refers inclusively to those laws, beginning with the Reclamation Act of 1902 that Congress enacts or has enacted to authorize the Bureau of Reclamation to perform its mission, whether these are original, amending or supplementing laws.

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3. **Authority.** Reclamation is authorized to accept, utilize, and recognize donations in a manner that promotes and enhances its programs, activities, and operations, consistent with applicable law and the donation requirements in this D&S.
  - A. Before accepting, utilizing, and recognizing donations, an authorized employee must determine the totality of the circumstances of the donation to ensure that Reclamation:
    - (1) maintains the integrity of its programs and operations;
    - (2) maintains impartiality, and appearance of impartiality, of its programs and employees; and
    - (3) maintains public confidence in its programs and personnel.
  - B. Reclamation retains the discretion to decline any particular donation.
4. **Scope.**
  - A. These donation requirements address the acceptance of donations to Reclamation. Specifically, this D&S applies to the use of the statutory donation acceptance authority provided by the statutes listed in Paragraph 4.B.
  - B. **Authorities.** The following are statutes that provide Reclamation authority, under certain circumstances, to accept donations. Authorized employees are encouraged to consult with the Office of the Solicitor to determine whether the authorities listed apply to their specific situation.
    - (1) **Sundry Civil Appropriations Act of 1922 (Pub. L. 66-389; 43 U.S.C. 395).** Also known as the Contributed Funds Act, this statute provides that “all funds paid by states, municipalities, districts, or private parties for investigations, surveys, construction work, or any other development work incident thereto involving operations similar to those provided for by the reclamation law, are covered into the Reclamation fund and available for expenditure by Reclamation for the purposes for which contributed, without the need for further appropriation.” A contribution made pursuant to this statute is a donation only if the entity providing the contribution is not receiving a benefit for the contribution. Prior to acceptance of funds, there must be a separate authority for the activity.
    - (2) **Federal Water Project Recreation Act (Pub. L. 89-72; 16 U.S.C. 460(12)-(21)).** Where Federal lands or authorized Federal programs for fish and wildlife conservation are involved. Under this authority, cost-sharing is not required.

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- (3) **Acceptance of Volunteer Services (Pub. L. 101-101; 43 U.S.C. 1475).** The 1990 Energy and Water Development Appropriations Act provides authority for Reclamation to accept the services of volunteers and to provide for their incidental expenses to carry out any activity of Reclamation.
- (4) **Reclamation Projects Authorization and Adjustment Act of 1992(Pub. L. 102-575).**
  - (a) **Title VII – Leadville Mine Drainage Tunnel, Section 708(c).** The Secretary shall arrange for cost sharing with the State of Colorado and for the use of non-Federal funds and in-kind services where possible.
  - (b) **Title XXXIV –Central Valley Project Improvement Act, Section 3407(a).** Established the “Central Valley Project Restoration Fund” which is available for deposit of donations from any source and revenues provided under Sections 3404(c)(3), 3405(f), 3406(c)(1), and 3407(d). Donations to the fund by non-Federal entities for specific purposes shall be expended for those purposes only and shall not be subject to appropriation.
- (5) **Department of the Interior Volunteer Recruitment Act of 2005 (Pub. L. 109-125).** Provides the Secretary authority to recruit, train, and accept the services of individuals, contributed without compensation as volunteers, for activities administered by the Secretary through the Bureau of Reclamation.

C. The following are not subject to the donation requirements:

- (1) Services of individual volunteers or groups of volunteers, e.g., a Girl Scout troop, entailing an entity assuming full responsibility for completing a task for Reclamation without Reclamation’s supervision in which services are accepted and performed in accordance with this D&S, the Departmental Manual, and applicable law.
- (2) Contributions in the nature of a person or entity’s share of costs where there is independent authority for such cost sharing, e.g., challenge cost-share programs where the partner does not engage in public fundraising and provision of in-kind services where the entity is receiving a benefit.
- (3) Moneys received as fees for services.
- (4) Reports or analyses prepared or paid for by outside parties or funds received by Reclamation for such purposes pursuant to appropriate authority, e.g., a National Environmental Policy Act analysis funded by an applicant.
- (5) Donations of official travel covered by 31 U.S.C. 1353, and 205 DM 2 for attendance at a meeting or similar function.

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- (6) Gifts to individual employees that are separately governed by the Government-wide Standards of Ethical Conduct at 5 C.F.R. Part 2635.
5. **No Solicitation of Donations.** Reclamation employees shall not solicit donations. The term “solicit” means any request by a Reclamation employee to a non-federal entity, group, or individual for donations to be made directly or indirectly to Reclamation in support of its programs.
6. **Responsibilities of Authorized Employees.** Once designated, each authorized employee is individually responsible for ensuring compliance with this D&S and Departmental policy whenever a donation is offered. Each authorized employee is individually responsible for gathering sufficient information about a prospective donor and the proffered donation to facilitate evaluation of the donation. Authorized employees must, at a minimum gather the necessary information on the donor, evaluate the totality of the circumstances, including the value and purposes of the donation and the nature and interests of the donor, to determine whether to accept the donation. Authorized employees must seek guidance, whenever the circumstances are unclear or are questionable, from their senior manager, Business Analysis Manager, Human Resources Officer, Reclamation Ethics Officer, ethics personnel, and/or the Office of the Solicitor, to resolve issues associated with particular donations.
7. **Considerations When Accepting Donations.** Donation acceptance issues arise in a wide variety of contexts, rarely lending themselves to bright-line distinctions or rules. This paragraph provides examples of circumstances in which it would be appropriate to accept a donation under this D&S. This list is neither intended to be exclusive nor to imply that any one of these factors absolutely requires acceptance or declination of a donation, but rather to illustrate what to consider when making donation-related decisions. The authorized employee must weigh the circumstances from the perspective of a reasonable person with knowledge of the relevant facts.
- A. **Maintaining the Integrity of Reclamation’s Programs and Operations.**
- (1) The donation is not or does not appear (such as by its size or circumstances) to be an attempt to influence the exercise of any regulatory or other authority of Reclamation with respect to the donor.
  - (2) The donation meets a legitimate need of Reclamation and does not require the commitment of funding that is not available.
  - (3) The donation is consistent with, and does not otherwise circumvent, law, regulation, or policy.
  - (4) Reclamation is able to properly utilize or manage any donated real or personal property within policy, programmatic, and management goals.

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- (5) Any conditions on the donation are consistent with authorized purposes and any relevant policy or planning documents.
- (6) The donation will not be used by the donor to state or imply endorsement by Reclamation of the donor or the donor's product or services.
- (7) When the donation consists of personnel or funding to hire personnel, the donated or funded personnel do not make or inappropriately influence the merits of any regulatory action or other significant decision.

### **B. Maintaining Impartiality, and Appearance of Impartiality, of Reclamation and its Employees.**

- (1) The proposed donation is made to a program or made in an amount that would not influence or appear to influence any significant pending Reclamation decision or action involving the donor's interests.
- (2) There is neither an actual nor an implied commitment to take an action favorable to the donor in exchange for the donation.
- (3) The donor will not obtain or appear to obtain special treatment in dealing with Reclamation or any of its offices.

### **C. Maintaining Public Confidence in Reclamation's Programs and Personnel.**

- (1) Acceptance would not likely result in public controversy.
- (2) The donation comes only with conditions that are consistent with Reclamation's program and policy goals.
- (3) The donation consists of only appropriate goods or services.
- (4) The proposed donor has no significant recent known history of violations, whether criminal or civil in nature (revealed by the evaluation process described in Paragraph 8).

8. **Evaluating Donations.** The authorized employee will follow the procedures in this paragraph as a part of the examination or vetting process of the prospective donor and the prospective donation to determine whether acceptance is appropriate. When it is required, however, the vetting at a minimum will ensure that decisions to accept donations can be measured against the requirements of this D&S: to maintain the integrity, impartiality and public confidence in Reclamation's programs and personnel.

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- A. Information to be gathered through the vetting process includes, but is not limited to:
- (1) Whether the donor or its officers or directors is involved in litigation or other disputes with the Department, Reclamation and/or other Departmental bureaus.
  - (2) Whether the donor is seeking a permit from Reclamation, or is otherwise engaged in any type of business relationship with the Department or Reclamation.
  - (3) Whether the donor has been debarred from contracting with the Department, Reclamation or another government agency.
  - (4) Whether the donation is connected to corporate marketing.
  - (5) The size of the donation.
  - (6) Whether the donation is a singular event or part of a series of donations.
- B. These minimum requirements shall be met as part of the examination/vetting process to assure that high-value donations made directly to Reclamation or the Department are properly evaluated:
- (1) For any donation valued at \$2,500 or more, the authorized employee must perform a thorough internet search to determine whether any publicly available information exists that would raise concerns about the propriety of accepting the donation.
  - (2) For any donation valued at \$100,000 or more, and for all donations of real property, the authorized employee shall refer the proposed donation through the appropriate channels to the Office of the Solicitor and the vetting points of contact in the other Departmental bureaus.
  - (3) For any donation valued at \$250,000 or more, the authorized employee shall, in addition to the action and referrals noted above, seek the assistance of the Office of Inspector General (OIG) for the purpose of vetting through OIG's existing information systems.

### 9. Specific Donation Circumstances.

- A. **Donations Through Non-Profit Partners.** In many instances, a donor provides a donation directly to a non-profit entity or partner of Reclamation, with the non-profit entity or partner subsequently making the donation to Reclamation. The manner in which these donations are accomplished is among the totality of the circumstances to consider when deciding to accept a donation. Specifically, the nature of the relationships between the original donor, the non-profit, and Reclamation will be considered in the decision to accept the donation. For example, where a non-profit

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arranges a donation without any involvement from Reclamation, acceptance of the donation may or may not give rise to an appearance of a loss of integrity or impartiality, or otherwise reduce public confidence in Reclamation. However, if acceptance of a donation from a specific entity is not authorized, providing the donation through an approved non-profit entity or partner also is not authorized.

- B. Donations When the Donor is Involved in Litigation With Reclamation or Department.** Reclamation generally will not accept a gift from a donor involved in litigation with Reclamation or other Departmental bureaus because it may appear that the donor is attempting to influence the handling or outcome of the litigation. There may be circumstances, however, in which the litigation is sufficiently removed from the context of the proposed donation as to not create the appearance of an attempt to influence the litigation. These circumstances, for example, may exist when a donor proposes a donation to Reclamation unrelated to the litigation and in an amount that is not significant enough to appear to have any effect on the litigation. Accordingly, donations offered by a donor involved in litigation must be closely scrutinized under this D&S.
- C. Types of Donations.** The types of permissible donations depend on the specific provisions of the authorizing statute(s), which usually allow donations of real and personal property, services, and/or money.
- D. Donations With Conditions.** Reclamation may accept donations on which the donor has placed restrictions or conditions, provided the restrictions or conditions are consistent with applicable laws, regulations, program policies, and any pertinent planning documents. Unless specifically authorized by statute, no donation may be accepted that will commit Reclamation to the expenditure of funds unavailable to it (e.g., in excess, or in advance, of appropriations), or require deposit or investment of the donation. Even where such donation is specifically authorized by statute, it may still have significant implications for Reclamation's budget or programs. Accordingly, a donation of this type must be approved by the Deputy Commissioner, Policy, Administration, and Budget.
- 10. Fundraising by Outside Entities Under Authority or on Behalf of Reclamation.** Reclamation currently does not have outside entities raising funds on its behalf.
- 11. Recognition of Donors.** Donors are entitled to receive appropriate, reasonable recognition and thanks, which may be expressed in letters of appreciation, press releases, public events, certificates, and/or plaques and similar items that do not exceed a \$50.00 value. The means of recognition is at the discretion of Reclamation's authorized employee, but decisions on recognition must include consideration of the appearances associated with the particular donation and whether it is a proper expenditure of appropriations. No recognition may be made in a form that implies endorsement by Reclamation of the donor's products, services, or activities (other than the donation itself).

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### 12. Documentation and Reporting Requirements.

- A. The authorized employee will document the donation activities in accordance with applicable statutes and regulations, including the Federal Records Act and the Paperwork Reduction Act. Such documentation will allow for audit or investigation by the OIG or the Government Accountability Office. Documentation will consist of the following:
  - (1) Documentation of receipt and disposition of all real or personal property, regardless of the method or source of acquisition, in accordance with the Interior Property Management Regulations, 410 DM Addition to the IPMD 114-60.5; and
  - (2) Accounting for all monetary donations in Reclamation's financial system at a level that will allow accountability for individual donations.
- B. Conditional donations (see Paragraph 9.D.) may require the establishment of distinct accounting elements to comply with donor requirements.
- C. Budget execution and financial accountability practices and systems will ensure consistency with the specified use designation and reporting.
- D. At a minimum, Reclamation will include, in annual reports for the Assistant Secretary – Policy, Management, and Budget, the source, date, and amount of any donation exceeding \$1,000.