

Reclamation Manual

Directives and Standards

Information Necessary for Considering Deferral Requests

The following outline describes the type of information that should be considered when approving requests for deferments of construction payments. The purpose for requesting the information is to compile a transparent record behind the Secretary of the Interior's (Secretary) decision bearing on a payment of a debt owed to the public. The Contractor, and not Reclamation, must compile the record because the law casts the Secretary in the role of determining whether the record justifies the deferment. Reclamation staff is responsible for determining the adequacy of the quality and quantity of the information provided by the contractor in consideration of such factors as the amount of the deferment and the proposed payment provisions. The outline is divided into two parts - Part A and Part B. Part A addresses the types of information that should be provided by the Contractor; and also the Contractor's responsibility for funding Reclamation's administrative review costs of the deferment request. (WTR P01 and WTR 02-01). Part B provides the type of analytical information Reclamation staff should consider when reviewing and requesting information from the Contractor.

Part A – Contractor

- I. Contractors requesting deferrals of construction installments will provide the following information to Reclamation in their requests. This information should include a thorough explanation of how the events led to the financial situation that justifies their inability to pay the present installment without experiencing undue burden.
 - A. Physical and financial conditions of the Contractor providing evidence that payment of the currently due or upcoming construction repayment obligation would create an undue burden on the Contractor. This evidence includes, but is not limited by this enumeration, the following:
 1. Drought and other unusual weather conditions
 - a. Governor's request for drought assistance or other declaration.
 - b. Maps supporting that the lands are within a drought declared area for the time period in question.
 - c. Change in crop yields due to drought as verified from county, United States Department of Agricultural (USDA), the Natural Resources Conservation Service (NRCS), or other recognized source.
 2. Flooding
 - a. Flood's effect on the Contractor's crop production, etc.
 - (1) Damage is supported by the UDSA, NRCS, or other reputable source.
 - (2) Costs associated with structural repairs.
 3. Financial
 - a. Lost revenues.
 - b. Significant unplanned expenses.

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4. Other causes
 - a. Damage from insects and other pests (supported by the USDA, NRCS, or other reputable source).
 - b. Other unusual circumstances temporarily affecting the Contractor's ability to pay.

 - B. Contractors must seek alternative remedies prior to requesting deferments. Each Contractor will have unique circumstances and potential resources. However, the potential alternatives to deferral requests enumerated below will be considered. Deferral requests will include a discussion of the Contractor's attempts to utilize these alternatives. These discussions will include copy(s) of the application or other appropriate paper work, if available, and the result. If alternative sources of financing were not pursued, the justification for not doing so will also be provided.
 1. Identify the private bank(s) from which operating loans were sought.
 2. Identify other Federal and State agencies and associated programs under which assistance was sought.
 3. Contractor's internal sources, including the following:
 - a. Reserve Funds.
 - b. Raising assessments, if the difficulties are expense related.
 - c. Other benefactors who have a financial interest in the Contractor.
 - d. Bond issuance, property tax assessments.
 4. Other Revenue sources available to the Contractor.

 - C. Deferment requests will also contain a discussion regarding the Contractor's long-term prospects, and how these may be affected by the proposed deferment. The Contractor will also show how it intends to improve its financial condition so as to be able to meet future payment obligations and preclude ongoing deferral requests.

 - D. The Contractor will provide an overall summary position statement that can be supported by specific information.
- II. Contractors requesting deferments will pay in advance the contract administration costs for review and document preparation.

Part B - Reclamation Staff

- I. Upon submittal by the Contractor of a deferral request, the Regional Director will evaluate the request and forward the request and supporting information requiring Commissioner approval to the Contract Services Office (D-5600) with a recommendation on whether or not a deferment should be granted. When reviewing deferment requests, Reclamation staff will:

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- A. If reserve funds are proposed to be used for making a construction payment, discuss internally with Reclamation's operation and maintenance staff the appropriateness of the use of the proposed amount of those funds for that purpose.
- B. Consider the proposed length and amount of the deferment in relation to the level of analysis and support that is required.
- C. Document conversations with the Contractor and other knowledgeable sources throughout the process.
- D. Not create the written justification on behalf of the Contractor for the deferment. Contractor has to make their own request.
- E. Provide a discussion that the Contractor has provided sufficient information to Reclamation's satisfaction that the Contractor's request for a deferment is reasonable in light of all applicable facts and circumstances.