

Reclamation Manual

Policy

Subject: Application of Incidental Revenue Credits to Reimbursable Safety of Dams (SOD) Construction Obligations

Purpose: Sets forth Bureau of Reclamation policy on the application of credits to the project and front-end credits to reimbursable SOD construction obligations.

Authority: Safety of Dams Act of 1978, November 2, 1978, as amended (SOD Act) (Public Law 95-578, as amended; 43 U.S.C. § 508)

Contact: Contract Services Office, D-5600

1. **Background.** The SOD Act authorizes construction on existing Reclamation dams for safety purposes.
 - A. Section 4(a) of the SOD Act requires that costs incurred for the modification of structures which result from age and normal deterioration or from nonperformance of reasonable maintenance be allocated to the purposes for which the structure was originally authorized as reimbursable project costs.
 - B. Section 4(b) of the SOD Act requires that costs incurred pursuant to the original \$100 million authorization in the 1978 Act for modification of structures which result from new hydrologic or seismic data or changes in state-of-the-art criteria be nonreimbursable and nonreturnable. Because the SOD modifications authorized under the original \$100 million have been completed, this policy will not address Section 4(b) any further.
 - C. Section 4(c) of the SOD Act states that "...costs incurred in the modification of structures under this Act, the cause of which results from new hydrologic or seismic data or changes in state-of-the-art criteria deemed to be necessary for safety purposes, shall be reimbursed to the extent provided in this subsection." Section 4(c)(1) goes on further to state that, "Fifteen percent of such costs shall be allocated to the authorized purposes of the structure,"
2. **Application of Credits to the Project.**
 - A. Many authorities in Reclamation law require that revenues received from the incidental use of Reclamation's project lands and facilities be credited to the project. A credit to the project may only be applied as a tail-end credit to outstanding reimbursable construction obligations of a project and cannot be applied annually to reduce annual repayment obligations or operation and maintenance (O&M) expenses. When there are no reimbursable construction obligations remaining, credits to the project are accumulated in the Reclamation fund as statutory credits to the project. Statutory credits to the project are available for application to future reimbursable obligations for construction that is authorized and appropriated.

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- B. Credits to the project should first be applied to the tail end of outstanding reimbursable construction obligations of existing repayment or water service contracts. Only after these construction obligations have been repaid may credits to the project be applied to the tail end of reimbursable Sections 4(a) and 4(c) SOD construction obligations. If an appropriation has been made to cover the entire cost of a SOD modification, a separate appropriation to apply credits to the project to the tail end of reimbursable construction obligations is not required.
3. **Application of Front-end Credits.**
- A. Valid front-end credits occur in a limited number of specific cases. (See Reclamation Manual Directive and Standard, *Crediting of Incidental Revenues*, PEC 03-01 for the criteria that must be met to receive valid front-end credits.) Front-end credits are generated from farming or grazing leases, sale or use of townsite lots, and sales of project power. Front-end credits are applied in the following priority order: first, to annual reimbursable construction obligations; second, to O&M expenses; and third, as the water user directs for project purposes.
- B. Similar to credits to the project, front-end credits should first be applied to existing reimbursable repayment and water service construction obligations. Once these reimbursable construction obligations have been repaid, front-end credits may be applied to the annual Sections 4(a) and 4(c) SOD construction obligation.
- C. If all construction obligations have been repaid and front-end credits are being applied to O&M expenses, and if a new SOD obligation is incurred, the front-end credits would revert to repaying construction and would be applied to the reimbursable Section 4(a) and 4(c) SOD construction obligation. Once the reimbursable SOD construction obligation is repaid, the front-end credits would again be applied to annual O&M expenses.
4. **Exceptions.** In some cases, project-specific and congressionally approved contract authorities may direct crediting that does not follow this policy. Therefore, each situation involving the application of credits to the project, statutory credits, and front-end credits to reimbursable construction obligations for SOD contracts executed under Sections 4(a) and 4(c) should be evaluated on an individual basis.
5. **Related Directives and Standards.** For related and supporting Directives and Standards, see Reclamation Manual Directive and Standard, *Crediting of Incidental Revenues*, PEC 03-01.