

Reclamation Manual

Directives and Standards

Subject: Maintenance of Design and Construction Technical Capabilities

Purpose: Establishes Reclamation practices which support and maintain the agency's technical capabilities in design and construction management.

Authority: Reclamation Project Act of 1902 and Supplementary Acts, Reclamation Safety of Dams Act of 1978 and Amendments of 1984, the Contributed Funds Act of March 4, 1921 (41 Stat. 1404), Title VI of the Economy Act of June 30, 1932 (47 Stat. 382, 417), Title III of the Intergovernmental Cooperation Act of 1968 (Public Law 90-577; 82 Stat.1098), the Technology Transfer Act of 1986 (15 U.S.C. 3710), and Reclamation Manual policy *Performing Design and Construction Activities* (FAC P03).

Contact: Director, Operations, W-6000

1. **Introduction.** Highly skilled design and construction technical capabilities in Reclamation are essential to meet the specialized challenges presented by Reclamation's mission. Reclamation must safeguard water and related resources for future generations. This requires a fully capable staff to effectively operate, maintain, and develop Reclamation infrastructure, perform new initiatives consistent with Reclamation's mission, and respond effectively to emergency situations.
2. **Scope.** This directive applies to all Reclamation design and construction activities.
3. **Technical Capability.** Technical capability includes the staff, equipment, facilities, and technical manuals, standards and guidelines necessary to fully meet the specialized challenges offered by Reclamation's mission in the area of design and construction management.
4. **Responsibilities.** The Director, Operations; each Regional Director; and the Director, Technical Service Center are responsible for ensuring that activities in their respective organizations are conducted in a manner consistent with the procedures outlined in this directive. Each Director will collaborate with other Directors to optimize maintenance of technical capabilities from a Reclamation-wide perspective.
5. **Procedures.** Reclamation managers will ensure that Reclamation's technical capability is maintained through effective use of staff resources, collaborative development of work plans, use and monitoring of corporate business practices that affect technical capability, and by providing services to non-Reclamation clients, as appropriate.

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A. Utilizing Staff Resources.

- (1) Reclamation staff resources (supplemented, as needed, by private contractors or other sources) will accomplish the agency's design and construction workload in a timely, efficient, and cost-effective manner that fully utilizes Reclamation's existing technical capability and provides opportunities to develop sustainable staff capability for the future. Reclamation design and construction organizations should be the service providers of choice for all program-related work.
- (2) Reclamation managers should implement business practices that minimize dispersion, duplication, or loss of technical expertise needed by Reclamation. Managers should share resources and consolidate design and construction organizations, as practicable. Reclamation managers should implement business practices that minimize competition among offices for the same work.
- (3) Supervisors of design personnel will ensure that their staffs are knowledgeable of Reclamation design standards and policies and that they receive both formal and on-the-job training enabling them to stay abreast of technological advances occurring within their specialized areas of expertise. Likewise, supervisors of construction staffs will ensure that their staffs receive all necessary safety training as well as specialized training on construction materials and methods utilized on Reclamation construction projects.

B. Developing Work Plans.

- (1) Critical to maintaining capability is the ability for service providers to schedule work in advance and to effectively project staffing requirements. Offices with program responsibilities and service providers should collaborate jointly on determining the best approach to accomplishing future projects. Close coordination will ensure that scopes of work are well defined, appropriate project schedules are established, budgets cover all anticipated costs, and roles and responsibilities are clear. This information can be used by service providers to make resource management decisions.
- (2) The most efficient and effective means of accomplishing this necessary coordination is to make it an integral part of the annual Reclamation budget process. Each year, offices responsible for specific programs must develop operating budgets (establishing funding requirements for the next fiscal year) and formulate budget year requests (funding requirements for the second year after the operating budget year) associated with their projects to input into the overall budget being prepared for their region. This generally takes the form of work plans (sometimes called activity plans) that combine

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project information (project description, desired schedule, and funding requirements by year) with a justification for funding the project. In preparation of these plans, responsible program managers and design and construction management service providers shall interact and use the plans to document agreements on roles and responsibilities, schedules, and estimated funding available to perform the work. Periodic interaction should also occur between managers and service providers throughout the year to account for changes to existing work plans and new work not previously identified. Other more detailed documents such as service agreements will also be prepared for each project at a later date prior to initiation of the actual performance of the work. To assist service providers and program managers in understanding the development of work (activity) plans, sample forms and procedures can be obtained from the budget services organizations within their Regional Offices.

C. **Monitoring Corporate Capability.** While the maintenance of Reclamation's technical capability relies primarily on the decisions and actions of individual managers, it is important that Reclamation maintain a corporate consciousness regarding these actions and their net effect. Therefore, Reclamation will maintain a Reclamation-wide team of design and construction professionals to monitor and coordinate corporate efforts to maintain its technical capability. This team will meet regularly to coordinate, review, and periodically report to the Director, Operations on the status of Reclamation's technical capability, including:

- (1) Availability of technical resources and resource sharing to meet current and future mission needs.
- (2) Endangered capabilities due to workload and/or attrition.
- (3) Business practices (including staffing and contracting for technical services) that affect corporate technical capability.
- (4) Needed improvements to Reclamation design and construction policy, directives, and guidelines.

The reporting of this data may be accomplished through the existing Reclamation-wide capabilities reporting mechanism or via a periodic report specifically addressing design and construction capabilities at the Director, Operations' discretion.

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D. Services for Non-Reclamation Clients.

- (1) Performing reimbursable services for non-Reclamation clients is an acceptable means to develop and maintain technical capabilities for future Reclamation work. Reclamation will not perform work in direct competition with the private sector without legislative authority, and will limit services to work that is currently authorized, consistent with its mission, requires a Federal presence, or is otherwise in the public interest.
- (2) Reclamation managers must ensure that agreements to perform services for non-Reclamation clients include appropriate consideration of the authority, liability, and funding requirements associated with performing this work as a Federal agency. In the absence of specific legislation associated with a defined technical assistance activity, the following authority, admissibility criteria, and funding requirements will apply:
 - (a) **Other Federal Agencies.** Work for other Federal agencies shall be performed in accordance with Title VI of the Economy Act of June 30, 1932 (47 Stat. 382, 417). Under the Economy Act, services requested by another agency of the Federal Government may be undertaken by Reclamation when the requesting agency has determined it is unable through its own staff or through private contractors to obtain the required services expeditiously, satisfactorily, or conveniently, or when emergency conditions make the service desirable in the public interest. Reimbursement is achieved by advance payment or periodic billing as costs are incurred based on the terms of an Interagency Agreement (IAG). Reclamation may use contracts to provide services to other Government agencies.
 - (b) **State or Local Governments.**
 - (i) Title III of the Intergovernmental Cooperation Act of 1968 (Public Law 90-577; 82 Stat.1098) authorizes Federal agencies to provide specialized or technical services, and related facilities, for the purpose of avoiding unnecessary duplication of special service functions by State and local governments (including some water districts and/or associations chartered under State or local legislation), so long as these services cannot otherwise be adequately obtained through private contractors. In accordance with Office of Management and Budget Circular A-97 advance payment to cover Reclamation costs is required prior to beginning work, unless written provision for periodic reimbursement is provided as part of the agreement.
 - (ii) Work for State and local governments may also be performed under the Contributed Funds Act or the Technology Transfer Act as provided below.

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- (c) **Private Sector.** Engineering services requested by private individuals, associations (may include some water districts and/or associations unless chartered under State or local legislation), or corporations can be undertaken if the requested service involves a substantial public interest or cannot adequately be performed by private contractors or tends to promote the normal work of Reclamation in accomplishment of its primary functions.
- (i) Under the provisions of the Contributed Funds Act of March 4, 1921 (41 Stat. 1404), "all moneys hereafter received from any State, municipality, corporation, association, firm, district, or individual for investigations, surveys, construction work, or any other development work incident thereto involving operations similar to those provided for by the reclamation law shall be covered into the reclamation fund and shall be available for expenditure for the purposes for which contributed in like manner as if said sums had been specifically appropriated for said purposes."
- (ii) Under the Federal Technology Transfer Act, 15 U.S.C. 3710, the director of any Government-operated laboratory may enter into a cooperative research and development agreement with a private corporation (and/or non-Federal agency). Under such an agreement an agency can, among other things, accept funds from the collaborating firm for the use of Government personnel, equipment, facilities, or property. Congress authorized these public-private agreements with the intent to "increase the nation's competitiveness by encouraging technology transfer from federal government-operated laboratories to private industry." The Technology Transfer Act defines the term "laboratory" broadly to include "a facility or group of facilities owned, leased, or otherwise used by a Federal agency, a substantial purpose of which is the performance of research, development, or engineering by employees of the federal government."
- (iii) In accordance with the Anti-Deficiency Act, advance payment is required for all work performed using private sector funds.
- (d) **Foreign Governments.**
- (i) Reclamation may make its expertise in water resource management available to further U.S. foreign policy, enhance public health and support sustainable development in developing countries, and support U.S. private sector participation in the international marketplace. Reclamation will consider requests for assistance by foreign Governments, international funding entities,

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other Federal agencies, or the private sector. Authority to enter into agreements to provide technical assistance is provided under the Technology Transfer Act (summarized above).

- (ii) Managers will work through Reclamation's International Affairs Office to develop such agreements. Reclamation will obtain approval of a contemplated cooperative research and development agreement from the Department of State, under Section 607 of the Foreign Assistance Act of 1961 (Public Law 87-195). The Foreign Assistance Act requires agencies to receive approval before furnishing services and commodities on a reimbursement basis to foreign nations. The International Affairs Office may also need to consult with the United States Trade Representative (USTR) in accordance with Executive Order 12591 to ensure consistent trade policy is maintained.

- (iii) Advance payment is required in accordance with the Anti-Deficiency Act.

- (e) **Tribal Governments.** Work performed directly for tribal governments using tribal funds is subject to the same admissibility criteria as identified above for the private sector. This work is supplemental to that provided by Reclamation using Federal funds to fulfill Department of Interior's Indian Trust responsibilities.

Under the Indian Self-Determination and Education Assistance Act (Public Law 93-638), Title I gives express authority to the Secretary of the Interior to contract with and make grants to Indian tribes and tribal organizations for planning, conducting, or administering programs and services (including construction) that are funded by the Federal Government for the benefit of Indians.