

# Reclamation Manual

## Directives and Standards

<b>Subject:</b>	Reclamation Standard Water-Related Contract Articles, Article 9: Emergency Reserve Fund (All Programs with a One-Time Deposit of Funds)
<b>Purpose:</b>	To commit Reclamation's Standard Contract Article 9 to the Reclamation Manual, introduced by a brief description and direction regarding its use, for the benefit of making it easily accessible and promoting Reclamation-wide consistency in its use and content.
<b>Authority:</b>	The Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), and acts amendatory and supplementary thereto; section 6 of the Reclamation Project Act of 1939 (Pub. L. 76-260, as amended and supplemented; 43 U.S.C. § 485e).
<b>Approving Official:</b>	Director, Office of Program and Policy Services
<b>Contact:</b>	Office of Program and Policy Services; Contract Services Office, 84-56000

1. **Emergency Reserve Fund (All Programs with a One-Time Deposit of Funds).** This article is included in repayment contracts to require the contractor to establish, by a negotiable one-time lump-sum payment, a reserve fund to help the contractor pay unusual or unforeseen operation and maintenance (O&M) costs, repair costs, or for use in making improvements that can reduce or eliminate severe problems that occur during periods of special stress. This article may be omitted from secondary contracts, such as O&M transfer agreements, where the primary contract includes the article substantially as it appears below and is included in the secondary contract by reference. The charts included in Reclamation Manual Policy PEC P10 specify which contract types require standard article 9.
2. **Reclamation Standard Contract Article 9.**

(All Programs with a One-Time Deposit of Funds)

### EMERGENCY RESERVE FUND<sup>1</sup>

(a) Commencing on [execution of this contract] [date],<sup>2</sup> the Contractor shall establish and maintain a reserve fund or demonstrate to the satisfaction of the Contracting Officer that

<sup>1</sup>Approved 2/22/71; Revised 9/13/82; 2/3/83;11/84; 01/02.

<sup>2</sup>Variable language regarding "date" is bracketed. The date selected to initiate accumulation of the "Emergency Reserve Fund" should be coincident with the completion of construction or the beginning of the repayment period, as appropriate, for Small Reclamation Project Act loan and other repayment obligation contracts that require the contractor to accumulate and make upfront financing available during the construction period.

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other funds are available for use as an emergency reserve fund. The Contractor shall establish and maintain that emergency reserve fund to meet costs incurred during periods of special stress caused by damaging droughts, storms, earthquakes, floods, or other emergencies threatening or causing interruption of water service.

(b) The Contractor shall accumulate the reserve fund with a one-time deposit or investment of not less than \$\_\_\_\_\_ to a Federally insured, interest- or dividend-bearing account or in securities guaranteed by the Federal Government: *Provided, That* money in the reserve fund, including accrued interest, shall be available within a reasonable time to meet expenses for such purposes as those identified in paragraph (d) herein. Following an emergency expenditure from the fund, annual deposits of \$\_\_\_\_\_ shall continue from the year following the emergency expenditure until the previous balance is restored. After the previous balance is restored, the annual deposits may be discontinued and the interest earnings shall continue to accumulate and be retained as part of the reserve fund.

(c) Upon mutual agreement between the Contractor and the Contracting Officer, the accumulated reserve fund may be adjusted to account for risk and uncertainty stemming from the size and complexity of the project; the size of the annual operation and maintenance budget; additions to, deletions from, or changes in project works; and operation and maintenance costs not contemplated when this contract was executed.

(d) The Contractor may make expenditures from the reserve fund only for meeting usual operation and maintenance costs incurred during periods of special stress, as described in paragraph (a) herein; for meeting unforeseen extraordinary operation and maintenance costs; or for meeting unusual or extraordinary repair or replacement costs; or for meeting betterment costs

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(in situations where recurrence of severe problems can be eliminated) during periods of special stress. Proposed expenditures from the fund shall be submitted to the Contracting Officer in writing for review and written approval prior to disbursement. Whenever the reserve fund is reduced below the current balance by expenditures therefrom, the Contractor shall restore that balance by annual deposits as specified in paragraph (b) herein.

(e) During any period in which any of the project works are operated and maintained by the United States, the Contractor agrees the reserve fund shall be available for like use by the United States.

(f) On or before \_\_\_\_\_ of each year, the Contractor shall provide a current statement of the principal and accumulated interest of the reserve fund account to the Contracting Officer.