

# Reclamation Manual

## Directives and Standards

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<b>Subject:</b>	Collaboration with Customers Regarding Technical Services Required for Work on Existing Bureau of Reclamation Facilities
<b>Purpose:</b>	The purpose of this Directive and Standard (D&S) is to establish Reclamation-wide requirements for collaborating with customers on decisions regarding the scope and performance of technical services required for construction work (excluding safety of dam modifications) on existing Reclamation-owned facilities. The benefits of this D&S are coordination and communication with customers and the transparency of Reclamation's decisions regarding such work.
<b>Authority:</b>	Reclamation Act of 1902 and all acts amendatory thereof and supplementary thereto.
<b>Approving Official:</b>	Deputy Commissioner – Operations
<b>Contact:</b>	Director, Technical Resources, 86-60000

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### 1. Introduction.

- A. For some Reclamation-owned facilities, responsibility for the operation, maintenance, and replacement of the facilities has been transferred to a customer pursuant to contracts with Reclamation. In these instances, the customer is responsible for providing or obtaining whatever technical services are required in order to perform any construction work which is needed to maintain and/or replace the “transferred works.” If requested, Reclamation will provide engineering and other technical expertise to assist the customer, with the costs of such assistance being borne by the customer to the extent they are allocable to reimbursable project purposes.
- B. If a customer proposes to make a “substantial change” in any transferred work, the contract between Reclamation and the customer usually requires that such change must be approved by Reclamation. In these instances, Reclamation has usually, but not always, performed the technical services required for the construction of a substantial change as a condition of its approval, with the costs of such services being borne by a customer to the extent such costs are allocable to reimbursable project purposes.
- C. For facilities which are still operated and maintained by Reclamation, as opposed to a customer, the technical services required for any construction work on such facilities (referred to as “reserved works”) have typically been performed by Reclamation, with the costs of such services being borne by customers to the extent such costs are allocable to reimbursable project purposes.
- D. For the situations described in Paragraphs 1.B. and C., Reclamation's customers have a direct interest in what technical services are required, how those services are

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performed, and what the cost of those services will be. Reclamation therefore needs to work in partnership with its customers to ensure the delivery of high quality technical services in an efficient and cost effective manner. The collaboration process provided for by this D&S will afford customers the opportunity to be involved in decisions about the performance of such services and will also provide a process for determining if opportunities exist for customers, rather than Reclamation, to themselves perform, or contract with others to perform, such services in certain instances.

### 2. Applicability.

- A. This D&S addresses collaboration with customers on the technical services required for: (i) all construction work at and on reserved works; and (ii) construction work at and on transferred works which will result in a substantial change to the facilities involved (and which is, therefore, subject to Reclamation's approval because it is beyond the scope of the maintenance and replacement which a customer is authorized to perform pursuant to a contract for transferred works).
- (1) This D&S applies to such construction work regardless of the funding source for the work so long as one or more customers will bear at least some portion of the cost of the construction work (via contributed funds, advances from a customer in the year in which costs are incurred, or repayment over time).
  - (2) Any arrangements for collaboration with customers on Reclamation's decisions regarding the technical services required for construction work which exist as of the effective date of this D&S shall remain in place and not be affected unless the involved customer(s) desires to avail themselves of the processes established by this D&S.
- B. Collaboration with customers regarding the formulation of the overall annual operation and maintenance program and budget for a Reclamation project is covered by Reclamation Manual (RM) Policy, *Working With Water and/or Power Contractors During Formulation of Operation and Maintenance (O&M) Program, and Providing Quality Service to Contractors During Current Year O&M Program Activities*, WTR P05.
- C. This D&S does not apply to safety of dams modifications. Collaboration with customers regarding safety of dams modifications is covered by RM D&S, *Reclamation Dam Safety Program*, FAC 06-01.
- D. The processes provided for in this D&S shall not alter the environmental and other regulatory requirements applicable to construction work as defined in this D&S, nor the responsibilities of various parties associated with such compliance.

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### 3. Definitions.

- A. **Authorized Reclamation Official.** The Reclamation official to whom a regional or other director has delegated authority and responsibility for the accomplishment of construction work at a given Reclamation-owned facility, or such other Reclamation official to whom authority and responsibility has been re-delegated.
- B. **Construction Work.** Any work that requires engineering designs, technical drawings, specifications, cost estimating, and construction management, as described in Paragraph 2.A.
- C. **Customer.** A water user or electric utility which has an active repayment, water service, or power service contract with Reclamation; an electric utility which has an active contract with a Federal power marketing agency for energy and/or capacity from a Reclamation-owned hydropower facility; or a non-Federal operating entity (e.g., a joint powers authority) which has assumed responsibility on behalf of multiple water users, via a contract with Reclamation, for operating and maintaining a Reclamation project or features thereof.
- D. **Customer Association.** An informal group, or formally organized association, organization, or entity, which is composed of customers and which has been designated by its membership to represent them in dealings with Reclamation or a Federal power marketing agency, but which does not have a repayment, water service, power, or project operation and maintenance contract with Reclamation.
- E. **Reserved Works.** Those facilities owned by Reclamation where Reclamation has retained responsibility for carrying out operation and maintenance activities.
- F. **Substantial Change.** A modification in, or addition to, a project facility which involves changes in the original design intent, function, and/or operational parameters of the facility, or changes in project benefits.
- G. **Technical Services Work.** Technical services work means engineering work and other technical services work. It includes, but is not limited to, concept engineering; data collection and analysis; formulation of alternatives; value engineering/analysis studies; engineering designs, drawings, and specifications; cost estimating; hydrologic, geologic, seismic, environmental, social, economic, and cultural analyses; construction management (i.e., technical support for procurement of construction services, construction contract administration, inspection, engineering support, and completion of final construction reports, including as-built drawings); and commissioning/post-construction monitoring.

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- H. **Transferred Works.** Those facilities owned by Reclamation where Reclamation has turned over all or partial responsibility for carrying out operation and maintenance activities to a customer pursuant to a contract with such customer.
4. **Notification to Customers.** Any time Reclamation anticipates that it will need to undertake construction work involving a substantial change at or on existing Reclamation-owned facilities, the costs of which will be borne in whole or part by one or more customers, the authorized Reclamation official will notify, in writing, affected customers or the non-Federal operating entity or customer association which represents such affected customers (in lieu of notice to each individual customer), and, if applicable, the appropriate Federal power marketing administration. This notification will be coordinated with, and may be given as a part of, the collaboration process for operation and maintenance program formulation and budgeting provided for by WTR P05.
5. **Customer Collaboration Teams.**
- A. When the costs of construction work resulting in a substantial change to Reclamation facilities, or having potentially significant impacts to customer-funded future O&M costs will be borne in whole or part by one or more customers, the affected customer(s) or their customer association may request the appropriate authorized Reclamation official to form a Customer Collaboration Team (CCT). The purpose of a CCT will be for Reclamation and its customers to work together to collaboratively establish the budget for and scope of the required technical services, whether Reclamation will itself perform the necessary technical work or procure services from private firms, the schedule for the performance of such services, and design issues regarding construction work.
- (1) A CCT will track the progress of technical services, and of construction work, and determine if and when adjustments in scope, budgets, schedules, and/or priorities are needed.
  - (2) Reclamation will review originally proposed schedules and budgets for construction work with customers after the President's budget for Congressional appropriations or the budget from other funding sources is made public, so that the CCT can discuss whether changes in previously planned work may be required.
- B. In addition to the purposes set forth in the preceding paragraph, if a customer or customer association proposes that it, rather than Reclamation, perform or procure the necessary technical services, then the CCT will also collaboratively address whether the customer will be permitted to provide or procure such services and, if so, how the work will be done. All proposals from a customer or customer association must meet the minimum conditions set forth in Paragraph 7 below.

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- C. When so requested, a CCT will promptly be formed by the authorized Reclamation official. Customers may request that a CCT be formed on an ad hoc, one-time basis to deal with one individual construction job, or on a permanent basis (e.g., to address, on a continuous basis, extraordinary maintenance and replacements at a reserved work).
- D. A CCT will consist of the authorized Reclamation official and one representative for each customer or, when more than 10 customers are involved, for each customer association or group which desires to be involved. When power facilities are involved, one representative of the appropriate power marketing administration will be invited to be a member of the CCT.
- (1) All members of a CCT must have the authority to make decisions on behalf of their respective agencies or organizations, subject to the limits of their applicable laws and policies.
  - (2) Members of a CCT will be expected to interact with other parts of their respective organizations for assistance.
  - (3) All members of a CCT must have adequate expertise, in conjunction with the support of their respective technical staffs, to ensure the soundness of technical decisions.
- E. The authorized Reclamation official will chair each CCT and will be responsible for calling meetings of a CCT in a timely manner with appropriate notice to all members of a CCT. When agreed upon, a CCT will form such sub-teams or other work groups as it deems desirable for an effective collaboration process. The CCT will also provide for appropriate coordination with the project manager responsible for implementing the decisions of the CCT.
- F. When Reclamation is itself performing or has procured the required technical services, the Reclamation chair of a CCT will provide periodic written reports on the progress of construction work at least semi-annually or more frequently if agreed to by the CCT. When a CCT has agreed that a customer will perform certain construction work, then that customer will be responsible for providing such periodic written reports. Reporting will include cost information, status of work completed, work remaining, factors affecting the schedule and/or the cost of the project, and such other information as agreed to by a CCT. In addition to such periodic reporting, Reclamation or, as applicable, the customer performing the required technical services will promptly notify all CCT members of any significant changes in the scope, estimated or actual costs, or schedule.
- G. Customers will be responsible for funding their participation on a CCT. In accordance with WTR 02-01, the costs for participation of Reclamation staff will be considered project costs.

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6. **Decision Making Processes.** Every effort will be made by the members of a CCT to reach agreement on any matter being addressed by the CCT.
- A. The authorized Reclamation official will be obligated to comply with all applicable statutes, regulations, administrative orders, or court rulings; all of Reclamation's engineering and design criteria and standards; all RM releases, including, but not limited to, those that set forth Reclamation's business model for technical services. The authorized Reclamation official will consider customer views when Reclamation's legal authorities, RM requirements, and/or business practices give the official the discretion to determine how work will be performed or to request a waiver from such requirements or business practices.
  - B. If the members of a CCT reach agreement on a matter before them, then Reclamation shall proceed to implement the agreed upon course of action if it does not violate any applicable statutes, regulations, RM requirements, administrative orders, or court rulings.
  - C. If the customers or customer associations on a CCT cannot reach agreement with Reclamation on a matter before the CCT, or if the customers or customer associations cannot reach agreement among themselves, or in such circumstances where an immediate decision is necessary and the Reclamation official determines it is in the best interest of the project, the decision of the authorized Reclamation official, which shall be committed to writing and provided to all members of the CCT in a timely manner, shall be final.
  - D. Any customer member of a CCT may appeal the decision of the authorized Reclamation official to the appropriate regional director. Such appeals must be made in writing within 30 calendar days of receipt of the final written decision by Reclamation's member of a CCT. An appeal must state: (1) the specific decision being appealed, (2) the reasons for and an explanation of the basis for the objection to the decision, and (3) recommendations for proposed remedy(s). The regional director will consider all information provided by the customer. The regional director will render a final decision in writing within 30 calendar days from receipt of the appeal unless the customer making the appeal agrees to a longer time period.
7. **Technical Services Work Performed by Customers.** If a customer desires to perform the technical services required for certain construction work, then the following minimum conditions must be met before Reclamation will consider having such services performed or procured by the customer. Additional contractual or regulatory constraints may also apply.
- A. **Professional Registration.** The customer must agree in writing that those performing engineering work for it will meet Reclamation's requirements for professional registration, as set forth in RM Policy, *Performing Design and Construction Activities*, FAC P03.

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- B. **Professional Responsibility.** The customer must enter into a legally enforceable agreement with Reclamation pursuant to which it agrees to hold the United States harmless from, and to indemnify it for, any and all claims against it which arise from errors and omissions in the engineering designs, drawings, and specifications completed by or on behalf of the customer or in the construction management and/or construction techniques employed by or on the behalf of the customer.
- C. **Design Criteria and Standards.** The customer must agree that the necessary engineering designs, drawings, and specifications will be completed in accordance with Reclamation's design criteria and/or standards or ask the authorized Reclamation official to consider seeking a waiver from these requirements in accordance with RM Policy, *Performing Design and Construction Activities*, FAC P03.
- D. **Construction Management Requirements.** The authorized Reclamation official or CCT (if formed) must agree on the construction management requirements for the work to be undertaken and document this agreement in writing. Such requirements shall address how quality assurance and quality control work will be performed and who will be responsible for it.
- E. **Reclamation Review and Oversight Requirements.** The authorized Reclamation official or CCT (if formed) must agree in writing on the level of engineering review and construction management oversight which Reclamation will perform, and document this agreement in writing. Such requirements shall address the required intervals throughout the design, specifications, and construction process at which engineering reviews shall be performed; the extent of each review; and the Reclamation office which will perform each review.