

Reclamation Manual

Directives and Standards

Subject:	Reclamation Standard Water-Related Contract Articles, Standard Article 9: Emergency Reserve Fund (One-Time Deposit)
Purpose:	To provide requirements for the content and application of Standard Article 9: Emergency Reserve Fund (One-Time Deposit) (Standard Article 9), for the benefit of supporting general policy and specific requirements set forth in Reclamation Manual Policy PEC P10, <i>Reclamation Standard Water-Related Contract Articles</i> (PEC P10).
Authority:	The Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), and acts amendatory and supplementary thereto, especially section 6 of the Reclamation Project Act of 1939 (Pub. L. 76-260; 53 Stat. 1191; 43 U.S.C. § 485e).
Approving Official:	Director, Policy and Administration
Contact:	Water and Environmental Resources Division, 84-55000

1. **Introduction.** This Directive and Standard provides the text for Standard Article 9 and addresses related requirements. Paragraph 6 of PEC P10 indicates which contracts require Standard Article 9. In general, Standard Article 9 is required where the contractor is responsible for paying a significant proportion of project operation and maintenance (O&M) costs. It requires the contractor to establish a reserve fund through a negotiable one-time lump-sum payment, to ensure that funds are available to pay the costs beyond those of ordinary O&M incurred under specified circumstances.
2. **Applicability.** This Directive and Standard applies to Reclamation staff and officials involved in the contracting process, as defined at Paragraph 3.A. of PEC P10, for contracts requiring Standard Article 9 under Paragraph 6 of PEC P10.
3. **Definitions.** See Paragraph 3 of PEC P10.
4. **Responsibilities.** See Paragraph 4 of PEC P10.
5. **Text of Standard Article 9.**

EMERGENCY RESERVE FUND¹
(One-Time Deposit)

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

¹Approved 02/71; revised 09/82; 02/83; 11/84; 01/02; 04/10.

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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 written 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 routine or recurring operation and maintenance costs incurred during periods of special stress, as described in paragraph (a) herein; for meeting unforeseen extraordinary operation and

²Bracketed language is variable, depending on which is appropriate. 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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maintenance costs; or for meeting unusual or extraordinary repair or replacement costs; or for meeting betterment costs (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.