

Reclamation Manual

Directives and Standards

Subject:	Collection of Costs Associated With the Administration of Water-Related Contracting Activities
Purpose:	To provide requirements for the implementation of an equitable fee structure to collect operation and maintenance (O&M) costs for water-related contracting activities. The benefit of this Directive and Standard is consistent application of these requirements by Bureau of Reclamation offices and personnel.
Authority:	The Reclamation Act of 1902 (Act of June 17, 1902; 32 Stat. 388); Reclamation Extension Act (Act of August 13, 1914; 38 Stat. 686); The Omnibus Adjustment Act (Act of May 25, 1926; 44 Stat. 636); and the Reclamation Project Act of 1939 (Act of August 4, 1939; 53 Stat. 1187).
Approving Official:	Director, Policy and Administration
Contact:	Reclamation Law Administration Division (84-55000)

1. **Introduction.** In developing contracts and performing contracts-related administrative activities, Reclamation incurs various costs. Many such activities should be funded by the beneficiaries associated with the particular contract action. The purpose of this Directive and Standard (D&S) is to provide the requirements to fund Reclamation's costs to negotiate, prepare, review, execute, and perform contract-related activities.
2. **Applicability.** This D&S applies to Reclamation contracts and repayment staff conducting contracting activities.
3. **Definitions – Reimbursable Activities.** Activities that would be reimbursable under the fee structure include: new contracts, i.e., water service, repayment, O&M, emergency loan, drought, rehabilitation and betterment; contract renewal; land inclusions and exclusions; National Environmental Policy Act (NEPA) compliance; water transfers; exchanges; title transfer agreements (as modified by other Reclamation guidance with respect to cost-sharing for NEPA costs); and contract amendments.
4. **Responsibilities.**
 - A. **Regional Directors.** The regional directors are responsible for ensuring compliance with this D&S regarding the collection of O&M costs associated with the administration of water-related contracting activities for their region.
 - B. **Director, Policy and Administration.** The Director, Policy and Administration is responsible for ensuring compliance with this D&S regarding the collection of O&M costs associated with the administration of water-related contracting activities Reclamation-wide.

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4. **Direct Charge.** Prior to beginning reimbursable contract activities, regional offices will collect estimated costs up front. The direct charge will be comprised of actual costs. Actual costs include salary, overhead, travel, materials, and other costs as applicable. Depending on actual costs, this fee may be adjusted up or down, thereby requiring either additional moneys to be collected up front or a refund to the entity. These rates differ from region to region based on overhead costs. Regional finance offices should be contacted annually to update these rates.
5. **Exemptions.** The fee will not apply in the following situations:
 - A. Where explicitly prohibited by legislation or executive order.
 - B. Right-of-way application, leases, license, permits, etc., for the use of project lands and facilities for which fees are covered under a variety of authorities. (Departmental Manual, 346 DM 4.1, prescribes the Department's policy and procedures for rights-of-way projects.) (43 CFR Part 429)
 - C. Where the Government is already committed by statute to perform an activity benefitting the public generally and the costs associated with that activity would be incurred regardless of the fact that specific individuals and entities may be incidentally benefitted. Examples include statutorily prescribed land use planning and statutorily prescribed programmatic environmental statements.
 - D. Where the contract action is being taken for the primary benefit of a party other than the contractor or its benefactor (e.g., contracts for the acquisition of water for Federal purposes or contracts benefitting the public generally). This exception does not apply where a contract is intended to mitigate harm to the public interest, e.g., a contract providing that a certain percentage of water be used for instream flows or a certain amount of habitat be created as a prerequisite for authorizing a contractor to take some action.
6. **Appropriations Act.** The annual Energy and Water Development Appropriation Acts generally restate Reclamation's authority to accept deposits and make expenditures for reimbursable work. For example, The Energy and Water Development Appropriation Act, 1996, (Pub. L. 104-46, 109 Stat. 410), states "That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same purpose and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended . . .". Thus, Reclamation is authorized to collect funds for the purposes defined at Paragraph 3.A. above in advance of service from water users and to then expend the funds for the purposes for which they were advanced.

RECLAMATION MANUAL TRANSMITTAL SHEET

Effective Date: _____

Release No. _____

Ensure all employees needing this information are provided a copy of this release.

Reclamation Manual Release Number and Subject

Summary of Changes

NOTE: This Reclamation Manual release applies to all Reclamation employees. When an exclusive bargaining unit exists, changes to this release may be subject to the provisions of collective bargaining agreements.

Filing instructions

Remove Sheets

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All Reclamation Manual releases are available at <http://www.usbr.gov/recman/>

Filed by: _____

Date: _____