



MEMORANDUM

TO: SLDMWA Finance and Administration Committee, Board of Directors, Alternates

FROM: Pablo Arroyave, Chief Operating Officer

DATE: July 10, 2025

RE: Resolution Authorizing Application for Extended Repayment and Funding From the Aging Infrastructure Account

BACKGROUND

The 2021 Infrastructure Investment and Jobs Act (IIJA) (aka, Bipartisan Infrastructure Law (BIL)) authorized \$3.2 billion for XM of Reclamation facilities over a 5-year period. These funds are available to both reserved and transferred works facilities and will be administered through the Aging Infrastructure Account (Account), a Reclamation-wide revolving fund created to sustain investment in Extraordinary Maintenance (XM). The Water Authority has submitted IIJA applications as follows:

Application Submittal Date	Project Title	Application Amount	Amount Awarded
11/30/2022	DMC Subsidence Correction Project	\$830 million	\$ 25 million
11/30/2022	JPP Excitation System and Control Modernization Project	\$25 million	\$25 million
12/01/2023	DMC Subsidence Correction Project	\$805 million	\$50 million
12/01/2023	OPP Unit Upgrade Project	\$68.1 million	\$11.6 million
07/19/2024	DMC Subsidence Correction Project	\$755 million	\$204 million
07/19/2024	OPP Unit Upgrade Project	\$56.5 million	\$0
July 2025	DMC Subsidence Correction Project	\$551 million	TBD
July 2025	OPP Unit Upgrade Project	\$56.5 million	TBD
July 2025	OPP Main Transformer Replacement Project	\$58.4 million	TBD

As a transferred works entity, the Water Authority may apply for funds to support XM of transferred works facilities. Each individual project for which an application is submitted will be evaluated independently, and there is no guarantee of any project or projects being selected for award. Projects that are selected will follow the established reimbursability and terms for extended repayment, not to exceed 50 years. FY26 Projects will be selected in, or around, January

2026. Following selection, the recipients will be required to negotiate and execute repayment contracts with Reclamation.

The Water Authority has evaluated its existing 10-Year Plan and established criteria to help inform the selection of projects for inclusion in the application. The criteria include:

1. Projects that have an appraisal level cost estimate completed;
2. Multi-Year Projects over \$1M/year; and/or
3. Single-Year Projects over \$1.5M

Three EO&M projects meet this criteria for Fiscal Year 2026:

1. Delta-Mendota Canal (DMC) Subsidence Correction Project: Total project cost is currently estimated at \$830 million. (Note: Reclamation awarded \$25 million to this project in 2022, \$50 million in 2023 and \$204 million in 2024 has indicated to reapply to be eligible for additional IJA funding.)
2. O'Neill Pumping-Generating Plant (OPP) Unit Upgrades Project: Total project cost for all unit upgrades at OPP is currently estimated at \$68.1 million. Modification of the original project scope is being evaluated to include the replacement of additional sections of the pump assembly. Evaluation to be completed in mid-July 2025. The following projects have been identified and incorporated into the OPP Unit Upgrades Project: 1. OPP Rewind, 2. OPP Pump Bowl Replacement, 3. OPP Woodward Governor Replacement, and 4. OPP Unit Pump Assembly and Penstock Rehabilitation/Replacement. (Note: Reclamation awarded \$11.6 million to this project in 2023, and has indicated to reapply to be eligible for additional IJA funding.)
3. O'Neill Pumping-Generating Plant (OPP) Main Transformer Replacement Project: The preliminary Total Project Cost for the planning, design, manufacturing and installation of the new transformers has been estimated at approximately \$60 million.

The Board previously authorized applications for extended repayment and funding from the IJA account for the DMC Subsidence Correction Project and the OPP Unit Upgrades Project (Resolution Nos. 2022-509 and 2023-519); the current issue before the Board is focused on the OPP Main Transformer Replacement Project.

ISSUE FOR DECISION

Whether the Board of Directors should adopt the proposed Resolution authorizing application for extended repayment and funding from the Aging Infrastructure Account.

RECOMMENDATION

Water Authority Staff recommends adoption of the proposed Resolution.

ANALYSIS

The application process is described in Reclamation Directive and Standard (D&S) PEC 05-03 (attached).

If one or all of the proposed projects is selected, the Water Authority must be willing to negotiate and execute a contract or contracts for extended repayment of funds. The Water Authority would seek at least a 30-year repayment term and would explore additional repayment terms with Reclamation during the application review process. Per Reclamation staff, per D&S PEC 11-01, *Irrigation Ability to Pay Analysis*, an Ability to Pay Study is required for any repayment term greater than 30-years. Any repayment contract would be brought to the Water Authority Board of Directors for future review and action.

Per Section 8E **Acreage Limitation**, on page 8 of D&S PEC 05-03, extended repayment of O&M expenses does **not** trigger Reclamation Reform Act pricing or acreage limitations.

ATTACHMENTS

1. Resolution Authorizing Application for Extended Repayment and Funding From the Aging Infrastructure Account in Fiscal Year 2026 for Extraordinary Maintenance Work on O'Neill Pumping-Generating Plant and the Delta-Mendota Canal.
2. Applicant Cover letter template
3. Reclamation Directive and Standard (D&S) PEC 05-03

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

RESOLUTION NO. 2025-XXX

RESOLUTION AUTHORIZING APPLICATION FOR EXTENDED REPAYMENT AND FUNDING FROM THE AGING INFRASTRUCTURE ACCOUNT

WHEREAS, the San Luis & Delta-Mendota Water Authority (“**Water Authority**”) is a transferred works operator responsible for the operation, maintenance, and replacement (“**OM&R**”) of certain Central Valley Project (“**CVP**”) facilities, including the O’Neill Pumping-Generating Plant (“**OPP**”), which moves water between the Delta-Mendota Canal (“**DMC**”) into the O’Neill Forebay; and the DMC, a 116.5-mile long canal that carries water from the Delta near Tracy to the Mendota Pool, about 30 miles west of Fresno; and

WHEREAS, the OPP was constructed in 1968 and Reclamation has determined that the unit pump bowls are at the end of their useful life and recommended for replacement per Technical Memorandum dated October 7, 2019, with Subject Line “San Luis Delta Mendota Water Authority – O’Neill Pumping Plant Pump Bowl Modification – Delta Division – Central Valley Project (CVP), California; and

WHEREAS, the OPP Main Transformers, which provide the primary power to operate the OPP units, were initially commissioned in 1967 and are at the service at the end of their useful service life and need to be replaced; and

WHEREAS, the OPP Main Transformers are currently being rehabilitated to extend the life of the transformers by approximately ten years, which is necessary to allow the five-to-seven-year process to plan, design, manufacture and install the replacement transformers; and

WHEREAS, if the Water Authority is awarded IJA funding in FY26 for the OPP Main Transformer Replacement Project, the Water Authority will begin the negotiation procedures to determine the terms of the repayment contract after all IJA funding has been awarded; and

WHEREAS, the Water Authority is now pursuing all possible financing options, including reasonable cost share provisions, or non-reimbursable funding, with which to pay the cost of extraordinary maintenance at the OPP; and

WHEREAS, the Water Authority Board of Directors previously authorized applications for extended repayment and funding from the IJA account for the Delta-Mendota Canal Subsidence Correction Project and the OPP Unit Upgrades Project (Resolution Nos. 2022-509 and 2023-519); and

WHEREAS, the Water Authority is authorized to fund and negotiate contracts for the repayment of extraordinary maintenance projects; and

WHEREAS, Congress provides federal funding for extraordinary maintenance work by means of discretionary and mandatory appropriations and, with the addition of the Aging Infrastructure Account, federal funding will also be provided by repayment amounts from extraordinary maintenance contracts that were funded by the Aging Infrastructure Account; and

WHEREAS, if the OPP Project is selected to receive extended repayment and funding from the Aging Infrastructure Account in Fiscal Year 2026, the Water Authority would proceed in negotiating a contract for extended repayment of funds, and the contract would be brought to the Water Authority Board of Directors for review and action; and

WHEREAS, authorizing application for funding for extraordinary maintenance and negotiation of a repayment contract with the United States do not constitute a project or projects under the California Environmental Quality Act (“CEQA”) because the proposed actions represent administrative actions of the Water Authority that will not result in direct or indirect physical changes in the environment (CEQA Guidelines Section 15378(b)(5)); further, because it can be seen with certainty that there is no possibility that the proposed actions in question may have a significant effect on the environment, the proposed action is not subject to CEQA (CEQA Guidelines section 15061(b)(3)); further, future CEQA review will be completed prior to approval or any construction of the extraordinary maintenance in question.

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS, THAT:

Section 1. The facts stated in the recitals above are true and correct, and the Board so finds and determines.

Section 2. The Board hereby authorizes the Executive Director to submit an application on behalf of the Water Authority for Extended Repayment and Funding from the Aging Infrastructure Account in Fiscal Year 2026 for three projects, the O’Neill Pumping-Generating Plant Unit Upgrade Project, O’Neill Pumping-Generating Plant Main Transformer Replacement Project and the Delta-Mendota Canal Subsidence Correction Project.

Section 3. The Executive Director and Chief Operating Officer, and such Water Authority employee or consultant as either of such officers may designate, are further authorized and directed to enter into negotiations with the United States for a repayment contract or repayment contracts, with the expectation that any such contract will be presented to the Board of Directors for approval.

Section 4. The Executive Director and Chief Operating Officer, and such Water Authority employee or consultant as either of such officers may designate, are further authorized and directed to take such additional steps, and to execute such additional documents, as may be required or reasonably necessary to the completion of the activities authorized by this Resolution.

PASSED, APPROVED AND ADOPTED this 10th day of July, 2025, by the Board of Directors of the San Luis & Delta-Mendota Water Authority.

Cannon Michael, Chairman
San Luis & Delta-Mendota Water Authority

Attest:

Federico Barajas, Secretary

I hereby certify that the foregoing Resolution No. 2025-XXX was duly and regularly adopted by the Board of Directors of the San Luis & Delta-Mendota Water Authority at the meeting thereof held on the 10th day of July, 2025.

Federico Barajas, Secretary

[Date]

[Name]

[Title]

[Organization]

[Address]

[City, State, Zip Code]

Subject: Application for Funding from the Aging Infrastructure Account in FY 2026,
[District/Association/Entity Name] [(Abbreviated Name)], [Reclamation Project], [State]

[Abbreviated Name] is a transferred works operator responsible for costs of operating and maintaining [Reclamation Facility or Facilities]. We are formally applying for [Funding Request in \$] from the Aging Infrastructure Account (Account) in FY 2026 for extraordinary maintenance (XM) work on [Reclamation Facility or Facilities] (XM Project).

The estimated cost of the XM Project is based on [attached cost estimate documentation]. This funding will be used to [short, high-level description of activities for which funding is requested].

We understand that compliance with Federal environmental laws and regulations is required for the XM Project before any funding allocations can be made.

We request an advancement of funds from the Account for the proposed XM work. If the work is selected for funding from the Account and Reclamation advances funds, we acknowledge that the [Facility or Facilities] transferred works would be using the funds to perform justified XM work. We have worked with your staff to satisfy the application and eligibility requirements.

We have evaluated the following non-Federal funding options:

[List any non-Federal funding options evaluated]

None of these options were feasible due to [explanation for infeasibility].

We confirm that the proposed work is major, non-recurring maintenance to ensure the continued safe, dependable, and reliable delivery of authorized project benefits.

Please accept this letter and application to request funding from the Account.

[Required: Electronic/Wet Signature with Date Stamp]

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Subject:	Funding and Extended Repayment of Extraordinary Maintenance Cost
Purpose:	To state funding and repayment requirements for extraordinary maintenance. The benefit of this Directive and Standard is consistent application of law and sound business practices to meet the most critical extraordinary maintenance needs.
Authority:	The Reclamation Act of June 17, 1902 (32 Stat. 388), as amended and supplemented, in particular, Title IX, Subtitle G of Pub. L. 111-11, and Title XI, Section 1101 of Pub. L. 116-260 (43 U.S.C. § 510, et seq.)
Approving Official:	Director, Mission Assurance and Protection Organization
Contact:	Reclamation Law Administration Division (84-55000)

1. Introduction.

Title IX, Subtitle G, of Public Law 111-11 authorizes Reclamation to advance funding for extraordinary maintenance (XM) to non-federal operators of Reclamation facilities (operating entities¹), to extend repayment of reimbursable XM costs, and to execute repayment contracts. Title XI, Section 1101, of Public Law 116-260, amends this authority by establishing the Aging Infrastructure Account (AIA) and associated parameters and requirements. The current law (XM authority), as amended, is codified at 43 U.S.C. 510, et seq. The XM authority does not address funding for or authorize extended repayment of annual, routine operation, maintenance, and replacement (OM&R) costs.

2. Applicability.

This D&S applies to all Reclamation offices and staff administering the XM authority.²

3. Federal Funding.

Funding for XM is provided in discretionary and mandatory appropriations and from amounts repaid into the AIA. The AIA funding process outlined in this D&S is the preferred XM funding method. Other funding sources may be required when funds in the AIA are insufficient, or the urgency of XM work necessitates a faster process (e.g., emergency XM (EXM), as addressed under Paragraph 4.B.³). Paragraph 5 outlines requirements for requesting funding from the AIA. Authority to advance funding for XM from sources other than the AIA, and to enter associated repayment contracts, must be requested in accordance with Paragraph 9.

¹The terms that are linked in this D&S are those that are defined under Paragraph 11.

²This D&S sets forth generally applicable requirements. Where needed, given the variations among Reclamation's projects and contractual relationships, implementing offices and staff should work with the Review Team identified under Paragraph 5.A. to determine allowable and appropriate variances and the associated authorization processes.

³As a practical matter, actions or work needed to minimize imminent harm to life and property cannot typically wait to go through the application process, which is required to use funds from the AIA. Regions are generally responsible for funding emergency XM work from their regularly budgeted funds.

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4. Eligibility.

A. XM.

For purposes of this D&S, work is XM if:

- (1) it is major, non-recurring maintenance of a mission critical asset;
- (2) its purpose is to ensure the continued safe and reliable delivery of authorized project benefits (any additional benefits resulting from XM work being strictly incidental to that purpose);
- (3) its costs are greater than 10 percent of Reclamation's or the operating entity's annual operation and maintenance budget for the facility or at least \$100,000 in total; and
- (4) it is not eligible to be performed or funded under the repayment provisions of Section 4(c) of the Reclamation Safety of Dams Act of November 2, 1978, as amended (43 U.S.C. § 506).

B. EXM.

(1) In General.

XM work qualifies as EXM to the extent that the Commissioner determines that it is necessary to minimize the [risk of imminent harm](#) to public health or safety, or to property.⁴ For [transferred works](#), the Commissioner will factor in the urgency that the [operating entity](#) and the affected local entities place on the work, as indicated by the immediacy of their associated actions and commitment of resources.

(2) Expedited Funding.

Funding for EXM may be provided before the execution of the associated repayment contract(s) in accordance with subparagraph 6.B.⁵

(3) Reduced Reimbursability.

(a) Conditions.

Advanced XM funds are reimbursable as described in Paragraph 8.A., except that Reclamation may provide funding on a non-reimbursable basis sufficient to cover 35 percent of the cost for EXM work on a facility that is inspected and maintained under the guidelines and criteria outlined in subsection (a) of 43 U.S.C. 510a,⁶ if the following conditions are met:

⁴EXM is work that must be done immediately to prevent harm to persons or property. The key distinction from other XM work is urgency, rather than the types of potential harm, since non-emergency XM work will normally address similar risks across some timeframe.

⁵Work designated EXM will often be followed by longer-term work to permanently resolve underlying or associated maintenance issues. An initial EXM element does not, by itself, qualify longer-term associated work as EXM, and a distinction may be required between work of an urgency justifying funding ahead of contract execution and the ongoing work to follow.

⁶See RM D&S *Canal Hazard Program* (FAC 01-12) for inspection processes for urban canals.

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- (i) during the last 10 years, any Category 1 OM&R recommendations, as defined in Paragraph 7.A.(1) of Reclamation Manual (RM) D&S, Review of Operation and Maintenance (RO&M) Program Examination of Associated Facilities (Facilities other than High- and Significant-Hazard Dams) ([FAC 01-04](#)), related to XM work identified through inspection/assessments conducted under existing review programs have an identified timeframe for work to be completed and the work has been completed or is progressing within that timeframe,
- (ii) during the last 10 years, any Category 2 OM&R recommendations, as defined in Paragraph 7.A.(2) of [FAC 01-04](#), related to XM work identified through inspection/assessments conducted under existing review programs have an identified timeframe for work to be completed and the work has been completed or is progressing within that timeframe, and
- (iii) the EXM does not result from inadequate performance of routine maintenance.

5. Aging Infrastructure Account Application and Funding Process.

The funds in the AIA are accessed through a process outlined below.

A. Application Review Team (Review Team).

The Review Team⁷ will:

- (1) perform the responsibilities outlined under Paragraph 5.F.;
- (2) prepare documents to initiate the application cycle each year;
- (3) provide internal guidance through the Aging Infrastructure Applications SharePoint Site (SharePoint Site) and otherwise as needed;
- (4) maintain regular communication with designated regional representatives as scheduled or as needed throughout the process; and
- (5) coordinate among regions, the Commissioner's Office, and, as necessary, the Department of the Interior's Office of the Solicitor.

B. Designation of Regional Representatives.

Each Regional Director (RD) will designate a representative who is formally responsible for coordinating regional activities related to the AIA application and funding process, regional communications with the Review Team, dissemination of information to the appropriate regional staff and officials, and submission of materials from the region to the Review Team.

⁷The Review Team includes members from the Reclamation Law Administration Division (RLAD) of Policy and Programs, the Asset Management Division (AMD) of Dam Safety and Infrastructure (DS&I), and Washington Office Program & Budget (P&B).

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C. Annual Notice and Deadlines.⁸

Regional office staff will notify eligible applicants of the application process no later than 2 weeks after the initiation of the application cycle each year. The public notice process will include posting information on Reclamation websites and reasonable efforts to notify eligible applicants. The public notice will include the [application](#) deadline, the minimum required application content described in Paragraph 5.D., and a main point of contact for interested applicants.

D. Regional Office Application Review⁹

- (1) Regional office staff will review received applications for the following required content: ¹⁰
 - (a) a description of the work for which funds are requested;
 - (b) the amount of funds requested;
 - (c) the requested repayment period;
 - (d) the financial justification for requesting an extended repayment period.;¹¹
 - (e) alternative non-Federal funding options that the applicant has evaluated;
 - (f) at least 1 year of the applicant's financial records;
 - (g) any remaining environmental compliance that is required before the project commences and that is the applicant's responsibility; and
 - (h) the official level of cost estimate as defined in RM D&S Cost Estimating (FAC 09-01) and provided as required by RM D&S Representation and Referencing of Cost Estimates in Bureau of Reclamation Documents Used for Planning, Design and Construction (FAC 09-03).
- (2) Before submitting applications to the Review Team, regions will add:
 - (a) the associated Major Rehabilitation & Replacement categorization ratings (e.g., A, B, C, D or E);

⁸RLAD and other appropriate offices will continually assess the application process timelines described in this D&S and make changes as needed.

⁹This subparagraph addresses requests for AIA funding from operating entities or project beneficiaries (each as defined under Paragraph 11) through the application process established for that purpose. Subparagraph 5.E. separately addresses AIA funding requests submitted by offices within Reclamation.

¹⁰Applications and repayment obligations involving multiple project beneficiaries will normally require the relevant information from each of them. Because the relationships among multiple applicants in one application and multiple repayment entities can vary from project to project, the approach may need to be determined on a case-by-case basis, to some extent.

¹¹Paragraph 8.C.(1) may require additional financial information for contracting purposes.

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- (b) any remaining environmental compliance that is required before the project commences and that is Reclamation's responsibility;
 - (c) a justification for the omission of any of the material required under the prior subparagraph; and
 - (d) any other information the region deems necessary to the Review Team's assessment of application.
- (3) Area or regional office staff will conduct a financial analysis of the project and the applicant's repayment capability. The financial analysis must include a review of the contractor's financial records and reserve funds. See Paragraph 7.A. concerning contractually required reserve funds and see Paragraph 8.C.(1)(a) for ability-to-pay study requirements.
 - (4) Area or regional office staff will add documentation used to fulfill applicable requirements of RM D&S, Reclamation Value Program ([CMP 06-01](#)), and RM D&S, Planning for Major Rehabilitation and Replacement of Existing Assets ([CMP 09-04](#)), to each [application](#).
 - (5) If regional office staff determine that any applications are ineligible for funding or incomplete, they will make reasonable efforts to contact the applicant and allow them to supplement or amend their application before the application deadline.
 - (6) No later than 6 weeks after the close of the application period, regional office staff, through the designated Regional Representative, will submit all applications and an analysis of the reporting content required under 5.D.(1) – (4) to the Review Team through the SharePoint Site.

E. Regional Funding Requests.

Regional offices may also request funding from the AIA for [reserved works](#) XM or XM costs that Reclamation is otherwise required to pay.¹² [Regional funding requests](#) must be uploaded to the AIA SharePoint Site by the deadline for uploading applications established for the year. Requests must include the information listed in Paragraph 5.D. that is relevant, including financial and repayment information if there are reimbursable costs and a request for extended repayment. Indications in the submitted materials of the level of support from the [project beneficiaries](#) responsible for repayment of any reimbursable costs may be a factor in prioritizing regional funding requests.

F. Review and Report.

The Review Team will review submitted applications and regional funding requests to determine whether they meet all eligibility criteria, content requirements, and deadlines. No later than 3 weeks after the deadline for uploading materials to the SharePoint Site, the Review Team will provide the Commissioner with the year's submissions and

¹²For example, where law or contract requires Reclamation to pay an established share of OM&R costs for transferred works.

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recommend a prioritization among the eligible, timely, and complete submissions, based on the Commissioner's parameters and criteria. The Review Team will also provide the Commissioner a draft of the report required under 43 U.S.C. § 510b(d)(5).

G. Report to Congress.

Reclamation will report the Commissioner's final determinations to Congress, as required by 43 U.S.C. § 510b(d)(5).

H. Congressional Alternative Allocation.

In accordance with 43 U.S.C. 510b(d)(6), Reclamation will not expend or award AIA funds generated from XM repayment until Congress has had the opportunity to make an alternative allocation of the funds in its annual appropriations bill. This requirement applies only to funds returned to the AIA through repayment of reimbursable XM costs; it does not apply to funds Congress appropriates into the AIA. The Review Team will notify RDs and their designated representatives of the final allocation of these funds once they can be made available, and regional staff will notify successful applicants.

I. Fund Administration and Oversight.

The Director, Program and Budget, maintains administration and oversight of all funds in the AIA. In addition to the standard validation and verification that Program and Budget provides, RLAD and AMD will ensure appropriate oversight of the funded XM projects.

J. Change Management.

If a change in the scope, schedule, or budget of AIA-funded XM occurs, the established regional representative will submit a change management request to the SharePoint Site. The Review Team will review submitted change management requests and provide recommendations to Reclamation leadership.

6. Requirement of a Contract.

A. Transferred Works.

XM repayment contracts are required where funds are advanced to [operating entities](#) or [project beneficiaries](#), pursuant to 43 U.S.C. 510b(b)(2).

(1) XM.

Except for EXM, Reclamation will not advance funds for XM work before execution of a repayment contract.

(2) EXM.

Reclamation will only advance funds for EXM work without first executing a repayment contract if:

- (a) Reclamation has received written assurance from the operating entity or other repayment entity that it will enter good faith negotiations toward execution of a repayment contract, and

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- (b) the Commissioner has made an initial written determination that the intended work meets the EXM criteria under Paragraph 4.B. and has authorized the advancement of funds prior to execution of a contract.

(3) Funding Advanced to Project Beneficiaries for Transferred Works XM.

For [transferred works](#), a project beneficiary (rather than the operating entity) may request and receive funding for its costs associated with XM work. Reclamation must enter a repayment contract with the entity receiving funding in these cases. Whether a contract with the operating entity covering allowable uses of the funding and associated reporting requirements is also necessary will be determined case by case and will depend on the degree to which the operating entity is contractually or otherwise legally accountable to the project beneficiary receiving funding from Reclamation. The Basis of Negotiation (BON) (see Paragraph 9) will state and explain the Region's intended approach.

B. Reserved Works.

Reimbursable [reserved works](#) XM costs can be recovered through a new repayment contract or an existing contract requiring the contractor to pay OM&R costs.¹³ Extended repayment of XM costs under an existing contract cannot exceed that contract's term and requires the Commissioner's written authorization.

7. Conditions and Limitations on Funds Advanced for Transferred Works XM.

The Region will obtain the information necessary to ensure compliance with this Paragraph from the [operating entity](#).

A. Operating Entity's Funding Requirements.

(1) XM Funded from the AIA.

The requirements below for expenditures of the contractor's reserve funds and assessment of alternative funding sources do not apply to AIA-funded XM.

(2) XM Funded from General Appropriations.

Subject to the Regional Director's determination that a smaller expenditure from reserves or exemption from this requirement is necessary to avoid undue burden on the contractor, advancement of XM funding from general appropriations is subject to the following conditions:

- (a) Where a prior contract with Reclamation requires the operating entity to maintain a reserve fund for maintenance costs (separate from an emergency reserve fund), Reclamation will not advance funding from regular appropriations for XM until the operating entity has expended or contractually agreed to expend at least 50 percent of the reserve fund.

¹³ Reclamation has authority to extend XM repayment under an existing contract under 43 U.S.C. § 510b(b)(1).

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- (i) When an operating entity has expended reserve funds and is current in re-accumulating the funds expended according to contractual requirements, the 50 percent will be based on the accumulated amount.
- (ii) If the operating entity has not maintained the reserve fund in accordance with the contract, Reclamation will require it to expend an amount equal to 50 percent of the contractually required reserve fund.
- (b) If an existing contract between the operating entity and Reclamation does not require explicitly designated maintenance reserve funds, the RD will determine an appropriate amount the operating entity must expend before Reclamation will advance funds. The BON will include this determination.

(3) EXM Advance Funding.

Where a prior contract with Reclamation requires the operating entity to maintain a reserve fund for emergency costs, the requirements under Paragraph 7.A.(1)(a) apply to that reserve fund.

(4) Non-Federal Funding Options.

Reclamation will not advance funds to the operating entity for XM work before the RD has determined that the operating entity has assessed reasonably available non-Federal funding options. The BON will acknowledge this requirement.

B. Limits on Use of Advanced Funds.

Regions are responsible for ensuring that operating entities use Federal funds solely for the purposes for which advanced.

8. Contracting and Contract Requirements.

A. Allocation of Costs.

Reclamation will allocate costs for XM and EXM work in accordance with the allocation of OM&R costs for the project or facility that is in effect when it incurs costs or advances funds for XM work, subject to any modified cost allocation formally identified in an XM Justification Report prepared for support of the work, in accordance with [CMP 09-04](#), provided the modified cost allocation and initiation of changes to the cost allocation are compliant with the Paragraph 8 of RM Policy, Allocation of Operation and Maintenance Costs ([PEC P07](#)). For EXM granted reduced repayment, 35 percent of the funds advanced and allocable to the [operating entity](#) is non-reimbursable.

B. Statutory Credits.

Available statutory credits will be credited against repayment obligations only after Reclamation has authorized the work and appropriated the funds. Statutory credits cannot normally be applied against annual OM&R costs.¹⁴

¹⁴For additional information on the application of statutory credits toward an XM cost obligation see Paragraph 4.A. of RM D&S, *Crediting Requirements for Incidental Revenues* (PEC 03-01).

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C. Repayment Terms.

(1) Repayment Period.

(a) Maximum Term.

The repayment period will not exceed the shorter of the service life of the repair or 50 years from the date on which the RD declares the work is substantially complete. Additionally, if the BON proposes any repayment period longer than 30 years, an ability-to-pay study compliant with RM D&S, Irrigation Ability-to-Pay Analyses ([PEC 11-01](#)) must justify the proposed repayment period. If no ability-to-pay study has been completed within the last 5 years, a new study is required. The ability-to-pay study costs are reimbursable.

(b) Water Service Contractors.

If the repayment entity's primary water-related contract with Reclamation is a water service contract,¹⁵ the period for repaying XM costs will not exceed the remaining term of the contract without the Commissioner's approval.

(2) Interest.

Reclamation will assess interest on all reimbursable XM costs regardless of the project purpose to which the costs are allocated.

(a) Source of the Rate.

The interest rate for reimbursable XM costs is the rate determined by the Secretary of the Treasury for the fiscal year in which the XM commences¹⁶ and corresponding to the applicable reimbursement period. The rates can be found in the Range of Maturities (Table 1) at

<https://www.treasurydirect.gov/government/interest-rates-and-prices/certified-interest-rates/annual/>.

(b) When Interest is Assessed.

Reclamation will assess interest through completion of repayment, beginning on the date it advances funds for [transferred works](#) XM and on the date it expends funds for [reserved works](#) XM.

(c) When the Interest Rate is Set.

The applicable Treasury rate is the rate effective as of the beginning of the fiscal year in which the funded work is commenced. For purposes of establishing the interest rate for reimbursable AIA funding, the work

¹⁵As defined in Paragraph 4.S. of RM Policy PEC P05.

¹⁶See 43 USC 510b(b)(3).

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commences when expenditures have been made on work for which the AIA funding has been awarded,¹⁷ including at least one of the following:

- (i) planning
- (ii) design
- (iii) environmental compliance
- (iv) permitting
- (v) actual construction.

(3) Administrative Costs.

The RD will require the contractor to provide advance payment sufficient to cover an appropriate share of administrative costs assigned to the contractor for environmental compliance, BON development, and contract development and negotiation, unless the parties agree that Reclamation will initially fund these costs from the funding made available for the XM work and roll them into the interest-bearing repayment obligation.

(4) Aid to Irrigation.

Aid to irrigation is not available for repayment of XM costs.¹⁸

(5) Deferrals.

Deferrals pursuant to 43 U.S.C. § 485b-1 are not authorized for XM costs.

D. Standard Articles.

Paragraph 5 of RM Policy, Reclamation Standard Water-Related Contract Articles (PEC P10) identifies the standard articles required for XM contracts.

E. Acreage Limitation.

Reclamation law acreage limitation provisions do not apply to XM repayment contracts. Specifically, contracts for repayment of the costs of XM will not:

- (1) be considered in determining whether a district, as defined in Section 202(2) of the Reclamation Reform Act of October 12, 1982 (43 U.S.C. § 390bb), has discharged its obligation to repay the construction costs of the [project facilities](#) used to make irrigation water available for delivery to land in the district,

¹⁷Note that this allows expenditures by an operating entity of its own funds to set the interest rate if the expenditures are for work for which the Commissioner has awarded AIA funding. This may be important where funding is awarded in one fiscal year but not advanced until the following fiscal year.

¹⁸This is because XM work is a subcategory of OM&R and ability-to-pay relief and aid to irrigation are available only for costs of work that qualifies as construction under Reclamation law. (For more information about ability-to-pay relief and aid to irrigation, see RM D&S PEC 11-01.) XM work may meet the capitalization criteria for assets under construction for financial reporting. Contact the regional finance office for assistance.

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- (2) serve as the basis for reinstating acreage limitation provisions in a district that has completed payment of its construction obligation, or
- (3) serve as the basis for increasing the construction repayment obligation of the district and thereby extending the period during which the acreage limitation provisions will apply.

F. Public Participation.

Public participation is required for all XM repayment contracts. For public participation requirements for water-related contracts, see RM Policy, Water-Related Contracts—General Principles and Requirements ([PEC P05](#)).

G. No External Discussion of Pre-Decisional Positions.

Reclamation managers and employees will not make commitments to an operating entity or project beneficiary concerning the eligibility of proposed XM work for emergency status or reduced repayment until the Commissioner has made the associated determinations in writing.

H. Wage Rate Requirements.

The relevant provisions of the Davis-Bacon and Related Acts (40 U.S.C. § 3141, 29 U.S.C. § 201, 41 U.S.C. § 351, 40 U.S.C. § 3701, 41 U.S.C. § 35, 40 U.S.C. § 3145) apply to XM contracts for more than \$2,000 that involve the employment of mechanics and laborers, unless the contractor is a Federal, State or local government entity and the work is performed by its own employees.¹⁹ Contracts executed under the XM authority will include a provision describing the application of the Davis-Bacon and Related Acts requirements, whether to their own employees or to any contractors.

I. Required Reporting.

Contracts for repayment of transferred works XM costs must require the contractor to submit annual progress reports and quarterly Standard Form SF-425, Federal Financial Report, until the RD declares the XM work substantially complete.

J. National Environmental Policy Act (NEPA).

Reclamation's categorical exclusion (CE) under 516 Department Manual 14.5D(1)²⁰ is appropriate to use for XM projects if the scope of the project is consistent with the terms of the CE and there are no extraordinary circumstances. Reclamation will make the determination on the level of NEPA review and documentation, including whether an XM proposal satisfies the CE language or would trigger any of the extraordinary circumstances as described in 43 CFR 46.215. In cases where the project does not meet

¹⁹See 29 CFR 5.1 and 29 CFR 3.2(h). Note that 29 CFR 5.1(a) subjects state and local government to the Davis-Bacon and Related Acts requirements through contracts executed under laws listed there. If that list is expanded to include the XM authority under 43 U.S.C. 510, *et seq.*, then the Davis-Bacon and Related Acts requirements will apply to state or local government employees performing work funded under XM contracts.

²⁰Covering maintenance, rehabilitation, and replacement of existing facilities which may involve a minor change in size, location, and/or operation.

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the above criteria or where any extraordinary circumstances exist, a higher level of NEPA evaluation will be required.

9. BON Requirements.

BONs and approval memoranda are required for all XM repayment contracts, and for all XM funding advances except advances for EXM meeting the requirements of Paragraph 6.A.(2). For the general BON process requirements, see RM D&S, Preparing Bases of Negotiation for New, and Amendatory Water Service, Repayment, and Related Contracts ([PEC 06-01](#)).

A. XM BONs Generally.

A BON for an XM contract will include:

- (1) a determination of eligibility under Paragraph 4.A. with supporting evidence,
- (2) an estimate of costs allocable to the [project beneficiaries](#), as described in Paragraph 8.A.,
- (3) a proposed repayment term and any justification or additional information required under Paragraph 8,
- (4) for [transferred works](#), an explanation of how the contract will meet the requirements of Paragraph 7; and
- (5) a statement that the contract will meet all applicable requirements of the XM authority and of this D&S.

B. AIA Funded XM.

RLAD will treat a region's submission of [applications](#) under Paragraph 5.D.(6) as a blanket BON requesting authority to execute the associated repayment contracts, or to extend repayment of [reserved works](#) XM costs under existing contracts, as long as the submitted material includes the information required under this Paragraph 9 and [PEC 06-01](#). The Commissioner's formal award of AIA funding will constitute the BON approval delegating authority to enter repayment contracts and to otherwise extend repayment, as applicable, for the funded submissions that include the required information.

C. EXM BONs.

In addition to the requirements in Paragraph 9.A., EXM BONs will include:

- (1) a copy of the written assurance required under Paragraph 6.A.(2)(a) if funds have been or will be advanced before execution of a contract, and
- (2) a request and justification for reduced repayment under Paragraph 4.B.(3), if applicable.

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10. Substantial Completion.

RDs are responsible for making the determination that XM work is substantially complete²¹ and for preparing and transmitting written notice to the contractors of substantial completion and the initiation of repayment.²²

11. Definitions.

A. Application.

An [eligible applicant](#)'s request for an advancement of funding from the AIA for [transferred works](#) XM or for Reclamation's expenditure of funding from the AIA for [reserved works](#) XM.

B. Eligible Applicant.

An [operating entity](#) or [project beneficiary](#), as defined herein.

C. Mission Critical Asset.

A project facility or feature that sustains essential functions of a Reclamation project and for which an alternative facility or structure capable of continuously sustaining those functions is unavailable.²³

D. Operating Entity.

An organization that is contractually responsible for OM&R of transferred works.

E. Project Beneficiary.

An entity that receives benefits from a Reclamation project and is responsible for repayment of reimbursable costs on reserved or transferred works.

F. Regional Funding Request.

A regional office's request for funding from the AIA for [reserved works](#) XM or for transferred works XM costs that Reclamation is required to pay.²⁴

G. Reserved Works.

Project facilities or features for which Reclamation carries out the OM&R.

H. Risk of Imminent Harm.

Immediate danger or threat of injury to persons or of major damage to or loss of tangible property.

²¹For associated requirements, see RM D&S, Project Management (CMP 07-01) and Completion of a Construction Activity: Transferring Reclamation Capital Assets Under Construction (AUC) to Operation and Maintenance (O&M) Status (FAC 01-05).

²²When XM work is performed by an operating entity, coordination with that entity will be necessary; however, the RD must still make a determination and provide the operating entity with a written notice of substantial completion. Reclamation's written declaration of substantial completion to the operating entity initiates the repayment period.

²³This definition encompasses major asset classes such as dams, power plants, canals, siphons, pipelines, distribution systems, recreation facilities, fish and wildlife facilities, and associated structural, mechanical, and electrical systems and subcomponents.

²⁴A separate regional funding request is not required if the operating entity's application for XM funding includes amounts Reclamation is required to pay.

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I. Transferred Works.

Project facilities or features for which the OM&R is carried out by an operating entity under the provisions of a contract.

12. Review Period.

The originating office will review this release every 2 years.