

(c) Advance appropriations

The authority of subsection (b) of this section may be exercised only to the extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 88-300, § 2, Apr. 29, 1964, 78 Stat. 184; Pub. L. 103-236, title IV, § 423(a), Apr. 30, 1994, 108 Stat. 457; Pub. L. 106-113, div. B, § 1000(a)(7) [div. A, title VII, § 703], Nov. 29, 1999, 113 Stat. 1536, 1501A-460.)

AMENDMENTS

1999—Subsec. (b), Pub. L. 106-113 inserted “operations, maintenance, and” after “cost of”.

1994—Pub. L. 103-236 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

§ 277d-19. Compensation of owners and tenants to prevent economic injury; regulations

The United States Commissioner, under regulations approved by the Secretary of State, and upon application of the owners and tenants of lands to be acquired by the United States to fulfill and accomplish the purposes of said convention, and to the extent administratively determined by the Commissioner to be fair and reasonable, is authorized to—

a. Reimburse the owners and tenants for expenses and other losses and damages incurred by them in the process and as a direct result of such moving of themselves, their families, and their possessions as is occasioned by said acquisition: *Provided*, That the total of such reimbursement to the owners and tenants of any parcel of land shall in no event exceed 25 per centum of its fair value, as determined by the Commissioner. No payment under this subsection shall be made unless application therefor is supported by an itemized and certified statement of the expenses, losses, and damages incurred.

b. Compensate the said owners and tenants for identifiable, reasonable, and satisfactorily proved costs and losses to owners and tenants over and above those reimbursed under the foregoing subsection in the categories herein-after provided, and for which purpose there shall be established by the Commissioner a board of examiners, consisting of such personnel employed and compensation fixed as he deems advisable, without regard to the provisions of the civil service laws and chapter 51 and subchapter III of chapter 53 of title 5. Said board may hold hearings and shall examine submitted evidence and make determinations, subject to the Commissioner's approval, regarding all claims in said categories as follows:

(1) For properties—

(a) For nonconforming abodes and minimum forms of shelter for which there are no comparable properties on the market in the city of El Paso and concerning which fair market value would be inadequate to find minimum housing of equal utility, compensation to the owner up to an amount which when added to the market value allowed for his property, including land values, would enable purchase of minimum habitable housing of similar utility in another residential section of said city.

(b) For commercial properties for which there are no comparable properties on the market in or near El Paso, Texas, compensation to the owner up to an amount which, when added to the total fair market value, including the land value, would compensate the owner for the “value in use” of the real estate to him. Such “value in use” is to be determined on the basis of replacement cost less deterioration and obsolescence in existing real estate and taking into consideration factors bearing upon income attributable to the real estate.

(2) For loss in business:

(a) Loss of profits directly resulting from relocation, limited to the period between termination of business in the old location and commencement of business in the new, such period not to exceed thirty days.

(b) Loss to owner resulting from inability to rent to others housing or commercial space that can be reasonably related to uncertainties arising out of the pending acquisition of the owner's property by the United States, such losses limited to those incurred after July 18, 1963, and prior to the making by the United States of a firm offer to purchase.

(3) For penalty costs to property owners for prepayment of mortgages incident to acquisition of the properties by the United States.

(Pub. L. 88-300, § 3, Apr. 29, 1964, 78 Stat. 184.)

CODIFICATION

In par. b., “chapter 51 and subchapter III of chapter 53 of title 5” substituted for “the Classification Act of 1949, as amended” on authority of Pub. L. 89-554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

§ 277d-20. Limitation on application for reimbursement or compensation

Application for reimbursement or compensation under section 277d-19 of this title shall be submitted to the Commissioner within either one year from the date of acquisition or the date of vacating the premises by the applicant, whichever date is later. Applications not submitted within said period shall be forever barred.

(Pub. L. 88-300, § 4, Apr. 29, 1964, 78 Stat. 185.)

§ 277d-21. Attorneys' fees; penalties

The Commissioner, in rendering an award in favor of any claimant under section 277d-19 of this title, may, as part of such award, determine and allow reasonable attorneys' fees which shall not exceed 10 per centum of the amount awarded, to be paid out of but not in addition to the amount of award, to the attorneys representing the claimant. Any attorney who charges, demands, receives, or collects for services rendered in connection with such claim any amount in excess of that allowed by the terms of this section, if award be made, shall be fined not more than \$2,000 or imprisoned not more than one year, or both.

(Pub. L. 88-300, § 5, Apr. 29, 1964, 78 Stat. 185.)

§ 277d-22. Prohibition against duplicate payments; eligibility for payments unaffected by means employed for acquisition of property; rights and powers unaffected

Payments to be made as herein provided shall be in addition to, but not in duplication of, any payments that may otherwise be authorized by law. The means employed to acquire the property, whether by condemnation or otherwise, shall not affect eligibility for reimbursement or compensation under sections 277d-17 to 277d-25 of this title. Nothing contained in such sections shall be construed as creating any legal right or cause of action against the United States or as precluding the exercise by the Government of the right of eminent domain or any other right or power that it may have under such sections or any other law; nor shall such sections be construed as precluding an owner or tenant from asserting any rights he may have under other laws or the Constitution of the United States.

(Pub. L. 88-300, § 6, Apr. 29, 1964, 78 Stat. 186.)

§ 277d-23. Taxation; exclusion from gross income

No amount received as an award under subsection a. and subsections b. (1) and (3) of section 277d-19 of this title shall be included in gross income for purposes of chapter 1 of title 26. However, amounts received under subsection b. (1) shall be included in gross income to the extent that such amounts are not used within one year of the receipt thereof to purchase replacement housing or facilities.

(Pub. L. 88-300, § 7, Apr. 29, 1964, 78 Stat. 186; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

AMENDMENTS

1986—Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

§ 277d-24. Definitions; exemption from administrative procedure provisions

As used in sections 277d-17 to 277d-25 of this title, the term “land” shall include interests in land, and the term “fair value” shall mean fair value of the interest acquired. The provisions of such sections shall be exempt from the operations of subchapter II of chapter 5, and chapter 7, of title 5.

(Pub. L. 88-300, § 8, Apr. 29, 1964, 78 Stat. 186.)

CODIFICATION

“Subchapter II of chapter 5, and chapter 7, of title 5” substituted in text for “the Administrative Procedure Act of June 11, 1946 (60 Stat. 237), as amended (5 U.S.C. 1001-1011)” on authority of Pub. L. 89-554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

§ 277d-25. Authorization of appropriations

There are authorized to be appropriated to the Department of State for the use of the United States section of said Commission not to exceed \$44,900,000 to carry out the provisions of said convention and sections 277d-17 to 277d-25 of this title and for transfer to other Federal agencies to accomplish by them or other proper agency

relocation of their facilities necessitated by the project. Of the appropriations authorized by this section, not to exceed \$4,200,000 may be used to carry out the provisions of section 277d-19 of this title. The provisions of section 277d-3 of this title are hereby expressly extended to apply to the carrying out of the provisions of said convention and sections 277d-17 to 277d-25 of this title.

(Pub. L. 88-300, § 9, Apr. 29, 1964, 78 Stat. 186.)

§ 277d-26. Lower Colorado River emergency flood control works; agreements with Mexico for joint construction, operation and maintenance

The Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized to conclude, with the appropriate official or officials of the Government of Mexico, agreements for emergency flood control measures of international character in the reaches of the lower Colorado River between Imperial Dam and the Gulf of California, in both the United States and Mexico, such agreements to provide: (a) for the joint clearing and maintaining free of trees and brush the bed and banks of the channel; for removing sediment deposits from the river channel; and (b) for corrective actions to guard against sedimentation and consequent aggradation of the river channel incident to desilting operations at diversion dams in the two countries: *Provided*, That, prior approval of the Secretary of the Interior is required of any proposed agreement with Mexico under clause (b) of this section which would involve construction and/or operation of works on the Colorado River in the United States under the jurisdiction of the Secretary. The measures contemplated herein are for the purpose of controlling floods on the lower Colorado River in accordance with article 13 of the 1944 Water Treaty with Mexico, and accomplishment thereof by the International Boundary and Water Commission, United States Section, would be in accord with the Memorandum of Understanding “as to Functions and Jurisdiction of Agencies of the United States in Relation to the Colorado and Tijuana Rivers and the Rio Grande Below Fort Quitman, Texas, Under Water Treaty Signed at Washington, February 3, 1944,” between the Department of State and the United States Section, International Boundary and Water Commission and the Department of the Interior dated February 14, 1945.

(Pub. L. 88-411, § 1, Aug. 10, 1964, 78 Stat. 386.)

§ 277d-27. Execution of agreements

The United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized to carry out those measures agreed upon for execution by the United States in the agreements concluded pursuant to section 277d-26 of this title.

(Pub. L. 88-411, § 2, Aug. 10, 1964, 78 Stat. 386.)

§ 277d-28. Authorization of appropriations

There is authorized to be appropriated to the Department of State for use of the United