

§ 308. Cooperation with Federal and State agencies and foreign countries

(a) The Secretary is authorized to perform by contract or otherwise, authorized engineering or other services in connection with the survey, construction, maintenance, or improvement of highways for other Government agencies, cooperating foreign countries, and State cooperating agencies, and reimbursement for such services, which may include depreciation on engineering and roadbuilding equipment used, shall be credited to the appropriation concerned.

(b) Appropriations for the work of the Federal Highway Administration shall be available for expenses of warehouse maintenance and the procurement, care, and handling of supplies, materials, and equipment for distribution to projects under the supervision of the Federal Highway Administration, or for sale or distribution to other Government agencies, cooperating foreign countries, and State cooperating agencies, and the cost of such supplies and materials or the value of such equipment, including the cost of transportation and handling, may be reimbursed to current applicable appropriations.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 914; Pub. L. 93-87, title I, §152(5), Aug. 13, 1973, 87 Stat. 276.)

AMENDMENTS

1973—Subsec. (b). Pub. L. 93-87 substituted “Federal Highway Administration” for “Bureau of Public Roads” in two places.

§ 309. Cooperation with other American Republics

The President is authorized to utilize the services of the Federal Highway Administration in fulfilling the obligations of the United States under the Convention on the Pan-American Highway Between the United States and Other American Republics (51 Stat. 152), cooperating with several governments, members of the Organization of American States, in connection with the survey and construction of the Inter-American Highway, and for performing engineering service in the other American Republics for and upon the request of any agency or governmental corporation of the United States. To the extent authorized in appropriation acts, administrative funds available in accordance with subsection (a) of section 104 of this title shall be available annually for the purpose of this section.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 914; Pub. L. 93-87, title I, §152(5), Aug. 13, 1973, 87 Stat. 276.)

AMENDMENTS

1973—Pub. L. 93-87 substituted “Federal Highway Administration” for “Bureau of Public Roads”.

PAN AMERICAN HIGHWAY STUDY

Pub. L. 104-59, title III, §359(a), Nov. 28, 1995, 109 Stat. 626, provided that:

“(1) STUDY.—The Secretary shall conduct a study on the adequacy of and the need for improvements to the Pan American Highway.

“(2) ELEMENTS.—The study shall include, at a minimum, the following elements:

“(A) Findings on the benefits of constructing a highway at Darien Gap, Panama and Colombia.

“(B) Recommendations for a self-financing arrangement for completion and maintenance of the Pan American Highway.

“(C) Recommendations for establishing a Pan American highway authority to monitor financing, construction, maintenance, and operations of the Pan American Highway.

“(D) Findings on the benefits to trade and prosperity of a more efficient Pan American Highway.

“(E) Findings on the benefits to United States industry resulting from the use of United States technology and equipment in construction of improvements to the Pan American Highway.

“(F) Findings on environmental considerations, including environmental considerations relating to Darien Gap.

“(3) REPORT.—Not later than 2 years after the date of the enactment of this Act [Nov. 28, 1995], the Secretary shall transmit to Congress a report on the results of the study.”

§ 310. Civil defense

In order to assure that adequate consideration is given to civil defense aspects in the planning and construction of highways constructed or reconstructed with the aid of Federal funds, the Secretary of Transportation is authorized and directed to consult, from time to time, with the Federal Civil Defense Administrator relative to the civil defense aspects of highways so constructed or reconstructed.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 914; Pub. L. 93-87, title I, §152(3), Aug. 13, 1973, 87 Stat. 276.)

AMENDMENTS

1973—Pub. L. 93-87 substituted “Secretary of Transportation” for “Secretary of Commerce”.

TRANSFER OF FUNCTIONS

Office of Federal Civil Defense Administrator, referred to in text, abolished and functions thereof transferred to President by Reorg. Plan No. 1 of 1958, set out as a note under section 5195 of Title 42, The Public Health and Welfare. The Plan also established a new agency in the Executive Office of the President, known as the Office of Defense and Civilian Mobilization to be headed by a Director. Office redesignated as the Office of Civil and Defense Mobilization by act Aug. 26, 1958 (72 Stat. 861; 42 U.S.C. 5195 note). Civil defense functions transferred to Secretary of Defense by Executive Order No. 10952 of July 20, 1961, formerly set out as a note under section 2271 of Title 50, Appendix, War and National Defense, and remaining functions redesignated Office of Emergency Planning by act Sept. 22, 1961 (75 Stat. 630; 42 U.S.C. 5195 note). Office redesignated Office of Emergency Preparedness by act Oct. 21, 1968 (82 Stat. 1194; 42 U.S.C. 5195 note). Office of Emergency Preparedness including office of Director abolished and functions thereof transferred to President by Reorg. Plan No. 1 of 1973, set out as a note under section 5195 of Title 42.

§ 311. Highway improvements strategically important to the national defense

Funds made available under subsection (a) of section 104 of this title may be used to pay the entire engineering costs of the surveys, plans, specifications, estimates, and supervision of construction of projects for such urgent improvements of highways strategically important from the standpoint of the national defense as may be undertaken on the order of the Secretary and as the result of request of the Secretary of Defense or such other official as the President may designate. With the consent of a State, funds made available under subsection (b) of section 104 of this title may be used to the ex-

tent deemed necessary and advisable by the Secretary to carry out the provisions of this section.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 915.)

NATIONAL DEFENSE HIGHWAYS LOCATED OUTSIDE
UNITED STATES

Pub. L. 102-240, title I, §1006(h), Dec. 18, 1991, 105 Stat. 1927, provided that:

“(1) RECONSTRUCTION PROJECTS.—If the Secretary determines, after consultation with the Secretary of Defense, that a highway, or portion of a highway, located outside the United States is important to the national defense, the Secretary may carry out a project for the reconstruction of such highway or portion of highway.

“(2) FUNDING.—The Secretary may make available, from funds appropriated to construct the National System of Interstate and Defense Highways, not to exceed \$20,000,000 per fiscal year for each of fiscal years 1993, 1994, 1995, and 1996 to carry out this subsection. Such sums shall remain available until expended.”

§ 312. Detail of Army, Navy, and Air Force officers

The Secretary of Defense, upon request of the Secretary, is authorized to make temporary details to the Federal Highway Administration of officers of the Army, the Navy, and the Air Force, without additional compensation, for technical advice and for consultation regarding highway needs for the national defense. Travel and subsistence expenses of officers so detailed shall be paid from appropriations available to the Department of Transportation on the same basis as authorized by law and by regulations of the Department of Defense for such officers.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 915; Pub. L. 93-87, title I, §152(5), (6), Aug. 13, 1973, 87 Stat. 276.)

AMENDMENTS

1973—Pub. L. 93-87 substituted “Federal Highway Administration” for “Bureau of Public Roads” and “Department of Transportation” for “Department of Commerce”.

§ 313. Buy America

(a) Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title and administered by the Department of Transportation, unless steel, iron, and manufactured products used in such project are produced in the United States.

(b) The provisions of subsection (a) of this section shall not apply where the Secretary finds—

(1) that their application would be inconsistent with the public interest;

(2) that such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) that inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent.

(c) For purposes of this section, in calculating components’ costs, labor costs involved in final assembly shall not be included in the calculation.

(d) The Secretary of Transportation shall not impose any limitation or condition on assistance provided under the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title that restricts any State from imposing more stringent requirements than this section on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with such assistance or restricts any recipient of such assistance from complying with such State imposed requirements.

(e) INTENTIONAL VIOLATIONS.—If it has been determined by a court or Federal agency that any person intentionally—

(1) affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product used in projects to which this section applies, sold in or shipped to the United States that was not made in the United States; or

(2) represented that any product used in projects to which this section applies, sold in or shipped to the United States that was not produced in the United States, was produced in the United States;

that person shall be ineligible to receive any contract or subcontract made with funds authorized under the Intermodal Surface Transportation Efficiency Act of 1991 pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

(f) LIMITATION ON APPLICABILITY OF WAIVERS TO PRODUCTS PRODUCED IN CERTAIN FOREIGN COUNTRIES.—If the Secretary, in consultation with the United States Trade Representative, determines that—

(1) a foreign country is a party to an agreement with the United States and pursuant to that agreement the head of an agency of the United States has waived the requirements of this section, and

(2) the foreign country has violated the terms of the agreement by discriminating against products covered by this section that are produced in the United States and are covered by the agreement,

the provisions of subsection (b) shall not apply to products produced in that foreign country.

(Added and amended Pub. L. 109-59, title I, §1903(a), (c), Aug. 10, 2005, 119 Stat. 1464, 1465.)

REFERENCES IN TEXT

The Surface Transportation Assistance Act of 1982, referred to in subsecs. (a) and (d), is Pub. L. 97-424, Jan. 6, 1983, 96 Stat. 2097. For complete classification of this Act to the Code, see Short Title of 1983 Amendments note set out under section 101 of this title and Tables.

The Intermodal Surface Transportation Efficiency Act of 1991, referred to in subsec. (e), is Pub. L. 102-240, Dec. 18, 1991, 105 Stat. 1914. For complete classification of this Act to the Code, see Short Title of 1991 Amendment note set out under section 101 of Title 49, Transportation, and Tables.

CODIFICATION

Section, as added by Pub. L. 109-59, consists of text of Pub. L. 97-424, title I, §165, Jan. 6, 1983, 96 Stat. 2136; Pub. L. 98-229, §10, Mar. 9, 1984, 98 Stat. 57; Pub. L. 100-17, title I, §§133(a)(6), 337(a)(1), (b), (c), Apr. 2, 1987,