

authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (e), “chapter 83 of title 41” substituted for “title III of the Act of March 3, 1933 (47 Stat. 1520; 41 U.S.C. 10a-10c)” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

#### AMENDMENTS

1978—Subsecs. (d), (e). Pub. L. 95-238 added subsecs. (d) and (e).

#### TRANSFER OF FUNCTIONS

“Secretary of Energy” substituted for “Administrator” in subsecs. (a) to (c) and the first time it appears in subsec. (e) pursuant to section 301(a) of Pub. L. 95-91, see Codification note set out under section 2502 of this title.

### § 2508. Encouragement and protection of small business

#### (a) Opportunity to participate

The Secretary of Energy shall take such steps as are feasible to assure that small business concerns have a realistic and adequate opportunity to participate in the project.

#### (b) Reservation of funds

To assist in accomplishing the objectives of subsection (a) of this section, the Secretary of Energy shall reserve, for contracts with small business concerns, a reasonable portion of the funds made available pursuant to this chapter for research, development, or demonstration of electric or hybrid vehicles.

#### (c) Contract terms and conditions; planning grants

The Secretary of Energy shall, in addition to the requirements set forth in subsections (a) and (b) of this section—

(1) include in all contracts for research, development, or demonstration of electric or hybrid vehicles such terms, conditions, and payment schedules as may assist in meeting the needs of small business concerns, and shall take steps to avoid the inclusion in such contracts of any terms, conditions, or penalties which would tend to prevent such concerns from participating in the program under this chapter; and

(2) make planning grants available to qualified small business concerns which require assistance in developing, submitting, and entering into such contracts.

(Pub. L. 94-413, §9, Sept. 17, 1976, 90 Stat. 1266; Pub. L. 95-91, title III, §301(a), Aug. 4, 1977, 91 Stat. 577.)

#### TRANSFER OF FUNCTIONS

“Secretary of Energy” substituted in text for “Administrator” pursuant to section 301(a) of Pub. L. 95-91, see Codification note set out under section 2502 of this title.

### § 2509. Loan guarantees

#### (a) Congressional policy

It is the policy of the Congress to assist in the introduction into the Nation’s transportation fleet of electric and hybrid vehicles and to assure that qualified small business concerns and other qualified borrowers are not excluded from

participation in such development due to lack of adequate capital. Accordingly, it is the policy of the Congress to provide guarantees of loans made for such purposes.

#### (b) Encouragement of commercial production; purpose of loans

In order to encourage the commercial production of electric and hybrid vehicles, the Secretary of Energy is authorized to guarantee, and to enter into commitments to guarantee, principal and interest on loans made by lenders to qualified borrowers, primarily small business concerns, for the purposes of—

(1) research and development related to electric and hybrid vehicle technology;

(2) prototype development for such vehicles and parts thereof;

(3) construction of capital equipment related to research on, and development and production of, electric and hybrid vehicles and components; or

(4) initial operating expenses associated with the development and production of electric and hybrid vehicles and components.

#### (c) Maximum amount of loan guarantee

Any guarantee under this section shall apply only to so much of the principal amount of the loan involved as does not exceed 90 percentum of the aggregate cost of the activity with respect to which the loan is made.

#### (d) Terms and conditions of guarantee

Loan guarantees under this section shall be on such terms and conditions as the Secretary of Energy determines, except that a guarantee shall be made under this section only if—

(1) the loan bears interest at a rate not to exceed such annual percent on the principal obligation outstanding as the Secretary of Energy determines to be reasonable, taking into account the range of interest rates prevailing in the private sector for similar loans and risks by the United States;

(2) the terms of such loan require full repayment over a period not to exceed 15 years;

(3) in the judgment of the Secretary of Energy, the amount of the loan (when combined with amounts available to the qualified borrower from other sources) will be sufficient to carry out the activity with respect to which the loan is made;

(4) in the judgment of the Secretary of Energy, there is reasonable assurance of repayment of the loan by the qualified borrower; and

(5) no loan shall be guaranteed by the Secretary of Energy under subsection (b) of this section unless the Secretary of Energy finds that no other reasonable means of financing or refinancing is reasonably available to the applicant.

#### (e) Maximum guarantee per loan; maximum of aggregate guarantees; Electric and Hybrid Vehicle Development Fund; establishment, funding, etc.

(1) The amount of the guarantee of any loan shall not exceed \$3,000,000, unless the Secretary of Energy finds that a higher guarantee level for specific loan guarantees is necessary in order to

carry out the purposes of this chapter. If the Secretary of Energy makes such finding, he shall immediately report that finding to the Speaker of the House of Representatives, the President of the Senate, the Committee on Science, Space, and Technology of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

(2) The aggregate amount of guarantees outstanding under this section at any one time shall not exceed \$60,000,000.

(3)(A) There is established in the Treasury of the United States an Electric and Hybrid Vehicle Development Fund (hereinafter in this paragraph referred to as the "fund"), which shall be available to the Secretary of Energy for carrying out the loan guarantee and principal and interest assistance program authorized by this chapter, including the payment of administrative expenses incurred in connection therewith. Moneys in the fund not needed for current operations may, with the approval of the Secretary of the Treasury, be invested in bonds or other obligations of, or guaranteed by, the United States.

(B) There shall be paid into the fund such part of the amounts appropriated pursuant to section 2514 of this title as the Secretary of Energy deems necessary to carry out the purposes of this chapter and such amounts as may be returned to the United States pursuant to subsection (g) of this section, and the amounts in the fund shall remain available until expended, except that after the expiration of the 7-year period established by subsection (h) of this section such amounts in the fund as are not required to secure outstanding guarantee obligations shall be paid into the general fund of the Treasury.

(C) If at any time the moneys available in the fund are insufficient to enable the Secretary of Energy to discharge his responsibilities under this section, he shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. This borrowing authority shall be effective only to such extent or in such amounts as are specified in appropriation Acts. Such authority shall be without fiscal year limitation. Redemption of such notes or obligations shall be made by the Secretary of Energy from appropriations or other moneys available under this chapter. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall not be less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include any purchase of such notes or obligations. The Secretary of the Treasury

may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(D) Business-type financial reports covering the operations of the fund shall be submitted to the Congress by the Secretary of Energy annually upon the completion of the appropriate accounting period.

**(f) Qualified borrower**

As used in this section, the term "qualified borrower" means any partnership, corporation, or other legal entity which (as determined by the Secretary of Energy) has presented satisfactory evidence of an interest in electric or hybrid vehicle technology and is capable of performing research or completing the development and production of electric or hybrid vehicles or any components thereof in an acceptable manner.

**(g) Payment of principal and interest; default; recovery of losses**

(1) With respect to any loan guaranteed pursuant to this section, the Secretary of Energy is authorized to enter into a contract to pay, and to pay, the lender for and on behalf of the borrower the principal and interest charges which become due and payable on the unpaid balance of such loan if the Secretary of Energy finds—

(A) that the borrower is unable to meet principal and interest charges, that it is in the public interest to permit the borrower to continue to pursue the purposes of the project, and that the probable net cost to the Federal Government in paying such principal will be less than that which would result in the event of a default; and

(B) that the amount of such principal and interest charges which the Secretary of Energy is authorized to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay under the loan agreement.

(2) In the event of any default by a qualified borrower on a guaranteed loan, the Secretary of Energy is authorized to make payment in accordance with the guarantee, and the Attorney General shall take such action as may be appropriate to recover the amounts of such payments (including any payment of principal and interest under paragraph (1)) from such assets of the defaulting borrower as are associated with the activity with respect to which the loan was made or from any other surety included in the terms of the guarantee.

**(h) Seven year limitation**

No loan guarantee shall be made, or interest assistance contracts entered into, pursuant to this section, after the expiration of the 7-year period following September 17, 1976.

**(i) Citizenship of applicant; corporations; waiver**

An applicant seeking a guarantee under this section must be a citizen or national of the United States. A corporation, partnership, firm, or association shall not be deemed to be a citizen or national of the United States unless the Secretary of Energy determines that it satisfac-

torily meets all the requirements of section 50501 of title 46, for determining such citizenship, except that the provisions in subsections (a) and (b) of such section 50501 concerning (1) the citizenship of officers or directors of a corporation, and (2) the interest required to be owned in the case of a corporation, association, or partnership operating a vessel in the coastwise trade, shall not be applicable. The Secretary of Energy, in consultation with the Secretary of State, may waive such requirements in the case of a corporation, partnership, firm, or association, controlling interest in which is owned by citizens of countries which are participants in the International Energy Agreement.

**(j) Pledge of full faith and credit of United States**

The full faith and credit of the United States is pledged to the payment of all obligations incurred under this section.

(Pub. L. 94-413, §10, Sept. 17, 1976, 90 Stat. 1267; Pub. L. 95-91, title III, §301(a), Aug. 4, 1977, 91 Stat. 577; Pub. L. 95-238, title VI, §603, Feb. 25, 1978, 92 Stat. 93; Pub. L. 103-437, §5(d)(2), Nov. 2, 1994, 108 Stat. 4582.)

CODIFICATION

In subsec. (e)(3)(C), “chapter 31 of title 31” and “that chapter” substituted for “the Second Liberty Bond Act, as amended” and “that Act”, respectively, on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

In subsec. (i), “section 50501 of title 46” substituted for “section 2 of the Shipping Act of 1916 (46 U.S.C. 802)” and “subsections (a) and (b) of such section 50501” substituted for “subsection (a) of such section 2” on authority of Pub. L. 109-304, §18(c), Oct. 6, 2006, 120 Stat. 1709, section 8(b) of which enacted parts A and B of sub-title V of Title 46, Shipping.

AMENDMENTS

1994—Subsec. (e)(1). Pub. L. 103-437 substituted “Committee on Science, Space, and Technology” for “Committee on Science and Technology” and “Committee on Commerce, Science, and Transportation” for “Committee on Commerce”.

1978—Subsec. (e)(3). Pub. L. 95-238, §603(a)(1), added par. (3).

Subsec. (g). Pub. L. 95-238, §603(b), inserted provisions relating to payment of principal by the Administrator.

Subsec. (h). Pub. L. 95-238, §603(c), substituted “7” for “5”.

Subsec. (j). Pub. L. 95-238, §603(a)(2), added subsec. (j).

TRANSFER OF FUNCTIONS

“Secretary of Energy” substituted for “Administrator” in subssecs. (b), (d), (e)(1), (f), and (i) pursuant to section 301(a) of Pub. L. 95-91, see Codification note set out under section 2502 of this title.

**§ 2510. Use of electric and hybrid vehicles by Federal agencies**

The Postmaster General of the United States Postal Service, the Administrator of the General Services Administration, the Secretary of Defense, and the heads of other Federal agencies shall—

(1) carry out a study of the practicability of using electric and hybrid vehicles in the performance of some or all of the functions of their agencies; and

(2) arrange for the introduction of electric and hybrid vehicles into their fleets as soon as possible.

For competitive procurement purposes in purchasing such vehicles, life-cycle costing and any beneficial air pollution control characteristics of electric and hybrid vehicles shall be fully taken into account. If the head of the agency involved determines that electric or hybrid vehicles are technologically practicable, but that they are not completely economically competitive with conventional vehicles, the Secretary of Energy may, for purposes of the demonstration program described in section 2506 of this title, pay to such agency the incremental costs of the electric or hybrid vehicles, including differential operating costs.

(Pub. L. 94-413, §11, Sept. 17, 1976, 90 Stat. 1268; Pub. L. 95-91, title III, §301(a), Aug. 4, 1977, 91 Stat. 577.)

TRANSFER OF FUNCTIONS

“Secretary of Energy” substituted in text for “Administrator” pursuant to section 301(a) of Pub. L. 95-91, see Codification note set out under section 2502 of this title.

**§ 2511. Patents**

Section 5908 of title 42 shall apply to any contract (including any assignment, substitution of parties, or subcontract thereunder), entered into, made, or issued by the Secretary of Energy pursuant to section 2507 of this title.

(Pub. L. 94-413, §12, Sept. 17, 1976, 90 Stat. 1269; Pub. L. 95-91, title III, §301(a), Aug. 4, 1977, 91 Stat. 577.)

TRANSFER OF FUNCTIONS

“Secretary of Energy” substituted in text for “Administrator” pursuant to section 301(a) of Pub. L. 95-91, see Codification note set out under section 2502 of this title.

**§ 2512. Studies**

**(a) Bias of surface transportation systems; submission of report**

The Secretary of Energy shall conduct a study to determine the existence of any tax, regulatory, traffic, urban design, rural electrical, or other institutional factor which tends or may tend to bias surface transportation systems toward vehicles of particular characteristics. The Secretary of Energy shall submit a report to the Congress on the findings and conclusions of such study, within 1 year after September 17, 1976. The report shall include any legislative or other recommendations of the Secretary of Energy.

**(b) Material demand and pollution effect; impact statement**

The Secretary of Energy shall conduct a continuing assessment of the long-range material demand and pollution effects which may result from or in connection with the electrification of urban traffic. Such assessment shall include a statement of the Secretary of Energy’s current findings in each report submitted under section 2513<sup>1</sup> of this title. Any environmental impact statement which may be filed under a Federal law with respect to research, development, or demonstration activities under this chapter

<sup>1</sup> See References in Text note below.