

perform services benefitting more than 1 Indian tribe under this subchapter, the approval of each such Indian tribe shall be a prerequisite to entering into the contract or making the grant.

(f) Ownership of facilities

Title to any facility planned, designed, and recommended for construction under this subchapter shall be held by the non-Federal project entity.

(g) Expedited procedures

If the Secretary determines that a community to be served by a proposed rural water supply project has urgent and compelling water needs, the Secretary shall, to the maximum extent practicable, expedite appraisal investigations and reports conducted under section 2404 of this title and feasibility studies and reports conducted under section 2405 of this title.

(h) Effect on State water law

(1) In general

Nothing in this subchapter preempts or affects State water law or an interstate compact governing water.

(2) Compliance required

The Secretary shall comply with State water laws in carrying out this subchapter.

(i) No additional requirements

Nothing in this subchapter requires a feasibility study for, or imposes any other additional requirements with respect to, rural water supply projects or programs that are authorized before December 22, 2006.

(Pub. L. 109-451, title I, § 107, Dec. 22, 2006, 120 Stat. 3355.)

§ 2407. Reports

Beginning in fiscal year 2007, and each fiscal year thereafter through fiscal year 2012, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives an annual report that describes the number and type of full-time equivalent positions in the Department of the Interior and the amount of overhead costs of the Department of the Interior that are allocated to carrying out this subchapter for the applicable fiscal year.

(Pub. L. 109-451, title I, § 108, Dec. 22, 2006, 120 Stat. 3356.)

§ 2408. Authorization of appropriations

(a) In general

There is authorized to be appropriated to carry out this subchapter \$15,000,000 for each of fiscal years 2007 through 2016, to remain available until expended.

(b) Rural water programs assessment

Of the amounts made available under subsection (a), not more than \$1,000,000 may be made available to carry out section 2403 of this title for each of fiscal years 2007 and 2008.

(c) Construction costs

No amounts made available under this section shall be used to pay construction costs associated with any rural water supply project.

(Pub. L. 109-451, title I, § 109, Dec. 22, 2006, 120 Stat. 3356.)

§ 2409. Termination of authority

The authority of the Secretary to carry out this subchapter terminates on September 30, 2016.

(Pub. L. 109-451, title I, § 110, Dec. 22, 2006, 120 Stat. 3356.)

SUBCHAPTER II—TWENTY-FIRST CENTURY WATER WORKS

§ 2421. Definitions

In this subchapter:

(1) Indian tribe

The term “Indian tribe” has the meaning given the term in section 450b of title 25.

(2) Lender

The term “lender” means—

(A) a non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulation¹ (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)); or

(B) a clean renewable energy bond lender (as defined in section 54(j)(2) of title 26 (as in effect on December 22, 2006)).

(3) Loan guarantee

The term “loan guarantee” has the meaning given the term “loan guarantee” in section 661a of title 2.

(4) Non-Federal borrower

The term “non-Federal borrower” means—

(A) a State (including a department, agency, or political subdivision of a State); or

(B) a conservancy district, irrigation district, canal company, water users’ association, Indian tribe, an agency created by interstate compact, or any other entity that has the capacity to contract with the United States under Federal reclamation law.

(5) Obligation

The term “obligation” means a loan or other debt obligation that is guaranteed under this section.

(6) Project

The term “project” means—

(A) a rural water supply project (as defined in section 2401(9) of this title);

(B) an extraordinary operation and maintenance activity for, or the rehabilitation or replacement of, a facility—

(i) that is authorized by Federal reclamation law and constructed by the United States under such law; or

(ii) in connection with which there is a repayment or water service contract executed by the United States under Federal reclamation law; or

(C) an improvement to water infrastructure directly associated with a reclamation

¹ So in original. Probably should be “Regulations”.

project that, based on a determination of the Secretary—

- (i) improves water management; and
- (ii) fulfills other Federal goals.

(7) Secretary

The term “Secretary” means the Secretary of the Interior.

(Pub. L. 109–451, title II, §202, Dec. 22, 2006, 120 Stat. 3356.)

REFERENCES IN TEXT

The Securities Act of 1933, referred to in par. (2)(A), is title I of act May 27, 1933, ch. 38, 48 Stat. 74, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

SHORT TITLE

This subchapter known as the “Twenty-First Century Water Works Act”, see Short Title note set out under section 2401 of this title.

§ 2422. Project eligibility

(a) Eligibility criteria

(1) In general

The Secretary shall develop and publish in the Federal Register criteria for determining the eligibility of a project for financial assistance under section 2423 of this title.

(2) Inclusions

Eligibility criteria shall include—

(A) submission of an application by the lender to the Secretary;

(B) demonstration of the creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features to ensure repayment;

(C) demonstration by the non-Federal borrower, to the satisfaction of the Secretary, of the ability of the non-Federal borrower to repay the project financing from user fees or other dedicated revenue sources;

(D) demonstration by the non-Federal borrower, to the satisfaction of the Secretary, of the ability of the non-Federal borrower to pay all operations, maintenance, and replacement costs of the project facilities; and

(E) such other criteria as the Secretary determines to be appropriate.

(b) Waiver

The Secretary may waive any of the criteria in subsection (a)(2) that the Secretary determines to be duplicative or rendered unnecessary because of an action already taken by the United States.

(c) Projects previously authorized

A project that was authorized for construction under Federal reclamation laws prior to December 22, 2006, shall be eligible for assistance under this subchapter, subject to the criteria established by the Secretary under subsection (a).

(d) Criteria for rural water supply projects

A rural water supply project that is determined to be feasible under section 2405 of this title is eligible for a loan guarantee under section 2423 of this title.

(Pub. L. 109–451, title II, §203, Dec. 22, 2006, 120 Stat. 3357.)

§ 2423. Loan guarantees

(a) Authority

Subject to the availability of appropriations, the Secretary may make available to lenders for a project meeting the eligibility criteria established in section 2422 of this title loan guarantees to supplement private-sector or lender financing for the project.

(b) Terms and limitations

(1) In general

Loan guarantees under this section for a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements as the Secretary determines to be appropriate to protect the financial interests of the United States.

(2) Amount

Loan guarantees by the Secretary shall not exceed an amount equal to 90 percent of the cost of the project that is the subject of the loan guarantee, as estimated at the time at which the loan guarantee is issued.

(3) Interest rate

An obligation shall bear interest at a rate that does not exceed a level that the Secretary determines to be appropriate, taking into account the prevailing rate of interest in the private sector for similar loans and risks.

(4) Amortization

A loan guarantee under this section shall provide for complete amortization of the loan guarantee within not more than 40 years.

(5) Nonsubordination

An obligation shall be subject to the condition that the obligation is not subordinate to other financing.

(c) Prepayment and refinancing

Any prepayment or refinancing terms on a loan guarantee shall be negotiated between the non-Federal borrower and the lender with the consent of the Secretary.

(Pub. L. 109–451, title II, §204, Dec. 22, 2006, 120 Stat. 3358.)

§ 2424. Defaults

(a) Payments by Secretary

(1) In general

If a borrower defaults on the obligation, the holder of the loan guarantee shall have the right to demand payment of the unpaid amount from the Secretary.

(2) Payment required

By such date as may be specified in the loan guarantee or related agreements, the Secretary shall pay to the holder of the loan guarantee the unpaid interest on, and unpaid principal of, the obligation with respect to which the borrower has defaulted, unless the Secretary finds that there was not default by the borrower in the payment of interest or principal or that the default has been remedied.