

Subsec. (d). Pub. L. 86-70, §21(d)(2), repealed subsec. (d) which related to expenditure of funds apportioned to the Territory of Alaska and contributed by the Territory for the maintenance of roads.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-495 effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by section 21(d)(2) of Pub. L. 86-70 effective July 1, 1959, see section 21(d) of Pub. L. 86-70, set out as a note under section 103 of this title.

Amendment by section 21(e)(3) of Pub. L. 86-70 effective July 1, 1959, see section 21(e) of Pub. L. 86-70, set out as a note under section 101 of this title.

PILOT PROGRAM

Pub. L. 114-94, div. A, title I, §1424, Dec. 4, 2015, 129 Stat. 1425, provided that:

“(a) IN GENERAL.—The Administrator of the Federal Highway Administration (referred to in this section as the ‘Administrator’) may establish a pilot program that allows a State to utilize innovative approaches to maintain the right-of-way of Federal-aid highways within the State.

“(b) LIMITATION.—A pilot program established under subsection (a) shall—

“(1) terminate after not more than 4 years;

“(2) include not more than 5 States; and

“(3) be subject to guidelines published by the Administrator.

“(c) REPORT.—If the Administrator establishes a pilot program under subsection (a), the Administrator shall, not more than 1 year after the completion of the pilot program, submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the pilot program.

“(d) SAVINGS PROVISION.—Nothing in this section may be construed to affect the requirements of section 111 of title 23, United States Code.”

ESTABLISHMENT OF MINIMUM FEDERAL GUIDELINES FOR MAINTENANCE; STUDY BY NATIONAL ACADEMY OF SCIENCES AND REPORT

Pub. L. 100-17, title I, §163, Apr. 2, 1987, 101 Stat. 213, directed Secretary to enter into appropriate arrangements with the National Academy of Sciences to conduct a complete investigation of the appropriateness of establishing minimum Federal guidelines for maintenance of the Federal-aid primary, secondary, and urban systems and, not later than 18 months after entering into appropriate arrangements, the National Academy of Sciences was to submit to Secretary and Congress a report on the results of the investigation and study together with recommendations (including legislative and administrative recommendations) concerning establishment of minimum Federal guidelines for maintenance of the Federal-aid primary, secondary, and urban systems.

**§ 117. Nationally significant freight and highway projects**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a nationally significant freight and highway projects program to provide financial assistance for projects of national or regional significance.

(2) GOALS.—The goals of the program shall be to—

(A) improve the safety, efficiency, and reliability of the movement of freight and people;

(B) generate national or regional economic benefits and an increase in the global economic competitiveness of the United States;

(C) reduce highway congestion and bottlenecks;

(D) improve connectivity between modes of freight transportation;

(E) enhance the resiliency of critical highway infrastructure and help protect the environment;

(F) improve roadways vital to national energy security; and

(G) address the impact of population growth on the movement of people and freight.

(b) GRANT AUTHORITY.—

(1) IN GENERAL.—In carrying out the program established in subsection (a), the Secretary may make grants, on a competitive basis, in accordance with this section.

(2) GRANT AMOUNT.—Except as otherwise provided, each grant made under this section shall be in an amount that is at least \$25,000,000.

(c) ELIGIBLE APPLICANTS.—

(1) IN GENERAL.—The Secretary may make a grant under this section to the following:

(A) A State or a group of States.

(B) A metropolitan planning organization that serves an urbanized area (as defined by the Bureau of the Census) with a population of more than 200,000 individuals.

(C) A unit of local government or a group of local governments.

(D) A political subdivision of a State or local government.

(E) A special purpose district or public authority with a transportation function, including a port authority.

(F) A Federal land management agency that applies jointly with a State or group of States.

(G) A tribal government or a consortium of tribal governments.

(H) A multistate or multijurisdictional group of entities described in this paragraph.

(2) APPLICATIONS.—To be eligible for a grant under this section, an entity specified in paragraph (1) shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary determines is appropriate.

(d) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—Except as provided in subsection (e), the Secretary may make a grant under this section only for a project that—

(A) is—

(i) a highway freight project carried out on the National Highway Freight Network established under section 167;

(ii) a highway or bridge project carried out on the National Highway System, including—

(I) a project to add capacity to the Interstate System to improve mobility; or

- (II) a project in a national scenic area;
- (iii) a freight project that is—
- (I) a freight intermodal or freight rail project; or
  - (II) within the boundaries of a public or private freight rail, water (including ports), or intermodal facility and that is a surface transportation infrastructure project necessary to facilitate direct intermodal interchange, transfer, or access into or out of the facility; or
- (iv) a railway-highway grade crossing or grade separation project; and
- (B) has eligible project costs that are reasonably anticipated to equal or exceed the lesser of—
- (i) \$100,000,000; or
  - (ii) in the case of a project—
    - (I) located in 1 State, 30 percent of the amount apportioned under this chapter to the State in the most recently completed fiscal year; or
    - (II) located in more than 1 State, 50 percent of the amount apportioned under this chapter to the participating State with the largest apportionment under this chapter in the most recently completed fiscal year.
- (2) LIMITATION.—
- (A) IN GENERAL.—Not more than \$500,000,000 of the amounts made available for grants under this section for fiscal years 2016 through 2020, in the aggregate, may be used to make grants for projects described in paragraph (1)(A)(iii) and such a project may only receive a grant under this section if—
- (i) the project will make a significant improvement to freight movements on the National Highway Freight Network; and
  - (ii) the Federal share of the project funds only elements of the project that provide public benefits.
- (B) EXCLUSIONS.—The limitation under subparagraph (A)—
- (i) shall not apply to a railway-highway grade crossing or grade separation project; and
  - (ii) with respect to a multimodal project, shall apply only to the non-highway portion or portions of the project.
- (e) SMALL PROJECTS.—
- (1) IN GENERAL.—The Secretary shall reserve 10 percent of the amounts made available for grants under this section each fiscal year to make grants for projects described in subsection (d)(1)(A) that do not satisfy the minimum threshold under subsection (d)(1)(B).
  - (2) GRANT AMOUNT.—Each grant made under this subsection shall be in an amount that is at least \$5,000,000.
  - (3) PROJECT SELECTION CONSIDERATIONS.—In addition to other applicable requirements, in making grants under this subsection the Secretary shall consider—
    - (A) the cost effectiveness of the proposed project; and
    - (B) the effect of the proposed project on mobility in the State and region in which the project is carried out.
- (f) ELIGIBLE PROJECT COSTS.—Grant amounts received for a project under this section may be used for—
- (1) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other pre-construction activities; and
  - (2) construction, reconstruction, rehabilitation, acquisition of real property (including land related to the project and improvements to the land), environmental mitigation, construction contingencies, acquisition of equipment, and operational improvements directly related to improving system performance.
- (g) PROJECT REQUIREMENTS.—The Secretary may select a project described under this section (other than subsection (e)) for funding under this section only if the Secretary determines that—
- (1) the project will generate national or regional economic, mobility, or safety benefits;
  - (2) the project will be cost effective;
  - (3) the project will contribute to the accomplishment of 1 or more of the national goals described under section 150 of this title;
  - (4) the project is based on the results of preliminary engineering;
  - (5) with respect to related non-Federal financial commitments—
    - (A) 1 or more stable and dependable sources of funding and financing are available to construct, maintain, and operate the project; and
    - (B) contingency amounts are available to cover unanticipated cost increases;
  - (6) the project cannot be easily and efficiently completed without other Federal funding or financial assistance available to the project sponsor; and
  - (7) the project is reasonably expected to begin construction not later than 18 months after the date of obligation of funds for the project.
- (h) ADDITIONAL CONSIDERATIONS.—In making a grant under this section, the Secretary shall consider—
- (1) utilization of nontraditional financing, innovative design and construction techniques, or innovative technologies;
  - (2) utilization of non-Federal contributions; and
  - (3) contributions to geographic diversity among grant recipients, including the need for a balance between the needs of rural and urban communities.
- (i) RURAL AREAS.—
- (1) IN GENERAL.—The Secretary shall reserve not less than 25 percent of the amounts made available for grants under this section, including the amounts made available under subsection (e), each fiscal year to make grants for projects located in rural areas.
  - (2) EXCESS FUNDING.—In any fiscal year in which qualified applications for grants under this subsection will not allow for the amount reserved under paragraph (1) to be fully utilized, the Secretary shall use the unutilized amounts to make other grants under this section.

(3) **RURAL AREA DEFINED.**—In this subsection, the term “rural area” means an area that is outside an urbanized area with a population of over 200,000.

(j) **FEDERAL SHARE.**—

(1) **IN GENERAL.**—The Federal share of the cost of a project assisted with a grant under this section may not exceed 60 percent.

(2) **MAXIMUM FEDERAL INVOLVEMENT.**—Federal assistance other than a grant under this section may be used to satisfy the non-Federal share of the cost of a project for which such a grant is made, except that the total Federal assistance provided for a project receiving a grant under this section may not exceed 80 percent of the total project cost.

(3) **FEDERAL LAND MANAGEMENT AGENCIES.**—Notwithstanding any other provision of law, any Federal funds other than those made available under this title or title 49 may be used to pay the non-Federal share of the cost of a project carried out under this section by a Federal land management agency, as described under subsection (c)(1)(F).

(k) **TREATMENT OF FREIGHT PROJECTS.**—Notwithstanding any other provision of law, a freight project carried out under this section shall be treated as if the project is located on a Federal-aid highway.

(l) **TIFIA PROGRAM.**—At the request of an eligible applicant under this section, the Secretary may use amounts awarded to the entity to pay subsidy and administrative costs necessary to provide the entity Federal credit assistance under chapter 6 with respect to the project for which the grant was awarded.

(m) **CONGRESSIONAL NOTIFICATION.**—

(1) **NOTIFICATION.**—

(A) **IN GENERAL.**—At least 60 days before making a grant for a project under this section, the Secretary shall notify, in writing, the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate of the proposed grant. The notification shall include an evaluation and justification for the project and the amount of the proposed grant award.

(B) **MULTIMODAL PROJECTS.**—In addition to the notice required under subparagraph (A), the Secretary shall notify the Committee on Commerce, Science, and Transportation of the Senate before making a grant for a project described in subsection (d)(1)(A)(iii).

(2) **CONGRESSIONAL DISAPPROVAL.**—The Secretary may not make a grant or any other obligation or commitment to fund a project under this section if a joint resolution is enacted disapproving funding for the project before the last day of the 60-day period described in paragraph (1).

(n) **REPORTS.**—

(1) **ANNUAL REPORT.**—The Secretary shall make available on the Web site of the Department of Transportation at the end of each fiscal year an annual report that lists each project for which a grant has been provided under this section during that fiscal year.

(2) **COMPTROLLER GENERAL.**—

(A) **ASSESSMENT.**—The Comptroller General of the United States shall conduct an assessment of the administrative establishment, solicitation, selection, and justification process with respect to the funding of grants under this section.

(B) **REPORT.**—Not later than 1 year after the initial awarding of grants under this section, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes—

(i) the adequacy and fairness of the process by which each project was selected, if applicable; and

(ii) the justification and criteria used for the selection of each project, if applicable.

(Added Pub. L. 114–94, div. A, title I, §1105(a), Dec. 4, 2015, 129 Stat. 1332.)

#### PRIOR PROVISIONS

A prior section 117, added Pub. L. 105–178, title I, §1601(a), June 9, 1998, 112 Stat. 255; amended Pub. L. 106–346, §101(a) [title III, §363], Oct. 23, 2000, 114 Stat. 1356, 1356A–36; Pub. L. 109–59, title I, §1701(a)–(d), Aug. 10, 2005, 119 Stat. 1254–1256; Pub. L. 110–244, title I, §101(k), June 6, 2008, 122 Stat. 1574, related to high priority projects program, prior to repeal by Pub. L. 112–141, div. A, title I, §1519(b)(1)(A), July 6, 2012, 126 Stat. 575, effective Oct. 1, 2012.

Another prior section 117, Pub. L. 85–767, Aug. 27, 1958, 72 Stat. 897; Pub. L. 93–87, title I, §116(a), Aug. 13, 1973, 87 Stat. 258; Pub. L. 94–280, title I, §116, May 5, 1976, 90 Stat. 436; Pub. L. 97–449, §5(d)(1), Jan. 12, 1983, 96 Stat. 2442; Pub. L. 102–240, title I, §1016(f)(2), Dec. 18, 1991, 105 Stat. 1946, related to certification acceptance, prior to repeal by Pub. L. 105–178, title I, §1601(a), June 9, 1998, 112 Stat. 255.

#### EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114–94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

#### § 118. Availability of funds

(a) **DATE AVAILABLE FOR OBLIGATION.**—Except as otherwise specifically provided, authorizations from the Highway Trust Fund (other than the Mass Transit Account) to carry out this title shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

(b) **PERIOD OF AVAILABILITY.**—Except as otherwise specifically provided, funds apportioned or allocated pursuant to this title in a State shall remain available for obligation in that State for a period of 3 years after the last day of the fiscal year for which the funds are authorized. Any amounts so apportioned or allocated that remain unobligated at the end of that period shall lapse.

(c) **OBLIGATION AND RELEASE OF FUNDS.**—

(1) **IN GENERAL.**—Funds apportioned or allocated to a State for a purpose for any fiscal year shall be considered to be obligated if a sum equal to the total of the funds apportioned or allocated to the State for that purpose for that fiscal year and previous fiscal years is obligated.