

(2) the modifications are necessary to enhance economic development in the area for which the project is being carried out.

(Pub. L. 89-136, title II, §210, as added Pub. L. 105-393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3606.)

#### REFERENCES IN TEXT

For the effective date of the Economic Development Administration Reform Act of 1998, referred to in text, see section 105 of Pub. L. 105-393, set out as an Effective Date note under section 3121 of this title.

### § 3151. Use of funds in projects constructed under projected cost

#### (a) In general

In the case of a grant to a recipient for a construction project under section 3141 or 3149 of this title, if the Secretary determines, before closeout of the project, that the cost of the project, based on the designs and specifications that were the basis of the grant, has decreased because of decreases in costs, the Secretary may approve, without further appropriation, the use of the excess funds (or a portion of the excess funds) by the recipient—

- (1) to increase the Federal share of the cost of a project under this title to the maximum percentage allowable under section 3144 of this title; or
- (2) to improve the project.

#### (b) Other uses of excess funds

Any amount of excess funds remaining after application of subsection (a) of this section may be used by the Secretary for providing assistance under this chapter.

#### (c) Transferred funds

In the case of excess funds described in subsection (a) of this section in projects using funds transferred from other Federal agencies pursuant to section 3214 of this title, the Secretary shall—

- (1) use the funds in accordance with subsection (a) of this section, with the approval of the originating agency; or
- (2) return the funds to the originating agency.

(Pub. L. 89-136, title II, §211, as added Pub. L. 105-393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3606; amended Pub. L. 108-373, title II, §208, Oct. 27, 2004, 118 Stat. 1763; Pub. L. 111-8, div. G, title I, §1301(b), Mar. 11, 2009, 123 Stat. 829; Pub. L. 111-68, div. A, title I, §1501(a), Oct. 1, 2009, 123 Stat. 2041.)

#### PRIOR PROVISIONS

Prior sections 3151 and 3151a were repealed by Pub. L. 105-393, §102(a).

Section 3151, Pub. L. 89-136, title III, §301, Aug. 26, 1965, 79 Stat. 558; Pub. L. 91-123, title III, §302, Nov. 25, 1969, 83 Stat. 219; Pub. L. 93-46, §3(a), June 18, 1973, 87 Stat. 96, authorized technical assistance to alleviate or prevent excessive unemployment or underemployment.

Section 3151a, Pub. L. 89-136, title III, §302, as added Pub. L. 93-423, §5(b), Sept. 27, 1974, 88 Stat. 1159; amended Pub. L. 94-487, title I, §110, Oct. 12, 1976, 90 Stat. 2333, authorized grants for economic development planning.

#### AMENDMENTS

2009—Subsec. (d). Pub. L. 111-68 struck out subsec. (d). Text read as follows: “The Comptroller General of the

United States shall regularly review the implementation of this section.”

Pub. L. 111-8 added subsec. (d) and struck out former subsec. (d) which required the Comptroller General to review and report on the implementation of this section.

2004—Pub. L. 108-373 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: “In any case in which a grant (including a supplementary grant described in section 3145 of this title) has been made by the Secretary under this subchapter (or made under this chapter, as in effect on the day before the effective date of the Economic Development Administration Reform Act of 1998) for a construction project, and, after the grant has been made but before completion of the project, the cost of the project based on the designs and specifications that was the basis of the grant has decreased because of decreases in costs—

“(1) the Secretary may approve, subject to the availability of appropriations, the use of the excess funds or a portion of the funds to improve the project; and

“(2) any amount of excess funds remaining after application of paragraph (1) shall be deposited in the general fund of the Treasury.”

### § 3152. Reports by recipients

#### (a) In general

Each recipient of assistance under this subchapter shall submit reports to the Secretary at such intervals and in such manner as the Secretary shall require by regulation, except that no report shall be required to be submitted more than 10 years after the date of closeout of the assistance award.

#### (b) Contents

Each report shall contain an evaluation of the effectiveness of the economic assistance provided under this subchapter in meeting the need that the assistance was designed to address and in meeting the objectives of this chapter.

(Pub. L. 89-136, title II, §212, as added Pub. L. 105-393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3606.)

#### PRIOR PROVISIONS

A prior section 3152, Pub. L. 89-136, title III, §303, formerly §302, Aug. 26, 1965, 79 Stat. 560, amended Pub. L. 91-123, title III, §303, Nov. 25, 1969, 83 Stat. 219; Pub. L. 91-304, §1(c), July 6, 1970, 84 Stat. 375; Pub. L. 92-65, title I, §105, Aug. 5, 1971, 85 Stat. 167; Pub. L. 93-46, §3(b), June 18, 1973, 87 Stat. 96; renumbered §303 and amended Pub. L. 93-423, §5(a), (c), Sept. 27, 1974, 88 Stat. 1159, 1160; Pub. L. 94-487, title I, §111, Oct. 12, 1976, 90 Stat. 2334; Pub. L. 96-506, §1(5), Dec. 8, 1980, 94 Stat. 2745; Pub. L. 97-35, title XVIII, §1821(a)(4), Aug. 13, 1981, 95 Stat. 766, authorized appropriations for technical assistance and economic development planning, prior to repeal by Pub. L. 105-393, §102(a).

### § 3153. Prohibition on use of funds for attorney's and consultant's fees

Assistance made available under this subchapter shall not be used directly or indirectly for an attorney's or consultant's fee incurred in connection with obtaining grants and contracts under this subchapter.

(Pub. L. 89-136, title II, §213, as added Pub. L. 105-393, title I, §102(a), Nov. 13, 1998, 112 Stat. 3607.)

#### PRIOR PROVISIONS

A prior section 3153, Pub. L. 89-136, title III, §304, as added Pub. L. 93-423, §5(d), Sept. 27, 1974, 88 Stat. 1160;

amended Pub. L. 94-487, title I, §112, Oct. 12, 1976, 90 Stat. 2334; Pub. L. 96-506, §1(6), Dec. 8, 1980, 94 Stat. 2745; Pub. L. 97-35, title XVIII, §1821(a)(5), Aug. 13, 1981, 95 Stat. 766, authorized appropriations for supplemental and basic grants and loans, prior to repeal by Pub. L. 105-393, §102(a).

### § 3154. Special impact areas

#### (a) In general

On the application of an eligible recipient that is determined by the Secretary to be unable to comply with the requirements of section 3162 of this title, the Secretary may waive, in whole or in part, the requirements of section 3162 of this title and designate the area represented by the recipient as a special impact area.

#### (b) Conditions

The Secretary may make a designation under subsection (a) of this section only after determining that—

- (1) the project will fulfill a pressing need of the area; and
- (2) the project will—
  - (A) be useful in alleviating or preventing conditions of excessive unemployment or underemployment; or
  - (B) assist in providing useful employment opportunities for the unemployed or underemployed residents in the area.

#### (c) Notification

At the time of the designation under subsection (a) of this section, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a written notice of the designation, including a justification for the designation.

(Pub. L. 89-136, title II, §214, as added Pub. L. 108-373, title II, §209(a), Oct. 27, 2004, 118 Stat. 1763.)

### § 3154a. Performance awards

#### (a) In general

The Secretary may make a performance award in connection with a grant made, on or after October 27, 2004, to an eligible recipient for a project under section 3141 or 3149 of this title.

#### (b) Performance measures

##### (1) Regulations

The Secretary shall promulgate regulations to establish performance measures for making performance awards under subsection (a) of this section.

##### (2) Considerations

In promulgating regulations under paragraph (1), the Secretary shall consider the inclusion of performance measures that assess—

- (A) whether the recipient meets or exceeds scheduling goals;
- (B) whether the recipient meets or exceeds job creation goals;
- (C) amounts of private sector capital investments leveraged; and
- (D) such other factors as the Secretary determines to be appropriate.

#### (c) Amount of awards

##### (1) In general

The Secretary shall base the amount of a performance award made under subsection (a) of this section in connection with a grant on the extent to which a recipient meets or exceeds performance measures established in connection with the grant.

##### (2) Maximum amount

The amount of a performance award may not exceed 10 percent of the amount of the grant.

#### (d) Use of awards

A recipient of a performance award under subsection (a) of this section may use the award for any eligible purpose under this chapter, in accordance with section 3212 of this title and such regulations as the Secretary may promulgate.

#### (e) Federal share

Notwithstanding section 3144 of this title, the funds of a performance award may be used to pay up to 100 percent of the cost of an eligible project or activity.

#### (f) Treatment in meeting non-Federal share requirements

For the purposes of meeting the non-Federal share requirements under this, or any other, Act the funds of a performance award shall be treated as funds from a non-Federal source.

#### (g) Terms and conditions

In making performance awards under subsection (a) of this section, the Secretary shall establish such terms and conditions as the Secretary considers to be appropriate.

#### (h) Funding

The Secretary shall use any amounts made available for economic development assistance programs to carry out this section.

#### (i) Reporting requirement

The Secretary shall include information regarding performance awards made under this section in the annual report required under section 3213 of this title.

#### (j) Review by Comptroller General

##### (1) Review

The Comptroller General shall regularly review the implementation of this section.

##### (2) Report

Not later than 1 year after October 27, 2004, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the findings of the Comptroller on implementation of this subsection.

(Pub. L. 89-136, title II, §215, as added Pub. L. 108-373, title II, §210(a), Oct. 27, 2004, 118 Stat. 1764.)

### § 3154b. Planning performance awards

#### (a) In general

The Secretary may make a planning performance award in connection with a grant made, on