

## “SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 101-640, set out as a note under section 2201 of this title.

### § 2325. Voluntary contributions for environmental and recreation projects

#### (a) Acceptance

In connection with carrying out a water resources project for environmental protection and restoration or a water resources project for recreation, the Secretary is authorized to accept contributions of cash, funds, materials, and services from persons, including governmental entities but excluding the project sponsor.

#### (b) Deposit

Any cash or funds received by the Secretary under subsection (a) shall be deposited into the account in the Treasury of the United States entitled “Contributions and Advances, Rivers and Harbors, Corps of Engineers (8862)” and shall be available until expended to carry out water resources projects described in subsection (a).

(Pub. L. 102-580, title II, §203, Oct. 31, 1992, 106 Stat. 4826; Pub. L. 104-303, title II, §236(a), Oct. 12, 1996, 110 Stat. 3705.)

## CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1992, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

## AMENDMENTS

1996—Subsec. (b). Pub. L. 104-303 substituted “(8862)” for “(8662)”.

## “SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 3 of Pub. L. 102-580, set out as a note under section 2201 of this title.

### § 2325a. Authority to accept and use materials and services

#### (a) In general

Subject to subsection (b), the Secretary is authorized to accept and use materials, services, or funds contributed by a non-Federal public entity, a nonprofit entity, or a private entity to repair, restore, replace, or maintain a water resources project in any case in which the District Commander determines that—

(1) there is a risk of adverse impacts to the functioning of the project for the authorized purposes of the project; and

(2) acceptance of the materials and services or funds is in the public interest.

#### (b) Limitation

Any entity that contributes materials or services under subsection (a) shall not be eligible for credit or reimbursement for the value of such materials or services.

#### (c) Additional requirements

##### (1) Applicable laws and regulations

The Secretary may only use materials or services accepted under this section if such materials and services comply with all applicable laws and regulations that would apply if

such materials and services were acquired by the Secretary.

#### (2) Supplementary services

The Secretary may only accept and use services under this section that provide supplementary services to existing Federal employees, and may only use such services to perform work that would not otherwise be accomplished as a result of funding or personnel limitations.

#### (d) Report

Not later than February 1 of each year after the first fiscal year in which materials, services, or funds are accepted under 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 an annual report that includes—

(1) a description of the activities undertaken, including the costs associated with the activities; and

(2) a comprehensive description of how the activities are necessary for maintaining a safe and reliable water resources project.

(Pub. L. 113-121, title I, §1024, June 10, 2014, 128 Stat. 1229; Pub. L. 114-322, title I, §1153, Dec. 16, 2016, 130 Stat. 1663.)

## CODIFICATION

Section was enacted as part of the Water Resources Reform and Development Act of 2014, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

## AMENDMENTS

2016—Subsec. (a). Pub. L. 114-322, §1153(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: “Subject to subsection (b), the Secretary is authorized to accept and use materials and services contributed by a non-Federal public entity, a nonprofit entity, or a private entity for the purpose of repairing, restoring, or replacing a water resources development project that has been damaged or destroyed as a result of an emergency if the Secretary determines that the acceptance and use of such materials and services is in the public interest.”

Subsec. (c). Pub. L. 114-322, §1153(3), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 114-322, §1153(2), (4), redesignated subsec. (c) as (d) and, in introductory provisions, substituted “Not later than February 1 of each year after the first fiscal year in which materials, services, or funds are accepted under this section,” for “Not later than 60 days after initiating an activity under this section,” and “an annual report” for “a report”.

## “SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113-121, set out as a note under section 2201 of this title.

### § 2326. Regional sediment management

#### (a) In general

##### (1) Sediment use

##### (A) Sediment from Federal water resources projects

For sediment obtained through or used in the construction, operation, or maintenance of an authorized Federal water resources project, the Secretary shall develop, at Fed-

eral expense, regional sediment management plans and carry out projects at locations identified in plans developed under this section, or identified jointly by the non-Federal interest and the Secretary, for use in the construction, repair, modification, or rehabilitation of projects associated with Federal water resources projects for purposes listed in paragraph (3).

**(B) Sediment from other Federal sources and non-Federal sources**

For purposes of projects carried out under this section, the Secretary may include sediment from other Federal sources and non-Federal sources, subject to the requirement that any sediment obtained from a non-Federal source shall not be obtained at Federal expense.

**(2) Cooperation**

The Secretary shall develop plans under this subsection in cooperation with the appropriate Federal, State, regional, and local agencies.

**(3) Purposes for sediment use in projects**

The purposes of using sediment for the construction, repair, modification, or rehabilitation of Federal water resources projects are—

- (A) to reduce storm damage to property;
- (B) to protect, restore, and create aquatic and ecologically related habitats, including wetlands; and
- (C) to transport and place suitable sediment for the purposes of improving environmental conditions in marsh and littoral systems, stabilizing stream channels, enhancing shorelines, and supporting State and local risk management adaptation strategies.

**(4) Reducing costs**

To reduce or avoid Federal costs, the Secretary shall consider the beneficial use of dredged material in a manner that contributes to the maintenance of sediment resources in the nearby coastal system.

**(b) Secretarial findings**

Subject to subsection (c), projects carried out under subsection (a) may be carried out in any case in which the Secretary finds that—

- (1) the environmental, economic, and social benefits of the project, both monetary and nonmonetary, justify the cost of the project; and
- (2) the project will not result in environmental degradation.

**(c) Determination of project costs**

**(1) Costs of construction**

**(A) In general**

Costs associated with construction of a project under this section or identified in a regional sediment management plan shall be limited solely to construction costs that are in excess of the costs necessary to carry out the dredging for construction, operation, or maintenance of an authorized Federal water resources project in the most cost-effective way, consistent with economic, engineering, and environmental criteria.

**(B) Cost sharing**

**(i) In general**

Except as provided in clause (ii), the non-Federal share of the construction cost of a project under this section shall be determined as provided in subsections (a) through (d) of section 2213 of this title.

**(ii) Special rule**

Construction of a project under this section for one or more of the purposes of protection, restoration, or creation of aquatic and ecologically related habitat, the cost of which does not exceed \$750,000 and which is located in a disadvantaged community as determined by the Secretary, may be carried out at Federal expense.

**(C) Total cost**

The total Federal costs associated with construction of a project under this section may not exceed \$10,000,000.

**(2) Operation, maintenance, replacement, and rehabilitation costs**

Operation, maintenance, replacement, and rehabilitation costs associated with a project under this section are the responsibility of the non-Federal interest.

**(d) Selection of dredged material disposal method for purposes related to environmental restoration or storm damage and flood reduction**

**(1) In general**

In developing and carrying out a Federal water resources project involving the disposal of dredged material, the Secretary may select, with the consent of the non-Federal interest, a disposal method that is not the least cost option if the Secretary determines that the incremental costs of the disposal method are reasonable in relation to—

- (A) the environmental benefits, including the benefits to the aquatic environment to be derived from the creation of wetlands and control of shoreline erosion; or
- (B) the flood and storm damage and flood reduction benefits, including shoreline protection, protection against loss of life, and damage to improved property.

**(2) Federal share**

The Federal share of such incremental costs shall be determined in accordance with subsection (c).

**(3) Special rule**

Disposal of dredged material under this subsection may include a single or periodic application of sediment for beneficial use and shall not require operation and maintenance.

**(4) Disposal at non-Federal cost**

The Secretary may accept funds from a non-Federal interest to dispose of dredged material as provided under section 2213(d)(1) of this title.

**(e) State and regional plans**

The Secretary may—

- (1) cooperate with any State or group of States in the preparation of a comprehensive

State or regional sediment management plan within the boundaries of the State or among States;

(2) encourage State participation in the implementation of the plan; and

(3) submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out the plan.

**(f) Priority areas**

In carrying out this section, the Secretary shall give priority to a regional sediment management project in the vicinity of each of the following:

(1) Little Rock Slackwater Harbor, Arkansas.

(2) Fletcher Cove, California.

(3) Egmont Key, Florida.

(4) Calcasieu Ship Channel, Louisiana.

(5) Delaware River Estuary, New Jersey and Pennsylvania.

(6) Fire Island Inlet, Suffolk County, New York.

(7) Smith Point Park Pavilion and the TWA Flight 800 Memorial, Brookhaven, New York.

(8) Morehead City, North Carolina.

(9) Toledo Harbor, Lucas County, Ohio.

(10) Galveston Bay, Texas.

(11) Benson Beach, Washington.

**(g) Authorization of appropriations**

There is authorized to be appropriated to carry out this section \$50,000,000 per fiscal year, of which not more than \$5,000,000 per fiscal year may be used for the development of regional sediment management plans authorized by subsection (e) and of which not more than \$3,000,000 per fiscal year may be used for construction of projects to which subsection (c)(1)(B)(ii) applies. Such funds shall remain available until expended.

(Pub. L. 102-580, title II, §204, Oct. 31, 1992, 106 Stat. 4826; Pub. L. 104-303, title II, §207, Oct. 12, 1996, 110 Stat. 3680; Pub. L. 106-53, title II, §209, Aug. 17, 1999, 113 Stat. 287; Pub. L. 110-114, title II, §2037(a), Nov. 8, 2007, 121 Stat. 1094; Pub. L. 113-121, title I, §§1030(d)(1), 1038, June 10, 2014, 128 Stat. 1232, 1236; Pub. L. 114-322, title I, §1122(i), Dec. 16, 2016, 130 Stat. 1647.)

**CODIFICATION**

Section was enacted as part of the Water Resources Development Act of 1992, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

**AMENDMENTS**

2016—Subsec. (a)(1). Pub. L. 114-322, §1122(i)(1), designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (d)(3), (4). Pub. L. 114-322, §1122(i)(2), added pars. (3) and (4).

2014—Subsec. (a)(1). Pub. L. 113-121, §1038(1)(A), inserted “or used in” after “obtained through”.

Subsec. (a)(3)(C). Pub. L. 113-121, §1038(1)(B), inserted “for the purposes of improving environmental conditions in marsh and littoral systems, stabilizing stream channels, enhancing shorelines, and supporting State and local risk management adaptation strategies” before period at end.

Subsec. (a)(4). Pub. L. 113-121, §1038(1)(C), added par. (4).

Subsec. (c)(1)(C). Pub. L. 113-121, §1030(d)(1)(A), substituted “\$10,000,000” for “\$5,000,000”.

Subsec. (d). Pub. L. 113-121, §1038(2)(A), substituted “Selection of dredged material disposal method for purposes related to environmental restoration or storm damage and flood reduction” for “Selection of dredged material disposal method for environmental purposes” in heading.

Subsec. (d)(1). Pub. L. 113-121, §1038(2)(B), substituted “in relation to—” for “in relation to the environmental benefits, including the benefits to the aquatic environment to be derived from the creation of wetlands and control of shoreline erosion.” and added subpars. (A) and (B).

Subsec. (e)(1). Pub. L. 113-121, §1038(3), added par. (1) and struck out former par. (1) which read as follows: “cooperate with any State in the preparation of a comprehensive State or regional sediment management plan within the boundaries of the State;”.

Subsec. (g). Pub. L. 113-121, §1030(d)(1)(B), substituted “\$50,000,000” for “\$30,000,000”.

2007—Pub. L. 110-114 amended section generally. Prior to amendment, section related to beneficial uses of dredged material.

1999—Subsec. (c). Pub. L. 106-53, §209(1), in introductory provisions, substituted “binding agreement with the Secretary” for “cooperative agreement in accordance with the requirements of section 1962d-5b of title 42”.

Subsec. (g). Pub. L. 106-53, §209(2), added subsec. (g).

1996—Subsecs. (e), (f). Pub. L. 104-303 added subsec. (e) and redesignated former subsec. (e) as (f).

**APPLICABILITY**

Pub. L. 110-114, title II, §2037(c), as added by Pub. L. 113-121, title I, §1030(d)(2), June 10, 2014, 128 Stat. 1232, provided that: “The amendment made by subsection (a) [amending this section] shall not apply to any project authorized under this Act [see Tables for classification] if a report of the Chief of Engineers for the project was completed prior to the date of enactment of this Act [Nov. 8, 2007].”

**BENEFICIAL USE OF DREDGED MATERIAL**

Pub. L. 114-322, title I, §1122(a)-(h), Dec. 16, 2016, 130 Stat. 1645, 1646, provided that:

“(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Dec. 16, 2016], the Secretary [of the Army] shall establish a pilot program to carry out projects for the beneficial use of dredged material, including projects for the purposes of—

“(1) reducing storm damage to property and infrastructure;

“(2) promoting public safety;

“(3) protecting, restoring, and creating aquatic ecosystem habitats;

“(4) stabilizing stream systems and enhancing shorelines;

“(5) promoting recreation;

“(6) supporting risk management adaptation strategies; and

“(7) reducing the costs of dredging and dredged material placement or disposal, such as projects that use dredged material for—

“(A) construction or fill material;

“(B) civic improvement objectives; and

“(C) other innovative uses and placement alternatives that produce public economic or environmental benefits.

“(b) PROJECT SELECTION.—In carrying out the pilot program, the Secretary shall—

“(1) identify for inclusion in the pilot program and carry out 10 projects for the beneficial use of dredged material;

“(2) consult with relevant State agencies in selecting projects; and

“(3) select projects solely on the basis of—

“(A) the environmental, economic, and social benefits of the projects, including monetary and nonmonetary benefits; and

“(B) the need for a diversity of project types and geographical project locations.

## “(c) REGIONAL BENEFICIAL USE TEAMS.—

“(1) IN GENERAL.—In carrying out the pilot program, the Secretary shall establish regional beneficial use teams to identify and assist in the implementation of projects under the pilot program.

## “(2) COMPOSITION.—

“(A) LEADERSHIP.—For each regional beneficial use team established under paragraph (1), the Secretary shall appoint the Commander of the relevant division of the Corps of Engineers to serve as the head of the team.

“(B) MEMBERSHIP.—The membership of each regional beneficial use team shall include—

“(i) representatives of relevant Corps of Engineers districts and divisions;

“(ii) representatives of relevant State and local agencies; and

“(iii) representatives of Federal agencies and such other entities as the Secretary determines appropriate, consistent with the purposes of this section.

“(d) CONSIDERATIONS.—The Secretary shall carry out the pilot program in a manner that—

“(1) maximizes the beneficial placement of dredged material from Federal and non-Federal navigation channels;

“(2) incorporates, to the maximum extent practicable, 2 or more Federal navigation, flood control, storm damage reduction, or environmental restoration projects;

“(3) coordinates the mobilization of dredges and related equipment, including through the use of such efficiencies in contracting and environmental permitting as can be implemented under existing laws and regulations;

“(4) fosters Federal, State, and local collaboration;

“(5) implements best practices to maximize the beneficial use of dredged sand and other sediments; and

“(6) ensures that the use of dredged material is consistent with all applicable environmental laws.

## “(e) COST SHARING.—

“(1) IN GENERAL.—Projects carried out under this section shall be subject to the cost-sharing requirements applicable to projects carried out under section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326).

“(2) ADDITIONAL COSTS.—Notwithstanding paragraph (1), if the cost of transporting and depositing dredged material for a project carried out under this section exceeds the cost of carrying out those activities pursuant to any other water resources project in accordance, if applicable, with the Federal standard (as defined in section 335.7 of title 33, Code of Federal Regulations), the Secretary may not require the non-Federal interest to bear the additional cost of such activities.

“(f) REPORT.—Not later than 2 years after the date of enactment of this Act [Dec. 16, 2016], and annually thereafter, 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 report that includes—

“(1) a description of the projects selected to be carried out under the pilot program;

“(2) documentation supporting each of the projects selected;

“(3) the findings of regional beneficial use teams regarding project selection; and

“(4) any recommendations of the Secretary or regional beneficial use teams with respect to the pilot program.

“(g) TERMINATION.—The pilot program shall terminate after completion of the 10 projects carried out pursuant to subsection (b)(1).

“(h) EXEMPTION FROM OTHER STANDARDS.—The projects carried out under this section shall be carried out notwithstanding the definition of the term ‘Federal standard’ in section 335.7 of title 33, Code of Federal Regulations.”

## “‘SECRETARY’ DEFINED

Secretary means the Secretary of the Army, see section 3 of Pub. L. 102-580, set out as a note under section 2201 of this title.

**§ 2326a. Dredged material disposal facility partnerships****(a) Additional capacity****(1) Provided by Secretary**

At the request of a non-Federal interest with respect to a project, the Secretary may provide additional capacity at a dredged material disposal facility constructed by the Secretary beyond the capacity that would be required for project purposes if the non-Federal interest agrees to pay, during the period of construction, all costs associated with the construction of the additional capacity.

**(2) Cost recovery authority**

The non-Federal interest may recover the costs assigned to the additional capacity through fees assessed on third parties whose dredged material is deposited at the facility and who enter into agreements with the non-Federal interest for the use of the facility. The amount of such fees may be determined by the non-Federal interest.

**(b) Non-Federal use of disposal facilities****(1) In general**

The Secretary—

(A) may permit the use of any dredged material disposal facility under the jurisdiction of, or managed by, the Secretary by a non-Federal interest if the Secretary determines that such use will not reduce the availability of the facility for project purposes; and

(B) may impose fees to recover capital, operation, and maintenance costs associated with such use.

**(2) Use of fees**

Notwithstanding section 1341(c) of this title but subject to advance appropriations, any monies received through collection of fees under this subsection shall be available to the Secretary, and shall be used by the Secretary, for the operation and maintenance of the disposal facility from which the fees were collected.

**(c) Dredged material facility****(1) In general**

The Secretary may enter into a partnership agreement under section 1962d-5b of title 42 with one or more non-Federal interests with respect to a water resources project, or group of water resources projects within a geographic region, if appropriate, for the acquisition, design, construction, management, or operation of a dredged material processing, treatment, contaminant reduction, or disposal facility (including any facility used to demonstrate potential beneficial uses of dredged material, which may include effective sediment contaminant reduction technologies) using funds provided in whole or in part by the Federal Government.

**(2) Performance**

One or more of the parties to a partnership agreement under this subsection may perform