

- (3) section 390b of this title; and
- (4) section 408 of title 33.

(g) Limitations

The Secretary shall not approve a proposal submitted under subsection (a) that—

- (1) is not supported by the Federal agency that operates the project, if that agency is not the Department of the Army;
- (2) interferes with an authorized purpose of the project;
- (3) adversely impacts contractual rights to water or storage at the reservoir;
- (4) adversely impacts legal rights to water under State law, as determined by an affected State;
- (5) increases costs for any entity other than the entity that submitted the proposal; or
- (6) if a project is subject to section 390b(e) of this title, makes modifications to the project that do not meet the requirements of that section unless the modification is submitted to and authorized by Congress.

(h) Cost share**(1) In general**

Except as provided in paragraph (2), 100 percent of the cost of developing, reviewing, and implementing a proposal submitted under subsection (a) shall be provided by an entity other than the Federal Government.

(2) Planning assistance to states

In the case of a proposal from an entity authorized to receive assistance under section 1962d-16 of title 42, the Secretary may use funds available under that section to pay 50 percent of the cost of a review of a proposal submitted under subsection (a).

(3) Operation and maintenance costs**(A) In general**

Except as provided in subparagraphs (B) and (C), the operation and maintenance costs for the non-Federal sponsor of a proposal submitted under subsection (a) shall be 100 percent of the separable operation and maintenance costs associated with the costs of implementing the proposal.

(B) Certain water supply storage projects

For a proposal submitted under subsection (a) for constructing additional water supply storage at a reservoir for use under a water supply storage agreement, in addition to the costs under subparagraph (A), the non-Federal costs shall include the proportional share of any joint-use costs for operation, maintenance, repair, replacement, or rehabilitation of the reservoir project determined in accordance with section 390b of this title.

(C) Voluntary contributions

An entity other than an entity described in subparagraph (A) may voluntarily contribute to the costs of implementing a proposal submitted under subsection (a).

(i) Contributed funds

The Secretary may receive and expend funds contributed by a non-Federal interest for the review and approval of a proposal submitted under subsection (a).

(j) Assistance

On request by a non-Federal interest, the Secretary may provide technical assistance in the development or implementation of a proposal under subsection (a), including assistance in obtaining necessary permits for construction, if the non-Federal interest contracts with the Secretary to pay all costs of providing the technical assistance.

(k) Exclusion

This section shall not apply to reservoirs in—

- (1) the Upper Missouri River;
- (2) the Apalachicola-Chattahoochee-Flint river system;
- (3) the Alabama-Coosa-Tallapoosa river system; and
- (4) the Stones River.

(l) Effect of section

Nothing in this section affects or modifies any authority of the Secretary to review or modify reservoirs.

(Pub. L. 114-322, title I, §1118, Dec. 16, 2016, 130 Stat. 1640.)

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 1002 of Pub. L. 114-322, set out as a note under section 2201 of Title 33, Navigation and Navigable Waters.

§ 390c. Water reservoirs; interests of States and local agencies in storage space

Cognizant that many States and local interests have in the past contributed to the Government, or have contracted to pay to the Government over a specified period of years, money equivalent to the cost of providing for them water storage space at Government-owned dams and reservoirs, constructed by the Corps of Engineers of the United States Army, and that such practices will continue, and, that no law defines the duration of their interest in such storage space, and realizing that such States and local interests assume the obligation of paying substantially their portion of the cost of providing such facilities, their right to use may be continued during the existence of the facility as hereinafter provided.

(Pub. L. 88-140, §1, Oct. 16, 1963, 77 Stat. 249.)

§ 390d. Dams and reservoirs wherein costs thereof, or rights thereto, have been acquired by local interests

Sections 390c to 390f of this title are applicable to all dams and reservoirs heretofore or hereafter constructed by the United States Government (acting through the Corps of Engineers of the United States Army) wherein either a part of the construction cost thereof shall have been contributed or may be contributed by States or local interests (hereinafter called “local interests”) or local interests have acquired or may acquire rights to utilize certain storage space thereof by making payments during the period of such use as specified in the agreement with the Government and wherein the amount of money paid, exclusive of interest, is equivalent to the cost of providing that part of such dam and reservoir which is allocated to such use,