

(b) For commercial properties for which there are no comparable properties on the market in or near El Paso, Texas, compensation to the owner up to an amount which, when added to the total fair market value, including the land value, would compensate the owner for the "value in use" of the real estate to him. Such "value in use" is to be determined on the basis of replacement cost less deterioration and obsolescence in existing real estate and taking into consideration factors bearing upon income attributable to the real estate.

(2) For loss in business:

(a) Loss of profits directly resulting from relocation, limited to the period between termination of business in the old location and commencement of business in the new, such period not to exceed thirty days.

(b) Loss to owner resulting from inability to rent to others housing or commercial space that can be reasonably related to uncertainties arising out of the pending acquisition of the owner's property by the United States, such losses limited to those incurred after July 18, 1963, and prior to the making by the United States of a firm offer to purchase.

(3) For penalty costs to property owners for prepayment of mortgages incident to acquisition of the properties by the United States.

(Pub. L. 88-300, § 3, Apr. 29, 1964, 78 Stat. 184.)

#### CODIFICATION

In par. b., "chapter 51 and subchapter III of chapter 53 of title 5" substituted for "the Classification Act of 1949, as amended" on authority of Pub. L. 89-554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

#### § 277d-20. Limitation on application for reimbursement or compensation

Application for reimbursement or compensation under section 277d-19 of this title shall be submitted to the Commissioner within either one year from the date of acquisition or the date of vacating the premises by the applicant, whichever date is later. Applications not submitted within said period shall be forever barred.

(Pub. L. 88-300, § 4, Apr. 29, 1964, 78 Stat. 185.)

#### § 277d-21. Attorneys' fees; penalties

The Commissioner, in rendering an award in favor of any claimant under section 277d-19 of this title, may, as part of such award, determine and allow reasonable attorneys' fees which shall not exceed 10 per centum of the amount awarded, to be paid out of but not in addition to the amount of award, to the attorneys representing the claimant. Any attorney who charges, demands, receives, or collects for services rendered in connection with such claim any amount in excess of that allowed by the terms of this section, if award be made, shall be fined not more than \$2,000 or imprisoned not more than one year, or both.

(Pub. L. 88-300, § 5, Apr. 29, 1964, 78 Stat. 185.)

#### § 277d-22. Prohibition against duplicate payments; eligibility for payments unaffected by means employed for acquisition of property; rights and powers unaffected

Payments to be made as herein provided shall be in addition to, but not in duplication of, any payments that may otherwise be authorized by law. The means employed to acquire the property, whether by condemnation or otherwise, shall not affect eligibility for reimbursement or compensation under sections 277d-17 to 277d-25 of this title. Nothing contained in such sections shall be construed as creating any legal right or cause of action against the United States or as precluding the exercise by the Government of the right of eminent domain or any other right or power that it may have under such sections or any other law; nor shall such sections be construed as precluding an owner or tenant from asserting any rights he may have under other laws or the Constitution of the United States.

(Pub. L. 88-300, § 6, Apr. 29, 1964, 78 Stat. 186.)

#### § 277d-23. Taxation; exclusion from gross income

No amount received as an award under subsection a. and subsections b. (1) and (3) of section 277d-19 of this title shall be included in gross income for purposes of chapter 1 of title 26. However, amounts received under subsection b. (1) shall be included in gross income to the extent that such amounts are not used within one year of the receipt thereof to purchase replacement housing or facilities.

(Pub. L. 88-300, § 7, Apr. 29, 1964, 78 Stat. 186; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

#### AMENDMENTS

1986—Pub. L. 99-514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

#### § 277d-24. Definitions; exemption from administrative procedure provisions

As used in sections 277d-17 to 277d-25 of this title, the term "land" shall include interests in land, and the term "fair value" shall mean fair value of the interest acquired. The provisions of such sections shall be exempt from the operations of subchapter II of chapter 5, and chapter 7, of title 5.

(Pub. L. 88-300, § 8, Apr. 29, 1964, 78 Stat. 186.)

#### CODIFICATION

"Subchapter II of chapter 5, and chapter 7, of title 5" substituted in text for "the Administrative Procedure Act of June 11, 1946 (60 Stat. 237), as amended (5 U.S.C. 1001-1011)" on authority of Pub. L. 89-554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

#### § 277d-25. Authorization of appropriations

There are authorized to be appropriated to the Department of State for the use of the United States section of said Commission not to exceed \$44,900,000 to carry out the provisions of said convention and sections 277d-17 to 277d-25 of this title and for transfer to other Federal agencies to accomplish by them or other proper agency

relocation of their facilities necessitated by the project. Of the appropriations authorized by this section, not to exceed \$4,200,000 may be used to carry out the provisions of section 277d-19 of this title. The provisions of section 277d-3 of this title are hereby expressly extended to apply to the carrying out of the provisions of said convention and sections 277d-17 to 277d-25 of this title.

(Pub. L. 88-300, §9, Apr. 29, 1964, 78 Stat. 186.)

**§ 277d-26. Lower Colorado River emergency flood control works; agreements with Mexico for joint construction, operation and maintenance**

The Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized to conclude, with the appropriate official or officials of the Government of Mexico, agreements for emergency flood control measures of international character in the reaches of the lower Colorado River between Imperial Dam and the Gulf of California, in both the United States and Mexico, such agreements to provide: (a) for the joint clearing and maintaining free of trees and brush the bed and banks of the channel; for removing sediment deposits from the river channel; and (b) for corrective actions to guard against sedimentation and consequent aggradation of the river channel incident to desilting operations at diversion dams in the two countries: *Provided*, That, prior approval of the Secretary of the Interior is required of any proposed agreement with Mexico under clause (b) of this section which would involve construction and/or operation of works on the Colorado River in the United States under the jurisdiction of the Secretary. The measures contemplated herein are for the purpose of controlling floods on the lower Colorado River in accordance with article 13 of the 1944 Water Treaty with Mexico, and accomplishment thereof by the International Boundary and Water Commission, United States Section, would be in accord with the Memorandum of Understanding "as to Functions and Jurisdiction of Agencies of the United States in Relation to the Colorado and Tijuana Rivers and the Rio Grande Below Fort Quitman, Texas, Under Water Treaty Signed at Washington, February 3, 1944," between the Department of State and the United States Section, International Boundary and Water Commission and the Department of the Interior dated February 14, 1945.

(Pub. L. 88-411, §1, Aug. 10, 1964, 78 Stat. 386.)

**§ 277d-27. Execution of agreements**

The United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized to carry out those measures agreed upon for execution by the United States in the agreements concluded pursuant to section 277d-26 of this title.

(Pub. L. 88-411, §2, Aug. 10, 1964, 78 Stat. 386.)

**§ 277d-28. Authorization of appropriations**

There is authorized to be appropriated to the Department of State for use of the United

States Section, International Boundary and Water Commission, United States and Mexico, not in excess of \$300,000 for the initial cost of the work authorized in sections 277d-26 to 277d-28 of this title, and not to exceed \$30,000 based on December 1975 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuations in operation and maintenance costs involved therein, annually thereafter for necessary maintenance.

(Pub. L. 88-411, §3, Aug. 10, 1964, 78 Stat. 386; Pub. L. 93-126, §7(b), Oct. 18, 1973, 87 Stat. 452; Pub. L. 95-105, title V, §514(b), Aug. 17, 1977, 91 Stat. 862.)

AMENDMENTS

1977—Pub. L. 95-105 inserted "based on December 1975 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuations in operation and maintenance costs involved therein," after "\$30,000".

1973—Pub. L. 93-126 substituted "\$30,000" for "\$20,000".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-105 effective Oct. 1, 1977, see section 514(d) of Pub. L. 95-105, set out as a note under section 277d-3 of this title.

**§ 277d-29. Rio Grande canalization project; flood and sediment control; agreements authorized; control gates; costs; authorization of appropriations**

For the purposes of facilitating and implementing operation and maintenance of the international Rio Grande canalization project, the United States Commissioner, International Boundary and Water Commission, United States and Mexico, is authorized to enter into agreements with the appropriate official or officials of local organizations, as defined in the Watershed Protection and Flood Prevention Act of August 4, 1954, as amended [16 U.S.C. 1001 et seq.], for the maintenance by said local organizations either directly or indirectly through mutually satisfactory maintenance agreements with others, including the United States, of all those flood and arroyo sediment control dams, together with all related works, hereafter installed or constructed in the Rio Grande watershed between Caballo Dam and El Paso, Texas, in accordance with said Act, and which are necessary, in the opinion of Said Commissioner, to facilitate and implement the operation and maintenance of said project.

Such maintenance agreements between the local organization and the United States shall provide the extent of contribution by the United States as may be mutually agreed by the two parties, based on the degree of benefits to be derived from said dams and related works, and the contribution by the United States may be either in the form of funds or performance of the actual operation and maintenance.

Control gates shall not be installed on any of the dams which, in the opinion of the United States Commissioner, International Boundary and Water Commission, United States and Mexico, are necessary to facilitate and implement the operation and maintenance of the Rio Grande canalization project.

Arrangements made between the United States and the local organizations shall be satis-