

(Pub. L. 113–121, title I, §1021, June 10, 2014, 128 Stat. 1228.)

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.

§ 2225. Credit in lieu of reimbursement

(a) Requests for credits

With respect to an authorized flood damage reduction project, or separable element thereof, for which a written agreement with the Corps of Engineers for construction was finalized on or before December 31, 2014, under section 701b–13 of this title (as it existed before the repeal made by section 1014(c)(3)),¹ the Secretary may provide to the non-Federal interest, at the request of the non-Federal interest, a credit in an amount equal to the estimated Federal share of the cost of the project or separable element, in lieu of providing to the non-Federal interest a reimbursement in that amount.

(b) Application of credits

At the request of the non-Federal interest, the Secretary may apply such credit to the non-Federal share of the cost of carrying out other water resources development projects or studies of the non-Federal interest.

(Pub. L. 113–121, title I, §1022, June 10, 2014, 128 Stat. 1228; Pub. L. 114–322, title I, §1171, Dec. 16, 2016, 130 Stat. 1671.)

REFERENCES IN TEXT

Section 1014(c)(3), referred to in subsec. (a), means section 1014(c)(3) of Pub. L. 113–121, title I, June 10, 2014, 128 Stat. 1222, which repealed section 701b–13 of this title.

AMENDMENTS

2016—Subsec. (a). Pub. L. 114–322, §1171(1), substituted “for which a written agreement with the Corps of Engineers for construction was finalized on or before December 31, 2014, under section 701b–13 of this title (as it existed before the repeal made by section 1014(c)(3))” for “that has been constructed by a non-Federal interest under section 701b–13 of this title before June 10, 2014”.

Subsec. (b). Pub. L. 114–322, §1171(2), substituted “non-Federal share of the cost of carrying out other water resources development projects or studies of the non-Federal interest” for “share of the cost of the non-Federal interest of carrying out other flood damage reduction projects or studies”.

CODIFICATION

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“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.

§ 2226. Water resources projects on Federal land

(a) In general

Subject to subsection (b), the Secretary may carry out an authorized water resources devel-

opment project on Federal land that is under the administrative jurisdiction of another Federal agency where the cost of the acquisition of such Federal land has been paid for by the non-Federal interest for the project.

(b) MOU required

The Secretary may carry out a project pursuant to subsection (a) only after the non-Federal interest has entered into a memorandum of understanding with the Federal agency that includes such terms and conditions as the Secretary determines to be necessary.

(c) Applicability

Nothing in this section alters any non-Federal cost-sharing requirements for the project.

(Pub. L. 113–121, title I, §1025, June 10, 2014, 128 Stat. 1229.)

CODIFICATION

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“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.

§ 2227. Clarification of impacts to other Federal facilities

In any case where the modification or construction of a water resources development project carried out by the Secretary adversely impacts other Federal facilities, the Secretary may accept from other Federal agencies such funds as may be necessary to address the adverse impact, including by removing, relocating, or reconstructing those facilities.

(Pub. L. 113–121, title I, §1026, June 10, 2014, 128 Stat. 1229.)

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.

“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.

SUBCHAPTER II—HARBOR DEVELOPMENT

§ 2231. Study of water resources development projects by non-Federal interests

(a) Submission to Secretary

(1) In general

A non-Federal interest may undertake a feasibility study of a proposed water resources development project and submit the study to the Secretary.

(2) Guidelines

To assist non-Federal interests, the Secretary, as soon as practicable, shall issue guidelines for feasibility studies of water resources development projects to provide sufficient information for the formulation of the studies.

¹ See References in Text note below.

(b) Review by Secretary

The Secretary shall review each feasibility study received under subsection (a)(1) for the purpose of determining whether or not the study, and the process under which the study was developed, each comply with Federal laws and regulations applicable to feasibility studies of water resources development projects.

(c) Submission to Congress

Not later than 180 days after the date of receipt of a feasibility study of a project under subsection (a)(1), 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 describes—

- (1) the results of the Secretary's review of the study under subsection (b), including a determination of whether the project is feasible;
- (2) any recommendations the Secretary may have concerning the plan or design of the project; and
- (3) any conditions the Secretary may require for construction of the project.

(d) Credit

If a project for which a feasibility study has been submitted under subsection (a)(1) is authorized by a Federal law enacted after the date of the submission to Congress under subsection (c), the Secretary shall credit toward the non-Federal share of the cost of construction of the project an amount equal to the portion of the cost of developing the study that would have been the responsibility of the United States if the study had been developed by the Secretary.

(e) Technical assistance

At the request of a non-Federal interest, the Secretary may provide to the non-Federal interest technical assistance relating to any aspect of a feasibility study if the non-Federal interest contracts with the Secretary to pay all costs of providing such technical assistance.

(Pub. L. 99-662, title II, § 203, Nov. 17, 1986, 100 Stat. 4098; Pub. L. 113-121, title I, § 1014(a), June 10, 2014, 128 Stat. 1219; Pub. L. 114-322, title I, § 1126, Dec. 16, 2016, 130 Stat. 1648.)

AMENDMENTS

2016—Subsec. (e). Pub. L. 114-322 added subsec. (e).
2014—Pub. L. 113-121 amended section generally. Prior to amendment, section related to studies of projects by non-Federal interests.

SHORT TITLE

For short title of title II of Pub. L. 99-662, enacting this subchapter, as the Harbor Development and Navigation Improvement Act of 1986, see section 215 of Pub. L. 99-662, set out as a note under section 2201 of this title.

§ 2232. Construction of water resources development projects by non-Federal interests**(a) Water resources development project defined**

In this section, the term “water resources development project” means a project recommendation that results from—

- (1) a feasibility report, as such term is defined in section 2282d(f) of this title;
- (2) a completed feasibility study developed under section 2231 of this title; or

(3) a final feasibility study for water resources development and conservation and other purposes that is specifically authorized by Congress to be carried out by the Secretary.

(b) Authority**(1) In general**

A non-Federal interest may carry out a water resources development project, or separable element thereof—

- (A) in accordance with a plan approved by the Secretary for the project or separable element; and
- (B) subject to any conditions that the Secretary may require, including any conditions specified under section 2231(c)(3) of this title.

(2) Conditions

Before carrying out a water resources development project, or separable element thereof, under this section, a non-Federal interest shall—

- (A) obtain any permit or approval required in connection with the project or separable element under Federal or State law; and
- (B) ensure that a final environmental impact statement or environmental assessment, as appropriate, for the project or separable element has been filed.

(c) Studies and engineering

When requested by an appropriate non-Federal interest, the Secretary may undertake all necessary studies and engineering for any construction to be undertaken under subsection (b), and provide technical assistance in obtaining all necessary permits for the construction, if the non-Federal interest contracts with the Secretary to furnish the United States funds for the studies, engineering, or technical assistance in the period during which the studies and engineering are being conducted.

(d) Credit or reimbursement**(1) General rule**

Subject to paragraph (3), a project or separable element of a project carried out by a non-Federal interest under this section shall be eligible for credit or reimbursement for the Federal share of work carried out on a project or separable element of a project if—

- (A) before initiation of construction of the project or separable element—
 - (i) the Secretary approves the plans for construction of the project or separable element of the project by the non-Federal interest;
 - (ii) the Secretary determines, before approval of the plans, that the project or separable element of the project is feasible; and
 - (iii) the non-Federal interest enters into a written agreement with the Secretary under section 1962d-5b of title 42, including an agreement to pay the non-Federal share, if any, of the cost of operation and maintenance of the project; and
- (B) the Secretary determines that all Federal laws and regulations applicable to the