

ized navigation project, subject to the condition that the non-Federal interest complies with all Federal laws and regulations applicable to such operation and maintenance activities, and may receive credit for the costs incurred by the non-Federal interest in carrying out such activities towards the share of construction costs of that non-Federal interest for another element of the same project or another authorized navigation project, except that in no instance may such credit exceed 20 percent of the total costs associated with construction of the general navigation features of the project for which such credit may be applied pursuant to this section.

(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 or reimbursement

(a) Requests for credits

With respect to an authorized flood damage reduction project, or separable element thereof, that has been constructed by a non-Federal interest under section 701b-13¹ of this title, or an authorized coastal navigation project that has been constructed by the Corps of Engineers pursuant to section 561 of this title before October 23, 2018, 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 or reimbursement of funds of an equivalent amount, subject to the availability of appropriations.

(b) Application of credits

At the request of the non-Federal interest, the Secretary may apply all or a portion of such credit to the share of the cost of the non-Federal interest of carrying out other flood damage reduction and coastal navigation projects or studies.

(c) Application of reimbursement

At the request of the non-Federal interest, the Secretary may apply such funds, subject to the availability of appropriations, equal to the share of the cost of the non-Federal interest of carrying out other flood damage reduction and coastal navigation projects or studies.

(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; Pub. L. 115-270, title I, §1136(a), Oct. 23, 2018, 132 Stat. 3783.)

REFERENCES IN TEXT

Section 701b-13 of this title, referred to in subsec. (a), was repealed by Pub. L. 113-121, title I, §1014(c)(3), June 10, 2014, 128 Stat. 1222.

AMENDMENTS

2018—Pub. L. 115-270 amended section generally. Prior to amendment, section related to credit in lieu of reimbursement.

¹ See References in Text note below.

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

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.

§ 2226. Water resources projects on Federal land

(a) In general

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

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.

§ 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 federally authorized 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.

(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

(1) Review and submission of studies 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—

(A) the results of the Secretary’s review of the study under subsection (b), including a determination of whether the project is feasible;

(B) any recommendations the Secretary may have concerning the plan or design of the project; and

(C) any conditions the Secretary may require for construction of the project.

(2) Limitation

The completion of the review by the Secretary of a feasibility study that has been submitted under subsection (a)(1) may not be delayed as a result of consideration being given to changes in policy or priority with respect to project consideration.

(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) Review and technical assistance

(1) Review

The Secretary may accept and expend funds provided by non-Federal interests to undertake reviews, inspections, certifications, and other activities that are the responsibility of the Secretary in carrying out this section.

(2) Technical assistance

At the request of a non-Federal interest, the Secretary shall 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.

(3) Limitation

Funds provided by non-Federal interests under this subsection shall not be eligible for credit under subsection (d) or reimbursement.

(4) Impartial decisionmaking

In carrying out this section, the Secretary shall ensure that the use of funds accepted from a non-Federal interest will not affect the impartial decisionmaking of the Secretary, either substantively or procedurally.

(5) Savings provision

The provision of technical assistance by the Secretary under paragraph (2)—

(A) shall not be considered to be an approval or endorsement of the feasibility study; and

(B) shall not affect the responsibilities of the Secretary under subsections (b) and (c).

(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; Pub. L. 115-270, title I, §1152, Oct. 23, 2018, 132 Stat. 3788.)

AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115-270, §1152(1), inserted “federally authorized” before “feasibility study”.

Subsec. (c). Pub. L. 115-270, §1152(2), amended subsec. (c) generally. Prior to amendment, text read as follows: “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.”

Subsec. (e). Pub. L. 115-270, §1152(3), amended subsec. (e) generally. Prior to amendment, text read as follows: “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