

users' ability to repay costs as found by the Secretary under section 590z-1(a)(iv) of this title; and (2) such services, labor, materials, easements or property, including money, as may be contributed by any State or political subdivision thereof, State agency, municipal corporation, or other organization, or individuals, if, in the judgment of the Secretary, the acceptance thereof will not impair the title of the United States to the project works and will not reduce the probability that the project water users can meet the obligations to the United States entered into pursuant to this subchapter. Moneys received and accepted under (2) of this section shall be and remain available for expenditure for the purposes for which contributed in like manner as if said sums had been specifically appropriated for said purposes.

(Aug. 11, 1939, ch. 717, § 2, 53 Stat. 1419; Oct. 14, 1940, ch. 861, 54 Stat. 1120.)

AMENDMENTS

1940—Act Oct. 14, 1940, reenacted section.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Works Projects Administration and its functions transferred to Federal Works Agency by Reorg. Plan No. 1 of 1939, §§ 301, 306, eff. July 1, 1939, 4 F.R. 2729, 53 Stat. 1426, set out in the Appendix to Title 5.

Functions of Federal Works Agency transferred to General Services Administration by act June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380. See Historical and Revision Notes under section 303(b) of Title 40, Public Buildings, Property, and Works. Section 303(b) of Title 40 was amended generally by Pub. L. 109-313, § 2(a)(1), Oct. 6, 2006, 120 Stat. 1734, and, as so amended, no longer relates to the Federal Works Agency and Commissioner of Public Buildings. See 2006 Amendment note under section 303 of Title 40.

Civilian Conservation Corps and its functions consolidated with other agencies under Federal Security Agency, to be administered by Director of Corps under direction and supervision of Federal Security Administration by Reorg. Plan No. 1 of 1939, §§ 201, 207, eff. July 1, 1939, 4 F.R. 2728, 2729, 53 Stat. 1425, set out in the Appendix to Title 5, Government Organization and Employees.

Federal Security Agency was abolished by section 8 of Reorg. Plan No. 1 of 1953, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, and its functions transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953.

Department of Health, Education, and Welfare was redesignated Department of Health and Human Services by section 3508(b) of Title 20, Education.

DRAINAGE FACILITIES AND MINOR CONSTRUCTION

Contracts with repayment organizations for construction of drainage facilities and minor items in irrigation works, see section 505 of Title 43, Public Lands.

§ 590z-1. Prerequisites for construction of project

(a) Investigation and report to President

No construction of a project may be undertaken pursuant to the authority of this subchapter unless and until the Secretary has made an investigation thereof and has submitted to the President his report and findings on—

(i) the engineering feasibility of the proposed construction;

(ii) the estimated cost of the proposed construction;

(iii) the part of the estimated cost which properly can be allocated to irrigation;

(iv) the part of the estimated cost which probably can be repaid by the water users in accordance with the requirements of section 590z-2 of this title;

(v) the part of the estimated cost which can properly be allocated to municipal or miscellaneous water supplies or power and probably be returned to the United States in revenues therefrom;

(vi) the part of the estimated cost which can properly be allocated to the irrigation of Indian trust and tribal lands, and be repayable in accordance with existing law relating to Indian lands;

(vii) the part of the estimated cost which can properly be allocated to flood control as recommended by the Secretary after consultation with the Chief of Engineers, Department of the Army.

In connection with each such investigation, report, and finding, the Secretary shall consult with the Secretary of Agriculture regarding participation in the proposed project by the Department of Agriculture under the authority of sections 590z-3 and 590z-4 of this title; and the Secretary shall also transmit to the President a report by the Secretary of Agriculture to the President on the participation, if any, proposed by the Department of Agriculture. The project shall be deemed authorized and may be undertaken pursuant to this subchapter if (1) the Secretary finds and certifies to the President that the project has engineering feasibility and that the water users probably can repay, in accordance with the requirements of section 590z-2 of this title an amount equal to or in excess of that part of the estimated cost allocated by him to irrigation to be met by expenditure of moneys appropriated pursuant to section 590z-10(1) of this title; and (2) the President has approved said report and findings and has found that services, labor, materials, easements, and other property, including money, for the construction of the project, should be made available to the Department of the Interior by the Works Projects Administration or other Federal agencies, to the extent found necessary by the Secretary to make up the difference between the estimated cost of project construction and (i) the part thereof to be met by expenditure of moneys appropriated pursuant to section 590z-10(1) of this title, together with (ii) such services, materials, money, easements, and other property as non-Federal agencies or parties have agreed to contribute and the Secretary has found acceptable under section 590z of this title.

(b) Construction of physical features

No actual construction of the physical features of a project shall be undertaken unless and until (1) the Secretary has found that lands, or interests in lands, deemed necessary for the construction and operation of the major features of the projects have been secured, or sufficient progress made in their procurement to indicate

the probability that all these lands or interests in lands can be secured, with titles and at prices satisfactory to him; and (2) the Secretary has found (i) that water rights adequate for the purposes of the project have been acquired with titles and at prices satisfactory to him, or that such water rights have been initiated and in his judgment can be perfected in conformity with State law and any applicable interstate agreements and in a manner satisfactory to him; and (ii) that such water rights can be utilized for the purposes of the project in conformity with State law and any applicable interstate agreements and in a manner satisfactory to him.

(c) Division of project

Any part of a project hereunder may be designated as a division of the project by the Secretary if he, after consultation with the Secretary of Agriculture, deems this desirable for orderly and efficient construction or administration. The term "project", as used in subsection (b) and section 590z-2 of this title, shall be deemed to mean also "division of a project", designated as provided in this subsection. Any project authorized for construction from appropriations under the head "Water Conservation and Utility Projects" in the Interior Department Appropriation Act, 1940 [ch. 119] (53 Stat. 685), hereinafter called the 1940 water conservation appropriation, may be designated by the Secretary, upon agreement with the Secretary of Agriculture, a project under this subchapter, and shall thereupon be subject to all the provisions and requirements thereof, except those of subsections (a) and (b).

(Aug. 11, 1939, ch. 717, § 3, 53 Stat. 1419; Oct. 14, 1940, ch. 861, 54 Stat. 1120; July 16, 1943, ch. 242, §§ 2-4, 57 Stat. 567; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

REFERENCES IN TEXT

The head "Water Conservation Utility Projects" in the Interior Department Appropriation Act, 1940 [ch. 119] (53 Stat. 685), referred to in subsec. (c), was not classified to the Code.

AMENDMENTS

1943—Subsec. (a)(vii). Act July 16, 1943, § 2, inserted "Secretary after consultation with the" after "as recommended".

Subsec. (b). Act July 16, 1943, § 3, amended subsec. (b) generally.

Subsec. (c). Act July 16, 1943, § 4, added subsec. (c).

1940—Act Oct. 14, 1940, reenacted section.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

CONSTRUCTION WITH SECTION 701-1 OF TITLE 33

Section as amended and modified by act Dec. 22, 1944, ch. 665, § 1(c), 58 Stat. 665, see section 701-1(c) of Title 33, Navigation and Navigable Waters.

TRANSFER OF FUNCTIONS

Works Projects Administration and its functions transferred to Federal Works Agency by Reorg. Plan

No. 1 of 1939, §§ 301, 306, eff. July 1, 1939, 4 F.R. 2729, 53 Stat. 1426, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of Federal Works Agency transferred to General Services Administration by act June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380. See Historical and Revision Notes under section 303(b) of Title 40, Public Buildings, Property, and Works. Section 303(b) of Title 40 was amended generally by Pub. L. 109-313, § 2(a)(1), Oct. 6, 2006, 120 Stat. 1734, and, as so amended, no longer relates to the Federal Works Agency and Commissioner of Public Buildings. See 2006 Amendment note under section 303 of Title 40.

§ 590z-2. Repayment contracts

(a) Necessity

No water for irrigation may be delivered from the works of any project constructed under the authority of this subchapter until after the repayment contract or contracts required by this section have been executed. Where practicable in the judgment of the Secretary, the repayment contract shall be with a water users' organization or organizations satisfactory in form and powers to the Secretary; and otherwise the repayment contract shall be with the individual landowners. The contract or contracts shall contain such provisions as the Secretary deems necessary to carry out the purposes of this subchapter and to protect the interests of the United States.

(b) "Reimbursable construction costs" defined

The term "reimbursable construction costs" as used in this subchapter means that part of the costs of investigating, constructing, and operating and maintaining the project, which are allocated by the Secretary to irrigation, and which are met by expenditures of moneys therefor appropriated under the authority of section 590z-10(1) of this title, plus such amounts as the President, under section 590z(1) of this title, may determine to be reimbursable: *Provided*, That administrative expenses incurred in the District of Columbia in connection with the investigation construction, or operation and maintenance of a project shall not be included in the reimbursable construction costs nor shall they be charged to the water users in any way.

(c) Terms

The repayment contract or contracts for a project shall, in their aggregate, provide for repayment to the United States of the total amount of the reimbursable construction costs of the project allocated to irrigation. Each such contract shall provide, among other things, that—

(1) The Secretary shall fix a development period for each project of not to exceed ten years from and including the first calendar year in which water is delivered for the lands in said project; and during the development period water shall be delivered to the lands in the project involved at a charge per acre-foot, or other charge, to be fixed by the Secretary each year and to be paid in advance of delivery of water. Such charges shall be fixed with a view of returning such amounts as in the Secretary's judgment are justified by the rate of project development, including as a minimum the return over the full development period of