

§ 485f. Negotiation of equitable contracts by Secretary

(a) Existing project contract unit

The Secretary is authorized and directed to investigate the repayment problems of any existing project contract unit in connection with which, in his judgment, a contract under section 485b or 485c¹ of this title would not be practicable nor provide an economically sound adjustment, and to negotiate a contract which, in his judgment, both would provide fair and equitable treatment of the repayment problems involved and would be in keeping with the general purpose of this subchapter.

(b) New projects or projects under construction; public lands; development periods

For any project, division of a project, development unit of a project, or supplemental works on a project, under construction on August 4, 1939, or for which appropriations had been made, and in connection with which a repayment contract had not been executed, allocations of costs may be made in accordance with the provisions of section 485h of this title and a repayment contract may be negotiated, in the discretion of the Secretary, (1) pursuant to the authority of subsection (a) of this section or (2) in accordance, as near as may be, with the provisions in section 485h(d) or 485h(e) of this title. In connection with any such project, division, or development unit, on which the majority of the lands involved are public lands of the United States, the Secretary, prior to entering into a repayment contract, may fix a development period for each irrigation block, if any, of not to exceed ten years from and including the first year in which water is delivered for the lands in said block: *Provided*, That in the event a development period is fixed prior to execution of a repayment contract, execution thereof shall be a condition precedent to delivery of water after the close of the development period. During any such development period water shall be delivered to the lands in the irrigation block involved only on a toll-charge basis, at a charge per annum per acre-foot to be fixed by the Secretary each year and to be collected in advance of delivery of water. Pending negotiation and execution of a repayment contract for any other such project, division, or development unit, water may be delivered for a period of not more than five years from August 4, 1939, on the same toll-charge basis. Any such toll charges collected and which the Secretary determines to be in excess of the cost of operation and maintenance during the toll-charge period shall be credited to the construction cost of the project in the manner determined by the Secretary.

(c) Report of proposed contracts to Congress; approval; amendment after approval

The Secretary from time to time shall report to the Congress on any proposed contracts negotiated pursuant to the authority of subsection (a) or (b)(1) of this section, and he may execute any such contract on behalf of the United States only after approval thereof has been given by Act of Congress. Contracts, so approved, how-

ever, may be amended from time to time by mutual agreement and without further approval by Congress if such amendments are within the scope of authority granted prior to or after April 24, 1945, to the Secretary under any Act, except that amendments providing for repayment of construction charges in a period of years longer than authorized by this subchapter, as it may be amended, shall be effective only when approved by Congress.

(Aug. 4, 1939, ch. 418, §7, 53 Stat. 1192; Apr. 24, 1945, ch. 94, §2, 59 Stat. 76.)

REFERENCES IN TEXT

Section 485c of this title, referred to in subsec. (a), was repealed by Pub. L. 85-611, §3, Aug. 8, 1958, 72 Stat. 543.

AMENDMENTS

1945—Subsec. (c). Act Apr. 24, 1945, added second sentence.

EXTENSION OF SECRETARY'S AUTHORITY TO ENTER INTO AMENDATORY CONTRACTS

Secretary's authority extended through Dec. 31, 1960, see section 485b-1 of this title.

§ 485g. Classification of lands

(a) Generally

The Secretary is authorized and directed in the manner hereinafter provided to classify or to reclassify, from time to time but not more often than at five-year intervals, as to irrigability and productivity those lands which have been, are, or may be included within any project.

(b) Necessity for request

No classification or reclassification pursuant to the authority of this subchapter shall be undertaken unless a request therefor, by an organization or duly authorized representatives of the water users, in the form required by subsection (c) of this section has been made of the Secretary. The Secretary shall plan the classification work, undertaken pursuant to the authority of this section, in such manner as in his judgment will result in the most expeditious completion of the work.

(c) Furnishing data

In any request made to the Secretary for a land classification or reclassification under this section, the organization or representatives of the water users shall furnish a list of those lands which are considered to be of comparatively low productivity or to be nonproductive, and of those lands which are considered to be of greater or lesser productivity than indicated by existing classifications, if any, made pursuant to the Federal reclamation laws, and shall furnish also such data relating thereto as the Secretary by regulation may require.

(d) Primary determination

Upon receipt of any such request the Secretary shall make a preliminary determination whether the requested land classification or reclassification probably is justified by reason of the conditions of the lands involved and other pertinent conditions of the project, including its contractual relations with the United States.

¹ See References in Text note below.

(e) Probable justification

If the Secretary finds probable justification and if the advance to the United States herein-after required is made, he shall undertake as soon as practicable the classification or reclassification of the lands listed in the request, and of any other lands which have been, are, or may be included within the project involved and which in his judgment should be classified or reclassified.

(f) Expenses

One-half of the expense involved in any classification work undertaken pursuant to this section shall be charged to operation and maintenance administration nonreimbursable; and one-half shall be paid in advance by the organization involved. On determining probable justification for the requested classification or reclassification as provided in this section, the Secretary shall estimate the cost of the work involved and shall submit a statement of the estimated cost to said organization. Said organization, before commencement of the work, shall advance to the United States one-half of the amount set forth in said statement and also shall advance one-half of the amount of supplementary estimates of costs which the Secretary may find it necessary to make from time to time during the progress of the work; and said amounts shall be and remain available for expenditure by the Secretary for the purposes for which they are advanced, until the work is completed or abandoned. After completion or abandonment of the work, the Secretary, shall determine the actual costs thereof; and said organization shall pay any additional amount required to make its total payments hereunder equal to one-half of the actual cost or shall be credited with any amount by which advances made by it exceed one-half of said actual cost, as the case may be.

(g) Classification as prerequisite to contract

If in the judgment of the Secretary a classification or reclassification pursuant to the provisions of this section is a necessary preliminary to entering into a contract under section 485b or 485c¹ of this title, he may require the same as a condition precedent to entering into such a contract.

(h) Modification of existing obligations

No modification of any existing obligation to pay construction charges on any project shall be made by reason of any classification or reclassification undertaken pursuant to this section without express authority therefor granted by Congress upon recommendations of the Secretary made in a report under subsection (f) of this section.

(Aug. 4, 1939, ch. 418, §8, 53 Stat. 1192; Pub. L. 93-608, §1(18), Jan. 2, 1975, 88 Stat. 1970.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in subsec. (c), are defined in section 485a of this title.

Section 485c of this title, referred to in subsec. (g), was repealed by Pub. L. 85-611, §3, Aug. 8, 1958, 72 Stat. 543.

¹ See References in Text note below.

AMENDMENTS

1975—Subsecs. (f) to (i). Pub. L. 93-608 redesignated subsecs. (g) to (i) as (f) to (h), respectively. Former subsec. (f), which required a report to Congress by the Secretary on classifications and reclassifications or project lands, was struck out.

§ 485h. New projects; sale of water and electric power; lease of power privileges**(a) Findings of Secretary**

No expenditures for the construction of any new project, new division of a project, or new supplemental works on a project shall be made, nor shall estimates be submitted therefor, by the Secretary until after he has made an investigation thereof and has submitted to the President and to the Congress his report and findings on—

- (1) the engineering feasibility of the proposed construction;
- (2) the estimated cost of the proposed construction;
- (3) the part of the estimated cost which can properly be allocated to irrigation and probably be repaid by the water users;
- (4) the part of the estimated cost which can properly be allocated to power and probably be returned to the United States in net power revenues;
- (5) the part of the estimated cost which can properly be allocated to municipal water supply or other miscellaneous purposes and probably be returned to the United States.

If the proposed construction is found by the Secretary to have engineering feasibility and if the repayable and returnable allocations to irrigation, power, and municipal water supply or other miscellaneous purposes found by the Secretary to be proper, together with any allocation to flood control or navigation made under subsection (b) of this section, equal the total estimated cost of construction as determined by the Secretary, then the new project, new division of a project, or supplemental works on a project, covered by his findings, shall be deemed authorized and may be undertaken by the Secretary. If all such allocations do not equal said total estimated cost, then said new project, new division, or new supplemental works may be undertaken by the Secretary only after provision therefor has been made by Act of Congress enacted after the Secretary has submitted to the President and the Congress the report and findings involved.

(b) Allocation of part of cost to flood control or navigation

In connection with any new project, new division of a project, or supplemental works on a project there may be allocated to flood control or navigation the part of said total estimated cost which the Secretary may find to be proper. Items for any such allocations made in connection with projects which may be undertaken pursuant to subsection (a) of this section shall be included in the estimates of appropriations submitted by the Secretary for said projects, and funds for such portions of the projects shall not become available except as directly appropriated or allotted to the Department of the In-