

in all of the States, and required the Secretary of Commerce, in cooperation with State highway departments, to make detailed revised estimates of the cost of completion of the system and to supply Congress with such revised estimate.

§ 105. Additional deposits into Highway Trust Fund

(a) IN GENERAL.—If monies are deposited into the Highway Account or Mass Transit Account pursuant to a law enacted subsequent to the date of enactment of the FAST Act, the Secretary shall make available additional amounts of contract authority under subsections (b) and (c).

(b) AMOUNT OF ADJUSTMENT.—If monies are deposited into the Highway Account or the Mass Transit Account as described in subsection (a), on October 1 of the fiscal year following the deposit of such monies, the Secretary shall—

(1) make available for programs authorized from such account for such fiscal year a total amount equal to—

(A) the amount otherwise authorized to be appropriated for such programs for such fiscal year; plus

(B) an amount equal to such monies deposited into such account during the previous fiscal year as described in subsection (a); and

(2) distribute the additional amount under paragraph (1)(B) to each of such programs in accordance with subsection (c).

(c) DISTRIBUTION OF ADJUSTMENT AMONG PROGRAMS.—

(1) IN GENERAL.—In making an adjustment for programs authorized to be appropriated from the Highway Account or the Mass Transit Account for a fiscal year under subsection (b), the Secretary shall—

(A) determine the ratio that—

(i) the amount authorized to be appropriated for a program from the account for the fiscal year; bears to

(ii) the total amount authorized to be appropriated for such fiscal year for all programs under such account;

(B) multiply the ratio determined under subparagraph (A) by the amount of the adjustment determined under subsection (b)(1)(B); and

(C) adjust the amount that the Secretary would otherwise have allocated for the program for such fiscal year by the amount calculated under subparagraph (B).

(2) FORMULA PROGRAMS.—For a program for which funds are distributed by formula, the Secretary shall add the adjustment to the amount authorized for the program but for this section and make available the adjusted program amount for such program in accordance with such formula.

(3) AVAILABILITY FOR OBLIGATION.—Adjusted amounts under this subsection shall be available for obligation and administered in the same manner as other amounts made available for the program for which the amount is adjusted.

(d) EXCLUSION OF EMERGENCY RELIEF PROGRAM AND COVERED ADMINISTRATIVE EXPENSES.—The

Secretary shall exclude the emergency relief program under section 125 and covered administrative expenses from an adjustment of funding under subsection (c)(1).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the appropriate account or accounts of the Highway Trust Fund an amount equal to the amount of an adjustment for a fiscal year under subsection (b) for any of fiscal years 2017 through 2020.

(f) REVISION TO OBLIGATION LIMITATIONS.—

(1) IN GENERAL.—If the Secretary makes an adjustment under subsection (b) for a fiscal year to an amount subject to a limitation on obligations imposed by section 1102 or 3018 of the FAST Act—

(A) such limitation on obligations for such fiscal year shall be revised by an amount equal to such adjustment; and

(B) the Secretary shall distribute such limitation on obligations, as revised under subparagraph (A), in accordance with such sections.

(2) EXCLUSION OF COVERED ADMINISTRATIVE EXPENSES.—The Secretary shall exclude covered administrative expenses from—

(A) any calculation relating to a revision of a limitation on obligations under paragraph (1)(A); and

(B) any distribution of a revised limitation on obligations under paragraph (1)(B).

(g) DEFINITIONS.—In this section, the following definitions apply:

(1) COVERED ADMINISTRATIVE EXPENSES.—The term “covered administrative expenses” means the administrative expenses of—

(A) the Federal Highway Administration, as authorized under section 104(a);

(B) the National Highway Traffic Safety Administration, as authorized under section 4001(a)(6) of the FAST Act; and

(C) the Federal Motor Carrier Safety Administration, as authorized under section 31110 of title 49.

(2) HIGHWAY ACCOUNT.—The term “Highway Account” means the portion of the Highway Trust Fund that is not the Mass Transit Account.

(3) MASS TRANSIT ACCOUNT.—The term “Mass Transit Account” means the Mass Transit Account of the Highway Trust Fund established under section 9503(e)(1) of the Internal Revenue Code of 1986.

(Added Pub. L. 114-94, div. A, title I, §1403(a), Dec. 4, 2015, 129 Stat. 1407.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the FAST Act, referred to in subsec. (a), is the date of enactment of Pub. L. 114-94, which was approved Dec. 4, 2015.

Section 1102 of the FAST Act, referred to in subsec. (f)(1), is section 1102 of Pub. L. 114-94, which is set out as a note under section 104 of this title.

Section 3018 of the FAST Act, referred to in subsec. (f)(1), is section 3018 of Pub. L. 114-94, which is set out as a note under section 5338 of Title 49, Transportation.

Section 4001(a)(6) of the FAST Act, referred to in subsec. (g)(1)(B), is section 4001(a)(6) of Pub. L. 114-94, which is not classified to the Code.

Section 9503(e)(1) of the Internal Revenue Code of 1986, referred to in subsec. (g)(3), is classified to section 9503(e)(1) of Title 26, Internal Revenue Code.

PRIOR PROVISIONS

A prior section 105, Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 891; Pub. L. 86-624, §17(b), July 12, 1960, 74 Stat. 415; Pub. L. 89-564, title II, §206, Sept. 9, 1966, 80 Stat. 736; Pub. L. 91-605, title I, §§106(d), 132, Dec. 31, 1970, 84 Stat. 1717, 1732; Pub. L. 93-87, title I, §109(b), Aug. 13, 1973, 87 Stat. 255; Pub. L. 95-599, title I, §§111, 112, Nov. 6, 1978, 92 Stat. 2696; Pub. L. 97-424, title I, §109(a), Jan. 6, 1983, 96 Stat. 2104; Pub. L. 102-240, title I, §1105(g)(7), Dec. 18, 1991, 105 Stat. 2036; Pub. L. 105-178, title I, §1104(a), (c), June 9, 1998, 112 Stat. 127; Pub. L. 105-206, title IX, §9002(d), July 22, 1998, 112 Stat. 835; Pub. L. 109-59, title I, §1104(a), Aug. 10, 2005, 119 Stat. 1163; Pub. L. 110-244, title I, §101(m)(3)(B), June 6, 2008, 122 Stat. 1576, related to the equity bonus program, prior to repeal by Pub. L. 112-141, div. A, title I, §1519(b)(1)(A), July 6, 2012, 126 Stat. 575, effective Oct. 1, 2012.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

§ 106. Project approval and oversight

(a) IN GENERAL.—

(1) SUBMISSION OF PLANS, SPECIFICATIONS, AND ESTIMATES.—Except as otherwise provided in this section, each State transportation department shall submit to the Secretary for approval such plans, specifications, and estimates for each proposed project as the Secretary may require.

(2) PROJECT AGREEMENT.—The Secretary shall act on the plans, specifications, and estimates as soon as practicable after the date of their submission and shall enter into a formal project agreement with the State transportation department recipient formalizing the conditions of the project approval.

(3) CONTRACTUAL OBLIGATION.—The execution of the project agreement shall be deemed a contractual obligation of the Federal Government for the payment of the Federal share of the cost of the project.

(4) GUIDANCE.—In taking action under this subsection, the Secretary shall be guided by section 109.

(b) PROJECT AGREEMENT.—

(1) PROVISION OF STATE FUNDS.—The project agreement shall make provision for State funds required to pay the State's non-Federal share of the cost of construction of the project (including payments made pursuant to a long-term concession agreement, such as availability payments) and to pay for maintenance of the project after completion of construction.

(2) REPRESENTATIONS OF STATE.—If a part of the project is to be constructed at the expense of, or in cooperation with, political subdivisions of the State, the Secretary may rely on representations made by the State transportation department with respect to the arrangements or agreements made by the State transportation department and appropriate local officials for ensuring that the non-Fed-

eral contribution will be provided under paragraph (1).

(c) ASSUMPTION BY STATES OF RESPONSIBILITIES OF THE SECRETARY.—

(1) NHS PROJECTS.—For projects under this title that are on the National Highway System, including projects on the Interstate System, the State may assume the responsibilities of the Secretary under this title for design, plans, specifications, estimates, contract awards, and inspections with respect to the projects unless the Secretary determines that the assumption is not appropriate.

(2) NON-NHS PROJECTS.—For projects under this title that are not on the National Highway System, the State shall assume the responsibilities of the Secretary under this title for design, plans, specifications, estimates, contract awards, and inspection of projects, unless the State determines that such assumption is not appropriate.

(3) AGREEMENT.—The Secretary and the State shall enter into an agreement relating to the extent to which the State assumes the responsibilities of the Secretary under this subsection.

(4) LIMITATION ON INTERSTATE PROJECTS.—

(A) IN GENERAL.—The Secretary shall not assign any responsibilities to a State for projects the Secretary determines to be in a high risk category, as defined under subparagraph (B).

(B) HIGH RISK CATEGORIES.—The Secretary may define the high risk categories under this subparagraph on a national basis, a State-by-State basis, or a national and State-by-State basis, as determined to be appropriate by the Secretary.

(d) RESPONSIBILITIES OF THE SECRETARY.—Nothing in this section, section 133, or section 149 shall affect or discharge any responsibility or obligation of the Secretary under—

(1) section 113 or 114; or

(2) any Federal law other than this title (including section 5333 of title 49).

(e) VALUE ENGINEERING ANALYSIS.—

(1) DEFINITION OF VALUE ENGINEERING ANALYSIS.—

(A) IN GENERAL.—In this subsection, the term “value engineering analysis” means a systematic process of review and analysis of a project, during the planning and design phases, by a multidisciplinary team of persons not involved in the project, that is conducted to provide recommendations such as those described in subparagraph (B) for—

(i) providing the needed functions safely, reliably, and at the lowest overall lifecycle cost;

(ii) improving the value and quality of the project; and

(iii) reducing the time to complete the project.

(B) INCLUSIONS.—The recommendations referred to in subparagraph (A) include, with respect to a project—

(i) combining or eliminating otherwise inefficient use of costly parts of the original proposed design for the project; and