

“(3) a public-private partnership, if both parties are engaged in building the project.

“(b) CONSOLIDATION.—

“(1) IN GENERAL.—A recipient that receives multiple grant awards from the Department [of Transportation] to support 1 multimodal project may request that the Secretary [of Transportation] designate 1 modal administration in the Department to be the lead administering authority for the overall project.

“(2) NEW STARTS.—Any project that includes funds awarded under section 5309 of title 49, United States Code, shall be exempt from consolidation under this section unless the grant recipient requests the Federal Transit Administration to be the lead administering authority.

“(3) REVIEW.—

“(A) IN GENERAL.—Not later than 30 days after the date on which a request under paragraph (1) is made, the Secretary shall review the request and approve or deny the designation of a single modal administration as the lead administering authority and point of contact for the Department.

“(B) NOTIFICATION.—

“(i) IN GENERAL.—The Secretary shall notify the requestor of the decision of the Secretary under subparagraph (A) in such form and at such time as the Secretary and the requestor agree.

“(ii) DENIAL.—If a request is denied, the Secretary shall provide the requestor with a detailed explanation of the reasoning of the Secretary with the notification under clause (i).

“(c) DUTIES.—

“(1) IN GENERAL.—A modal administration designated as a lead administering authority under this section shall—

“(A) be responsible for leading and coordinating the integrated project management team, which shall consist of all of the other modal administrations in the Department [of Transportation] relating to the multimodal project; and

“(B) to the extent feasible during the first 30 days of carrying out the multimodal project, identify overlapping or duplicative regulatory requirements that exist for the project and propose a single, streamlined approach to meeting all of the applicable regulatory requirements through the activities described in subsection (d).

“(2) ADMINISTRATION.—

“(A) IN GENERAL.—The Secretary [of Transportation] shall transfer all amounts that have been awarded for the multimodal project to the modal administration designated as the lead administering authority.

“(B) OPTION.—

“(i) IN GENERAL.—Participation under this section shall be optional for recipients, and no recipient shall be required to participate.

“(ii) SECRETARIAL DUTIES.—The Secretary is not required to identify every recipient that may be eligible to participate under this section.

“(d) COOPERATION.—

“(1) IN GENERAL.—The Secretary [of Transportation] and modal administrations with relevant jurisdiction over a multimodal project should cooperate on project review and delivery activities at the earliest practicable time.

“(2) PURPOSES.—The purposes of the cooperation under paragraph (1) are—

“(A) to avoid delays and duplication of effort later in the process;

“(B) to prevent potential conflicts; and

“(C) to ensure that planning and project development decisions are made in a streamlined manner and consistent with applicable law.

“(e) APPLICABILITY.—Nothing in this section shall—

“(1) supersede, amend, or modify the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental law; or

“(2) affect the responsibility of any Federal officer to comply with or enforce any law described in paragraph (1).”

#### STUDY OF VALUE ENGINEERING

Pub. L. 102-240, title I, §1091, Dec. 18, 1991, 105 Stat. 2024, required the Secretary to study the effectiveness and benefits of value engineering review programs applied to Federal-aid highway projects and to report to Congress, no later than 1 year after Dec. 18, 1991, on the results of the study, including recommendations on how value engineering could be utilized and improved in Federal-aid highway projects.

#### MODIFICATION OF PROJECT AGREEMENTS TO EFFECTUATE REQUIREMENT OF FOUR-LANES OF TRAFFIC

Pub. L. 89-574, §5(b), Sept. 13, 1966, 80 Stat. 767, as amended by Pub. L. 97-449, §2(a), Jan. 12, 1983, 96 Stat. 2439, authorized Secretary to modify project agreements entered into prior to Sept. 13, 1966, pursuant to section 106 of this title for purpose of effectuating amendment made by this section (amending section 109(b) of this title to add a requirement of four lanes of traffic) with respect to as much of National System of Interstate and Defense Highways [now Dwight D. Eisenhower System of Interstate and Defense Highways] as may be possible.

#### § 107. Acquisition of rights-of-way—Interstate System

(a) In any case in which the Secretary is requested by a State to acquire lands or interests in lands (including within the term “interests in lands”, the control of access thereto from adjoining lands) required by such State for right-of-way or other purposes in connection with the prosecution of any project for the construction, reconstruction, or improvement of any section of the Interstate System, the Secretary is authorized, in the name of the United States and prior to the approval of title by the Attorney General, to acquire, enter upon, and take possession of such lands or interests in lands by purchase, donation, condemnation, or otherwise in accordance with the laws of the United States (including sections 3114 to 3116 and 3118 of title 40), if—

(1) the Secretary has determined either that the State is unable to acquire necessary lands or interests in lands, or is unable to acquire such lands or interests in lands with sufficient promptness; and

(2) the State has agreed with the Secretary to pay, at such time as may be specified by the Secretary an amount equal to 10 per centum of the costs incurred by the Secretary, in acquiring such lands or interests in lands, or such lesser percentage which represents the State's pro rata share of project costs as determined in accordance with subsection (c)<sup>1</sup> of section 120 of this title.

The authority granted by this section shall also apply to lands and interests in lands received as grants of land from the United States and owned or held by railroads or other corporations.

(b) The costs incurred by the Secretary in acquiring any such lands or interests in lands may include the cost of examination and abstract of title, certificate of title, advertising, and any fees incidental to such acquisition. All costs incurred by the Secretary in connection with the acquisition of any such lands or interests in lands shall be paid from the funds for construc-

<sup>1</sup> See References in Text note below.

tion, reconstruction, or improvement of the Interstate System apportioned to the State upon the request of which such lands or interests in lands are acquired, and any sums paid to the Secretary by such State as its share of the costs of acquisition of such lands or interests in lands shall be deposited in the Treasury to the credit of the appropriation for Federal-aid highways and shall be credited to the amount apportioned to such State as its apportionment of funds for construction, reconstruction, or improvement of the Interstate System, or shall be deducted from other moneys due the State for reimbursement from funds authorized to be appropriated under section 108(b) of the Federal-Aid Highway Act of 1956.

(c) The Secretary is further authorized and directed by proper deed, executed in the name of the United States, to convey any such lands or interests in lands acquired in any State under the provisions of this section, except the outside five feet of any such right-of-way in any State which does not provide control of access, to the State transportation department of such State or such political subdivision thereof as its laws may provide, upon such terms and conditions as to such lands or interests in lands as may be agreed upon by the Secretary and the State transportation department or political subdivisions to which the conveyance is to be made. Whenever the State makes provision for control of access satisfactory to the Secretary, the outside five feet then shall be conveyed to the State by the Secretary, as herein provided.

(d) Whenever rights-of-way, including control of access, on the Interstate System are required over lands or interests in lands owned by the United States, the Secretary may make such arrangements with the agency having jurisdiction over such lands as may be necessary to give the State or other person constructing the projects on such lands adequate rights-of-way and control of access thereto from adjoining lands, and any such agency is directed to cooperate with the Secretary in this connection.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 892; Pub. L. 105-178, title I, § 1212(a)(2)(A)(i), June 9, 1998, 112 Stat. 193; Pub. L. 109-284, § 3(1), Sept. 27, 2006, 120 Stat. 1211.)

#### Editorial Notes

##### REFERENCES IN TEXT

Subsection (c) of section 120 of this title, referred to in subsec. (a)(2), was struck out and a new subsec. (c) was added by Pub. L. 102-240, title I, § 1021(a), Dec. 18, 1991, 105 Stat. 1950.

The Federal-Aid Highway Act of 1956, referred to in subsec. (b), is act June 29, 1956, ch. 462, 70 Stat. 374. For complete classification of this Act to the Code, see Tables. Section 108(b) of the Federal-Aid Highway Act of 1956 is set out as a note under section 101 of this title.

##### AMENDMENTS

2006—Subsec. (a). Pub. L. 109-284 substituted “sections 3114 to 3116 and 3118 of title 40” for “the Act of February 26, 1931, 46 Stat. 1421”.

1998—Subsec. (c). Pub. L. 105-178 substituted “State transportation department” for “State highway department” in two places.

### § 108. Advance acquisition of real property

(a) IN GENERAL.—

(1) AVAILABILITY OF FUNDS.—For the purpose of facilitating the timely and economical acquisition of real property interests for a transportation improvement eligible for funding under this title, the Secretary, upon the request of a State, may make available, for the acquisition of real property interests, such funds apportioned to the State as may be expended on the transportation improvement, under such rules and regulations as the Secretary may issue.

(2) CONSTRUCTION.—The agreement between the Secretary and the State for the reimbursement of the cost of the real property interests shall provide for the actual construction of the transportation improvement within a period not to exceed 20 years following the fiscal year for which the request is made, unless the Secretary determines that a longer period is reasonable.

(b) Federal participation in the cost of real property interests acquired under subsection (a) of this section shall not exceed the Federal pro rata share applicable to the class of funds from which Federal reimbursement is made.

(c) STATE-FUNDED EARLY ACQUISITION OF REAL PROPERTY INTERESTS.—

(1) IN GENERAL.—A State may carry out, at the expense of the State, acquisitions of interests in real property for a project before completion of the review process required for the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) without affecting subsequent approvals required for the project by the State or any Federal agency.

(2) ELIGIBILITY FOR REIMBURSEMENT.—Subject to paragraph (3), funds apportioned to a State under this title may be used to participate in the payment of—

(A) costs incurred by the State for acquisition of real property interests, acquired in advance of any Federal approval or authorization, if the real property interests are subsequently incorporated into a project eligible for surface transportation block grant program funds; and

(B) costs incurred by the State for the acquisition of land necessary to preserve environmental and scenic values.

(3) TERMS AND CONDITIONS.—The Federal share payable of the costs described in paragraph (2) shall be eligible for reimbursement out of funds apportioned to a State under this title when the real property interests acquired are incorporated into a project eligible for surface transportation block grant program funds, if the State demonstrates to the Secretary and the Secretary finds that—

(A) any land acquired, and relocation assistance provided, complied with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(B) the requirements of title VI of the Civil Rights Act of 1964 have been complied with;

(C) the State has a mandatory comprehensive and coordinated land use, environment, and transportation planning process under State law and the acquisition is certified by