

(4) welfare of the regional population to be served by the project; and

(5) social and cultural value to the local community and communities that are located in the region to be served by the project and that will rely on the project.

(c) Prioritization

Projects recommended by the Secretary under subsection (a) shall be given equivalent budget consideration and priority as projects recommended solely by national economic development benefits.

(d) Disposition

(1) In general

The Secretary may carry out any project identified in the study carried out pursuant to subsection (a) in accordance with the criteria for projects carried out under the authority of the Secretary under section 577 of this title.

(2) Non-Federal interests

In evaluating and implementing a project under this section, the Secretary shall allow a non-Federal interest to participate in the financing of a project in accordance with the criteria established for flood control projects under section 903(c) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4184).

(e) Annual report

For a project that cannot be carried out under the authority specified in subsection (d), on a determination by the Secretary of the feasibility of the project under subsection (a), the Secretary may include a recommendation concerning the project in the annual report submitted to Congress under section 2282d of this title.

(Pub. L. 110-114, title II, §2006, Nov. 8, 2007, 121 Stat. 1073; Pub. L. 113-121, title II, §2104, June 10, 2014, 128 Stat. 1279; Pub. L. 114-322, title I, §1105, Dec. 16, 2016, 130 Stat. 1633.)

Editorial Notes

REFERENCES IN TEXT

Section 903(c) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4184), referred to in subsec. (d)(2), is not classified to the Code.

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2007, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

AMENDMENTS

2016—Subsec. (a)(3). Pub. L. 114-322, §1105(1), inserted “in which the project is located, or the long-term viability of a community that is located in the region that is served by the project and that will rely on the project.” after “the community”.

Subsec. (b)(1). Pub. L. 114-322, §1105(2)(A), inserted “and communities that are located in the region to be served by the project and that will rely on the project” after “local community”.

Subsec. (b)(4). Pub. L. 114-322, §1105(2)(B), substituted “regional population to be served by the project” for “local population”.

Subsec. (b)(5). Pub. L. 114-322, §1105(2)(C), substituted “local community and communities that are located in

the region to be served by the project and that will rely on the project” for “community”.

2014—Subsec. (a)(1)(B). Pub. L. 113-121, §2104(1)(A), inserted “or Alaska” after “Hawaii”.

Subsec. (a)(2). Pub. L. 113-121, §2104(1)(B), substituted “region” for “community” and inserted “, as determined by the Secretary, including consideration of information provided by the non-Federal interest” after “improvement”.

Subsecs. (c) to (e). Pub. L. 113-121, §2104(2), added subsecs. (c) to (e).

Statutory Notes and Related Subsidiaries

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 110-114, set out as a note under section 2201 of this title.

§ 2243. Arctic deep draft port development partnerships

(a) In general

The Secretary may provide technical assistance to non-Federal public entities, including Indian tribes (as defined in section 5304 of title 25) and a Native village, Regional Corporation, or Village Corporation (as those terms are defined in section 1602 of title 43¹, for the development, construction, operation, and maintenance of channels, harbors, and related infrastructure associated with deep draft ports for purposes of dealing with Arctic development and security needs.

(b) Acceptance of funds

The Secretary is authorized to accept and expend funds provided by non-Federal public entities, including Indian tribes (as defined in section 5304 of title 25) and a Native village, Regional Corporation, or Village Corporation (as those terms are defined in section 1602 of title 43¹, to carry out the technical assistance activities described in subsection (a).

(c) Limitation

No assistance may be provided under this section until after the date on which the entity to which that assistance is to be provided enters into a written agreement with the Secretary that includes such terms and conditions as the Secretary determines to be appropriate and in the public interest.

(d) Prioritization

The Secretary shall prioritize technical assistance provided under this section for Arctic deep draft ports identified by the Secretary, the Secretary of the department in which the Coast Guard is operating, and the Secretary of Defense as important for Arctic development and security.

(e) Consideration of national security interests

In carrying out a study of the feasibility of an Arctic deep draft port, the Secretary—

(1) shall consult with the Secretary of the department in which the Coast Guard is operating to identify benefits in carrying out the missions specified in section 468 of title 6 associated with an Arctic deep draft port;

¹ So in original. Probably should be followed by a closing parenthesis.

(2) shall consult with the Secretary of Defense to identify national security benefits associated with an Arctic deep draft port; and

(3) may consider such benefits in determining whether an Arctic deep draft port is feasible.

(Pub. L. 113–121, title II, §2105, June 10, 2014, 128 Stat. 1279; Pub. L. 114–322, title I, §1202(c), Dec. 16, 2016, 130 Stat. 1684.)

Editorial Notes

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.

AMENDMENTS

2016—Subsecs. (a), (b). Pub. L. 114–322, §1202(c)(1), inserted “and a Native village, Regional Corporation, or Village Corporation (as those terms are defined in section 1602 of title 43” after “title 25)” and made technical amendment to reference in original act which appears in text as reference to section 5304 of title 25.

Subsec. (d). Pub. L. 114–322, §1202(c)(2), substituted “the Secretary of the department in which the Coast Guard is operating” for “the Secretary of Homeland Security”.

Subsec. (e). Pub. L. 114–322, §1202(c)(3), added subsec. (e).

Statutory Notes and Related Subsidiaries

“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 III—INLAND WATERWAY TRANSPORTATION SYSTEM

Statutory Notes and Related Subsidiaries

INLAND WATERWAYS PILOT PROGRAM

Pub. L. 116–260, div. AA, title I, §159, Dec. 27, 2020, 134 Stat. 2663, provided that:

“(a) DEFINITIONS.—In this section:

“(1) AUTHORIZED PROJECT.—The term ‘authorized project’ means a federally authorized water resources development project for navigation on the inland waterways.

“(2) MODERNIZATION ACTIVITIES.—The term ‘modernization activities’ means construction or major rehabilitation activities for any authorized project.

“(3) NON-FEDERAL INTEREST.—The term ‘non-Federal interest’ means any public body described in section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)).

“(b) AUTHORIZATION OF PILOT PROGRAM.—The Secretary [of the Army] is authorized to carry out a pilot program for modernization activities on the inland waterways system.

“(c) IMPLEMENTATION.—

“(1) IN GENERAL.—In carrying out the pilot program under this section, the Secretary may—

“(A) accept and expend funds provided by a non-Federal interest to carry out, for an authorized project (or a separable element of an authorized project), modernization activities for such project; or

“(B) coordinate with the non-Federal interest in order to allow the non-Federal interest to carry out, for an authorized project (or a separable element of an authorized project), such modernization activities.

“(2) NUMBER.—The Secretary shall select not more than 2 authorized projects to participate in the pilot program under paragraph (1).

“(3) CONDITIONS.—Before carrying out modernization activities pursuant to paragraph (1)(B), a non-Federal interest shall—

“(A) obtain any permit or approval required in connection with such activities under Federal or State law that would be required if the Secretary were to carry out such activities; and

“(B) ensure that a final environmental impact statement or environmental assessment, as appropriate, for such activities has been filed pursuant to the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.].

“(4) MONITORING.—For any modernization activities carried out by the non-Federal interest pursuant to this section, the Secretary shall regularly monitor and audit such activities to ensure that—

“(A) the modernization activities are carried out in accordance with this section; and

“(B) the cost of the modernization activities is reasonable.

“(5) REQUIREMENTS.—The requirements of section 3142 of title 40, United States Code[,] shall apply to any modernization activities undertaken under or pursuant to this section, either by the Secretary or the non-Federal interest.

“(d) AGREEMENTS.—

“(1) ACTIVITIES CARRIED OUT BY NON-FEDERAL INTEREST.—

“(A) IN GENERAL.—

“(i) WRITTEN AGREEMENT.—Before a non-Federal interest initiates modernization activities for an authorized project pursuant to this subsection (c)(1)(B), the non-Federal interest shall enter into a written agreement with the Secretary, under section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), that requires the modernization activities to be carried out in accordance with—

“(I) a plan approved by the Secretary; and

“(II) any other terms and conditions specified by the Secretary in the agreement.

“(ii) REQUIREMENTS.—A written agreement under clause (i) shall provide that the non-Federal interest shall comply with the same legal and technical requirements that would apply if the modernization activities were carried out by the Secretary, including all mitigation required to offset environmental impacts of the activities, as determined by the Secretary.

“(B) ALIGNMENT WITH ONGOING ACTIVITIES.—A written agreement under subparagraph (A) shall include provisions that, to the maximum extent practicable, align modernization activities under this section with ongoing operations and maintenance activities for the applicable authorized project.

“(C) INDEMNIFICATION.—As part of a written agreement under subparagraph (A), the non-Federal interest shall agree to hold and save the United States free from liability for any and all damage that arises from the modernization activities carried out by the non-Federal interest pursuant to this section.

“(2) ACTIVITIES CARRIED OUT BY SECRETARY.—For modernization activities to be carried out by the Secretary pursuant to subsection (c)(1)(A), the non-Federal interest shall enter into a written agreement with the Secretary, containing such terms and conditions as the Secretary determines appropriate.

“(e) REIMBURSEMENT.—

“(1) AUTHORIZATION.—Subject to the availability of appropriations, the Secretary may reimburse a non-Federal interest for the costs of modernization activities carried out by the non-Federal interest pursuant to an agreement entered into under subsection (d), or for funds provided to the Secretary under subsection (c)(1)(A), if—

“(A) the non-Federal interest complies with the agreement entered into under subsection (d); and