

tation System (IMTS) Capital Projects Business Model, Final Report published on April 13, 2010, as approved by the Users Board.

(3) Criteria

In developing the plan and prioritization criteria under paragraph (1), the Secretary shall ensure, to the maximum extent practicable, that investments made under the 20-year program described in paragraph (1)—

(A) are made in all geographical areas of the inland waterways system; and

(B) ensure efficient funding of inland waterways projects.

(4) Strategic review and update

Not later than 5 years after June 10, 2014, and not less frequently than once every 5 years thereafter, the Secretary, in coordination with the Users Board, shall—

(A) submit to Congress and make publicly available a strategic review of the 20-year program in effect under this subsection, which shall identify and explain any changes to the project-specific recommendations contained in the previous 20-year program (including any changes to the prioritization criteria used to develop the updated recommendations); and

(B) make revisions to the program, as appropriate.

(e) Project management plans

The chairperson of the Users Board and the project development team member appointed by the chairperson under subsection (b)(3) may sign the project management plan for the qualifying project or the study or design of a commercial navigation feature or component of the inland waterways and inland harbors of the United States.

(f) Administration

(1) In general

The Users Board shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.), other than section 14, and, with the consent of the appropriate agency head, the Users Board may use the facilities and services of any Federal agency.

(2) Members not considered special Government employees

For the purposes of complying with the Federal Advisory Committee Act (5 U.S.C. App.), the members of the Users Board shall not be considered special Government employees (as defined in section 202 of title 18).

(3) Travel expenses

Non-Federal members of the Users Board while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

(Pub. L. 99-662, title III, §302, Nov. 17, 1986, 100 Stat. 4111; Pub. L. 106-109, §8(a), Nov. 24, 1999, 113 Stat. 1495; Pub. L. 113-121, title II, §2002(d), June 10, 2014, 128 Stat. 1262.)

Editorial Notes

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (f)(1) and (2), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2014—Subsec. (b). Pub. L. 113-121, §2002(d)(1), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: “The Users Board shall meet at least semi-annually to develop and make recommendations to the Secretary regarding construction and rehabilitation priorities and spending levels on the commercial navigational features and components of the inland waterways and inland harbors of the United States for the following fiscal years. Any advice or recommendation made by the Users Board to the Secretary shall reflect the independent judgment of the Users Board. Notwithstanding section 3003 of Public Law 104-66 (31 U.S.C. 1113 note; 109 Stat. 734), the Users Board shall, by December 31, 1987, and annually thereafter file such recommendations with the Secretary and with the Congress.”

Subsecs. (c) to (f). Pub. L. 113-121, §2002(d)(2), added subsecs. (c) to (f) and struck out former subsec. (c). Prior to amendment, text read as follows: “The Users Board shall be subject to the Federal Advisory Committee Act, other than section 14, and, with the consent of the appropriate agency head, the Users Board may use the facilities and services of any Federal agency. Non-Federal members of the Users Board while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.”

1999—Subsec. (b). Pub. L. 106-109, in last sentence, substituted “Notwithstanding section 3003 of Public Law 104-66 (31 U.S.C. 1113 note; 109 Stat. 734), the” for “The”.

§ 2252. Project delivery process reforms

(a) Requirements for qualifying projects

With respect to each qualifying project, the Secretary shall require—

(1) for each project manager, that—

(A) the project manager have formal project management training and certification; and

(B) the project manager be assigned from among personnel certified by the Chief of Engineers; and

(2) for an applicable cost estimation, that—

(A) the Secretary utilize a risk-based cost estimate with a confidence level of at least 80 percent; and

(B) the cost estimate be developed—

(i) for a qualifying project that requires an increase in the authorized amount in accordance with section 2280 of this title, during the preparation of a post-authorization change report or other similar decision document;

(ii) for a qualifying project for which the first construction contract has not been awarded, prior to the award of the first construction contract;

(iii) for a qualifying project without a completed feasibility report in accordance with section 2282 of this title, prior to the completion of such a report; and

(iv) for a qualifying project with a completed feasibility report in accordance

with section 2282 of this title that has not yet been authorized, during design for the qualifying project.

(b) Additional project delivery process reforms

Not later than 18 months after June 10, 2014, the Secretary shall—

(1) establish a system to identify and apply on a continuing basis best management practices from prior or ongoing qualifying projects to improve the likelihood of on-time and on-budget completion of qualifying projects;

(2) evaluate early contractor involvement acquisition procedures to improve on-time and on-budget project delivery performance; and

(3) implement any additional measures that the Secretary determines will achieve the purposes of this subtitle, including—

(A) the implementation of applicable practices and procedures developed pursuant to management by the Secretary of an applicable military construction program;

(B) the development and use of a portfolio of standard designs for inland navigation locks, incorporating the use of a center of expertise for the design and review of qualifying projects;

(C) the use of full-funding contracts or formulation of a revised continuing contracts clause; and

(D) the establishment of procedures for recommending new project construction starts using a capital projects business model.

(c) Pilot projects

(1) In general

Subject to paragraph (2), the Secretary may carry out pilot projects to evaluate processes and procedures for the study, design, and construction of qualifying projects.

(2) Inclusions

At a minimum, the Secretary shall carry out pilot projects under this subsection to evaluate—

(A) early contractor involvement in the development of features and components;

(B) an appropriate use of continuing contracts for the construction of features and components; and

(C) applicable principles, procedures, and processes used for military construction projects.

(Pub. L. 113–121, title II, §2002, June 10, 2014, 128 Stat. 1261.)

Editorial Notes

REFERENCES IN TEXT

This subtitle, referred to in subsec. (b)(3), is subtitle A (§§2001–2013) of title II of Pub. L. 113–121, which enacted this section and sections 2253, 2254, and 2255 of this title, amended sections 2212, 2251, and 2327 of this title, and enacted provisions set out as a note under this section. For complete classification of subtitle A to the Code, see Tables.

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.

Section is comprised of section 2002 of Pub. L. 113–121. Subsec. (d) of section 2002 of Pub. L. 113–121 amended section 2251 of this title.

Statutory Notes and Related Subsidiaries

DEFINITIONS

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.

Pub. L. 113–121, title II, §2001, June 10, 2014, 128 Stat. 1260, provided that: “In this title [enacting this section and sections 2211a, 2238b, 2238c, 2243, 2253, 2254, and 2255 of this title and amending sections 2211, 2212, 2238, 2242, 2251, 2282a, and 2327 of this title and section 9505 of Title 26, Internal Revenue Code]:

“(1) INLAND WATERWAYS TRUST FUND.—The term ‘Inland Waterways Trust Fund’ means the Inland Waterways Trust Fund established by section 9506(a) of the Internal Revenue Code of 1986 [26 U.S.C. 9506(a)].

“(2) QUALIFYING PROJECT.—The term ‘qualifying project’ means any construction or major rehabilitation project for navigation infrastructure of the inland and intracoastal waterways that is—

“(A) authorized before, on, or after the date of enactment of this Act [June 10, 2014];

“(B) not completed on the date of enactment of this Act; and

“(C) funded at least in part from the Inland Waterways Trust Fund.”

§ 2253. Annual financial review

For any inland waterways project that the Secretary carries out that has an estimated total cost of \$500,000,000 or more, the Secretary shall submit to the congressional committees referred to in subsection (a)¹ an annual financial plan for the project. The plan shall be based on detailed annual estimates of the cost to complete the remaining elements of the project and on reasonable assumptions, as determined by the Secretary, of any future increases of the cost to complete the project.

(Pub. L. 113–121, title II, §2007(b), June 10, 2014, 128 Stat. 1268.)

Editorial Notes

REFERENCES IN TEXT

The congressional committees referred to in subsection (a), referred to in text, mean the congressional committees referred to in subsec. (a) of section 2007 of Pub. L. 113–121, which are the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

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.

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.

¹ See References in Text note below.