

terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay a secured loan under this section without penalty.

(B) Use of proceeds of refinancing

A secured loan under this section may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

(d) Sale of secured loans

(1) In general

Subject to paragraph (2), as soon as practicable after the date of substantial completion of a project and after providing a notice to the obligor, the Secretary or the Administrator, as applicable, may sell to another entity or reoffer into the capital markets a secured loan for a project under this section, if the Secretary or the Administrator, as applicable, determines that the sale or reoffering can be made on favorable terms.

(2) Consent of obligor

In making a sale or reoffering under paragraph (1), the Secretary or the Administrator, as applicable, may not change the original terms and conditions of the secured loan without the written consent of the obligor.

(e) Loan guaranties

(1) In general

The Secretary or the Administrator, as applicable, may provide a loan guarantee to a lender in lieu of making a secured loan under this section, if the Secretary or the Administrator, as applicable, determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

(2) Terms

The terms of a loan guarantee provided under this subsection shall be consistent with the terms established in this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary or the Administrator, as applicable.

(Pub. L. 113-121, title V, § 5029, June 10, 2014, 128 Stat. 1338; Pub. L. 114-322, title IV, § 5008(c), Dec. 16, 2016, 130 Stat. 1897; Pub. L. 115-270, title IV, § 4201(a)(3), (b)(1), Oct. 23, 2018, 132 Stat. 3877, 3878.)

Editorial Notes

REFERENCES IN TEXT

This title, referred to in subsec. (c)(2)(B)(ii), is title V of Pub. L. 113-121, June 10, 2014, 128 Stat. 1322. Subtitle C (§§ 5021-5035) of title V of Pub. L. 113-121 enacted this chapter. For complete classification of title V to the Code, see Tables.

The Federal Water Pollution Control Act, referred to in subsec. (c)(2)(B)(ii), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. Title VI of the Act is classified generally to subchapter VI (§1381 et seq.) of chapter 26 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of this title and Tables.

AMENDMENTS

2018—Subsec. (b)(9)(C). Pub. L. 115-270, § 4201(b)(1), added subpar. (C).

Subsec. (c)(2)(B). Pub. L. 115-270, § 4201(a)(3), designated existing provisions as cl. (i), inserted heading, and added cl. (ii).

2016—Subsec. (b)(7). Pub. L. 114-322, § 5008(c)(1), designated existing provisions as subpar. (A), inserted heading, substituted “Except as provided in subparagraph (B), the Secretary” for “The Secretary”, and added subpar. (B).

Subsec. (b)(10). Pub. L. 114-322, § 5008(c)(2), added par. (10).

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.

§ 3909. Program administration

(a) Requirement

The Secretary or the Administrator, as applicable, shall establish a uniform system to service the Federal credit instruments made available under this chapter.

(b) Fees

(1) In general

The Secretary or the Administrator, as applicable, may collect and spend fees, contingent on authority being provided in appropriations Acts, at a level that is sufficient to cover—

(A) the costs of services of expert firms retained pursuant to subsection (d); and

(B) all or a portion of the costs to the Federal Government of servicing the Federal credit instruments provided under this chapter.

(2) Prohibition on pass through fees

The Administrator, in the case where a State infrastructure financing authority obtains financial assistance under section 3912(e) of this title, shall require as a condition of obtaining such assistance, that the State infrastructure financing authority is prohibited from passing any portion of the fees required under section 3908(b)(7) of this title to any party that utilizes any portion of such assistance for a project funded by such authority.

(c) Servicer

(1) In general

The Secretary or the Administrator, as applicable, may appoint a financial entity to assist the Secretary or the Administrator in servicing the Federal credit instruments provided under this chapter.

(2) Duties

A servicer appointed under paragraph (1) shall act as the agent for the Secretary or the Administrator, as applicable.

(3) Fee

A servicer appointed under paragraph (1) shall receive a servicing fee, subject to approval by the Secretary or the Administrator, as applicable.

(d) Assistance from experts

The Secretary or the Administrator, as applicable, may retain the services, including coun-

sel, of organizations and entities with expertise in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments provided under this chapter.

(e) Special rule for State reviews of projects for State infrastructure financing authorities

(1) In general

A project described in section 3905(9) of this title for which funding is provided under this title shall comply with any applicable State environmental or engineering review requirements pursuant to, as applicable—

- (A) title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.); and
- (B) section 300j-12 of title 42.

(2) No new reviews required

Nothing in this title requires any additional or new environmental or engineering review for a project described in section 3905(9) of this title for which funding is provided, other than any requirement otherwise applicable to the project.

(f) Special rule for expedited review of applications from State infrastructure financing authorities

Not later than 180 days after the date on which the Administrator receives a complete application from a State infrastructure financing authority for a project under section 3905(9) of this title, the Administrator shall, through a written notice to the State infrastructure financing authority—

- (1) approve the application; or
- (2) provide detailed guidance and an explanation of any changes to the application necessary for approval of the application.

(g) Agreements

(1) In general

Subject to paragraphs (3) and (4), the Administrator may enter into an agreement with another relevant Federal agency to provide assistance in administering and servicing Federal credit instruments that such agency is authorized to make available.

(2) Duties

The Administrator may act as an agent for the head of another Federal agency under paragraph (1), subject to the terms of any agreement entered into by the Administrator and the head of such other agency under such clause.

(3) Transfer of funds

The authority of the Administrator to provide assistance under paragraph (1) is subject to—

- (A) the availability of funds appropriated to the other Federal agency that may be transferred to the Administrator to carry out an agreement entered into under paragraph (1); and
- (B) the transfer of such funds to the Administrator to carry out such an agreement.

(4) Limitation

Nothing in this subsection affects the authority of the Administrator with respect to

the selection of projects described in paragraphs (1), (8), or (10) of section 3905 of this title to receive financial assistance under this chapter.

(h) Applicability of other laws

Section 513 of the Federal Water Pollution Control Act (33 U.S.C. 1372) applies to the construction of a project carried out, in whole or in part, with assistance made available through a Federal credit instrument under this chapter in the same manner that section applies to a treatment works for which a grant is made available under that Act [33 U.S.C. 1251 et seq.].

(Pub. L. 113-121, title V, § 5030, June 10, 2014, 128 Stat. 1341; Pub. L. 115-270, title IV, § 4201(b)(2), (c), Oct. 23, 2018, 132 Stat. 3878, 3880.)

Editorial Notes

REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in subsecs. (e)(1)(A) and (h), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of this title. Title VI of the Act is classified generally to subchapter VI (§1381 et seq.) of chapter 26 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of this title and Tables.

Under this title and nothing in this title, referred to in subsec. (e), mean title V of Pub. L. 113-121, June 10, 2014, 128 Stat. 1322. Subtitle C (§§5021-5035) of title V of Pub. L. 113-121 enacted this chapter. For complete classification of title V to the Code, see Tables.

AMENDMENTS

2018—Subsec. (b)(2). Pub. L. 115-270, § 4201(b)(2)(A), added par. (2).

Subsecs. (e), (f). Pub. L. 115-270, § 4201(b)(2)(B), added subsecs. (e) and (f). Former subsec. (e) designated (h).

Subsec. (g). Pub. L. 115-270, § 4201(c), added subsec. (g).
Subsec. (h). Pub. L. 115-270, § 4201(b)(2)(B), redesignated subsec. (e) as (h).

Statutory Notes and Related Subsidiaries

AGREEMENT WITH COMMISSIONER OF RECLAMATION

Pub. L. 115-270, title IV, § 4301, Oct. 23, 2018, 132 Stat. 3880, provided that: “Not later than 1 year after the date of enactment of this Act [Oct. 23, 2018], the Administrator of the Environmental Protection Agency and the Commissioner of Reclamation shall enter into an agreement under section 5030(g) of the Water Infrastructure Finance and Innovation Act [33 U.S.C. 3909(g)] (as added by this Act).”

“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.

§ 3910. State, tribal, and local permits

The provision of financial assistance for a project under this chapter shall not—

- (1) relieve any recipient of the assistance of any obligation to obtain any required State, local, or tribal permit or approval with respect to the project;
- (2) limit the right of any unit of State, local, or tribal government to approve or regulate any rate of return on private equity invested in the project; or
- (3) otherwise supersede any State, local, or tribal law (including any regulation) applica-