

eral funds deposited in the fund as an advance against construction costs.

**(f) Authorization to construct projects; expenditures**

In connection with water resources development projects which meet the criteria established by subsection (a)(2) of this section and which are to be constructed by the Secretary, acting through the Chief of Engineers, in accordance with an authorization by Congress and a contract between the non-Federal public authorities and the Secretary, pursuant to subsection (g)(1) of this section occurring on or subsequent to October 22, 1976, the Secretary, acting through the Chief of Engineers, is authorized to construct such projects including activities for engineering and design land acquisition, site development, and off-site improvements necessary for the authorized construction by making expenditures from (1) the Fund established in subsection (b) of this section of funds deposited by non-Federal public authorities as payments for construction and (2) payments of non-Federal public authorities held by the Secretary as payment of construction costs for a project authorized by this section.

**(g) Agreement with non-Federal public authorities and submittal to Congressional committees, payment of total non-Federal obligations; conditions of United States assumption of excess over costs fixed in agreement, payment subject to appropriations acts**

(1) Prior to initiating any construction work under the authorities of this section, the Secretary and the appropriate non-Federal public authorities shall agree in writing, and submit such agreement to the Committees on Environment and Public Works and on Appropriations of the Senate and the Committees on Public Works and Transportation and on Appropriations of the House of Representatives for review and reporting to the Congress for its consideration and approval that the appropriate non-Federal public authorities will pay the full anticipated costs of constructing the project at the time such costs are incurred, together with normal contingencies and related administrative expenses of the Secretary, and such payments shall be deposited in the fund or held by the Secretary for payment of obligations incurred by the Secretary on an authorized project under this section. The agreement shall provide for an initial determination of feasibility and compliance by the project with law. The total non-Federal obligation shall be paid on or prior to the date the Chief of Engineers has estimated by agreement, that the project concerned will be available for actual generation of all or a substantial portion of the authorized hydroelectric power of the project.

(2) In consideration of the obligations to be assumed by non-Federal public authorities under the provisions of this section and in recognition of the substantial investments which will be made by these authorities in reliance on the program established by this section, the United States shall assume the responsibility for paying for all costs over those fixed in the agreement with the non-Federal public authorities, if such costs are occasioned by acts of God, failure

on the part of the Secretary, acting through the Chief of Engineers, to adhere to the agreed schedule of work or a failure of design: *Provided*, That payments by the Secretary of such costs shall be subject to appropriations acts.

**(h) Conveyance of title, rights, and interests of United States; Federal requirements, reservations, and provisions**

The Secretary is authorized and directed, pursuant to the agreement, to convey all title, rights, and interests of the United States to any project, its lands and water areas, and appurtenant facilities to the non-Federal public authorities which have agreed to assume ownership of the project and responsibility for its performance, operation, and maintenance, as well as necessary replacements in accordance with this section upon full payment by such non-Federal public authorities as required under subsection (g)(1) of this section. Such conveyance shall, pursuant to the agreement required by subsection (g) of this section, to the maximum extent possible, occur immediately upon the project's availability for generation of all or a substantial portion of the authorized hydroelectric power of the project, and shall include such Federal requirements, reservations, and provisions for access rights to the project and its records as the Secretary finds advisable to complete any portion of project construction remaining at the time of conveyance and to assure that the project will be operated and maintained in a responsible and safe manner to accomplish, as nearly as may be possible, all of the authorized purposes of the project including, but not restricted to, hydroelectric power generation.

**(i) Short title**

This section shall be cited as the "Alaska Hydroelectric Power Development Act".

(Pub. L. 94-587, §203, Oct. 22, 1976, 90 Stat. 2946; Pub. L. 103-437, §15(e)(2), Nov. 2, 1994, 108 Stat. 4592.)

**Editorial Notes**

**CODIFICATION**

Section was enacted as part of the Water Resources Development Act of 1976, and not as part of the Water Resources Planning Act which comprises this chapter.

**AMENDMENTS**

1994—Subsec. (g)(1). Pub. L. 103-437 substituted "Committees on Environment and Public Works and on Appropriations of the Senate and the Committees on Public Works and Transportation and on Appropriations of the House" for "Committees on Public Works and Appropriations of the Senate and House".

**Statutory Notes and Related Subsidiaries**

**CHANGE OF NAME**

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

**§ 1962d-15. Protection of United States from liability for damages; exception of damages due to fault or negligence of United States**

The requirement in any water resources development project under the jurisdiction of the

Secretary of the Army, that non-Federal interests hold and save the United States free from damages due to the construction, operation, and maintenance of the project, does not include damages due to the fault or negligence of the United States or its contractors.

(Pub. L. 93-251, title I, §9, Mar. 7, 1974, 88 Stat. 16.)

#### Editorial Notes

##### CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1974, and not as part of the Water Resources Planning Act which comprises this chapter.

### § 1962d-16. Comprehensive plans for development, utilization, and conservation of water and related resources

#### (a) Federal State cooperation

##### (1) Comprehensive plans

The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate with any State, group of States, non-Federal interest working with a State or group of States, or regional coalition of governmental entities in the preparation of comprehensive plans for the development, utilization, and conservation of the water and related resources of drainage basins, watersheds, or ecosystems located within the boundaries of such State, interest, or entity, including plans to comprehensively address water resources challenges, and to submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out such plans.

##### (2) Technical assistance

###### (A) In general

At the request of a governmental agency or non-Federal interest, the Secretary may provide technical assistance to such agency or non-Federal interest in managing water resources.

###### (B) Types of assistance

Technical assistance under this paragraph may include provision and integration of hydrologic, economic, and environmental data and analyses.

##### (3) Institution of higher education

Notwithstanding section 236 of title 10, in carrying out this subsection, the Secretary may work with an institution of higher education, as determined appropriate by the Secretary.

#### (b) Fees

##### (1) Establishment and collection

For the purpose of recovering 50 percent of the total cost of providing assistance pursuant to subsection (a), the Secretary of the Army is authorized to establish appropriate fees, as determined by the Secretary, and to collect such fees from States and other non-Federal public bodies to whom assistance is provided under subsection (a).

##### (2) Contributed funds

The Secretary may accept and expend funds in excess of the fees established under para-

graph (1) that are provided by a State or other non-Federal interest for assistance under this section.

##### (3) In-kind services

The non-Federal contribution for preparation of a plan subject to the cost sharing program under this subsection may be made by the provision of services, materials, supplies, or other in-kind services necessary to prepare the plan.

##### (4) Deposit and use

Fees collected under this subsection shall be deposited into the account in the Treasury of the United States entitled, "Contributions and Advances, Rivers and Harbors, Corps of Engineers (8862)" and shall be available until expended to carry out this section.

#### (c) Authorization of appropriations

##### (1) Federal and State cooperation

There is authorized to be appropriated not to exceed \$30,000,000 annually to carry out subsection (a)(1), except that not more than \$5,000,000 in Federal funds shall be expended in any one year in any one State. The Secretary may allow 2 or more States to combine all or a portion of the funds that the Secretary makes available to the States in carrying out subsection (a)(1).

##### (2) Technical assistance

There is authorized to be appropriated \$15,000,000 annually to carry out subsection (a)(2), of which not more than \$2,000,000 annually may be used by the Secretary to enter into cooperative agreements with nonprofit organizations to provide assistance to rural and small communities.

#### (d) Annual submission of proposed activities

Concurrent with the President's submission to Congress of the President's request for appropriations for the Civil Works Program for a fiscal year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the individual activities proposed for funding under subsection (a)(1) for that fiscal year.

#### (e) "State" defined

For the purposes of this section, the term "State" means the several States of the United States, Indian tribes, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.

#### (f) Special rule

The cost-share for assistance under this section provided to Indian tribes, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands shall be as provided under section 2310 of title 33.

(Pub. L. 93-251, title I, §22, Mar. 7, 1974, 88 Stat. 20; Pub. L. 94-587, §168, Oct. 22, 1976, 90 Stat. 2936; Pub. L. 96-597, title VI, §605, Dec. 24, 1980, 94