

(5) Transferred works

The term “transferred works” means a project facility, the operation and maintenance of which is carried out by a non-Federal entity, under the provisions of a formal operation and maintenance transfer contract.

(6) Transferred works operating entity

The term “transferred works operating entity” means the organization which is contractually responsible for operation and maintenance of transferred works.

(7) Extraordinary operation and maintenance work

The term “extraordinary operation and maintenance work” means major, non-recurring maintenance to Reclamation-owned or operated facilities, or facility components, that is—

(A) intended to ensure the continued safe, dependable, and reliable delivery of authorized project benefits; and

(B) greater than 10 percent of the contractor’s or the transferred works operating entity’s annual operation and maintenance budget for the facility, or greater than \$100,000.

(Pub. L. 111-11, title IX, § 9601, Mar. 30, 2009, 123 Stat. 1346.)

Editorial Notes**REFERENCES IN TEXT**

Act of June 17, 1902 (32 Stat. 388, chapter 1093), referred to in par. (2), is popularly known as the Reclamation Act and is classified generally to chapter 12 (§ 371 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

§ 510a. Guidelines and inspection of project facilities and technical assistance to transferred works operating entities**(a) Guidelines and inspections****(1) Development of guidelines**

Not later than 1 year after March 30, 2009, the Secretary in consultation with transferred works operating entities shall develop, consistent with existing transfer contracts, specific inspection guidelines for project facilities which are in proximity to urbanized areas and which could pose a risk to public safety or property damage if such project facilities were to fail.

(2) Conduct of inspections

Not later than 3 years after March 30, 2009, the Secretary shall conduct inspections of those project facilities, which are in proximity to urbanized areas and which could pose a risk to public safety or property damage if such facilities were to fail, using such specific inspection guidelines and criteria developed pursuant to paragraph (1). In selecting project facilities to inspect, the Secretary shall take into account the potential magnitude of public safety and economic damage posed by each project facility.

(3) Treatment of costs

The costs incurred by the Secretary in conducting these inspections shall be non-reimbursable.

(b) Use of inspection data

The Secretary shall use the data collected through the conduct of the inspections under subsection (a)(2) to—

(1) provide recommendations to the transferred works operating entities for improvement of operation and maintenance processes, operating procedures including operation guidelines consistent with existing transfer contracts, and structural modifications to those transferred works;

(2) determine an appropriate inspection frequency for such nondam project facilities which shall not exceed 6 years; and

(3) provide, upon request of transferred work operating entities, local governments, or State agencies, information regarding potential hazards posed by existing or proposed residential, commercial, industrial or public-use development adjacent to project facilities.

(c) Technical assistance to transferred works operating entities**(1) Authority of Secretary to provide technical assistance**

The Secretary is authorized, at the request of a transferred works operating entity in proximity to an urbanized area, to provide technical assistance to accomplish the following, if consistent with existing transfer contracts:

(A) Development of documented operating procedures for a project facility.

(B) Development of documented emergency notification and response procedures for a project facility.

(C) Development of facility inspection criteria for a project facility.

(D) Development of a training program on operation and maintenance requirements and practices for a project facility for a transferred works operating entity’s workforce.

(E) Development of a public outreach plan on the operation and risks associated with a project facility.

(F) Development of any other plans or documentation which, in the judgment of the Secretary, will contribute to public safety and the sage operation of a project facility.

(2) Costs

The Secretary is authorized to provide, on a non-reimbursable basis, up to 50 percent of the cost of such technical assistance, with the balance of such costs being advanced by the transferred works operating entity or other non-Federal source. The non-Federal 50 percent minimum cost share for such technical assistance may be in the form of in-lieu contributions of resources by the transferred works operating entity or other non-Federal source.

(Pub. L. 111-11, title IX, § 9602, Mar. 30, 2009, 123 Stat. 1347.)

§ 510b. Extraordinary operation and maintenance work performed by the Secretary**(a) In general**

The Secretary or the transferred works operating entity may carry out, in accordance with

subsection (b) and consistent with existing transfer contracts, any extraordinary operation and maintenance work on a project facility that the Secretary determines to be reasonably required to preserve the structural safety of the project facility.

(b) Reimbursement of costs arising from extraordinary operation and maintenance work

(1) Treatment of costs

For reserved works, costs incurred by the Secretary in conducting extraordinary operation and maintenance work will be allocated to the authorized reimbursable purposes of the project and shall be repaid within 50 years, with interest, from the year in which work undertaken pursuant to this subchapter is substantially complete.

(2) Authority of Secretary

For transferred works, the Secretary is authorized to advance the costs incurred by the transferred works operating entity in conducting extraordinary operation and maintenance work and negotiate appropriate 50-year repayment contracts with project beneficiaries providing for the return of reimbursable costs, with interest, under this subsection: Provided, however, That no contract entered into pursuant to this subchapter shall be deemed to be a new or amended contract for the purposes of section 390cc(a) of this title.

(3) Determination of interest rate

The interest rate used for computing interest on work in progress and interest on the unpaid balance of the reimbursable costs of extraordinary operation and maintenance work authorized by this subchapter shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which extraordinary operation and maintenance work is commenced, on the basis of average market yields on outstanding marketable obligations of the United States with the remaining periods of maturity comparable to the applicable reimbursement period of the project, adjusted to the nearest $\frac{1}{8}$ of 1 percent on the unamortized balance of any portion of the loan.

(c) Emergency extraordinary operation and maintenance work

(1) In general

The Secretary or the transferred works operating entity shall carry out any emergency extraordinary operation and maintenance work on a project facility that the Secretary determines to be necessary to minimize the risk of imminent harm to public health or safety, or property.

(2) Reimbursement

The Secretary may advance funds for emergency extraordinary operation and maintenance work and shall seek reimbursement from the transferred works operating entity or benefitting entity upon receiving a written assurance from the governing body of such entity that it will negotiate a contract pursuant to this section for repayment of costs incurred by the Secretary in undertaking such work.

(3) Funding

If the Secretary determines that a project facility inspected and maintained pursuant to the guidelines and criteria set forth in section 510a(a) of this title requires extraordinary operation and maintenance pursuant to paragraph (1), the Secretary may provide Federal funds on a nonreimbursable basis sufficient to cover 35 percent of the cost of the extraordinary operation and maintenance allocable to the transferred works operating entity, which is needed to minimize the risk of imminent harm. The remaining share of the Federal funds advanced by the Secretary for such work shall be repaid under subsection (b).

(d) Aging Infrastructure Account

(1) Establishment

There is established in the general fund of the Treasury a special account, to be known as the “Aging Infrastructure Account” (referred to in this subsection as the “Account”), to provide funds to, and provide for the extended repayment of the funds by, a transferred works operating entity or project beneficiary responsible for repayment of reimbursable costs for the conduct of extraordinary operation and maintenance work at a project facility, which shall consist of—

(A) any amounts that are specifically appropriated to the Account under section 510d of this title; and

(B) any amounts deposited in the Account under paragraph (3)(B).

(2) Expenditures

Subject to paragraphs (3) and (6), the Secretary may expend amounts in the Account to fund and provide for extended repayment of the funds for eligible projects identified in a report submitted under paragraph (5)(B).

(3) Repayment contract

(A) In general

The Secretary may not expend amounts under paragraph (2) with respect to an eligible project described in that paragraph unless the transferred works operating entity or project beneficiary responsible for repayment of reimbursable costs has entered into a contract to repay the amounts under subsection (b)(2).

(B) Deposit of repaid funds

Amounts repaid by a transferred works operating entity or project beneficiary responsible for repayment of reimbursable costs receiving funds under a repayment contract entered into under this subsection shall be deposited in the Account and shall be available to the Secretary for expenditure, subject to paragraph (6), in accordance with this subsection, and without further appropriation.

(4) Application for funding

(A) In general

Beginning with fiscal year 2022, not less than once per fiscal year, the Secretary shall accept, during an application period established by the Secretary, applications

from transferred works operating entities or project beneficiaries responsible for payment of reimbursable costs for funds and extended repayment for eligible projects.

(B) Eligible project

A project eligible for funding and extended repayment under this subsection is a project that—

- (i) qualifies as an extraordinary operation and maintenance work under this section;
- (ii) is for the major, non-recurring maintenance of a mission-critical asset; and
- (iii) is not eligible to be carried out or funded under the repayment provisions of section 508(c) of this title.

(C) Guidelines for applications

Not later than 60 days after December 27, 2020, the Secretary shall issue guidelines describing the information required to be provided in an application for funds and extended repayment under this subsection that require, at a minimum—

- (i) a description of the project for which the funds are requested;
- (ii) the amount of funds requested;
- (iii) the repayment period requested by the transferred works operating entity or project beneficiary responsible for repayment of reimbursable costs;
- (iv) alternative non-Federal funding options that have been evaluated;
- (v) the financial justification for requesting an extended repayment period; and
- (vi) the financial records of the transferred works operating entity or project beneficiary responsible for repayment of reimbursable costs.

(D) Review by the Secretary

The Secretary shall review each application submitted under subparagraph (A)—

- (i) to determine whether the project is eligible for funds and an extended repayment period under this subsection;
- (ii) to determine if the project has been identified by the Bureau of Reclamation as part of the major rehabilitation and replacement of a project facility; and
- (iii) to conduct a financial analysis of—
 - (I) the project; and
 - (II) repayment capability of the transferred works operating entity or project beneficiary responsible for repayment of reimbursable costs.

(5) Report

Not later than 90 days after the date on which an application period closes under paragraph (4)(A), the Secretary shall submit to the Committees on Energy and Natural Resources and Appropriations of the Senate and the Committees on Natural Resources and Appropriations of the House of Representatives a report that—

- (A) describes the results of the Secretary's review of each application under paragraph (4)(D), including a determination of whether the project is eligible;

(B) identifies each project eligible for funds and extended repayment under this subsection;

(C) with respect to each eligible project identified under subparagraph (B), includes—

- (i) a description of—
 - (I) the eligible project;
 - (II) the anticipated cost and duration of the eligible project;
 - (III) any remaining engineering or environmental compliance that is required before the eligible project commences;
 - (IV) any recommendations the Secretary may have concerning the plan or design of the project; and
 - (V) any conditions the Secretary may require for construction of the project;
- (ii) an analysis of—
 - (I) the repayment period proposed in the application; and
 - (II) if the Secretary recommends a minimum necessary repayment period that is different than the repayment period proposed in the application, the minimum necessary repayment period recommended by the Secretary; and
 - (III) an analysis of alternative non-Federal funding options;
- (D) describes the allocation of funds from deposits into the Account under paragraph (3)(B); and
- (E) describes the balance of funds in the Account as of the date of the report.

(6) Alternative allocation

(A) In general

Appropriations Acts may provide for alternate allocation of amounts reported pursuant to paragraph (5)(D) that are made available under this subsection.

(B) Allocation by Secretary

(i) No alternate allocations

If Congress has not enacted legislation establishing alternate allocations by the date on which the Act making full-year appropriations for energy and water development and related agencies for the applicable fiscal year is enacted into law, amounts made available under paragraph (1) shall be allocated by the Secretary.

(ii) Insufficient alternate allocations

If Congress enacts legislation establishing alternate allocations for amounts made available under paragraph (1) that are less than the full amount appropriated under that paragraph, the difference between the amount appropriated and the alternate allocation shall be allocated by the Secretary.

(7) Effect of subsection

Nothing in this subsection affects—

- (A) any funding provided, or contracts entered into, under subsection (a) before December 27, 2020; or
- (B) the use of funds otherwise made available to the Secretary to carry out subsection (a).

(Pub. L. 111-11, title IX, § 9603, Mar. 30, 2009, 123 Stat. 1348; Pub. L. 116-260, div. FF, title XI, § 1101, Dec. 27, 2020, 134 Stat. 3221.)

Editorial Notes

AMENDMENTS

2020—Subsec. (d). Pub. L. 116-260 added subsec. (d).

§ 510c. Relationship to Twenty-First Century Water Works Act

Nothing in this subchapter shall preclude a transferred works operating entity from applying and receiving a loan-guarantee pursuant to the Twenty-First Century Water Works Act [43 U.S.C. 2421 et seq].

(Pub. L. 111-11, title IX, § 9604, Mar. 30, 2009, 123 Stat. 1349.)

Editorial Notes

REFERENCES IN TEXT

The Twenty-First Century Water Works Act, referred to in text, is title II of Pub. L. 109-451, Dec. 22, 2006, 120 Stat. 3356, which is classified generally to subchapter II (§2421 et seq.) of chapter 42 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2401 of this title and Tables.

§ 510d. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this subchapter.

(Pub. L. 111-11, title IX, § 9605, Mar. 30, 2009, 123 Stat. 1349.)

SUBCHAPTER XII—CONTRACTS WITH STATE IRRIGATION DISTRICTS FOR PAYMENT OF CHARGES

§ 511. Authority to contract with irrigation district

In carrying out the purposes of the Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof and supplementary thereto and known as the reclamation law, the Secretary of the Interior may enter into contract with any legally organized irrigation district whereby such irrigation district shall agree to pay the moneys required to be paid to the United States, and in such event water-right applications on the part of landowners and entrymen, in the discretion of the Secretary of the Interior, may be dispensed with. In the event of such contract being made with an irrigation district, the Secretary of the Interior, in his discretion, may contract that the payments, both for the construction of irrigation works and for operation and maintenance, on the part of the district shall be made upon such dates as will best conform to the district and taxation laws of the respective States under which such irrigation districts shall be formed, and if he deem it advisable he may contract for such penalties or interest charges in case of delinquency in payments as he may deem proper and consistent with such State laws, notwithstanding the provisions of sections 471, 472, 475, 478 to 481, 492, 493, 494 to 497 and 499 of this title. The Secretary of the Interior may accept a partial payment of the amount due from any

district to the United States, providing such acceptance shall not constitute a waiver of the balance remaining due nor the interest or penalties, if any, accruing upon said balance: *Provided*, That no contract with an irrigation district under this section and sections 512 and 513 of this title shall be binding on the United States until the proceedings on the part of the district for the authorization of the execution of the contract with the United States shall have been confirmed by decree of a court of competent jurisdiction, or pending appellate action if ground for appeal be laid.

(May 15, 1922, ch. 190, §1, 42 Stat. 541.)

Editorial Notes

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

§ 512. Release of Government liens after contract with irrigation districts

Patents and water-right certificates which shall be issued after May 15, 1922, under the terms of subchapter XIV of this chapter, for lands lying within any irrigation district with which the United States shall have contracted, by which the irrigation district agrees to make the payment of all charges for the building of irrigation works and for operation and maintenance, shall not reserve to the United States a lien for the payment of such charges; and where such a lien shall have been reserved in any patent or water-right certificate issued under said subchapter, the Secretary of the Interior is empowered to release such lien in such manner and form as may be deemed effective; and the Secretary of the Interior is further empowered to release liens in favor of the United States contained in water-right applications and to assent to the release of liens to secure reimbursement of moneys due to the United States pursuant to water-right applications running in favor of the water users' association and contained in stock subscription contracts to such associations, when the lands covered by such liens shall be subject to assessment and levy for the collection of all moneys due and to become due to the United States by irrigation districts formed pursuant to State law and with which the United States shall have entered into contract therefor: *Provided*, That no such lien so reserved to the United States in any patent or water-right certificate shall be released until the owner of the land covered by the lien shall consent in writing to the assessment, levy, and collection by such irrigation district of taxes against said land for the payment to the United States of the contract obligation: *Provided further*, That before any lien is released under this section the Secretary of the Interior shall file a written report finding that the contracting irrigation district is legally organized under the laws of the State in which its lands are located, with full power to enter into the contract and to collect by assessment and levy against the lands of the district the amount of the contract obligation.