

(3) is necessary due to the lack of availability of other vessels and operators that comply with the requirements of this chapter.

(Added Pub. L. 116-92, div. C, title XXXV, § 3521(a), Dec. 20, 2019, 133 Stat. 1989.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Act, referred to in subsec. (d)(1), means the date of enactment of Pub. L. 116-92, which was approved Dec. 20, 2019.

§ 53203. Award of operating agreements

(a) IN GENERAL.—The Secretary shall require, as a condition of including any vessel in the Cable Fleet, that the person that is the owner or operator of the vessel for purposes of section 53202(c) enter into an Operating Agreement with the Secretary under this section.

(b) PROCEDURE FOR APPLICATIONS.—

(1) ACCEPTANCE OF APPLICATIONS.—Beginning no later than 60 days after the effective date of this chapter, the Secretary shall accept applications for enrollment of vessels in the Cable Fleet.

(2) ACTION ON APPLICATIONS.—Within 120 days after receipt of an application for enrollment of a vessel in the Cable Fleet, the Secretary shall approve the application in conjunction with the Operating Agency, and shall enter into an Operating Agreement with the applicant, or provide in writing the reason for denial of that application.

(c) Priority for Awarding Agreements.—Subject to the availability of appropriations, the Secretary shall enter into Operating Agreements with those vessels determined by the Operating Agency, in its sole discretion, to best meet the national security requirements of the United States. After consideration of national security requirements, priority shall be given to an applicant that is a United States citizen under section 50501 of this title.

(Added Pub. L. 116-92, div. C, title XXXV, § 3521(a), Dec. 20, 2019, 133 Stat. 1992.)

Editorial Notes

REFERENCES IN TEXT

The effective date of this chapter, referred to in subsec. (b)(1), probably means the date of enactment of Pub. L. 116-92, which enacted this chapter and was approved Dec. 20, 2019.

§ 53204. Effectiveness of operating agreements

(a) EFFECTIVENESS GENERALLY.—The Secretary may enter into an Operating Agreement under this chapter for fiscal year 2021. Except as provided in subsection (d), the agreement shall be effective only for one fiscal year, but shall be renewable, subject to available appropriations, for each subsequent year.

(b) VESSELS UNDER CHARTER TO THE UNITED STATES.—Vessels under charter to the United States are eligible to receive payments pursuant to their Operating Agreements.

(c) TERMINATION.—

(1) TERMINATION BY THE SECRETARY.—If the Contractor with respect to an Operating

Agreement materially fails to comply with the terms of the Agreement—

(A) the Secretary shall notify the Contractor and provide a reasonable opportunity for it to comply with the Operating Agreement;

(B) the Secretary shall terminate the Operating Agreement if the Contractor fails to achieve such compliance; and

(C) upon such termination, any funds obligated by the Agreement shall be available to the Secretary to carry out this chapter.

(2) EARLY TERMINATION BY A CONTRACTOR.—An Operating Agreement under this chapter shall terminate on a date specified by the Contractor if the Contractor notifies the Secretary, not fewer than 60 days prior to the effective date of the termination, that the Contractor intends to terminate the Agreement.

(d) NONRENEWAL FOR LACK OF FUNDS.—If, by the first day of a fiscal year, sufficient funds have not been appropriated under the authority provided by this chapter for that fiscal year for all Operating Agreements, then the Secretary shall notify the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services of the House of Representatives that Operating Agreements authorized under this chapter for which sufficient funds are not available will not be renewed for that fiscal year if sufficient funds are not appropriated by the 60th day of that fiscal year. If only partial funding is appropriated by the 60th day of such fiscal year, then the Secretary, in consultation with the Operating Agency, shall select the vessels to retain under Operating Agreements, based on their determinations of which vessels are most useful for national security. In the event that no funds are appropriated, then no Operating Agreements shall be renewed and each Contractor shall be released from its obligations under the Operating Agreement. Final payments under an Operating Agreement that is not renewed shall be made in accordance with section 53206. To the extent that sufficient funds are appropriated in a subsequent fiscal year, an Operating Agreement that has not been renewed pursuant to this subsection may be reinstated if mutually acceptable to the Secretary, in consultation with the Operating Agency, and the Contractor, provided the vessel remains eligible for participation pursuant to section 53202, without regard to subsection 53202 (b)(3).

(e) RELEASE OF VESSELS FROM OBLIGATIONS.—If funds are not appropriated for payments under an Operating Agreement under this chapter for any fiscal year by the 60th day of a fiscal year, and the Secretary, in consultation with the Operating Agency determines to not renew a Contractor's Operating Agreement for a vessel, then—

(1) each vessel covered by the Operating Agreement that is not renewed is thereby released from any further obligation under the Operating Agreement;

(2) the owner or operator of the vessel whose Operating Agreement was not renewed may transfer and register such vessel under a for-

eign registry that is acceptable to the Secretary and the Operating Agency, notwithstanding section 56101 of this title; and

(3) if chapter 563 of this title is applicable to such vessel after registration, then the vessel is available to be requisitioned by the Secretary pursuant to chapter 563.

(Added Pub. L. 116-92, div. C, title XXXV, § 3521(a), Dec. 20, 2019, 133 Stat. 1993.)

§ 53205. Obligations and rights under operating agreements

(a) OPERATION OF VESSEL.—An Operating Agreement under this chapter shall require that, during the period the vessel is operating under the Agreement, the vessel—

(1) shall be operated in the trade for Cable Services, or under a charter to the United States; and

(2) shall be documented under chapter 121 of this title.

(b) ANNUAL PAYMENTS BY THE SECRETARY.—

(1) IN GENERAL.—An Operating Agreement under this chapter shall require, subject to the availability of appropriations, that the Secretary make payment to the Contractor in accordance with section 53206.

(2) OPERATING AGREEMENT IS AN OBLIGATION OF THE UNITED STATES GOVERNMENT.—An Operating Agreement under this chapter constitutes a contractual obligation of the United States Government to pay the amounts provided for in the Operating Agreement to the extent of actual appropriations.

(c) DOCUMENTATION REQUIREMENT.—Each vessel covered by an Operating Agreement (including an Agreement terminated under section 53204(c)(2)) shall remain documented under chapter 121 of this title, until the date the Operating Agreement would terminate according to its own terms.

(d) NATIONAL SECURITY REQUIREMENTS.—

(1) IN GENERAL.—A Contractor with respect to an Operating Agreement (including an Agreement terminated under section 53204(c)(2)) shall continue to be bound by the provisions of section 53207 until the date the Operating Agreement would terminate according to its terms.

(2) CONTINGENCY AGREEMENT WITH OPERATING AGENCY.—All terms and conditions of a Contingency Agreement entered into under section 53207 shall remain in effect until a date the Operating Agreement would terminate according to its terms, except that the terms of such Contingency Agreement may be modified by the mutual consent of the Contractor, and the Operating Agency.

(e) TRANSFER OF OPERATING AGREEMENTS.—Operating Agreements shall not be transferrable by the Contractor.

(f) REPLACEMENT VESSEL.—A Contractor may replace a vessel under an Operating Agreement with another vessel that is eligible to be included in the Fleet under section 53202(b), if the Secretary and the Operating Agency jointly determine that the replacement vessel meets national security requirements and approve the replacement.

(Added Pub. L. 116-92, div. C, title XXXV, § 3521(a), Dec. 20, 2019, 133 Stat. 1994.)

§ 53206. Payments

(a) ANNUAL PAYMENT.—

(1) IN GENERAL.—The Secretary, subject to availability of appropriations and other provisions of this section, shall pay to the Contractor for an operating agreement, for each vessel that is covered by the operating agreement, an amount equal to \$5,000,000 for each fiscal year 2021 through 2035.

(2) TIMING.—This amount shall be paid in equal monthly installments at the end of each month. The amount shall not be reduced except as provided by this section.

(b) CERTIFICATION REQUIRED FOR PAYMENT.—As a condition of receiving payment under this section for a fiscal year for a vessel, the Contractor for the vessel shall certify that the vessel has been and will be operated in accordance with section 53205(a)(1) for 365 days in each fiscal year. Up to thirty (30) days during which the vessel is drydocked, surveyed, inspected, or repaired shall be considered days of operation for purposes of this subsection.

(c) GENERAL LIMITATIONS.—The Secretary shall not make any payment under this chapter for a vessel with respect to any days for which the vessel is—

(1) not operated or maintained in accordance with an Operating Agreement under this chapter; or

(2) more than 40 years of age.

(d) REDUCTIONS IN PAYMENTS.—With respect to payments under this chapter for a vessel covered by an Operating Agreement, the Secretary shall make a pro rata reduction for each day less than 365 in a fiscal year that the vessel is not operated in accordance with section 53205(a)(1), with days during which the vessel is drydocked or undergoing survey, inspection or repair to be considered days on which the vessel is operated as provided in subsection (b).

(Added Pub. L. 116-92, div. C, title XXXV, § 3521(a), Dec. 20, 2019, 133 Stat. 1995.)

§ 53207. National security requirements

(a) CONTINGENCY AGREEMENT REQUIRED.—The Secretary shall include in each Operating Agreement under this chapter a requirement that the Contractor enter into a Contingency Agreement with the Operating Agency. The Operating Agency shall negotiate and enter into a Contingency Agreement with each Contractor as promptly as practicable after the Contractor has entered into an Operating Agreement under this chapter.

(b) TERMS OF CONTINGENCY AGREEMENT.—

(1) IN GENERAL.—A Contingency Agreement under this section shall require that a Contractor for a vessel covered by an Operating Agreement under this chapter make the vessel, including all necessary resources to engage in Cable Services required by the Operating Agency, available upon request by the Operating Agency.

(2) TERMS.—

(A) IN GENERAL.—The basic terms of a Contingency Agreement shall be established