

SMALL RECLAMATION PROJECTS ACT OF 1956

[Chapter 972 of the 84th Congress]

[70 Stat. 1044]

[As Amended Through P.L. 103-437, Enacted November 2, 1994]

【Currency: This publication is a compilation of the text of Chapter 972 of the 84th Congress. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

[Cites in 【】 are to 43 U.S.C.]

AN ACT To supplement the Federal reclamation laws by providing for Federal cooperation in non-Federal projects and for participation by non-Federal agencies in Federal projects.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

【422a】 That the purpose of this Act is to encourage State and local participation in the development of projects under the Federal reclamation laws, with emphasis on rehabilitation and betterment of existing projects for purposes of significant conservation of water, energy and the environment and for purpose of water quality control, and to provide for Federal assistance in the development of similar projects in the seventeen western reclamation States by non-Federal organizations.

SEC. 2. 【422b】 As used in this Act—

(a) The term “construction” shall include rehabilitation and betterment.

(b) The term “Federal reclamation laws” shall mean the Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto.

(c) The term “organization” shall mean a State or a department, agency, or political subdivision thereof or a conservancy district, irrigation district, water users’ association, an agency created by interstate compact, or similar organization which has capacity to contract with the United States under the Federal reclamation laws.

(d) The term “project” shall mean (i) any complete irrigation project, or (ii) any multiple-purpose water resource project that is authorized or is eligible for authorization under the Federal rec-

lamation laws, or (iii) any distinct unit of a project described in clause (i) and (ii) or (iv) any project for the drainage of irrigated lands, without regard to whether such lands are irrigated with water supplies developed pursuant to the Federal reclamation laws, or (v) any project for the rehabilitation and betterment of a project or distinct unit described in clauses (i), (ii), (iii), and (iv): *Provided*, That the estimated total cost of the project described in clause (i), (ii), (iii), (iv), or (v) does not exceed the maximum allowable estimated total project cost as determined by subsection (f) hereof: *Provided further*, That a project described in clause (i), (ii), or (iii) may consist of existing facilities as distinct from newly constructed facilities, and funds made available pursuant to this Act may be utilized to acquire such facilities subject to a determination by the Secretary that such facilities meet standards of design and construction which he shall promulgate and that the cost of such existing facilities represent less than fifty per centum of the cost of the project. Nothing contained in this Act shall preclude the making of more than one loan or grant, or combined loan and grant, to an organization so long as no two such loans or grants, or combinations thereof, are for the same project, as herein defined.

(e) The term "Secretary" shall mean the Secretary of the Interior.

(f) The maximum allowable estimated total project cost of a proposal submitted during any given calendar year shall be determined by the Secretary using the Bureau of Reclamation composite construction cost index for January of that year with \$15,000,000 as the January 1971 base.

SEC. 3. [422c] Any organization desiring to avail itself of the benefits provided in this Act shall submit a proposal therefor to the Secretary in such form and manner as he shall prescribe. Each such proposal shall be accompanied by a payment of \$5,000 to defray, in part, the cost of examining the proposal.

SEC. 4. [422d] (a) Any proposal with respect to the construction of a project which has not theretofore been authorized for construction under the Federal reclamation laws shall set forth, among other things, a plan and estimated cost in detail comparable to those included in preauthorization reports required for a Federal reclamation project; shall have been submitted for review by the States of the drainage basin in which the project is located in like manner as provided in subsection (c), section 1 of the Act of December 22, 1944 (58 Stat. 887), except that the review may be limited to the State or States in which the project is located if the proposal is one solely for rehabilitation and betterment of an existing project; and shall include a proposed allocation of capital costs to functions such that costs for facilities used for a single purpose shall be allocated to that purpose and costs for facilities used for more than one purpose shall be so allocated among the purposes served that each purpose will share equitably in the costs of such joint facilities. The costs of means and measures to prevent loss of and damage to fish and wildlife resources shall be considered as project costs and allocated as may be appropriate among project functions.

(b)(1) Every such proposal shall include a showing that the organization already holds or can acquire all lands and interests in

land (except public and other lands and interests in land owned by the United States which are within the administrative jurisdiction of the Secretary and subject to disposition by him) and rights, pursuant to applicable State law, to the use of water necessary for the successful construction, operation, and maintenance of the project and that it is ready, able, and willing to finance otherwise than by loan and grant of Federal funds such portion of the cost of the project (which portion shall include all costs of acquiring lands, interests in land, and rights to the use of water), except as provided in subsection¹ 5(b)(2) hereof, as the Secretary shall have advised is proper in the circumstances.

(2) The Secretary shall require each organization to contribute toward the cost of the project (other than by loan and/or grant of Federal funds) an amount equal to 25 percent or more of the allowable estimated cost of the project: *Provided*, That the Secretary, at his discretion, may reduce the amount of such contribution to the extent that he determines that the organization is unable to secure financing from other sources under reasonable terms and conditions, and shall include letters from lenders or other written evidence in support of any funding of an applicant's inability to secure such financing in any project proposal transmitted to the Congress: *Provided further*, That under no circumstances shall the Secretary reduce the amount of such contribution to less than 10 percent of the allowable estimated total project costs. In determining the amount of the contribution as required by this paragraph, the Secretary shall credit toward that amount the cost of investigations, surveys, engineering, and other services necessary to the preparation of proposals and plans for the project as required by the Secretary, and the costs of lands and rights-of-way required for the project, and the \$5,000 fee described in section 3 of this Act. In determining the allowable estimated cost of the project, the Secretary shall not include the amount of grants accorded to the organization under section 5(b).

(c) At such time as a project is found by the Secretary and the Governor of the State in which it is located (or an appropriate State agency designated by him) to be financially feasible, is determined by the Secretary to constitute a reasonable risk under the provisions of this Act, and is approved by the Secretary, such findings and approval shall be transmitted to the Congress. Each project proposal transmitted by the Secretary to the Congress shall include a certification by the Secretary that an adequate soil survey and land classification has been made, or that the successful irrigability of those lands and their susceptibility to sustained production of agricultural crops by means of irrigation has been demonstrated in practice. Such proposal shall also include an investigation of soil characteristics which might result in toxic or hazardous irrigation return flows. The Secretary, at the time of submitting the project proposal to Congress or at the time of his determination that the requested project constitutes a reasonable risk under the provisions of this Act, may reserve from use or disposition inimical to the project any lands and interests in land owned by the United States which are within his administrative jurisdiction and subject

¹ So in original. Probably should read "section".

to disposition by him and which are required for use by the project. Any such reservation shall expire at the end of two years unless the contract provided for in section 5 of this Act shall have been executed.

(d) At the time of his submitting the project proposal to the Congress, or at any subsequent time prior to completion of construction of the project, including projects heretofore approved, the Secretary may increase the amount of the requested loan and/or grant to an amount within the maximum allowed by subsection (a) of section 5 of the Act as herein amended, to compensate for increases in construction costs due to price escalation.

(e) No appropriation shall be made for financial participation in any such project prior to sixty calendar days (which sixty days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which the Secretary's findings and approval are submitted to the Congress and then only if, within said sixty days, neither the Committee on Natural Resources of the House of Representatives nor the Committee on Energy and Natural Resources of the Senate disapproves the project proposal by committee resolution. The provisions of this subsection (e)¹ shall not be applicable to proposals made under section 6 of this Act.

(f) The Secretary shall give due consideration to financial feasibility, emergency, or urgent need for the project. All project works and facilities constructed under this Act shall remain under the jurisdiction and control of the local contracting organization subject to the terms of the repayment contract.

SEC. 5. [422e] Upon approval of any project proposal by the Secretary under the provisions of section 4 of this Act, he may negotiate a contract which shall set out, among other things—

(a)² the maximum amount of any loan to be made to the organization and the time and method of making the same available to the organization. Said loan shall not exceed the lesser of (1) two-thirds of the maximum allowable estimated total project cost as determined by subsection (f) of section 2, or (2) the estimated total cost of the project minus the contribution of the local organization as provided in section 4(b) and the amount of the grant approved;

(b)² the maximum amount of any grant to be accorded the organization. Said grant shall not exceed the sum of the following: (1) the costs of investigations, surveys, and engineering and other services necessary to the preparation of proposals and plans for the project allocable to fish and wildlife enhancement or public recreation; (2) one-half the costs of acquiring lands or interests therein to serve exclusively the purposes of fish and wildlife enhancement or public recreation, plus the costs of acquiring joint use lands and interests therein properly allocable to fish and wildlife enhancement and public recreation; (3) one-half the costs of basic public outdoor recreation facilities or facilities serving fish and wildlife enhancement purposes exclusively; (4) one-half the costs of construction of joint use facilities properly allocable to fish and wildlife en-

¹ So in original. Probably should read "this subsection".

² So in original. Paragraphs (a)–(c) should have been indented.

hancement or public recreation; (5) that portion of the estimated cost of constructing the project which, if it were constructed as a Federal reclamation project, would be properly allocable to functions, other than recreation and fish and wildlife enhancement and flood control, which are nonreimbursable under general provisions of law applicable to such projects; and (6) that portion of the estimated cost of constructing the project which is allocable to flood control and which would be nonreimbursable under general provisions of law applicable to projects constructed by the Secretary of the Army.³

(c)² a plan of repayment by the organization of (1) the sums lent to it in not more than forty years from the date when the principal benefits of the project first become available; (2) interest, as determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which the contract is executed, on the basis of the average market yields on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the applicable reimbursement period of the project, adjusted to the nearest one-eighth of 1 percent on the unamortized balance of any portion of the loan—

(A) which is attributable to furnishing irrigation benefits in each particular year to land held in private ownership by a qualified recipient or by a limited recipient, as such terms are defined in section 202 of the Reclamation Reform Act of 1982, in excess of three hundred and twenty irrigable acres; or,

(B) which is allocated to domestic, industrial, or municipal water supply, commercial power, fish and wildlife enhancement, or public recreation except that portion of such allocation attributable to furnishing benefits to a facility operated by an agency of the United States, which portion shall bear no interest.¹

(d) provision for operation of the project, if a grant predicated upon its performance of nonreimbursable functions is made, in accordance with regulations with respect thereto prescribed by the head of the Federal department or agency primarily concerned with those functions and, in the event of non-compliance with such regulations, for operation by the United States or for repayment to the United States of the amount of any such grant;

(e) such provisions as the Secretary shall deem necessary or proper to provide assurance of and security for prompt repayment of the loan and interest as aforesaid. The liability of the United States under any contract entered into pursuant to this Act shall be contingent upon the availability of appropriations to carry out the same, and every such contract shall so recite; and

(f) provisions conforming to the preference requirements contained in the proviso to section 9(c) of the Act of August 4, 1939 (53 Stat. 1193), if the project produces electric power for sale.

³ So in original. The period should be a semicolon.

¹ So in original. The period should be a semicolon.

SEC. 6. [422f] Any proposal with respect to the construction of a project which has theretofore been authorized for construction under the Federal reclamation laws shall be made in like manner as a proposal under section 4 of this Act, but the Secretary may waive such requirements of subsections (a) and (b) of that section as he finds to be duplicative of, or rendered unnecessary or impossible by, action already taken by the United States. Upon approval of any such proposal by the Secretary he may negotiate and execute a contract which conforms, as nearly as may be, to the provisions of section 5 of this Act.

SEC. 7. [422g] Upon request of an organization which has made or intends to make a proposal under this Act, the head of any Federal department or agency may make available to the organization any existing engineering, economic, or hydrologic information and printed material that it may have and that will be useful in connection with the planning, design, construction, or operation and maintenance of the project concerned. The reasonable cost of any plans, specifications, and other unpublished material furnished by the Secretary pursuant to this section and the cost of making and administering any loan under this Act shall, to the extent that they would not be nonreimbursable in the case of a project constructed under the Federal reclamation laws, be treated as a loan and covered in the provisions of the contract entered into under section 5 of this Act unless they are otherwise paid for by the organization.

SEC. 8. [422h] The planning and construction of projects undertaken pursuant to this Act shall be subject to all procedural requirements and other provisions of the Fish and Wildlife Coordination Act (48 Stat. 401), as amended (16 U.S.C. 661 et seq.). The Secretary shall transfer to the Fish and Wildlife Service or to the National Marine Fisheries Service, out of appropriations or other funds made available under this Act, such funds as may be necessary to conduct the investigations required to carry out the purposes of this section.

SEC. 9. [422i] The Secretary is authorized to perform any and all acts and to make such rules and regulations as may be necessary or proper in carrying out the provisions of this Act.

SEC. 10. [422j] There are hereby authorized to be appropriated, such sums as may be necessary, but not to exceed \$600,000,000 to carry out the provisions of this Act and, effective October 1, 1986, not to exceed an additional \$600,000,000: *Provided*, That the Secretary shall advise the Congress promptly on the receipt of each proposal referred to in section 3, and no contract shall become effective until appropriated funds are available to initiate the specific proposal covered by each contract. All such appropriations shall remain available until expended and shall, insofar as they are used to finance loans made under this Act, be reimbursable in the manner hereinabove provided. Not more than 20 percent of the total amount of additional funds authorized to be appropriated effective October 1, 1986, for loans and grants pursuant to this Act shall be for projects in any single State: *Provided*, That beginning five years after the date of enactment of this Act, the Secretary is authorized to waive the 20 percent limitation for loans and grants which meet the purposes set forth in section 1 of this

Act: *Provided further*, That the decision of the Secretary to waive the limitation shall be submitted to the Congress together with the project proposal pursuant to section 4(c) of this Act and shall become effective only if the Congress has not, within 60 legislative days, passed a joint resolution of disapproval for such a waiver.

SEC. 11. [422k] This Act shall be a supplement to the Federal reclamation laws and may be cited as the Small Reclamation Projects Act of 1956.

SEC. 12. [422a note] If any provision of this Act or the application of such provision to any person, organization, or circumstance shall be held invalid, the remainder of the Act and the application of such provision to persons, organizations, or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 13. ~~【422k-1】~~ A loan contract negotiated and executed pursuant to this Act may be amended or supplemented for the purpose of deferring repayment installments in accordance with the provisions of section 17(b) of the Reclamation Project Act of 1939, as amended (73 Stat. 584, 43 U.S.C. 485b-1).