119TH CONGRESS, 1st Session } HOUSE OF REPRESENTATIVES { REPORT 119–145

MARITIME SUPPLY CHAIN SECURITY ACT

JUNE 6, 2025.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GRAVES, from the Committee on Transportation and Infrastructure, submitted the following

REPORT

[To accompany H.R. 2390]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 2390) to amend title 46, United States Code, to clarify that port infrastructure development program funds may be used to replace Chinese port crane hardware or software, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

CONTENTS

59–006

PURPOSE OF LEGISLATION

The purpose of H.R. 2390 is to amend title 46, United States Code, to clarify that port infrastructure development program funds may be used to replace Chinese port crane hardware or software, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The United States is a maritime nation, with 95 percent of all cargo entering through the Marine Transportation System (MTS).[1] Cargo activity at United States ports accounts for 26 percent of the United States' gross domestic product (GDP), generating nearly $5.4 trillion in total economic activity, and supporting 31 million direct and indirect jobs.[2] To ensure the uninterrupted operation of the MTS, the Coast Guard is responsible for the safe operation of United States ports and waterways.[3] The United States Maritime Administration (MARAD) is responsible for the administration of the Port Infrastructure Development Program (PIDP), a discretionary grant program that provides awards on a competitive basis to projects at coastal seaports, inland river ports, and Great Lakes ports to improve the safety, efficiency, or reliability of the movement of goods into, out of, around, or within a port.[4] Acting as the sole discretionary grant program dedicated to port infrastructure improvements, PIDP has grown exponentially over the last several years with the *Infrastructure Investment and Jobs Act* (P.L. 117–58) providing advanced appropriations of $450 million per year through fiscal year (FY) 2026, which is in addition to annual appropriations the program receives.[5] Since its initial round of funding in FY 2019, PIDP has distributed over $9 billion in grant awards.[6]

Up to 80 percent of the ship-to-shore cranes that United States ports rely on to move cargo from ships are manufactured in China, presenting serious vulnerabilities to the MTS.[7] H.R. 2390, as amended, clarifies that PIDP funds can be used to remove vulnerabilities from Chinese made port equipment, strengthening operational security at United States ports.

HEARINGS

For the purposes of rule XIII, clause 3(c)(6)(A) of the 119th Congress, the following hearing was used to develop or consider H.R. 2390:

The Subcommittee on Coast Guard and Maritime Transportation held a hearing on February 5, 2025, entitled "*America Builds: Mar-*

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[1] U.C. SANTA BARBARA, THE AMERICAN PRESIDENCY PROJECT, *Fact Sheet: Biden-Harris Administration Announces Initiative to Bolster Cybersecurity of U.S. Ports* (Feb. 21, 2024), *available at* https://www.presidency.ucsb.edu/documents/fact-sheet-biden-harris-administration-announces-initiative-bolster-cybersecurity-us-ports.

[2] *Id.*

[3] U.S. COAST GUARD, *Ports and Waterways Safety Assessment (PAWSA), available at* https://www.dco.uscg.mil/PAWSA/#:~:text=The%20United%20States%20Coast%20Guard,efficient%2C%20and%20commercially%20viable%20as.

[4] U.S. MARITIME ADMIN., *Port Infrastructure Development Program, available at* https://www.maritime.dot.gov/PIDPgrants.

[5] *Infrastructute Investment and Jobs Act*, Pub. L. No. 117–58, 135 Stat. 429.

[6] U.S. MARITIME ADMIN., *PIDP Applicant List, available at* https://www.maritime.dot.gov/grants-finances/federal-grant-assistance/pidp-applicant-list.

[7] Lori Ann LaRocco, *A Look Inside the Chinese Cyber Threat at the Biggest Ports in US*, CNBC (Mar. 13, 2024), *available at*, https://www.cnbc.com/2024/03/13/a-look-inside-the-true-nature-of-chinese-cyber-threat-at-us-ports.html.

itime Infrastructure." The hearing examined the importance of domestic ports, infrastructure safety and security issues, and current funding and investment needs. The subcommittee received testimony from Mr. Paul Anderson, President and Chief Executive Officer, Port Tampa Bay, Mr. Joe Rella, President, St. Johns Ship Building Inc. on behalf of the Shipbuilders Council of America, Mr. Tome Reynolds, Chief Strategy Officer, SEASATS on behalf of the Association for Uncrewed Vehicle Systems International, and Mr. Brian Schoeneman, Political and Legislative Director, Seafarers International Union of North America on behalf of USA Maritime.

Legislative History and Consideration

H.R. 2390, the "*Maritime Supply Chain Act*", was introduced in the United States House of Representatives on March 26, 2025, by Rep. David Rouzer and referred to the Committee on Transportation and Infrastructure. Within the Committee on Transportation and Infrastructure, H.R. 2390 was referred to the Subcommittee on Coast Guard and Maritime Transportation. The Subcommittee on Coast Guard and Maritime Transportation was discharged from further consideration of H.R. 2390 on April 2, 2025.

The Committee considered H.R. 2390 on April 2, 2025, and ordered the measure to be reported to the House with a favorable recommendation, without amendment, by voice vote.

Committee Votes

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against.

No recorded votes were requested for H.R. 2390.

Committee Oversight Findings and Recommendations

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

New Budget Authority and Tax Expenditures

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget Act of 1974* has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

Congressional Budget Office Cost Estimate

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has received the enclosed cost estimate for H.R. 2390 from the Director of the Congressional Budget Office:

H.R. 2390, Maritime Supply Chain Security Act **As ordered reported by the House Committee on Transportation and Infrastructure on April 2, 2025**			
By Fiscal Year, Millions of Dollars	2025	2025-2030	2025-2035
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	0	0

Increases *net direct spending* in any of the four consecutive 10-year periods beginning in 2036?	No	Statutory pay-as-you-go procedures apply?	No
		Mandate Effects	
Increases *on-budget deficits* in any of the four consecutive 10-year periods beginning in 2036?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

H.R. 2390 would clarify that projects to upgrade or replace cranes that were installed or maintained by the Chinese government at U.S. ports are eligible for grants under the Maritime Administration's Port Infrastructure Development Program (PIDP). Those projects are typically eligible for PIDP grants under current law. Accordingly, CBO estimates that enacting H.R. 2390 would not affect the federal budget.

The CBO staff contact for this estimate is Aaron Krupkin. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to increase the safety and cyber security of domestic ports by making funds available to eliminate Chinese software and hardware form port cranes.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 2390 establishes or reauthorizes a program of the Federal government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9 of rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

Federal Mandates Statement

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the *Unfunded Mandates Reform Act* was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

Preemption Clarification

Section 423 of the *Congressional Budget Act of 1974* requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee finds that H.R. 2390 does not preempt any state, local, or tribal law.

Advisory Committee Statement

No advisory committees within the definition of Section 5(b) of Public Law 92–463 (5 U.S.C. 1004(b)), United States Code, are created by this legislation.

Applicability to Legislative Branch

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the *Congressional Accountability Act* (Public Law 104–1).

Section-by-Section Analysis of the Legislation

Section 1. Short title

This act may be cited as the "Maritime Supply Chain Security Act".

Section 2. Amendments to clarify that port infrastructure development program funds may be used to replace Chinese port crane hardware or software

This section amends Section 54301(a)(3)(A)(ii)(III) of title 46, United States Code by adding language that allows for projects to receive Port Infrastructure Development program (PIDP) funds to improve port resilience, projects to upgrade or replace port cranes, and port crane hardware and software that were installed, provided, maintained, controlled, or sponsored by the People's Republic of China or any of its departments, ministries, centers, agencies, or instrumentalities.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

TITLE 46, UNITED STATES CODE

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SUBTITLE V—MERCHANT MARINE

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PART C—FINANCIAL ASSISTANCE PROGRAMS

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CHAPTER 543—PORT INFRASTRUCTURE DEVELOPMENT PROGRAM

* * * * * * *

§ 54301. Port infrastructure development program

(a) PORT AND INTERMODAL IMPROVEMENT PROGRAM.—

(1) GENERAL AUTHORITY.—Subject to the availability of appropriations, the Secretary of Transportation shall make grants, on a competitive basis, to eligible applicants to assist in funding eligible projects for the purpose of improving the safety, efficiency, or reliability of the movement of goods through ports and intermodal connections to ports.

(2) ELIGIBLE APPLICANT.—The Secretary may make a grant under this subsection or subsection (b) to the following:

(A) A State.

(B) A political subdivision of a State, or a local government.

(C) A public agency or publicly chartered authority established by 1 or more States.

(D) A special purpose district with a transportation function.

(E) An Indian Tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304), without regard to capitalization), or a consortium of Indian Tribes.

(F) A multistate or multijurisdictional group of entities described in this paragraph.

(G) A lead entity described in subparagraph (A), (B), (C), (D), (E), or (F) jointly with a private entity or group of private entities, including the owners or operators of a facility, or collection of facilities at a port.

(3) ELIGIBLE PROJECTS.—The Secretary may make a grant under this subsection—

(A) for a project, or package of projects, that—

(i) is either—

(I) within the boundary of a port; or

(II) outside the boundary of a port, but is directly related to port operations or to an intermodal connection to a port; and

(ii) will be used to improve the safety, efficiency, or reliability of—

(I) the loading and unloading of goods at the port, such as for marine terminal equipment;

(II) the movement of goods into, out of, around, or within a port, such as for highway or rail infrastructure, intermodal facilities, freight intelligent transportation systems, and digital infrastructure systems;

(III) operational improvements, [including projects to improve port resilience;] *including—*

(aa) projects to improve port resilience; and

(bb) projects to upgrade or replace port cranes or parts of port cranes (including hardware and software) that—

(AA) were installed or provided by the People's Republic of China or any department, ministry, center, agency, or instrumentality of the Government of the People's Republic of China; or

(BB) are maintained, controlled, or sponsored by the People's Republic of China or any department, ministry, center, agency, or instrumentality of the Government of the People's Republic of China;

(IV) environmental and emission mitigation measures; including projects for—

(aa) port electrification or electrification master planning;

(bb) harbor craft or equipment replacements or retrofits;

(cc) development of port or terminal microgrids;

(dd) providing idling reduction infrastructure;

(ee) purchase of cargo handling equipment and related infrastructure;

(ff) worker training to support electrification technology;

(gg) installation of port bunkering facilities from oceangoing vessels for fuels;

(hh) electric vehicle charge or hydrogen refueling infrastructure for drayage and medium or heavy duty trucks and locomotives that service the port and related grid upgrades; or

(ii) other related port activities, including charging infrastructure, electric rubber-tired gantry cranes, and anti-idling technologies; or

(V) port and port-related infrastructure that supports seafood and seafood-related businesses, including the loading and unloading of commercially harvested fish and fish products, seafood processing, cold storage, and other related infrastructure.

(B) notwithstanding paragraph (6)(A)(v), to provide financial assistance to 1 or more projects under subparagraph (A) for development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, and preliminary engineering and design work.

(4) PROHIBITED USES.—A grant award under this subsection may not be used—

(A) to finance or refinance the construction, reconstruction, reconditioning, or purchase of a vessel that is eligible for such assistance under chapter 537, unless the Secretary determines such vessel—

(i) is necessary for a project described in paragraph (3)(A)(ii)(III) of this subsection; and

(ii) is not receiving assistance under chapter 537; or

(B) for any project within a small shipyard (as defined in section 54101).

(5) APPLICATIONS AND PROCESS.—

(A) APPLICATIONS.—

(i) IN GENERAL.—To be eligible for a grant under this subsection or subsection (b), an eligible applicant shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary considers appropriate.

(ii) ENSURING CYBERSECURITY.—If a covered applicant for a grant under this subsection is applying to use the grant to acquire digital infrastructure or a software component, such applicant shall—

(I) certify the facility for which a covered applicant is applying for a grant has an approved facility security plan pursuant to section 70103(c) of this title that addresses the cybersecurity risks of such digital infrastructure or software component; or

(II) if the approved facility security plan of a facility for which a covered applicant is applying for a grant does not address such cybersecurity risks, provide a brief description in the application of how such applicant will address the cybersecurity risks of such digital infrastructure or software component.

(iii) UPDATE OF FACILITY SECURITY PLAN.—If the approved facility security plan required under section 70103(c) of this title of a facility for which a covered applicant is applying for a grant under this subsection does not address the cybersecurity risks of digital infrastructure or a software component to be acquired by such grant and such applicant provides a brief description to address such cybersecurity risks under clause (ii)(II), the covered applicant shall ensure that such security plan is updated to address the cybersecurity risks described in clause (ii)(II) in the next update required under paragraph (3)(G) of such section.

(iv) COVERED APPLICANT DEFINED.—In this paragraph, the term "covered applicant" means an applicant under this subsection that is not otherwise eligible under subsection (b).

(B) SOLICITATION PROCESS.—Not later than 90 days after the date that amounts are made available for grants under this subsection or subsection (b) for a fiscal year, the Secretary shall solicit grant applications for eligible projects in accordance with this subsection.

(C) DELAYED NOTICE OF FUNDING OPPORTUNITY.—If the Secretary amends a published solicitation for grant applications such that an applicant would need the information contained in the amendment to draft an application, other than an amendment of the amount of grant funding available, the Secretary shall extend the application deadline by the number of days between the initial solicitation and the amendment.

(6) PROJECT SELECTION CRITERIA.—

(A) IN GENERAL.—The Secretary may select a project described in paragraph (3) for funding under this subsection if the Secretary determines that—

(i) the project improves the safety, efficiency, or reliability of the movement of goods through a port or intermodal connection to a port;

(ii) the project is cost effective (except in the case of a project described under subparagraph (D));

(iii) the eligible applicant has authority to carry out the project;

(iv) the eligible applicant has sufficient funding available to meet the matching requirements under paragraph (8);

(v) the project will be completed without unreasonable delay; and

(vi) the project cannot be easily and efficiently completed without Federal funding or financial assistance available to the project sponsor.

(B) ADDITIONAL CONSIDERATIONS.—In selecting projects described in paragraph (3) for funding under this subsection, the Secretary shall give substantial weight to—

(i) the utilization of non-Federal contributions;

(ii) the net benefits of the funds awarded under this subsection, considering the cost-benefit analysis of the project, as applicable (except in the case of a project described under subparagraph (D)); and

(iii) a port's increased resilience as a result of the project.

(C) IN GENERAL.—In selecting projects described in paragraph (3), the Maritime Administrator, in consultation with the Secretary of Defense, may give priority to providing funding to strategic seaports in support of national security requirements.

(D) NONCONTIGUOUS STATES AND TERRITORIES.—The requirements under subparagraphs (A)(ii) and (B)(ii) shall not apply in the case of a project described in paragraph (3) in a noncontiguous State or territory.

(7) ALLOCATION OF FUNDS.—

(A) GEOGRAPHIC DISTRIBUTION.—Not more than 25 percent of the amounts made available for grants under this subsection for a fiscal year may be used to make grants for projects in any 1 State.

(B) SMALL PROJECTS.—The Secretary shall reserve 25 percent of the amounts made available for grants under this subsection each fiscal year to make grants for eligible projects described in subsection (b). The requirement under paragraph (6)(A)(ii) shall not apply to grants made under subsection (b).

(C) DEVELOPMENT PHASE ACTIVITIES.—Of the amounts made available for grants under this section for a fiscal year—

(i) not more than 10 percent may be used to make grants for development phase activities under paragraph (3)(B); and

(ii) not more than 10 percent may be used to make grants for development phase activities under subsection (b)(5)(A)(ii)(III).

(8) FEDERAL SHARE OF TOTAL PROJECT COSTS.—

(A) TOTAL PROJECT COSTS.—To be eligible for a grant under this subsection or subsection (b), an eligible applicant shall submit to the Secretary an estimate of the total costs of the project for which the grant is requested based on the best available information, including any available engineering studies, studies of economic feasibility, environmental analyses, and information on the expected use of equipment or facilities.

(B) FEDERAL SHARE.—

(i) IN GENERAL.—Except as provided in clause (ii), the Federal share of the total costs of a project under this subsection or subsection (b) shall not exceed 80 percent.

(ii) RURAL AREAS.—The Secretary may increase the Federal share of costs above 80 percent for a project for which a grant is awarded under subsection (b) or that is located in a rural area.

(9) PROCEDURAL SAFEGUARDS.—The Secretary shall issue guidelines to establish appropriate accounting, reporting, and review procedures for grants made under this subsection and subsection (b) to ensure that—

(A) grant funds are used for the purposes for which those funds were made available;

(B) each grantee properly accounts for all expenditures of grant funds;

(C) grant funds not used for such purposes and amounts not obligated or expended are returned; and

(D) grant contracts are approved efficiently by the Secretary, minimizing delays for minor adjustments to project scopes and budgets, including due to inflationary effects on projects.

(10) GRANT CONDITIONS.—

(A) IN GENERAL.—The Secretary shall require as a condition of making a grant under this subsection or subsection (b) that a grantee—

(i) maintain such records as the Secretary considers necessary;

(ii) make the records described in clause (i) available for review and audit by the Secretary; and

(iii) periodically report to the Secretary such information as the Secretary considers necessary to assess progress.

(B) EFFICIENT USE OF NON-FEDERAL FUNDS.—

(i) IN GENERAL.—Notwithstanding any other provision of law and subject to approval by the Secretary, in the case of any grant for a project under this section, during the period beginning on the date on which the grant recipient is selected and ending on the date on which the grant agreement is signed—

(I) the grant recipient may obligate and expend non-Federal funds with respect to the project for which the grant is provided; and

(II) any non-Federal funds obligated or expended in accordance with subclause (I) shall be credited toward the non-Federal cost share for the project for which the grant is provided.

(ii) REQUIREMENTS.—

(I) APPLICATION.—In order to obligate and expend non-Federal funds under clause (i), the grant recipient shall submit to the Secretary a request to obligate and expend non-Federal funds under that clause, including—

(aa) a description of the activities the grant recipient intends to fund;

(bb) a justification for advancing the activities described in item (aa), including an assessment of the effects to the project scope, schedule, and budget if the request is not approved; and

(cc) the level of risk of the activities described in item (aa).

(II) APPROVAL.—The Secretary shall approve or disapprove each request submitted under subclause (I).

(III) COMPLIANCE WITH APPLICABLE REQUIREMENTS.—Any obligation or expenditure of non-Federal funds under clause (i) shall be in compliance with all applicable requirements, including any requirements included in the grant agreement.

(iii) EFFECT.—The obligation or expenditure of any non-Federal funds in accordance with this subparagraph shall not—

(I) affect the signing of a grant agreement or other applicable grant procedures with respect to the applicable grant;

(II) create an obligation on the part of the Federal Government to repay any non-Federal funds if the grant agreement is not signed; or

(III) affect the ability of the recipient of the grant to obligate or expend non-Federal funds to meet the non-Federal cost share for the project for which the grant is provided after the period described in clause (i).

(C) CONSTRUCTION, REPAIR, OR ALTERATION OF VESSELS.—With regard to the construction, repair, or alteration of vessels, the same requirements of section 117(k) of title 23, United States Code, shall apply regardless of whether the location of contract performance is known when bids for such work are solicited.

(11) ADMINISTRATION.—

(A) ADMINISTRATIVE AND OVERSIGHT COSTS.—The Secretary may retain not more than 2 percent of the amounts appropriated for each fiscal year to make grants for port development under this section for the administrative and oversight costs incurred by the Secretary to make grants for port development under this section.

(B) AVAILABILITY.—

(i) IN GENERAL.—Amounts appropriated to make grants for port development under this section shall remain available until expended.

(ii) UNEXPENDED FUNDS.—Amounts awarded as a grant for port development under this section that are not expended by the grantee during the 5-year period following the date of the award or that are returned under paragraph (9)(C) shall remain available to the Secretary for use for grants under this subsection in a subsequent fiscal year. Any such amount may only be expended to award a grant under the same subsection of this section under which the original grant was made.

(12) DEFINITIONS.—In this subsection and subsection (b):

(A) PORT.—The term "port" includes—

(i) any port on the navigable waters of the United States; and

(ii) any harbor, marine terminal, or other shore side facility used principally for the movement of goods on inland waters (including the Great Lakes).

(B) PROJECT.—The term "project" includes construction, reconstruction, environmental rehabilitation, acquisition of property, including land related to the project and improvements to the land, equipment acquisition, and operational improvements.

(C) RURAL AREA.—The term "rural area" means an area that is outside an urbanized area.

(D) RESILIENCE.—The term "resilience" means the ability to anticipate, prepare for, adapt to, withstand, respond to, and recover from operational disruptions and sustain critical operations at ports, including disruptions caused by natural or manmade hazards, such as sea level rise, flooding, earthquakes, hurricanes, tsunami inundation or other extreme weather events.

(E) STRATEGIC SEAPORT DEFINED.—In this subsection the term "strategic seaport" means a military port or commercial port that is subject to a port planning order or Basic Ordering Agreement (or both) that is projected to be used for the deployment of forces and shipment of ammunition or sustainment supplies in support of military operations.

(b) ASSISTANCE FOR SMALL INLAND RIVER AND COASTAL PORTS AND TERMINALS.—

(1) IN GENERAL.—From amounts reserved under subsection (a)(7)(B), the Secretary, acting through the Administrator of the Maritime Administration, shall make grants under this subsection to eligible applicants for eligible projects at a port, to and from which the average annual tonnage of cargo for the immediately preceding 3 calendar years from the time an application is submitted is less than 8,000,000 short tons, as determined using United States Army Corps of Engineers data or data provided by an independent audit.

(2) INDEPENDENT AUDIT.—

(A) IN GENERAL.—If an eligible applicant provides data by an independent audit for purposes of paragraph (1), the Secretary shall use such data to make a tonnage determination if the Secretary determines that it is acceptable to use such data instead of using Corps of Engineers data.

(B) ACCEPTABLE USE OF DATA.—For purposes of subparagraph (A), an acceptable use of data means that the Secretary has determined such data is a reasonable substitute for Army Corps data.

(C) JUSTIFICATION.—If the Secretary makes a determination pursuant to subparagraph (A) that it is not acceptable to use independent audit data provided by an eligible applicant, the Secretary shall provide the eligible applicant with notification of, and justification for, such determination.

(3) TONNAGE DETERMINATION.—In making a determination of the average annual tonnage of cargo using Corps of Engineers data for purposes of evaluating an application of an eligible applicant pursuant to paragraph (1), the Secretary shall use data that is specific to the eligible applicant.

(4) AWARDS.—In providing assistance under this subsection, the Secretary shall—

(A) take into account—

(i) the economic advantage and the contribution to freight transportation at a port; and

(ii) the competitive disadvantage of such a port;

(B) not make more than 1 award per applicant under this subsection for each fiscal year appropriation; and

(C) take into consideration the degree to which a project would promote the enhancement and efficiencies of a port.

(5) USE OF FUNDS.—

(A) IN GENERAL.—Assistance provided under this subsection may be used for a project that—

(i) is—

(I) within the boundary of a port; or

(II) outside the boundary of a port, but is directly related to port operations or to an intermodal connection to a port; and

(ii) for—

(I) making capital improvements, including to piers, wharves, docks, terminals, and similar structures used principally for the movement of goods;

(II) acquiring, improving, repairing, or maintaining transportation or physical infrastructure, buildings, or equipment;

(III) performing development phase activities described in subsection (a)(3)(B) related to carrying out an activity described in this clause; and

(IV) otherwise fulfilling the purposes for which such assistance is provided.

(B) ACQUISITION METHODS.—The Secretary may not require as a condition of issuing a grant under this subsection—

(i) direct ownership of either a facility or equipment to be procured using funds awarded under this subsection; or

(ii) that equipment procured using such funds be new.

(6) PROHIBITED USES.—Funds provided under this subsection may not be used for—

(A) projects conducted on property outside the boundary of a port unless such property is directly related to port operations or to an intermodal connection to a port;

(B) any single grant award more than 10 percent of total allocation of funds to carry out this subsection per fiscal year appropriation; or

(C) activities, including channel improvements or harbor deepening that is part of a Federal channel or an access channel associated with a Federal channel, authorized, as of the date of the application for assistance under this subsection, to be carried out by of the United States Army Corps of Engineers.

(7) MATCHING REQUIREMENTS.—

(A) IN GENERAL.—Any costs of the project to be paid by the recipient's matching share pursuant to subsection (a)(8)(B) may—

(i) be incurred prior to the date on which assistance is provided; and

(ii) include a loan agreement, a commitment from investors, cash on balance sheet, or other contributions determined acceptable by the Secretary.

(B) DETERMINATION OF EFFECTIVENESS.—In determining whether a project meets the criteria under clauses (i), (iii), (iv), (v), and (vi) of subsection (a)(6)(A), the Secretary shall accept documentation used to obtain a commitment of the matching funds covered by this paragraph, including feasibility studies, business plans, investor prospectuses, loan applications, or similar documentation.

(c) ADDITIONAL AUTHORITY OF THE SECRETARY.—In carrying out this section, the Secretary may—

(1) coordinate with other Federal agencies to expedite the process established under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for the improvement of port facilities to improve the efficiency of the transportation system, to increase port security, or to provide greater access to port facilities;

(2) seek to coordinate all reviews or requirements with appropriate Federal, State, and local agencies; and

(3) in addition to any financial assistance provided under subsection (a) or subsection (b), provide such technical assistance to any eligible applicants as described in subsection (a)(2).

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