

state and Defense Highways [now Dwight D. Eisenhower System of Interstate and Defense Highways], (2) which met standards required by Federal-Aid Highway Act of 1956 for such System of Interstate and Defense Highways, and (3) construction of which had been completed since Aug. 2, 1947, or which had been in actual use or under construction by contract, for completion, awarded not later than June 30, 1957.

§ 122. Payments to States for bond and other debt instrument financing

(a) DEFINITION OF ELIGIBLE DEBT FINANCING INSTRUMENT.—In this section, the term “eligible debt financing instrument” means a bond or other debt financing instrument, including a note, certificate, mortgage, or lease agreement, issued by a State or political subdivision of a State or a public authority, the proceeds of which are used for an eligible project under this title.

(b) FEDERAL REIMBURSEMENT.—Subject to subsections (c) and (d), the Secretary may reimburse a State for expenses and costs incurred by the State or a political subdivision of the State and reimburse a public authority for expenses and costs incurred by the public authority for—

- (1) interest payments under an eligible debt financing instrument;
- (2) the retirement of principal of an eligible debt financing instrument;
- (3) the cost of the issuance of an eligible debt financing instrument;
- (4) the cost of insurance for an eligible debt financing instrument; and
- (5) any other cost incidental to the sale of an eligible debt financing instrument (as determined by the Secretary).

(c) CONDITIONS ON PAYMENT.—The Secretary may reimburse a State or public authority under subsection (b) with respect to a project funded by an eligible debt financing instrument after the State or public authority has complied with this title with respect to the project to the extent and in the manner that would be required if payment were to be made under section 121.

(d) FEDERAL SHARE.—The Federal share of the cost of a project payable under this section shall not exceed the Federal share of the cost of the project as determined under section 120.

(e) STATUTORY CONSTRUCTION.—Notwithstanding any other provision of law, the eligibility of an eligible debt financing instrument for reimbursement under subsection (b) shall not—

- (1) constitute a commitment, guarantee, or obligation on the part of the United States to provide for payment of principal or interest on the eligible debt financing instrument; or
- (2) create any right of a third party against the United States for payment under the eligible debt financing instrument.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 900; Pub. L. 95-599, title I, § 115(b), Nov. 6, 1978, 92 Stat. 2698; Pub. L. 97-424, title I, § 107(f), Jan. 6, 1983, 96 Stat. 2103; Pub. L. 100-17, title I, § 133(b)(7), Apr. 2, 1987, 101 Stat. 171; Pub. L. 104-59, title III, § 311(a), Nov. 28, 1995, 109 Stat. 583.)

Editorial Notes

AMENDMENTS

1995—Pub. L. 104-59 amended section generally, substituting present provisions for provisions which au-

thorized States to use portion of Federal highway payments to retire principal of bonds proceeds of which were used for certain Federal highway projects.

1987—Pub. L. 100-17 inserted “or for substitute highway projects approved under section 103(e)(4) of this title” before “and the retirement” in first sentence.

1983—Pub. L. 97-424 inserted “or for substitute highway projects approved under section 103(e)(4) of this title,” after “highway systems in urban areas,” and “or on highway projects approved under section 103(e)(4) of this title” after “expenditure on such system”.

1978—Pub. L. 95-599 inserted provisions relating to the retirement of bonds the proceeds of which were used for program projects, provisions that section was not to be construed as a commitment on the part of the United States to pay the principal of any such bonds, and provisions prohibiting inclusion of interest and incidental costs of bonds in estimated cost of completion.

Statutory Notes and Related Subsidiaries

PAYMENT OF INTEREST ON BONDS ISSUED PRIOR TO AND AFTER NOVEMBER 6, 1978

Pub. L. 95-599, title I, § 115(c), Nov. 6, 1978, 92 Stat. 2698, provided that: “No interest shall be paid under authority of section 122 of title 23, United States Code, on any bonds issued prior to the date of enactment of this Act [Nov. 6, 1978], unless such bonds were issued for projects which were under construction on January 1, 1978. Interest on bonds issued in any fiscal year by a State after the date of enactment of this Act may be paid under authority of section 122 of title 23, United States Code, only if (1) such State was eligible to obligate funds of another State under subsection (a) of this section during such fiscal year and (2) the Secretary of Transportation certifies that such eligible State utilized, or will utilize, to the fullest extent possible during such fiscal year its authority to obligate funds under such subsection (a) of this section [amending section 118(b) of this title]. No interest shall be paid under section 122 of title 23, United States Code, on that part of the proceeds of bonds issued after the date of enactment of this Act used to retire or otherwise refinance bonds issued prior to such date.”

§ 123. Relocation of utility facilities

(a) DEFINITIONS.—In this section:

(1) COST OF RELOCATION.—The term “cost of relocation” includes the entire amount paid by a utility properly attributable to the relocation of a utility facility, minus any increase in the value of the new facility and any salvage value derived from the old facility.

(2) EARLY UTILITY RELOCATION PROJECT.—The term “early utility relocation project” means utility relocation activities identified by the State for performance before completion of the environmental review process for the transportation project.

(3) ENVIRONMENTAL REVIEW PROCESS.—The term “environmental review process” has the meaning given the term in section 139(a).

(4) TRANSPORTATION PROJECT.—The term “transportation project” means a project.

(5) UTILITY FACILITY.—The term “utility facility” means any privately, publicly, or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, stormwater not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, that directly or indirectly serves the public.

(6) **UTILITY RELOCATION ACTIVITY.**—The term “utility relocation activity” means an activity necessary for the relocation of a utility facility, including preliminary and final design, surveys, real property acquisition, materials acquisition, and construction.

(b) **REIMBURSEMENT TO STATES.**—

(1) **IN GENERAL.**—If a State pays for the cost of relocation of a utility facility necessitated by the construction of a transportation project, Federal funds may be used to reimburse the State for the cost of relocation in the same proportion as Federal funds are expended on the transportation project.

(2) **LIMITATION.**—Federal funds shall not be used to reimburse a State under this section if the payment to the utility—

(A) violates the law of the State; or

(B) violates a legal contract between the utility and the State.

(3) **REQUIREMENT.**—A reimbursement under paragraph (1) shall be made only if the State demonstrates to the satisfaction of the Secretary that the State paid the cost of the utility relocation activity from funds of the State with respect to transportation projects for which Federal funds are obligated subsequent to April 16, 1958, for work, including utility relocation activities.

(4) **REIMBURSEMENT ELIGIBILITY FOR EARLY RELOCATION PRIOR TO TRANSPORTATION PROJECT ENVIRONMENTAL REVIEW PROCESS.**—

(A) **IN GENERAL.**—In addition to the requirements under paragraphs (1) through (3), a State may carry out, at the expense of the State, an early utility relocation project for a transportation project before completion of the environmental review process for the transportation project.

(B) **REQUIREMENTS FOR REIMBURSEMENT.**—Funds apportioned to a State under this title may be used to pay the costs incurred by the State for an early utility relocation project only if the State demonstrates to the Secretary, and the Secretary finds that—

(i) the early utility relocation project is necessary to accommodate a transportation project;

(ii) the State provides adequate documentation to the Secretary of eligible costs incurred by the State for the early utility relocation project;

(iii) before the commencement of the utility relocation activities, an environmental review process was completed for the early utility relocation project that resulted in a finding that the early utility relocation project—

(I) would not result in significant adverse environmental impacts; and

(II) would comply with other applicable Federal environmental requirements;

(iv) the early utility relocation project did not influence—

(I) the environmental review process for the transportation project;

(II) the decision relating to the need to construct the transportation project; or

(III) the selection of the transportation project design or location;

(v) the early utility relocation project complies with all applicable provisions of law, including regulations issued pursuant to this title;

(vi) the early utility relocation project follows applicable financial procedures and requirements, including documentation of eligible costs and the requirements under section 109(l), but not including requirements applicable to authorization and obligation of Federal funds;

(vii) the transportation project for which the early utility relocation project was necessitated was included in the applicable transportation improvement program under section 134 or 135;

(viii) before the cost incurred by a State is approved for Federal participation, environmental compliance pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been completed for the transportation project for which the early utility relocation project was necessitated; and

(ix) the transportation project that necessitated the utility relocation activity is approved for construction.

(C) **SAVINGS PROVISION.**—Nothing in this paragraph affects other eligibility requirements or authorities for Federal participation in payment of costs incurred for utility relocation activities.

(c) **APPLICABILITY OF OTHER PROVISIONS.**—Nothing in this section affects the applicability of other requirements that would otherwise apply to an early utility relocation project, including any applicable requirements under—

(1) section 138;

(2) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.), including regulations under part 24 of title 49, Code of Federal Regulations (or successor regulations);

(3) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); or

(4) an environmental review process.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 900; Pub. L. 100-17, title I, §133(b)(8), Apr. 2, 1987, 101 Stat. 171; Pub. L. 112-141, div. A, title I, §1104(c)(3), July 6, 2012, 126 Stat. 427; Pub. L. 117-58, div. A, title I, §11315, Nov. 15, 2021, 135 Stat. 540.)

Editorial Notes

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (b)(4)(B)(viii), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in subsec. (c)(2), is Pub. L. 91-646, Jan. 2, 1971, 84 Stat. 1894, which is classified principally to chapter 61 (§4601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of Title 42 and Tables.

The Civil Rights Act of 1964, referred to in subsec. (c)(3), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241. Title

VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

AMENDMENTS

2021—Pub. L. 117-58 amended section generally. Prior to amendment, section related to reimbursement to States for relocation of utility facilities.

2012—Subsec. (a). Pub. L. 112-141 substituted “on any Federal-aid highway” for “on any Federal-aid system”.

1987—Subsec. (a). Pub. L. 100-17 substituted “any Federal-aid system,” for “the Federal-aid primary or secondary systems or on the Interstate System, including extensions thereof within urban areas.”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117-58 effective Oct. 1, 2021, see section 10003 of Pub. L. 117-58, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of this title.

STUDY OF PROCUREMENT PRACTICES AND PROJECT DELIVERY

Pub. L. 105-178, title I, §1213(e), June 9, 1998, 112 Stat. 201, directed the Comptroller General to conduct a study to assess the impact that a utility company's failure to relocate its facilities in a timely manner has on the delivery and cost of Federal-aid highway and bridge projects, including an assessment of methods States use to mitigate such delays, and directed the Comptroller General to transmit to Congress a report on the results of the study with any appropriate recommendations not later than 1 year after June 9, 1998.

§ 124. Bridge investment program

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE PROJECT.—

(A) IN GENERAL.—The term “eligible project” means a project to replace, rehabilitate, preserve, or protect 1 or more bridges on the National Bridge Inventory under section 144(b).

(B) INCLUSIONS.—The term “eligible project” includes—

(i) a bundle of projects described in subparagraph (A), regardless of whether the bundle of projects meets the requirements of section 144(j)(5); and

(ii) a project to replace or rehabilitate culverts for the purpose of improving flood control and improved habitat connectivity for aquatic species.

(2) LARGE PROJECT.—The term “large project” means an eligible project with total eligible project costs of greater than \$100,000,000.

(3) PROGRAM.—The term “program” means the bridge investment program established by subsection (b)(1).

(b) ESTABLISHMENT OF BRIDGE INVESTMENT PROGRAM.—

(1) IN GENERAL.—There is established a bridge investment program to provide financial assistance for eligible projects under this section.

(2) GOALS.—The goals of the program shall be—

(A) to improve the safety, efficiency, and reliability of the movement of people and freight over bridges;

(B) to improve the condition of bridges in the United States by reducing—

(i) the number of bridges—

(I) in poor condition; or

(II) in fair condition and at risk of falling into poor condition within the next 3 years;

(ii) the total person miles traveled over bridges—

(I) in poor condition; or

(II) in fair condition and at risk of falling into poor condition within the next 3 years;

(iii) the number of bridges that—

(I) do not meet current geometric design standards; or

(II) cannot meet the load and traffic requirements typical of the regional transportation network; and

(iv) the total person miles traveled over bridges that—

(I) do not meet current geometric design standards; or

(II) cannot meet the load and traffic requirements typical of the regional transportation network; and

(C) to provide financial assistance that leverages and encourages non-Federal contributions from sponsors and stakeholders involved in the planning, design, and construction of eligible projects.

(c) GRANT AUTHORITY.—

(1) IN GENERAL.—In carrying out the program, the Secretary may award grants, on a competitive basis, in accordance with this section.

(2) GRANT AMOUNTS.—Except as otherwise provided, a grant under the program shall be—

(A) in the case of a large project, in an amount that is—

(i) adequate to fully fund the project (in combination with other financial resources identified in the application); and

(ii) not less than \$50,000,000; and

(B) in the case of any other eligible project, in an amount that is—

(i) adequate to fully fund the project (in combination with other financial resources identified in the application); and

(ii) not less than \$2,500,000.

(3) MAXIMUM AMOUNT.—Except as otherwise provided, for an eligible project receiving assistance under the program, the amount of assistance provided by the Secretary under this section, as a share of eligible project costs, shall be—

(A) in the case of a large project, not more than 50 percent; and

(B) in the case of any other eligible project, not more than 80 percent.

(4) FEDERAL SHARE.—

(A) MAXIMUM FEDERAL INVOLVEMENT.—Federal assistance other than a grant under the