

Subsec. (b). Pub. L. 115-270, §1156, substituted “October 23, 2018” for “June 10, 2014”.

2016—Pub. L. 114-322, §1119(1), inserted “and Indian tribes” after “Territories” in section catchline.

Subsec. (a). Pub. L. 114-322, §1119(2), inserted dash after “projects” and par. (1) designation before “in American” and added par. (2).

2014—Pub. L. 113-121 designated existing provisions as subsec. (a) and inserted heading, inserted “Puerto Rico,” before “and the Trust Territory of the Pacific Islands”, and added subsec. (b).

Executive Documents

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 2311. Report to Congress covering proposals for water impoundment facilities

Any report that is submitted to the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives by the Secretary, or the Secretary of Agriculture acting under Public Law 83-566, as amended [16 U.S.C. 1001 et seq.], which proposes construction of a water impoundment facility, shall include information on the consequences of failure and geologic or design factors which could contribute to the possible failure of such facility.

(Pub. L. 99-662, title XII, §1202, Nov. 17, 1986, 100 Stat. 4263.)

Editorial Notes

REFERENCES IN TEXT

Public Law 83-566, as amended, referred to in text, is act Aug. 4, 1954, ch. 656, 68 Stat. 666, known as the Watershed Protection and Flood Prevention Act, which is classified principally to chapter 18 (§1001 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 16 and Tables.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

§ 2312. Comments on certain changes in operations of reservoirs

Before the Secretary may make changes in the operation of any reservoir which will result in or require a reallocation of storage space in such reservoir or will significantly affect any project purpose, the Secretary shall provide an opportunity for public review and comment.

(Pub. L. 100-676, §5, Nov. 17, 1988, 102 Stat. 4022.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1988, and not as part of the Water

Resources Development Act of 1986 which comprises this chapter.

Statutory Notes and Related Subsidiaries

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 100-676, set out as a note under section 2201 of this title.

§ 2313. Research and development

(a) In general

The Secretary is authorized to carry out basic, applied, and advanced research activities as required to aid in the planning, design, construction, operation, and maintenance of water resources development projects and to support the missions and authorities of the Corps of Engineers.

(b) Testing and application

In carrying out subsection (a), the Secretary is authorized to test and apply technology, tools, techniques, and materials developed pursuant to such subsection, including the testing and application of such technology, tools, techniques, and materials at authorized water resources development projects, in consultation with the non-Federal interests for such projects.

(c) Other transactional authority for prototype projects

(1) In general

In carrying out subsection (b), the Secretary is authorized to enter into transactions (other than contracts, cooperative agreements, or grants) to carry out prototype projects to support basic, applied, and advanced research activities that are directly relevant to the civil works missions and authorities of the Corps of Engineers.

(2) Follow-on production transactions

A transaction entered into under paragraph (1) for a prototype project may provide for the award of a follow-on production contract or transaction to the participants in the transaction in accordance with the requirements of section 4022 of title 10.

(3) Guidance

Prior to entering into the first transaction under this subsection, the Secretary shall issue guidance for entering into transactions under this subsection (including guidance for follow-on production contracts or transactions under paragraph (2)).

(4) Conditions

In carrying out this subsection, the Secretary shall ensure that—

(A) competitive procedures are used to the maximum extent practicable to award each transaction; and

(B) at least one of the following conditions is met with respect to each transaction:

(i) The prototype project includes significant participation by at least one non-profit research institution or nontraditional defense contractor, as that term is defined in section 3014 of title 10.

(ii) All significant participants in the transaction other than the Federal Gov-

ernment are small business concerns, as that term is used in section 632 of title 15 (including such concerns participating in a program described in section 638 of title 15).

(iii) At least one-third of the total cost of the prototype project is to be paid out of funds provided by sources other than the Federal Government.

(iv) The Head of the Contracting Activity for the Corps of Engineers submits to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a notification that exceptional circumstances justify the use of a transaction that provides for innovative business arrangements or structures that would not be feasible or appropriate under a contract, cooperative agreement, or grant.

(5) Notification

Not later than 30 days before the Secretary enters into a transaction under paragraph (1), the Secretary shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate of—

- (A) the dollar amount of the transaction;
- (B) the entity carrying out the prototype project that is the subject of the transaction;
- (C) the justification for the transaction; and
- (D) as applicable, the water resources development project where the prototype project will be carried out.

(6) Report

Not later than 4 years after December 23, 2022, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the use of the authority under this subsection.

(7) Comptroller General access to information
(A) Examination of records

Each transaction entered into under this subsection shall provide for mandatory examination by the Comptroller General of the United States of the records of any party to the transaction or any entity that participates in the performance of the transaction.

(B) Limitations

(i) Parties and entities

Examination of records by the Comptroller General pursuant to subparagraph (A) shall be limited as provided under clause (ii) in the case of a party to the transaction, an entity that participates in the performance of the transaction, or a subordinate element of that party or entity if the only transactions that the party, entity, or subordinate element entered into with Government entities in the year prior to the date of that transaction were entered into under paragraph (1) or under section 4021 or 4022 of title 10.

(ii) Records

The only records of a party, other entity, or subordinate element referred to in clause (i) that the Comptroller General may examine pursuant to subparagraph (A) are records of the same type as the records that the Government has had the right to examine under the audit access clauses of the previous transactions referred to in such clause that were entered into by that particular party, entity, or subordinate element.

(C) Waiver

The Head of the Contracting Activity for the Corps of Engineers may waive the applicability of subparagraph (A) to a transaction if the Head of the Contracting Activity for the Corps of Engineers—

- (i) determines that it would not be in the public interest to apply the requirement to the transaction; and
- (ii) transmits to the Committee on Environment and Public Works of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Comptroller General, before the transaction is entered into, a notification of the waiver, including the rationale for the determination under clause (i).

(D) Timing

The Comptroller General may not examine records pursuant to subparagraph (A) more than 3 years after the final payment is made by the United States under the transaction.

(E) Report

Not later than 1 year after December 23, 2022, and annually thereafter, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the use of the authority under this paragraph.

(8) Termination of authority

The authority to enter into a transaction under this subsection shall terminate on December 31, 2028.

(d) Coordination and consultation

In carrying out this section, the Secretary may coordinate and consult with Federal agencies, State and local agencies, Indian Tribes, universities, consortiums, councils, and other relevant entities that will aid in the planning, design, construction, operation, and maintenance of water resources development projects.

(e) Annual report

(1) In general

For fiscal year 2025, and annually thereafter, in conjunction with the annual budget submission of the President to Congress under section 1105(a) of title 31, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on basic, applied, and advanced research activi-

ties and prototype projects carried out under this section.

(2) Contents

Each report under paragraph (1) shall include—

(A) a description of each ongoing and new activity or project, including—

(i) the estimated total cost of the activity or project;

(ii) the amount of Federal expenditures for the activity or project;

(iii) the amounts provided by a non-Federal party to a transaction described in subsection (c), if applicable;

(iv) the estimated timeline for completion of the activity or project;

(v) the requesting district of the Corps of Engineers, if applicable; and

(vi) how the activity or project is consistent with subsection (a); and

(B) any additional information that the Secretary determines to be appropriate.

(f) Savings clause

Nothing in this section affects the authority of the Secretary to carry out, through the Engineer Research and Development Center, any activity requested by a district of the Corps of Engineers in support of a water resources development project or feasibility study (as defined in section 2215(d) of this title).

(g) Establishment of account

The Secretary, in consultation with the Director of the Office of Management and Budget, shall establish a separate appropriations account for administering funds made available to carry out this section.

(Pub. L. 100-676, § 7, Nov. 17, 1988, 102 Stat. 4022; Pub. L. 104-303, title II, § 214, Oct. 12, 1996, 110 Stat. 3684; Pub. L. 117-263, div. H, title LXXXI, § 8160(a), Dec. 23, 2022, 136 Stat. 3741.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1988, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

AMENDMENTS

2022—Pub. L. 117-263 amended section generally. Prior to amendment, section related to collaborative research and development with non-Federal entities.

1996—Subsec. (a). Pub. L. 104-303, § 214(a)(1), inserted “civil works” before “mission”.

Subsecs. (b), (c). Pub. L. 104-303, § 214(b)(1), (2), added subsec. (b) and redesignated former subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 104-303, § 214(b)(1), (3), redesignated subsec. (c) as (d) and substituted “subsection (c)” for “subsection (b)”. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 104-303, § 214(b)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Pub. L. 104-303, § 214(a)(2), added subsec. (e) and struck out heading and text of former subsec. (e). Text read as follows: “Notwithstanding the third proviso under the heading ‘GENERAL INVESTIGATIONS’ of title I of the Energy and Water Development Appropriations Act, 1989 (102 Stat. 857), an additional \$3,000,000 of the funds appropriated under such heading shall be avail-

able to the Secretary for obligation to carry out the purposes of this section in fiscal year 1989.”

Subsec. (f). Pub. L. 104-303, § 214(b)(1), redesignated subsec. (e) as (f).

Statutory Notes and Related Subsidiaries

MAGNETIC LEVITATION TECHNOLOGY

Pub. L. 101-640, title IV, § 417, Nov. 28, 1990, 104 Stat. 4652, provided that:

“(a) RESEARCH AND DEVELOPMENT.—The Secretary is authorized, in cooperation with the Secretary of Transportation, to conduct research and development activities on magnetic levitation technology or to provide for such research and development.

“(b) COLLABORATION.—The Secretary is authorized to collaborate with non-Federal entities (including State and local governments, colleges and universities, and corporations, partnerships, sole proprietorships, and trade associations which are incorporated or established under laws of a State or the District of Columbia) in carrying out research and development on magnetic levitation technology.

“(c) COOPERATIVE RESEARCH CONTRACTS.—In carrying out this section, the Secretary may enter into contracts or cooperative research and development agreements under section 12 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3710a), except that the Secretary may fund up to 50 percent of the cost of each collaborative research and development project undertaken.

“(d) LICENSING OF RESEARCH AND DEVELOPMENT.—The research, development, and use of any technology developed under an agreement entered into pursuant to this section, including the terms under which such technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3701-3714). In addition, the Secretary may require the non-Federal entity to certify that such research and development will be performed substantially in the United States and that products embodying inventions made under an agreement entered into pursuant to this section or produced through the use of such inventions will be manufactured substantially in the United States.

“(e) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this section, there is authorized to be appropriated \$1,000,000 for fiscal year 1990 and \$4,000,000 for fiscal year 1991. Such funds shall remain available until expended. No funds are authorized to be appropriated under this section for any fiscal year beginning after September 30, 1991.”

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 100-676, set out as a note under section 2201 of this title.

§ 2313a. Engineering and environmental innovations of national significance

(a) Surveys, plans, and studies

To encourage innovative and environmentally sound engineering solutions and innovative environmental solutions to problems of national significance, the Secretary may undertake surveys, plans, and studies and prepare reports that may lead to work under existing civil works authorities or to recommendations for authorizations.

(b) Funding

(1) Authorization of appropriations

There is authorized to be appropriated to carry out this section \$1,000,000 for each of fiscal years 1997 through 2000.