

(2) the value of the benefits which are lost as a result of providing such water supply storage space.

(d) Determinations

For purposes of subsection (c), the determinations of updated construction costs and value of benefits lost shall be made by the Secretary on the basis of the most recent information available.

(e) Inflation adjustment of dollar amount

The \$100 amount set forth in subsection (c) shall be adjusted annually by the Secretary for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics.

(f) Non-Federal responsibilities

Nothing in this section shall be construed as affecting the responsibility of non-Federal interests to provide operation and maintenance costs assigned to water supply storage provided under this section.

(g) "Low income community" defined

The term "low income community" means—

(1) a community with a population of less than 20,000 which is located in a county with a per capita income less than the per capita income of two-thirds of the counties in the United States; or

(2) a regional water system that serves a population of less than 100,000, for which the per capita income is less than the per capita income of not less than 50 percent of the counties in the United States.

(Pub. L. 101-640, title III, §322, Nov. 28, 1990, 104 Stat. 4643; Pub. L. 116-260, div. AA, title III, §350, Dec. 27, 2020, 134 Stat. 2716.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1990, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

AMENDMENTS

2020—Subsec. (b). Pub. L. 116-260, §350(1), substituted "3,000,000" for "2,000,000".

Subsec. (g). Pub. L. 116-260, §350(2), substituted "means—" for "means", inserted par. (1) designation before "a community", substituted ";; or" for period at end, and added par. (2).

Statutory Notes and Related Subsidiaries

"SECRETARY" DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 101-640, set out as a note under section 2201 of this title.

§ 2325. Voluntary contributions for environmental and recreation projects

(a) Acceptance

In connection with carrying out a water resources project for environmental protection and restoration or a water resources project for recreation, the Secretary is authorized to accept contributions of cash, funds, materials, and services from persons, including governmental entities but excluding the project sponsor.

(b) Deposit

Any cash or funds received by the Secretary under subsection (a) shall be deposited into the account in the Treasury of the United States entitled "Contributions and Advances, Rivers and Harbors, Corps of Engineers (8862)" and shall be available until expended to carry out water resources projects described in subsection (a).

(Pub. L. 102-580, title II, §203, Oct. 31, 1992, 106 Stat. 4826; Pub. L. 104-303, title II, §236(a), Oct. 12, 1996, 110 Stat. 3705.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 1992, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104-303 substituted "(8862)" for "(8662)".

Statutory Notes and Related Subsidiaries

"SECRETARY" DEFINED

Secretary means the Secretary of the Army, see section 3 of Pub. L. 102-580, set out as a note under section 2201 of this title.

§ 2325a. Authority to accept and use materials and services

(a) In general

Subject to subsection (b), the Secretary is authorized to accept and use materials, services, or funds contributed by a non-Federal public entity, a nonprofit entity, or a private entity to repair, restore, replace, or maintain a water resources project in any case in which the District Commander determines that—

(1) there is a risk of adverse impacts to the functioning of the project for the authorized purposes of the project; and

(2) acceptance of the materials and services or funds is in the public interest.

(b) Limitation

Any entity that contributes materials or services under subsection (a) shall not be eligible for credit or reimbursement for the value of such materials or services.

(c) Additional requirements

(1) Applicable laws and regulations

The Secretary may only use materials or services accepted under this section if such materials and services comply with all applicable laws and regulations that would apply if such materials and services were acquired by the Secretary.

(2) Supplementary services

The Secretary may only accept and use services under this section that provide supplementary services to existing Federal employees, and may only use such services to perform work that would not otherwise be accomplished as a result of funding or personnel limitations.

(d) Report

Not later than February 1 of each year after the first fiscal year in which materials, services,

or funds are accepted under this section, 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 an annual report that includes—

(1) a description of the activities undertaken, including the costs associated with the activities; and

(2) a comprehensive description of how the activities are necessary for maintaining a safe and reliable water resources project.

(Pub. L. 113–121, title I, §1024, June 10, 2014, 128 Stat. 1229; Pub. L. 114–322, title I, §1153, Dec. 16, 2016, 130 Stat. 1663.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Water Resources Reform and Development Act of 2014, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

AMENDMENTS

2016—Subsec. (a). Pub. L. 114–322, §1153(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: “Subject to subsection (b), the Secretary is authorized to accept and use materials and services contributed by a non-Federal public entity, a nonprofit entity, or a private entity for the purpose of repairing, restoring, or replacing a water resources development project that has been damaged or destroyed as a result of an emergency if the Secretary determines that the acceptance and use of such materials and services is in the public interest.”

Subsec. (c). Pub. L. 114–322, §1153(3), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 114–322, §1153(2), (4), redesignated subsec. (c) as (d) and, in introductory provisions, substituted “Not later than February 1 of each year after the first fiscal year in which materials, services, or funds are accepted under this section,” for “Not later than 60 days after initiating an activity under this section,” and “an annual report” for “a report”.

Statutory Notes and Related Subsidiaries

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113–121, set out as a note under section 2201 of this title.

§ 2325b. Materials, services, and funds for repair, restoration, or rehabilitation of projects

(a) Definitions

In this section:

(1) Covered area

The term “covered area” means an area—

(A) for which the Governor of a State has requested a determination that an emergency exists; or

(B) covered by an emergency or major disaster declaration declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) Emergency period

The term “emergency period” means—

(A) with respect to a covered area described in paragraph (1)(A), the period during which the Secretary determines an emergency exists; and

(B) with respect to a covered area described in paragraph (1)(B), the period during which the applicable declaration is in effect.

(b) In general

In any covered area, the Secretary is authorized to accept and use materials, services, and funds, during the emergency period, from a non-Federal interest or private entity to repair, restore, or rehabilitate a federally authorized water resources development project, and to provide reimbursement to such non-Federal interest or private entity for such materials, services, and funds, in the Secretary’s sole discretion, and subject to the availability of appropriations, if the Secretary determines that reimbursement is in the public interest.

(c) Additional requirement

The Secretary may only reimburse for the use of materials or services accepted under this section if such materials or services meet the Secretary’s specifications and comply with all applicable laws and regulations that would apply if such materials and services were acquired by the Secretary, including sections 3141 through 3148 and 3701 through 3708 of title 40, section 8302 of title 41, and the National Environmental Policy Act of 1969.

(d) Agreements

(1) In general

Prior to the acceptance of materials, services, or funds under this section, the Secretary and the non-Federal interest or private entity shall enter into an agreement that specifies—

(A) the non-Federal interest or private entity shall hold and save the United States free from any and all damages that arise from use of materials or services of the non-Federal interest or private entity, except for damages due to the fault or negligence of the United States or its contractors;

(B) the non-Federal interest or private entity shall certify that the materials or services comply with all applicable laws and regulations under subsection (c); and

(C) any other term or condition required by the Secretary.

(2) Exception

If an agreement under paragraph (1) was not entered prior to materials or services being contributed, a non-Federal interest or private entity shall enter into an agreement with the Secretary that—

(A) specifies the value, as determined by the Secretary, of those materials or services contributed and eligible for reimbursement; and

(B) ensures that the materials or services comply with subsection (c) and paragraph (1).

(Pub. L. 116–260, div. AA, title I, §130, Dec. 27, 2020, 134 Stat. 2642.)

Editorial Notes

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (a)(1)(B), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, which is classi-