

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-

fied principally to chapter 68 (§5121 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 5121 of Title 42 and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (c), 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.

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2020, 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 div. AA of Pub. L. 116-260, set out as a note under section 2201 of this title.

§ 2326. Regional sediment management

(a) In general

(1) Sediment use

(A) Sediment from Federal water resources projects

For sediment obtained through or used in the construction, operation, or maintenance of an authorized Federal water resources project, including a project authorized for flood control, the Secretary shall develop, at Federal expense, regional sediment management plans and carry out projects at locations identified in plans developed under this section, or identified jointly by the non-Federal interest and the Secretary, for use in the construction, repair, modification, or rehabilitation of projects, including projects for the beneficial use of dredged materials described in section 1122 of the Water Resources Development Act of 2016 (33 U.S.C. 2326 note),¹ associated with Federal water resources projects for purposes listed in paragraph (3).

(B) Sediment from other Federal sources and non-Federal sources

For purposes of projects carried out under this section, the Secretary may include sediment from other Federal sources and non-Federal sources, subject to the requirement that any sediment obtained from a non-Federal source shall not be obtained at Federal expense.

(2) Cooperation

The Secretary shall develop plans under this subsection in cooperation with the appropriate Federal, State, regional, and local agencies.

(3) Purposes for sediment use in projects

The purposes of using sediment for the construction, repair, modification, or rehabilitation of Federal water resources projects are—

- (A) to reduce storm damage to property;
- (B) to protect, restore, and create aquatic and ecologically related habitats, including wetlands; and

(C) to transport and place suitable sediment for the purposes of improving environmental conditions in marsh and littoral systems, stabilizing stream channels, enhancing shorelines, and supporting State and local risk management adaptation strategies.

(4) Reducing costs

To reduce or avoid Federal costs, the Secretary shall consider the beneficial use of dredged material in a manner that contributes to the maintenance of sediment resources in the nearby coastal system.

(b) Secretarial findings

Subject to subsection (c), projects carried out under subsection (a) may be carried out in any case in which the Secretary finds that—

- (1) the environmental, economic, and social benefits of the project, both monetary and nonmonetary, justify the cost of the project; and
- (2) the project will not result in environmental degradation.

(c) Determination of project costs

(1) Costs of construction

(A) In general

Costs associated with construction of a project under this section or identified in a regional sediment management plan shall be limited solely to construction costs that are in excess of the costs necessary to carry out the dredging for construction, operation, or maintenance of an authorized Federal water resources project in the most cost-effective way, consistent with economic, engineering, and environmental criteria.

(B) Cost sharing

(i) In general

Except as provided in clause (ii), the non-Federal share of the construction cost of a project under this section shall be determined as provided in subsections (a) through (d) of section 2213 of this title.

(ii) Special rule

Construction of a project under this section for one or more of the purposes of protection, restoration, or creation of aquatic and ecologically related habitat, the cost of which does not exceed \$750,000 and which is located in a disadvantaged community as determined by the Secretary, may be carried out at Federal expense.

(C) Total cost

The total Federal costs associated with construction of a project under this section may not exceed \$15,000,000.

(2) Operation, maintenance, replacement, and rehabilitation costs

Operation, maintenance, replacement, and rehabilitation costs associated with a project under this section are the responsibility of the non-Federal interest.

¹ See References in Text note below.