costs the Secretary advises, inserted reference to section 422e(b)(2) of this title as an exception to the costs which the organization must be able to finance other than by loan or grant, and struck out proviso that the contribution by the applicant organization shall not be required in excess of 25 per centum of the costs of the project which, if it were being constructed as a Federal reclamation project, would be properly allocable to reimbursable functions under general provisions of law applicable to such projects.

1957—Subsec. (c). Pub. L. 85–47, § 1(a), changed language generally, and struck out provisions which authorized Secretary to negotiate a contract as provided in section 422e of this title, with the provision that no such contract be executed by him prior to sixty days from date project proposal was submitted to both branches of Congress for committee consideration, and then only if neither committee disapproved proposal within the period, but that if both committees approved he could execute contract, and that if either committee disapproved, he could not proceed unless Congress approved.

Subsecs. (d), (e). Pub. L. 85–47, § 1(b), added subsec. (d) and redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by sections 304(a) and 305 of Pub. L. 99–546 applicable to all proposals for which final applications are received by Secretary after Jan. 1, 1986, and amendment by section 304(b) of Pub. L. 99–546 applicable to all proposals for which draft applications are received by Secretary after Aug. 15, 1986, see section 310 of Pub. L. 99–546, set out as a note under section 422a of this title.

RETROACTIVE EFFECT OF 1966 AMENDMENT

Amendment by Pub. L. 89–553 not to be applicable to or affect in any way the terms on which any loan or grant was made prior to the effective date of Pub. L. 89–553, Sept. 2, 1966, see section 2 of Pub. L. 89–553, set out as a note under section 422b of this title.

§ 422e. Contract requirements

Upon approval of any project proposal by the Secretary under the provisions of section 422d of this title, he may negotiate a contract which shall set out, among other things—

(a) the maximum amount of any loan to be made to the organization and the time and method of making the same available to the organization. Said loan shall not exceed the lesser of (1) two-thirds of the maximum allowable estimated total project cost as determined by section 422b(f) of this title, or (2) the estimated total cost of the project minus the contribution of the local organization as provided in section 422d(b) of this title and the amount of the grant approved;

(b) the maximum amount of any grant to be accorded the organization. Said grant shall not exceed the sum of the following: (1) the costs of investigations, surveys, and engineering and other services necessary to the preparation of proposals and plans for the project allocable to fish and wildlife enhancement or public recreation; (2) one-half the costs of acquiring lands or interests therein to serve exclusively the purposes of fish and wildlife enhancement or public recreation, plus the costs of acquiring joint use lands and interests therein properly allocable to fish and wildlife enhancement and public recreation; (3) one-half the costs of basic public outdoor recreation facilities or facilities serving fish and wildlife enhancement purposes exclusively; (4) one-half the costs of construction of joint use facilities properly allocable to fish and wildlife enhancement or public recreation; (5) that portion of the estimated cost of constructing the project which, if it were constructed as a Federal reclamation project, would be properly allocable to functions, other than recreation and fish and wildlife enhancement and flood control, which are nonreimbursable under general provisions of law applicable to such projects; and (6) that portion of the estimated cost of constructing the project which is allocable to flood control and which would be nonreimbursable under general provisions of law applicable to projects constructed by the Secretary of the Army.[1]

(c) a plan of repayment by the organization of (1) the sums lent to it in not more than forty years from the date when the principal benefits of the project first become available; (2) interest, as determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which the contract is executed, on the basis of the average market yields on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the applicable reimbursement period of the project, adjusted to the nearest one-eighth of 1 percent on the unamortized balance of any portion of the loan—

(A) which is attributable to furnishing irrigation benefits in each particular year to land held in private ownership by a qualified recipient or by a limited recipient, as such terms are defined in section 390bb of this title, in excess of three hundred and twenty irrigable acres; or,

(B) which is allocated to domestic, industrial, or municipal water supply, commercial power, fish and wildlife enhancement, or public recreation except that portion of such allocation attributable to furnishing benefits to a facility operated by an agency of the United States, which portion shall bear no interest.[1]

(d) provision for operation of the project, if a grant predicated upon its performance of nonreimbursable functions is made, in accordance with regulations with respect thereto prescribed by the head of the Federal department or agency primarily concerned with those functions and, in the event of noncompliance with such regulations, for operation by the United States or for repayment to the United States of the amount of any such grant;

(e) such provisions as the Secretary shall deem necessary or proper to provide assurance of and security for prompt repayment of the loan and interest as aforesaid. The liability of the United States under any contract entered into pursuant to this subchapter shall be contingent upon the availability of appropriations to carry out the same, and every such contract shall so recite; and

(f) provisions conforming to the preference requirements contained in the proviso to section 485h(c) of this title, if the project produces electric power for sale.

[1] So in original. The period probably should be a semicolon.

(Aug. 6, 1956, ch. 972, § 5, 70 Stat. 1046; Pub. L. 85–47, § 1(c), June 5, 1957, 71 Stat. 49; Pub. L. 89–553, § 1(4), Sept. 2, 1966, 80 Stat. 376; Pub. L. 92–167, § 1(3)–(6), Nov. 24, 1971, 85 Stat. 488; Pub. L. 94–181, § 1(f), Dec. 27, 1975, 89 Stat. 1050; Pub. L. 96–336, § 8(b), Sept. 4, 1980, 94 Stat. 1065; Pub. L. 97–293, title II, § 223, Oct. 12, 1982, 96 Stat. 1272; Pub. L. 99–546, title III, §§ 306, 307, Oct. 27, 1986, 100 Stat. 3054.)

AMENDMENTS

1986—Subsec. (b). Pub. L. 99–546, § 306, struck out ''and'' before ''(5)'' and substituted ''and flood control, which are nonreimbursable under general provisions of law applicable to such projects; and (6) that portion of the estimated cost of constructing the project which is allocable to flood control and which would be nonreimbursable under general provisions of law applicable to projects constructed by the Secretary of the Army.'' for '', which are nonreimbursable under general provisions of law applicable to such projects: *Provided*, That the cost of constructing the project as used in this subsection shall be exclusive of the cost of lands and interests in land;''.

Subsec. (c)(1). Pub. L. 99–546, § 307(a), substituted ''forty'' for ''fifty''.

Subsec. (c)(2). Pub. L. 99–546, § 307(b), amended cl. (2) generally. Prior to amendment, cl. (2) read as follows: ''interest, as determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which the contract is executed, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from date of issue, and by adjusting such average rate to the nearest one-eighth of 1 per centum, on that portion of the loan which is attributable to furnishing irrigation benefits in each particular year to land held in private ownership by a qualified recipient, as such term is defined in section 390bb of this title, in excess of nine hundred and sixty irrigable acres, or by a limited recipient, as such term is defined in section 390bb of this title, in excess of three hundred and twenty irrigable acres; and''.

Subsec. (c)(3). Pub. L. 99–546, § 307(c), struck out cl. (3) which read as follows: ''in the case of any project involving an allocation to domestic, industrial, or municipal water supply, commercial power, fish and wildlife enhancement, or public recreation, interest on the unamortized balance of an appropriate portion of the loan at a rate as determined in (2) above; Except that portion of said allocation attributable to furnishing benefits to a facility operated by an agency of the United States, which portion shall bear no interest;''.

1982—Subsec. (c)(2). Pub. L. 97–293 substituted ''by a qualified recipient, as such term is defined in section 390bb of this title, in excess of nine hundred and sixty irrigable acres, or by a limited recipient, as such term is defined in section 390bb of this title, in excess of three hundred and twenty irrigable acres'' for ''by any one owner in excess of one hundred and sixty irrigable acres''.

1980—Subsec. (c). Pub. L. 96–336 inserted ''Except that portion of said allocation attributable to furnishing benefits to a facility operated by an agency of the United States, which portion shall bear no interest;'' at end of subsec. (c).

1975—Subsec. (a)(1). Pub. L. 94–181 substituted ''two-thirds of the maximum allowable estimated total project cost as determined by section 422b(f) of this title,'' for ''$10,000,000''.

1971—Subsec. (a)(1). Pub. L. 92–167, § 1(3), substituted ''$10,000,000'' for ''$6,500,000''.

Subsec. (b)(2). Pub. L. 92–167, § 1(4), substituted provision for inclusion of one-half of land acquisition costs to serve exclusively the purposes of fish and wildlife enhancement and public recreation, for prior inclusion of such costs for a reservoir or other area to be operated for fish and wildlife enhancement and public recreation purposes and provided for inclusion of costs of acquiring joint use lands and interests therein properly allocable to fish and wildlife enhancement and public recreation.

Subsec. (b)(5). Pub. L. 92–167, § 1(5), inserted proviso excluding from cost of constructing projects, as used in this subsection, cost of lands and interests in land.

Subsec. (c)(3). Pub. L. 92–167, § 1(6), required reimbursable fish and wildlife and recreation costs to be repaid with interest at rate determined by formula set forth in subsec. (c)(2) of this section.

1966—Pub. L. 89–553 substituted the lesser of $6,500,000 or the estimated total cost of the project minus the contribution of the local organization as provided in section 422d(b) of this title and the amount of the grant for the portion of the estimated cost of constructing the project which, if it were being constructed as a Federal reclamation project, would be properly allocable to reimbursable functions under general provisions of law applicable to such projects as the maximum amount of the loan, struck out the time and method of paying a grant to an organization from the list of contract terms, added factors involving fish and wildlife enhancement and public recreation to the factors adding up to the figure comprising the maximum allowable grant, and altered the requirements of the interest term by substituting the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from date of issue for the estimate of the average annual yield to maturity, on the basis of daily closing market bid quotations or prices during the month of May preceding the fiscal year in which the loan is made, on all outstanding marketable obligations of the United States having a maturity date of fifteen or more years from May 1 of the year.

1957—Pub. L. 85–47 substituted ''Upon approval of any project proposal by the Secretary under the provisions of section 422d of this title, he may negotiate a contract which'' for ''Any contract authorized to be negotiated under the provisions of subsection (c) of section 422d of this title''.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–546 applicable to all proposals for which draft applications are received by Secretary after Aug. 15, 1986, see section 310 of Pub. L. 99–546, set out as a note under section 422a of this title.

RETROACTIVE EFFECT OF 1966 AMENDMENT

Amendment by Pub. L. 89–553 not to be applicable to or affect in any way the terms on which any loan or grant was made prior to the effective date of Pub. L. 89–553, Sept. 2, 1966, see section 2 of Pub. L. 89–553, set out as a note under section 422b of this title.

§ 422f. Proposals for projects previously authorized; waiver of requirements; approval; negotiation of contract

Any proposal with respect to the construction of a project which has theretofore been authorized for construction under the Federal reclamation laws shall be made in like manner as a proposal under section 422d of this title, but the Secretary may waive such requirements of subsections (a) and (b) of section 422d of this title as he finds to be duplicative of, or rendered unnecessary or impossible by, action already taken by the United States. Upon approval of any such proposal by the Secretary he may negotiate and execute a contract which conforms, as nearly as may be, to the provisions of section 422e of this title.

(Aug. 6, 1956, ch. 972, § 6, 70 Stat. 1046.)