

“(ii) ALLOCATION AMONG ELIGIBLE COUNTIES.—If the total amount of funds applied for under this subsection by eligible counties in a State exceeds the amount of funds available to the State, the State shall equitably allocate the funds among the eligible counties that apply for funds.

“(3) SUPPLEMENTARY FUNDING.—For each fiscal year, the Secretary shall ensure that funding made available under this subsection supplements (and does not supplant)—

“(A) any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations; and

“(B) any funding provided by a State to a county for road maintenance programs in the county.

“(4) USE OF UNALLOCATED FUNDS.—Any portion of the funds made available to a State under this subsection that is not made available to counties within 1 year after the funds are made available to the State shall be apportioned among the States in accordance with section 104(b) of title 23, United States Code.

“(5) FUNDING.—

“(A) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection \$1,800,000 for each of fiscal years 2005 through 2009.

“(B) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.”

INDIAN RESERVATION ROADS

Section 1032(d) of Pub. L. 102-240 provided that: “Notwithstanding any other provision of law, funds allocated for Indian reservation roads may be used for the purpose of funding road projects on roads of tribally controlled postsecondary vocational institutions.”

Pub. L. 102-240, title I, §1042, Dec. 18, 1991, 105 Stat. 1993, directed Secretary of Transportation to conduct a study on funding needs for Indian reservation roads and to report to Congress on results of the study not later than one year after Dec. 18, 1991, prior to repeal by Pub. L. 105-362, title XV, §1501(c), Nov. 10, 1998, 112 Stat. 3294.

STUDY AND REPORT ON METHOD OF ALLOCATING FUNDS

Section 1032(e) of Pub. L. 102-240 provided that: “The Secretary shall undertake a study to determine if the method for allocating funds authorized for Federal lands highways is adequate to meet the relative transportation needs of the Federal lands served. The report shall be submitted within 2 years of the date of the enactment of this Act [Dec. 18, 1991].”

FOREST HIGHWAYS

Pub. L. 100-17, title I, §134, Apr. 2, 1987, 101 Stat. 173, as amended by Pub. L. 100-202, §101(l) [title III, §348(a)], Dec. 22, 1987, 101 Stat. 1329-358, 1329-388, provided that: “Notwithstanding section 202(a) of title 23, United States Code, the Secretary shall, after making the transfer provided by section 204(g) of such title, as soon as practicable after the date of the enactment of this Act [Apr. 2, 1987] in fiscal year 1987 and on October 1 of each of fiscal years 1988, 1989, 1990, and 1991, allocate 66 percent of the remainder of the authorization for forest highways provided for such fiscal year by this Act [see Short Title of 1987 Amendment note set out under section 101 of this title] in the same percentage as the amounts allocated for expenditure in each State and the Commonwealth of Puerto Rico from funds authorized for forest highways for the fiscal year ending June 30, 1958, adjusted (1) to eliminate the 0.003243547 percent for the State of Iowa to the State by deed executed May 26, 1964, and (2) to redistribute the percentage formerly apportioned to the State of Iowa to other participating States on a proportional basis. The remaining funds authorized to be appropriated for forest highways for such fiscal year shall be allocated pursuant to section 202(a) of such title.”

§ 203. Availability of funds

Funds authorized for forest development roads and trails, public lands development roads and trails, park road, parkways, refuge roads, Indian reservation roads, and public lands highways shall be available for contract upon apportionment, or on October 1, of the fiscal year for which authorized if no apportionment is required. Any amount remaining unexpended for a period of three years after the close of the fiscal year for which authorized shall lapse. The Secretary of the Department charged with the administration of such funds is granted authority to incur obligations, approve projects, and enter into contracts under such authorizations and his action in doing so shall be deemed a contractual obligation of the United States for the payment of the cost thereof and such funds shall be deemed to have been expended when so obligated. Any funds heretofore or hereafter authorized for any fiscal year for forest development roads and trails, public lands development roads and trails, park road, parkways, refuge roads, Indian roads, and public lands highways shall be deemed to have been expended if a sum equal to the total of the sums authorized for such fiscal year and previous fiscal years since and including the fiscal year ending June 30, 1955, shall have been obligated. Any of such funds released by payment of final voucher or modification of project authorizations shall be credited to the balance of unobligated authorizations and be immediately available for expenditure. Notwithstanding any other provision of law, the authorization by the Secretary of engineering and related work for a Federal lands highways program project, or the approval by the Secretary of plans, specifications, and estimates for construction of a Federal lands highways program project, shall be deemed to constitute a contractual obligation of the Federal Government to pay the Federal share of the cost of the project.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 906; Pub. L. 86-657, §8(b), July 14, 1960, 74 Stat. 524; Pub. L. 87-866, §7, Oct. 23, 1962, 76 Stat. 1147; Pub. L. 94-280, title I, §117(b), May 5, 1976, 90 Stat. 437; Pub. L. 97-424, title I, §126(f), Jan. 6, 1983, 96 Stat. 2116; Pub. L. 102-240, title I, §1032(f), Dec. 18, 1991, 105 Stat. 1975; Pub. L. 105-178, title I, §1115(c), (e)(3), June 9, 1998, 112 Stat. 156, 158.)

AMENDMENTS

1998—Pub. L. 105-178 substituted “for forest development roads and trails” for “for, forest development roads and trails” in two places, inserted “refuge roads,” after “parkways,” in two places, and inserted at end “Notwithstanding any other provision of law, the authorization by the Secretary of engineering and related work for a Federal lands highways program project, or the approval by the Secretary of plans, specifications, and estimates for construction of a Federal lands highways program project, shall be deemed to constitute a contractual obligation of the Federal Government to pay the Federal share of the cost of the project.”

1991—Pub. L. 102-240 struck out “forest highways” before “, forest development roads” in two places.

1983—Pub. L. 97-424 substituted “park road” for “park roads and trails” wherever appearing.

1976—Pub. L. 94-280 substituted “or on October 1” for “or a date not earlier than one year preceding the beginning” in first sentence and “three years” for “two years” in second sentence.

1962—Pub. L. 87-866 inserted “public lands development roads and trails,” before “park roads and trails” in two places.

1960—Pub. L. 86-657 substituted “Funds authorized” for “Funds now authorized” in first sentence.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-240 effective Dec. 18, 1991, and applicable to funds authorized to be appropriated or made available after Sept. 30, 1991, and, with certain exceptions, not applicable to funds appropriated or made available on or before Sept. 30, 1991, see section 1100 of Pub. L. 102-240, set out as a note under section 104 of this title.

§ 204. Federal Lands Highways Program

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Recognizing the need for all Federal roads that are public roads to be treated under uniform policies similar to the policies that apply to Federal-aid highways, there is established a coordinated Federal lands highways program that shall apply to public lands highways, park roads and parkways, refuge roads, and Indian reservation roads and bridges.

(2) TRANSPORTATION PLANNING PROCEDURES.—In consultation with the Secretary of each appropriate Federal land management agency, the Secretary shall develop, by rule, transportation planning procedures that are consistent with the metropolitan and statewide planning processes required under sections 134 and 135.

(3) APPROVAL OF TRANSPORTATION IMPROVEMENT PROGRAM.—The transportation improvement program developed as a part of the transportation planning process under this section shall be approved by the Secretary.

(4) INCLUSION IN OTHER PLANS.—All regionally significant Federal lands highways program projects—

(A) shall be developed in cooperation with States and metropolitan planning organizations; and

(B) shall be included in appropriate Federal lands highways program, State, and metropolitan plans and transportation improvement programs.

(5) INCLUSION IN STATE PROGRAMS.—The approved Federal lands highways program transportation improvement program shall be included in appropriate State and metropolitan planning organization plans and programs without further action on the transportation improvement program.

(6) DEVELOPMENT OF SYSTEMS.—The Secretary and the Secretary of each appropriate Federal land management agency shall, to the extent appropriate, develop by rule safety, bridge, pavement, and congestion management systems for roads funded under the Federal lands highways program.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Funds made available for public lands highways, park roads and parkways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay the cost of—

(A) transportation planning, research, and engineering and construction of, highways,

roads, parkways, and transit facilities located on public lands, national parks, and Indian reservations; and

(B) operation and maintenance of transit facilities located on public lands, national parks, and Indian reservations.

(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a contract or other appropriate agreement with respect to such activity with—

(A) a State (including a political subdivision of a State); or

(B) an Indian tribe.

(3) INDIAN RESERVATION ROADS.—In the case of an Indian reservation road—

(A) Indian labor may be employed, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1); and

(B) funds made available to carry out this section may be used to pay bridge preconstruction costs (including planning, design, and engineering).

(4) FEDERAL EMPLOYMENT.—No maximum limitation on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

(5) AVAILABILITY OF FUNDS.—Funds made available under this section for each class of Federal lands highways shall be available for any transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, the areas served by the particular class of Federal lands highways.

(6) RESERVATION OF FUNDS.—The Secretary of the Interior may reserve funds from administrative funds of the Bureau of Indian Affairs that are associated with the Indian reservation roads program to finance Indian technical centers under section 504(b).

(c) Before approving as a project on an Indian reservation road any project eligible for funds apportioned under section 104 or section 144 of this title in a State, the Secretary must determine that the obligation of funds for such project is supplementary to and not in lieu of the obligation, for projects on Indian reservation roads, of a fair and equitable share of funds apportioned to such State under section 104 of this title. Notwithstanding any other provision of this title, of the amount of funds allocated for Indian reservation roads from the Highway Trust Fund, not more than 25 percent of the funds allocated to an Indian tribe may be expended for the purpose of maintenance, excluding road sealing which shall not be subject to any limitation. The Bureau of Indian Affairs shall continue to retain primary responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations. The Secretary shall ensure that funding made available under this subsection for maintenance of Indian reservation roads for each fiscal year is supplementary to and not in