to an authorized member of the armed forces or other authorized official of the Department of Defense or the Department of Justice.

(g) SCOPE OF ENFORCEMENT.—This section shall apply to the following:

(1) Any military or Department of Defense property disposed of after January 6, 2011, in a manner that is not in accordance with statutes and regulations governing Government property in effect at the time of the disposal of such property.

(2) Any significant military equipment disposed of on or after January 1, 2002, in a manner that is not in accordance with statutes and regulations governing Government property in effect at the time of the disposal of such significant military equipment.

(h) RULE OF CONSTRUCTION.—The authority of this section is in addition to any other authority of the United States with respect to property to which the United States may have right or title.

(i) DEFINITIONS.—In this section:

(1) The term ''significant military equipment'' means defense articles on the United States Munitions List for which special export controls are warranted because of their capacity for substantial military utility or capability.

(2) The term ''museum'' has the meaning given that term in section 273(1) of the Museum Services Act (20 U.S.C. 9172(1)).

(3) The term ''fully demilitarized'' means, with respect to equipment or material, the destruction of the military offensive or defensive advantages inherent in the equipment or material, including, at a minimum, the destruction or disabling of key points of such equipment or material, such as the fuselage, tail assembly, wing spar, armor, radar and radomes, armament and armament provisions, operating systems and software, and classified items.

(4) The term ''veterans organization'' means any organization recognized by the Secretary of Veterans Affairs for the representation of veterans under section 5902 of title 38.

(Added Pub. L. 111–383, div. A, title III, §355(a), Jan. 7, 2011, 124 Stat. 4195; amended Pub. L. 112–239, div. A, title X, §1076(e)(5), Jan. 2, 2013, 126 Stat. 1951.)

Editorial Notes

AMENDMENTS

2013—Subsec. (g)(1). Pub. L. 112–239 substituted ''after January 6, 2011,'' for ''on or after the date of the enactment of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011''.

[CHAPTER 167—REPEALED]

[§ 2791. Repealed. Pub. L. 104–201, div. A, title XI, § 1121(b), Sept. 23, 1996, 110 Stat. 2687]

Section, added Pub. L. 97–295, §1(50)(C), Oct. 12, 1982, 96 Stat. 1299, related to establishment and duties of Defense Mapping Agency.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

[§ 2792. Renumbered § 451]

[§ 2793. Renumbered § 452]

[§ 2794. Renumbered § 453]

[§ 2795. Renumbered § 454]

[§ 2796. Renumbered § 455]

[§ 2797. Repealed. Pub. L. 104–201, div. A, title XI, § 1121(b), Sept. 23, 1996, 110 Stat. 2687]

Section, added Pub. L. 103–337, div. A, title X, §1074(a), Oct. 5, 1994, 108 Stat. 2861, related to unauthorized use of Defense Mapping Agency name, initials, or seal.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

[§ 2798. Renumbered § 456]

CHAPTER 169—MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING

Subchapter		Sec.
I.	Military Construction	2801
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Editorial Notes

AMENDMENTS

2019—Pub. L. 116–92, div. B, title XXX, §3011(c)(2), Dec. 20, 2019, 133 Stat. 1920, added item for subchapter V.

1996—Pub. L. 104–106, div. B, title XXVIII, §2801(a)(2), Feb. 10, 1996, 110 Stat. 551, added item for subchapter IV.

SUBCHAPTER I—MILITARY CONSTRUCTION

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2813. Acquisition of existing facilities in lieu of authorized construction.
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2818. Contracts for design and construction of facilities of Department of Defense.
2819. Strategy and assessment with respect to nonoperational, underutilized, and other Department of Defense facilities: assessments of historical significance.

Editorial Notes

AMENDMENTS

2024—Pub. L. 118–159, div. B, title XXVIII, §§2822(a), 2843, 2847(a)(1), Dec. 23, 2024, 138 Stat. 2254, 2263, 2264, substituted ''Stormwater management, shoreline erosion control, and water resilience projects for installations and defense access roads'' for ''Stormwater management projects for installation and defense access road resilience and waterway and ecosystems conservation'' in item 2815a and added items 2818 and 2819. Amendments were made pursuant to operation of section 102 of this title.

2023—Pub. L. 118–31, div. B, title XXVIII, §2805, Dec. 22, 2023, 137 Stat. 744, added item 2817. Amendment was made pursuant to operation of section 102 of this title.

2022—Pub. L. 117–263, div. B, title XXVIII, §2805(b), Dec. 23, 2022, 136 Stat. 2995, added item 2810.

2021—Pub. L. 117–81, div. B, §2003(b), title XXVIII, §2803, Dec. 27, 2021, 135 Stat. 2162, 2186, added item 2815a.

Pub. L. 116–283, div. A, title X, §1081(c)(9), div. B, title XXVIII, §2804(b), Jan. 1, 2021, 134 Stat. 3873, 4321, added item 2816 and amended directory language of Pub. L. 116–92, §2801(b)(2). See 2019 Amendment note below.

2019—Pub. L. 116–92, div. B, title XXVIII, §2801(b)(2), Dec. 20, 2019, 133 Stat. 1881, as amended by Pub. L. 116–283, div. A, title X, §1081(c)(9), Jan. 1, 2021, 134 Stat. 3873, added item 2815.

2011—Pub. L. 112–81, div. A, title X, §1061(23)(B), Dec. 31, 2011, 125 Stat. 1584, struck out item 2815 ''Joint use military construction projects: annual evaluation''.

2002—Pub. L. 107–314, div. A, title III, §313(d)(2), Dec. 2, 2002, 116 Stat. 2508, struck out item 2810 ''Construction projects for environmental response actions''.

2000—Pub. L. 106–398, §1 [div. B, title XXVIII, §2801(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–412, added item 2815.

1999—Pub. L. 106–65, div. B, title XXVIII, §2802(a)(2), Oct. 5, 1999, 113 Stat. 848, added item 2814.

1996—Pub. L. 104–201, div. B, title XXVIII, §2802(c)(2), Sept. 23, 1996, 110 Stat. 2787, substituted ''Organizations Security Investment'' for ''Organization Infrastructure'' in item 2806.

Pub. L. 104–106, div. A, title XV, §1503(a)(31), Feb. 10, 1996, 110 Stat. 512, inserted period at end of item 2811.

1994—Pub. L. 103–337, div. B, title XXVIII, §2801(b), Oct. 5, 1994, 108 Stat. 3050, substituted ''Repair'' for ''Renovation'' in item 2811.

1993—Pub. L. 103–160, div. B, title XXVIII, §2805(a)(2), Nov. 30, 1993, 107 Stat. 1887, added item 2813.

1991—Pub. L. 102–190, div. B, title XXVIII, §2805(a)(2), Dec. 5, 1991, 105 Stat. 1538, substituted ''Long-term facilities contracts for certain activities and services'' for ''Test of long-term facilities contracts'' in item 2809.

1989—Pub. L. 101–189, div. B, title XXVIII, §2809(b), Nov. 29, 1989, 103 Stat. 1650, added item 2812.

1987—Pub. L. 100–26, §7(e)(3), Apr. 21, 1987, 101 Stat. 281, redesignated item 2810 ''Renovation of facilities'' as item 2811.

1986—Pub. L. 99–661, div. A, title III, §315(b), Nov. 14, 1986, 100 Stat. 3854, added item 2810 ''Renovation of facilities''.

Pub. L. 99–499, title II, §211(b)(2), Oct. 17, 1986, 100 Stat. 1726, added item 2810 ''Construction projects for environmental response actions''.

1985—Pub. L. 99–167, title VIII, §811(b), Dec. 3, 1985, 99 Stat. 991, added item 2809.

§ 2801. Scope of chapter; definitions

(a) The term ''military construction'' as used in this chapter or any other provision of law includes any construction, development, conversion, or extension of any kind carried out with respect to a military installation, whether to satisfy temporary or permanent requirements, or any acquisition of land or construction of a defense access road (as described in section 210 of title 23).

(b) A military construction project includes all military construction work, or any contribution authorized by this chapter, necessary to produce a complete and usable facility or a complete and usable improvement to an existing facility (or to produce such portion of a complete and usable facility or improvement as is specifically authorized by law).

(c) In this chapter and chapter 173 of this title:

(1) The term ''appropriate committees of Congress'' means the congressional defense committees and, with respect to any project to be carried out by, or for the use of, an intelligence component of the Department of Defense, the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(2) The term ''facility'' means a building, structure, or other improvement to real property.

(3) The term ''life-cycle cost-effective'', with respect to a project, product, or measure, means that the sum of the present values of investment costs, capital costs, installation costs, energy costs, operating costs, maintenance costs, and replacement costs, as estimated for the lifetime of the project, product, or measure, does not exceed the base case (current or standard) for the practice, product, or measure.

(4) The term ''military installation'' means a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department or, in the case of an activity in a foreign country, under the operational control of the Secretary of a military department or the Secretary of Defense, without regard to the duration of operational control.

(5) The term ''Secretary concerned'' includes the Secretary of Defense with respect to matters concerning the Defense Agencies.

(d) This chapter (other than sections 2830,[1] 2835, and 2836 of this chapter) does not apply to the Coast Guard or to civil works projects of the Army Corps of Engineers.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 153; amended Pub. L. 100–26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 100–180, div. A, title

[1] See References in Text note below.

VI, § 632(b)(1), title XII, § 1231(15), div. B, subdiv. 3, title I, § 2306(b), Dec. 4, 1987, 101 Stat. 1105, 1160, 1216; Pub. L. 102–484, div. A, title X, § 1052(37), Oct. 23, 1992, 106 Stat. 2501; Pub. L. 102–496, title IV, § 403(b), Oct. 24, 1992, 106 Stat. 3185; Pub. L. 104–106, div. A, title XV, § 1502(a)(10), Feb. 10, 1996, 110 Stat. 503; Pub. L. 106–65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–136, div. A, title X, § 1043(b)(16), div. B, title XXVIII, § 2801, Nov. 24, 2003, 117 Stat. 1611, 1719; Pub. L. 109–163, div. A, title X, § 1056(c)(9), Jan. 6, 2006, 119 Stat. 3440; Pub. L. 109–364, div. B, title XXVIII, § 2851(b)(4), Oct. 17, 2006, 120 Stat. 2495; Pub. L. 110–181, div. B, title XXVIII, § 2802(b), Jan. 28, 2008, 122 Stat. 539; Pub. L. 110–417, div. B, title XXVIII, § 2801(a), Oct. 14, 2008, 122 Stat. 4719.)

Editorial Notes

References in Text

Section 2830 of this chapter, referred to in subsec. (d), was repealed by Pub. L. 116–283, div. B, title XXVIII, § 2812(a), Jan. 1, 2021, 134 Stat. 4326.

Amendments

2008—Subsec. (a). Pub. L. 110–181 inserted '', or any acquisition of land or construction of a defense access road (as described in section 210 of title 23)'' before period at end.

Subsec. (c). Pub. L. 110–417 added par. (3) and redesignated former pars. (4), (1), (2), and (3) as (1), (2), (4), and (5), respectively.

2006—Subsec. (c). Pub. L. 109–364 inserted ''and chapter 173 of this title'' after ''this chapter'' in introductory provisions.

Subsec. (d). Pub. L. 109–163 substituted ''sections 2830, 2835, and 2836 of this chapter'' for ''sections 2830 and 2835''.

2003—Subsec. (a). Pub. L. 108–136, § 2801(a), inserted before period at end '', whether to satisfy temporary or permanent requirements''.

Subsec. (c)(2). Pub. L. 108–136, § 2801(b), inserted before period at end '', without regard to the duration of operational control''.

Subsec. (c)(4). Pub. L. 108–136, § 1043(b)(16), substituted ''the congressional defense committees'' for ''the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives''.

1999—Subsec. (c)(4). Pub. L. 106–65 substituted ''and the Committee on Armed Services'' for ''and the Committee on National Security''.

1996—Subsec. (c)(4). Pub. L. 104–106 substituted ''the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the'' for ''the Committees on Armed Services and on Appropriations of the Senate and''.

1992—Subsec. (c)(4). Pub. L. 102–496 inserted before period at end ''and, with respect to any project to be carried out by, or for the use of, an intelligence component of the Department of Defense, the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate''.

Subsec. (d). Pub. L. 102–484 substituted ''sections 2830 and 2835'' for ''sections 2828(g) and 2830''.

1987—Subsec. (c). Pub. L. 100–26 inserted ''The term'' after each par. designation and struck out uppercase letter of first word after first quotation marks in pars. (1), (2), and (4) and substituted lowercase letter.

Subsec. (c)(3). Pub. L. 100–180, § 1231(15), substituted ''Defense Agencies'' for ''defense agencies''.

Subsec. (d). Pub. L. 100–180, § 2306(b), substituted ''(other than sections 2828(g) and 2830)'' for ''(other than section 2830)''.

Pub. L. 100–180, § 632(b)(1), inserted ''(other than section 2830)'' after ''This chapter''.

Statutory Notes and Related Subsidiaries

Effective Date

Pub. L. 97–214, § 12, July 12, 1982, 96 Stat. 176, provided: ''(a) Except as provided in subsection (b), the amendments made by this Act [see Short Title of 1982 Amendment note below] shall take effect on October 1, 1982, and shall apply to military construction projects, and to construction and acquisition of military family housing, authorized before, on, or after such date.

''(b) The amendment made by section 4 [amending section 138(f)(1) [now 114(b)] of this title] shall apply with respect to funds appropriated for fiscal years beginning after September 30, 1983.''

Short Title of 1982 Amendment

Pub. L. 97–214, § 1, July 12, 1982, 96 Stat. 153, provided that: ''This Act [see Tables for classification] may be cited as the 'Military Construction Codification Act'.''

Transfer of Functions

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Plan and Report on Critical Infrastructure Systems at Military Installations

Pub. L. 118–31, div. B, title XXVIII, § 2853, Dec. 22, 2023, 137 Stat. 763, provided that:

''(a) Plan.—Not later than one year after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense, in coordination with each Secretary of a military department, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan to implement a standardized system to measure and report on the condition and performance of, the level of investment in, and any applicable risks to critical infrastructure systems owned by the Federal Government that—

''(1) have not been privatized or transferred pursuant to a conveyance under section 2688 of title 10, United States Code; and

''(2) are located on a military installation (as defined in section 2801 of such title).

''(b) Report.—

''(1) In general.—Beginning on February 1 of the year immediately following the date on which the plan under subsection (a) is submitted, and annually thereafter, the Secretary of Defense, in coordination with each Secretary of a military department, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a consolidated report on the condition of critical infrastructure systems owned by the Federal Government located at military installations.

''(2) Elements.—Each report required by paragraph (1) shall include the following:

''(A) Installation-level data for each critical infrastructure system described in paragraph (1) that includes the following for each such system:

''(i) For the five-year period preceding the date of submission of the report, all instances of noncompliance of such system with any applicable Federal or State law or regulation, including information on any prior or current consent order or equivalent compliance agreement with any Federal or State regulatory agency.

''(ii) The year of original installation of critical infrastructure system components, including treatment facilities, pump stations, and storage tanks.

''(iii) The average age of distribution system piping and wiring.

''(iv) The rate of system recapitalization, represented as an annual percentage replacement rate of all critical infrastructure system assets.

''(v) For the one-year period preceding the date of submission of the report, the percentage of key system operational components (including fire hydrants, valves, and backflow preventors) inspected and determined through testing to be fully operational.

''(vi) For the one-year period preceding the date of submission of the report, the absolute number, and a normalized measure for comparative purposes, of all unplanned system outages.

''(vii) For the one-year period preceding the date of submission of the report, the absolute duration, and a normalized measure for comparative purposes, of all unplanned system outages.

''(viii) For the one-year period preceding the date of submission of the report, the absolute number, and a normalized measure for comparative purposes, of all critical infrastructure system main breaks and leaks.

''(B) A standardized risk assessment for each military installation, identifying the current and projected level of risk related to the following:

''(i) The ability to maintain compliance with applicable current and proposed State regulations and standards and applicable regulations and policies of the Department of Defense and the military departments related to each critical infrastructure system described in paragraph (1), and the ability to operate critical infrastructure systems in accordance with accepted industry standards.

''(ii) The ability to maintain a consistent and compliant supply of water for current and projected future installation needs based on current and projected source water availability and quality, including an assessment of source water contamination risks for each critical infrastructure system described in paragraph (1).

''(iii) The ability of each critical infrastructure system described in paragraph (1) to withstand severe weather events, including drought, flooding, and temperature fluctuations.

''(iv) The ability for utility industrial controls systems for each critical infrastructure system described in paragraph (1) to maintain compliance with applicable current and proposed cybersecurity standards and regulations.

''(3) FORM.—A report under this subsection shall be submitted in an unclassified form but may contain a classified annex.

''(c) CRITICAL INFRASTRUCTURE SYSTEM DEFINED.—In this section, the term 'critical infrastructure system' includes a transportation infrastructure system and a utilities infrastructure system.''

PILOT PROGRAM TO SUPPORT COMBATANT COMMAND MILITARY CONSTRUCTION PRIORITIES

Pub. L. 116–283, div. B, title XXVIII, § 2863, Jan. 1, 2021, 134 Stat. 4358, provided that:

''(a) PILOT PROGRAM.—The Secretary of Defense shall conduct a pilot program to evaluate the usefulness of reserving a portion of the military construction funds of the military departments to help the combatant commands satisfy their military construction priorities in a timely manner.

''(b) LOCATION.—The Secretary of Defense shall conduct the pilot program for the benefit of the United States Indo-Pacific Command in the area of responsibility of the United States Indo-Pacific Command.

''(c) REQUIRED INVESTMENT.—For each fiscal year during which the pilot program is conducted, the Secretary of Defense shall reserve to carry out military construction projects under the pilot program an amount equal to 10 percent of the total amount authorized to be appropriated for military construction projects by titles XXI, XXII, and XXIII of the Military Construction Authorization Act for that fiscal year.

''(d) COMMENCEMENT AND DURATION.—

''(1) COMMENCEMENT.—The Secretary of Defense shall commence the pilot program no later than October 1, 2023. The Secretary may commence the pilot program as early as October 1, 2022, if the Secretary determines that compliance with the reservation of funds requirement under subsection (c) is practicable beginning with fiscal year 2023.

''(2) DURATION.—The pilot program shall be in effect for the fiscal year in which the Secretary commences the pilot program, as described in paragraph (1), and the subsequent two fiscal years. Any construction commenced under the pilot program before the expiration date may continue to completion.

''(e) PROGRESS REPORT.—Not later than February 15 of the final fiscal year of the pilot program, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report evaluating the success of the pilot program in improving the timeliness of the United States Indo-Pacific Command in achieving its military construction priorities. The Secretary shall include in the report—

''(1) an evaluation of the likely positive and negative impacts were the pilot program extended or made permanent and, if extended or made permanent, the likely positive and negative impacts of expansion to cover all or additional combatant commands; and

''(2) the recommendations of the Secretary regarding whether the pilot program should be extended or made permanent and expanded.''

PERMITTING MACHINE ROOM-LESS ELEVATORS IN DEPARTMENT OF DEFENSE FACILITIES

Pub. L. 115–91, div. B, title XXVIII, § 2875, Dec. 12, 2017, 131 Stat. 1871, provided that:

''(a) IN GENERAL.—The Secretary of Defense shall issue modifications to all relevant construction and facilities specifications to ensure that machine room-less elevators (MRLs) are not prohibited in buildings and facilities throughout the Department of Defense, including modifications to the Unified Facilities Guide Specifications (UFGS), the Naval Facilities Engineering Command Interim Technical Guidance, and the Army Corps of Engineers Engineering and Construction Bulletin.

''(b) CONFORMING TO BEST PRACTICES.—In addition to the modifications required under subsection (a), the Secretary may issue further modifications to conform generally with commercial best practices as reflected in the safety code for elevators and escalators as issued by the American Society of Mechanical Engineers.

''(c) DEADLINES.—The Secretary shall promulgate interim MRL standards not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], and shall issue final and formal MRL specifications not later than 1 year after the date of the enactment of this Act.

''(d) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall issue a report to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on the integration and utilization of MRLs, including information on quantity, location, problems, and successes.''

§ 2802. Military construction projects

(a) The Secretary of Defense and the Secretaries of the military departments may carry out such military construction projects, land acquisitions, and defense access road projects (as described under section 210 of title 23) as are authorized by law.

(b) Authority provided by law to carry out a military construction project includes authority for—

(1) surveys and site preparation;

(2) acquisition, conversion, rehabilitation, and installation of facilities;

(3) acquisition and installation of equipment and appurtenances integral to the project;

(4) acquisition and installation of supporting facilities (including utilities) and appurtenances incident to the project; and

(5) planning, supervision, administration, and overhead incident to the project.

(c) In determining the scope of a proposed military construction project, the Secretary concerned shall submit to the President such recommendations as the Secretary considers to be appropriate regarding the incorporation and inclusion of life-cycle cost-effective practices as an element in the project documents submitted to Congress in connection with the budget submitted pursuant to section 1105 of title 31 for the fiscal year in which a contract is proposed to be awarded for the project.

[(d) Repealed. Pub. L. 114–328, div. B, title XXVIII, §2811(b), Dec. 23, 2016, 130 Stat. 2716.]

(e)(1) If a construction project, land acquisition, or defense access road project described in paragraph (2) will be carried out pursuant to a provision of law other than a Military Construction Authorization Act, the Secretary concerned shall—

(A) comply with the congressional notification requirement contained in the provision of law under which the construction project, land acquisition, or defense access road project will be carried out and submit to the congressional defense committees any materials required to be submitted to Congress or any other congressional committees pursuant to the congressional notification requirement; or

(B) in the absence of such a congressional notification requirement, submit to the congressional defense committees, in an electronic medium pursuant to section 480 of this title, a report describing the construction project, land acquisition, or defense access road project at least 15 days before commencing the construction project, land acquisition, or defense access road project.

(2) Except as provided in paragraph (3), a construction project, land acquisition, or defense access road project subject to the notification requirement imposed by paragraph (1) is a construction project, land acquisition, or defense access road project that—

(A) is not specifically authorized in a Military Construction Authorization Act;

(B) will be carried out by a military department, Defense Agency, or Department of Defense Field Activity; and

(C) will be located on a military installation.

(3) This subsection does not apply to a construction project, land acquisition, or defense access road project described in paragraph (2) whose cost is less than or equal to the threshold amount specified in section 2805(b) of this title.

(f)(1) In addition to any other applicable consultation requirement pursuant to law or Department of Defense policy, if a proposed military construction project is likely to significantly impact tribal lands, known sacred sites, or tribal treaty rights, the Secretary concerned shall initiate consultation with the tribal government of each impacted Indian tribe—

(A) to determine the nature and extent of such impact;

(B) to determine whether such impact can be avoided or mitigated in the design and implementation of the project; and

(C) if such impact cannot be avoided, to develop feasible measures consistent with applicable law to mitigate the impact and estimate the cost of the mitigation measures.

(2) As part of the Department of Defense Form 1391 submitted to the appropriate committees of Congress for a military construction project covered by paragraph (1), the Secretary concerned, to the extent possible at the time of such submission, shall include a description of the current status of the consultation conducted under such paragraph and specifically address each of the items specified in subparagraphs (A), (B), and (C) of such paragraph.

(3) The requirement under paragraph (1) does not affect the obligation of the Secretary concerned to comply with any other applicable consultation requirement pursuant to law or Department of Defense policy.

(4) In this subsection:

(A) The term ''Indian tribe'' has the meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(B) The term ''tribal government'' means the recognized governing body of an Indian tribe.

(C) The term ''sacred site'' has the meaning given that term in Executive Order No. 13007, as in effect on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 154; amended Pub. L. 110–181, div. B, title XXVIII, §2802(a), Jan. 28, 2008, 122 Stat. 539; Pub. L. 110–417, div. B, title XXVIII, §2801(b), Oct. 14, 2008, 122 Stat. 4719; Pub. L. 113–66, div. B, title XXVIII, §2807(c), Dec. 26, 2013, 127 Stat. 1012; Pub. L. 113–291, div. B, title XXVIII, §§2801, 2803(b), Dec. 19, 2014, 128 Stat. 3695, 3697; Pub. L. 114–328, div. B, title XXVIII, §2811(b), (c), Dec. 23, 2016, 130 Stat. 2716; Pub. L. 115–91, div. A, title X, §1081(d)(15), Dec. 12, 2017, 131 Stat. 1600; Pub. L. 115–232, div. B, title XXVIII, §2803, Aug. 13, 2018, 132 Stat. 2261; Pub. L. 116–92, div. A, title XVII, §1731(a)(53), div. B, title XXVIII, §2802, Dec. 20, 2019, 133 Stat. 1815, 1881.)

Editorial Notes

REFERENCES IN TEXT

Executive Order No. 13007, referred to in subsec. (f)(4)(C), is Ex. Ord. No. 13007, May 24, 1996, 61 F.R. 26771, which is set out as a note under section 1996 of Title 42, The Public Health and Welfare.

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2020, referred to in subsec. (f)(4)(C), is the date of enactment of Pub. L. 116–92, which was approved Dec. 20, 2019.

AMENDMENTS

2019—Subsec. (e)(1). Pub. L. 116–92, §1731(a)(53), substituted ''shall—'' for ''shall'' and inserted subpar. (A) designation before ''comply with the congressional notification requirement''.

Subsec. (f). Pub. L. 116–92, § 2802, added subsec. (f).

2018—Subsec. (e)(1). Pub. L. 115–232 substituted ''Secretary concerned shall'' for ''Secretary concerned shall—'', struck out subpar. (A) designation before ''comply with the congressional notification requirement'', and inserted ''and submit to the congressional defense committees any materials required to be submitted to Congress or any other congressional committees pursuant to the congressional notification requirement'' after ''road project will be carried out''.

2017—Subsec. (d). Pub. L. 115–91, § 1081(d)(15), amended Pub. L. 114–328, § 2811(c). See 2016 Amendment note below.

2016—Subsec. (d). Pub. L. 114–328, § 2811(b), struck out subsec. (d) which related to requirements for military construction projects funded through payments-in-kind or in-kind contributions, inclusion of such projects in budget justification documents, and exceptions to those requirements.

Pub. L. 114–328, § 2811(c), as amended by Pub. L. 115–91, § 1081(d)(15), repealed Pub. L. 113–291, § 2803(b). See 2014 Amendment note below.

2014—Subsec. (d). Pub. L. 113–291, § 2803(b), which substituted ''payments-in-kind or in-kind contributions'' for ''payment-in-kind contributions'' in par. (1), added par. (3) and struck out former par. (3) which described certain military construction projects to which subsec. (d) did not apply, and substituted ''paragraph (3), by reference to section 2687a(f)(4)(D) of this title,'' for ''paragraph (3)(C)'' in par. (4), was repealed by Pub. L. 114–328, § 2811(c), as amended by Pub. L. 115–91, § 1081(d)(15).

Subsec. (e). Pub. L. 113–291, § 2801, added subsec. (e).

2013—Subsec. (d). Pub. L. 113–66 added subsec. (d).

2008—Subsec. (a). Pub. L. 110–181 inserted '', land acquisitions, and defense access road projects (as described under section 210 of title 23)'' after ''military construction projects''.

Subsec. (c). Pub. L. 110–417 added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title X, § 1081(d), Dec. 12, 2017, 131 Stat. 1599, provided that the amendment made by section 1081(d)(15) is effective as of Dec. 23, 2016, and as if included in Pub. L. 114–328 as enacted.

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

PILOT PROGRAM TO OPTIMIZE AND CONSOLIDATE DEPARTMENT OF DEFENSE FACILITIES TO IMPROVE HEALTH AND RESILIENCY IN DEFENSE COMMUNITIES

Pub. L. 118–159, div. B, title XXVIII, § 2848, Dec. 23, 2024, 138 Stat. 2266, provided that:

''(a) ESTABLISHMENT.—Using funds available for minor military construction, the Secretary of Defense may conduct a pilot program to—

''(1) conduct a study to assess the feasability [sic] and effectiveness of the implementation of a more comprehensive initiative to optimize the total square footage of facilities maintained by the Department of Defense; and

''(2) subject to the requirements of subsection (b) carry out military construction projects, not otherwise authorized by law, to—

''(A) optimize and consolidate facilities, including leased facilities, to ensure the scale and scope of the infrastructure footprint of such facilities aligns with the operational needs of the Department; and

''(B) create more resilient and healthy communities located on military installations.

''(b) MILITARY CONSTRUCTION PROJECTS AUTHORIZED.—

''(1) REQUIREMENTS.—The Secretary may carry out a military construction project under such pilot program if—

''(A) the facilities subject to such a military construction project are occupied as of the date of the commencement of such military construction project;

''(B) except as provided in paragraph (2), such facilities are demolished pursuant to such military construction project;

''(C) in the case of a facility subject to such a military construction project that is leased by the Department, the Secretary terminates the lease for such facility, expect as provided in paragraph (2); and

''(D) the military construction project will result in new facilities that have at least 20 percent less square footage (or equivalent unit of measure) than the facilities subject to such military construction project;

''(E) the Secretary conducts an economic analysis of the military construction project that accounts for anticipated cost requirements for the design, construction, sustainment, restoration, modernization, operation, and demolition of new and existing facilities subject to such military construction project; and

''(F) the results of such economic analysis support a positive net present value over a 20-year period.

''(2) EXCEPTION.—The requirements of subparagraphs (B) and (C) of paragraph (1) shall not apply to a facility that is subject to a military construction project under the pilot program if the Secretary determines that such facility will be an integral part of new facilities constructed pursuant to such military construction project.

''(3) PROJECT COST.—A military construction project carried out under such pilot program may not exceed a total cost of $25,000,000.

''(4) LIMITATION.—Not more than five military construction projects may be carried out under the pilot program.

''(c) CONGRESSIONAL NOTIFICATION.—

''(1) IN GENERAL.—Not later than 14 days before awarding a contract for a military construction project under such pilot program, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] notice of such military construction project.

''(2) ELEMENTS.—Such notice shall include, with respect to the military construction project covered by such notice—

''(A) the justification and current cost estimate;

''(B) the expected savings-to-investment ratio;

''(C) simple payback estimates;

''(D) the measurement and verification cost estimate; and

''(E) a description of how the project would improve the functions of the supported military department and the efficient management of real property of the Department of Defense.

''(d) REPORT.—

''(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this section [Dec. 23, 2024], the Secretary shall submit to the congressional defense committees a report on completed military construction projects carried out pursuant to the pilot program.

''(2) ELEMENTS.—Such report shall include, for each military construction project covered by the report, the following:

''(A) The title and location of the military construction project, a brief description of the scope of work, the original project cost estimate, and the completed total project cost.

''(B) The original expected savings-to-investment ratio, simple payback estimates included in the notice required under subsection (c), annual recurring savings, 20-year net present value, annual return on investment, and measurement and verification cost estimate.

''(C) The actual savings-to-investment ratio, and simple payback estimates, annual recurring savings, 20-year net present value, annual return on investment, and measurement and verification cost estimate.

''(D) A brief description of the measurement and verification plan and planned funding source, to include the net change in the square footage (or other unit of measure) reduction accomplished by the military construction project.

''(E) How the military construction project improved the functions of and the efficient management of real property by the supported military department or entity using the applicable facility.

''(F) Such other information as the Secretary considers appropriate.

''(e) SUNSET.—

''(1) TERMINATION DATE.—Except as provided in paragraph (2), the authority of the Secretary to carry out a military construction project under the pilot program shall terminate on the date that is three years after the date of the enactment of this section.

''(2) EXCEPTION.—If the Secretary submits a congressional notification under subsection (d) before the date that is three years after the date of the enactment of this section, the covered project that is the subject of such notification may be carried out to completion.

''(f) DEFINITIONS.—In this section, the terms 'facility' and 'military construction project' have the meanings given such terms, respectively, in section 2801 of title 10, United States Code.''

GUIDANCE REGARDING MAINTENANCE OF AGGREGATE SQUARE FOOTAGE OF FACILITIES OF DEPARTMENT OF DEFENSE

Pub. L. 118–159, div. B, title XXVIII, §2849, Dec. 23, 2024, 138 Stat. 2268, provided that:

''(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall issue guidance regarding the maintenance of the aggregate square footage of facilities of the Department of Defense, which shall be designated as '1 in 1 out guidance', pursuant to the requirements of this section.

''(b) MAINTENANCE OF SQUARE FOOTAGE.—Guidance required under subsection (a) shall ensure that every square footage of growth of a facility is offset with an equivalent reduction in square footage by—

''(1) a funded disposal action; or

''(2) identifying facilities to be entered into a contingency operational status.

''(c) DOCUMENTATION.—Upon completion of the design phase of a project that results in the growth of a facility, the Secretary of Defense shall update the Department of Defense Form 1391 for such project to identify the reduction in square footage to accompany such increase.

''(d) SUBMISSION.—Not later than 15 days after the date of submission of the defense budget materials for fiscal year 2026 (as submitted to Congress in support of the budget of the President under section 1105(a) of title 31, United States Code), and for each subsequent submission thereafter, each Secretary of a military department shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]—

''(1) a list of facilities scheduled for a disposal action described in subsection (b) for the fiscal year covered by the submission and the subsequent fiscal year; and

''(2) a list of facilities, disaggregated by military installation, for which a disposal action has been completed during the fiscal year preceding the date of the submission.

''(e) APPLICATION.—This section and the requirements of this section shall apply to—

''(1) military construction or unspecified minor military construction (as defined under section 2805 of title 10, United States Code) funded in fiscal year 2027 or a subsequent fiscal year; and

''(2) other sources of growth on or after the date of the enactment of this Act [Dec. 23, 2024].

''(f) EXCEPTIONS.—This section and the requirements of this section do not apply to the following:

''(1) The Sentinel intercontinental ballistic missile weapon system program.

''(2) Public shipyards covered by the Shipyard Infrastructure Optimization Program.

''(3) MHPI housing (as defined under section 606 of the National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. 2871 note).

''(g) GROWTH OF A FACILITY DEFINED.—In this section, the term 'growth of a facility' means, with respect to a facility (as defined in section 2801 of title 10, United States Code), an increase in the square footage of such facility due to—

''(1) carrying out a military construction project or an unspecified minor military construction project (pursuant to section 2805 of title 10, United States Code);

''(2) acquisition of an existing facility on land owned by a military department;

''(3) a gift of construction;

''(4) construction of a facility carried out through the use of nonappropriated funds, private funds, or family housing funds, if the facility will be sustained with appropriated operation and maintenance funds; or

''(5) the use of appropriated funds to sustain a facility that was previously sustained with nonappropriated funds, private funds, or family housing funds.''

NOTIFICATION TO MEMBERS OF CONGRESS FOR AWARDS OF CONTRACTS FOR MILITARY CONSTRUCTION PROJECTS

Pub. L. 118–159, div. B, title XXVIII, §2874, Dec. 23, 2024, 138 Stat. 2283, provided that:

''(a) NOTIFICATION REQUIRED.—Not later than 30 days after the date of award of a contract for a military construction project, the Secretary of the military department with jurisdiction over such project shall notify the following Members of Congress:

''(1) Any Member representing the State in which such contract will be performed.

''(2) Any Member representing the State in which the contractor awarded such contract is a constituent of such Member.

''(b) ELEMENTS.—A notification under subsection (a) shall include the following:

''(1) The proposed value of the contract.

''(2) The contractor awarded the contract.

''(3) A brief description of the project that is the subject of the contract, including the location in which the contract will be performed.''

DESIGNATION OF OFFICIALS RESPONSIBLE FOR COORDINATION OF INFRASTRUCTURE PROJECTS TO SUPPORT ADDITIONAL MEMBERS OF THE ARMED FORCES AND THEIR FAMILIES IN THE INDO-PACIFIC REGION

Pub. L. 118–159, div. B, title XXVIII, §2880, Dec. 23, 2024, 138 Stat. 2290, provided that:

''(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall designate two officials employed by the Department of Defense or a military department as of the date of the enactment of this Act as follows:

''(1) One official shall be responsible for coordination of infrastructure projects to support additional members of the Armed Forces and their families in Hawaii.

''(2) One official shall be responsible for coordination of infrastructure projects to support additional members of the Armed Forces and their families in Guam and the Northern Mariana Islands.

''(b) DUTIES.—Each official described in subsection (a) shall, in coordination with appropriate officials from

the military departments and the United States Indo-Pacific Command—

''(1) coordinate Department of Defense-wide efforts relating to the infrastructure needs associated with the significant addition of members of the Armed Forces and their families to the region for which such official is the designated official pursuant to subsection (a) during the 10-year period following the date of the enactment of this Act;

''(2) analyze the expected impact on State and local government services of—

''(A) military infrastructure projects in the designated region of such official; and

''(B) the significant addition of members of the Armed Forces and their families as described in paragraph (1); and

''(3) ensure clear and consistent communication to State and local elected officials and the public in the designated region of such official regarding the infrastructure needs and priorities of the Department of Defense, including conveying any finding or conclusion regarding the expected impact described in paragraph (2)(B).

''(c) SELECTION.—

''(1) HAWAII.—For the designation under paragraph (1) [of] subsection (a), the Secretary of Defense may appoint an individual with significant background and expertise in—

''(A) the legal and technical aspects of city planning, State and local government services, and military infrastructure; and

''(B) liaising with State and local elected officials and the public.

''(2) GUAM AND THE NORTHERN MARIANA ISLANDS.—For the designation under paragraph (2) of subsection (a), the Secretary of Defense shall appoint the Under Secretary of the Navy.

''(d) NOTIFICATION.—For the designations under paragraph (1) and paragraph (2) of subsection (a), the Secretary of Defense shall, not later than 30 days after the date of the designation, submit to the congressional defense committees and the Governor of Hawaii or the Governors of Guam and the Northern Mariana Islands, respectively, a notification that includes the name and contact information of the individual so designated.''

INCLUSION ON DEPARTMENT OF DEFENSE FORM 1391 OF INFORMATION ON CONSIDERATION OF CERTAIN METHODS OF CONSTRUCTION FOR CERTAIN MILITARY CONSTRUCTION PROJECTS

Pub. L. 118–31, div. B, title XXVIII, § 2808, Dec. 22, 2023, 137 Stat. 746, provided that:

''(a) IN GENERAL.—As part of the Department of Defense Form 1391 submitted to the appropriate committees of Congress for a covered military construction project, each covered official shall, to the extent practicable, include information on whether all relevant construction materials and methods of construction included in the Unified Facilities Criteria/DoD Building Code (UFC 1–200–01) were considered in the design of such covered military construction project.

''(b) DEFINITIONS.—In this section:

''(1) The terms 'appropriate committees of Congress' and 'military construction project' have the meanings given in section 2801 of title 10, United States Code.

''(2) The term 'covered military construction project' means a military construction project with an estimated total cost in excess of $9,000,000.

''(3) The term 'covered official' means—

''(A) the Secretary of Defense; and

''(B) each Secretary of a military department.''

INCLUSION OF MILITARY INSTALLATION RESILIENCE IN REAL PROPERTY MANAGEMENT AND INSTALLATION MASTER PLANNING OF DEPARTMENT

Pub. L. 118–31, div. B, title XXVIII, § 2857, Dec. 22, 2023, 137 Stat. 767, provided that:

''(a) [sic; there is no subsec. (b)] IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall—

''(1) update Department of Defense Instruction 4165.70 (relating to real property management) and Unified Facilities Criteria 2–100–01 (relating to installation master planning) to—

''(A) include a requirement to incorporate the impact of military installation resilience in all installation master plans;

''(B) include a list of all sources of information approved by the Department of Defense;

''(C) define the 17 identified military installation resilience hazards to ensure that the impacts from such hazards are reported consistently across the Department;

''(D) require each commander of a military installation to address the rationale for determining that any such hazard is not applicable to the military installation concerned;

''(E) standardize reporting formats for military installation resilience plans;

''(F) establish and define standardized risk rating categories for the use by each Secretary of a military department; and

''(G) define criteria for determining the level of risk to a military installation to compare hazards between military departments; and

''(2) require each Secretary of a military department to update the handbook for the military department concerned to incorporate the requirements under paragraph (1).''

CONSIDERATION OF INSTALLATION OF INTEGRATED SOLAR ROOFING TO IMPROVE ENERGY RESILIENCY OF MILITARY INSTALLATIONS

Pub. L. 117–263, div. B, title XXVIII, § 2810, Dec. 23, 2022, 136 Stat. 2997, provided that: ''The Secretary of Defense shall amend the Unified Facilities Criteria/DoD Building Code (UFC 1–200–01) to require that planning and design for military construction projects inside the United States include consideration of the feasibility and cost-effectiveness of installing integrated solar roofing as part of the project, for the purpose of—

''(1) promoting on-installation energy security and energy resilience;

''(2) providing grid support to avoid energy disruptions; and

''(3) facilitating implementation and greater use of the authority provided by subsection (h) of section 2911 of title 10, United States Code.''

REVISION OF UNIFIED FACILITIES GUIDE SPECIFICATIONS AND UNIFIED FACILITIES CRITERIA TO INCLUDE SPECIFICATIONS ON USE OF GAS INSULATED SWITCHGEAR AND CRITERIA AND SPECIFICATIONS ON MICROGRIDS AND MICROGRID CONVERTERS

Pub. L. 117–263, div. B, title XXVIII, § 2811, Dec. 23, 2022, 136 Stat. 2997, provided that:

''(a) GAS INSULATED SWITCHGEAR.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2022], the Under Secretary of Defense for Acquisition and Sustainment shall modify the Unified Facilities Guide Specifications to include a distinct specification for medium voltage gas insulated switchgear.

''(b) MICROGRIDS.—Not later than one year after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition and Sustainment shall—

''(1) modify the Unified Facilities Criteria to include criteria for microgrids; and

''(2) modify the Unified Facilities Guide Specifications to include specifications for microgrids and microgrid controllers.''

DETERMINATION AND NOTIFICATION RELATING TO EXECUTIVE ORDERS THAT IMPACT COST AND SCOPE OF WORK OF MILITARY CONSTRUCTION PROJECTS

Pub. L. 117–263, div. B, title XXVIII, § 2812, Dec. 23, 2022, 136 Stat. 2997, provided that:

''(a) DETERMINATION AND UPDATE OF FORM 1391.—Not later than 30 days after the date on which an Executive order is signed by the President, the Secretary concerned shall—

''(1) determine whether implementation of the Executive order would cause a cost or scope of work variation for a military construction project under the jurisdiction of the Secretary concerned;

''(2) assess the potential for life-cycle cost savings associated with implementation of the Executive order for such a project; and

''(3) update the Department of Defense Form 1391 for each such project that has not been submitted for congressional consideration, where such implementation would affect such cost or scope of work variation, including—

''(A) projects to be commenced in the next fiscal year beginning after the date on which the Executive order was signed; and

''(B) projects covered by the future-years defense program submitted under section 221 of title 10, United States Code.

''(b) NOTIFICATION TO CONGRESS.—Not later than 10 days after determining under subsection (a)(1) that implementation of an Executive order would cause a cost or scope of work variation for a military construction project, the Secretary concerned shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report indicating the estimated cost increases, scope of work increases, life-cycle costs, and any other impacts of such implementation.

''(c) CERTIFICATION.—Along with the submission to Congress of the budget of the President for a fiscal year under section 1105(a) of title 31, United States Code, each Secretary concerned shall certify to Congress that each Department of Defense Form 1391 provided to Congress for that fiscal year for a military construction project has been updated with any cost or scope of work variation specified in subsection (a)(1) with respect to an Executive order signed during the four-year period preceding such certification, including an indication of any cost increases for such project that is directly attributable to such Executive order.

''(d) SECRETARY CONCERNED DEFINED.—In this section, the term 'Secretary concerned' has the meaning given that term in section 101 of title 10, United States Code.''

REQUIREMENT FOR INCLUSION OF DEPARTMENT OF DEFENSE FORMS 1391 WITH ANNUAL BUDGET SUBMISSION BY PRESIDENT

Pub. L. 117–263, div. B, title XXVIII, §2813, Dec. 23, 2022, 136 Stat. 2998, provided that: ''Concurrently with the submission to Congress by the President of the annual budget of the Department of Defense for a fiscal year under section 1105(a) of title 31, United States Code, the President shall include each Department of Defense Form 1391, or successor similar form, for a military construction project to be carried out during that fiscal year.''

ELECTRICAL CHARGING CAPABILITY CONSTRUCTION REQUIREMENTS RELATING TO PARKING FOR FEDERAL GOVERNMENT MOTOR VEHICLES

Pub. L. 117–263, div. B, title XXVIII, §2875, Dec. 23, 2022, 136 Stat. 3014, provided that:

''(a) IN GENERAL.—If the Secretary concerned develops plans for a project to construct any facility that includes or will include parking for covered motor vehicles, the Secretary concerned shall include in any Department of Defense Form 1391, or successor form, submitted to Congress for that project—

''(1) the provision of electric vehicle charging capability at the facility adequate to provide electrical charging, concurrently, for not less than 15 percent of all covered motor vehicles planned to be parked at the facility;

''(2) the inclusion of the cost of constructing such capability in the overall cost of the project; and

''(3) an analysis of whether a parking structure or lot will be the primary charging area for covered motor vehicles or if another area, such as public works or the motor pool, will be the primary charging area.

''(b) DEFINITIONS.—In this section:

''(1) The term 'covered motor vehicle' means a Federal Government motor vehicle, including a motor vehicle leased by the Federal Government.

''(2) The term 'Secretary concerned' means—

''(A) the Secretary of a military department with respect to facilities under the jurisdiction of that Secretary; and

''(B) the Secretary of Defense with respect to matters concerning the Defense Agencies and facilities of a reserve component owned by a State rather than the United States.''

AMENDMENT OF UNIFIED FACILITIES CRITERIA TO REQUIRE INCLUSION OF PRIVATE NURSING AND LACTATION SPACE IN CERTAIN MILITARY CONSTRUCTION PROJECTS

Pub. L. 117–81, div. B, title XXVIII, §2841, Dec. 27, 2021, 135 Stat. 2201, provided that:

''(a) AMENDMENT REQUIRED.—The Secretary of Defense shall amend UFC 1–4.2 (Nursing and Lactation Rooms) of the Unified Facilities Criteria/DoD Building Code (UFC 1–200–01) to require that military construction planning and design for buildings likely to be regularly frequented by nursing mothers who are members of the uniformed services, civilian employees of the Department of Defense, contractor personnel, or visitors include a private nursing and lactation room or other private space suitable for that purpose.

''(b) DEADLINE.—The Secretary of Defense shall complete the amendment process required by subsection (a) and implement the amended UFC 1–4.2 not later than one year after the date of the enactment of this Act [Dec. 27, 2021].''

REVISIONS TO UNIFIED FACILITIES CRITERIA REGARDING USE OF VARIABLE REFRIGERANT FLOW SYSTEMS

Pub. L. 117–81, div. B, title XXVIII, §2842, Dec. 27, 2021, 135 Stat. 2201, provided that:

''(a) PUBLICATION AND COMMENT PERIOD REQUIREMENTS.—The Under Secretary of Defense for Acquisition and Sustainment shall publish any proposed revisions to the Unified Facilities Criteria regarding the use of variable refrigerant flow systems in the Federal Register and shall specify a comment period of at least 60 days.

''(b) NOTICE AND JUSTIFICATION REQUIREMENTS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a written notice and justification for any proposed revisions to the Unified Facilities Criteria regarding the use of variable refrigerant flow systems not later than 30 days after the date of publication in the Federal Register.''

AMENDMENT OF UNIFIED FACILITIES CRITERIA TO PROMOTE ENERGY EFFICIENT MILITARY INSTALLATIONS

Pub. L. 117–81, div. B, title XXVIII, §2843, Dec. 27, 2021, 135 Stat. 2202, provided that:

''(a) UNIFIED FACILITIES CRITERIA AMENDMENT REQUIRED.—To the extent practicable, the Secretary of Defense shall amend the Unified Facilities Criteria relating to military construction planning and design to ensure that building practices and standards of the Department of Defense incorporate the latest consensus-based codes and standards for energy efficiency and conservation, including the 2021 International Energy Conservation Code and the ASHRAE Standard 90.1-2019.

''(b) IMPLEMENTATION OF AMENDMENT.—The Secretary of Defense shall complete the amendment process required by subsection (a) in a timely manner so that any Department of Defense Form 1391 submitted to Congress in connection with the budget submission for fiscal year 2024 and thereafter complies with the Unified Facilities Criteria, as amended pursuant to such subsection.

''(c) REPORTING REQUIREMENT.—Not later than February 1, 2024, the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report—

''(1) describing the extent to which the Unified Facilities Criteria, as amended pursuant to subsection (a), incorporate the latest consensus-based codes and standards for energy efficiency and conservation, including the 2021 International Energy Conservation Code and the ASHRAE Standard 90.1-2019, as required by such subsection; and

''(2) in the case of any instance in which the Unified Facilities Criteria continues to deviate from such consensus-based codes and standards for energy efficiency and conservation, identifying the deviation and explaining the reasons for the deviation.''

ADDITIONAL DEPARTMENT OF DEFENSE ACTIVITIES TO IMPROVE ENERGY RESILIENCY OF MILITARY INSTALLATIONS

Pub. L. 117–81, div. B, title XXVIII, § 2844, Dec. 27, 2021, 135 Stat. 2202, provided that:

''(a) CONSIDERATION OF INCLUDING ENERGY MICROGRID IN MILITARY CONSTRUCTION PROJECTS.—

''(1) AMENDMENT OF UNIFIED FACILITIES CRITERIA REQUIRED.—The Secretary of Defense shall amend the Unified Facilities Criteria/DoD Building Code (UFC 1–200–01) to require that planning and design for military construction projects inside the United States include consideration of the feasibility and cost-effectiveness of installing an energy microgrid as part of the project, including intentional islanding capability of at least seven consecutive days, for the purpose of—

''(A) promoting on-installation energy security and energy resilience; and

''(B) facilitating implementation and greater use of the authority provided by subsection (h) of section 2911 of title 10, United States Code, as added and amended by section 2825 of the Military Construction Authorization Act for Fiscal Year 2021 (division B of Public Law 116–283).

''(2) DEADLINE.—The Secretary of Defense shall complete the amendment process required by paragraph (1) and implement the amendment not later than September 1, 2022.

''(b) CONTRACTS FOR EMERGENCY ACCESS TO EXISTING ON-INSTALLATION RENEWABLE ENERGY SOURCES.—In the case of a covered renewable energy generating source located on a military installation pursuant to a lease of non-excess defense property under section 2667 of title 10, United States Code, the Secretary of the military department concerned is encouraged to negotiate with the owner and operator of the renewable energy generating source to revise the lease contract to permit the military installation to access the renewable energy generating source during an emergency. The negotiations shall include consideration of the ease of modifying the renewable energy generating source to include an islanding capability, the necessity of additional infrastructure to tie the renewable energy generating source into the installation energy grid, and the cost of such modifications and infrastructure.

''(c) DEFINITIONS.—In this section:

''(1) The term 'covered renewable energy generating source' means a renewable energy generating source that, on the date of the enactment of this Act [Dec. 27, 2021]—

''(A) is located on a military installation inside the United States; but

''(B) cannot be used as a direct source of resilient energy for the installation in the event of a power disruption.

''(2) The term 'islanding capability' refers to the ability to remove an energy system, such as a microgrid, from the local utility grid and to operate the energy system, at least temporarily, as an integrated, stand-alone system, during an emergency involving the loss of external electric power supply.

''(3) The term 'microgrid' means an integrated energy system consisting of interconnected loads and energy resources with an islanding capability to permit functioning separate from the local utility grid.''

PILOT PROGRAM ON INCREASED USE OF SUSTAINABLE BUILDING MATERIALS IN MILITARY CONSTRUCTION

Pub. L. 117–81, div. B, title XXVIII, § 2861, Dec. 27, 2021, 135 Stat. 2212, as amended by Pub. L. 117–263, div. B, title XXVIII, § 2865, Dec. 23, 2022, 136 Stat. 3011; Pub. L. 118–31, div. B, title XXVIII, § 2871, Dec. 22, 2023, 137 Stat. 775, provided that:

''(a) PILOT PROGRAM REQUIRED.—Each Secretary of a military department shall conduct a pilot program to evaluate the effect that the use of sustainable building materials as the primary construction material in military construction may have on the environmental sustainability, infrastructure resilience, cost effectiveness, and construction timeliness of military construction.

''(b) PROJECT SELECTION AND LOCATIONS.—

''(1) MINIMUM NUMBER OF PROJECTS.—Each Secretary of a military department shall carry out, under the pilot program, at least—

''(A) one military construction project for mass timber; and

''(B) one military construction project for low carbon concrete.

''(2) PROJECT LOCATIONS.—The pilot program shall be conducted at military installations in the United States—

''(A) that are identified as vulnerable to extreme weather events; and—

''(B) for which a military construction project is authorized but a request for proposal has not been released.

''(c) INCLUSION OF MILITARY UNACCOMPANIED HOUSING PROJECT.—The Secretaries of the military departments shall coordinate the selection of military construction projects to be carried out under the pilot program so that at least one of the military construction projects involves construction of military unaccompanied housing.

''(d) DURATION OF PROGRAM.—The authority of the Secretary of a military department to carry out a military construction project under the pilot program shall expire on September 30, 2025. Any construction commenced under the pilot program before the expiration date may continue to completion.

''(e) DEADLINE FOR COMMENCEMENT OF CONSTRUCTION.—Any construction pursuant to a military construction project carried out under the pilot program must commence by not later than January 1, 2025.

''(f) REPORTING REQUIREMENT.—

''(1) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 27, 2021], and every 180 days thereafter through December 31, 2025, the Secretaries of the military departments shall submit to the congressional defense committees [Committee on Armed Services and Committee on Appropriations of the Senate and House of Representatives] a report on the progress of the pilot program.

''(2) REPORT ELEMENTS.—The report shall include the following:

''(A) A description of the status of the military construction projects selected to be conducted under the pilot program.

''(B) An explanation of the reasons why those military construction projects were selected.

''(C) An analysis of the following:

''(i) The projected or actual carbon footprint over the full life cycle of the various sustainable building materials evaluated in the pilot program.

''(ii) The life cycle costs of the various sustainable building materials evaluated in the pilot program.

''(iii) The resilience to extreme weather events of the various sustainable building materials evaluated in the pilot program.

''(iv) Any impact on construction timeliness of using the various sustainable building materials evaluated in the pilot program.

''(v) The cost effectiveness of the military construction projects conducted under the pilot program using sustainable building materials as compared to other materials historically used in military construction.

''(D) Any updated guidance the Under Secretary of Defense for Acquisition and Sustainment has released in relation to the procurement policy for future military construction projects based on comparable benefits realized from use of sustainable building materials, including guidance on prioritizing sustainable materials in establishing evaluation criteria for military construction project contracts when technically feasible.

''(g) SUSTAINABLE BUILDING MATERIALS DEFINED.—In this section, the term 'sustainable building material' means any building material the use of which will reduce carbon emissions over the life cycle of the building. The term includes mass timber, concrete, and other carbon-reducing materials.''

PILOT PROGRAM TO AUTHORIZE ADDITIONAL MILITARY CONSTRUCTION PROJECTS FOR CHILD DEVELOPMENT CENTERS AT MILITARY INSTALLATIONS

Pub. L. 116–283, div. B, title XXVIII, §2865, Jan. 1, 2021, 134 Stat. 4360, provided that:

''(a) AUTHORIZATION OF ADDITIONAL PROJECTS.—Each Secretary of a military department shall conduct a pilot program under which the Secretary may carry out military construction projects for child development centers at military installations, as specified in the funding table in section 4601 of a National Defense Authorization Act for a fiscal year covered by the pilot program. The military construction projects authorized under the pilot program are in addition to other military construction projects authorized by this Act or other National Defense Authorization Acts for fiscal years covered by the pilot program.

''(b) REPORTING REQUIREMENT AS CONDITION OF AUTHORIZATION.—

''(1) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of a National Defense Authorization Act for a fiscal year covered by the pilot program, the Secretary of the military department concerned shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that describes the location, title, and cost, together with a Department of Defense Form 1391, for each military construction project the Secretary proposes to carry out under the pilot program pursuant to that National Defense Authorization Act.

''(2) TIMING OF AVAILABILITY OF FUNDS.—No funds may be obligated or expended for a military construction project under the pilot program—

''(A) unless the project is included in a report submitted under paragraph (1); and

''(B) until the expiration of the 30-day period beginning on the date on which the Secretary concerned submits the report under paragraph (1) in which the project is included.

''(c) EXPIRATION OF AUTHORIZATION.—Section 2002 of a National Defense Authorization Act for a fiscal year covered by the pilot program shall apply with respect to the authorization of a military construction project carried out under the pilot program pursuant to that National Defense Authorization Act in the same manner as such section applies to the authorization of military construction projects contained in titles XXI through XXIII of that National Defense Authorization Act.

''(d) COVERED FISCAL YEARS.—The pilot program shall be carried out for each of fiscal years 2021 through 2025, as provided in the National Defense Authorization Act for that fiscal year.''

AMENDMENT OF UNIFIED FACILITIES CRITERIA TO PROMOTE MILITARY INSTALLATION RESILIENCE, ENERGY RESILIENCE, ENERGY AND CLIMATE RESILIENCY, AND CYBER RESILIENCE

Pub. L. 116–92, div. B, title XXVIII, §2804, Dec. 20, 2019, 133 Stat. 1882, provided that:

''(a) AMENDMENT REQUIRED.—

''(1) IN GENERAL.—Not later than September 1, 2020, the Secretary of Defense shall amend the Unified Facility Criteria relating to military construction planning and design, to ensure that building practices and standards of the Department of Defense promote military installation resilience, energy resilience, energy and climate resiliency, and cyber resilience.

''(2) CONSIDERATIONS AND CONSULTATION.—In preparing amendments pursuant to paragraph (1), the Secretary of Defense—

''(A) shall take into account historical data, current conditions, and sea level rise projections; and

''(B) may consult with the heads of other Federal departments and agencies with expertise regarding military installation resilience, energy resilience, energy and climate resiliency, and cyber resilience.

''(b) CONDITIONAL AVAILABILITY OF FUNDS.—Not more than 25 percent of the funds authorized to be appropriated for fiscal year 2020 for Department of Defense planning and design accounts relating to military construction projects may be obligated until the date on which the Secretary of Defense submits to the Committees on Armed Services of the House of Representatives and the Senate a certification that the Secretary—

''(1) has initiated the amendment process required by subsection (a)(1); and

''(2) intends to complete such process by September 1, 2020.

''(c) UPDATE OF UNIFIED FACILITIES CRITERIA TO INCLUDE CHANGING ENVIRONMENTAL CONDITION PROJECTIONS.—[Amended section 2805(c) of Pub. L. 115–232, set out as a note under section 2864 of this title.]

''(d) IMPLEMENTATION OF UNIFIED FACILITIES CRITERIA AMENDMENTS.—

''(1) IMPLEMENTATION.—Any Department of Defense Form 1391 submitted to Congress after September 1, 2020 shall comply with the Unified Facility Criteria, as amended pursuant to this section.

''(2) CERTIFICATION.—Not later than March 1, 2021, the Secretary of Defense shall certify to the Committees on Armed Services of the House of Representatives and the Senate the completion and full incorporation into military construction planning and design—

''(A) amendments made pursuant to subsection (a); and

''(B) amendments made pursuant to section 2805(c) of the Military Construction Authorization Act for Fiscal Year 2019 (division B of Public Law 115–232; 132 Stat. 2262; 10 U.S.C. 2864 note), as amended by subsection (c).

''(e) ANNUAL REVIEW.—Beginning with fiscal year 2022, and annually thereafter, the Secretary of Defense shall conduct a review comparing the Unified Facility Criteria and industry best practices, for the purpose of ensuring that military construction building practices and standards of the Department of Defense relating to military installation resilience, energy resilience, energy and climate resiliency, and cyber resilience remain up-to-date.

''(f) DEFINITIONS.—In this section:

''(1) The terms 'energy resilience' and 'military installation resilience' have the meanings given those terms in section 101(e) of title 10, United States Code [now 10 U.S.C. 101(f)].

''(2) The term 'energy and climate resiliency' has the meaning given that term in section 2864 of title 10, United States Code.''

MODIFICATION TO DEPARTMENT OF DEFENSE FORM 1391 REGARDING CONSIDERATION OF POTENTIAL LONG-TERM ADVERSE ENVIRONMENTAL EFFECTS

Pub. L. 116–92, div. B, title XXVIII, § 2805, Dec. 20, 2019, 133 Stat. 1884, provided that:

''(a) MODIFICATION.—

''(1) CERTIFICATION REQUIREMENT.—The Secretary of Defense shall modify Department of Defense Form 1391 to require, with respect to any proposed major or minor military construction project requiring congressional notification or approval, the inclusion of a certification by the Secretary of Defense or the Secretary of the military department concerned that the proposed military construction project takes into consideration—

''(A) the potential adverse consequences of long-term changes in environmental conditions, such as increasingly frequent extreme weather events, that could affect the military installation resilience of the installation for which the military construction project is proposed; and

''(B) building requirements in effect for the locality in which the military construction project is proposed and industry best practices that are developed to withstand extreme weather events and other consequences of changes in environmental conditions.

''(2) ELEMENTS OF CERTIFICATION.—As part of the certification required by paragraph (1) for a proposed military construction project, the Secretary concerned shall identify the potential changes in environmental conditions, such as increasingly frequent extreme weather events, considered and addressed under subparagraphs (A) and (B) of paragraph (1).

''(b) RELATION TO RECENT MODIFICATION REQUIREMENT.—The modification of Department of Defense Form 1391 required by subsection (a) is in addition to, and expands upon, the modification of Department of Defense Form 1391 with respect to flood risk disclosure for military construction required by section 2805(a) of the Military Construction Authorization Act for Fiscal Year 2019 (division B of Public Law 115–232; 132 Stat. 2262; 10 U.S.C. 2802 note).

''(c) MILITARY INSTALLATION RESILIENCE DEFINED.—In this section, the term 'military installation resilience' has the meaning given that term in section 101(e)(8) of title 10, United States Code [now 10 U.S.C. 101(f)(8)].''

PILOT PROGRAM TO EXTEND SERVICE LIFE OF ROADS AND RUNWAYS UNDER THE JURISDICTION OF THE SECRETARY OF DEFENSE

Pub. L. 116–92, div. B, title XXVIII, § 2865, Dec. 20, 2019, 133 Stat. 1901, provided that:

''(a) PILOT PROGRAM AUTHORIZED.—The Secretary of Defense, in consultation with the Secretary of Transportation, may carry out a pilot program to design, build, and test technologies, techniques, and materials in order to extend the service life of roads and runways under the jurisdiction of the Secretary of Defense.

''(b) SCOPE.—The pilot program under subsection (a) shall include the following:

''(1) The design, testing, and assembly of technologies and systems suitable for pavement applications.

''(2) Research, development, and testing of pavement materials for use in different geographic areas in the United States.

''(3) The design and procurement of platforms and equipment to test the performance, cost, feasibility, and effectiveness of the technologies, systems, and materials described in paragraphs (1) and (2).

''(c) AWARD OF CONTRACTS OR GRANTS.—

''(1) IN GENERAL.—The Secretary of Defense may carry out the pilot program under subsection (a) through the award of contracts or grants for the designing, building, or testing of technologies, techniques, and materials under the pilot program.

''(2) MERIT-BASED SELECTION.—Any award of a contract or grant under the pilot program under subsection (a) shall be made using merit-based selection procedures.

''(d) REPORT.—

''(1) IN GENERAL.—Not later than two years after the commencement of the pilot program under subsection (a), the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the pilot program.

''(2) CONTENTS.—The report under paragraph (1) with respect to the pilot program shall include the following:

''(A) An assessment of the effectiveness of activities under the pilot program in improving the service life of roads and runways under the jurisdiction of the Secretary.

''(B) An analysis of the potential lifetime cost savings and reduction in energy demands associated with the extended service life of such roads and runways.

''(e) TERMINATION OF AUTHORITY.—The pilot program under subsection (a) shall terminate on September 30, 2024.''

UPDATES AND MODIFICATIONS TO DEPARTMENT OF DEFENSE FORM 1391, UNIFIED FACILITIES CRITERIA, AND MILITARY INSTALLATION MASTER PLANS

Pub. L. 117–81, div. B, title XXVIII, § 2805(d), Dec. 27, 2021, 135 Stat. 2189, provided that:

''(1) AMENDMENT REQUIRED.—Not later than September 1, 2022, the Secretary of Defense shall amend the Unified Facilities Criteria relating to military construction planning and design to ensure that building practices and standards of the Department of Defense incorporate the minimum flood mitigation requirements of section 2805(a) of the Military Construction Authorization Act for Fiscal Year 2019 (division B of Public Law 115–232; 132 Stat. 2262; 10 U.S.C. 2802 note), as amended by this section.

''(2) IMPLEMENTATION OF UNIFIED FACILITIES CRITERIA AMENDMENTS.—

''(A) IMPLEMENTATION.—Any Department of Defense Form 1391 submitted to Congress after September 1, 2022, shall comply with the Unified Facilities Criteria, as amended pursuant to paragraph (1).

''(B) CERTIFICATION.—Not later than March 1, 2023, the Secretary of Defense shall certify to the Committees on Armed Services of the House of Representatives and the Senate the completion of the amendment process required by paragraph (1) and the full incorporation of the amendments into military construction planning and design.''

Pub. L. 115–232, div. B, title XXVIII, § 2805(a), (b), Aug. 13, 2018, 132 Stat. 2262, as amended by Pub. L. 116–92, div. B, title XXVIII, § 2806, Dec. 20, 2019, 133 Stat. 1884; Pub. L. 117–81, div. B, title XXVIII, § 2805(a)–(c), Dec. 27, 2021, 135 Stat. 2189, provided that:

''(a) FLOOD RISK DISCLOSURE FOR MILITARY CONSTRUCTION.—

''(1) IN GENERAL.—The Secretary of Defense shall modify Department of Defense Form 1391 to require, with respect to any proposed major or minor military construction project requiring congressional notification or approval—

''(A) disclosure whether a proposed project will be sited within or partially within a 100-year floodplain or a 500-year floodplain if outside a 100-year floodplain, according to the most recent available Federal Emergency Management Agency flood hazard data, or will be impacted by projected current and future mean sea level fluctuations over the lifetime of the project; and

''(B) if the proposed project will be sited within or partially within a floodplain described in subparagraph (A) or will be impacted by projected current

and future mean sea level fluctuations over the lifetime of the project, the specific risk mitigation plan.

''(2) DELINEATION OF FLOODPLAIN.—To the extent that Federal Emergency Management Agency flood hazard data are not available for a proposed major or minor military construction site, the Secretary concerned shall establish a process for delineating the 100-year floodplain using risk analysis that is consistent with the standards used to inform Federal flood risk assessments.

''(3) REPORTING REQUIREMENTS.—For proposed projects that are to be sited within or partially within a 100-year floodplain or are to be impacted by projected current and future mean sea level fluctuations over the lifetime of the project, the Secretary concerned shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report with the following:

''(A) An assessment of flood vulnerability for the proposed project using hydrologic, hydraulic, and hydrodynamic data, methods, and analysis that integrate current and projected changes in flooding based on climate science over the anticipated service life of the facility and future forecasted land use changes.

''(B) Any information concerning alternative construction sites that were considered, and an explanation of why those sites do not satisfy mission requirements.

''(C) A description of planned flood mitigation measures.

''(D) A description of how the proposed project has taken into account projected current and future flood risk and mean sea level fluctuations over the lifetime of the project.

''(4) MINIMUM FLOOD MITIGATION REQUIREMENTS.—When mitigating the flood risk of a major or minor military construction project within or partially within the 100-year floodplain or that will be impacted by projected current and future mean sea level fluctuations over the lifetime of the project, the Secretary concerned shall require any mitigation plan to assume—

''(A) an additional 2 feet above the base flood elevation for non-mission critical facilities, as determined by the Secretary;

''(B) an additional 3 feet above the base flood elevation for mission-critical facilities, as determined by the Secretary; and

''(C) any additional flooding that will result from projected current and future flood risk and mean sea level fluctuations over the lifetime of the project.

''(b) DISCLOSURE REQUIREMENTS FOR DEPARTMENT OF DEFENSE FORM 1391.—Not later than 30 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall amend Department of Defense Form 1391 to require, for each requested military construction project—

''(1) disclosure whether the project was included in the prior year's future-years defense program submitted to Congress pursuant to section 221 of title 10, United States Code; and

''(2) inclusion of an energy study or life cycle analysis.''

REQUIREMENTS RELATED TO PROVIDING WORLD CLASS MILITARY MEDICAL CENTERS

Pub. L. 111–383, div. B, title XXVIII, §2852, Jan. 7, 2011, 124 Stat. 4475, provided that:

''(a) UNIFIED CONSTRUCTION STANDARD FOR MILITARY CONSTRUCTION AND REPAIRS TO MILITARY MEDICAL CENTERS.—Not later than 180 days after the date of the enactment of this Act [Jan. 7, 2011], the Secretary of Defense shall establish a unified construction standard for military construction and repairs for military medical centers that provides a single standard of care. This standard shall also include—

''(1) size standards for operating rooms and patient recovery rooms; and

''(2) such other construction standards that the Secretary considers necessary to support military medical centers.

''(b) INDEPENDENT REVIEW PANEL.—

''(1) ESTABLISHMENT; PURPOSE.—The Secretary of Defense shall establish an independent advisory panel for the purpose of—

''(A) reviewing the unified construction standards established pursuant to subsection (a) to determine the standards consistency with industry practices and benchmarks for world class medical construction;

''(B) reviewing ongoing construction programs within the Department of Defense to ensure medical construction standards are uniformly applied across applicable military medical centers;

''(C) assessing the approach of the Department of Defense approach to planning and programming facility improvements with specific emphasis on—

''(i) facility selection criteria and proportional assessment system; and

''(ii) facility programming responsibilities between the Assistant Secretary of Defense for Health Affairs and the Secretaries of the military departments;

''(D) assessing whether the Comprehensive Master Plan for the National Capital Region Medical, dated April 2010, is adequate to fulfill statutory requirements, as required by section 2714 of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111–84; 123 Stat. 2656), to ensure that the facilities and organizational structure described in the plan result in world class military medical centers in the National Capital Region; and

''(E) making recommendations regarding any adjustments of the master plan referred to in subparagraph (D) that are needed to ensure the provision of world class military medical centers and delivery system in the National Capital Region.

''(2) MEMBERS.—

''(A) APPOINTMENTS BY SECRETARY.—The panel shall be composed of such members as determined by the Secretary of Defense, except that the Secretary shall include as members—

''(i) medical facility design experts;

''(ii) military healthcare professionals;

''(iii) representatives of premier health care centers in the United States; and

''(iv) former retired senior military officers with joint operational and budgetary experience.

''(B) CONGRESSIONAL APPOINTMENTS.—The chairmen and ranking members of the Committees on the Armed Services of the Senate and House of Representatives may each designate one member of the panel.

''(C) TERM.—Members of the panel may serve on the panel until the termination date specified in paragraph (7).

''(D) COMPENSATION.—While performing duties on behalf of the panel, a member and any adviser referred to in paragraph (4) shall be reimbursed under Government travel regulations for necessary travel expenses.

''(3) MEETINGS.—The panel shall meet not less than quarterly. The panel or its members may make other visits to military treatment centers and military headquarters in connection with the duties of the panel.

''(4) STAFF AND ADVISORS.—The Secretary of Defense shall provide necessary administrative staff support to the panel. The panel may call in advisers for consultation.

''(5) REPORTS.—

''(A) INITIAL REPORT.—Not later than 120 days after the first meeting of the panel, the panel shall submit to the Secretary of Defense a written report containing—

''(i) an assessment of the adequacy of the plan of the Department of Defense to address the items specified in subparagraphs (A) through (E) of paragraph (1) relating to the purposes of the panel; and

''(ii) the recommendations of the panel to improve the plan.

''(B) ADDITIONAL REPORTS.—Not later than February 1, 2011, and each February 1 thereafter until termination of the panel, the panel shall submit to the Secretary of Defense a report on the findings and recommendations of the panel to address any deficiencies identified by the panel.

''(6) ASSESSMENT OF RECOMMENDATIONS.—Not later than 30 days after the date of the submission of each report under paragraph (5), the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report including—

''(A) a copy of the panel's assessment;

''(B) an assessment by the Secretary of the findings and recommendations of the panel; and

''(C) the plans of the Secretary for addressing such findings and recommendations.

''(7) TERMINATION.—The panel shall terminate on September 30, 2015.

''(c) DEFINITIONS.—In this section:

''(1) NATIONAL CAPITAL REGION.—The term 'National Capital Region' has the meaning given the term in section 2674(f) of title 10, United States Code.

''(2) WORLD CLASS MILITARY MEDICAL CENTER.—The term 'world class military medical center' has the meaning given the term 'world class military medical facility' by the National Capital Region Base Realignment and Closure Health Systems Advisory Subcommittee of the Defense Health Board in appendix B of the report titled 'Achieving World Class—An Independent Review of the Design Plans for the Walter Reed National Military Medical Center and the Fort Belvoir Community Hospital' and published in May 2009, as required by section 2721 of the Military Construction Authorization Act for Fiscal Year 2009 (division B of Public Law 110–417; 122 Stat. 4716).''

DAMAGE TO AVIATION FACILITIES CAUSED BY ALKALI SILICA REACTIVITY

Pub. L. 106–398, §1 [[div. A], title III, §389], Oct. 30, 2000, 114 Stat. 1654, 1654A–89, provided that:

''(a) ASSESSMENT OF DAMAGE AND PREVENTION AND MITIGATION TECHNOLOGY.—The Secretary of Defense shall require the Secretaries of the military departments to assess—

''(1) the damage caused to aviation facilities of the Armed Forces by alkali silica reactivity; and

''(2) the availability of technologies capable of preventing, treating, or mitigating alkali silica reactivity in hardened concrete structures and pavements.

''(b) EVALUATION OF TECHNOLOGIES.—(1) Taking into consideration the assessment under subsection (a), the Secretary of each military department may conduct a demonstration project at a location selected by the Secretary concerned to test and evaluate the effectiveness of technologies intended to prevent, treat, or mitigate alkali silica reactivity in hardened concrete structures and pavements.

''(2) The Secretary of Defense shall ensure that the locations selected for the demonstration projects represent the diverse operating environments of the Armed Forces.

''(c) NEW CONSTRUCTION.—The Secretary of Defense shall develop specific guidelines for appropriate testing and use of lithium salts to prevent alkali silica reactivity in new construction of the Department of Defense.

''(d) COMPLETION OF ASSESSMENT AND DEMONSTRATION.—The assessment conducted under subsection (a) and the demonstration projects, if any, conducted under subsection (b) shall be completed not later than September 30, 2006.

''(e) DELEGATION OF AUTHORITY.—The authority to conduct the assessment under subsection (a) may be delegated only to the Chief of Engineers of the Army, the Commander of the Naval Facilities Engineering Command, and the Civil Engineer of the Air Force.

''(f) LIMITATION ON EXPENDITURES.—The Secretary of Defense and the Secretaries of the military departments may not expend more than a total of $5,000,000 to conduct both the assessment under subsection (a) and all of the demonstration projects under subsection (b).''

REPORTS RELATING TO MILITARY CONSTRUCTION FOR FACILITIES SUPPORTING NEW WEAPON SYSTEMS

Pub. L. 102–190, div. B, title XXVIII, §2868, Dec. 5, 1991, 105 Stat. 1562, as amended by Pub. L. 108–136, div. A, title X, §1031(c)(2), Nov. 24, 2003, 117 Stat. 1604, which required the Secretary of Defense to submit to Congress a report relating to the permanent basing of a new weapon system not later than 30 days after selecting a site or sites for such permanent basing, was repealed by Pub. L. 112–81, div. A, title X, §1062(m), Dec. 31, 2011, 125 Stat. 1586.

§ 2803. Emergency construction

(a) Subject to subsections (b) and (c), the Secretary concerned may carry out a military construction project not otherwise authorized by law if the Secretary determines (1) that the project is vital to the national security or to the protection of health, safety, or the quality of the environment, and (2) that the requirement for the project is so urgent that deferral of the project for inclusion in the next Military Construction Authorization Act would be inconsistent with national security or the protection of health, safety, or environmental quality, as the case may be.

(b) When a decision is made to carry out a military construction project under this section, the Secretary concerned shall submit a report to the appropriate committees of Congress on that decision. Each such report shall include (1) the justification for the project and the current estimate of the cost of the project, (2) the justification for carrying out the project under this section, and (3) a statement of the source of the funds to be used to carry out the project. The project may then be carried out only after the end of the five-day period beginning on the date the notification is received by such committees in an electronic medium pursuant to section 480 of this title.

(c)(1) The maximum amount that the Secretary concerned may obligate in any fiscal year under this section is $50,000,000.

(2) A project carried out under this section shall be carried out within the total amount of funds appropriated for military construction that have not been obligated.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 154; amended Pub. L. 102–190, div. B, title XXVIII, §§2803, 2870(2), Dec. 5, 1991, 105 Stat. 1537, 1562; Pub. L. 102–484, div. A, title X, §1053(9), Oct. 23, 1992, 106 Stat. 2502; Pub. L. 108–136, div. A, title X, §1031(a)(34), div. B, title XXVIII, §2802, Nov. 24, 2003, 117 Stat. 1600, 1719; Pub. L. 109–364, div. B, title XXVIII, §2801, Oct. 17, 2006, 120 Stat. 2466; Pub. L. 112–81, div. A, title X, §1064(9), Dec. 31, 2011, 125 Stat. 1587; Pub. L. 115–91, div. B, title XXVIII, §2801(a)(1), Dec. 12, 2017, 131 Stat. 1840.)

Editorial Notes

AMENDMENTS

2017—Subsec. (b). Pub. L. 115–91 struck out ''in writing'' after ''submit a report'' and ''or, if earlier, the end of the seven-day period beginning on the date on which a copy of the notification is provided'' after ''such committees'' and substituted ''five-day period'' for ''seven-day period''.

2011—Subsec. (b). Pub. L. 112–81 substituted ''after the end of the seven-day period'' for ''after the end of the 21-day period''.

2006—Subsec. (c)(1). Pub. L. 109–364 substituted ''$50,000,000'' for ''$45,000,000''.

2003—Subsec. (b). Pub. L. 108–136, § 1031(a)(34), inserted before period at end ''or, if earlier, the end of the seven-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title''.

Subsec. (c)(1). Pub. L. 108–136, § 2802, substituted ''$45,000,000'' for ''$30,000,000''.

1992—Subsec. (b). Pub. L. 102–484 made technical amendment to directory language of Pub. L. 102–190, § 2870(2). See 1991 Amendment note below.

1991—Subsec. (a). Pub. L. 102–190, § 2803, substituted ''or to the protection of health, safety, or the quality of the environment, and'' for '', and'' in cl. (1) and inserted ''or the protection of health, safety, or environmental quality, as the case may be'' before period at end of cl. (2).

Subsec. (b). Pub. L. 102–190, § 2870(2), as amended by Pub. L. 102–484, struck out '', or after each such committee has approved the project, if the committee approves the project before the end of that period'' after ''by such committees''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–484, div. A, title X, § 1053, Oct. 23, 1992, 106 Stat. 2501, provided that the amendment made by that section is effective Dec. 5, 1991.

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

§ 2804. Contingency construction

(a) Within the amount appropriated for such purpose, the Secretary of Defense may carry out a military construction project not otherwise authorized by law, or may authorize the Secretary of a military department to carry out such a project, if the Secretary of Defense determines that deferral of the project for inclusion in the next Military Construction Authorization Act would be inconsistent with national security or national interest.

(b) When a decision is made to carry out a military construction project under this section, the Secretary of Defense shall submit a report to the appropriate committees of Congress on that decision. Each such report shall include the justification for the project, the current estimate of the cost of the project, and the justification for carrying out the project under this section. The project may then be carried out only after the end of the seven-day period beginning on the date the notification is received by such committees in an electronic medium pursuant to section 480 of this title.

(Added Pub. L. 97–214, § 2(a), July 12, 1982, 96 Stat. 155; amended Pub. L. 102–190, div. B, title XXVIII, § 2870(3), Dec. 5, 1991, 105 Stat. 1563; Pub. L. 108–136, div. A, title X, § 1031(a)(35), Nov. 24, 2003, 117 Stat. 1600; Pub. L. 109–163, div. B, title XXVIII, § 2801(a), Jan. 6, 2006, 119 Stat. 3504; Pub. L. 115–91, div. B, title XXVIII, § 2801(a)(2), Dec. 12, 2017, 131 Stat. 1840; Pub. L. 116–92, div. A, title XVII, § 1731(a)(54), Dec. 20, 2019, 133 Stat. 1815; Pub. L. 116–283, div. A, title X, § 1081(a)(44), Jan. 1, 2021, 134 Stat. 3873.)

Editorial Notes

AMENDMENTS

2021—Subsec. (b). Pub. L. 116–283 struck out ''; and'' after ''seven-day period''.

2019—Subsec. (b). Pub. L. 116–92 substituted ''include the justification'' for ''include (1) the justification'', ''project, the current'' for ''project and the current'', and ''and the justification'' for ''and (2) the justification''.

2017—Subsec. (b). Pub. L. 115–91 struck out ''in writing'' after ''submit a report'' and ''or, if earlier, the end of the seven-day period beginning on the date on which a copy of the notification is provided'' after ''such committees'' and substituted ''seven-day period; and'' for ''14-day period''.

2006—Subsec. (b). Pub. L. 109–163 substituted ''14-day period'' for ''21-day period'' and ''seven-day period'' for ''14-day period''.

2003—Subsec. (b). Pub. L. 108–136 inserted before period at end ''or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title''.

1991—Subsec. (b). Pub. L. 102–190 struck out before period at end '', or after each such committee has approved the project, if the committees approve the project before the end of that period''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

AUTHORITY TO USE OPERATION AND MAINTENANCE FUNDS FOR CERTAIN CONSTRUCTION PROJECTS OUTSIDE THE UNITED STATES

Pub. L. 108–136, div. B, title XXVIII, § 2808, Nov. 24, 2003, 117 Stat. 1723, as amended by Pub. L. 108–375, div. B, title XXVIII, § 2810, Oct. 28, 2004, 118 Stat. 2128; Pub. L. 109–163, div. B, title XXVIII, § 2809, Jan. 6, 2006, 119 Stat. 3508; Pub. L. 109–364, div. B, title XXVIII, § 2802, Oct. 17, 2006, 120 Stat. 2466; Pub. L. 110–181, div. B, title XXVIII, § 2801(a)–(d), Jan. 28, 2008, 122 Stat. 538, 539; Pub. L. 110–417, div. B, title XXVIII, § 2806, Oct. 14, 2008, 122 Stat. 4724; Pub. L. 111–84, div. B, title XXVIII, § 2806, Oct. 28, 2009, 123 Stat. 2662; Pub. L. 111–383, div. B, title XXVIII, § 2804, Jan. 7, 2011, 124 Stat. 4459; Pub. L. 112–81, div. B, title XXVIII, § 2804, Dec. 31, 2011, 125 Stat. 1685; Pub. L. 112–239, div. B, title XXVIII, § 2804, Jan. 2, 2013, 126 Stat. 2149; Pub. L. 113–66, div. B, title XXVIII, § 2808, Dec. 26, 2013, 127 Stat. 1012; Pub. L. 113–291, div. B, title XXVIII, § 2806, Dec. 19, 2014, 128 Stat. 3699; Pub. L. 114–92, div. B, title XXVIII, § 2802, Nov. 25, 2015, 129 Stat. 1169; Pub. L. 114–328, div. B, title XXVIII, § 2804, Dec. 23, 2016, 130 Stat. 2713; Pub. L. 115–91, div. B, title XXVIII, § 2804, Dec. 12, 2017, 131 Stat. 1846; Pub. L. 115–232, div. B, title XXVIII, § 2807, Aug. 13, 2018, 132 Stat. 2264; Pub. L. 116–283, div. B, title XXVIII, § 2806, Jan. 1, 2021, 134 Stat. 4322; Pub. L. 117–81, div. B, title XXVIII, § 2806, Dec. 27, 2021, 135 Stat. 2190; Pub. L. 117–263, div. B, title XXVIII, § 2809(a), (b)(1), (3)–(c), 136 Stat. 2996, provided that:

''(a) IN GENERAL.—The Secretary of Defense may obligate appropriated funds available for operation and maintenance to carry out a construction project outside the United States that the Secretary determines meets each of the following conditions:

''(1) The construction is necessary to meet urgent military operational requirements of a temporary nature involving the use of the Armed Forces in support of a declaration of war, the declaration by the President of a national emergency under section 201 of the National Emergencies Act (50 U.S.C. 1621), or a contingency operation.

''(2) The construction is not carried out at a military installation where the United States is reasonably expected to have a long-term presence.

''(3) The United States has no intention of using the construction after the operational requirements have been satisfied.

''(4) The level of construction is the minimum necessary to meet the temporary operational requirements.

''(b) NOTIFICATION OF OBLIGATION OF FUNDS.—Before using appropriated funds available for operation and maintenance to carry out a construction project outside the United States that has an estimated cost in excess of the amounts authorized for unspecified minor military construction projects under section 2805(c) of title 10, United States Code, the Secretary of Defense shall submit to the congressional committees specified in subsection (d) a notice regarding the construction project. The project may be carried out only after the end of the 14-day period beginning on the date the notice is received by the committees, including when a copy of the notification is provided in an electronic medium pursuant to section 480 of title 10, United States Code. The notice shall include the following:

''(1) Certification that the conditions specified in subsection (a) are satisfied with regard to the construction project.

''(2) A description of the purpose for which appropriated funds available for operation and maintenance are being obligated.

''(3) All relevant documentation detailing the construction project.

''(4) An estimate of the total amount obligated for the construction.

''(c) ANNUAL LIMITATION ON USE OF AUTHORITY.—(1) The total cost of the construction projects carried out under the authority of this section using, in whole or in part, appropriated funds available for operation and maintenance shall not exceed $50,000,000 during each of the following periods:

''(A) The period beginning October 1, 2021, and ending on the earlier of December 31, 2022, or the date of the enactment of an Act authorizing funds for military activities of the Department of Defense for fiscal year 2023 [Dec. 23, 2022].

''(B) The period beginning October 1, 2022, and ending on the earlier of December 31, 2023, or the date of the enactment of an Act authorizing funds for military activities of the Department of Defense for fiscal year 2024.

''(2) Notwithstanding paragraph (1), the Secretary of Defense may authorize the obligation under this section of not more than an additional $10,000,000 of appropriated funds available for operation and maintenance for a fiscal year if the Secretary determines that the additional funds are needed for costs associated with contract closeouts.

''(3) The total amount of operation and maintenance funds used for a single construction project carried out under the authority of this section shall not exceed $15,000,000. The Secretary of Defense may waive this limitation on a project-by-project basis. This waiver authority may not be delegated.

''(d) CONGRESSIONAL COMMITTEES.—The congressional committees referred to in this section are the following:

''(1) The Committee on Armed Services and the Subcommittee on Defense and the Subcommittee on Military Construction, Veterans Affairs, and Related Agencies of the Committee on Appropriations of the Senate.

''(2) The Committee on Armed Services and the Subcommittee on Defense and the Subcommittee on Military Construction, Veterans Affairs, and Related Agencies of the Committee on Appropriations of the House of Representatives.

''(e) EFFECT OF FAILURE TO SUBMIT PROJECT NOTIFICATIONS.—If the advance notice of the proposed obligation of the funds for a construction project required by subsection (b) is not submitted to the congressional committees specified in subsection (d) by the required date, appropriated funds available for operation and maintenance may not be obligated or expended after that date under the authority of this section to carry out construction projects outside the United States until the date on which the notice is finally submitted.''

[Pub. L. 117–263, div. B, title XXVIII, § 2809(d), Dec. 23, 2022, 136 Stat. 2997, provided that: ''The Law Revision Counsel is directed to classify section 2808 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1723), as amended by subsection (a), as a note following section 2804 of title 10, United States Code.'']

§ 2805. Unspecified minor construction

(a) AUTHORITY TO CARRY OUT UNSPECIFIED MINOR MILITARY CONSTRUCTION PROJECTS.—(1) Within an amount equal to 125 percent of the amount authorized by law for such purpose, the Secretary concerned may carry out unspecified minor military construction projects not otherwise authorized by law.

(2) An unspecified minor military construction project is a military construction project, land acquisition, or demolition project that has an approved cost equal to or less than $9,000,000.

(3) Notwithstanding the requirements of this section, the Secretary concerned may use amounts authorized pursuant to another law or regulation to carry out a demolition project described in paragraph (2).

(b) APPROVAL AND CONGRESSIONAL NOTIFICATION.—(1) An unspecified minor military construction project costing more than $750,000 may not be carried out under this section unless approved in advance by the Secretary concerned. This paragraph shall apply even though the project is to be carried out using funds made available to enhance the deployment and mobility of military forces and supplies.

(2) When a decision is made to carry out an unspecified minor military construction project to which paragraph (1) is applicable and which costs more than $4,000,000, the Secretary concerned shall notify the appropriate committees of Congress of that decision, of the justification for the project, and of the estimated cost of the project. The project may then be carried out only after the end of the 14-day period beginning on the date the notification is received by the committees in an electronic medium pursuant to section 480 of this title.

(c) USE OF OPERATION AND MAINTENANCE FUNDS.—The Secretary concerned may spend from appropriations available for operation and maintenance amounts necessary to carry out an unspecified minor military construction project costing not more than $4,000,000.

(d) LABORATORY REVITALIZATION.—(1) For the revitalization and recapitalization of laboratories owned by the United States and under the jurisdiction of the Secretary concerned, the Secretary concerned may obligate and expend—

(A) from appropriations available to the Secretary concerned for operation and maintenance, amounts necessary to carry out an un-

specified minor military construction project costing not more than $9,000,000, notwithstanding subsection (c); or

(B) from appropriations available to the Secretary concerned for military construction not otherwise authorized by law or from funds authorized to be made available under section 4123(a) of this title, amounts necessary to carry out an unspecified minor military construction project costing not more than $9,000,000.

(2) For purposes of this subsection, an unspecified minor military construction project is a military construction project that (notwithstanding subsection (a)) has an approved cost equal to or less than $9,000,000.

(3) If the Secretary concerned makes a decision to carry out an unspecified minor military construction project to which this subsection applies, the Secretary concerned shall notify the appropriate committees of Congress of that decision, of the justification for the project, and of the estimated cost of the project. The project may then be carried out only after the end of the 14-day period beginning on the date the notification is received by the committees in an electronic medium pursuant to section 480 of this title.

(4) In this subsection, the term ''laboratory'' includes—

(A) a research, engineering, and development center; and

(B) a test and evaluation activity.

(e) PROHIBITION ON USE FOR NEW HOUSING UNITS.—Military family housing projects for construction of new housing units may not be carried out under the authority of this section.

(f) ADJUSTMENT OF DOLLAR LIMITATIONS FOR LOCATION.—

(1) ADJUSTMENT OF LIMITATIONS.—Each fiscal year, the Secretary concerned shall adjust the dollar limitations specified in this section applicable to an unspecified minor military construction project to reflect the area construction cost index for military construction projects published by the Department of Defense during the prior fiscal year for the location of the project, except that no limitation specified in this section may exceed $14,000,000 as the result of any adjustment made under this paragraph.

[(2) Repealed. Pub. L. 118–31, div. B, title XXVIII, § 2803(2), Dec. 22, 2023, 137 Stat. 744.]

[(3) Repealed. Pub. L. 118–31, div. B, title XXVIII, § 2802(c)(2), Dec. 22, 2023, 137 Stat. 743.]

(g) DEFENSE LABORATORY MODERNIZATION PROGRAM.—(1) Using amounts appropriated or otherwise made available to the Department of Defense for research, development, test, and evaluation, the Secretary of Defense may fund a military construction project described in paragraph (4) at any of the following:

(A) A Department of Defense science and technology reinvention laboratory (as designated under section 4121(b) of this title).

(B) A Department of Defense federally funded research and development center that functions primarily as a research laboratory.

(C) A Department of Defense facility in support of a technology development program that is consistent with the fielding of offset technologies as described in section 218 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 10 U.S.C. note 4811).

(D) A Department of Defense research, development, test, and evaluation facility that is not designated as a science and technology reinvention laboratory, but nonetheless is involved with developmental test and evaluation.

(2) Subject to the condition that a military construction project under paragraph (1) be authorized in a Military Construction Authorization Act, the authority to carry out the military construction project includes authority for—

(A) surveys, site preparation, and advanced planning and design;

(B) acquisition, conversion, rehabilitation, and installation of facilities;

(C) acquisition and installation of equipment and appurtenances integral to the project; acquisition and installation of supporting facilities (including utilities) and appurtenances incident to the project; and

(D) planning, supervision, administration, and overhead expenses incident to the project.

(3)(A) The Secretary of Defense shall include military construction projects proposed to be carried out under paragraph (1) in the budget justification documents for the Department of Defense submitted to Congress in connection with the budget for a fiscal year submitted under 1105 of title 31.

(B) Not less than 14 days prior to the first obligation of funds described in paragraph (1) for a military construction project to be carried out under such paragraph, the Secretary of Defense shall submit to the congressional defense committees a notification providing an updated construction description, cost, and schedule for the project and any other matters regarding the project as the Secretary considers appropriate.

(4) The authority provided by paragraph (1) to fund military construction projects using amounts appropriated or otherwise made available for research, development, test, and evaluation is limited to military construction projects that the Secretary of Defense, in the budget justification documents exhibits submitted pursuant to paragraph (3)(A), determines—

(A) will support research and development activities at laboratories described in paragraph (1);

(B) will establish facilities that will have significant potential for use by entities outside the Department of Defense, including universities, industrial partners, and other Federal agencies;

(C) are endorsed for funding by more than one military department or Defense Agency; and

(D) cannot be fully funded within the thresholds otherwise specified in this section.

(5) The maximum amount of funds appropriated or otherwise made available for research, development, test, and evaluation that may be obligated in any fiscal year for military construction projects under paragraph (1) is $150,000,000.

(6)(A) In addition to the authority provided to the Secretary of Defense under paragraph (1) to use amounts appropriated or otherwise made available for research, development, test, and evaluation for a military construction project referred to in such subsection, the Secretary of the military department concerned may use amounts appropriated or otherwise made available for research, development, test, and evaluation to obtain architectural and engineering services and to carry out construction design in connection with such a project.

(B) In the case of architectural and engineering services and construction design to be undertaken under this paragraph for which the estimated cost exceeds $4,000,000, the Secretary concerned shall notify the appropriate committees of Congress of the scope of the proposed project and the estimated cost of such services before the initial obligation of funds for such services. The Secretary may then obligate funds for such services only after the end of the 14-day period beginning on the date on which the notification is received by the committees in an electronic medium pursuant to section 480 of this title.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 155; amended Pub. L. 99–167, title VIII, §809, Dec. 3, 1985, 99 Stat. 989; Pub. L. 99–661, div. B, title VII, §2702(a), Nov. 14, 1986, 100 Stat. 4040; Pub. L. 100–180, div. B, subdiv. 3, title I, §2310, Dec. 4, 1987, 101 Stat. 1217; Pub. L. 101–510, div. A, title XIII, §1301(16), Nov. 5, 1990, 104 Stat. 1668; Pub. L. 102–190, div. B, title XXVIII, §§2807, 2870(4), Dec. 5, 1991, 105 Stat. 1540, 1563; Pub. L. 104–106, div. B, title XXVIII, §§2811(a), 2812, Feb. 10, 1996, 110 Stat. 552; Pub. L. 104–201, div. B, title XXVIII, §2801(a), Sept. 23, 1996, 110 Stat. 2787; Pub. L. 105–85, div. B, title XXVIII, §2801, Nov. 18, 1997, 111 Stat. 1989; Pub. L. 107–107, div. B, title XXVIII, §2801, Dec. 28, 2001, 115 Stat. 1305; Pub. L. 108–136, div. A, title X, §1031(a)(36), Nov. 24, 2003, 117 Stat. 1600; Pub. L. 110–181, div. B, title XXVIII, §§2803, 2804, Jan. 28, 2008, 122 Stat. 539; Pub. L. 111–84, div. B, title XXVIII, §2801(a)(1), (2), (b), Oct. 28, 2009, 123 Stat. 2660; Pub. L. 112–81, div. B, title XXVIII, §2802(a), (b), Dec. 31, 2011, 125 Stat. 1684; Pub. L. 113–66, div. B, title XXVIII, §2801(a), Dec. 26, 2013, 127 Stat. 1006; Pub. L. 113–291, div. B, title XXVIII, §2802, Dec. 19, 2014, 128 Stat. 3695; Pub. L. 114–328, div. B, title XXVIII, §2801, Dec. 23, 2016, 130 Stat. 2712; Pub. L. 115–91, div. A, title II, §220(c)(2), div. B, title XXVIII, §§2801(a)(3), 2802, 2803, Dec. 12, 2017, 131 Stat. 1333, 1840, 1845, 1846; Pub. L. 116–92, div. A, title XVII, §1731(a)(55), Dec. 20, 2019, 133 Stat. 1815; Pub. L. 116–283, div. A, title XVIII, §1843(c), div. B, title XXVIII, §2802, Jan. 1, 2021, 134 Stat. 4245, 4319; Pub. L. 117–81, div. A, title XVII, §1701(u)(4)(B), Dec. 27, 2021, 135 Stat. 2153; Pub. L. 117–263, div. B, title XXVIII, §§2802, 2803(a), 2804, Dec. 23, 2022, 136 Stat. 2992, 2994; Pub. L. 118–31, div. B, title XXVIII, §§2802(a)–(c), 2803, Dec. 22, 2023, 137 Stat. 743, 744; Pub. L. 118–159, div. B, title XXVIII, §§2804(a), 2805, Dec. 23, 2024, 138 Stat. 2248, 2249.)

Editorial Notes

Codification

Another section 2803(a) of Pub. L. 117–263 (136 Stat. 2970), is set out as a note under section 2687 of this title.

Amendments

2024—Subsec. (a)(2). Pub. L. 118–159, §2804(a), substituted ‘‘, land acquisition, or demolition project’’ for ‘‘or a demolition project’’.

Subsec. (g)(6)(B). Pub. L. 118–159, §2805, substituted ‘‘$4,000,000’’ for ‘‘$1,000,000’’.

2023—Subsec. (a)(2). Pub. L. 118–31, §2802(a)(1), (b)(1), inserted ‘‘or a demolition project’’ after ‘‘is a military construction project’’ and substituted ‘‘$9,000,000’’ for ‘‘$6,000,000’’.

Subsec. (a)(3). Pub. L. 118–31, §2802(a)(2), added par. (3).

Subsec. (b)(2). Pub. L. 118–31, §2802(b)(2), substituted ‘‘$4,000,000’’ for ‘‘$2,000,000’’.

Subsec. (c). Pub. L. 118–31, §2802(b)(3), substituted ‘‘$4,000,000’’ for ‘‘$2,000,000’’.

Subsec. (d)(1)(A). Pub. L. 118–31, §2802(b)(4)(A)(i), substituted ‘‘$9,000,000’’ for ‘‘$6,000,000’’.

Subsec. (d)(1)(B). Pub. L. 118–31, §2802(b)(4)(A)(ii), substituted ‘‘$9,000,000’’ for ‘‘$6,000,000’’.

Subsec. (d)(2). Pub. L. 118–31, §2802(b)(4)(B), substituted ‘‘$9,000,000’’ for ‘‘$6,000,000’’.

Subsec. (f)(1). Pub. L. 118–31, §§2802(c)(1), 2803(1), struck out ‘‘inside the United States’’ after ‘‘construction project’’ and substituted ‘‘$14,000,000’’ for ‘‘$10,000,000’’.

Subsec. (f)(2). Pub. L. 118–31, §2803(2), struck out par. (2). Text read as follows: ‘‘For purposes of paragraph (1), a project shall be considered to be inside the United States if the project is carried out in any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, Wake Island, the Commonwealth of the Northern Mariana Islands, or a former United States Trust Territory now in a Compact of Free Association with the United States.’’

Subsec. (f)(3). Pub. L. 118–31, §2802(c)(2), struck out par. (3). Text read as follows: ‘‘The requirements of this subsection shall not apply with respect to any fiscal year after fiscal year 2027.’’

2022—Subsec. (d)(5). Pub. L. 117–263, §2804, struck out par. (5) which read as follows: ‘‘The authority to carry out a project under this subsection expires on September 30, 2025.’’

Subsec. (f)(2). Pub. L. 117–263, §2802, substituted ‘‘Wake Island, the Commonwealth’’ for ‘‘or the Commonwealth’’ and inserted ‘‘, or a former United States Trust Territory now in a Compact of Free Association with the United States’’ after ‘‘Mariana Islands’’.

Subsec. (g). Pub. L. 117–263, §2803(a), added subsec. (g).

2021—Subsec. (d)(1)(B). Pub. L. 116–283, §1843(c), as amended by Pub. L. 117–81, §1701(u)(4)(B), substituted ‘‘section 4123(a)’’ for ‘‘section 2363(a)’’.

Subsec. (f)(3). Pub. L. 116–283, §2802, substituted ‘‘2027’’ for ‘‘2022’’.

2019—Subsec. (d)(1)(B). Pub. L. 116–92 inserted ‘‘under’’ after ‘‘made available’’.

2017—Subsec. (a)(2). Pub. L. 115–91, §2802(a), substituted ‘‘$6,000,000’’ for ‘‘$3,000,000’’ and struck out at end ‘‘However, if the military construction project is intended solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening, an unspecified minor military construction project may have an approved cost equal to or less than $4,000,000.’’

Subsec. (b)(1). Pub. L. 115–91, §2802(b), substituted ‘‘$750,000’’ for ‘‘$1,000,000’’.

Subsec. (b)(2). Pub. L. 115–91, §2802(c), substituted ‘‘to which paragraph (1) is applicable and which costs more than $2,000,000’’ for ‘‘to which paragraph (1) is applicable’’.

Pub. L. 115–91, §2801(a)(3)(A), struck out ‘‘in writing’’ after ‘‘shall notify’’ and ‘‘or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided’’ after ‘‘received by the committees’’ and substituted ‘‘14-day period’’ for ‘‘21-day period’’.

Subsec. (c). Pub. L. 115–91, §2802(d), substituted ‘‘$2,000,000’’ for ‘‘$1,000,000’’.

Subsec. (d)(1)(B). Pub. L. 115–91, §220(c)(2), substituted ''section 2363(a) of this title'' for ''under section 219(a) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 10 U.S.C. 2358 note)''.

Subsec. (d)(3). Pub. L. 115–91, §2801(a)(3)(B), struck out ''in writing'' after ''shall notify'' and ''or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided'' after ''received by the committees'' and substituted ''14-day period'' for ''21-day period''.

Subsec. (f). Pub. L. 115–91, §2803, added subsec. (f).

2016—Subsec. (d)(1). Pub. L. 114–328, §2801(a), substituted ''$6,000,000'' for ''$4,000,000'' in subpars. (A) and (B).

Subsec. (d)(2). Pub. L. 114–328, §2801(a), (b)(1), substituted ''$6,000,000'' for ''$4,000,000'' in first sentence and struck out second sentence which read as follows: ''The Secretary of Defense shall establish procedures for the review and approval of requests from the Secretary of a military department to carry out a construction project under this subsection.''

Subsec. (d)(3). Pub. L. 114–328, §2801(b)(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''Not later than February 1, 2014, the Secretary of Defense shall submit to the congressional defense committees a report on the use of the authority provided by this subsection. The report shall include a list and description of the construction projects carried out under this subsection, including the location and cost of each project.''

Subsec. (d)(5). Pub. L. 114–328, §2801(c), substituted ''2025'' for ''2018''.

2014—Subsec. (a)(2). Pub. L. 113–291, §2802(a), substituted ''$3,000,000'' for ''$2,000,000'' in first sentence and ''$4,000,000'' for ''$3,000,000'' in second sentence.

Subsec. (b)(1). Pub. L. 113–291, §2802(b), substituted ''$1,000,000'' for ''$750,000''.

Subsec. (c). Pub. L. 113–291, §2802(c), substituted ''$1,000,000'' for ''$750,000''.

2013—Subsec. (d)(1)(A). Pub. L. 113–66, §2801(a)(1), substituted ''not more than $4,000,000, notwithstanding subsection (c)'' for ''not more than $2,000,000''.

Subsec. (d)(2). Pub. L. 113–66, §2801(a)(2), substituted ''For purposes of this subsection, an unspecified minor military construction project is a military construction project that (notwithstanding subsection (a)) has an approved cost equal to or less than $4,000,000.'' for ''For an unspecified minor military construction project conducted pursuant to this subsection, $2,000,000 shall be deemed to be the amount specified in subsection (b)(1) regarding when advance approval of the project by the Secretary concerned and congressional notification is required.''

Subsec. (d)(5). Pub. L. 113–66, §2801(a)(3), substituted ''2018'' for ''2016''.

2011—Subsec. (c). Pub. L. 112–81, §2802(a), substituted ''The'' for ''(1) Except as provided in paragraph (2), the'' and ''not more than $750,000.'' for ''not more than—

''(A) $1,500,000, in the case of an unspecified minor military construction project intended solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening; or

''(B) $750,000, in the case of any other unspecified minor military construction project.

''(2) The limitations specified in paragraph (1) shall not apply to an unspecified minor military construction project if the project is to be carried out using funds made available to enhance the deployment and mobility of military forces and supplies.''

Subsec. (d)(3). Pub. L. 112–81, §2802(b)(1), substituted ''February 1, 2014'' for ''February 1, 2010''.

Subsec. (d)(5). Pub. L. 112–81, §2802(b)(2), substituted ''September 30, 2016'' for ''September 30, 2012''.

2009—Subsec. (a). Pub. L. 111–84, §2801(a)(1), substituted ''Within'' for ''Except as provided in paragraph (2), within'' in par. (1), redesignated the second and third sentences of par. (1) as par. (2), and struck out former par. (2) which read as follows: ''A Secretary may not use more than $5,000,000 for exercise-related unspecified minor military construction projects coordinated or directed by the Joint Chiefs of Staff outside the United States during any fiscal year.''

Subsec. (c). Pub. L. 111–84, §2801(a)(2), substituted ''paragraph (2)'' for ''paragraphs (2) and (3)'' in par. (1), redesignated par. (3) as (2), and struck out former par. (2) which read as follows: ''The authority provided in paragraph (1) may not be used with respect to any exercise-related unspecified minor military construction project coordinated or directed by the Joint Chiefs of Staff outside the United States.''

Subsec. (d)(1)(B). Pub. L. 111–84, §2801(b)(1), inserted ''or from funds authorized to be made available under section 219(a) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 10 U.S.C. 2358 note)'' after ''authorized by law''.

Subsec. (d)(3) to (6). Pub. L. 111–84, §2801(b)(2), (3), redesignated pars. (4) to (6) as (3) to (5), respectively, and struck out former par. (3) which read as follows: ''For purposes of this subsection, the total amount allowed to be applied in any one fiscal year to projects at any one laboratory shall be limited to the larger of the amounts applicable under paragraph (1).''

2008—Subsec. (a). Pub. L. 110–181, §2804(b)(1), inserted subsec. heading.

Subsec. (a)(1). Pub. L. 110–181, §2803, substituted ''$2,000,000'' for ''$1,500,000''.

Subsecs. (b), (c). Pub. L. 110–181, §2804(b)(2), (3), inserted subsec. headings.

Subsecs. (d), (e). Pub. L. 110–181, §2804(a), (b)(4), added subsec. (d), redesignated former subsec. (d) as (e), and inserted subsec. (e) heading.

2003—Subsec. (b)(2). Pub. L. 108–136 inserted before period at end ''or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title''.

2001—Subsec. (b)(1). Pub. L. 107–107, §2801(a), substituted ''$750,000'' for ''$500,000''.

Subsec. (c)(1)(A). Pub. L. 107–107, §2801(b)(1), substituted ''$1,500,000'' for ''$1,000,000''.

Subsec. (c)(1)(B). Pub. L. 107–107, §2801(b)(2), substituted ''$750,000'' for ''$500,000''.

1997—Subsec. (a)(1). Pub. L. 105–85, §2801(c)(1), substituted ''unspecified minor military construction projects'' for ''minor military construction projects'', ''An unspecified minor'' for ''A minor'', and ''an unspecified minor'' for ''a minor''.

Subsec. (b)(1). Pub. L. 105–85, §2801(c)(2), substituted ''An unspecified minor'' for ''A minor''.

Pub. L. 105–85, §2801(a), inserted at end ''This paragraph shall apply even though the project is to be carried out using funds made available to enhance the deployment and mobility of military forces and supplies.''

Subsec. (b)(2). Pub. L. 105–85, §2801(c)(3), substituted ''an unspecified minor'' for ''a minor''.

Subsec. (c)(1). Pub. L. 105–85, §2801(c)(4), substituted ''unspecified minor military'' for ''unspecified military'' wherever appearing.

Pub. L. 105–85, §2801(b)(1), substituted ''paragraphs (2) and (3)'' for ''paragraph (2)'' in introductory provisions.

Subsec. (c)(2). Pub. L. 105–85, §2801(c)(4), substituted ''unspecified minor military'' for ''unspecified military''.

Subsec. (c)(3). Pub. L. 105–85, §2801(b)(2), added par. (3).

1996—Subsec. (a)(1). Pub. L. 104–106, §2812, in second sentence, struck out ''(1) that is for a single undertaking at a military installation, and (2)'' after ''is a military construction project''.

Pub. L. 104–106, §2811(a)(1), inserted at end ''However, if the military construction project is intended solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening, a minor military construction project may have an approved cost equal to or less than $3,000,000.''

Subsec. (c)(1). Pub. L. 104–106, §2811(a)(2), substituted ''not more than—'' for ''not more than $300,000.'' and added subpars. (A) and (B).

Subsec. (c)(1)(B). Pub. L. 104–201 substituted ''$500,000'' for ''$300,000''.

1991—Subsec. (a)(1). Pub. L. 102–190, § 2807(a), substituted ''$1,500,000'' for ''$1,000,000''.

Subsec. (b)(2). Pub. L. 102–190, § 2870(4), in second sentence struck out ''(A)'' after ''carried out only'' and '', or (B) after each such committee approves the project, if the committees approve the project before the end of that period'' before period at end.

Subsec. (c)(1). Pub. L. 102–190, § 2807(b), substituted ''$300,000'' for ''$200,000''.

1990—Subsec. (b)(3). Pub. L. 101–510 struck out par. (3) which read as follows: ''A project for the relocation of any activity from one installation to another that involves 25 or more full-time civilian employees of the Department of Defense but that is not subject to paragraph (1) may not be carried out under the authority of this section until the appropriate committees of Congress have been notified by the Secretary concerned of the intent to carry out such relocation under the authority of this section.''

1987—Subsec. (a). Pub. L. 100–180, § 2310(b), designated existing provisions as par. (1), substituted ''Except as provided in paragraph (2), within'' for ''Within'', and added par. (2).

Subsec. (c). Pub. L. 100–180, § 2310(a), designated existing provisions as par. (1), substituted ''Except as provided in paragraph (2), the'' for ''The'', and added par. (2).

1986—Subsec. (a). Pub. L. 99–661, § 2702(a)(1), substituted ''$1,000,000'' for ''the amount specified by law as the maximum amount for a minor military construction project''.

Subsec. (b)(1). Pub. L. 99–661, § 2702(a)(2), substituted ''$500,000'' for ''50 percent of the amount specified by law as the maximum amount for a minor military construction project''.

Subsec. (c). Pub. L. 99–661, § 2702(a)(3), substituted ''$200,000'' for ''20 percent of the amount specified by law as the maximum amount for a minor military construction project''.

1985—Subsec. (a). Pub. L. 99–167, § 809(1), inserted ''an amount equal to 125 percent of''.

Subsec. (c). Pub. L. 99–167, § 809(2), substituted ''The'' for ''Only funds authorized for minor construction projects may be used to accomplish unspecified minor construction projects, except that the''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–263, div. B, title XXVIII, § 2803(b), Dec. 23, 2022, 136 Stat. 2994, provided that: ''Subsection (g) of section 2805 of title 10, United States Code, as added by subsection (a), shall apply with respect only to amounts appropriated after the date of the enactment of this Act [Dec. 23, 2022].''

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 117–81 applicable as if included in the enactment of title XVIII of Pub. L. 116–283 as enacted, see section 1701(a)(2) of Pub. L. 117–81, set out in a note preceding section 3001 of this title and note below.

Amendment by section 1843(c) of Pub. L. 116–283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116–283, set out as a note preceding section 3001 of this title.

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

TEMPORARY EXPANSION OF AUTHORITY FOR CAISSON REQUIREMENTS

Pub. L. 118–159, div. B, title XXVIII, § 2804(c), Dec. 23, 2024, 138 Stat. 2248, provided that: ''During the period beginning on the date of the enactment of this section [Dec. 23, 2024] and ending on February 1, 2026, the Secretary of the Army may use the authority under section 2805 of such title [meaning title 10, United States Code] for the purchase of interests in land at not more than 200 percent of the applicable dollar threshold specified in such section to support the caisson requirements of the Department of the Army with respect to equine welfare.''

AUTHORITY FOR INDO-PACIFIC POSTURE UNSPECIFIED MINOR MILITARY CONSTRUCTION PROJECTS

Pub. L. 118–31, div. B, title XXVIII, § 2810, Dec. 22, 2023, 137 Stat. 747, as amended by Pub. L. 118–159, div. B, title XXVIII, § 2807, Dec. 23, 2024, 138 Stat. 2250, provided that:

''(a) AUTHORITY.—To support the posture of the Armed Forces in the United States Indo-Pacific Command area of operations, the Commander of the United States Indo-Pacific Command (in this section referred to as the 'Commander') may carry out unspecified minor military construction projects not otherwise authorized by law with an approved cost less than $30,000,000.

''(b) SCOPE OF PROJECT AUTHORITY.—A project carried out under this section may include—

''(1) the design, construction, development, conversion, extension, renovation, or repair of a facility, whether to satisfy temporary or permanent requirements; and

''(2) to the extent necessary, as either a stand-alone acquisition or as part of a minor military construction project, any acquisition of interests in land, or support or reimbursement for acquisition of interests in land, for establishment of a defense site or other area over which the Secretary of a military department or the Secretary of Defense will exercise operational control, without regard to the duration of the operational control.

''(c) PURPOSES.—A project carried out under this section shall be for the purpose of—

''(1) supporting the rotational deployments of the Armed Forces;

''(2) enhancing facility preparedness and military installation resilience (as defined in section 101(e)(8) of title 10, United States Code) in support of potential, planned, or anticipated defense activities;

''(3) providing for prepositioning and storage of equipment and supplies; or

''(4) acquiring interests in land, defense sites, or operational control over an area needed to support another project or projects under this section or to support a future military construction project.

''(d) LOCATION OF PROJECTS.—A project carried out under this section must be located within the area of responsibility of the United States Indo-Pacific Command and at a military installation or planned military installation that includes a main operating base, cooperative security location, forward operating site, or contingency location for use by the Armed Forces.

''(e) AVAILABLE AMOUNTS.—In carrying out a project under this section, the Commander may use amounts appropriated for—

''(1) the INDOPACOM Military Construction Pilot Program fund (as specified in the funding table in section 4601 [Pub. L. 118–31, 137 Stat. 901]); and

''(2) operation and maintenance, not to exceed 200 percent of the amount specified in subsection (c) of section 2805, United States Code, subject to adjustment upward to reflect a construction cost index published pursuant to subsection (f) of such section if such an index applies to the location of the project, except that the adjusted amount may not exceed the limit under subsection (a).

''(f) NOTICE TO CONGRESS.—

''(1) IN GENERAL.—If the Commander decides to carry out a project under this section with a cost exceeding $2,000,000, the Commander shall submit a written notification to the congressional defense committees [Committees on Armed Services and Ap-

propriations of the Senate and the House of Representatives] of that decision.

''(2) RELEVANT DETAILS.—A notice under paragraph (1) with respect to a project shall include relevant details and justification of the project, including the estimated cost, and may include a classified annex.

''(3) TIMING.—A project under this section covered by paragraph (1) may not be carried out until the end of the 14-day period beginning on the date of receipt of the notification under such paragraph by the congressional defense committees.

''(g) PROJECT EXECUTION.—

''(1) PROJECT SUPERVISION.—Subsections (a) and (b) of section 2851 of title 10, United States Code, shall not apply to projects carried out by the Commander under this section.

''(2) APPLICATION OF CHAPTER 169 OF TITLE 10, UNITED STATES CODE.—When exercising the authority under subsection (a), the Commander shall, for purposes of chapter 169 of title 10, United States Code, be considered the Secretary concerned.

''(h) ANNUAL REPORT.—Not later than December 31, 2024, and annually thereafter until the termination date in subsection (i), the Commander shall submit to the congressional defense committees a report containing a list of projects funded, lessons learned, and, subject to the concurrence of the Secretary of Defense, recommended adjustments to the authority under this section for the most recently ended fiscal year covered by the report.

''(i) TERMINATION.—The authority to carry out a project under this section expires on March 31, 2029.''

TEMPORARY INCREASE OF AMOUNTS IN CONNECTION WITH AUTHORITY TO CARRY OUT UNSPECIFIED MINOR MILITARY CONSTRUCTION

Pub. L. 117–263, div. B, title XXVIII, § 2801, Dec. 23, 2022, 136 Stat. 2992, which increased amounts in connection with authority to carry out unspecified minor military construction projects for the period beginning on Dec. 23, 2022, and ending on Dec. 1, 2025, was repealed by Pub. L. 118–31, div. B, title XXVIII, § 2802(e), Dec. 22, 2023, 137 Stat. 743.

NO APPLICATION TO CURRENT PROJECTS

Pub. L. 113–66, div. B, title XXVIII, § 2801(b), Dec. 26, 2013, 127 Stat. 1006, provided that: ''The amendments made by subsection (a) [amending this section] do not apply to any laboratory revitalization project for which the design phase has been completed as of the date of the enactment of this Act [Dec. 26, 2013].''

RELATION TO OTHER AUTHORITIES

Pub. L. 108–136, div. B, title XXVIII, § 2808(e), Nov. 24, 2003, 117 Stat. 1724, which directed that the temporary authority provided by section 2808 of Pub. L. 108–136, and the limited authority provided by section 2805(c) of this title, to use appropriated funds available for operation and maintenance to carry out a construction project were the only authorities available to the Secretary of Defense and the Secretaries of the military departments to use appropriated funds available for operation and maintenance to carry out construction projects, was repealed by Pub. L. 117–263, div. B, title XXVIII, § 2809(b)(2), Dec. 23, 2022, 136 Stat. 2996.

DEPARTMENT OF DEFENSE LABORATORY REVITALIZATION DEMONSTRATION PROGRAM

Pub. L. 104–106, div. B, title XXVIII, § 2892, Feb. 10, 1996, 110 Stat. 590, as amended by Pub. L. 105–261, div. B, title XXVIII, § 2871, Oct. 17, 1998, 112 Stat. 2225; Pub. L. 108–375, div. B, title XXVIII, § 2891, Oct. 28, 2004, 118 Stat. 2154, provided that:

''(a) PROGRAM AUTHORIZED.—The Secretary of Defense may carry out a program (to be known as the 'Department of Defense Laboratory Revitalization Demonstration Program') for the revitalization of Department of Defense laboratories. Under the program, the Secretary may carry out minor military construction projects in accordance with subsection (b) and other applicable law to improve Department of Defense laboratories covered by the program.

''(b) INCREASED MAXIMUM AMOUNTS APPLICABLE TO MINOR CONSTRUCTION PROJECTS.—For purpose of any military construction project carried out under the program—

''(1) the amount provided in the second sentence of subsection (a)(1) of section 2805 of title 10, United States Code, shall be deemed to be $3,000,000;

''(2) the amount provided in subsection (b)(1) of such section shall be deemed to be $1,500,000; and

''(3) the amount provided in subsection (c)(1)(B) of such section shall be deemed to be $1,000,000.

''(c) PROGRAM REQUIREMENTS.—(1) Not later than 30 days before commencing the program, the Secretary shall establish procedures for the review and approval of requests from Department of Defense laboratories for construction under the program.

''(2) The laboratories at which construction may be carried out under the program may not include Department of Defense laboratories that are contractor-owned.

''(d) REPORT.—Not later than February 1, 2003, the Secretary shall submit to Congress a report on the program. The report shall include the Secretary's conclusions and recommendation regarding the desirability of making the authority set forth under subsection (b) permanent.

''(e) EXCLUSIVITY OF PROGRAM.—Nothing in this section may be construed to limit any other authority provided by law for any military construction project at a Department of Defense laboratory covered by the program.

''(f) DEFINITIONS.—In this section:

''(1) The term 'laboratory' includes—

''(A) a research, engineering, and development center;

''(B) a test and evaluation activity owned, funded, and operated by the Federal Government through the Department of Defense; and

''(C) a supporting facility of a laboratory.

''(2) The term 'supporting facility', with respect to a laboratory, means any building or structure that is used in support of research, development, test, and evaluation at the laboratory.

''(g) EXPIRATION OF AUTHORITY.—The Secretary may not commence a construction project under the program after September 30, 2005.''

INITIAL ESTABLISHMENT OF CERTAIN AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

Maximum amount of $1,000,000 for unspecified minor military construction project under this section during the period beginning Oct. 1, 1982, and ending on the date of the enactment of the Military Construction Authorization Act for fiscal year 1984 or Oct. 1, 1983, whichever is later, see section 11(1) of Pub. L. 97–214, set out as a note under section 2828 of this title.

§ 2806. Contributions for North Atlantic Treaty Organizations Security Investment

(a) Within amounts authorized by law for such purpose, the Secretary of Defense may make contributions for the United States share of the cost of multilateral programs for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area.

(b)(1) Funds may not be obligated or expended in connection with the North Atlantic Treaty Organization Security Investment program in any year unless such funds have been authorized by law for such program.

(2) If any funds authorized for the North Atlantic Treaty Organization Security Investment

program for a fiscal year are available to be obligated or expended at the end of that fiscal year and no funds have been authorized for the following fiscal year, not more than 50 percent of the amount authorized for the North Atlantic Treaty Organization Security Investment program for that fiscal year shall be deemed to be authorized by law for purposes of paragraph (1) for the following fiscal year.

(c)(1) The Secretary of Defense may make contributions in excess of the amount appropriated for contribution under subsection (a) if the amount of the contribution in excess of that amount does not exceed 200 percent of the amount specified by section 2805(a) of this title as the maximum amount for a minor military construction project.

(2) If the Secretary determines that the amount appropriated for contribution under subsection (a) in any fiscal year must be exceeded by more than the amount authorized under paragraph (1), the Secretary may make contributions in excess of such amount, but not in excess of 125 percent of the amount appropriated, only after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress notice of the increase, including the reasons for the increase and the source of the funds to be used for the increase.

(Added Pub. L. 97–214, § 2(a), July 12, 1982, 96 Stat. 156; amended Pub. L. 97–321, title VIII, § 805(b)(1), Oct. 15, 1982, 96 Stat. 1573; Pub. L. 99–661, div. B, title V, § 2503(a), Nov. 14, 1986, 100 Stat. 4039; Pub. L. 100–26, § 7(f)(1), Apr. 21, 1987, 101 Stat. 281; Pub. L. 102–190, div. B, title XXVIII, § 2870(5), Dec. 5, 1991, 105 Stat. 1563; Pub. L. 104–201, div. B, title XXVIII, § 2802(a), (c)(1), Sept. 23, 1996, 110 Stat. 2787; Pub. L. 111–84, div. B, title XXVIII, § 2801(a)(3), Oct. 28, 2009, 123 Stat. 2660; Pub. L. 111–383, div. B, title XXVIII, § 2803(b), Jan. 7, 2011, 124 Stat. 4459; Pub. L. 115–91, div. B, title XXVIII, § 2801(a)(4), Dec. 12, 2017, 131 Stat. 1840; Pub. L. 118–159, div. B, title XXV, § 2503, Dec. 23, 2024, 138 Stat. 2236.)

Editorial Notes

AMENDMENTS

2024—Subsec. (b). Pub. L. 118–159 designated existing provisions as par. (1) and added par. (2).

2017—Subsec. (c)(1). Pub. L. 115–91, § 2801(a)(4)(A), inserted ''of Defense'' after ''The Secretary''.

Subsec. (c)(2). Pub. L. 115–91, § 2801(a)(4)(B), substituted '', only after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress notice of the increase, including the reasons for the increase and the source of the funds to be used for the increase.'' for ''(A) after submitting a report in writing to the appropriate committees of Congress on such increase, including a statement of the reasons for the increase and a statement of the source of the funds to be used for the increase, and (B) after a period of 21 days has elapsed from the date of receipt of the report or, if earlier, a period of 14 days has elapsed from the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title.''

2011—Subsec. (c)(2)(B). Pub. L. 111–383 inserted before period at end ''or, if earlier, a period of 14 days has elapsed from the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title''.

2009—Subsec. (c)(1). Pub. L. 111–84 substituted ''section 2805(a)'' for ''section 2805(a)(2)''.

1996—Pub. L. 104–201, § 2802(c)(1), substituted ''Organizations Security Investment'' for ''Organization Infrastructure'' in section catchline.

Subsec. (b). Pub. L. 104–201, § 2802(a), substituted ''Security Investment program'' for ''Infrastructure program''.

1991—Subsec. (c)(2)(B). Pub. L. 102–190 substituted ''after'' for ''after either'' and struck out before period at end ''or after each such committee has indicated approval of the increased contribution''.

1987—Subsec. (c)(1). Pub. L. 100–26 substituted ''specified by section 2805(a)(2) of this title'' for ''specified by law''.

1986—Subsec. (a). Pub. L. 99–661 inserted ''and for related expenses'' after ''headquarters)''.

1982—Pub. L. 97–321 substituted ''Infrastructure'' for ''infrastructure'' in section catchline.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Pub. L. 104–201, div. B, title XXVIII, § 2802(b), Sept. 23, 1996, 110 Stat. 2787, provided that: ''Any reference to the North Atlantic Treaty Organization Infrastructure program in any Federal law, Executive order, regulation, delegation of authority, or document of or pertaining to the Department of Defense shall be deemed to refer to the North Atlantic Treaty Organization Security Investment program.''

EFFECTIVE DATE OF 2024 AMENDMENT

Pub. L. 118–159, div. B, § 2003, Dec. 23, 2024, 138 Stat. 2212, provided that: ''Titles XXI through XXVII [of Pub. L. 118–159, amending this section and enacting provisions related to military construction authorizations not set out in the Code] shall take effect on the later of—

''(1) October 1, 2024; or

''(2) the date of the enactment of this Act [Dec. 23, 2024].''

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–661, div. B, title V, § 2503(b), Nov. 14, 1986, 100 Stat. 4039, provided that: ''The amendment made by subsection (a) [amending this section] shall apply only with respect to contributions made with funds appropriated for fiscal years after fiscal year 1986.''

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

RESTRICTION ON CERTAIN FUNDING

Pub. L. 99–661, div. B, title V, § 2504, Nov. 14, 1986, 100 Stat. 4039, prohibited Secretary of Defense from obligating or expending any funds after fiscal year 1987 with respect to NATO infrastructure program under this section until Secretary submitted to Committees on Armed Services of Senate and House (1) a comprehensive master plan for establishing adequate active defenses for air bases in Europe at which operations of United States aircraft are planned, sites in Europe used by United States for logistic support of NATO or for prepositioned overseas matériel configured to unit sets, and (2) a report containing a certification by Secretary that sufficient funds have been budgeted by Department of Defense in fiscal year 1988 five-year defense plan to meet objectives of such comprehensive master plan.

§ 2807. Architectural and engineering services and construction design

(a) Within amounts appropriated for military construction and military family housing, the

Secretary concerned may obtain architectural and engineering services and may carry out construction design in connection with military construction projects, family housing projects, and projects undertaken in connection with the authority provided under section 2854 of this title that are not otherwise authorized by law. Amounts available for such purposes may be used for construction management of projects that are funded by foreign governments directly or through international organizations and for which elements of the armed forces of the United States are the primary user.

(b) In the case of architectural and engineering services and construction design to be undertaken under subsection (a) for which the estimated cost exceeds $1,000,000, the Secretary concerned shall notify the appropriate committees of Congress of the scope of the proposed project and the estimated cost of such services before the initial obligation of funds for such services. The Secretary may then obligate funds for such services only after the end of the 14-day period beginning on the date on which the notification is received by the committees in an electronic medium pursuant to section 480 of this title.

(c) If the Secretary concerned determines that the amount authorized for activities under subsection (a) in any fiscal year must be increased the Secretary may proceed with activities at such higher level only after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress notice of the need for the increase, including the source of funds to be used for the increase.

(d) For architectural and engineering services and construction design related to military construction and family housing projects, the Secretaries of the military departments may incur obligations for contracts or portions of contracts using military construction and family housing appropriations from different fiscal years to the extent that those appropriations are available for obligation.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 156; amended Pub. L. 98–115, title VIII, §804, Oct. 11, 1983, 97 Stat. 785; Pub. L. 99–661, div. B, title VII, §§2702(b), 2712(a), Nov. 14, 1986, 100 Stat. 4040, 4041; Pub. L. 102–190, div. B, title XXVIII, §2870(6), Dec. 5, 1991, 105 Stat. 1563; Pub. L. 105–261, div. B, title XXVIII, §2801, Oct. 17, 1998, 112 Stat. 2202; Pub. L. 108–136, div. A, title X, §1031(a)(37), Nov. 24, 2003, 117 Stat. 1601; Pub. L. 115–91, div. B, title XXVIII, §2801(a)(5), Dec. 12, 2017, 131 Stat. 1841.)

Editorial Notes

Amendments

2017—Subsec. (b). Pub. L. 115–91, §2801(a)(5)(A), substituted ''14-day period'' for ''21-day period'' and struck out ''or, if earlier, the end of the 14-day period beginning on the date on which a copy of the report is provided'' after ''received by the committees''.

Subsec. (c). Pub. L. 115–91, §2801(a)(5)(B), substituted ''only after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress notice of the need for the increase, including the source of funds to be used for the increase.'' for ''(1) after submitting a report in writing to the appropriate committees of Congress on such increase, including a statement of the reasons for the increase and a statement of the source of funds to be used for the increase, and (2) after a period of 21 days has elapsed from the date of receipt of the report or, if over sooner, a period of 14 days has elapsed from the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title.''

2003—Subsec. (b). Pub. L. 108–136, §1031(a)(37)(A), substituted ''$1,000,000'' for ''$500,000'', struck out ''not less than 21 days'' after ''of such services'', and inserted last sentence.

Subsec. (c)(2). Pub. L. 108–136, §1031(a)(37)(B), inserted before period at end ''or, if over sooner, a period of 14 days has elapsed from the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title''.

1998—Subsec. (b). Pub. L. 105–261, §2801(a), substituted ''$500,000'' for ''$300,000''.

Subsec. (d). Pub. L. 105–261, §2801(b), substituted ''architectural and engineering services and construction design'' for ''study, planning, design, architectural, and engineering services''.

1991—Subsec. (c)(2). Pub. L. 102–190 substituted ''after'' for ''after either'' and struck out before period at end ''or after each such committee has indicated approval of the increased level of activity''.

1986—Subsec. (b). Pub. L. 99–661, §2702(b), substituted ''$300,000'' for ''the maximum amount specified by law for the purposes of this section''.

Subsec. (d). Pub. L. 99–661, §2712(a), added subsec. (d).

1983—Subsec. (a). Pub. L. 98–115 substituted ''Within amounts appropriated for military construction and military family housing'' for ''Within amounts appropriated for such purposes'' and inserted '', family housing projects, and projects undertaken in connection with the authority provided under section 2854 of this title that are'' after ''in connection with military construction projects''.

Statutory Notes and Related Subsidiaries

Effective Date of 1986 Amendment

Pub. L. 99–661, div. B, title VII, §2712(b), Nov. 14, 1986, 100 Stat. 4041, provided that: ''The amendment made by subsection (a) [amending this section] shall apply only to funds appropriated for fiscal years after fiscal year 1985.''

Effective Date

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

Obligation and Execution of Design Funds for Military Construction Projects

Pub. L. 118–159, div. B, title XXVIII, §2811, Dec. 23, 2024, 138 Stat. 2252, provided that:

''(a) In General.—Not later than 150 days after amounts are appropriated for any fiscal year for the congressionally-directed design of a military construction project, the Secretary of Defense shall ensure that the construction agent responsible for such project enters into a contract pursuant to section 2807 of title 10, United States Code, for the obligation and execution of such amounts.

''(b) Completion of Work.—If a military construction project designated pursuant to subsection (a) has an estimated construction cost of less than $150,000,000, not less than 35 percent of the project design under a contract described in subsection (a) shall be completed not later than 240 days after the date of the award of such contract.

''(c) Notification.—If the Secretary determines that a construction agent who is responsible for a military construction project under subsection (a) fails to satisfy the requirements of subsection (a) or (b), the Sec-

retary shall, not later than 30 days after the Secretary makes such determination and at the end of each ninety-day period thereafter until such military construction project reaches 35 percent design, submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a notification that includes—

''(1) a statement of whether the construction agent has exceeded the duration to—

''(A) enter into a contract under subsection (a); or

''(B) complete 35 percent project design under subsection (b);

''(2) the reason for the delay in the satisfaction of such requirements; and

''(3) the projected dates such requirements will be satisfied.''

ARCHITECTURAL AND ENGINEERING SERVICES AND CONSTRUCTION DESIGN CONTRACTS FOR MILITARY CONSTRUCTION PROJECTS

Pub. L. 98–212, title VII, § 796, Dec. 8, 1983, 97 Stat. 1455, provided that: ''No funds appropriated for the Departments of Defense, Army, Navy, or the Air Force shall be obligated by their respective Secretaries for architectural and engineering services and construction design contracts for Military Construction projects in the amount of $85,000 and over, unless competition for such contracts is open to all firms regardless of size in accordance with 40 U.S.C. § 541, et seq. [now chapter 11 of Title 40, Public Buildings, Property, and Works.]''

SMALL BUSINESS SET-ASIDE FOR ARCHITECTURAL AND ENGINEERING SERVICES AND CONSTRUCTION DESIGN

Pub. L. 98–115, title VIII, § 806, Oct. 11, 1983, 97 Stat. 786, provided that:

''(a) The Secretary of Defense shall conduct a comprehensive review of current policies and practices of the Department of Defense with regard to the award of contracts for architectural and engineering services and construction design for military construction projects. The Secretary shall conduct such review with a view to determining whether current policies and practices of the Department of Defense result in a reasonable distribution of such contracts to firms of all sizes throughout the architect-engineer community.

''(b) Upon the completion of such review, the Secretary shall modify current policies and practices of the Department to the extent necessary to ensure—

''(1) that small business concerns (as defined in section 3 of the Small Business Act [15 U.S.C. 632]) are assured of a reasonable share of such contracts; and

''(2) that large architect-engineer firms are not precluded from competing for such contracts when the estimated amount of such contracts is greater than a reasonable threshold amount prescribed by the Secretary.

''(c) Not later than March 1, 1984, the Secretary shall submit to the appropriate committees of Congress a written report on the results of the review required by subsection (a) and on any changes made to current policies and practices as required by subsection (b).

''(d) For the purposes of this section:

''(1) The term 'reasonable share' means an appropriate percentage share of all contracts referred to in subsection (a) as determined by the Secretary of Defense after consultation with the Admininstrator [sic] of the Small Business Administration and representatives of the architect-engineer community.

''(2) The term 'reasonable threshold amount' means an appropriate estimated contract dollar amount determined by the Secretary of Defense after consultation with the Administrator of the Small Business Administration and representatives of the architect-engineer community.''

INITIAL ESTABLISHMENT OF CERTAIN AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

Amounts of $300,000 or more for contracts for architectural and engineering services or construction design subject to the reporting requirement under this section during the period beginning on Oct. 1, 1982, and ending on the date of the Military Construction Authorization Act for fiscal year 1984 or Oct. 1, 1983, whichever is later, see section 11(2) of Pub. L. 97–214, set out as a note under section 2828 of this title.

§ 2808. Construction authority in the event of a declaration of war or national emergency

(a) CONSTRUCTION AUTHORIZED.—In the event of a declaration of war or the declaration by the President of a national emergency in accordance with the National Emergencies Act (50 U.S.C. 1601 et seq.) that requires use of the armed forces, the Secretary of Defense, without regard to any other provision of law, may undertake military construction projects, and may authorize the Secretaries of the military departments to undertake military construction projects, not otherwise authorized by law that are necessary to support such use of the armed forces.

(b) CONDITIONS ON SOURCES OF FUNDS.—A military construction project to be undertaken using the construction authority described in subsection (a) may be undertaken only within the total amount of funds that have been appropriated for military construction, excluding funds appropriated for family housing, that—

(1) remain unobligated as of the date on which the first contract would be entered into in support of the national emergency declaration described in subsection (a); and

(2) are available because the military construction project for which the funds were appropriated—

(A) has been canceled; or

(B) has reduced costs as a result of project modifications or other cost savings.

(c) LIMITATION ON AMOUNT OF FUNDS AVAILABLE FOR NATIONAL EMERGENCY.—(1) Except as provided in paragraph (2), in the event of a declaration by the President of a national emergency in which the construction authority described in subsection (a) is used, the total cost of all military construction projects undertaken using that authority during the national emergency may not exceed $500,000,000.

(2) In the event of a national emergency declaration in which the construction authority described in subsection (a) will be used only within the United States, the total cost of all military construction projects undertaken using that authority during the national emergency may not exceed $100,000,000.

(d) WAIVER OF OTHER PROVISIONS OF LAW IN EVENT OF NATIONAL EMERGENCY.—In the event of a declaration by the President of a national emergency in which the construction authority described in subsection (a) is used, the authority provided by such subsection to waive or disregard another provision of law that would otherwise apply to a military construction project authorized by this section may be used only if—

(1) such other provision of law does not provide a means by which compliance with the requirements of the law may be waived, modified, or expedited; and

(2) the Secretary of Defense determines that the nature of the national emergency necessitates the noncompliance with the requirements of the law.

(e) NOTIFICATION REQUIREMENT.—(1)When a decision is made to undertake military construction projects authorized by this section, the Secretary of Defense shall notify, in an electronic medium pursuant to section 480 of this title, the appropriate committees of Congress of the following:

(A) The reasons for the decision to use the construction authority described in subsection (a), including, in the event of a declaration by the President of a national emergency, the reasons why use of the armed forces is required in response to the declared national emergency.

(B) The construction projects to be undertaken using the construction authority described in subsection (a), including, in the event of a declaration by the President of a national emergency, an explanation of how each construction project directly supports the immediate security, logistical, or short-term housing and ancillary supporting facility needs of the members of the armed forces used in the national emergency.

(C) The estimated cost of the construction projects to be undertaken using the construction authority described in subsection (a), including the cost of any real estate action pertaining to the construction projects, and certification of compliance with the funding conditions imposed by subsections (b) and (c).

(D) Any determination made pursuant to subsection (d)(2) to waive or disregard another provision of law to undertake any construction project using the construction authority described in subsection (a).

(E) The military construction projects, including any ancillary supporting facility projects, whose cancellation, modification, or other cost savings result in funds being available to undertake construction projects using the construction authority described in subsection (a) and the possible impact of the cancellation or modification of such military construction projects on military readiness and the quality of life of members of the armed forces and their dependents.

(2) In the event of a declaration by the President of a national emergency in which the construction authority described in subsection (a) is used, a construction project to be undertaken using such construction authority may be carried out only after the end of the five-day period beginning on the date the notification required by paragraph (1) is received by the congressional defense committees.

(f) TERMINATION OF AUTHORITY.—The authority described in subsection (a) shall terminate with respect to any war or national emergency at the end of the war or national emergency.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 157; amended Pub. L. 115–91, div. B, title XXVIII, §2801(a)(6), Dec. 12, 2017, 131 Stat. 1841; Pub. L. 116–283, div. B, title XXVIII, §2801(a)–(e), Jan. 1, 2021, 134 Stat. 4317–4319.)

Editorial Notes

REFERENCES IN TEXT

The National Emergencies Act (50 U.S.C. 1601 et seq.), referred to in subsec. (a), is Pub. L. 94–412, Sept. 14, 1976, 90 Stat. 1255, as amended, which is classified principally to chapter 34 (§1601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 97–99, title IX, §903, Dec. 23, 1981, 95 Stat. 1382, which was set out as a note under section 140 [now 127] of this title, prior to repeal by Pub. L. 97–214, §7(18).

AMENDMENTS

2021—Subsec. (a). Pub. L. 116–283, §2801(b), (e)(1), inserted heading and struck out ''Such projects may be undertaken only within the total amount of funds that have been appropriated for military construction, including funds appropriated for family housing, that have not been obligated.'' at end.

Subsec. (b). Pub. L. 116–283, §2801(b), added subsec. (b). Former subsec. (b) redesignated (e).

Subsec. (c). Pub. L. 116–283, §2801(a)(2), added subsec. (c). Former subsec. (c) redesignated (f).

Subsec. (d). Pub. L. 116–283, §2801(c), added subsec. (d).

Subsec. (e). Pub. L. 116–283, §2801(a)(1), (d), (e)(2), redesignated subsec. (b) as (e), inserted heading and par. (1) designation before ''When a decision'', substituted ''of the following:'' and subpars. (A) to (E) for ''of the decision and of the estimated cost of the construction projects, including the cost of any real estate action pertaining to those construction projects.'', and added par. (2).

Subsec. (f). Pub. L. 116–283, §2801(a)(1), (e)(3), redesignated subsec. (c) as (f) and inserted heading.

2017—Subsec. (b). Pub. L. 115–91 inserted '', in an electronic medium pursuant to section 480 of this title,'' after ''shall notify''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

EXCEPTION FOR PANDEMIC MITIGATION AND RESPONSE PROJECTS

Pub. L. 116–283, div. B, title XXVIII, §2801(f), Jan. 1, 2021, 134 Stat. 4319, provided that: ''Subsections (b), (c), (d) of section 2808 of title 10, United States Code, as added by this section, shall not apply to a military construction project commenced under the authority of subsection (a) of such section 2808 during the emergency period described in section 1135(g)(1)(B) of the Social Security Act (42 U.S.C. 1320b–5(g)(1)(B)) if the Secretary of Defense determines that the military construction project will directly support pandemic mitigation and response efforts of health care providers or support members of the Armed Forces directly participating in such pandemic mitigation and response efforts. Subsection (e) of section 2808 of title 10, United States Code, as redesignated by subsection (a)(1) and amended by subsection (d) of this section, shall still apply to any such military construction project.''

Executive Documents

EXECUTIVE ORDER NO. 12734

Ex. Ord. No. 12734, Nov. 14, 1990, 55 F.R. 48099, which related to national emergency construction authority, was revoked by Ex. Ord. No. 13350, July 29, 2004, 69 F.R. 46055, listed in a table under section 1701 of Title 50, War and National Defense.

EX. ORD. NO. 13235. NATIONAL EMERGENCY CONSTRUCTION AUTHORITY

Ex. Ord. No. 13235, Nov. 16, 2001, 66 F.R. 58343, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3, United States Code, I declared a national emergency that requires the use of the Armed Forces of the United States, by Proclamation 7463 of September 14, 2001 [50 U.S.C. 1621 note], because of the terrorist attacks on the World Trade Center and the Pentagon, and because of the continuing and immediate threat to the national security of the United States of further terrorist attacks. To provide additional authority to the Department of Defense to respond to that threat, and in accordance with section 301 of the National Emergencies Act (50 U.S.C. 1631), I hereby order that the emergency construction authority at 10 U.S.C. 2808 is invoked and made available in accordance with its terms to the Secretary of Defense and, at the discretion of the Secretary of Defense, to the Secretaries of the military departments.

GEORGE W. BUSH.

§ 2809. Long-term facilities contracts for certain activities and services

(a) SUBMISSION AND AUTHORIZATION OF PROPOSED PROJECTS.—The Secretary concerned may enter into a contract for the procurement of services in connection with the construction, management, and operation of a facility on or near a military installation for the provision of an activity or service described in subsection (b) if—

(1) the Secretary concerned has identified the proposed project for that facility in the budget material submitted to Congress by the Secretary of Defense in connection with the budget submitted pursuant to section 1105 of title 31 for the fiscal year in which the contract is proposed to be awarded;

(2) the Secretary concerned has determined that the services to be provided at that facility can be more economically provided through the use of a long-term contract than through the use of conventional means; and

(3) the project has been authorized by law.

(b) AUTHORIZED PURPOSES OF CONTRACT.—The activities and services referred to in subsection (a) are as follows:

(1) Child care services.

(2) Utilities, including potable and waste water treatment services.

(3) Depot supply activities.

(4) Troop housing.

(5) Transient quarters.

(6) Hospital or medical facilities.

(7) Other logistic and administrative services, other than depot maintenance.

(c) CONDITIONS ON OBLIGATION OF FUNDS.—A contract entered into for a project pursuant to subsection (a) shall include the following provisions:

(1) A statement that the obligation of the United States to make payments under the contract in any fiscal year is subject to appropriations being provided specifically for that fiscal year and specifically for that project.

(2) A commitment to obligate the necessary amount for each fiscal year covered by the contract when and to the extent that funds are appropriated for that project for that fiscal year.

(3) A statement that such a commitment given under the authority of this section does not constitute an obligation of the United States.

(d) COMPETITIVE PROCEDURES.—Each contract entered into under this section shall be awarded through the use of competitive procedures as provided in chapter 137[1] of this title. In accordance with such procedures, the Secretary concerned shall solicit bids or proposals for a contract for each project that has been authorized by law.

(e) TERM OF CONTRACT.—A contract under this section may be for any period not in excess of 32 years, excluding the period for construction.

(f) NOTICE AND WAIT REQUIREMENTS.—The Secretary concerned may enter into a contract under this section only after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress a justification of the need for the facility covered by the proposed contract, including an economic analysis (based upon accepted life cycle costing procedures) which demonstrates that the proposed contract is cost effective when compared with alternative means of furnishing the same facility.

(Added Pub. L. 99–167, title VIII, § 811(a), Dec. 3, 1985, 99 Stat. 990; amended Pub. L. 99–661, div. A, title XIII, § 1343(a)(20), div. B, title VII, § 2711, Nov. 14, 1986, 100 Stat. 3994, 4041; Pub. L. 100–180, div. B, subdiv. 3, title I, § 2302(a), (b), Dec. 4, 1987, 101 Stat. 1215; Pub. L. 100–456, div. B, title XXVIII, § 2801, Sept. 29, 1988, 102 Stat. 2115; Pub. L. 101–189, div. B, title XXVIII, § 2803, Nov. 29, 1989, 103 Stat. 1647; Pub. L. 102–190, div. B, title XXVIII, § 2805(a)(1), Dec. 5, 1991, 105 Stat. 1537; Pub. L. 108–136, div. A, title X, § 1031(a)(38), Nov. 24, 2003, 117 Stat. 1601; Pub. L. 115–91, div. B, title XXVIII, § 2801(a)(7), Dec. 12, 2017, 131 Stat. 1841.)

Editorial Notes

REFERENCES IN TEXT

Chapter 137 of this title, referred to in subsec. (d), was repealed by Pub. L. 116–283, div. A, title XVIII, § 1881(a), Jan. 1, 2021, 134 Stat. 4293, effective Jan. 1, 2022, in conjunction with the transfer and reorganization of acquisition provisions in this title by Pub. L. 116–283, div. A, title XVIII, Jan. 1, 2022, 134 Stat. 4149. For definition of ''chapter 137 legacy provisions'', see section 3016 of this title.

AMENDMENTS

2017—Subsec. (f). Pub. L. 115–91 added subsec. (f) and struck out former subsec. (f) which related to written or electronic notice and wait requirements for a contract.

2003—Subsec. (f)(2). Pub. L. 108–136 struck out ''calendar'' after ''21'' and inserted before period at end ''or, if over sooner, a period of 14 days has expired following the date on which a copy of the justification and economic analysis are provided in an electronic medium pursuant to section 480 of this title''.

1991—Pub. L. 102–190 substituted section catchline for one which read ''Test of long-term facilities contracts'' and amended text generally, substituting present provisions for provisions authorizing contracts for construction, management, and operation of facilities on or near military installations for the provision of certain enumerated activities or services, setting out procedures, terms, and other limits for such contracts, pro-

[1] See References in Text note below.

viding that no more than 5 contracts may be entered into under this section other than contracts for child care centers, and providing that authority to enter into such contracts was to expire on Sept. 30, 1991.

1989—Subsec. (a)(1)(B)(ii). Pub. L. 101–189, § 2803(1), substituted ''Utilities, including potable'' for ''Potable''.

Subsec. (b). Pub. L. 101–189, § 2803(2), substituted ''activities and services described in clause (i) or (ii) of subsection (a)(1)(B)'' for ''child care centers''.

Subsec. (c). Pub. L. 101–189, § 2803(3), substituted ''1991'' for ''1989''.

1988—Subsec. (a)(3). Pub. L. 100–456 substituted ''32'' for ''20''.

1987—Subsec. (a)(1)(B)(vi), (vii). Pub. L. 100–180, § 2302(a), added cl. (vi) and redesignated former cl. (vi) as (vii).

Subsec. (c). Pub. L. 100–180, § 2302(b), substituted ''1989'' for ''1987''.

1986—Subsec. (a)(1). Pub. L. 99–661, § 2711, amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The Secretary concerned may enter into a contract for the construction, management, and operation of a facility on or near a military installation in the United States for the provision of child care services, waste water treatment, or depot supply activities in a case in which the Secretary concerned determines that the facility can be more efficiently and more economically provided under a long-term contract than by other appropriate means.''

Pub. L. 99–661, § 1343(a)(20)(A), substituted ''a contract'' for ''contracts'', ''a facility'' for ''facilities'', ''a military installation'' for ''military installations'', ''a case'' for ''cases'', ''facility'' for ''facilities'', and ''a long-term contract'' for ''long-term contracts'' and inserted a comma after ''waste water treatment''.

Subsec. (a)(2). Pub. L. 99–661, § 1343(a)(20)(B), substituted ''this section'' for ''subsection (a)''.

Subsec. (a)(3). Pub. L. 99–661, § 1343(a)(20)(C), substituted ''20'' for ''twenty''.

Subsec. (a)(4)(A). Pub. L. 99–661, § 1343(a)(20)(D), struck out ''the'' before ''Congress''.

Subsec. (b). Pub. L. 99–661, § 1343(a)(20)(E), struck out ''the authority of subsection (a) of'' after ''under''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–190, div B, title XXVIII, § 2805(b), Dec. 5, 1991, 105 Stat. 1538, provided that: ''Section 2809 of title 10, United States Code, as amended by subsection (a), shall apply with respect to contracts entered into under that section on or after the date of the enactment of this Act [Dec. 5, 1991].''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–456 effective Oct. 1, 1988, see section 2702 of Pub. L. 100–456, set out as a note under section 2391 of this title.

DEMONSTRATION PROGRAM ON REDUCTION IN LONG-TERM FACILITY MAINTENANCE COSTS

Pub. L. 107–107, div. B, title XXVIII, § 2814, Dec. 28, 2001, 115 Stat. 1310, as amended by Pub. L. 107–314, div. B, title XXVIII, § 2813(a)–(d)(1), Dec. 2, 2002, 116 Stat. 2709, 2710, provided that:

''(a) AUTHORITY TO CARRY OUT PROGRAM.—The Secretary of Defense or the Secretary of a military department may conduct a demonstration program to assess the feasibility and desirability of including facility maintenance requirements in construction contracts for military construction projects for the purpose of determining whether such requirements facilitate reductions in the long-term facility maintenance costs of the military departments.

''(b) CONTRACTS.—(1) Not more than 12 contracts per military department may contain requirements referred to in subsection (a) for the purpose of the demonstration program.

''(2) The demonstration program may only cover contracts entered into on or after the date of the enactment of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 [Pub. L. 107–314, approved Dec. 2, 2002], except that the Secretary of the Army shall treat any contract containing requirements referred to in subsection (a) that was entered into under the authority in such subsection between that date and December 28, 2001, as a contract for the purpose of the demonstration program.

''(c) EFFECTIVE PERIOD OF REQUIREMENTS.—The effective period of a requirement referred to in subsection (a) that is included in a contract for the purpose of the demonstration program may not exceed five years.

''(d) REPORTING REQUIREMENTS.—Not later than January 31, 2005, the Secretary of Defense shall submit to Congress a report on the demonstration program, including the following:

''(1) A description of all contracts that contain requirements referred to in subsection (a) for the purpose of the demonstration program.

''(2) An evaluation of the demonstration program and a description of the experience of the Secretary with respect to such contracts.

''(3) Any recommendations, including recommendations for the termination, continuation, or expansion of the demonstration program, that the Secretary considers appropriate.

''(e) EXPIRATION.—The authority under subsection (a) to include requirements referred to in that subsection in contracts under the demonstration program shall expire on September 30, 2006.

''(f) FUNDING.—Amounts authorized to be appropriated for the military departments or defense-wide for a fiscal year for military construction shall be available for the demonstration program under this section in such fiscal year.''

[Pub. L. 107–314, div. B, title XXVIII, § 2813(d)(2), Dec. 2, 2002, 116 Stat. 2710, provided that: ''The amendment made by paragraph (1) [amending section 2814(f) of Pub. L. 107–107, set out above] shall not affect the availability for the purpose of the demonstration program under section 2814 of the Military Construction Authorization Act for Fiscal Year 2002, as amended by this section, of any amounts authorized to be appropriated before the date of the enactment of this Act [Dec. 2, 2002] for the Army for military construction that have been obligated for the demonstration program, but not expended, as of that date.'']

REPORT

Pub. L. 100–180, div. B, subdiv. 3, title I, § 2302(c), Dec. 4, 1987, 101 Stat. 1215, directed each Secretary who has entered into a contract under this section to submit a report to Committees on Armed Services of Senate and House of Representatives by Feb. 15, 1989, containing date and duration of, other party to, and nature of activities carried out under each such contract, and recommendations, and reasons therefor, concerning whether authority to enter into contracts under this section should be extended.

§ 2810. Military construction projects for innovation, research, development, test, and evaluation

(a) PROJECT AUTHORIZATION REQUIRED.—The Secretary of Defense may carry out such military construction projects for innovation, research, development, test, and evaluation as are authorized by law, using funds appropriated or otherwise made available for that purpose.

(b) SUBMISSION OF PROJECT PROPOSALS.—As part of the defense budget materials for each fiscal year, the Secretary of Defense shall include the following information for each military construction project covered by subsection (a):

(1) The project title.

(2) The location of the project.
(3) A brief description of the scope of work.
(4) A completed Department of Defense Form 1391 budget justification that includes the original project cost estimate.
(5) A current working cost estimate, if different that the cost estimate contained in such Form 1391.
(6) Such other information as the Secretary considers appropriate.

(c) BUDGET JUSTIFICATION DISPLAY.—The Secretary of Defense shall include with the defense budget materials for each fiscal year a consolidated budget justification display that individually identifies each military construction project covered by subsection (a) and the amount requested for such project for such fiscal year.

(d) APPLICATION TO MILITARY CONSTRUCTION PROJECTS.—This section shall apply to military construction projects covered by subsection (a) for which a Department of Defense Form 1391 is submitted to the appropriate committees of Congress in connection with the budget of the Department of Defense for fiscal year 2023 and thereafter.

(e) ANNUAL FIVE-YEAR PLANS ON IMPROVEMENT OF INNOVATION INFRASTRUCTURE.—

(1) SUBMISSION.—Along with the budget for each fiscal year submitted by the President pursuant to section 1105(a) of title 31, each Secretary of a military department and the Secretary of Defense shall submit to the congressional defense committees a plan that describes the objectives of that Secretary to improve innovation infrastructure during the five fiscal years following the fiscal year for which such budget is submitted.

(2) ELEMENTS.—Each plan submitted by a Secretary of a military department under paragraph (1) shall include the following:

(A) With respect to the five-year period covered by the plan, an identification of the major lines of effort, milestones, and investment goals of the Secretary over such period relating to the improvement of innovation infrastructure and a description of how such goals support such goals, including the use of—

(i) military construction, facilities restoration and modernization funds;

(ii) the defense lab modernization program under section 2805(d) of this title; and

(iii) military construction projects for innovation, research, development, test, and evaluation under this section.

(B) The estimated costs of necessary innovation infrastructure improvements and a description of how such costs would be addressed by the Department of Defense budget request submitted during the same year as the plan and the applicable future-years defense program.

(C) Information regarding the plan of the Secretary to initiate such environmental and engineering studies as may be necessary to carry out planned innovation infrastructure improvements.

(D) Detailed information regarding how innovation infrastructure improvement projects will be paced and sequenced to ensure continuous operations.

(3) INCORPORATION OF RESULTS-ORIENTED MANAGEMENT PRACTICES.—Each plan under subsection (a) shall incorporate the leading results-oriented management practices identified in the report of the Comptroller General of the United States titled ''Actions Needed to Improve Poor Conditions of Facilities and Equipment that Affect Maintenance Timeliness and Efficiency'' (GAO–19–242), or any successor report, including—

(A) analytically based goals;
(B) results-oriented metrics;
(C) the identification of required resources, risks, and stakeholders; and
(D) regular reporting on progress to decision makers.

(4) INNOVATIVE INFRASTRUCTURE DEFINED.—In this subsection, the term ''innovation infrastructure'' includes laboratories, test and evaluation ranges, and any other infrastructure whose primary purpose is research, development, test, and evaluation.

(Added Pub. L. 117–263, div. B, title XXVIII, § 2805(a), Dec. 23, 2022, 136 Stat. 2994; amended Pub. L. 118–159, div. B, title XXVIII, § 2806(a), Dec. 23, 2024, 138 Stat. 2249.)

Editorial Notes

PRIOR PROVISIONS

A prior section 2810, added Pub. L. 99–499, title II, § 211(b)(1), Oct. 17, 1986, 100 Stat. 1725, related to military construction projects for environmental response actions, prior to repeal by Pub. L. 107–314, div. A, title III, § 313(b), Dec. 2, 2002, 116 Stat. 2507.

AMENDMENTS

2024—Subsec. (e). Pub. L. 118–159 added subsec. (e).

Statutory Notes and Related Subsidiaries

DEADLINE

Pub. L. 118–159, div. B, title XXVIII, § 2806(b), Dec. 23, 2024, 138 Stat. 2250, provided that: ''The first plan required under subsection (e) of such section [meaning 10 U.S.C. 2810] (as amended by subsection (a)) shall be submitted as part of the annual budget submission of the President to Congress pursuant to section 1105(a) of title 31, United States Code, for fiscal year 2027.''

§ 2811. Repair of facilities

(a) REPAIRS USING OPERATIONS AND MAINTENANCE FUNDS.—Using funds available to the Secretary concerned for operation and maintenance, the Secretary concerned may carry out repair projects for an entire single-purpose facility or one or more functional areas of a multipurpose facility.

(b) APPROVAL REQUIRED FOR MAJOR REPAIRS.—A repair project costing more than $7,500,000 may not be carried out under this section unless approved in advance by the Secretary concerned. In determining the total cost of a repair project, the Secretary shall include all phases of a multi-year repair project to a single facility. In considering a repair project for approval, the Secretary shall ensure that the project is consistent with force structure plans, that repair of the facility is more cost effective than replace-

ment, and that the project is an appropriate use of operation and maintenance funds.

(c) PROHIBITION ON NEW CONSTRUCTION OR ADDITIONS.—Construction of new facilities or additions to existing facilities may not be carried out under the authority of this section.

(d) CONGRESSIONAL NOTIFICATION.—When a decision is made to carry out a repair project under this section with an estimated cost in excess of $7,500,000, the Secretary concerned shall submit, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress a report containing—

(1) the justification for the repair project and the current estimate of the cost of the project, including, in the case of a multi-year repair project to a single facility, the total cost of all phases of the project;

(2) if the current estimate of the cost of the repair project exceeds 75 percent of the estimated cost of a military construction project to replace the facility, an explanation of the reasons why replacement of the facility is not in the best interest of the Government; and

(3) a description of the elements of military construction, including the elements specified in section 2802(b) of this title, incorporated into the repair project.

(e) REPAIR PROJECT DEFINED.—In this section, the term ''repair project'' means a project—

(1) to restore a real property facility, system, or component to such a condition that it may effectively be used for its designated functional purpose; or

(2) to convert a real property facility, system, or component to a new functional purpose without increasing its external dimensions.

(Added Pub. L. 99–661, div. A, title III, §315(a), Nov. 14, 1986, 100 Stat. 3854, §2810; renumbered §2811, Pub. L. 100–26, §7(e)(3), Apr. 21, 1987, 101 Stat. 281; amended Pub. L. 103–337, div. B, title XXVIII, §2801(a), Oct. 5, 1994, 108 Stat. 3050; Pub. L. 105–85, div. B, title XXVIII, §2802, Nov. 18, 1997, 111 Stat. 1990; Pub. L. 108–375, div. B, title XXVIII, §2801, Oct. 28, 2004, 118 Stat. 2119; Pub. L. 111–84, div. B, title XXVIII, §2802, Oct. 28, 2009, 123 Stat. 2661; Pub. L. 114–328, div. B, title XXVIII, §2802, Dec. 23, 2016, 130 Stat. 2712; Pub. L. 115–91, div. B, title XXVIII, §2801(a)(8), Dec. 12, 2017, 131 Stat. 1841.)

Editorial Notes

AMENDMENTS

2017—Subsec. (d). Pub. L. 115–91 inserted '', in an electronic medium pursuant to section 480 of this title,'' after ''shall submit'' in introductory provisions.

2016—Subsec. (e). Pub. L. 114–328 amended subsec. (e) generally. Prior to amendment, text read as follows: ''In this section, the term 'repair project' means a project to restore a real property facility, system, or component to such a condition that it may effectively be used for its designated functional purpose.''

2009—Subsec. (d)(2), (3). Pub. L. 111–84 added pars. (2) and (3) and struck out former par. (2) which read as follows: ''the justification for carrying out the project under this section.''

2004—Subsec. (b). Pub. L. 108–375, §2801(a), substituted ''$7,500,000'' for ''$5,000,000''.

Subsec. (d). Pub. L. 108–375, §2801(b), substituted ''$7,500,000'' for ''$10,000,000'' in introductory provisions.

Subsec. (d)(1). Pub. L. 108–375, §2801(c), inserted before semicolon '', including, in the case of a multi-year repair project to a single facility, the total cost of all phases of the project''.

1997—Subsecs. (d), (e). Pub. L. 105–85 added subsecs. (d) and (e).

1994—Pub. L. 103–337 substituted ''Repair'' for ''Renovation'' in section catchline and amended text generally. Prior to amendment, text read as follows:

''(a) The Secretary concerned may carry out renovation projects that combine maintenance, repair, and minor construction projects for an entire single-purpose facility, or one or more functional areas of a multipurpose facility, using funds available for operations and maintenance.

''(b) The amount obligated on such a renovation project may not exceed the maximum amount specified by law for a minor construction project under section 2805 of this title.

''(c) Construction of new facilities or additions to existing facilities may not be carried out under the authority of this section.''

§ 2812. Lease-purchase of facilities

(a)(1) The Secretary concerned may enter into an agreement with a private contractor for the lease of a facility of the kind specified in paragraph (2) if the facility is provided at the expense of the contractor on a military installation under the jurisdiction of the Department of Defense.

(2) The facilities that may be leased pursuant to paragraph (1) are as follows:

(A) Administrative office facilities.

(B) Troop housing facilities.

(C) Energy production facilities.

(D) Utilities, including potable and waste water treatment facilities.

(E) Hospital and medical facilities.

(F) Transient quarters.

(G) Depot or storage facilities.

(H) Child care centers.

(I) Classroom and laboratories.

(b) Leases entered into under subsection (a)—

(1) may not exceed a term of 32 years;

(2) shall provide that, at the end of the term of the lease, title to the leased facility shall vest in the United States; and

(3) shall include such other terms and conditions as the Secretary concerned determines are necessary or desirable to protect the interests of the United States.

(c)(1) The Secretary concerned may enter into a lease under this section only after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress a justification of the need for the facility covered by the proposed lease, including an economic analysis (based upon accepted life-cycle costing procedures) that demonstrates the cost effectiveness of the proposed lease compared with a military construction project for the same facility.

(2) Each Secretary concerned may, under this section, enter into—

(A) not more than three leases in fiscal year 1990; and

(B) not more than five leases in each of the fiscal years 1991 and 1992.

(d) Each lease entered into under this section shall include a provision that the obligation of

the United States to make payments under the lease in any fiscal year is subject to the availability of appropriations for that purpose.

(Added Pub. L. 101–189, div. B, title XXVIII, § 2809(a), Nov. 29, 1989, 103 Stat. 1649; amended Pub. L. 101–510, div. B, title XXVIII, § 2864, Nov. 5, 1990, 104 Stat. 1806; Pub. L. 108–136, div. A, title X, § 1031(a)(39), Nov. 24, 2003, 117 Stat. 1601; Pub. L. 115–91, div. B, title XXVIII, § 2801(a)(9), Dec. 12, 2017, 131 Stat. 1841.)

Editorial Notes

AMENDMENTS

2017—Subsec. (c)(1). Pub. L. 115–91 added par. (1) and struck out former par. (1) which set out justification, economic analysis, and wait requirements for entering into a lease.

2003—Subsec. (c)(1)(B). Pub. L. 108–136 inserted before period at end ''or, if over sooner, a period of 14 days has expired following the date on which a copy of the justification and economic analysis are provided in an electronic medium pursuant to section 480 of this title''.

1990—Subsec. (a)(2)(I). Pub. L. 101–510 added subpar. (I).

§ 2813. Acquisition of existing facilities in lieu of authorized construction

(a) ACQUISITION AUTHORITY.—Using funds appropriated for a military construction project authorized by law for a military installation, the Secretary of the military department concerned may acquire an existing facility (including the real property on which the facility is located) at or near the military installation instead of carrying out the authorized military construction project if the Secretary determines that—

(1) the acquisition of the facility satisfies the requirements of the military department concerned for the authorized military construction project; and

(2) it is in the best interests of the United States to acquire the facility instead of carrying out the authorized military construction project.

(b) MODIFICATION OR CONVERSION OF ACQUIRED FACILITY.—(1) As part of the acquisition of an existing facility under subsection (a), the Secretary of the military department concerned may carry out such modifications, repairs, or conversions of the facility as the Secretary considers to be necessary so that the facility satisfies the requirements for which the military construction project was authorized.

(2) The costs of anticipated modifications, repairs, or conversions under paragraph (1) are required to remain within the authorized amount of the military construction project. The Secretary concerned shall consider such costs in determining whether the acquisition of an existing facility is—

(A) more cost effective than carrying out the authorized military construction project; and

(B) in the best interests of the United States.

(c) NOTICE AND WAIT REQUIREMENTS.—A contract may not be entered into for the acquisition of a facility under subsection (a) until the Secretary concerned notifies the appropriate committees of Congress of the determination to acquire an existing facility instead of carrying out the authorized military construction project. The notification shall include the reasons for acquiring the facility. After the notification is transmitted, the Secretary may then enter into the contract only after the end of the 14-day period beginning on the date on which the notification is received by the committees in an electronic medium pursuant to section 480 of this title.

(Added Pub. L. 103–160, div. B, title XXVIII, § 2805(a)(1), Nov. 30, 1993, 107 Stat. 1886; amended Pub. L. 104–106, div. A, title XV, § 1502(a)(25), Feb. 10, 1996, 110 Stat. 506; Pub. L. 108–136, div. A, title X, § 1031(a)(40), Nov. 24, 2003, 117 Stat. 1601; Pub. L. 109–163, div. B, title XXVIII, § 2801(b), Jan. 6, 2006, 119 Stat. 3504; Pub. L. 115–91, div. B, title XXVIII, § 2801(a)(10), Dec. 12, 2017, 131 Stat. 1841.)

Editorial Notes

AMENDMENTS

2017—Subsec. (c). Pub. L. 115–91 substituted ''notifies the appropriate committees of Congress'' for ''transmits to the appropriate committees of Congress a written notification'' and ''14-day period'' for ''21-day period'' and struck out ''or, if earlier, the end of the 14-day period beginning on the date on which a copy of the report is provided'' after ''received by the committees''.

2006—Subsec. (c). Pub. L. 109–163 substituted ''21-day period'' for ''30-day period'' and ''14-day period'' for ''21-day period''.

2003—Subsec. (c). Pub. L. 108–136 struck out ''the end of the 30-day period beginning on the date'' after ''until'' and inserted last sentence.

1996—Subsec. (c). Pub. L. 104–106 substituted ''appropriate committees of Congress'' for ''Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 103–160, div. B, title XXVIII, § 2805(b), Nov. 30, 1993, 107 Stat. 1887, provided that: ''Section 2813 of title 10, United States Code, as added by subsection (a), shall apply with respect to military construction projects authorized on or after the date of the enactment of this Act [Nov. 30, 1993].''

§ 2814. Special authority for development of Ford Island, Hawaii

(a) IN GENERAL.—(1) Subject to paragraph (2), the Secretary of the Navy may exercise any authority or combination of authorities in this section for the purpose of developing or facilitating the development of Ford Island, Hawaii, to the extent that the Secretary determines the development is compatible with the mission of the Navy.

(2) The Secretary of the Navy may not exercise any authority under this section until—

(A) the Secretary submits to the appropriate committees of Congress a master plan for the development of Ford Island, Hawaii; and

(B) a period of 30 calendar days has elapsed following the date on which the notification is received by those committees.

(b) CONVEYANCE AUTHORITY.—(1) The Secretary of the Navy may convey to any public or private

person or entity all right, title, and interest of the United States in and to any real property (including any improvements thereon) or personal property under the jurisdiction of the Secretary in the State of Hawaii that the Secretary determines—

(A) is excess to the needs of the Navy and all of the other armed forces; and

(B) will promote the purpose of this section.

(2) A conveyance under this subsection may include such terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

(c) LEASE AUTHORITY.—(1) The Secretary of the Navy may lease to any public or private person or entity any real property or personal property under the jurisdiction of the Secretary in the State of Hawaii that the Secretary determines—

(A) is not needed for current operations of the Navy and all of the other armed forces; and

(B) will promote the purpose of this section.

(2) A lease under this subsection shall be subject to section 2667(b)(1) of this title and may include such other terms as the Secretary considers appropriate to protect the interests of the United States.

(3) A lease of real property under this subsection may provide that, upon termination of the lease term, the lessee shall have the right of first refusal to acquire the real property covered by the lease if the property is then conveyed under subsection (b).

(4)(A) The Secretary may provide property support services to or for real property leased under this subsection.

(B) To the extent provided in appropriations Acts, any payment made to the Secretary for services provided under this paragraph shall be credited to the appropriation, account, or fund from which the cost of providing the services was paid.

(d) ACQUISITION OF LEASEHOLD INTEREST BY SECRETARY.—(1) The Secretary of the Navy may acquire a leasehold interest in any facility constructed under subsection (f) as consideration for a transaction authorized by this section upon such terms as the Secretary considers appropriate to promote the purpose of this section.

(2) The term of a lease under paragraph (1) may not exceed 10 years, unless the Secretary of Defense approves a term in excess of 10 years for purposes of this section.

(3) A lease under this subsection may provide that, upon termination of the lease term, the United States shall have the right of first refusal to acquire the facility covered by the lease.

(e) REQUIREMENT FOR COMPETITION.—The Secretary of the Navy shall use competitive procedures for purposes of selecting the recipient of real or personal property under subsection (b) and the lessee of real or personal property under subsection (c).

(f) CONSIDERATION.—(1) As consideration for the conveyance of real or personal property under subsection (b), or for the lease of real or personal property under subsection (c), the Secretary of the Navy shall accept cash, real property, personal property, or services, or any combination thereof, in an aggregate amount equal to not less than the fair market value of the real or personal property conveyed or leased.

(2) Subject to subsection (i), the services accepted by the Secretary under paragraph (1) may include the following:

(A) The construction or improvement of facilities at Ford Island.

(B) The restoration or rehabilitation of real property at Ford Island.

(C) The provision of property support services for property or facilities at Ford Island.

(g) NOTICE AND WAIT REQUIREMENTS.—The Secretary of the Navy may carry out a transaction authorized by this section only after the end of the 20-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress notice of the transaction, including a detailed description of the transaction and a justification for the transaction specifying the manner in which the transaction will meet the purposes of this section.

(h) FORD ISLAND IMPROVEMENT ACCOUNT.—(1) There is established on the books of the Treasury an account to be known as the ''Ford Island Improvement Account''.

(2) There shall be deposited into the account the following amounts:

(A) Amounts authorized and appropriated to the account.

(B) Except as provided in subsection (c)(4)(B), the amount of any cash payment received by the Secretary for a transaction under this section.

(i) USE OF ACCOUNT.—(1) Subject to paragraph (2), to the extent provided in advance in appropriations Acts, funds in the Ford Island Improvement Account may be used as follows:

(A) To carry out or facilitate the carrying out of a transaction authorized by this section.

(B) To carry out improvements of property or facilities at Ford Island.

(C) To obtain property support services for property or facilities at Ford Island.

(2) To extent that the authorities provided under subchapter IV of this chapter are available to the Secretary of the Navy, the Secretary may not use the authorities in this section to acquire, construct, or improve family housing units, military unaccompanied housing units, or ancillary supporting facilities related to military housing.

(3)(A) The Secretary may transfer funds from the Ford Island Improvement Account to the following funds:

(i) The Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of this title.

(ii) The Department of Defense Military Unaccompanied Housing Improvement Fund established by section 2883(a)(2) of this title.

(B) Amounts transferred under subparagraph (A) to a fund referred to in that subparagraph shall be available in accordance with the provisions of section 2883 of this title for activities

authorized under subchapter IV of this chapter at Ford Island.

(j) INAPPLICABILITY OF CERTAIN PROPERTY MANAGEMENT LAWS.—Except as otherwise provided in this section, transactions under this section shall not be subject to the following:

(1) Sections 2667 and 2696 of this title.

(2) Section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411).

(3) Subchapter II of chapter 5 and sections 541–555 of title 40.

(k) SCORING.—Nothing in this section shall be construed to waive the applicability to any lease entered into under this section of the budget scorekeeping guidelines used to measure compliance with the Balanced Budget and Emergency Deficit Control Act of 1985.

(*l*) PROPERTY SUPPORT SERVICE DEFINED.—In this section, the term ''property support service'' means the following:

(1) Any utility service or other service listed in section 2686(a) of this title.

(2) Any other service determined by the Secretary to be a service that supports the operation and maintenance of real property, personal property, or facilities.

(Added Pub. L. 106–65, div. B, title XXVIII, § 2802(a)(1), Oct. 5, 1999, 113 Stat. 845; amended Pub. L. 106–398, § 1 [[div. A], title X, § 1087(a)(16)], Oct. 30, 2000, 114 Stat. 1654, 1654A–291; Pub. L. 107–107, div. A, title X, § 1048(d)(1), Dec. 28, 2001, 115 Stat. 1227; Pub. L. 107–217, § 3(b)(18), Aug. 21, 2002, 116 Stat. 1296; Pub. L. 111–383, div. B, title XXVIII, § 2803(c), Jan. 7, 2011, 124 Stat. 4459; Pub. L. 115–91, div. B, title XXVIII, § 2801(a)(11), Dec. 12, 2017, 131 Stat. 1842.)

Editorial Notes

REFERENCES IN TEXT

The Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsec. (k), is title II of Pub. L. 99–177, Dec. 12, 1985, 99 Stat. 1038, as amended, which enacted chapter 20 (§ 900 et seq.) and sections 654 to 656 of Title 2, The Congress, amended sections 602, 622, 631 to 642, and 651 to 653 of Title 2, sections 1104 to 1106, and 1109 of Title 31, Money and Finance, and section 911 of Title 42, The Public Health and Welfare, repealed section 661 of Title 2, enacted provisions set out as notes under section 900 of Title 2 and section 911 of Title 42, and amended provisions set out as a note under section 621 of Title 2. For complete classification of this Act to the Code, see Short Title note set out under section 900 of Title 2 and Tables.

AMENDMENTS

2017—Subsec. (g). Pub. L. 115–91 added subsec. (g) and struck out former subsec. (g) which set out notice and wait requirements for a transaction authorized by this section.

2011—Subsec. (g)(2). Pub. L. 111–383 inserted before period at end ''or, if earlier, a period of 20 days has elapsed from the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title''.

2002—Subsec. (j)(3). Pub. L. 107–217 substituted ''Subchapter II of chapter 5 and sections 541–555 of title 40'' for ''Sections 202 and 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483, 484)''.

2001—Subsec. (j)(2). Pub. L. 107–107 substituted ''McKinney-Vento Homeless Assistance Act'' for ''Stewart B. McKinney Homeless Assistance Act''.

2000—Subsec. (k). Pub. L. 106–398 inserted ''and'' after ''Balanced Budget''.

§ 2815. Military installation resilience projects

(a) PROJECTS REQUIRED.—The Secretary of Defense shall carry out military construction projects for military installation resilience, in accordance with section 2802 of this title (except as provided in subsections (d)(3) and (e)).

(b) CONGRESSIONAL NOTIFICATION.—(1) When a decision is made to carry out a project under this section, the Secretary of Defense shall notify the congressional defense committees of that decision.

(2) The Secretary of Defense shall include in each notification submitted under paragraph (1) the rationale for how the project would—

(A) enhance military installation resilience;

(B) enhance mission assurance;

(C) support mission critical functions; and

(D) address known vulnerabilities.

(c) TIMING OF PROJECTS.—Except as provided in subsection (e)(2), a project may be carried out under this section only after the end of the 14-day period beginning on the date that notification with respect to that project under subsection (b) is received by the congressional defense committees in an electronic medium pursuant to section 480 of this title.

(d) LOCATION OF PROJECTS.—Projects carried out pursuant to this section may be carried out—

(1) on a military installation;

(2) on a facility used by the Department of Defense that is owned and operated by a State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands, even if the facility is not under the jurisdiction of the Department of Defense, if the Secretary of Defense determines that the facility is subject to significant use by the armed forces for testing or training; or

(3) outside of a military installation or facility described in paragraph (2) if the Secretary concerned determines that the project would preserve or enhance the resilience of—

(A) a military installation;

(B) a facility described in paragraph (2); or

(C) community infrastructure determined by the Secretary concerned to be necessary to maintain, improve, or rapidly reestablish installation mission assurance and mission-essential functions.

(e) ALTERNATIVE FUNDING SOURCE.—(1) In carrying out a project under this section, the Secretary concerned may use amounts available for operation and maintenance for the military department concerned if the Secretary concerned submits a notification to the congressional defense committees of the decision to carry out the project using such amounts and includes in the notification—

(A) the current estimate of the cost of the project;

(B) the source of funds for the project; and

(C) a certification that deferral of the project for inclusion in the next Military Construction Authorization Act would be inconsistent with national security or the protection of health, safety, or environmental quality, as the case may be.

(2) A project carried out under this section using amounts under paragraph (1) may be carried out only after the end of the 7-day period beginning on the date on which a copy of the notification described in paragraph (1) is provided in an electronic medium pursuant to section 480 of this title.

(3) The maximum aggregate amount that the Secretary concerned may obligate from amounts available to the military department concerned for operation and maintenance in any fiscal year for projects under the authority of this subsection is $125,000,000.

(f) ANNUAL REPORT.—Not later than 90 days after the end of each fiscal year until December 31, 2025, the Secretary of Defense shall submit to the congressional defense committees a report on the status of the planned and active projects carried out under this section (including completed projects), and shall include in the report with respect to each such project the following information:

(1) The title, location, a brief description of the scope of work, the original project cost estimate, and the current working cost estimate.

(2) The information provided under subsection (b)(2).

(3) Such other information as the Secretary considers appropriate.

(Added Pub. L. 116–92, div. B, title XXVIII, § 2801(b)(1), Dec. 20, 2019, 133 Stat. 1880; amended Pub. L. 116–283, div. A, title III, § 315(a), Jan. 1, 2021, 134 Stat. 3514; Pub. L. 118–31, div. B, title XXVIII, § 2804, Dec. 22, 2023, 137 Stat. 744.)

Editorial Notes

PRIOR PROVISIONS

A prior section 2815, added Pub. L. 106–398, § 1 [div. B, title XXVIII, § 2801(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–412; amended Pub. L. 107–314, div. A, title X, § 1062(a)(14), Dec. 2, 2002, 116 Stat. 2650, related to annual evaluation of joint use military construction projects, prior to repeal by Pub. L. 112–81, div. A, title X, § 1061(23)(A), Dec. 31, 2011, 125 Stat. 1584.

AMENDMENTS

2023—Subsec. (e)(3). Pub. L. 118–31 substituted ''$125,000,000'' for ''$100,000,000''.

2021—Subsec. (a). Pub. L. 116–283, § 315(a)(1), inserted ''(except as provided in subsections (d)(3) and (e))'' before period at end.

Subsec. (c). Pub. L. 116–283, § 315(a)(2), substituted ''Except as provided in subsection (e)(2), a project'' for ''A project''.

Subsecs. (d) to (f). Pub. L. 116–283, § 315(a)(3), (4), added subsecs. (d) and (e) and redesignated former subsec. (d) as (f).

§ 2815a. Stormwater management, shoreline erosion control, and water resilience projects for installations and defense access roads

(a) PROJECTS AUTHORIZED.—The Secretary concerned may carry out one or more of the following projects on or related to a military installation:

(1) A stormwater management project for the purposes of—

(A) improving military installation resilience or the resilience of a defense access road or other essential civilian infrastructure supporting a military installation; and

(B) protecting nearby waterways and stormwater-stressed ecosystems.

(2) A shoreline erosion control project for the purpose of improving, protecting, or repairing shoreline to protect the infrastructure of a military installation or a defense access road.

(3) A project to provide water storage and filtration, flood mitigation, or otherwise support water resilience.

(b) PROJECT METHODS AND FUNDING SOURCES.—Using such amounts as may be provided in advance in appropriation Acts, the Secretary concerned may carry out a project under this section as, or as part of, any of the following:

(1) An authorized military construction project.

(2) An unspecified minor military construction project under section 2805 of this title, including using appropriations available for operation and maintenance subject to the limitation in subsection (c) of such section.

(3) A military installation resilience project under section 2815 of this title, including the use of appropriations available for operations and maintenance subject to the limitation of subsection (e)(3) of such section.

(4) A defense community infrastructure resilience project under section 2391(d) of this title.

(5) A military installation resilience project under section 2684a of this title.

(6) A construction project under section 2914 of this title.

(7) A reserve component facility project under section 18233 of this title.

(8) A defense access road project under section 210 of title 23.

(c) PROJECT PRIORITIES.—In selecting projects to be carried out under this section, the Secretary concerned shall give a priority to a project proposal that—

(1) minimizes the runoff of untreated stormwater into freshwater systems or tidal systems;

(2) protects military installations and defense access roads from stormwater runoff and water levels resulting from extreme weather conditions;

(3) controls shoreline erosion control that involve the improvement, protection, or repair of shoreline subject to wave action or stormwater runoff and water levels resulting from extreme weather condition; or

(4) supports water resilience at military installations.

(d) PROJECT ACTIVITIES.—Activities carried out as part of a project under this section may include, but are not limited to, the following:

(1) The installation, expansion, or refurbishment of stormwater ponds and other water-slowing, retention, or filtration measures to address storm water management.

(2) The installation of permeable pavement in lieu of, or to replace existing, nonpermeable pavement.

(3) The use of planters, tree boxes, cisterns, and rain gardens to reduce stormwater runoff.

(4) The capture or storage of stormwater for use in supporting water resilience at a military installation.

(5) The use of sheet piles, riprap, armor stone, sea walls, natural plantings, or any other technologies created to address shoreline erosion control.

(e) PROJECT COORDINATION.—(1) In the case of a project carried out under this section on or related to a military installation and any project related to the same installation carried out under section 2391, 2684, 2815, or 2914 of this title, the Secretary concerned shall ensure coordination between the projects regarding the water access, management, conservation, security, and resilience aspects of the projects.

(2) The Assistant Secretary of Defense for Energy, Installations, and Environment shall designate an official to be responsible for coordinating projects under this section among the military departments.

(f) ANNUAL REPORT.—(1) Not later than 90 days after the end of each fiscal year, each Secretary concerned shall submit to the congressional defense committees a report describing—

(A) the status of planned and active projects carried out by that Secretary under this section; and

(B) all projects completed by the Secretary concerned during the previous fiscal year.

(2) Each report shall include the following information with respect to each project described in the report:

(A) The title, location, a brief description of the scope of work, the original project cost estimate, and the current working cost estimate.

(B) The rationale for how the project will—

(i) improve military installation resilience or the resilience of a defense access road or other essential civilian infrastructure supporting a military installation;

(ii) protect waterways and stormwater-stressed ecosystems;

(iii) improve, protect, or repair shoreline to protect infrastructure of a military installation or a defense access road from shoreline erosion; or

(iv) provide water storage and filtration, flood mitigation, or otherwise support water resilience.

(C) Such other information as the Secretary concerned considers appropriate.

(g) DEFINITIONS.—In this section:

(1) The term ''defense access road'' means a road certified to the Secretary of Transportation as important to the national defense under the provisions of section 210 of title 23.

(2) The terms ''facility'' and ''State'' have the meanings given those terms in section 18232 of this title.

(3) The term ''military installation'' includes a facility of a reserve component owned by a State rather than the United States.

(4) The term ''military installation resilience'' has the meaning given that term in section 101 of this title.

(5) The term ''Secretary concerned'' means—

(A) the Secretary of a military department with respect to military installations under the jurisdiction of that Secretary; and

(B) the Secretary of Defense with respect to matters concerning the Defense Agencies and facilities of a reserve component owned by a State rather than the United States.

(6) The term ''water resilience'' means the capacity of a military installation to mitigate, respond, or adapt to changes in water availability due to manmade or natural phenomena.

(Added Pub. L. 117–81, div. B, title XXVIII, § 2803, Dec. 27, 2021, 135 Stat. 2186; amended Pub. L. 118–159, div. B, title XXVIII, § 2847, Dec. 23, 2024, 138 Stat. 2264.)

Editorial Notes

AMENDMENTS

2024—Pub. L. 118–159, § 2847(a)(1), amended section catchline generally. Prior to amendment, catchline read as follows: ''Stormwater management projects for installation and defense access road resilience and waterway and ecosystems conservation''.

Subsec. (a). Pub. L. 118–159, § 2847(a)(2), amended subsec. (a) generally. Prior to amendment, text read as follows: ''The Secretary concerned may carry out a stormwater management project on or related to a military installation for the purpose of—

''(1) improving military installation resilience or the resilience of a defense access road or other essential civilian infrastructure supporting the military installation; and

''(2) protecting nearby waterways and stormwater-stressed ecosystems.''

Subsec. (b). Pub. L. 118–159, § 2847(a)(3)(A), struck out ''stormwater management'' before ''project under this section'' in introductory provisions.

Subsec. (b)(5) to (8). Pub. L. 118–159, § 2847(a)(3)(B), (C), added par.(5) and redesignated former pars. (5) to (7) as (6) to (8), respectively.

Subsec. (c). Pub. L. 118–159, § 2847(a)(4), amended subsec. (c) generally. Prior to amendment, text read as follows: ''In selecting stormwater management projects to be carried out under this section, the Secretary concerned shall give a priority to project proposals involving the retrofitting of buildings and grounds on a military installation or retrofitting a defense access road to reduce stormwater runoff and ponding or standing water that includes the combination of stormwater runoff and water levels resulting from extreme weather conditions.''

Subsec. (d). Pub. L. 118–159, § 2847(a)(5)(A), struck out ''stormwater management'' before ''project'' in introductory provisions.

Subsec. (d)(1). Pub. L. 118–159, § 2847(a)(5)(B), substituted '', retention, or filtration measures to address storm water management'' for ''and retention measures''.

Subsec. (d)(4), (5). Pub. L. 118–159, § 2847(a)(5)(C), added pars. (4) and (5).

Subsec. (e). Pub. L. 118–159, § 2847(a)(6), designated existing provisions as par. (1), struck out ''stormwater management'' before ''project carried'', substituted ''section 2391, 2684,'' for ''section 2391(d),'', and added par. (2).

Subsec. (f)(1)(A). Pub. L. 118–159, § 2847(a)(7)(A), struck out ''stormwater management'' before ''projects''.

Subsec. (f)(2). Pub. L. 118–159, § 2847(a)(7)(A), struck out ''stormwater management'' before ''project'' in introductory provisions.

Subsec. (f)(2)(B)(iii), (iv). Pub. L. 118–159, § 2847(a)(7)(B), added cls. (iii) and (iv).

Subsec. (g)(4). Pub. L. 118–159, § 2847(b), substituted ''section 101'' for ''section 101(e)(8)''.

Subsec. (g)(6). Pub. L. 118–159, § 2847(a)(8), added par. (6).

§ 2816. Consideration of energy security and energy resilience in life-cycle cost for military construction

(a) IN GENERAL.—(1) The Secretary concerned, when evaluating the life-cycle designed cost of a

covered military construction project, shall include as a facility requirement the long-term consideration of energy security and energy resilience that would ensure that the resulting facility is capable of continuing to perform its missions, during the life of the facility, in the event of a natural or human-caused disaster, an attack, or any other unplanned event that would otherwise interfere with the ability of the facility to perform its missions.

(2) A facility requirement under paragraph (1) shall not be weighed, for cost purposes, against other facility requirements in determining the design of the facility.

(b) INCLUSION IN THE BUILDING LIFE-CYCLE COST PROGRAM.—The Secretary shall include the requirements of subsection (a) in applying the latest version of the building life-cycle cost program, as developed by the National Institute of Standards and Technology, to consider on-site distributed energy assets in a building design for a covered military construction project.

(c) COVERED MILITARY CONSTRUCTION PROJECT DEFINED.—(1) In this section, the term ''covered military construction project'' means a military construction project for a facility that is used to perform critical functions during a natural or human-caused disaster, an attack, or any other unplanned event.

(2) For purposes of paragraph (1), the term ''facility'' includes at a minimum any of the following:

(A) Operations centers.

(B) Nuclear command and control facilities.

(C) Integrated strategic and tactical warning and attack assessment facilities.

(D) Continuity of government facilities.

(E) Missile defense facilities.

(F) Air defense facilities.

(G) Hospitals.

(H) Armories and readiness centers of the National Guard.

(I) Communications facilities.

(J) Satellite and missile launch and control facilities.

(Added Pub. L. 116–283, div. B, title XXVIII, § 2804(a), Jan. 1, 2021, 134 Stat. 4320.)

§ 2817. Authority for certain construction projects in friendly foreign countries

(a) CONSTRUCTION AUTHORIZED.—Using funds available for operations and maintenance, the Secretary of Defense may carry out a construction project in a friendly foreign country, and perform planning and design to support such a project, that the Secretary determines meets each of the following conditions:

(1) The commander of the geographic combatant command in which the construction project will be carried out identified the construction project as necessary to support vital United States military requirements at an air port of debarkation, sea port of debarkation, or rail or other logistics support location.

(2) The construction project will not be carried out at a military installation.

(3) The funds made available under the authority of this section for the construction project—

(A) will be sufficient to—

(i) construct a complete and usable facility or make an improvement to a facility; or

(ii) complete the repair of an existing facility or improvement to a facility; and

(B) will not require additional funds from other Department of Defense accounts.

(4) The level of construction for the construction project may not exceed the minimum necessary to meet the military requirements identified under paragraph (1).

(5) Deferral of the construction project pending inclusion of the construction project proposal in the national defense authorization Act for a subsequent fiscal year is inconsistent with the military requirements identified under paragraph (1) and other national security or national interests of the United States.

(b) CONGRESSIONAL NOTIFICATION.—

(1) NOTIFICATION REQUIRED.—Upon determining to carry out a construction project under this section that has an estimated cost in excess of the amounts authorized for unspecified minor military construction projects under section 2805(c) of this title, the Secretary of Defense shall submit to the specified congressional committees a notification of such determination.

(2) ELEMENTS.—The notification required by paragraph (1) shall include the following:

(A) A certification that the conditions specified in subsection (a) are satisfied with regard to the construction project.

(B) A justification for such project.

(C) An estimate of the cost of such project.

(3) NOTICE AND WAIT.—The Secretary of Defense may carry out a construction project only after the end of the 30-day period beginning on the date the notice required by paragraph (1) is received by the specified congressional committees in an electronic medium pursuant to section 480 of this title.

(c) ANNUAL LIMITATIONS ON USE OF AUTHORITY.—

(1) TOTAL COST LIMITATION.—The Secretary of Defense may not obligate more than $200,000,000 in any fiscal year under the authority provided by this section.

(2) ADDITIONAL OBLIGATION AUTHORITY.—Notwithstanding paragraph (1), the Secretary of Defense may authorize the obligation under this section of not more than an additional $10,000,000 from funds available for operations and maintenance for a fiscal year if the Secretary determines that the additional funds are needed for costs associated with contract closeouts for all construction projects during such fiscal year.

(3) PROJECT LIMITATION.—The maximum amount that the Secretary may obligate for a single construction project is $15,000,000.

(d) SPECIFIED CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ''specified congressional committees'' means—

(1) the Committee on Armed Services and the Subcommittee on Defense and the Subcommittee on Military Construction, Veterans Affairs, and Related Agencies of the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services and the Subcommittee on Defense and the Subcommittee on Military Construction, Veterans Affairs, and Related Agencies of the Committee on Appropriations of the House of Representatives.

(Added Pub. L. 118–31, div. B, title XXVIII, § 2805, Dec. 22, 2023, 137 Stat. 744.)

§ 2818. Contracts for design and construction of facilities of Department of Defense

(a) IN GENERAL.—The head of an element of the Department of Defense (as defined in section 111(b) of this title) may award a contact[1] to any other such element for the design and construction of facilities of the Department of Defense, including facility maintenance and repair projects and unspecified minor military construction projects under section 2805 of this title, on a reimbursable basis.

(b) CONSIDERATION AS AN OBLIGATION.—A contract awarded under subsection (a) by such head shall be considered to be an obligation of such head in the same manner as a similar order or contract placed by such head with a private entity.

(c) LIMITATION.—An awardee of a contract under subsection (a) may include an amount equal to not more than 10 percent of the proposed value of the contract for contingency expenses.

(Added Pub. L. 118–159, div. B, title XXVIII, § 2843, Dec. 23, 2024, 138 Stat. 2263.)

§ 2819. Strategy and assessment with respect to non-operational, underutilized, and other Department of Defense facilities: assessments of historical significance

(a) STRATEGY FOR DEMOLITION.—Each Secretary concerned shall develop a strategy to demolish facilities under the respective jurisdiction of each such Secretary that—

(1) are in poor or failing condition under the uniform index developed under section 2838 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31);

(2) are not in operational use; or

(3) such Secretary determines are underutilized.

(b) ASSESSMENT OF CERTAIN MAINTENANCE COSTS.—Each Secretary concerned shall conduct an assessment to determine the total cost to the United States to maintain facilities that—

(1) are not in operational use; and

(2) such Secretary determines are underutilized.

(c) REQUIRED CONSIDERATION.—In determining whether a facility is underutilized pursuant to subsections (a) or (b), each Secretary concerned shall compare the occupancy of such facility to the total square footage of such facility.

(d) ASSESSMENTS OF HISTORIC SIGNIFICANCE.—(1) Not later than December 1, 2025, and on an annual basis thereafter, each Secretary concerned shall conduct an assessment of each facility under the jurisdiction of the Secretary concerned that was constructed at least 25 years prior to the year covered by the assessment to determine whether the facility—

(A) is historically significant; or

(B) will be historically significant at the end of the 25-year period beginning on the date of the completion of such assessment.

(2) For each facility described in paragraph (1) that a Secretary concerned determines is not, or will not be, historically significant pursuant to an assessment under such paragraph, the Secretary concerned shall—

(A) conduct an assessment of the condition of such facility;

(B) make an initial determination of whether such facility will be modernized or demolished during such 25-year period; and

(C) submit to the digital facilities management system of the military department under the jurisdiction of such Secretary—

(i) the results of the assessment under subparagraph (A); and

(ii) the initial determination required by subparagraph (B).

(3) If, during the course of any assessment of a facility described in paragraph (1), the Secretary concerned changes a determination with respect to the historic significance of the facility or plans of such Secretary to modernize or demolish the facility, such Secretary shall revise the information submitted to the applicable digital facilities management system pursuant to subparagraph (C) of paragraph (2).

(e) ANNUAL BRIEFING.—(1) Along with the budget for fiscal year 2027 submitted by the President pursuant to section 1105(a) of title 31, United States Code, and on an annual basis thereafter, each Secretary concerned shall provide to[1] congressional defense committees a briefing on—

(A) the strategy required by subsection (a); and

(B) the results of the assessments required by subsections (b) and (d).

(2) Each such briefing shall include—

(A) a summary of the existing authorities of each Secretary concerned to demolish the facilities covered by such strategy;

(B) a plan to implement such strategy; and

(C) recommendations of each such Secretary with respect to reducing—

(i) the inventory of facilities in poor or failing condition under the uniform index developed under section 2838 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31); and

(ii) the total cost to the United States to maintain the facilities covered by the assessment required by subsection (b) of such section.

(Added Pub. L. 118–159, div. B, title XXVIII, § 2822(a), Dec. 23, 2024, 138 Stat. 2254.)

Editorial Notes

REFERENCES IN TEXT

Section 2838 of the National Defense Authorization Act for Fiscal Year 2024, referred to in subsecs. (a)(1)

[1] So in original. Probably should be ''contract''.

[1] So in original. Probably should be followed by ''the''.

and (e)(2)(C)(i), is section 2838 of Pub. L. 118–31, which is set out as a note preceding section 2851 of this title.

SUBCHAPTER II—MILITARY FAMILY HOUSING

Sec.
2821. Requirement for authorization of appropriations for construction and acquisition of military family housing.
2822. Requirement for authorization of number of family housing units.
[2823. Repealed.]
2824. Authorization for acquisition of existing family housing in lieu of construction.
2825. Improvements to family housing units.
2826. Military family housing: local comparability of room patterns and floor areas.
2827. Relocation of military family housing units.
2828. Leasing of military family housing.
2829. Multi-year contracts for supplies and services.
[2830. Repealed.]
2831. Military family housing management account.
2832. Homeowners assistance program.
2833. Family housing support.
2834. Participation in Department of State housing pools.
2835. Long-term leasing of military family housing to be constructed.
2835a. Use of military family housing constructed under build and lease authority to house other members.
2836. Military housing rental guarantee program.
2837. Housing Requirements and Market Analysis.
2838. Leasing of military family housing to Secretary of Defense.
2839. Application of certain authorities and standards to historic military housing and associated historic properties of the Department of the Army.

Editorial Notes

AMENDMENTS

2024—Pub. L. 118–159, div. B, title XXVIII, §2823(b), Dec. 23, 2024, 138 Stat. 2256, which directed amendment of the analysis for this chapter by adding item 2839, was executed to the analysis for this subchapter, to reflect the probable intent of Congress.

2022—Pub. L. 117–263, div. B, title XXVIII, §2821(a), Dec. 23, 2022, 136 Stat. 2999, added item 2837. Amendment was made pursuant to operation of section 102 of this title.

2021—Pub. L. 116–283, div. B, title XXVIII, §2812(b), Jan. 1, 2021, 134 Stat. 4327, struck out item 2830 ''Occupancy of substandard family housing units''.

2013—Pub. L. 113–66, div. B, title XXVIII, §2802(a)(2), Dec. 26, 2013, 127 Stat. 1006, struck out item 2837 ''Limited partnerships with private developers of housing''.

2008—Pub. L. 110–417, div. B, title XXVIII, §§2803(b), 2804(b), Oct. 14, 2008, 122 Stat. 4720, 4721, added items 2835a and 2838.

2006—Pub. L. 109–364, div. B, title XXVIII, §2803(b), Oct. 17, 2006, 120 Stat. 2467, struck out item 2823 ''Determination of availability of suitable alternative housing for acquisition in lieu of construction of new family housing''.

2000—Pub. L. 106–398, §1 [div. B, title XXVIII, §2803(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–413, substituted ''Military family housing: local comparability of room patterns and floor areas'' for ''Limitations on space by pay grade'' in item 2826.

1994—Pub. L. 103–337, div. B, title XXVIII, §2803(b), Oct. 5, 1994, 108 Stat. 3053, added item 2837.

1991—Pub. L. 102–190, div. B, title XXVIII, §§2806(a)(2), 2809(a)(2), Dec. 5, 1991, 105 Stat. 1540, 1543, added items 2835 and 2836.

1985—Pub. L. 99–167, title VIII, §§804(b)(2), 808(b), Dec. 3, 1985, 99 Stat. 987, 989, added items 2833 and 2834.

§2821. Requirement for authorization of appropriations for construction and acquisition of military family housing

(a) Except as provided in subsection (b), funds may not be appropriated for the construction, acquisition, leasing, addition, extension, expansion, alteration, relocation, or operation and maintenance of family housing under the jurisdiction of the Department of Defense unless the appropriation of such funds has been authorized by law.

(b) In addition to the funds authorized to be appropriated by law in any fiscal year for the purposes described in subsection (a), there are authorized to be appropriated such additional sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds appropriated for the purposes described in such subsection.

(c) Amounts authorized by law for construction of military family housing units include amounts for (1) site preparation (including demolition), (2) installation of utilities, (3) ancillary supporting facilities, (4) shades, screens, ranges, refrigerators, and all other equipment and fixtures installed in such units, and (5) construction supervision, inspection, and overhead.

(d) Amounts authorized by law for construction and acquisition of military family housing and facilities include amounts for—

(1) minor construction;

(2) improvements to existing military family housing units and facilities;

(3) relocation of military family housing units under section 2827 of this title; and

(4) architectural and engineering services and construction design.

(e) The Secretary concerned shall provide for the installation and maintenance of an appropriate number of carbon monoxide detectors in each unit of military family housing under the jurisdiction of the Secretary.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 157; amended Pub. L. 99–145, title XIII, §1303(a)(18), Nov. 8, 1985, 99 Stat. 739; Pub. L. 99–167, title VIII, §804(a), Dec. 3, 1985, 99 Stat. 987; Pub. L. 116–92, div. B, title XXX, §3031, Dec. 20, 2019, 133 Stat. 1936.)

Editorial Notes

AMENDMENTS

2019—Subsec. (e). Pub. L. 116–92 added subsec. (e).

1985—Subsec. (b). Pub. L. 99–145 substituted ''such subsection'' for ''such paragraph''.

Subsec. (d). Pub. L. 99–167 added subsec. (d).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

INCLUSION OF QUESTIONS REGARDING MILITARY HOUSING FOR MEMBERS OF THE ARMED FORCES IN STATUS OF FORCES SURVEY

Pub. L. 118–31, div. B, title XXVIII, §2824, Dec. 22, 2023, 137 Stat. 752, provided that: ''The Secretary of De-

fense shall include, at a minimum, in each status of forces survey of the Department of Defense conducted on or after the date of the enactment of this Act [Dec. 22, 2023] questions specifically relating to the following:

''(1) Overall satisfaction with current military housing of members of the Armed Forces.

''(2) Satisfaction of such members with the physical condition of such military housing.

''(3) Satisfaction of such members with the affordability of such military housing.

''(4) Whether such military housing of such members has impacted any decision of such a member related to reenlistment in the Armed Forces.''

PILOT PROGRAM FOR MILITARY CONSTRUCTION PROJECTS TO REPLACE CERTAIN COVERED MILITARY UNACCOMPANIED HOUSING FACILITIES

Pub. L. 118–31, div. B, title XXVIII, § 2835, Dec. 22, 2023, 137 Stat. 758, provided that:

''(a) IN GENERAL.—Each Secretary of a military department may carry out a pilot program under which each such Secretary administers a military construction project, not otherwise authorized by law, to replace a covered military unaccompanied housing facility—

''(1) that such Secretary determines is not in compliance with the uniform standards for covered military unaccompanied housing under section 2856b of title 10, United States Code (as added by section 2832); and

''(2) for which the total cost of a repair project to bring such covered military unaccompanied facility into compliance with such uniform standards exceeds 75 percent of the total cost of such a military construction project.

''(b) FACILITY REQUIREMENTS.—A facility constructed pursuant to a military construction project under a pilot program under subsection (a)—

''(1) with respect to the covered military unaccompanied housing facility such facility replaces—

''(A) may not have a capacity to house more members of the Armed Forces;

''(B) shall be designed and utilized for the same purpose; and

''(C) shall be located on the same military installation; and

''(2) shall be designed to meet, at a minimum, standards for construction, utilization, and force protection.

''(c) NONDELEGATION.—For the purposes of carrying out a military construction project under a pilot program under subsection (a), the authority of a Secretary of a military department to determine whether a covered military unaccompanied housing facility is in substandard condition may not be delegated.

''(d) SOURCE OF FUNDS.—A Secretary of a military department may spend amounts available to such Secretary for operation and maintenance or unspecified military construction to carry out this section.

''(e) CONGRESSIONAL NOTIFICATION.—With respect to a military construction project proposed to be carried out under a pilot program under subsection (a) with an estimated cost in excess of $10,000,000, the Secretary of the military department concerned shall submit to the appropriate committees of Congress a report that includes—

''(1) a justification for such military construction project;

''(2) an estimate of the total cost of such military construction project; and

''(3) a description of the elements of military construction, including the elements specified in section 2802(b) of title 10, United States Code, incorporated into such military construction project.

''(f) SUNSET.—The authority to carry out a pilot program pursuant to subsection (a) shall terminate on the date that is five years after the date of the enactment of this Act [Dec. 22, 2023].

''(g) DEFINITIONS.—In this section:

''(1) The term 'appropriate committees of Congress' has the meaning given such term in section 2801 of title 10, United States Code.

''(2) The term 'covered military unaccompanied housing' has the meaning given such term in section 2856 of such title (as amended by section 2831).''

PILOT PROGRAM TO PROVIDE AIR PURIFICATION TECHNOLOGY IN COVERED MILITARY HOUSING

Pub. L. 118–31, div. B, title XXVIII, § 2873, Dec. 22, 2023, 137 Stat. 777, provided that:

''(a) IN GENERAL.—The Secretary of Defense may carry out a pilot program to—

''(1) provide commercially available off-the-shelf items (as defined in section 104 of title 41, United States Code) for air purification and covered sensors to landlords; and

''(2) monitor and measure the effect of such items on the environmental health and public health of tenants of covered military housing.

''(b) SELECTION OF INSTALLATIONS.—

''(1) IN GENERAL.—The Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force shall each select one military installation under the jurisdiction of such Secretary to carry out any pilot program carried out under this section.

''(2) CONSIDERATIONS.—Each Secretary shall ensure that the military installation selected under this section contains military unaccompanied housing in which the items described in subsection (a) may be used.

''(c) DEVICES.—An air purification item or a covered sensor provided under this section shall use technology proven to reduce indoor air risks and yield measurable environmental health and public health outcomes.

''(d) BRIEFING.—Not later than 365 days after the date on which a pilot program is commenced under this section, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force shall each provide to the Committees on Armed Services of the House of Representatives and the Senate a briefing on the pilot program established under this section, including a description of the items described in subsection (a) used under such program. The briefing shall include—

''(1) a description of any cost savings identified from use of such items relating to—

''(A) extending the durability and habitability of covered military housing; and

''(B) reducing maintenance frequency; and

''(2) with respect to cost savings identified in paragraph (1), a plan to expand the use of covered sensors and air purification items in newly constructed covered military housing.

''(e) DEFINITIONS.—In this section:

''(1) The term 'covered sensor' means a commercially available off-the-shelf item (as defined in section 104 of title 41, United States Code) manufactured in the United States that detects the conditions for potential mold growth before mold is present.

''(2) The term 'covered military housing' means—

''(A) military unaccompanied housing; and

''(B) Government-owned units of military housing.

''(3) The term 'military unaccompanied housing' has the meaning given in section 2871 of title 10, United States Code.''

REQUIREMENT THAT SECRETARY OF DEFENSE IMPLEMENT RECOMMENDATIONS RELATING TO MILITARY FAMILY HOUSING CONTAINED IN REPORT BY INSPECTOR GENERAL OF DEPARTMENT OF DEFENSE

Pub. L. 116–283, div. B, title XXVIII, § 2815, Jan. 1, 2021, 134 Stat. 4328, provided that: ''Not later than 90 days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall implement the recommendations of the Inspector General of the Department of Defense contained in the report of the Inspector General dated April 30, 2020, and entitled 'Evaluation of the DoD's Management of Health and Safety Hazards in Government-Owned and Government-Controlled Military Family Housing'.''

TOOL FOR ASSESSMENT OF HAZARDS IN DEPARTMENT OF DEFENSE HOUSING

Pub. L. 116–92, div. B, title XXX, §3052, Dec. 20, 2019, 133 Stat. 1942, provided that:

''(a) HAZARD ASSESSMENT TOOL.—

''(1) DEVELOPMENT REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall develop an assessment tool, such as a rating system or similar mechanism, to identify and measure health and safety hazards in housing under the jurisdiction of the Department of Defense (including privatized military housing).

''(2) COMPONENTS.—The assessment tool shall provide for the identification and measurement of the following hazards:

''(A) Physiological hazards, including dampness and mold growth, lead-based paint, asbestos and manmade fibers, radiation, biocides, carbon monoxide, and volatile organic compounds.

''(B) Psychological hazards, including ease of access by unlawful intruders, and lighting issues.

''(C) Infection hazards.

''(D) Safety hazards.

''(3) PUBLIC FORUMS.—In developing the assessment tool, the Secretary of Defense shall provide for multiple public forums at which the Secretary may receive input with respect to such assessment tool from occupants of housing under the jurisdiction of the Department of Defense (including privatized military housing).

''(4) REPORT.—Not later than 210 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the assessment tool.

''(b) HAZARD ASSESSMENTS.—

''(1) ASSESSMENTS REQUIRED.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense, using the assessment tool developed under subsection (a)(1), shall complete a hazard assessment for each housing facility under the jurisdiction of the Department of Defense (including privatized military housing).

''(2) TENANT INFORMATION.—As soon as practicable after the completion of the hazard assessment conducted for a housing facility under paragraph (1), the Secretary of Defense shall provide to each individual who leases or is assigned to a housing unit in the facility a summary of the results of the assessment.''

[For definitions of terms used in section 3052 of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note below.]

PROCESS TO IDENTIFY AND ADDRESS ENVIRONMENTAL HEALTH HAZARDS IN DEPARTMENT OF DEFENSE HOUSING

Pub. L. 116–283, div. B, title XXVIII, §2817, Jan. 1, 2021, 134 Stat. 4329, provided that: ''As part of the process developed by the Secretary of Defense pursuant to section 3053 of the Military Construction Authorization Act for Fiscal Year 2020 (division B of Public Law 116–92; 133 Stat. 1943; 10 U.S.C. 2821 note) [set out below] to identify, record, and resolve environmental health hazards in military housing, the Secretary shall promulgate guidance regarding situations in which the presence of mold in a unit of housing under the jurisdiction of the Department of Defense (including privatized military housing) is an emergency situation requiring the relocation of the residents of the unit.''

Pub. L. 116–92, div. B, title XXX, §3053, Dec. 20, 2019, 133 Stat. 1943, provided that:

''(a) PROCESS REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense, in coordination with the Secretaries of the military departments, shall develop a process to identify, record, and resolve environmental health hazards in housing under the jurisdiction of the Department of Defense (including privatized housing) in a timely manner.

''(b) ELEMENTS OF PROCESS.—The process developed under subsection (a) shall provide for the following with respect to each identified environmental health hazard:

''(1) Categorization of the hazard.

''(2) Identification of health risks posed by the hazard.

''(3) Identification of the number of housing occupants potentially affected by the hazard.

''(4) Recording and maintenance of information regarding the hazard.

''(5) Resolution of the hazard, which shall include—

''(A) the performance by the Secretary of Defense (or in the case of privatized housing, the landlord) of hazard remediation activities at the affected facility; and

''(B) follow-up by the Secretary of Defense to collect information on medical care related to the hazard sought or received by individuals affected by the hazard.

''(c) COORDINATION.—The Secretary of Defense shall ensure coordination between military treatment facilities, appropriate public health officials, and housing managers at military installations with respect to the development and implementation of the process required by subsection (a).

''(d) REPORT.—Not later than 210 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the process required by subsection (a).''

[For definitions of terms used in section 3053 of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note below.]

SATISFACTION SURVEY FOR TENANTS OF MILITARY HOUSING

Pub. L. 116–92, div. B, title XXX, §3058, Dec. 20, 2019, 133 Stat. 1945, provided that:

''(a) SURVEY REQUIRED.—Not later than March 1, 2020, the Secretary of Defense shall require that each installation of the Department of Defense use the same satisfaction survey for tenants of military housing, including privatized military housing.

''(b) FORM OF SURVEY.—The satisfaction survey required by subsection (a) shall be an electronic survey with embedded privacy and security mechanisms.

''(c) PRIVACY AND SECURITY MECHANISMS.—The privacy and security mechanisms used in the satisfaction survey required by subsection (a)—

''(1) may include a code unique to the tenant to be surveyed that is sent to the cell phone number of the tenant and required to be entered to access the survey; and

''(2) in the case of privatized military housing, shall ensure the survey is not shared with the landlord providing the privatized military housing until the survey is reviewed and the results are tallied by Department of Defense personnel.''

[For definitions of terms used in section 3058 of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note below.]

DEPARTMENT OF THE ARMY PILOT PROGRAM TO BUILD AND MONITOR USE OF SINGLE FAMILY HOMES

Pub. L. 116–92, div. B, title XXX, §3064, Dec. 20, 2019, 133 Stat. 1947, provided that:

''(a) IN GENERAL.—The Secretary of the Army shall carry out a pilot program to build and monitor the use of not fewer than five single family homes for members of the Army and their families.

''(b) LOCATION.—The Secretary of the Army shall carry out the pilot program at no less than two installations of the Army located in different climate regions of the United States as determined by the Secretary.

''(c) DESIGN.—In building homes under the pilot program, the Secretary of the Army shall use the All-American Abode design from the suburban single-family division design by the United States Military Academy.''

MITIGATION OF RISKS POSED BY CERTAIN ITEMS IN MILITARY FAMILY HOUSING UNITS

Pub. L. 116–92, div. B, title XXX, § 3062, Dec. 20, 2019, 133 Stat. 1946, provided that:

''(a) ANCHORING OF ITEMS BY RESIDENTS.—The Secretary of Defense shall allow a resident of a military family housing unit to anchor any furniture, television, or large appliance to the wall of the unit for purposes of preventing such item from tipping over without incurring a penalty or obligation to repair the wall upon vacating the unit.

''(b) ANCHORING OF ITEMS FOR ALL UNITS.—

''(1) EXISTING UNITS.—Not later than one year after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall ensure that all freestanding chests, door chests, armoires, dressers, entertainment centers, bookcases taller than 27 inches, televisions, and large appliances provided by the Department of Defense are securely anchored in each furnished military family housing unit under the jurisdiction of the Department as of the date of the enactment of this Act.

''(2) NEW UNITS.—The Secretary of Defense shall ensure that all freestanding chests, door chests, armoires, dressers, entertainment centers, bookcases taller than 27 inches, televisions, and large appliances provided by the Department of Defense are securely anchored in each furnished military family housing unit made available after the date of the enactment of this Act.''

Pub. L. 114–328, div. A, title III, § 345, Dec. 23, 2016, 130 Stat. 2085, provided that:

''(a) REMOVAL OF CERTAIN WINDOW COVERINGS.—Not later than three years after the date of enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall remove and replace disqualified window coverings from—

''(1) military housing units owned by the Department of Defense in which children under the age of 9 may reside; and

''(2) military housing units leased by the Department of Defense in which children under the age of 9 may reside if the lease for such units requires the Department to provide window coverings.

''(b) PROHIBITION ON DISQUALIFIED WINDOW COVERINGS IN MILITARY HOUSING UNITS ACQUIRED OR CONSTRUCTED BY CONTRACT.—All contracts entered into by the Secretary of Defense after September 30, 2017, for the acquisition or construction of military family housing, including military family housing acquired or constructed pursuant to subchapter IV of chapter 169 of title 10, United States Code, shall prohibit the use of disqualified window coverings in such housing.

''(c) DISQUALIFIED WINDOW COVERING DEFINED.—In this section, the term 'disqualified window covering' means—

''(1) a window covering with an accessible cord that exceeds 8 inches in length; or

''(2) a window covering with an accessible continuous loop cord that does not have a cord tension device that prevents operation when the cord is not anchored to the wall.''

REPAIR AND MAINTENANCE OF FAMILY HOUSING UNITS

Pub. L. 118–42, div. A, title I, § 119, Mar. 9, 2024, 138 Stat. 34, provided that: ''Notwithstanding any other provision of law, funds made available in this title [see Tables for classification] for operation and maintenance of family housing shall be the exclusive source of funds for repair and maintenance of all family housing units, including general or flag officer quarters: *Provided*, That not more than $35,000 per unit may be spent annually for the maintenance and repair of any general or flag officer quarters without 30 days prior notification, or 14 days for a notification provided in an electronic medium pursuant to sections 480 and 2883 of title 10, United States Code, to the Committees on Appropriations of both Houses of Congress, except that an after-the-fact notification shall be submitted if the limitation is exceeded solely due to costs associated with environmental remediation that could not be reasonably anticipated at the time of the budget submission: *Provided further*, That the Under Secretary of Defense (Comptroller) is to report annually to the Committees on Appropriations of both Houses of Congress all operation and maintenance expenditures for each individual general or flag officer quarters for the prior fiscal year.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 117–328, div. J, title I, § 119, Dec. 29, 2022, 136 Stat. 4945.

Pub. L. 117–103, div. J, title I, § 119, Mar. 15, 2022, 136 Stat. 535.

Pub. L. 116–260, div. J, title I, § 119, Dec. 27, 2020, 134 Stat. 1661.

Pub. L. 116–94, div. F, title I, § 119, Dec. 20, 2019, 133 Stat. 2785.

Pub. L. 115–244, div. C, title I, § 119, Sept. 21, 2018, 132 Stat. 2952.

Pub. L. 115–141, div. J, title I, § 119, Mar. 23, 2018, 132 Stat. 802.

Pub. L. 114–223, div. A, title I, § 119, Sept. 29, 2016, 130 Stat. 864.

Pub. L. 114–113, div. J, title I, § 119, Dec. 18, 2015, 129 Stat. 2681.

Pub. L. 113–235, div. I, title I, § 121, Dec. 16, 2014, 128 Stat. 2550.

Pub. L. 113–76, div. J, title I, § 121, Jan. 17, 2014, 128 Stat. 445.

Pub. L. 113–6, div. E, title I, § 121, Mar. 26, 2013, 127 Stat. 391.

Pub. L. 112–74, div. H, title I, § 121, Dec. 23, 2011, 125 Stat. 1144.

Pub. L. 111–117, div. E, title I, § 123, Dec. 16, 2009, 123 Stat. 3295.

Pub. L. 110–329, div. E, title I, § 123, Sept. 30, 2008, 122 Stat. 3700.

Pub. L. 110–161, div. I, title I, § 123, Dec. 26, 2007, 121 Stat. 2261.

Pub. L. 109–114, title I, § 124, Nov. 30, 2005, 119 Stat. 2380, as amended by Pub. L. 109–148, div. B, title V, § 5013, Dec. 30, 2005, 119 Stat. 2815.

Pub. L. 108–324, div. A, § 124, Oct. 13, 2004, 118 Stat. 1228.

Pub. L. 108–132, § 125, Nov. 22, 2003, 117 Stat. 1382.

Pub. L. 107–249, § 127, Oct. 23, 2002, 116 Stat. 1586.

Pub. L. 107–64, § 127, Nov. 5, 2001, 115 Stat. 482.

Pub. L. 106–246, div. A, § 127, July 13, 2000, 114 Stat. 518.

Pub. L. 106–52, § 128, Aug. 17, 1999, 113 Stat. 267.

PILOT PROGRAM FOR MILITARY FAMILY HOUSING

Pub. L. 100–180, div. B, subdiv. 3, title II, § 2321, Dec. 4, 1987, 101 Stat. 1218, required Secretary of Defense, using $1,000,000 of funds appropriated pursuant to authorization in subsection (a)(10)(B) of section 2145 of Pub. L. 100–180, to establish and carry out, during fiscal years 1988, 1989, and 1990, a pilot program for purpose of assisting units of general local government to increase amount of affordable family housing available to military personnel; required Secretary, establishing and carrying out such programs, to select at least five units of general local government severely impacted by presence of military bases and personnel; set forth criteria for selection of units of general local government, authority to make grants, cooperative agreements, etc., and uses of available funds; and required Secretary to report to Committees on Armed Services of Senate and House no later than Mar. 15 of 1988, 1989, 1990, and 1991 with respect to activities carried out under this section.

MILITARY HOUSING RENTAL GUARANTEE PROGRAM

Pub. L. 98–115, title VIII, § 802, Oct. 11, 1983, 97 Stat. 783, as amended by Pub. L. 98–407, title VIII, § 806(b), Aug. 28, 1984, 98 Stat. 1521; Pub. L. 99–167, title VIII, § 801(a), Dec. 3, 1985, 99 Stat. 985; Pub. L. 99–661, div. B,

title VII, §2713(a), Nov. 14, 1986, 100 Stat. 4042; Pub. L. 100–180, div. B, subdiv. 3, title I, §2307, Dec. 4, 1987, 101 Stat. 1216; Pub. L. 101–189, div. B, title XXVIII, §2801, Nov. 29, 1989, 103 Stat. 1646; Pub. L. 101–510, div. B, title XXVIII, §2811, Nov. 5, 1990, 104 Stat. 1788, provided for agreements and contracts relating to military housing rental guarantee program, prior to repeal by Pub. L. 102–190, div. B, title XXVIII, §2809(b), (c), Dec. 5, 1991, 105 Stat. 1543, such repeal not to affect the validity of any contract entered into before Dec. 5, 1991, under section 802 of Pub. L. 98–115 as in effect on Dec. 4, 1991. See section 2836 of this title.

FAMILY HOUSING CONSTRUCTED OVERSEAS

Pub. L. 98–115, title VIII, §803, Oct. 11, 1983, 97 Stat. 784, as amended by Pub. L. 98–407, title VIII, §812, Aug. 28, 1984, 98 Stat. 1524; Pub. L. 101–510, div. A, title XIII, §1302(f), Nov. 5, 1990, 104 Stat. 1669, provided that any contract entered into for the construction of military family housing for the Department of Defense in a foreign country was to require the use of housing fabricated in the United States by a United States contractor or, in the case of concrete housing, the use of housing produced in a plant that was fabricated in the United States by a United States company, and for which the materials, fixtures, and equipment used in the construction (other than cement, sand, and aggregates) were manufactured in the United States, prior to repeal by Pub. L. 107–314, div. B, title XXVIII, §2804, Dec. 2, 2002, 116 Stat. 2705.

DEFINITIONS

Pub. L. 116–92, div. B, title XXX, §3001(a), Dec. 20, 2019, 133 Stat. 1916, as amended by Pub. L. 118–159, div. B, title XXVIII, §2827, Dec. 23, 2024, 138 Stat. 2258, provided that: ''In this title [see Tables for classification]:

''(1) The term 'landlord' means an eligible entity that enters into, or has entered into, a contract as a partner with the Secretary concerned for the acquisition or construction of a housing unit under subchapter IV of chapter 169 of title 10, United States Code. The term includes any agent of the eligible entity or any subsequent lessor who owns, manages, or is otherwise responsible for a housing unit. The term does not include an entity of the Federal Government.

''(2) The term 'privatized military housing' means military housing that is not Government-owned or Government-controlled that is provided under subchapter IV of chapter 169 of title 10, United States Code.

''(3) The term 'tenant' means a member of the armed forces, including a reserve component thereof in an active status, or a dependent of a member of the armed forces who resides at a housing unit, is a party to a lease for a housing unit, or is authorized to act on behalf of the member under subchapters IV and V of chapter 169 of title 10, United States Code, in the event of the assignment or deployment of a member.''

§ 2822. Requirement for authorization of number of family housing units

(a) Except as otherwise provided in subsection (b) or as otherwise authorized by law, the Secretary concerned may not construct or acquire military family housing units unless the number of units to be constructed or acquired has been specifically authorized by law.

(b) Subsection (a) does not apply to the following:

(1) Housing units acquired under section 404 of the Housing Amendments of 1955 (42 U.S.C. 1594a).

(2) Housing units leased under section 2828 of this title.

(3) Housing units acquired under the Homeowners Assistance Program referred to in section 2832 of this title.

(4) Housing units acquired without consideration.

(5) Replacement housing units constructed under section 2825(c) of this title.

(6) Housing units constructed or provided under section 2869 of this title.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 158; amended Pub. L. 98–525, title XIV, §1405(44), Oct. 19, 1984, 98 Stat. 2625; Pub. L. 100–180, div. B, subdiv. 3, title I, §2308, Dec. 4, 1987, 101 Stat. 1216; Pub. L. 101–510, div. A, title XIII, §1301(17), Nov. 5, 1990, 104 Stat. 1668; Pub. L. 102–25, title VII, §701(j)(9), Apr. 6, 1991, 105 Stat. 116; Pub. L. 102–484, div. B, title XXVIII, §2802(b), Oct. 23, 1992, 106 Stat. 2606; Pub. L. 108–136, div. B, title XXVIII, §2805(b), Nov. 24, 2003, 117 Stat. 1721.)

Editorial Notes

AMENDMENTS

2003—Subsec. (b)(6). Pub. L. 108–136 added par. (6).

1992—Subsec. (b)(5). Pub. L. 102–484 added par. (5).

1991—Subsec. (b)(4). Pub. L. 102–25 realigned margin of par. (4).

1990—Subsec. (b)(4). Pub. L. 101–510 amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''Housing units acquired without consideration, if—

''(A) the Secretary concerned provides to the appropriate committees of Congress written notification of the facts concerning the proposed acquisition; and

''(B) a period of 21 days elapses after the notification is received by those committees.''

1987—Subsec. (b)(4). Pub. L. 100–180 added par. (4).

1984—Subsec. (b)(3). Pub. L. 98–525 substituted ''section 2832'' for ''section 2833''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

[§ 2823. Repealed. Pub. L. 109–364, div. B, title XXVIII, § 2803(a), Oct. 17, 2006, 120 Stat. 2467]

Section, added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 158; amended Pub. L. 105–85, div. A, title X, §1041(b), Nov. 18, 1997, 111 Stat. 1885, related to determination of availability of suitable alternative housing for acquisition in lieu of construction of new family housing.

§ 2824. Authorization for acquisition of existing family housing in lieu of construction

(a) In lieu of constructing any family housing units authorized by law to be constructed, the Secretary concerned may acquire sole interest in existing family housing units that are privately owned or that are held by the Department of Housing and Urban Development, except that in foreign countries the Secretary concerned may acquire less than sole interest in existing family housing units.

(b) When authority provided by law to construct military family housing units is used to acquire existing family housing units under subsection (a), the authority includes authority to acquire interests in land.

(c) The net floor area of a family housing unit acquired under the authority of this section may not exceed the applicable limitation specified in

section 2826 of this title. The Secretary concerned may waive the limitation set forth in the preceding sentence to family housing units acquired under this section during the five-year period beginning on February 10, 1996.

(d) Family housing units may not be acquired under this section through the exercise of eminent domain authority.

(Added Pub. L. 97–214, § 2(a), July 12, 1982, 96 Stat. 159; amended Pub. L. 104–106, div. B, title XXVIII, § 2813, Feb. 10, 1996, 110 Stat. 553; Pub. L. 104–201, div. A, title X, § 1074(a)(17), Sept. 23, 1996, 110 Stat. 2659.)

Editorial Notes

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–201 substituted ''February 10, 1996'' for ''the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996''.

Pub. L. 104–106 inserted at end ''The Secretary concerned may waive the limitation set forth in the preceding sentence to family housing units acquired under this section during the five-year period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996.''

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

§ 2825. Improvements to family housing units

(a)(1) Authority provided by law to improve existing military family housing units and ancillary family housing support facilities is authority to make alterations, additions, expansions, and extensions.

(2) In this section, the term ''improvement'' includes rehabilitation of a housing unit and major maintenance or repair work to be accomplished concurrently with an improvement project. Such term does not include day-to-day maintenance and repair work.

(b)(1) Funds may not be expended for the improvement of any single family housing unit, or for the improvement of two or more housing units that are to be converted into or are to be used as a single family housing unit, if the cost per unit of such improvement will exceed (A) $50,000 multiplied by the area construction cost index as developed by the Department of Defense for the location concerned at the time of contract award, or (B) in the case of improvements necessary to make the unit suitable for habitation by a handicapped person, $60,000 multiplied by such index.

(2) The Secretary concerned may waive the limitations contained in paragraph (1) if such Secretary determines that, considering the useful life of the structure to be improved and the useful life of a newly constructed unit and the cost of construction and of operation and maintenance of each kind of unit over its useful life, the improvement will be cost-effective. If the Secretary concerned makes a determination under the preceding sentence with respect to an improvement, the waiver under that sentence with respect to that improvement may take effect only after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress notice of the proposed waiver, together with an economic analysis demonstrating that the improvement will be cost effective.

(3) In determining the applicability of the limitation contained in paragraph (1), the Secretary concerned shall include as part of the cost of the improvement of the unit or units concerned the following:

(A) The cost of major maintenance or repair work undertaken in connection with the improvement.

(B) Any cost, other than the cost of activities undertaken beyond a distance of five feet from the unit or units concerned, in connection with—

(i) the furnishing of electricity, gas, water, and sewage disposal;

(ii) the construction or repair of roads, drives, and walks; and

(iii) grading and drainage work.

(4) In determining the applicability of the limitation contained in paragraph (1), the Secretary concerned shall not include as part of the cost of the improvement of the unit or units concerned the following:

(A) The cost of the installation of communications, security, or antiterrorism equipment required by an occupant of the unit or units to perform duties assigned to the occupant as a member of the armed forces.

(B) The cost of the maintenance or repair of equipment described in subparagraph (A) installed for the purpose specified in such subparagraph.

(5) The limitation contained in paragraph (1) does not apply to a project for the improvement of a family housing unit or units referred to in that paragraph if the project (including the amount requested for the project) is identified in the budget materials submitted to Congress by the Secretary of Defense in connection with the submission to Congress of the budget for a fiscal year pursuant to section 1105 of title 31.

(c)(1) The Secretary concerned may construct replacement military family housing units in lieu of improving existing military family housing units if—

(A) the improvement of the existing housing units has been authorized by law; and

(B) the Secretary determines that the improvement project is no longer cost-effective after a review of post-design or bid cost estimates.

(2) The amount that may be expended to construct replacement military family housing units under this subsection may not exceed the amount that is otherwise available to carry out the previously authorized improvement project.

(d) This section does not apply to projects authorized for restoration or replacement of housing units that have been damaged or destroyed.

(Added Pub. L. 97–214, § 2(a), July 12, 1982, 96 Stat. 159; amended Pub. L. 99–661, div. B, title VII, § 2702(c), Nov. 14, 1986, 100 Stat. 4040; Pub. L.

100–26, § 7(k)(3), Apr. 21, 1987, 101 Stat. 284; Pub. L. 100–180, div. B, subdiv. 3, title I, § 2305, Dec. 4, 1987, 101 Stat. 1215; Pub. L. 101–189, div. B, title XXVIII, § 2804, Nov. 29, 1989, 103 Stat. 1647; Pub. L. 101–510, div. B, title XXVIII, § 2812, Nov. 5, 1990, 104 Stat. 1788; Pub. L. 102–484, div. B, title XXVIII, § 2802(a), Oct. 23, 1992, 106 Stat. 2605; Pub. L. 103–337, div. B, title XXVIII, § 2802, Oct. 5, 1994, 108 Stat. 3050; Pub. L. 104–106, div. A, title XV, § 1502(a)(26), Feb. 10, 1996, 110 Stat. 506; Pub. L. 104–201, div. B, title XXVIII, § 2803, Sept. 23, 1996, 110 Stat. 2788; Pub. L. 106–398, § 1 [div. B, title XXVIII, § 2802], Oct. 30, 2000, 114 Stat. 1654, 1654A–413; Pub. L. 108–136, div. A, title X, § 1031(a)(41), Nov. 24, 2003, 117 Stat. 1601; Pub. L. 112–81, div. A, title X, § 1061(24), Dec. 31, 2011, 125 Stat. 1584; Pub. L. 115–91, div. B, title XXVIII, § 2801(b)(1), Dec. 12, 2017, 131 Stat. 1842.)

Editorial Notes

AMENDMENTS

2017—Subsec. (b)(1), (2). Pub. L. 115–91, § 2801(b)(1)(C), redesignated second and third sentences of par. (1) as par. (2) and, in par. (2), substituted ''contained in paragraph (1)'' for ''contained in the preceding sentence'' and ''the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress notice of the proposed waiver, together with an economic analysis demonstrating that the improvement will be cost effective.'' for ''the Secretary transmits a notice of the proposed waiver, together with an economic analysis demonstrating that the improvement will be cost effective, to the appropriate committees of Congress and a period of 21 days has elapsed after the date on which the notification is received by those committees or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notice is provided in an electronic medium pursuant to section 480 of this title.'' Former par. (2) redesignated (3).

Subsec. (b)(3), (4). Pub. L. 115–91, § 2801(b)(1)(A), redesignated pars. (2) and (3) as (3) and (4), respectively. Former par. (4) redesignated (5).

Subsec. (b)(5). Pub. L. 115–91, § 2801(b)(1)(A), (B), redesignated par. (4) as (5), struck out ''the first sentence of'' before ''paragraph (1)'', and substituted ''in that paragraph'' for ''in that sentence''.

2011—Subsec. (c)(1). Pub. L. 112–81 inserted ''and'' at end of subpar. (A), substituted period for semicolon at end of subpar. (B), and struck out subpars. (C) and (D), which read as follows:

''(C) the Secretary submits to the committees referred to in subsection (b)(1) a notice containing—

''(i) an economic analysis demonstrating that the improvement project would exceed 70 percent of the cost of constructing replacement housing units intended for members of the armed forces in the same pay grade or grades as those members who occupy the existing housing units; and

''(ii) if the replacement housing units are intended for members of the armed forces in a different pay grade or grades, a justification of the need for the replacement housing units based upon the long-term requirements of the armed forces in the location concerned; and

''(D) a period of 21 days elapses after the date on which the Secretary submits the notice required by subparagraph (C) or, if over sooner, a period of 14 days elapses after the date on which a copy of the notice is provided in an electronic medium pursuant to section 480 of this title.''

2003—Subsec. (b)(1). Pub. L. 108–136, § 1031(a)(41)(A), struck out ''(i)'' before ''such Secretary determines'' and substituted period and last sentence for '', and (ii) a period of 21 days elapses after the date on which the appropriate committees of Congress receive a notice from such Secretary of the proposed waiver, together with an economic analysis demonstrating that the improvement will be cost effective.''.

Subsec. (c)(1)(D). Pub. L. 108–136, § 1031(a)(41)(B), inserted before period at end ''or, if over sooner, a period of 14 days elapses after the date on which a copy of the notice is provided in an electronic medium pursuant to section 480 of this title''.

2000—Subsec. (b)(3), (4). Pub. L. 106–398 added par. (3) and redesignated former par. (3) as (4).

1996—Subsec. (a)(2). Pub. L. 104–201, § 2803(a), inserted ''major'' before ''maintenance or repair'' and ''Such term does not include day-to-day maintenance and repair work.'' at end.

Subsec. (b)(1). Pub. L. 104–106 substituted ''appropriate committees of Congress'' for ''Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives''.

Subsec. (b)(2). Pub. L. 104–201, § 2803(b), added par. (2) and struck out former par. (2) which read as follows: ''In determining the applicability of the limitation contained in paragraph (1), there shall be included as part of the cost of the improvement the cost of repairs undertaken in connection with the improvement and any cost in connection with (A) the furnishing of electricity, gas, water and sewage disposal, (B) the construction or repair of roads and walks, and (C) grading and drainage work.''

1994—Subsec. (b)(3). Pub. L. 103–337 added par. (3).

1992—Subsecs. (c), (d). Pub. L. 102–484 added subsec. (c) and redesignated former subsec. (c) as (d).

1990—Subsec. (b)(1). Pub. L. 101–510 substituted ''$50,000'' for ''$40,000'' in cl. (A) and inserted at end sentence authorizing Secretary concerned to waive limitations contained in preceding sentence.

1989—Subsec. (b)(1). Pub. L. 101–189 inserted ''(A)'' after ''will exceed'' and added cl. (B).

1987—Subsec. (a)(2). Pub. L. 100–26 inserted ''the term'' after ''In this section,''.

Subsec. (b)(1). Pub. L. 100–180 substituted ''$40,000'' for ''$30,000''.

1986—Subsec. (b)(1). Pub. L. 99–661 substituted ''$30,000'' for ''an amount specified by law for such purpose''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

PROVISION OF ADEQUATE STORAGE SPACE TO SECURE PERSONAL PROPERTY OUTSIDE OF ASSIGNED MILITARY FAMILY HOUSING UNIT

Pub. L. 109–364, div. A, title III, § 362, Oct. 17, 2006, 120 Stat. 2167, as amended by Pub. L. 114–328, div. A, title VI, § 618(d), Dec. 23, 2016, 130 Stat. 2160, provided that: ''The Secretary of a military department shall ensure that a member of the Armed Forces under the jurisdiction of the Secretary who occupies a unit of military family housing is provided with adequate storage space to secure personal property that the member is unable to secure within the unit whenever—

''(1) the member is assigned to duty in an area for which special pay under section 310, or paragraph (1) or (3) of section 351(a), of title 37, United States Code, is available and the assignment is pursuant to orders specifying an assignment of 180 days or more; and

''(2) the dependents of the member who otherwise occupy the unit of military family housing are absent from the unit for more than 30 consecutive days during the period of the assignment of the member.''

INITIAL ESTABLISHMENT OF CERTAIN AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

Maximum amount of $30,000 per unit for an improvement project for family housing units under this sec-

tion during the period beginning Oct. 1, 1982, and ending on the date of the enactment of the Military Construction Authorization Act for fiscal year 1984 or Oct. 1, 1983, whichever is later, see section 11(3) of Pub. L. 97–214, set out as a note under section 2828 of this title.

§ 2826. Military family housing: local comparability of room patterns and floor areas

(a) LOCAL COMPARABILITY.—In the construction, acquisition, and improvement of military family housing, the Secretary concerned shall ensure that the room patterns and floor areas of military family housing in a particular locality (as designated by the Secretary concerned for purposes of this section) are similar to room patterns and floor areas of similar housing in the private sector in that locality.

(b) REQUESTS FOR AUTHORITY FOR MILITARY FAMILY HOUSING.—(1) In submitting to Congress a request for authority to carry out the construction, acquisition, or improvement of military family housing, the Secretary concerned shall include in the request information on the net floor area of each unit of military family housing to be constructed, acquired, or improved under the authority.

(2) In this subsection, the term ''net floor area'', in the case of a military family housing unit, means the total number of square feet of the floor space inside the exterior walls of the unit, excluding the floor area of an unfinished basement, an unfinished attic, a utility space, a garage, a carport, an open or insect-screened porch, a stairwell, and any space used for a solar-energy system.

(Added Pub. L. 97–214, § 2(a), July 12, 1982, 96 Stat. 159; amended Pub. L. 100–26, § 7(k)(3), Apr. 21, 1987, 101 Stat. 284; Pub. L. 102–190, div. B, title XXVIII, § 2808, Dec. 5, 1991, 105 Stat. 1540; Pub. L. 104–106, div. B, title XXVIII, §§ 2814, 2815, Feb. 10, 1996, 110 Stat. 553; Pub. L. 104–201, div. A, title X, § 1074(a)(17), Sept. 23, 1996, 110 Stat. 2659; Pub. L. 106–398, § 1 [div. B, title XXVIII, § 2803(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–413.)

Editorial Notes

AMENDMENTS

2000—Pub. L. 106–398 amended section catchline and text generally. Prior to amendment, section consisted of subsecs. (a) to (i) which limited the net floor area allowed in the construction, acquisition, and improvement of military family housing units.

1996—Subsec. (e). Pub. L. 104–106, § 2814, struck out at end ''The authority provided by this subsection shall expire on September 30, 1994.''

Subsec. (i). Pub. L. 104–106, § 2815, added subsec. (i).

Subsec. (i)(1). Pub. L. 104–201 substituted ''February 10, 1996'' for ''the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996''.

1991—Subsecs. (d) to (h). Pub. L. 102–190 added subsecs. (d) and (e) and redesignated former subsecs. (d) to (f) as (f) to (h), respectively.

1987—Subsec. (f). Pub. L. 100–26 inserted ''the term'' after ''In this section,''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, § 1 [div. B, title XXVIII, § 2803(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–413, provided that:

''(1) The amendments made by subsection (a) [amending this section] shall take effect on October 1, 2001, but the Secretary of Defense shall anticipate the requirements of section 2826 of title 10, United States Code, as added by such subsection, when preparing the budget request for new construction, acquisition, or improvement of military family housing for fiscal year 2002.

''(2) Section 2826 of title 10, United States Code, as in effect on September 30, 2001, shall continue to apply with respect to the construction, acquisition, or improvement of military family housing commenced on or before that date.''

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

§ 2827. Relocation of military family housing units

(a) RELOCATION AUTHORITY.—Subject to subsection (b), the Secretary concerned may relocate existing military family housing units from any location where the number of such units exceeds requirements for military family housing to any military installation where there is a housing shortage.

(b) NOTICE AND WAIT REQUIREMENTS.—A contract to carry out a relocation of military family housing units under subsection (a) may be awarded only after the end of the 14-day period beginning on the date on which the Secretary concerned submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress notice of the proposed new locations of the housing units to be relocated and the estimated cost of and source of funds for the relocation.

(Added Pub. L. 97–214, § 2(a), July 12, 1982, 96 Stat. 160; amended Pub. L. 108–136, div. A, title X, § 1031(a)(42), Nov. 24, 2003, 117 Stat. 1602; Pub. L. 115–91, div. B, title XXVIII, § 2801(b)(2), Dec. 12, 2017, 131 Stat. 1842.)

Editorial Notes

AMENDMENTS

2017—Subsec. (a). Pub. L. 115–91, § 2801(b)(2)(A), inserted heading.

Subsec. (b). Pub. L. 115–91, § 2801(b)(2)(B), added subsec. (b) and struck out former subsec. (b) which read as follows: ''A contract to carry out a relocation of military family housing units under subsection (a) may not be awarded until (1) the Secretary concerned has notified the appropriate committees of Congress of the proposed new locations of the housing units to be relocated and the estimated cost of and source of funds for the relocation, and (2) a period of 21 days has elapsed after the notification has been received by those committees or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.''

2003—Subsec. (b)(2). Pub. L. 108–136 inserted before period at end ''or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

CONVEYANCE TO INDIAN TRIBES OF RELOCATABLE MILITARY HOUSING UNITS AT MILITARY INSTALLATIONS IN THE UNITED STATES

Pub. L. 114–92, div. B, title XXVIII, §2805, Nov. 25, 2015, 129 Stat. 1171, provided that:

''(a) DEFINITIONS.—In this section:

''(1) EXECUTIVE DIRECTOR.—The term 'Executive Director' means the Executive Director of Walking Shield, Inc.

''(2) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe included on the list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1) [now 25 U.S.C. 5131].

''(b) REQUESTS FOR CONVEYANCE.—

''(1) IN GENERAL.—The Executive Director may submit to the Secretary of the military department concerned, on behalf of any Indian tribe, a request for conveyance of any relocatable military housing unit located at a military installation in the United States.

''(2) CONFLICTS.—The Executive Director shall resolve any conflict among requests of Indian tribes for housing units described in paragraph (1) before submitting a request to the Secretary of the military department concerned under this subsection.

''(c) CONVEYANCE BY A SECRETARY.—Notwithstanding any other provision of law, on receipt of a request under subsection (b)(1), the Secretary of the military department concerned may convey to the Indian tribe that is the subject of the request, at no cost to such military department and without consideration, any relocatable military housing unit described in subsection (b)(1) that, as determined by such Secretary, is in excess of the needs of the military.''

§ 2828. Leasing of military family housing

(a)(1) Subject to paragraph (2), the Secretary of the military department concerned may lease housing facilities at or near a military installation in the United States, Puerto Rico, or Guam for assignment, without rental charge, as family housing to members of the armed forces and for assignment, with fair market rental charge, as family housing to civilian employees of the Department of Defense stationed at such installation.

(2) A lease may only be made under paragraph (1) if the Secretary concerned finds that there is a shortage of adequate housing at or near such military installation and that—

(A) the requirement for such housing is temporary;

(B) leasing would be more cost effective than construction or acquisition of new housing;

(C) family housing is required for personnel attending service school academic courses on permanent change of station orders;

(D) construction of family housing at such installation has been authorized by law but is not yet completed; or

(E) a military construction authorization bill pending in Congress includes a request for authorization of construction of family housing at such installation.

(b)(1) Not more than 10,000 family housing units may be leased at any one time under subsection (a).

(2) Except as provided in paragraphs (3), (4), and (7), expenditures for the rental of housing units under subsection (a) (including the cost of utilities, maintenance, and operation) may not exceed $12,000 per unit per year, as adjusted from time to time under paragraph (5).

(3) Not more than 500 housing units may be leased under subsection (a) for which the expenditure for the rental of such units (including the cost of utilities, maintenance, and operation) exceeds the maximum amount per unit per year in effect under paragraph (2) but does not exceed $14,000 per unit per year, as adjusted from time to time under paragraph (5).

(4)(A) The Secretary of the Army may lease not more than eight housing units in the vicinity of Miami, Florida, for key and essential personnel, as designated by the Secretary, for the United States Southern Command for which the expenditure for the rental of such units (including the cost of utilities, maintenance, and operation, including security enhancements) exceeds the expenditure limitations in paragraphs (2) and (3).

(B) The amount of all leases under this paragraph may not exceed $280,000 per year, as adjusted from time to time under paragraph (6).

(C) The term of any lease under this paragraph may not exceed 5 years.

(D) Until September 30, 2008, the Secretary of the Army may authorize family members of a member of the armed forces on active duty who is assigned to a family-member-restricted area and who, before such assignment, was occupying a housing unit leased under this paragraph, to remain in the leased housing unit until the member completes the assignment. Costs incurred for the leased housing unit during the assignment shall be included in the costs subject to the limitation under subparagraph (B).

(5) At the beginning of each fiscal year, the Secretary concerned shall adjust the maximum lease amount provided for leases under paragraphs (2), (3), and (7) for the previous fiscal year by the percentage (if any) by which the national average monthly cost of housing (as calculated for purposes of determining rates of basic allowance for housing under section 403 of title 37) for the preceding fiscal year exceeds the national average monthly cost of housing (as so calculated) for the fiscal year before such preceding fiscal year.

(6) At the beginning of each fiscal year, the Secretary of the Army shall adjust the maximum aggregate amount for leases under paragraph (4) for the previous fiscal year by the percentage (if any) by which the annual average cost of housing for the Miami Military Housing Area (as calculated for purposes of determining rates of basic allowance for housing under section 403 of title 37) for the preceding fiscal year exceeds the annual average cost of housing for the Miami Military Housing Area (as so calculated) for the fiscal year before such preceding fiscal year.

(7)(A) Not more than 600 housing units may be leased by the Secretary of the Army under subsection (a) for which the expenditure for the rental of such units (including the cost of utilities, maintenance, and operation) exceeds the maximum amount per unit per year in effect

under paragraph (2) but does not exceed $35,000 per unit per year, as adjusted from time to time under paragraph (5).

(B) The maximum lease amount provided in subparagraph (A) shall apply only to Army family housing in areas designated by the Secretary of the Army.

(C) The term of a lease under subparagraph (A) may not exceed 2 years.

(c) The Secretary concerned may lease housing facilities in foreign countries for assignment, without rental charge, as family housing to members of the armed forces and for assignment, with or without rental charge, as family housing to civilian employees of the Department of Defense—

(1) under circumstances specified in clause (A), (B), (D), or (E) of subsection (a)(2);

(2) for incumbents of special command positions (as determined by the Secretary of Defense);

(3) in countries where excessive costs of housing or other lease terms would cause undue hardship on Department of Defense personnel; and

(4) in countries that prohibit leases by individual military or civilian personnel of the United States.

(d)(1) Leases of housing units in foreign countries under subsection (c) for assignment as family housing may be for any period not in excess of 10 years, or 15 years in the case of leases in Korea, and the costs of such leases for any year may be paid out of annual appropriations for that year.

(2) The Secretary may enter into an agreement under this paragraph in connection with a lease entered into under subsection (c). Such an agreement—

(A) shall be for the purpose of compensating a developer for any costs resulting from the termination of the lease during the construction of the housing units that are to be occupied pursuant to the lease;

(B) may be for a period not in excess of three years; and

(C) shall include a provision that the obligation of the United States to make payments under the agreement in any fiscal year is subject to the availability of appropriations.

(e)(1) Expenditures for the rental of family housing in foreign countries (including the costs of utilities, maintenance, and operation) may not exceed $20,000 per unit per year, except that 450 units may be leased in foreign countries for not more than $25,000 per unit per year. These maximum lease amounts may be waived by the Secretary concerned with respect to not more than a total of 350 such units that are leased for incumbents of special positions or for personnel assigned to Defense Attache Offices or that are leased in countries where excessive costs of housing would cause undue hardship on Department of Defense personnel.

(2) In addition to the 450 units of family housing referred to in paragraph (1) for which the maximum lease amount is $25,000 per unit per year, the Secretaries of the military departments may lease not more than 3,300 units of family housing in Italy, subject to that maximum lease amount.

(3) In addition to the 450 units of family housing referred to in paragraph (1) for which the maximum lease amount is $25,000 per unit per year, the Secretary of the Army may lease not more than 1,175 units of family housing in Korea subject to that maximum lease amount.

(4) In addition to the units of family housing referred to in paragraph (1) for which the maximum lease amount is $25,000 per unit per year, the Secretary of the Army may lease not more than 2,800 units of family housing in Korea subject to a maximum lease amount of $35,000 per unit per year.

(5) The Secretary concerned shall adjust the maximum lease amounts provided for under paragraphs (1), (2), (3), and (4) for the previous fiscal year—

(A) for foreign currency fluctuations from October 1, 1987; and

(B) at the beginning of each fiscal year, by the percentage (if any) by which the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, during the preceding fiscal year exceeds such Consumer Price Index for the fiscal year before such preceding fiscal year.

(6) The maximum number of family housing units that may be leased in foreign countries under this section at any one time is 55,775.

(f) A lease for family housing facilities, or for real property related to family housing facilities, in a foreign country for which the average estimated annual rental during the term of the lease exceeds $1,000,000 may be made under this section only after the end of the 14-day period beginning on the date on which the Secretary concerned submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress notice of the facts concerning the proposed lease.

(g) Appropriations available to the Department of Defense for maintenance or construction may be used for the acquisition of interests in land under this section.

(Added Pub. L. 97–214, § 2(a), July 12, 1982, 96 Stat. 161; amended Pub. L. 97–321, title VIII, § 805(b)(2), Oct. 15, 1982, 96 Stat. 1573; Pub. L. 98–115, title VIII, § 801, Oct. 11, 1983, 97 Stat. 782; Pub. L. 98–407, title VIII, § 806(a), Aug. 28, 1984, 98 Stat. 1521; Pub. L. 99–167, title VIII, §§ 801(b), 803, 805, Dec. 3, 1985, 99 Stat. 985, 987, 988; Pub. L. 99–661, div. B, title VII, §§ 2702(d)–(g), 2713(b), 2714, Nov. 14, 1986, 100 Stat. 4040–4042; Pub. L. 100–26, § 7(j)(8), Apr. 21, 1987, 101 Stat. 283; Pub. L. 100–180, div. B, subdiv. 3, title I, §§ 2306(a), 2309, 2311, Dec. 4, 1987, 101 Stat. 1216, 1217; Pub. L. 100–370, § 1(*l*)(2), July 19, 1988, 102 Stat. 849; Pub. L. 100–456, div. B, title XXVIII, § 2802, Sept. 29, 1988, 102 Stat. 2115; Pub. L. 101–189, div. B, title XXVIII, §§ 2802, 2805, Nov. 29, 1989, 103 Stat. 1646, 1647; Pub. L. 102–190, div. B, title XXVIII, § 2806(b), Dec. 5, 1991, 105 Stat. 1540; Pub. L. 103–35, title II, § 201(d)(7), May 31, 1993, 107 Stat. 99; Pub. L. 103–160, div. B, title XXVIII, § 2801, Nov. 30, 1993, 107 Stat. 1883; Pub. L. 104–106, div. B, title XXVIII, § 2816, Feb. 10, 1996, 110 Stat. 553; Pub. L. 105–85, div. B, title XXVIII, § 2803, Nov. 18, 1997, 111 Stat. 1990; Pub. L. 105–261, div. B, title XXVIII, § 2802, Oct. 17, 1998, 112 Stat. 2202; Pub. L. 106–398, § 1 [div. B, title XXVIII, § 2804],

Oct. 30, 2000, 114 Stat. 1654, 1654A–414; Pub. L. 107–314, div. A, title X, §1062(a)(15), div. B, title XXVIII, §2801, Dec. 2, 2002, 116 Stat. 2650, 2702; Pub. L. 108–136, div. B, title XXVIII, §§2803, 2804(a), Nov. 24, 2003, 117 Stat. 1719; Pub. L. 109–163, div. B, title XXVIII, §2802, Jan. 6, 2006, 119 Stat. 3505; Pub. L. 109–364, div. B, title XXVIII, §2804, Oct. 17, 2006, 120 Stat. 2467; Pub. L. 110–181, div. B, title XXVIII, §2806(a)–(c), Jan. 28, 2008, 122 Stat. 540, 541; Pub. L. 110–417, div. B, title XXVIII, §2802, Oct. 14, 2008, 122 Stat. 4719; Pub. L. 111–383, div. B, title XXVIII, §2803(d), Jan. 7, 2011, 124 Stat. 4459; Pub. L. 115–91, div. B, title XXVIII, §2801(b)(3), Dec. 12, 2017, 131 Stat. 1842.)

HISTORICAL AND REVISION NOTES

1988 ACT

Subsection (h) of this section and section 2673 of this title are based on Pub. L. 98–212, title VII, §707, Dec. 8, 1983, 97 Stat. 1438.

Editorial Notes

AMENDMENTS

2017—Subsec. (f). Pub. L. 115–91 substituted ''may be made under this section only after the end of the 14-day period beginning on the date on which the Secretary concerned submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress notice of the facts concerning the proposed lease.'' for ''may not be made under this section until (1) the Secretary concerned provides to the appropriate committees of Congress written notification of the facts concerning the proposed lease, and (2) a period of 21 days elapses after the notification is received by those committees or, if earlier, a period of 14 days has elapsed from the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.''

2011—Subsec. (f)(2). Pub. L. 111–383 inserted before period at end ''or, if earlier, a period of 14 days has elapsed from the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title''.

2008—Subsec. (b)(2). Pub. L. 110–181, §2806(a)(1), substituted ''paragraphs (3), (4), and (7)'' for ''paragraphs (3) and (4)''.

Subsec. (b)(5). Pub. L. 110–181, §2806(a)(2), substituted ''paragraphs (2), (3), and (7)'' for ''paragraphs (2) and (3)''.

Subsec. (b)(7). Pub. L. 110–181, §2806(a)(3), added par. (7).

Subsec. (b)(7)(A). Pub. L. 110–417 substituted ''$35,000 per unit'' for ''$18,620 per unit''.

Subsec. (e)(2). Pub. L. 110–181, §2806(b), substituted ''the Secretaries of the military departments may lease not more than 3,300 units of family housing in Italy'' for ''the Secretary of the Navy may lease not more than 2,800 units of family housing in Italy, and the Secretary of the Army may lease not more than 500 units of family housing in Italy''.

Subsec. (f). Pub. L. 110–181, §2806(c), substituted ''$1,000,000'' for ''$500,000''.

2006—Subsec. (b)(4)(D). Pub. L. 109–364 added subpar. (D).

Subsec. (e)(4). Pub. L. 109–163 substituted ''2,800'' for ''2,400''.

2003—Subsec. (d)(1). Pub. L. 108–136, §2804(a), substituted ''10 years, or 15 years in the case of leases in Korea,'' for ''ten years,''.

Subsec. (e)(2). Pub. L. 108–136, §2803, substituted ''2,800'' for ''2,000''.

2002—Subsec. (b)(2). Pub. L. 107–314, §1062(a)(15), inserted ''time'' after ''from time to''.

Subsec. (e)(3). Pub. L. 107–314, §2801(a), substituted ''1,175 units'' for ''800 units''.

Subsec. (e)(4). Pub. L. 107–314, §2801(b)(2), added par. (4). Former par. (4) redesignated (5).

Subsec. (e)(5). Pub. L. 107–314, §2801(b)(1), (3), redesignated par. (4) as (5) and substituted ''(3), and (4)'' for ''and (3)'' in introductory provisions. Former par. (5) redesignated (6).

Subsec. (e)(6). Pub. L. 107–314, §2801(b)(1), (4), redesignated par. (5) as (6) and substituted ''55,775'' for ''53,000''.

2000—Subsec. (b)(2). Pub. L. 106–398, §1 [div. B, title XXVIII, §2804(c)(1)], inserted '', as adjusted from time to under paragraph (5)'' after ''per year''.

Subsec. (b)(3). Pub. L. 106–398, §1 [div. B, title XXVIII, §2804(c)(2)], substituted ''the maximum amount per unit per year in effect under paragraph (2) but does not exceed $14,000 per unit per year, as adjusted from time to time under paragraph (5)'' for ''$12,000 per unit per year but does not exceed $14,000 per unit per year''.

Subsec. (b)(4). Pub. L. 106–398, §1 [div. B, title XXVIII, §2804(a)], designated existing provisions as subpar. (A), struck out last sentence which read as follows: ''The total amount for all leases under this paragraph may not exceed $280,000 per year, and no lease on any individual housing unit may exceed $60,000 per year.'', and added subpars. (B) and (C).

Subsec. (b)(5), (6). Pub. L. 106–398, §1 [div. B, title XXVIII, §2804(b)], added pars. (5) and (6) and struck out former par. (5) which read as follows: ''At the beginning of each fiscal year, the Secretary concerned shall adjust the maximum lease amount provided for under paragraphs (2), (3), and (4) for the previous fiscal year by the percentage (if any) by which the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, during the preceding fiscal year exceeds such Consumer Price Index for the fiscal year before such preceding fiscal year.''

1998—Subsec. (e)(2). Pub. L. 105–261, §2802(a)(1), inserted '', and the Secretary of the Army may lease not more than 500 units of family housing in Italy,'' after ''family housing in Italy''.

Subsec. (e)(3). Pub. L. 105–261, §2802(a)(3), added par. (3). Former par. (3) redesignated (4).

Subsec. (e)(4). Pub. L. 105–261, §2802(b), substituted '', (2), and (3)'' for ''and (2)''.

Pub. L. 105–261, §2802(a)(2), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (e)(5). Pub. L. 105–261, §2802(a)(2), redesignated par. (4) as (5).

1997—Subsec. (b)(2). Pub. L. 105–85, §2803(a)(1), substituted ''paragraphs (3) and (4)'' for ''paragraph (3)''.

Subsec. (b)(4). Pub. L. 105–85, §2803(a)(3), added par. (4). Former par. (4) redesignated (5).

Subsec. (b)(5). Pub. L. 105–85, §2803(b), substituted ''paragraphs (2), (3), and (4)'' for ''paragraphs (2) and (3)''.

Pub. L. 105–85, §2803(a)(2), redesignated par. (4) as (5).

1996—Subsec. (e)(1). Pub. L. 104–106, §2816(1), substituted ''450 units'' for ''300 units'' in first sentence and ''350 such units'' for ''220 such units'' in second sentence.

Subsec. (e)(2). Pub. L. 104–106, §2816(2), substituted ''450 units'' for ''300 units''.

1993—Subsec. (b)(2), (3). Pub. L. 103–35 substituted ''per year'' for ''per annum'' in par. (2) and in two places in par. (3).

Subsec. (b)(4). Pub. L. 103–160, §2801(a), added par. (4).

Subsec. (e)(1). Pub. L. 103–160, §2801(b)(1), (2), substituted '', except that 300 units may be leased in foreign countries for not more than $25,000 per unit per year'' for ''as adjusted for foreign currency fluctuation from October 1, 1987'' in first sentence and ''These maximum lease amounts'' for ''That maximum lease amount'' in second sentence.

Pub. L. 103–35 substituted ''per year'' for ''per annum''.

Subsec. (e)(2) to (4). Pub. L. 103–160, §2801(b)(3), (4), added pars. (2) and (3) and redesignated former par. (2) as (4).

1991—Subsecs. (g), (h). Pub. L. 102–190 redesignated subsec. (h) as (g) and struck out former subsec. (g)

which authorized contracts for lease of family housing units on or near military installations at which there is a validated deficit in family housing. See section 2835 of this title.

1989—Subsec. (b)(2). Pub. L. 101–189, § 2802(1), substituted ''$12,000'' for ''$10,000''.

Subsec. (b)(3). Pub. L. 101–189, § 2802(2), substituted ''Not'' for ''(A) Except as provided in subparagraph (B), not'', ''$12,000'' for ''$10,000'', and ''$14,000'' for ''$12,000'' and struck out subpar. (B) which read as follows: ''During fiscal years 1986 and 1987, the number of housing units that may be leased pursuant to the provisions of subparagraph (A) may be increased by 500 units for each such fiscal year. The Secretary concerned shall provide written notification to the Committees on Armed Services of the Senate and House of Representatives concerning the location, purpose, and cost of the additional units permitted by this subparagraph. Such notification shall be made periodically as the leases are entered into.''

Subsec. (e)(1). Pub. L. 101–189, § 2802(3), inserted ''as adjusted for foreign currency fluctuation from October 1, 1987'' after ''$20,000 per unit per annum''.

Subsec. (e)(2). Pub. L. 101–189, § 2802(4), substituted ''53,000'' for ''38,000''.

Subsec. (g)(7). Pub. L. 101–189, § 2805(1), added par. (7) and struck out former par. (7) which provided that this subsection could only be implemented by a pilot program, and that in carrying out such program, the Secretary of each military department or the Secretary of Transportation with respect to the Coast Guard, could not enter into more than two contracts under this subsection, and any such contract could not be for more than 300 family housing units.

Subsec. (g)(8). Pub. L. 101–189, § 2805, redesignated par. (9) as (8), substituted ''1991'' for ''1989'', and struck out former par. (8) which authorized the Secretaries of the military departments and the Secretary of Transportation to enter into contracts for family housing units in addition to those authorized in par. (7).

Subsec. (g)(9), (10). Pub. L. 101–189, § 2805(2), redesignated par. (10) as (9). Former par. (9) redesignated (8).

1988—Subsec. (e)(2). Pub. L. 100–456 substituted ''38,000'' for ''36,000''.

Subsec. (h). Pub. L. 100–370 added subsec. (h).

1987—Subsec. (a)(1). Pub. L. 100–26 substituted ''armed forces'' for ''Armed Forces''.

Subsec. (b)(2). Pub. L. 100–180, § 2309(b)(1), inserted ''per unit per annum'' after ''$10,000''.

Subsec. (b)(3)(A). Pub. L. 100–180, § 2309(b)(2), substituted ''$10,000 per unit per annum but does not exceed $12,000 per unit per annum'' for ''$10,000 but does not exceed $12,000''.

Subsec. (c). Pub. L. 100–26 substituted ''armed forces'' for ''Armed Forces''.

Subsec. (e)(1). Pub. L. 100–180, § 2309(a)(1), substituted ''$20,000 per unit per annum'' for ''$16,800''.

Subsec. (e)(2). Pub. L. 100–180, § 2309(a)(2), substituted ''36,000'' for ''32,000''.

Subsec. (f). Pub. L. 100–180, § 2311, substituted ''$500,000'' for ''$250,000''.

Subsec. (g)(1). Pub. L. 100–180, § 2306(a)(1), inserted '', or the Secretary of Transportation with respect to the Coast Guard,'' after ''military department'' and ''or rehabilitated to residential use'' after ''constructed''.

Subsec. (g)(7)(A). Pub. L. 100–180, § 2306(a)(2), inserted '', or the Secretary of Transportation with respect to the Coast Guard,'' after ''military department''.

Subsec. (g)(8)(C). Pub. L. 100–180, § 2306(a)(3), added subpar. (C).

Subsec. (g)(9). Pub. L. 100–180, § 2306(a)(4), substituted ''1989'' for ''1988''.

1986—Subsec. (b)(2). Pub. L. 99–661, § 2702(d)(1), substituted ''$10,000'' for ''the amount specified by law as the maximum annual domestic family housing unit lease amount''.

Subsec. (b)(3)(A). Pub. L. 99–661, § 2702(d)(2), substituted ''$10,000 but does not exceed $12,000'' for ''the maximum annual domestic family housing unit lease amount but does not exceed 120 percent of that amount''.

Subsec. (e)(1). Pub. L. 99–661, § 2714, substituted ''220'' for ''200''.

Pub. L. 99–661, § 2702(e), substituted ''$16,800'' for ''the amount specified by law as the maximum annual foreign family housing unit lease amount''.

Subsec. (e)(2). Pub. L. 99–661, § 2702(f), substituted ''is 32,000'' for ''shall be specified by law''.

Subsec. (f). Pub. L. 99–661, § 2702(g), substituted ''$250,000'' for ''the amount specified by law for such purpose''.

Subsec. (g)(8)(B). Pub. L. 99–661, § 2713(b)(1), substituted ''1,600'' for ''600''.

Subsec. (g)(9). Pub. L. 99–661, § 2713(b)(2), substituted ''September 30, 1988'' for ''September 30, 1986''.

Subsec. (g)(10). Pub. L. 99–661, § 2713(b)(3), added par. (10).

1985—Subsec. (b)(3). Pub. L. 99–167, § 805, designated existing provisions as subpar. (A), substituted ''Except as provided in subparagraph (B), not'' for ''Not'', and added subpar. (B).

Subsec. (d). Pub. L. 99–167, § 803, designated existing provisions as par. (1) and added par. (2).

Subsec. (g)(8). Pub. L. 99–167, § 801(b)(2), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (g)(9). Pub. L. 99–167, § 801(b)(1), substituted ''September 30, 1986'' for ''October 1, 1985''.

1984—Subsec. (g)(8), (9). Pub. L. 98–407 added par. (8) and redesignated former par. (8) as (9).

1983—Subsec. (g). Pub. L. 98–115 added subsec. (g).

1982—Subsec. (e)(1). Pub. L. 97–321 inserted ''the'' after ''may be waived by'' in second sentence.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102–190, div. B, title XXVIII, § 2806(c), Dec. 5, 1991, 105 Stat. 1540, provided that: ''Section 2835 of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts entered into under that section on or after the date of the enactment of this Act [Dec. 5, 1991]. The amendment made by subsection (b)(1) [amending this section] shall not affect the validity of any contract entered into before that date under section 2828(g) of such title, as in effect on the day before that date.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–456 effective Oct. 1, 1988, see section 2702 of Pub. L. 100–456, set out as a note under section 2391 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98–407, title VIII, § 806(c), Aug. 28, 1984, 98 Stat. 1521, provided that: ''The amendments made by this section [amending this section and provisions set out as a note under section 2821 of this title] shall take effect on October 1, 1984.''

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

§ 2829. Multi-year contracts for supplies and services

The Secretary concerned may make contracts for periods of up to four years for supplies and services for the management, maintenance, and operation of military family housing and may pay the costs of such contracts for each year out of annual appropriations for that year.

(Added Pub. L. 97–214, § 2(a), July 12, 1982, 96 Stat. 162.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

[§ 2830. Repealed. Pub. L. 116–283, div. B, title XXVIII, § 2812(a), Jan. 1, 2021, 134 Stat. 4326]

Section, added Pub. L. 97–214, § 2(a), July 12, 1982, 96 Stat. 162; amended Pub. L. 99–348, title III, § 304(a)(4), July 1, 1986, 100 Stat. 703; Pub. L. 100–180, div. A, title VI, § 632(a), Dec. 4, 1987, 101 Stat. 1105; Pub. L. 105–85, div. A, title VI, § 603(d)(2)(B), Nov. 18, 1997, 111 Stat. 1782; Pub. L. 107–296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314, related to occupancy of substandard family housing units.

§ 2831. Military family housing management account

(a) ESTABLISHMENT.—There is on the books of the Treasury an account known as the Department of Defense Military Family Housing Management Account (hereinafter in this section referred to as the ''account''). The account shall be used for the management and administration of funds appropriated or otherwise made available to the Department of Defense for military family housing programs.

(b) CREDITS TO ACCOUNT.—The account shall be administered as a single account. There shall be transferred into the account—

(1) appropriations made for the purpose of, or which are available for, the payment of costs arising in connection with the construction, acquisition, leasing, relocation, operation and maintenance, and disposal of military family housing, including the cost of principal and interest charges, and insurance premiums, arising in connection with the acquisition of such housing, and mortgage insurance premiums payable under section 222(c)[1] of the National Housing Act (12 U.S.C. 1715m(c));

(2) proceeds from the rental of family housing and mobile home facilities under the control of a military department, reimbursements from the occupants of such facilities for services rendered (including utility costs), funds obtained from individuals as a result of losses, damages, or destruction to such facilities caused by the abuse or negligence of such individuals, and reimbursements from other Government agencies for expenditures from the account; and

(3) proceeds of the handling and the disposal of family housing of a military department (including related land and improvements), whether carried out by a military department or any other Federal agency, but less those expenses payable pursuant to section 572(a) of title 40.

(c) AVAILABILITY OF AMOUNTS IN ACCOUNT.—Amounts in the account shall remain available until spent.

(d) USE OF ACCOUNT.—The Secretary concerned may make obligations against the account, in such amounts as may be specified from time to time in appropriation Acts, for the purpose of defraying, in the manner and to the extent authorized by law, the costs referred to in subsection (b).

(e) NOTICE AND WAIT REQUIREMENT.—The Secretary concerned may not carry out a maintenance or repair project for a family housing unit used, or intended for use, as quarters for a general officer or flag officer if the project will or may result in the total operation, maintenance, and repair costs for the unit for the fiscal year to exceed $35,000, until after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress a justification of the need for the maintenance or repair project, including an estimate of the cost of the project.

(Added Pub. L. 97–214, § 2(a), July 12, 1982, 96 Stat. 162; amended Pub. L. 107–217, § 3(b)(19), Aug. 21, 2002, 116 Stat. 1297; Pub. L. 108–375, div. B, title XXVIII, § 2802(a), (b), Oct. 28, 2004, 118 Stat. 2119, 2120; Pub. L. 109–364, div. A, title X, § 1071(a)(26), div. B, title XXVIII, § 2805, Oct. 17, 2006, 120 Stat. 2399, 2467; Pub. L. 115–91, div. A, title X, § 1051(a)(21), div. B, title XXVIII, § 2801(b)(4), Dec. 12, 2017, 131 Stat. 1561, 1843.)

Editorial Notes

REFERENCES IN TEXT

Section 222(c) of the National Housing Act (12 U.S.C. 1715m(c)), referred to in subsec. (b)(1), was repealed by Pub. L. 110–289, div. B, title I, § 2120(a)(5), July 30, 2008, 122 Stat. 2835.

AMENDMENTS

2017—Subsec. (e). Pub. L. 115–91, § 2801(b)(4), substituted ''until after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress a justification of the need for the maintenance or repair project, including an estimate of the cost of the project.'' for ''until—

''(1) the Secretary concerned submits to the congressional defense committees, in writing, a justification of the need for the maintenance or repair project and an estimate of the cost of the project; and

''(2) a period of 21 days has expired following the date on which the justification and estimate are received by the committees or, if over sooner, a period of 14 days has expired following the date on which a copy of the justification and estimate are provided in an electronic medium pursuant to section 480 of this title.''

Pub. L. 115–91, § 1051(a)(21)(C), substituted ''The Secretary'' for ''(1) Except as provided in paragraphs (2) and (3), the Secretary'', redesignated subpars. (A) and (B) of par. (1) as pars. (1) and (2), respectively, and struck out former pars. (2) and (3) which read as follows:

''(2) The project justification and cost estimate required by paragraph (1)(A) may be submitted after the commencement of a maintenance or repair project for a family housing unit used, or intended for use, as quarters for a general officer or flag officer if the project is a necessary environmental remediation project for the unit or is necessary for occupant safety or security, and the need for the project arose after the submission of the most recent report under subsection (e).

''(3) Paragraph (1) shall not apply in the case of a family housing unit used, or intended for use, as quarters for a general officer or flag officer if the unit was identified in the most recent report submitted under subsection (e) and the cost of the maintenance or repair project was included in the total of anticipated operation, maintenance, and repair costs for the unit specified in the report.''

Pub. L. 115–91, § 1051(a)(21)(A), (B), redesignated subsec. (f) as (e) and struck out former subsec. (e) which required reports on general officers and flag officers quarters.

[1] See References in Text note below.

Subsec. (f). Pub. L. 115–91, § 1051(a)(21)(B), redesignated subsec. (f) as (e).

2006—Subsecs. (a) to (d). Pub. L. 109–364, § 2805(b)(1)–(4), inserted subsec. headings.

Subsec. (e). Pub. L. 109–364, § 2805(b)(5), struck out ''Cost of'' before ''General Officers'' in heading.

Subsec. (e)(1)(B). Pub. L. 109–364, § 2805(a)(2)(A), substituted ''identified under subparagraph (A)'' for ''so identified''.

Subsec. (e)(1)(C) to (E). Pub. L. 109–364, § 2805(a)(1), (2)(B), (3), added subpars. (C) to (E).

Subsec. (f)(2). Pub. L. 109–364, § 1071(a)(26), substituted ''environmental'' for ''enviromental''.

2004—Subsecs. (e), (f). Pub. L. 108–375 added subsecs. (e) and (f).

2002—Subsec. (b)(3). Pub. L. 107–217 substituted ''section 572(a) of title 40'' for ''section 204(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(b))''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

§ 2832. Homeowners assistance program

The Secretary of Defense may exercise the authority provided in section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374).

(Added Pub. L. 97–214, § 2(a), July 12, 1982, 96 Stat. 163; amended Pub. L. 101–189, div. B, title XXVIII, § 2831(a), Nov. 29, 1989, 103 Stat. 1660; Pub. L. 104–106, div. A, title XV, § 1502(a)(26), Feb. 10, 1996, 110 Stat. 506; Pub. L. 107–107, div. A, title X, § 1048(e)(11), Dec. 28, 2001, 115 Stat. 1228.)

Editorial Notes

AMENDMENTS

2001—Pub. L. 107–107 struck out ''(a)'' before ''The Secretary of Defense'' and struck out subsec. (b) which read as follows:

''(b)(1) Subject to paragraph (2) and notwithstanding subsection (i) of section 1013 of the Act referred to in subsection (a)—

''(A) the Secretary of Defense may transfer not more than $31,000,000 from the Department of Defense Base Closure Account, established by section 207 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 102 Stat. 2627), to the fund established pursuant to subsection (d) of such section 1013 for use as part of such fund; and

''(B) any funds so transferred shall be available for obligation and expenditure for the same purposes that funds appropriated to such fund are available, except that such funds may not be obligated after September 30, 1991.

''(2) Amounts may be transferred under paragraph (1) only after the date on which the appropriate committees of Congress receive from the Secretary written notice of, and justification for, the transfer.''

1996—Subsec. (b)(2). Pub. L. 104–106 substituted ''appropriate committees of Congress'' for ''Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives''.

1989—Pub. L. 101–189 designated existing provisions as subsec. (a) and added subsec. (b).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–189, div. B, title XXVIII, § 2831(b), Nov. 29, 1989, 103 Stat. 1660, provided that: ''The amendments made by subsection (a) [amending this section] shall apply only to funds appropriated or transferred to, or otherwise deposited in, the Department of Defense Base Closure Account for, or during, fiscal years beginning after September 30, 1989.''

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

§ 2833. Family housing support

Amounts authorized by law for support of military family housing include amounts for—

(1) operating expenses;

(2) leasing expenses;

(3) maintenance of real property expenses;

(4) payments of principal and interest on mortgage debts incurred; and

(5) payments of mortgage insurance premiums authorized under section 222[1] of the National Housing Act (12 U.S.C. 1715m).

(Added Pub. L. 99–167, title VIII, § 804(b)(1), Dec. 3, 1985, 99 Stat. 987.)

Editorial Notes

REFERENCES IN TEXT

Section 222 of the National Housing Act (12 U.S.C. 1715m), referred to in par. (5), was repealed by Pub. L. 110–289, div. B, title I, § 2120(a)(5), July 30, 2008, 122 Stat. 2835.

§ 2834. Participation in Department of State housing pools

(a) The Secretary concerned may enter into an agreement with the Secretary of State under which the Secretary of State agrees to provide housing and related services for personnel under the jurisdiction of the Secretary concerned who are assigned to duty in a foreign country if the Secretary concerned determines—

(1) that there is a shortage of adequate housing in the area of the foreign country in which such personnel are assigned to duty; and

(2) that participation in the Department of State housing pool is the most cost-effective means of providing housing for such personnel.

The Secretary concerned shall reimburse the Secretary of State, as provided in the agreement, for housing and related services furnished personnel under the jurisdiction of the Secretary concerned.

(b) The maximum lease amounts specified in section 2828(e)(1) of this title for the rental of family housing in foreign countries shall not apply to housing made available to the Department of Defense under this section. To the extent that the lease amount for units of housing made available under this subsection exceeds such maximum lease amounts, such units shall not be counted in applying the limitation contained in such section on the number of units of family housing for which the Secretary concerned may waive such maximum lease amounts.

(Added Pub. L. 99–167, title VIII, § 808(a), Dec. 3, 1985, 99 Stat. 989; amended Pub. L. 101–510, div.

[1] See References in Text note below.

A, title XIII, § 1301(18), Nov. 5, 1990, 104 Stat. 1668; Pub. L. 103–160, div. B, title XXVIII, § 2806, Nov. 30, 1993, 107 Stat. 1887.)

Editorial Notes

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–160 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''In computing the number of leases for which the maximum lease amount may be waived by the Secretary concerned under the second sentence of section 2828(e)(1) of this title, housing made available to the Department of Defense under this section shall be included.''

1990—Subsecs. (b), (c). Pub. L. 101–510 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: ''Agreements entered into with the Secretary of State under this section may not be executed until (1) the Secretary concerned provides to the appropriate committees of Congress written notification of the facts concerning the proposed agreement, and (2) a period of 21 days has elapsed after the day on which the notification is received by the committees.''

§ 2835. Long-term leasing of military family housing to be constructed

(a) BUILD AND LEASE AUTHORIZED.—Subject to subsection (b), the Secretary of a military department, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may enter into a contract for the lease of family housing units to be constructed or rehabilitated to residential use near a military installation within the United States under the Secretary's jurisdiction at which there is a shortage of family housing. Housing units leased under this section shall be assigned, without rental charge, as family housing to members of the armed forces who are eligible for assignment to military family housing.

(b) SUBMISSION AND AUTHORIZATION OF PROPOSED LEASE CONTRACTS.—(1) The Secretary of a military department, or the Secretary of Homeland Security with respect to the Coast Guard, may enter into a lease contract under subsection (a) for such military housing as is authorized by law for the purposes of this section.

(2) The budget material submitted to Congress by the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, in connection with the budget submitted pursuant to section 1105 of title 31 for each fiscal year shall include materials that identify the military housing projects for which lease contracts are proposed to be entered into under subsection (a) in such fiscal year.

(c) COMPETITIVE PROCESS.—Each contract under subsection (a) shall be awarded through the use of publicly advertised, competitively bid, or competitively negotiated, contracting procedures as provided in chapter 137[1] of this title. In accordance with such procedures, the Secretary of a military department, or the Secretary of Homeland Security, as the case may be, shall solicit bids or proposals for a contract for the lease of military housing authorized in accordance with subsection (b)(1). Such a contract may provide for the contractor of the housing facilities to operate and maintain such housing facilities during the term of the lease.

(d) CONDITIONS ON OBLIGATION OF FUNDS.—A lease contract entered into for a military housing project under subsection (a) shall include the following provisions:

(1) A statement that the obligation of the United States to make payments under the contract in any fiscal year is subject to appropriations being provided specifically for that fiscal year and specifically for that project.

(2) A commitment to obligate the necessary amount for each fiscal year covered by the contract when and to the extent that funds are appropriated for that project for that fiscal year.

(3) A statement that such a commitment entered into under the authority of this section does not constitute an obligation of the United States.

(4) A requirement that housing units constructed pursuant to the contract shall be constructed—

(A) to Department of Defense specifications, in the case of a Department of Defense contract; and

(B) to Department of Homeland Security specifications, in the case of a contract for the Coast Guard.

(e) LEASE TERM.—A contract under this section may be for any period not in excess of 20 years (excluding the period required for construction of the housing facilities).

(f) RIGHT OF FIRST REFUSAL TO ACQUIRE.—A contract under this section shall provide that, upon the termination of the lease period, the United States shall have the right of first refusal to acquire all right, title, and interest to the housing facilities constructed and leased under the contract.

(g) NOTICE AND WAIT REQUIREMENTS.—A contract may be entered into for the lease of housing facilities under this section only after the end of the 14-day period beginning on the date on which the Secretary of Defense, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress an economic analysis (based upon accepted life cycle costing procedures) which demonstrates that the proposed contract is cost-effective when compared with alternative means of furnishing the same housing facilities.

(h) SUPPORT BUILDINGS.—A contract for the lease of family housing under this section may include provision for the lease of a child care center, civic center building, and similar type buildings constructed for the support of family housing.

(Added Pub. L. 102–190, div. B, title XXVIII, § 2806(a)(1), Dec. 5, 1991, 105 Stat. 1539; amended Pub. L. 107–296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 111–383, div. B, title XXVIII, § 2803(e), Jan. 7, 2011, 124 Stat. 4459; Pub. L. 112–239, div. A, title X, § 1076(f)(35), Jan. 2, 2013, 126 Stat. 1954; Pub. L. 115–91, div. B, title XXVIII, § 2801(b)(5), Dec. 12, 2017, 131 Stat. 1843.)

[1] See References in Text note below.

Editorial Notes

REFERENCES IN TEXT

Chapter 137 of this title, referred to in subsec. (c), was repealed by Pub. L. 116–283, div. A, title XVIII, § 1881(a), Jan. 1, 2021, 134 Stat. 4293, effective Jan. 1, 2022, in conjunction with the transfer and reorganization of acquisition provisions in this title by Pub. L. 116–283, div. A, title XVIII, Jan. 1, 2022, 134 Stat. 4149. For definition of ''chapter 137 legacy provisions'', see section 3016 of this title.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in subsec. (g) of section 2828 of this title, prior to repeal by Pub. L. 102–190, § 2806(b)(1).

AMENDMENTS

2017—Subsec. (g). Pub. L. 115–91 added subsec. (g) and struck out former subsec. (g) which set out written notice and wait requirements.

2013—Subsec. (a), (g)(1). Pub. L. 112–239 inserted ''when it is not operating as a service in the Navy'' after ''Coast Guard''.

2011—Subsec. (g)(2). Pub. L. 111–383 struck out ''calendar'' after ''21'' and inserted before period at end ''or, if earlier, a period of 14 days has elapsed from the date on which a copy of the analysis is provided in an electronic medium pursuant to section 480 of this title''.

2002—Subsecs. (a) to (c), (d)(4)(B), (g)(1). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation'' wherever appearing.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

EFFECTIVE DATE

Section applicable with respect to contracts entered into under this section on or after Dec. 5, 1991, see section 2806(c) of Pub. L. 102–190, set out as an Effective Date of 1991 Amendment note under section 2828 of this title.

§ 2835a. Use of military family housing constructed under build and lease authority to house other members

(a) INDIVIDUAL ASSIGNMENT OF MEMBERS WITHOUT DEPENDENTS.—(1) To the extent that the Secretary concerned determines that military family housing constructed and leased under section 2835 of this title is not needed to house members of the armed forces eligible for assignment to military family housing, the Secretary may assign, without rental charge, members without dependents to the housing.

(2) A member without dependents who is assigned to housing pursuant to paragraph (1) shall be considered to be assigned to quarters pursuant to section 403(e) of title 37.

(b) CONVERSION TO LONG-TERM LEASING OF MILITARY UNACCOMPANIED HOUSING.—(1) If the Secretary concerned determines that military family housing constructed and leased under section 2835 of this title is excess to the long-term needs of the family housing program of the Secretary, the Secretary may convert the lease contract entered into under subsection (a) of such section into a long-term lease of military unaccompanied housing.

(2) The term of the lease contract for military unaccompanied housing converted from military family housing under paragraph (1) may not exceed the remaining term of the lease contract for the family housing so converted.

(c) NOTICE AND WAIT REQUIREMENTS.—The Secretary concerned may not convert military family housing to military unaccompanied housing under subsection (b) until after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress a notice of the intent to undertake the conversion.

(d) APPLICATION TO HOUSING LEASED UNDER FORMER AUTHORITY.—This section also shall apply to housing initially acquired or constructed under the former section 2828(g) of this title (commonly known as the ''Build to Lease program''), as added by section 801 of the Military Construction Authorization Act, 1984 (Public Law 98–115; 97 Stat 782).

(Added Pub. L. 110–417, div. B, title XXVIII, § 2803(a), Oct. 14, 2008, 122 Stat. 4719; amended Pub. L. 115–91, div. B, title XXVIII, § 2801(b)(6), Dec. 12, 2017, 131 Stat. 1843; Pub. L. 116–92, div. A, title XVII, § 1731(a)(56), Dec. 20, 2019, 133 Stat. 1815.)

Editorial Notes

REFERENCES IN TEXT

Section 2828(g) of this title (commonly known as the ''Build to Lease program''), as added by section 801 of the Military Construction Authorization Act, 1984, referred to in subsec. (d), means the subsection (g) added to section 2828 of this title by section 801 of Pub. L. 98–115, which was repealed by Pub. L. 102–190, div. B, title XXVIII, § 2806(b), Dec. 5, 1991, 105 Stat. 1540.

AMENDMENTS

2019—Subsec. (c). Pub. L. 116–92 struck out par. (1) designation before ''The Secretary''.

2017—Subsec. (c). Pub. L. 115–91 substituted ''until after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress a notice of the intent to undertake the conversion.'' for ''until—'' and struck out subpars. (A) and (B) which required a notice of intent and a wait period and par. (2) which read as follows: ''The notice required by paragraph (1) shall include—

''(A) an explanation of the reasons for the conversion of the military family housing to military unaccompanied housing;

''(B) a description of the long-term lease to be converted;

''(C) amounts to be paid under the lease; and

''(D) the expiration date of the lease.''

§ 2836. Military housing rental guarantee program

(a) AUTHORITY.—Subject to subsection (b), the Secretary of a military department, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may enter into an agreement to assure the occupancy of rental housing to be constructed or rehabilitated to residential use by a private developer or by a State or local housing authority on private land, on land owned by a State or local government, or on land owned by the United States, if the housing is to be located on or near a new military instal-

lation or an existing military installation that has a shortage of housing to meet the requirements of eligible members of the armed forces (with or without accompanying dependents). The authority provided under this subsection shall be exercised under uniform regulations prescribed by the Secretary of Defense.

(b) SUBMISSION AND AUTHORIZATION OF PROPOSED AGREEMENTS.—The Secretary of a military department, or the Secretary of Homeland Security with respect to the Coast Guard, may enter into agreements pursuant to subsection (a) for such military housing rental guaranty projects as are authorized by law.

(c) CONTENT OF AGREEMENT.—An agreement under subsection (a)—

(1) may not assure the occupancy of more than 97 percent of the units constructed under the agreement;

(2) shall establish initial rental rates that are not more than rates for comparable rental dwelling units in the same general market area and may include an escalation clause;

(3) may apply to existing housing;

(4) shall require that the housing units be constructed—

(A) in the case of a Department of Defense agreement, to Department of Defense specifications or, at the discretion of the Secretary of the military department concerned, in compliance with the local building codes; and

(B) in the case of an agreement for the Coast Guard when it is not operating as a service in the Navy, to Department of Homeland Security specifications;

(5) may not be for a term in excess of 25 years;

(6) may not be renewed unless the project is located on government owned land, in which case the renewal period may not exceed the original contract term;

(7) may not assure more than an amount equivalent to the shelter rent of the housing units, determined on the basis of amortizing initial construction costs;

(8) may only be entered into to the extent that there is a shortage in military family housing;

(9) may only be entered into if existing military-controlled housing at all installations in the commuting area (except for a new installation or an installation for which there is projected a significant increase in the number of families due to an increase in the number of authorized personnel) has exceeded 97 percent use for a period of not less than 18 consecutive months immediately preceding the date on which the agreement is entered into, excluding units temporarily inactivated for major repair or improvements;

(10) shall provide for priority of occupancy for military families;

(11) shall include a provision authorizing the Secretary of the military department concerned, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, to take such action as the Secretary considers appropriate to protect the interests of the United States, including rendering the agreement null and void if, in the opinion of the Secretary, the owner of the housing fails to maintain a satisfactory level of operation and maintenance;

(12) may provide in the agreement for the rental of a child care center, civic center building, and similar type buildings constructed for the support of family housing;

(13) may provide that utilities, trash collection, snow removal, and entomological services will be furnished by the Federal Government at no cost to the occupant to the same extent that these items are provided to occupants of housing owned by the Federal Government; and

(14) may require that rent collection and operation and maintenance services in connection with the housing be under the terms of a separate agreement or be carried out by personnel of the Federal Government.

(d) CONDITIONS ON OBLIGATION OF FUNDS.—An agreement entered into for a project pursuant to subsection (a) shall include the following provisions:

(1) A statement that the obligation of the United States to make payments under the agreement in any fiscal year is subject to appropriations being provided specifically for that fiscal year and specifically for that project.

(2) A commitment to obligate the necessary amount for each fiscal year covered by the agreement when and to the extent that funds are appropriated for such project for such fiscal year.

(3) A statement that such a commitment entered into under the authority of this section does not constitute an obligation of the United States.

(e) COMPETITIVE PROCESS.—An agreement under subsection (a) shall be made through the use of publicly advertised, competitively bid, or competitively negotiated, contracting procedures as provided in chapter 137[1] of this title. In accordance with such procedures, the Secretary of a military department, or the Secretary of Homeland Security, as the case may be, shall solicit bids or proposals for a guaranty agreement for each military housing rental guaranty project authorized in accordance with subsection (b).

(f) DISPUTES.—The Secretary concerned may require that disputes arising under an agreement entered into under subsection (a) be decided in accordance with the procedures provided for by chapter 71 of title 41.

(Added Pub. L. 102–190, div. B, title XXVIII, § 2809(a)(1), Dec. 5, 1991, 105 Stat. 1541; amended Pub. L. 107–296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–136, div. A, title X, § 1031(a)(43), Nov. 24, 2003, 117 Stat. 1602; Pub. L. 111–350, § 5(b)(48), Jan. 4, 2011, 124 Stat. 3846; Pub. L. 112–81, div. A, title X, § 1061(25), Dec. 31, 2011, 125 Stat. 1584; Pub. L. 112–239, div. A, title X, § 1076(f)(36), Jan. 2, 2013, 126 Stat. 1954.)

[1] See References in Text note below.

Editorial Notes

REFERENCES IN TEXT

Chapter 137 of this title, referred to in subsec. (e), was repealed by Pub. L. 116–283, div. A, title XVIII, § 1881(a), Jan. 1, 2021, 134 Stat. 4293, effective Jan. 1, 2022, in conjunction with the transfer and reorganization of acquisition provisions in this title by Pub. L. 116–283, div. A, title XVIII, Jan. 1, 2022, 134 Stat. 4149. For definition of ''chapter 137 legacy provisions'', see section 3016 of this title.

PRIOR PROVISIONS

Similar provisions were contained in Pub. L. 98–115, title VIII, § 802, Oct. 11, 1983, 97 Stat. 783, as amended, which was set out as a note under section 2821 of this title, prior to repeal by Pub. L. 102–190, § 2809(b).

AMENDMENTS

2013—Subsecs. (a), (c)(4)(B), (11). Pub. L. 112–239 inserted ''when it is not operating as a service in the Navy'' after ''Coast Guard''.

2011—Subsec. (b). Pub. L. 112–81, § 1061(25)(A), struck out par. (1) designation before ''The Secretary of a military department'' and struck out par. (2) which read as follows: ''The budget material submitted to Congress by the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, in connection with the budget submitted pursuant to section 1105 of title 31 for each fiscal year shall include materials that identify the military housing rental guaranty projects for which agreements are proposed to be entered into under subsection (a) in that fiscal year.''

Subsec. (f). Pub. L. 112–81, § 1061(25)(B), (C), redesignated subsec. (g) as (f) and struck out former subsec. (f). Prior to amendment, text of subsec. (f) read as follows: ''An agreement may not be entered into under subsection (a) until—

''(1) the Secretary of Defense, or the Secretary of Homeland Security with respect to the Coast Guard, submits to the appropriate committees of Congress, in writing, an economic analysis (based upon accepted life cycle costing procedures) which demonstrates that the proposed agreement is cost effective when compared with alternative means of furnishing the same housing facilities; and

''(2) a period of 21 days has expired following the date on which the economic analysis is received by those committees or, if over sooner, a period of 14 days has expired following the date on which a copy of the economic analysis is provided in an electronic medium pursuant to section 480 of this title.''

Subsec. (g). Pub. L. 112–81, § 1061(25)(C), redesignated subsec. (g) as (f).

Pub. L. 111–350 substituted ''chapter 71 of title 41'' for ''the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.)''.

2003—Subsec. (f)(2). Pub. L. 108–136 substituted ''21 days'' for ''21 calendar days'' and inserted before period at end ''or, if over sooner, a period of 14 days has expired following the date on which a copy of the economic analysis is provided in an electronic medium pursuant to section 480 of this title''.

2002—Subsecs. (a), (b), (c)(4)(B), (11), (e), (f)(1). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation'' wherever appearing.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

EFFECTIVE DATE

Pub. L. 102–190, div. B, title XXVII, § 2809(c), Dec. 5. 1991, 105 Stat. 1543, provided that: ''Section 2836 of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts entered into under that section on or after the date of the enactment of this Act [Dec. 5, 1991]. The amendment made by subsection (b) [repealing provisions set out as a note under section 2821 of this title] shall not affect the validity of any contract entered into before that date under section 802 of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), as in effect on the day before that date.''

§ 2837. Housing Requirements and Market Analysis

(a) IN GENERAL.—Not less frequently than once every five years and in accordance with the requirements of this section, the Secretary concerned shall conduct a Housing Requirements and Market Analysis (in this section referred to as an ''HRMA'') for each military installation under the jurisdiction of the Secretary concerned that is located in the United States.

(b) PRIORITIZATION OF INSTALLATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary concerned shall prioritize the conduct of HRMAs for military installations—

(A) for which an HRMA has not been conducted during the five-year period preceding the date of the enactment of this section; or

(B) in locations with housing shortages.

(2) EXISTING 5-YEAR REQUIREMENT.—Paragraph (1) shall not apply to a military department that required an HRMA to be conducted for each military installation not less frequently than once every five years before the date of the enactment of this section.

(c) SUBMITTAL TO CONGRESS.—The Secretary of Defense shall include with the budget materials for the Department of Defense for fiscal year 2024 and each subsequent fiscal year (as submitted to Congress pursuant to section 1105 of title 31, United States Code) a list of the military installations for which the Secretary concerned plans to conduct an HRMA during the fiscal year covered by such budget materials.

(d) HOUSING REQUIREMENTS AND MARKET ANALYSIS.—The term ''Housing Requirements and Market Analysis''or ''HRMA'' means, with respect to a military installation, a structured analytical process under which an assessment is made of both the suitability and availability of the private sector rental housing market using assumed specific standards related to affordability, location, features, physical condition, and the housing requirements of the total military population of such installation.

(Added Pub. L. 117–263, div. B, title XXVIII, § 2821(a), Dec. 23, 2022, 136 Stat. 2999.)

Editorial Notes

PRIOR PROVISIONS

A prior section 2837, added Pub. L. 103–337, div. B, title XXVIII, § 2803(a), Oct. 5, 1994, 108 Stat. 3051; amended Pub. L. 104–106, div. B, title XXVIII, § 2802, Feb. 10, 1996, 110 Stat. 551; Pub. L. 106–65, div. A, title X, § 1066(a)(28), Oct. 5, 1999, 113 Stat. 772; Pub. L. 108–136, div. A, title X, § 1031(a)(44), Nov. 24, 2003, 117 Stat. 1602, authorized the Secretary of a military department to enter into limited partnerships with private developers of housing through Sept. 30, 2000, further authorized

such Secretary to enter into collateral incentive agreements with those private developers, and established the Defense Housing Investment Account, prior to repeal by Pub. L. 113–66, div. B, title XXVIII, § 2802(a)(1), Dec. 26, 2013, 127 Stat. 1006. For effects of repeal on existing contracts and on the Defense Housing Investment Account, see section 2802(b) and (c) of Pub. L. 113–66, set out as notes below.

Statutory Notes and Related Subsidiaries

HOUSING REQUIREMENTS AND MARKET ANALYSIS: TIME FRAME AND SUBMITTAL OF INFORMATION

Pub. L. 117–263, div. B, title XXVIII, § 2821(b), (c), Dec. 23, 2022, 136 Stat. 2999, provided that:

''(b) TIME FRAME.—

''(1) IN GENERAL.—During each of fiscal years 2023 through 2027, the Secretary concerned shall conduct an HRMA for 20 percent of the military installations under the jurisdiction of the Secretary concerned located in the United States.

''(2) SUBMITTAL OF INFORMATION TO CONGRESS.—Not later than January 15, 2023, the Secretary concerned shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a list of military installations for which the Secretary concerned plans to conduct an HRMA during fiscal year 2023.

''(c) DEFINITIONS.—In this section:

''(1) The term 'HRMA' means, with respect to a military installation, a structured analytical process under which an assessment is made of both the suitability and availability of the private sector rental housing market using assumed specific standards related to affordability, location, features, physical condition, and the housing requirements of the total military population of such installation.

''(2) The term 'military installation' has the meaning given in section 2801 of title 10, United States Code.

''(3) The term 'Secretary concerned' has the meaning given that term in section 101(a) of title 10, United States Code.''

EFFECT ON EXISTING CONTRACTS

Pub. L. 113–66, div. B, title XXVIII, § 2802(b), Dec. 26, 2013, 127 Stat. 1006, provided that: ''The repeal of [former] section 2837 of title 10, United States Code, shall not affect the validity or terms of any contract in connection with a limited partnership under subsection (a) or a collateral incentive agreement under subsection (b) of such section entered into before the date of the enactment of this Act [Dec. 26, 2013].''

EFFECT ON DEFENSE HOUSING INVESTMENT ACCOUNT

Pub. L. 113–66, div. B, title XXVIII, § 2802(c), Dec. 26, 2013, 127 Stat. 1006, provided that: ''Any unobligated amounts remaining in the Defense Housing Investment Account on the date of the enactment of this Act [Dec. 26, 2013] shall be transferred to the Department of Defense Family Housing Improvement Fund. Amounts transferred shall be merged with amounts in such fund and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund.''

§ 2838. Leasing of military family housing to Secretary of Defense

(a) AUTHORITY.—(1) The Secretary of a military department may lease to the Secretary of Defense military family housing in the National Capital Region (as defined in section 2674(f) of this title).

(2) In determining the military housing unit to lease under this section, the Secretary of Defense should first consider any available military housing units that are already substantially equipped for executive communications and security.

(b) RENTAL RATE.—A lease under subsection (a) shall provide for the payment by the Secretary of Defense of consideration in an amount equal to 105 percent of the monthly rate of basic allowance for housing prescribed under section 403(b) of title 37 for a member of the uniformed services in the pay grade of O–10 with dependents assigned to duty at the military installation on which the leased housing unit is located. A rate so established shall be considered the fair market value of the lease interest.

(c) TREATMENT OF PROCEEDS.—(1) The Secretary of a military department shall deposit all amounts received pursuant to leases entered into by the Secretary under this section into a special account in the Treasury established for such military department.

(2) The proceeds deposited into the special account of a military department pursuant to paragraph (1) shall be available to the Secretary of that military department, without further appropriation, for the maintenance, protection, alteration, repair, improvement, or restoration of military housing on the military installation at which the housing leased pursuant to subsection (a) is located.

(Added Pub. L. 110–417, div. B, title XXVIII, § 2804(a), Oct. 14, 2008, 122 Stat. 4720.)

§ 2839. Application of certain authorities and standards to historic military housing and associated historic properties of the Department of the Army

(a) APPLICATION OF CERTAIN AUTHORITY TO CAPEHART AND WHERRY ERA ARMY MILITARY FAMILY HOUSING.—The Secretary of the Army, in satisfaction of requirements under division A of subtitle III of title 54 (commonly referred to as the ''National Historic Preservation Act''), may apply the authority and standards contained in the document titled ''Program Comment for Capehart and Wherry Era Army Family Housing and Associated Structures and Landscape Features (1949-1962)'' (published on June 7, 2002) (67 Fed. Reg. 39332) to all military housing (including privatized military housing under subchapter IV of this chapter) constructed during the period beginning on January 1, 1941, and ending on December 31, 1948, located on a military installation under the jurisdiction of the Secretary of the Army.

(b) TEMPORARY APPLICATION OF CERTAIN AUTHORITY TO VIETNAM WAR ERA ARMY MILITARY HOUSING.—During the period beginning on the date of the enactment of the Military Construction Act for Fiscal Year 2025 and ending on December 31, 2045, the Secretary of the Army, in satisfaction of requirements under division A of subtitle III of title 54 (commonly referred to as the ''National Historic Preservation Act''), may apply the authority and standards contained in the document titled ''Program Comment for Vietnam War Era Historic Housing, Associated Buildings and Structures, and Landscape Features (1963-1975)'' (published on May 4, 2023) (88 Fed. Reg. 28573) to all military housing (including privatized military housing under sub-

chapter IV of this chapter) constructed after 1975 located on a military installation under the jurisdiction of the Secretary of the Army.

(c) REPORT.—As part of each report of the Army required under section 3(c) of Executive Order 13287 (54 U.S.C. 306101 note), the Secretary of the Army shall submit to the Advisory Council on Historic Preservation a report on the implementation of this section.

(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed to preclude or require the amendment of the documents of the Office of the Assistant Secretary of the Army for Installations, Energy and Environment described in subsection (a) and (b) by the Secretary of the Army or the chair of the Advisory Council on Historic Preservation.

(Added Pub. L. 118–159, div. B, title XXVIII, § 2823(a), Dec. 23, 2024, 138 Stat. 2255.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of the Military Construction Act for Fiscal Year 2025, referred to in subsec. (b), probably means the date of enactment of div. B of Pub. L. 118–159, known as the Military Construction Authorization Act for Fiscal Year 2025, which was approved Dec. 23, 2024.

Executive Order 13287, referred to in subsec. (c), is Ex. Ord. No. 13287, Mar. 3, 2003, 68 F.R. 10635, which is set out as a note under section 306101 of Title 54, National Park Service and Related Programs.

SUBCHAPTER III—ADMINISTRATION OF MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING

Sec.
2851. Supervision of military construction projects.
2851a. Supervision of military housing by Chief Housing Officer.
2852. Military construction projects: waiver of certain restrictions.
2853. Authorized cost and scope of work variations.
2854. Restoration or replacement of damaged or destroyed facilities.
2854a. Conveyance of damaged or deteriorated military family housing; use of proceeds.
2855. Law applicable to contracts for architectural and engineering services and construction design.
2856. Military unaccompanied housing: standards.
2856a. Covered military unaccompanied housing: waivers of covered privacy and configuration standards.
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2857. Window fall prevention devices in military family housing units.
2858. Limitation on the use of funds for expediting a construction project.
2859. Construction requirements related to antiterrorism and force protection or urban-training operations.
2860. Availability of appropriations.
2861. Military construction projects in connection with industrial facility investment program.
2862. Turn-key selection procedures.
2863. Payment of contractor claims.
2864. Master plans for major military installations.
2865. Work in Process Curve charts and outlay tables for military construction projects.
2866. Water conservation at military installations.
2867. Energy monitoring and utility control system specification for military construction and military family housing activities.
2868. Utility services: furnishing for certain buildings.
2869. Exchange of property at military installations.
[2870. Repealed.]

Editorial Notes

AMENDMENTS

2024—Pub. L. 118–159, div. A, title XVII, § 1701(a)(30), Dec. 23, 2024, 138 Stat. 2204, substituted ''Military unaccompanied housing: standards'' for ''Covered military unaccompanied housing: design standards'' in item 2856.

2023—Pub. L. 118–31, div. B, title XXVIII, §§ 2831(a)(2), 2832(a), 2833(b), Dec. 22, 2023, 137 Stat. 753–755, substituted ''Covered military unaccompanied housing: design standards'' for ''Military unaccompanied housing: local comparability of floor areas'' in item 2856 and added items 2856a and 2856b. Addition of items 2856a and 2856b was made pursuant to operation of section 102 of this title.

2021—Pub. L. 117–81, div. B, § 2003(b), title XXVIII, § 2812(a), Dec. 27, 2021, 135 Stat. 2162, 2191, renumbered item 2879 in analysis under subchapter IV of this chapter as 2857 and transferred it to appear after item 2856.

Pub. L. 116–283, div. A, title VIII, § 818(b)(1), div. B, title XXVIII, § 2811(k)(1)(A), Jan. 1, 2021, 134 Stat. 3751, 4326, added item 2851a and struck out item 2870 ''Use of qualified apprentices by military construction contractors''.

2019—Pub. L. 116–92, div. A, title VIII, § 865(a)(2), Dec. 20, 2019, 133 Stat. 1524, added item 2870.

2018—Pub. L. 115–232, div. B, title XXVIII, § 2806(a)(2), Aug. 13, 2018, 132 Stat. 2264, added item 2865.

2013—Pub. L. 112–239, div. B, title XXVIII, § 2802(b), Jan. 2, 2013, 126 Stat. 2147, added item 2864.

Pub. L. 112–239, div. A, title X, § 1076(a)(22), Jan. 2, 2013, 126 Stat. 1949, made technical amendment to directory language of Pub. L. 112–81, § 2815(c). See 2011 Amendment note below.

2011—Pub. L. 112–81, div. B, title XXVIII, § 2815(c), Dec. 31, 2011, 125 Stat. 1689, as amended by Pub. L. 112–239, div. A, title X, § 1076(a)(22), Jan. 2, 2013, 126 Stat. 1949, substituted ''Exchange of property at military installations'' for ''Conveyance of property at military installations to limit encroachment'' in item 2869.

Pub. L. 111–383, div. A, title X, § 1075(d)(23), Jan. 7, 2011, 124 Stat. 4374, made technical amendment to directory language of Pub. L. 111–84, § 2804(d)(2). See 2009 Amendment note below.

2009—Pub. L. 111–84, div. B, title XXVIII, § 2841(a)(2), Oct. 28, 2009, 123 Stat. 2680, added item 2867.

Pub. L. 111–84, div. B, title XXVIII, § 2804(d)(2), Oct. 28, 2009, 123 Stat. 2662, as amended by Pub. L. 111–383, div. A, title X, § 1075(d)(23), Jan. 7, 2011, 124 Stat. 4374, substituted ''Conveyance of property at military installations to limit encroachment'' for ''Conveyance of property at military installations to support military construction or limit encroachment'' in item 2869.

2006—Pub. L. 109–364, div. B, title XXVIII, §§ 2807(a)(2), 2808(b)(2), 2809(b), 2810(b), 2811(f)(2), 2851(c)(4), Oct. 17, 2006, 120 Stat. 2468–2471, 2473, 2495, added item 2861, inserted ''or urban-training operations'' after ''force protection'' in item 2859, substituted ''Military unaccompanied housing: local comparability of floor areas'' for ''Limitations on barracks space by pay grade'' in item 2856 and ''to support military construction or limit encroachment'' for ''closed or realigned to support military construction'' in item 2869, and struck out items 2857 ''Use of renewable forms of energy in new facilities'', 2864 ''Military construction contracts on Guam'', 2865 ''Energy savings at military installations'', and 2867 ''Sale of electricity from alternate energy and cogeneration production facilities''.

Pub. L. 109–163, div. B, title XXVIII, § 2804(c)(2), Jan. 6, 2006, 119 Stat. 3507, substituted ''Authorized cost and scope of work variations'' for ''Authorized cost variations'' in item 2853.

Pub. L. 108–375, div. B, title XXVIII, §2804(a)(2), Oct. 28, 2004, 118 Stat. 2122, added item 2859.

2003—Pub. L. 108–136, div. A, title X, §1044(b)(2), div. B, title XXVIII, §2805(a)(2), Nov. 24, 2003, 117 Stat. 1612, 1721, struck out item 2859 ''Transmission of annual military construction authorization request'' and added item 2869.

2001—Pub. L. 107–107, div. B, title XXVIII, §2803(b), Dec. 28, 2001, 115 Stat. 1305, struck out item 2861 ''Annual report to Congress''.

1997—Pub. L. 105–85, div. A, title III, §371(c)(3), Nov. 18, 1997, 111 Stat. 1705, added items 2867 and 2868.

1996—Pub. L. 104–106, div. B, title XXVIII, §2818(a)(2), Feb. 10, 1996, 110 Stat. 555, added item 2854a.

1993—Pub. L. 103–160, div. B, title XXVIII, §2803(b), Nov. 30, 1993, 107 Stat. 1885, added item 2866.

1990—Pub. L. 101–510, div. B, title XXVIII, §2851(b), Nov. 5, 1990, 104 Stat. 1804, added item 2865.

1989—Pub. L. 101–189, div. B, title XXVIII, §2807(b), Nov. 29, 1989, 103 Stat. 1648, added item 2864.

1987—Pub. L. 100–180, div. B, subdiv. 3, title I, §2303(b), Dec. 4, 1987, 101 Stat. 1215, added item 2863.

1986—Pub. L. 99–661, div. A, title XIII, §1343(a)(21)(B), Nov. 14, 1986, 100 Stat. 3994, struck out ''for five years'' after ''Availability of appropriations'' in item 2860.

1985—Pub. L. 99–167, title VIII, §807(b), Dec. 3, 1985, 99 Stat. 988, added item 2862.

1982—Pub. L. 97–321, title VIII, §801(b)(3), Oct. 15, 1982, 96 Stat. 1571, substituted ''renewable forms of energy in new facilities'' for ''solar energy systems'' in item 2857.

Statutory Notes and Related Subsidiaries

ANALYSIS OF HOUSING AVAILABILITY FOR CRITICAL CIVILIAN AND CONTRACTOR PERSONNEL NEAR RURAL MILITARY INSTALLATIONS

Pub. L. 118–159, div. B, title XXVIII, §2828, Dec. 23, 2024, 138 Stat. 2258, provided that:

''(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall revise the Department of Defense Manual 4165.63–M titled 'DoD Housing Management' issued October 28, 2010, to require an analysis of the availability of suitable housing located in close proximity to a military installation in a rural area for civilian personnel and defense contractors that provide critical functions for the operations of such military installation, as determined by the Secretary.

''(b) DEFINITIONS.—In this section:

''(1) The term 'military installation' has the meaning given such term in section 2801 of title 10, United States Code.

''(2) The term 'rural area' has the meaning given such term in section 2391 of such title.''

DIGITAL FACILITIES MANAGEMENT SYSTEMS FOR MILITARY DEPARTMENTS

Pub. L. 118–159, div. B, title XXVIII, §2829, Dec. 23, 2024, 138 Stat. 2258, provided that:

''(a) DIGITAL FACILITIES MANAGEMENT SYSTEMS FOR MILITARY DEPARTMENTS.—

''(1) CRITERIA.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2024], the Assistant Secretary of Defense for Energy, Installations, and Environment, in coordination with each covered Assistant Secretary, shall develop criteria for a new or established digital facilities management system for each military department. Each such system shall have the capability to, with respect to each military installation—

''(A) track conditions of individual facilities, applying the uniform index developed under section 2838 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31) [set out as a note below], for each military installation under the jurisdiction of each such covered Assistant Secretary;

''(B) plan for maintenance actions for each facility; and

''(C) generate reports that include data on—

''(i) the type and function of each facility;

''(ii) the overall condition of each facility;

''(iii) planned maintenance for each facility during a five-year period following the date of submission of the criteria;

''(iv) conditions that may lead to a failure to maintain minimum physical security or configuration standards for members of the Armed Forces during the 12-month period following the date of submission of the criteria; and

''(v) the date on which the facility will have been in use for 40 years.

''(2) BRIEFING.—Not later than 30 days after the date on which the Assistant Secretary of Defense for Energy, Installations, and Environment develops the criteria required under paragraph (1), the Assistant Secretary shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on such criteria.

''(3) IMPLEMENTATION.—Not later than one year after the date on which the Assistant Secretary of Defense for Energy, Installations, and Environment develops the criteria required under paragraph (1), each covered Assistant Secretary shall implement a digital facilities management system for the military department under the jurisdiction of that covered Assistant Secretary that meets the criteria described in paragraph (1).

''(b) DEFINITIONS.—In this section:

''(1) The term 'covered Assistant Secretary' means—

''(A) the Assistant Secretary of the Army for Installations, Energy, and Environment;

''(B) the Assistant Secretary of the Navy for Energy, Installations, and Environment; and

''(C) the Assistant Secretary of the Air Force for Installations, Environment, and Energy [probably should be ''Energy, Installations, and Environment''].

''(2) The term 'facility' has the meaning given in section 2801 of title 10, United States Code.

''(3) The term 'military department' has the meaning given in section 101 of such title.

''(4) The term 'military installation' has the meaning given in section 2801 of such title.''

ESTABLISHMENT OF CIVILIAN EMPLOYEES FOR OVERSIGHT OF COVERED MILITARY UNACCOMPANIED HOUSING

Pub. L. 118–31, div. B, title XXVIII, §2836, Dec. 22, 2023, 137 Stat. 759, provided that:

''(a) ESTABLISHMENT CIVILIAN EMPLOYEES.—

''(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act [Dec. 22, 2023] and subject to paragraph (3), the Secretary of Defense shall issue regulations to require each Secretary of a military department to establish a civilian employee at the housing office of each military installation under the respective jurisdiction of each such Secretary to be responsible for oversight of covered military unaccompanied housing at that military installation. Such civilian employee shall be an employee of—

''(A) the Department of Defense; or

''(B) the military department concerned.

''(2) SUPERVISORY CHAIN.—Each civilian employee described in paragraph (1) and member of the Armed Forces described in paragraph (3) shall report to an appropriate supervisory civilian employee at the housing office for the applicable military installation.

''(3) EXCEPTION.—The requirement under the regulations issued pursuant to paragraph (1) shall not apply with respect to military installations at which oversight of covered military unaccompanied housing is performed by a member of the Armed Forces with an occupational specialty that defines the primary duty of such member as a barracks manager or an equivalent occupation.

''(b) LIMITATION ON ROLE BY MEMBERS OF THE ARMED FORCES; POSITION DESIGNATION.—

''(1) LIMITATION.—The Secretary of Defense and the Secretaries of the military departments concerned may not allow an enlisted member of the Armed Forces or commissioned officer to, as a collateral duty, be designated as a barracks manager or supervisor overseeing, managing, accepting, or compiling maintenance records for any covered military unaccompanied housing at the applicable military installation.

''(2) DESIGNATION.—Except as provided in paragraph (3) of subsection (a), the functions of a barracks manager or supervisor described in paragraph (1) shall be completed by a civilian employee described in paragraph (1) of such subsection.

''(c) DEFINITIONS.—In this section:

''(1) The term 'covered military unaccompanied housing' has the meaning given such term in section 2856 of title 10, United States Code (as amended by section 2831).

''(2) The term 'military installation' has the meaning given such term in section 2801 of such title.''

MAINTENANCE WORK ORDER MANAGEMENT PROCESS FOR COVERED MILITARY UNACCOMPANIED HOUSING

Pub. L. 118–159, div. B, title XXVIII, §2826(b), Dec. 23, 2024, 138 Stat. 2258, provided that: ''The Secretary of Defense shall issue guidance with respect to the requirements of such subsection [section 2837(b) of Pub. L. 118–31, set out below] (as amended by subsection (a)) not later than 60 days after the date of the enactment of this Act [Dec. 23, 2024].''

Pub. L. 118–31, div. B, title XXVIII, §2837, Dec. 22, 2023, 137 Stat. 759, as amended by Pub. L. 118–159, div. B, title XXVIII, §2826(a), Dec. 23, 2024, 138 Stat. 2257, provided that:

''(a) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall issue rules to establish for each military department a process associated with maintenance work order management for covered military unaccompanied housing under the jurisdiction of such military department that is—

''(1) in existence on or before the date of the enactment of this Act; or

''(2) constructed or used on or after such date of enactment.

''(b) USE OF PROCESS.—The processes required under subsection (a) shall include clearly defined requirements for effective and timely maintenance work order management, including requirements with respect to—

''(1) quality assurance for maintenance completed;

''(2) a digital system through which residents of covered military unaccompanied housing may submit to individuals responsible for the management of such housing requests for maintenance work orders;

''(3) communication of maintenance progress and resolution with individuals responsible for the management of the covered military unaccompanied housing and the residents of such housing; and

''(4) standardized performance metrics, such as the timeliness of completion of maintenance work orders.

''(c) ADMINISTRATION.—The Secretary of each military department shall administer the process for maintenance work order management required under subsection (a) for the military department under the jurisdiction of such Secretary and shall issue or update relevant guidance as necessary.

''(d) COVERED MILITARY UNACCOMPANIED HOUSING DEFINED.—In this section, the term 'covered military unaccompanied housing' has the meaning given in section 2856 of title 10, United States Code (as amended by section 2831).''

UNIFORM INDEX FOR EVALUATING THE CONDITION OF COVERED MILITARY UNACCOMPANIED HOUSING FACILITIES

Pub. L. 118–31, div. B, title XXVIII, §2838, Dec. 22, 2023, 137 Stat. 760, provided that:

''(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense, acting through the Assistant Secretary of Defense for Energy, Installations, and Environment, shall establish a uniform index for evaluating the condition of covered military unaccompanied housing facilities—

''(1) that exist as of the date of the enactment of this Act; and

''(2) that are constructed or used on or after such date.

''(b) COMPLETION OF INDEX.—Not later than 6 months after the date of the enactment of this Act, each Secretary of a military department shall apply the uniform index established under subsection (a) to evaluate the condition of each military installation under the jurisdiction of each such Secretary.

''(c) DEFINITIONS.—In this section:

''(1) The term 'covered military unaccompanied housing' has the meaning given in section 2856 of title 10, United States Code (as amended by section 2831).

''(2) The term 'military department' has the meaning given in section 101 of such title.

''(3) The term 'military installation' has the meaning given in section 2801 of such title.''

ELIMINATION OF FLEXIBILITIES FOR CONSTRUCTION STANDARDS FOR COVERED MILITARY UNACCOMPANIED HOUSING

Pub. L. 118–31, div. B, title XXVIII, §2841, Dec. 22, 2023, 137 Stat. 762, provided that:

''(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense and each Secretary of a military department shall modify all directives, instructions, manuals, regulations, policies, and other guidance and issuances of the Department of Defense or appropriate military department to eliminate the grant of any flexibilities to the standards for construction of new covered military unaccompanied housing.

''(b) MATTERS INCLUDED.—The requirement under subsection (a) shall include modifications that remove the flexibility provided to the military departments with respect to new construction standards for covered military unaccompanied housing, including modification of the Department of Defense Manual 4165.63 titled 'DoD Housing Management' and dated October 28, 2010 (or a successor document).

''(c) COVERED MILITARY UNACCOMPANIED HOUSING DEFINED.—In this section, the term 'covered military unaccompanied housing' has the meaning given in section 2856 of title 10, United States Code (as amended by section 2831).''

IMPROVEMENT OF SECURITY OF LODGING AND LIVING SPACES ON MILITARY INSTALLATIONS

Pub. L. 117–81, div. B, title XXVIII, §2815, Dec. 27, 2021, 135 Stat. 2193, provided that:

''(a) ASSESSMENT.—Not later than 60 days after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall conduct an assessment of all on-base dormitories and barracks at military installations for purposes of identifying—

''(1) locking mechanisms on points of entry into the main facility, including doors and windows, or interior doors leading into private sleeping areas that require replacing or repairing;

''(2) areas, such as exterior sidewalks, entry points, and other public areas where closed-circuit television security cameras should be installed; and

''(3) other passive security measures, such as additional lighting, that may be necessary to prevent crime, including sexual assault.

''(b) EMERGENCY REPAIRS.—The Secretary of Defense shall make any necessary repairs of broken locks or other safety mechanisms discovered during the assessment conducted under subsection (a) not later than 30 days after discovering the issue.

''(c) REPORT.—

''(1) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees [Committee on Armed Services and Committee on Appropriations of the Senate and House of Representatives] a report on the results of the assessment conducted under subsection (a).

''(2) ELEMENTS.—The report under paragraph (1) shall include—

''(A) a cost estimate to make any improvements recommended pursuant to the assessment under subsection (a), disaggregated by military department and installation; and

''(B) an estimated schedule for making such improvements.''

§ 2851. Supervision of military construction projects

(a) SUPERVISION OF MILITARY DEPARTMENT PROJECTS.—Each contract entered into by the United States in connection with a military construction project or a military family housing project shall be carried out under the direction and supervision of the Secretary of the Army (acting through the Chief of Engineers), the Secretary of the Navy (acting through the Commander of the Naval Facilities Engineering Command), or such other department or Government agency as the Secretary of Defense approves to assure the most efficient, expeditious, and cost-effective completion of the project.

(b) SUPERVISION OF DEFENSE AGENCY PROJECTS.—A military construction project for an activity or agency of the Department of Defense (other than a military department) financed from appropriations for military functions of the Department of Defense shall be accomplished by or through a military department designated by the Secretary of Defense.

(c) MAINTENANCE OF MILITARY CONSTRUCTION INFORMATION ON INTERNET; ACCESS.—(1) The Secretary of Defense shall maintain an Internet site that will permit a person to access and view on a separate page of the Internet site a document or other file containing the information required by paragraph (2) for the following:

(A) Each military construction project or military family housing project that has been specifically authorized by Act of Congress.

(B) Each project carried out with funds authorized for the operation and maintenance of military family housing.

(C) Each project carried out with funds authorized for the improvement of military family housing units.

(D) Each unspecified minor construction project carried out under the authority of section 2805(a) of this title.

(E) Each military department project with a total cost in excess of $15,000,000 for Facilities Sustainment, Restoration, and Modernization.

(F) Each military construction project, military department Facilities Sustainment, Restoration, and Modernization project, or military family housing project regarding which a statutory requirement exists to notify Congress.

(2) The information to be provided via the Internet site required by paragraph (1) for each project described in such paragraph shall include the following:

(A) The solicitation date and award date (or anticipated dates) for each contract entered into (or to be entered into) by the United States in connection with the project.

(B) The contract recipient, contract award amount, construction milestone schedule proposed by the contractor, and construction completion date stipulated in the awarded contract.

(C) The most current Department of Defense Form 1391, Military Construction Project Data, for the project.

(D) The progress of the project, including the percentage of construction currently completed and the current estimated construction completion date.

(E) The current contract obligation of funds for the project, including any changes to the original contract award amount.

(F) If funds appropriated for the project have been diverted for use in another project, the project to which the funds were diverted and the amount so diverted.

(G) For accounts such as planning and design, unspecified minor construction, and family housing operation and maintenance, detailed information regarding expenditures and anticipated expenditures under these accounts and the purposes for which the expenditures are made.

(3) The information required to be provided for each project described in paragraph (1) shall be made available on the Internet site required by such paragraph not later than 90 days after the award of a contract or delivery order for the project. The Secretary of Defense shall update the required information as promptly as practicable, but not less frequently than once a month, to ensure that the information is available in a timely manner.

(d) REPORT ON SUPERVISION OF LARGE MILITARY CONSTRUCTION PROJECTS.—Before the award of a contract of a value greater than $500,000,000 in connection with a military construction project, the individual directing and supervising such military construction project under subsection (a) or the individual designated pursuant to subsection (b) (as applicable) shall submit to the appropriate committees of Congress a report on the intended supervision, inspection, and overhead plan to manage such military construction project. Each such report shall include the following:

(1) A determination of the overall funding intended to manage the supervision, inspection, and overhead of the military construction project.

(2) An assessment of whether a Department of Defense Field Activity directly reporting to such individual should be established.

(3) A description of the quality assurance approach to the military construction project.

(4) The independent cost estimate described in section 3221(b)(6)(A) of this title.

(5) The overall staffing approach to oversee the military construction project for each year of the contract term.

(e) ANNUAL REPORT ON SCHEDULE DELAYS.—Not later than March 1 of each year (beginning with 2018), the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and Senate a report on each

military construction project or military family housing project for which, as of the end of the most recent fiscal year, the estimated completion date is more than 1 year later than the completion date proposed at the time the contract for the project was awarded.

(Added Pub. L. 97–214, § 2(a), July 12, 1982, 96 Stat. 163; amended Pub. L. 109–163, div. B, title XXVIII, § 2803(a), (c), Jan. 6, 2006, 119 Stat. 3505, 3506; Pub. L. 111–383, div. B, title XXVIII, § 2801, Jan. 7, 2011, 124 Stat. 4458; Pub. L. 115–91, div. B, title XXVIII, § 2822, Dec. 12, 2017, 131 Stat. 1855; Pub. L. 117–81, div. B, title XXVIII, § 2801(a), Dec. 27, 2021, 135 Stat. 2184; Pub. L. 117–263, div. B, title XXVIII, § 2806(a), Dec. 23, 2022, 136 Stat. 2995.)

Editorial Notes

AMENDMENTS

2022—Subsecs. (d), (e). Pub. L. 117–263 added subsec. (d) and redesignated former subsec. (d) as (e).

2021—Subsec. (c)(1)(E). Pub. L. 117–81, § 2801(a)(2), added subpar. (E). Former subpar. (E) redesignated (F).

Subsec. (c)(1)(F). Pub. L. 117–81, § 2801(a)(1), (3), redesignated subpar. (E) as (F) and inserted '', military department Facilities Sustainment, Restoration, and Modernization project,'' after ''construction project''.

2017—Subsec. (d). Pub. L. 115–91 added subsec. (d).

2011—Subsec. (c)(1). Pub. L. 111–383, § 2801(c)(1), substituted ''that will permit a person'' for ''that, when activated by a person authorized under paragraph (3), will permit the person''.

Subsec. (c)(2)(F) to (H). Pub. L. 111–383, § 2801(a), redesignated subpars. (G) and (H) as (F) and (G), respectively, and struck out former subpar. (F) which read as follows: ''The estimated final cost of the project and, if the estimated final cost of the project exceeds the amount appropriated for the project and funds have been provided from another source to meet the increased cost, the source of the funds and the amount provided.''

Subsec. (c)(3), (4). Pub. L. 111–383, § 2801(b), (c)(2), redesignated par. (4) as (3), substituted ''on the Internet site required by such paragraph'' for ''to the persons referred to in paragraph (3)'' and struck out ''to such persons'' before ''in a timely manner'', and struck out former par. (3) which read as follows: ''Access to the Internet site required by paragraph (1) shall be restricted to the following persons:

''(A) Members of the congressional defense committees and their staff.

''(B) Staff of the congressional defense committees.''

2006—Subsecs. (a), (b). Pub. L. 109–163, § 2803(c), inserted headings.

Subsec. (c). Pub. L. 109–163, § 2803(a), added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–263, div. B, title XXVIII, § 2806(c), Dec. 23, 2022, 136 Stat. 2995, provided that: ''This section [amending this section and section 3221 of this title] and the amendments made by this section shall apply to contracts entered into on or after the date of the enactment of this Act [Dec. 23, 2022].''

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

APPLICATION OF AMENDMENT BY PUB. L. 117–81

Pub. L. 117–81, div. B, title XXVIII, § 2801(b), Dec. 27, 2021, 135 Stat. 2184, provided that: ''Subparagraph (E) of section 2851(c)(1) of title 10, United States Code, as added by subsection (a)(2), and subparagraph (F) of such section, as amended by subsection (a)(3), shall apply with respect to a military department Facilities Sustainment, Restoration, and Modernization project described in such subparagraphs for which an award of a contract or delivery order for the project is made on or after June 1, 2022.''

IMPLEMENTATION OF INTERNET SITE

Pub. L. 109–163, div. B, title XXVIII, § 2803(b), Jan. 6, 2006, 119 Stat. 3506, provided that: ''The Internet site required by subsection (c) of section 2851 of title 10, United States Code, as added by subsection (a), shall be available to the persons referred to in paragraph (3) of such subsection not later than July 15, 2006.''

IDENTIFICATION OF REQUIREMENTS TO REDUCE BACKLOG IN MAINTENANCE AND REPAIR OF DEFENSE FACILITIES

Pub. L. 106–398, § 1 [[div. A], title III, § 374], Oct. 30, 2000, 114 Stat. 1654, 1654A–81, which required the Secretary of Defense to submit to Congress, not later than March 15, 2001, a report identifying a list of requirements to reduce the backlog in maintenance and repair needs of facilities and infrastructure under the jurisdiction of the Department of Defense or a military department, which report was to be updated annually, was repealed by Pub. L. 112–81, div. A, title X, § 1062(i)(1), Dec. 31, 2011, 125 Stat. 1585.

§ 2851a. Supervision of military housing by Chief Housing Officer

(a) IN GENERAL.—The Assistant Secretary of Defense for Energy, Installations, and Environment shall serve as the Chief Housing Officer, who shall oversee family housing and military unaccompanied housing under the jurisdiction of the Department of Defense or acquired or constructed under subchapter IV of this chapter (in this section referred to as ''covered housing units'').

(b) PRINCIPAL DUTIES.—(1) The Chief Housing Officer shall oversee all aspects of the provision of covered housing units, including the following:

(A) Creation and standardization of policies and processes regarding covered housing units.

(B) Oversight of the administration of any Department of Defense-wide policies regarding covered housing units, to include, in coordination with the Secretaries of the military departments, the housing documents developed pursuant to section 2890 of this title entitled Military Housing Privatization Initiative Tenant Bill of Rights and Military Housing Privatization Initiative Tenant Responsibilities.

(2) The duties specified in paragraph (1) may not be further delegated.

(Added Pub. L. 116–92, div. B, title XXX, § 3012(a), Dec. 20, 2019, 133 Stat. 1921, § 2890a; renumbered § 2851a and amended Pub. L. 116–283, div. B, title XXVIII, § 2811(a), Jan. 1, 2021, 134 Stat. 4323; Pub. L. 117–263, div. B, title XXVIII, § 2807, Dec. 23, 2022, 136 Stat. 2995.)

Editorial Notes

AMENDMENTS

2022—Subsec. (a). Pub. L. 117–263 amended subsec. (a) generally. Prior to amendment, text read as follows:

''(1) The Secretary of Defense shall designate, from among officials of the Department of Defense who are appointed by the President with the advice and consent

of the Senate, a Chief Housing Officer who shall oversee family housing and military unaccompanied housing under the jurisdiction of the Department of Defense or acquired or constructed under subchapter IV of this chapter (in this section referred to as 'covered housing units').

''(2) The official of the Department of Defense designated as Chief Housing Officer may be assigned duties in addition to the duties as Chief Housing Officer under subsection (b).''

2021—Pub. L. 116–283, §2811(a)(3), renumbered section 2890a of this title as this section.

Pub. L. 116–283, §2811(a)(2), inserted ''Supervision of military housing by'' before ''Chief'' in section catchline.

Subsec. (a)(1). Pub. L. 116–283, §2811(a)(1)(A), substituted ''family housing and military unaccompanied housing under the jurisdiction of the Department of Defense or acquired or constructed under subchapter IV of this chapter (in this section referred to as 'covered housing units')'' for ''housing units''.

Subsec. (b)(1). Pub. L. 116–283, §2811(a)(1)(B)(ii), inserted ''covered'' before ''housing units'' in subpars. (A) and (B).

Pub. L. 116–283, §2811(a)(1)(B)(i), substituted ''covered housing units'' for ''housing under subchapter IV and this subchapter'' in introductory provisions.

Statutory Notes and Related Subsidiaries

NOTIFICATION OF DESIGNATION

Pub. L. 116–92, div. B, title XXX, §3012(b), Dec. 20, 2019, 133 Stat. 1921, provided that not later than 60 days after Dec. 20, 2019, the Secretary of Defense was to notify the Committees on Armed Services and Appropriations of the Senate and the House of Representatives of the official of the Department of Defense designated as Chief Housing Officer under this section. As amended by Pub. L. 117–263, subsec. (a) of this section provides that the Assistant Secretary of Defense for Energy, Installations, and Environment shall serve as the Chief Housing Officer.

§ 2852. Military construction projects: waiver of certain restrictions

(a) The Secretary of Defense and the Secretaries of the military departments may carry out authorized military construction projects and authorized military family housing projects without regard to subsections (a) and (b) of section 3324 of title 31.

(b) Authority to carry out a military construction project or a military family housing project may be exercised on land not owned by the United States—

(1) before title to the land on which the project is to be carried out is approved under section 3111 of title 40; and

(2) even though the land will be held in other than a fee simple interest in a case in which the Secretary of the military department concerned determines that the interest to be acquired in the land is sufficient for the purposes of the project.

(c) In the case of a military construction project or a military family housing project, the contract amount thresholds specified in subchapter III of chapter 31 of title 40 (commonly referred to as the Miller Act) shall be applied by substituting ''$150,000'' for ''$100,000'' for purposes of determining when a performance bond and payment bond are required under section 3131 of such title and when alternatives to payment bonds as payment protections for suppliers of labor and materials are required under section 3132 of such title.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 164; amended Pub. L. 97–295, §1(35), Oct. 12, 1982, 96 Stat. 1296; Pub. L. 97–321, title VIII, §805(a)(1), Oct. 15, 1982, 96 Stat. 1573; Pub. L. 99–145, title XIII, §1303(a)(19), Nov. 8, 1985, 99 Stat. 739; Pub. L. 107–217, §3(b)(20), Aug. 21, 2002, 116 Stat. 1297; Pub. L. 112–81, div. B, title XXVIII, §2803, Dec. 31, 2011, 125 Stat. 1685.)

HISTORICAL AND REVISION NOTES

In 10:2852(a), the title 31 citation is substituted on authority of Pub. L. 97–258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted title 31.

Editorial Notes

AMENDMENTS

2011—Subsec. (c). Pub. L. 112–81 added subsec. (c).

2002—Subsec. (b)(1). Pub. L. 107–217 substituted ''section 3111 of title 40'' for ''section 355 of the Revised Statutes (40 U.S.C. 255)''.

1985—Subsec. (a). Pub. L. 99–145 substituted ''subsections (a) and (b) of section 3324'' for ''section 3324(a) and (b)''.

1982—Subsec. (a). Pub. L. 97–295 substituted ''section 3324(a) and (b) of title 31'' for ''section 3648 of the Revised Statutes (31 U.S.C. 529)''.

Subsec. (b). Pub. L. 97–321 substituted ''may be exercised on land not owned by the United States'' for ''on land not owned by the United States may be exercised'' in introductory text, redesignated former cl. (1) as par. (1), added par. (2), and struck out former cl. (2) which read as follows: ''even though the land is held temporarily''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

§ 2853. Authorized cost and scope of work variations

(a) COST VARIATIONS AUTHORIZED; LIMITATION.—Except as provided in subsection (c), (d), or (e), the cost authorized for a military construction project or for the construction, improvement, and acquisition of a military family housing project may be increased or decreased by not more than 25 percent of the total authorized cost of the project or 200 percent of the minor construction project ceiling specified in section 2805(a) of this title, whichever is less, if the Secretary concerned determines that such revised cost is required for the sole purpose of meeting unusual variations in cost and that such variations in cost could not have reasonably been anticipated at the time the project was authorized by Congress.

(b) SCOPE OF WORK VARIATIONS AUTHORIZED; LIMITATION.—(1) Except as provided in subsection (c), the scope of work for a military construction project or for the construction, improvement, and acquisition of a military family housing project may be reduced by not more than 25 percent from the amount specified for that project, construction, improvement, or acquisition in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or

acquisition. Any reduction in scope of work for a military construction project shall not result in a facility or item of infrastructure that is not complete and useable or does not fully meet the mission requirement contained in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or acquisition.

(2) Except as provided in subsection (d), the scope of work for a military construction project or for the construction, improvement, and acquisition of a military family housing project may not be increased above the amount specified for that project, construction, improvement, or acquisition in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or acquisition.

(3) In this subsection, the term ''scope of work'' refers to the function, size, or quantity of a facility or item of complete and useable infrastructure contained in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or acquisition.

(c) EXCEPTIONS TO LIMITATION ON COST VARIATIONS AND SCOPE OF WORK REDUCTIONS.—(1)(A) Except as provided in subparagraph (D), the Secretary concerned may waive the percentage or dollar cost limitation applicable to a military construction project or a military family housing project under subsection (a) and approve an increase in the cost authorized for the project in excess of that limitation if the Secretary concerned notifies the appropriate committees of Congress of the cost increase in the manner provided in this paragraph.

(B) The notification required by subparagraph (A) shall—

(i) identify the amount of the cost increase and the reasons for the increase;

(ii) certify that the cost increase is sufficient to meet the mission requirement identified in the justification data provided to Congress as part of the request for authorization of the project; and

(iii) describe the funds proposed to be used to finance the cost increase.

(C) A waiver and approval by the Secretary concerned under subparagraph (A) shall take effect only after the end of the 14-day period beginning on the date on which the notification required by such subparagraph is received by the appropriate committees of Congress in an electronic medium pursuant to section 480 of this title.

(D) The Secretary concerned may not use the authority provided by subparagraph (A) to waive the cost limitation applicable to a military construction project with a total authorized cost greater than $500,000,000 or a military family housing project with a total authorized cost greater than $500,000,000 if that waiver would increase the project cost by more than 50 percent of the total authorized cost of the project.

(E) In addition to the notification required by this paragraph, subsection (f) applies whenever a military construction project or military family housing project with a total authorized cost greater than $40,000,000 will have a cost increase of 25 percent or more. Subsection (f) may not be construed to authorize a cost increase in excess of the limitation imposed by subparagraph (D).

(2)(A) The Secretary concerned may waive the percentage or dollar cost limitation applicable to a military construction project or a military family housing project under subsection (a) and approve a decrease in the cost authorized for the project in excess of that limitation if the Secretary concerned notifies the appropriate committees of Congress of the cost decrease not later than 14 days after the date funds are obligated in connection with the project.

(B) The notification required by subparagraph (A) shall be provided in an electronic medium pursuant to section 480 of this title.

(3)(A) The Secretary concerned may waive the limitation on a reduction in the scope of work applicable to a military construction project or a military family housing project under subsection (b)(1) and approve a scope of work reduction for the project in excess of that limitation if the Secretary concerned notifies the appropriate committees of Congress of the reduction in the manner provided in this paragraph.

(B) The notification required by subparagraph (A) shall—

(i) describe the reduction in the scope of work and the reasons for the decrease; and

(ii) certify that the mission requirement identified in the justification data provided to Congress can still be met with the reduced scope.

(C) A waiver and approval by the Secretary concerned under subparagraph (A) shall take effect only after the end of the 14-day period beginning on the date on which the notification required by such subparagraph is received by the appropriate committees of Congress in an electronic medium pursuant to section 480 of this title.

(d) EXCEPTIONS TO LIMITATION ON SCOPE OF WORK INCREASES.—(1) Except as provided in paragraph (4), the Secretary concerned may waive the limitation on an increase in the scope of work applicable to a military construction project or a military family housing project under subsection (b)(1) and approve an increase in the scope of work for the project in excess of that limitation if the Secretary concerned notifies the appropriate committees of Congress of the reduction in the manner provided in this subsection.

(2) The notification required by paragraph (1) shall describe the increase in the scope of work and the reasons for the increase.

(3) A waiver and approval by the Secretary concerned under paragraph (1) shall take effect only after the end of the 14-day period beginning on the date on which the notification required by such paragraph is received by the appropriate committees of Congress in an electronic medium pursuant to section 480 of this title.

(4) The Secretary concerned may not use the authority provided by paragraph (1) to waive the limitation on an increase in the scope of work applicable to a military construction project or a military family housing project and approve an increase in the scope of work for the project that would increase the scope of work by more than 10 percent of the amount specified for the project in the justification data provided to Con-

gress as part of the request for authorization of the project.

(e) ADDITIONAL COST VARIATION EXCEPTIONS.—The limitation on cost variations in subsection (a) does not apply to the following:

(1) The settlement of a contractor claim under a contract.

(2) The costs associated with the required remediation of an environmental hazard in connection with a military construction project or military family housing project, such as asbestos removal, radon abatement, lead-based paint removal or abatement, or any other legally required environmental hazard remediation, if the required remediation could not have reasonably been anticipated at the time the project was approved originally by Congress.

(f) ADDITIONAL REPORTING REQUIREMENT FOR CERTAIN COST INCREASES.—(1) In addition to the notification sent under paragraph (1) of subsection (c) of a cost increase with respect to a project, the Secretary concerned shall provide an additional report notifying the congressional defense committees of any military construction project or military family housing project with a total authorized cost greater than $40,000,000 that has a cost increase of 25 percent or more.

(2) The report under paragraph (1) shall include the following—

(A) A description of the specific reasons for the cost increase and the specific organizations and individuals responsible.

(B) A description of any ongoing or completed proceedings or investigation into a government employee, prime contractor, subcontractor, or non-governmental organization that may be responsible for the cost increase, and the status of such proceeding or investigation.

(C) If any proceeding or investigation identified in subparagraph (B) resulted in final judicial or administrative action, the following:

(i) In the case of a judicial or administrative action taken against a government employee, the report shall identify the individual's organization, position within the organization, and the action taken against the individual, but shall exclude personally identifiable information about the individual.

(ii) In the case of a judicial or administrative action taken against a prime contractor, subcontractor, or non-governmental organization, the report shall identify the prime contractor, subcontractor, or non-governmental organization and the action taken against the prime contractor, subcontractor, or non-governmental organization.

(D) A summary of any changes the Secretary concerned believes may be required to the organizational structure, project management and oversight practices, policy, or authorities of a government organization involved in military construction projects as a result of problems identified and lessons learned from the project.

(3) If any proceeding or investigation described in paragraph (2)(C) is still ongoing at the time the Secretary concerned submits the report under paragraph (1), the Secretary shall provide a supplemental report to the congressional defense committees not later than 30 days after such proceeding or investigation has been completed. If such proceeding or investigation resulted in final judicial or administrative action against a government employee, prime contractor, subcontractor, or non-governmental organization, the Secretary shall include in the supplemental report the information required by paragraph (2)(C).

(4) Each report under this subsection shall be cosigned by the senior engineer authorized to supervise military construction projects and military family housing projects under section 2851(a).

(5) The Secretary shall send the report required under paragraph (1) with respect to a project not later than 180 days after the Secretary sends to the appropriate committees of Congress the notification under paragraph (1) of subsection (c) of a cost increase with respect to the project.

(g) RELATION TO OTHER LAW.—Notwithstanding the authority under subsections (a) through (f), the Secretary concerned shall ensure compliance of contracts for military construction projects and for the construction, improvement, and acquisition of military family housing projects with section 1341 of title 31 (commonly referred to as the ''Anti-Deficiency Act'').

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 164; amended Pub. L. 98–407, title VIII, §807, Aug. 28, 1984, 98 Stat. 1521; Pub. L. 100–26, §7(f)(2), Apr. 21, 1987, 101 Stat. 281; Pub. L. 100–180, div. B, subdiv. 3, title I, §§2312, 2313, Dec. 4, 1987, 101 Stat. 1217, 1218; Pub. L. 101–189, div. B, title XXVIII, §2808, Nov. 29, 1989, 103 Stat. 1648; Pub. L. 104–106, div. B, title XXVIII, §2817, Feb. 10, 1996, 110 Stat. 553; Pub. L. 107–107, div. B, title XXVIII, §2802, Dec. 28, 2001, 115 Stat. 1305; Pub. L. 108–375, div. B, title XXVIII, §2803, Oct. 28, 2004, 118 Stat. 2121; Pub. L. 109–163, div. B, title XXVIII, §2804(a)–(c)(1), Jan. 6, 2006, 119 Stat. 3506; Pub. L. 109–364, div. B, title XXVIII, §2806, Oct. 17, 2006, 120 Stat. 2468; Pub. L. 111–84, div. B, title XXVIII, §2803, Oct. 28, 2009, 123 Stat. 2661; Pub. L. 112–81, div. B, title XXVIII, §2802(c)(2), Dec. 31, 2011, 125 Stat. 1685; Pub. L. 112–239, div. B, title XXVIII, §2801, Jan. 2, 2013, 126 Stat. 2146; Pub. L. 113–291, div. A, title X, §1071(f)(24), Dec. 19, 2014, 128 Stat. 3511; Pub. L. 114–328, div. B, title XXVIII, §2803, Dec. 23, 2016, 130 Stat. 2712; Pub. L. 115–91, div. B, title XXVIII, §§2801(c)(1), 2821, Dec. 12, 2017, 131 Stat. 1843, 1853; Pub. L. 116–283, div. B, title XXVIII, §2803(a), (b), Jan. 1, 2021, 134 Stat. 4319, 4320; Pub. L. 117–81, div. B, title XXVIII, §2802, Dec. 27, 2021, 135 Stat. 2184; Pub. L. 117–263, div. B, title XXVIII, §2808, Dec. 23, 2022, 136 Stat. 2996.)

Editorial Notes

AMENDMENTS

2022—Subsec. (c)(1)(D). Pub. L. 117–263 amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: ''The Secretary concerned may not use the authority provided by subparagraph (A)—

''(i) to waive the cost limitation applicable to a military construction project with a total authorized cost greater than $500,000,000 or a military family

housing project with a total authorized cost greater than $500,000,000; and

''(ii) to approve an increase in the cost authorized for the project that would increase the project cost by more than 50 percent of the total authorized cost of the project.''

2021—Subsec. (a). Pub. L. 117–81, § 2802(b), (c)(1), inserted heading and substituted ''the total authorized cost of the project'' for ''the amount appropriated for such project'' in text.

Subsec. (b). Pub. L. 117–81, § 2802(c)(2), inserted heading.

Subsec. (c). Pub. L. 117–81, § 2802(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) related to situations where limitation on cost variations or the limitation on scope reduction did not apply.

Subsec. (c)(1). Pub. L. 116–283, § 2803(b), inserted ''(subject to subsection (f))'' after ''cost increase'' in introductory provisions.

Subsec. (d). Pub. L. 117–81, § 2802(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) related to situations where the limitation on an increase in the scope of work did not apply.

Subsec. (e). Pub. L. 117–81, § 2802(c)(3), inserted heading.

Subsec. (f). Pub. L. 117–81, § 2802(c)(4), inserted heading.

Subsec. (f)(1), (3). Pub. L. 116–283, § 2803(a)(1), struck out ''and the Comptroller General of the United States'' after ''congressional defense committees''.

Subsec. (f)(6). Pub. L. 116–283, § 2803(a)(2), struck out par. (6) which read as follows: ''The Comptroller General of the United States shall review each report submitted under this subsection and validate or correct as necessary the information provided.''

Subsec. (g). Pub. L. 117–81, § 2802(c)(5), inserted heading.

2017—Subsec. (c)(1)(A). Pub. L. 115–91, § 2801(c)(1)(A), struck out ''in writing'' after ''committees of Congress''.

Subsec. (c)(1)(B). Pub. L. 115–91, § 2801(c)(1)(B), substituted ''14-day period'' for ''period of 21 days'' and struck out ''or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided'' after ''received by the committees''.

Subsec. (c)(2). Pub. L. 115–91, § 2801(c)(1)(A), (C), inserted '', using an electronic medium pursuant to section 480 of this title,'' after ''notifies'' and struck out ''in writing'' after ''committees of Congress''.

Subsec. (f). Pub. L. 115–91, § 2821(2), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 115–91, § 2821(1), (3), redesignated subsec. (f) as (g) and substituted ''subsections (a) through (f)'' for ''subsections (a) through (e)''.

2016—Subsec. (a). Pub. L. 114–328, § 2803(c), inserted ''of this title'' after ''section 2805(a)''.

Pub. L. 114–328, § 2803(b)(1), substituted ''subsection (c), (d), or (e)'' for ''subsection (c) or (d)''.

Subsec. (b)(2). Pub. L. 114–328, § 2803(a)(1), substituted ''Except as provided in subsection (d), the scope of work'' for ''The scope of work''.

Subsec. (d). Pub. L. 114–328, § 2803(a)(3), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 114–328, § 2803(a)(2), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 114–328, § 2803(a)(2), (b)(2), redesignated subsec. (e) as (f) and substituted ''through (e)'' for ''through (d)''.

2014—Subsec. (c)(1)(A). Pub. L. 113–291 substituted ''can still be'' for ''can be still be''.

2013—Subsec. (a). Pub. L. 112–239, § 2801(1), substituted ''was authorized'' for ''was approved originally''.

Subsec. (b)(1). Pub. L. 112–239, § 2801(2)(A), inserted at end ''Any reduction in scope of work for a military construction project shall not result in a facility or item of infrastructure that is not complete and useable or does not fully meet the mission requirement contained in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or acquisition.''

Subsec. (b)(3). Pub. L. 112–239, § 2801(2)(B), added par. (3).

Subsec. (c)(1)(A). Pub. L. 112–239, § 2801(3), substituted '', the reasons therefor, a certification that the mission requirement identified in the justification data provided to Congress can be still be met with the reduced scope, and a description'' for ''and the reasons therefor, including a description''.

Subsec. (e). Pub. L. 112–239, § 2801(4), added subsec. (e).

2011—Subsec. (a). Pub. L. 112–81 substituted ''section 2805(a)'' for ''section 2805(a)(1)''.

2009—Subsec. (b). Pub. L. 111–84, § 2803(1), designated existing provisions as par. (1), substituted ''may be reduced by not more than 25 percent from the amount specified for that project, construction, improvement, or acquisition in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or acquisition.'' for ''may be reduced by not more than 25 percent from the amount approved for that project, construction, improvement, or acquisition by Congress.'', and added par. (2).

Subsec. (c). Pub. L. 111–84, § 2803(2), substituted ''subsection (b)(1)'' for ''subsection (b)'' in introductory provisions.

2006—Pub. L. 109–163, § 2804(c)(1), substituted ''Authorized cost and scope of work variations'' for ''Authorized cost variations'' in section catchline.

Subsec. (a). Pub. L. 109–163, § 2804(a)(1), substituted ''may be increased or decreased by not more than 25 percent'' for ''may be increased by not more than 25 percent'' and ''if the Secretary concerned determines that such revised cost is required'' for ''if the Secretary concerned determines that such an increase in cost is required''.

Subsec. (c). Pub. L. 109–364 substituted ''if the variation in cost or reduction in the scope of work is approved by the Secretary concerned and—'' for ''if—'' in introductory provisions, added pars. (1) and (2), and struck out former pars. (1) to (3) which read as follows:

''(1) the variation in cost or reduction in scope is approved by the Secretary concerned;

''(2) the Secretary concerned notifies the appropriate committees of Congress in writing of the variation or reduction and the reasons therefor, including a description of the funds proposed to be used to finance any increased costs; and

''(3) a period of 21 days has elapsed after the date on which the notification is received by the committees or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.''

Pub. L. 109–163, § 2804(a)(2), (b), substituted ''limitation on cost variations'' for ''limitation on cost increase'' in introductory provisions, ''the variation'' for ''the increase'' in pars. (1) and (2), and inserted '', including a description of the funds proposed to be used to finance any increased costs'' after ''the reasons therefor'' in par. (2).

Subsec. (d). Pub. L. 109–163, § 2804(a)(3), substituted ''limitation on cost variations'' for ''limitation on cost increases'' in introductory provisions.

2004—Subsec. (c)(3). Pub. L. 108–375 inserted before period at end ''or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title''.

2001—Subsec. (d). Pub. L. 107–107 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''The limitation on cost increases in subsection (a) does not apply to the settlement of a contractor claim under a contract.''

1996—Subsec. (d). Pub. L. 104–106 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''The limitation on cost increases in subsection (a) does not apply to a within-scope modification to a contract or to the settlement of a contractor claim under a contract if the increase in cost is approved by the Secretary concerned, and the Secretary concerned

promptly submits written notification of the facts relating to the proposed increase in cost to the appropriate committees of Congress.''

1989—Pub. L. 101–189 amended section generally, substituting subsecs. (a) to (d) for former subsecs. (a) to (f).

1987—Subsec. (a)(1). Pub. L. 100–180, §2312, substituted ''Except as provided in paragraph (2), the total cost authorized for military construction projects at an installation (including each project the cost of which is included in such total authorized cost and is less than the minor project ceiling) may be increased by not more than 25 percent of the total amount appropriated for such projects'' for ''Except as provided in paragraph (2), the cost authorized for a military construction project (other than a project for which the approved amount is less than the minor project ceiling (as defined in subsection (f))) may be increased by not more than 25 percent of the amount appropriated for the project''.

Pub. L. 100–26, §7(f)(2)(A), substituted ''the minor project ceiling (as defined in subsection (f))'' for ''the amount specified by law as the maximum amount for a minor military construction project''.

Pub. L. 100–26, §7(f)(2)(B), substituted ''the minor project ceiling'' for ''the amount specified by law as the maximum amount for a minor military construction project''.

Subsec. (a)(2). Pub. L. 100–26, §7(f)(2)(B), substituted ''the minor project ceiling'' for ''the amount specified by law as the maximum amount for a minor military construction project'' in two places.

Subsec. (b). Pub. L. 100–26, §7(f)(2)(B), (C), substituted ''the minor project ceiling'' for ''the amount specified by law as the maximum amount for a minor military construction project'' and ''the amount of such ceiling'' for ''such maximum amount'' in two places.

Subsec. (c). Pub. L. 100–180, §2313, substituted ''construction, improvement,'' for ''construction''.

Subsec. (e). Pub. L. 100–26, §7(f)(2)(B), substituted ''the minor project ceiling'' for ''the amount specified by law as the maximum amount for a minor military construction project''.

Subsec. (f). Pub. L. 100–26, §7(f)(2)(D), added subsec. (f).

1984—Subsec. (e). Pub. L. 98–407 inserted ''is more than the amount specified by law as the maximum amount for a minor military construction project and''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

§ 2854. Restoration or replacement of damaged or destroyed facilities

(a) Subject to subsection (b), the Secretary concerned may repair, restore, or replace a facility under his jurisdiction, including a family housing facility, that has been damaged or destroyed.

(b) When a decision is made to carry out construction under subsection (a) and the cost of the repair, restoration, or replacement is greater than the maximum amount for a minor construction project, the Secretary concerned shall notify the appropriate committees of Congress of that decision, of the justification for the project, of the current estimate of the cost of the project, of the source of funds for the project, and of the justification for carrying out the project under this section. The project may then be carried out only after the end of the 14-day period beginning on the date the notification is received by such committees in an electronic medium pursuant to section 480 of this title.

(c)(1) In using the authority described in subsection (a) to carry out a military construction project to replace a facility, including a family housing facility, that has been damaged or destroyed, the Secretary concerned may use appropriations available for operation and maintenance if—

(A) the damage or destruction to the facility was the result of a natural disaster or a terrorism incident; and

(B) the Secretary submits a notification to the appropriate committees of Congress of the decision to carry out the replacement project, and includes in the notification—

(i) the current estimate of the cost of the replacement project;

(ii) the source of funds for the replacement project;

(iii) in the case of damage to a facility rather than destruction, a certification that the replacement project is more cost-effective than repair or restoration; and

(iv) a certification that deferral of the replacement project for inclusion in the next Military Construction Authorization Act would be inconsistent with national security or the protection of health, safety, or environmental quality, as the case may be.

(2) A replacement project under this subsection may be carried out only after the end of the 7-day period beginning on the date on which a copy of the notification described in paragraph (1) is provided in an electronic medium pursuant to section 480 of this title.

(3) The maximum aggregate amount that the Secretary concerned may obligate from appropriations available for operation and maintenance in any fiscal year for replacement projects under the authority of this subsection is $100,000,000.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 165; amended Pub. L. 102–190, div. B, title XXVIII, §2870(7), Dec. 5, 1991, 105 Stat. 1563; Pub. L. 108–136, div. A, title X, §1031(a)(45), Nov. 24, 2003, 117 Stat. 1602; Pub. L. 115–91, div. B, title XXVIII, §§2801(c)(2), 2805, Dec. 12, 2017, 131 Stat. 1843, 1846; Pub. L. 116–92, div. B, title XXVIII, §2803, Dec. 20, 2019, 133 Stat. 1882.)

Editorial Notes

AMENDMENTS

2019—Subsec. (c)(3). Pub. L. 116–92 substituted ''$100,000,000'' for ''$50,000,000''.

2017—Subsec. (b). Pub. L. 115–91, §2805(b), substituted ''under subsection (a)'' for ''under this section''.

Pub. L. 115–91, §2801(c)(2), struck out ''in writing'' after ''shall notify'' and ''or, if earlier, the end of the seven-day period beginning on the date on which a copy of the notification is provided'' after ''received by such committees'' and substituted ''14-day period'' for ''21-day period''.

Subsec. (c). Pub. L. 115–91, §2805(a), added subsec. (c).

2003—Subsec. (b). Pub. L. 108–136 inserted before period at end ''or, if earlier, the end of the seven-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title''.

1991—Subsec. (b). Pub. L. 102–190 struck out ''(1)'' after ''carried out only'' and '', or (2) after each such committee has approved the project, if the committees approve the project before the end of that period'' before period at end.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

§ 2854a. Conveyance of damaged or deteriorated military family housing; use of proceeds

(a) AUTHORITY TO CONVEY.—(1) The Secretary concerned may convey any family housing facility that, due to damage or deterioration, is in a condition that is uneconomical to repair. Any conveyance of a family housing facility under this section may include a conveyance of the real property associated with the facility conveyed.

(2) The authority of this section does not apply to family housing facilities located at military installations approved for closure under a base closure law or family housing facilities located at an installation outside the United States at which the Secretary of Defense terminates operations.

(3) The aggregate total value of the family housing facilities conveyed by the Department of Defense under the authority in this subsection in any fiscal year may not exceed $5,000,000.

(4) For purposes of this subsection, a family housing facility is in a condition that is uneconomical to repair if the cost of the necessary repairs for the facility would exceed the amount equal to 70 percent of the cost of constructing a family housing facility to replace such facility.

(b) CONSIDERATION.—(1) As consideration for the conveyance of a family housing facility under subsection (a), the person to whom the facility is conveyed shall pay the United States an amount equal to the fair market value of the facility conveyed, including any real property conveyed along with the facility.

(2) The Secretary concerned shall determine the fair market value of any family housing facility and associated real property that is conveyed under subsection (a). Such determination shall be final.

(c) NOTICE AND WAIT REQUIREMENTS.—(1) The Secretary concerned may enter into an agreement to convey a family housing facility under this section only after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress a notice containing a justification for the conveyance under the agreement.

(2) A notice under paragraph (1) shall include—

(A) an estimate of the consideration to be provided the United States under the agreement;

(B) an estimate of the cost of repairing the family housing facility to be conveyed; and

(C) an estimate of the cost of replacing the family housing facility to be conveyed.

(d) INAPPLICABILITY OF CERTAIN PROPERTY DISPOSAL LAWS.—The following provisions of law do not apply to the conveyance of a family housing facility under this section:

(1) Subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(2) Title V of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411 et seq.).

(e) USE OF PROCEEDS.—(1) The proceeds of any conveyance of a family housing facility under this section shall be credited to the appropriate fund established under section 2883 of this title and shall be available—

(A) to construct family housing units to replace the family housing facility conveyed under this section, but only to the extent that the number of units constructed with such proceeds does not exceed the number of units of military family housing of the facility conveyed;

(B) to repair or restore existing military family housing; and

(C) to reimburse the Secretary concerned for the costs incurred by the Secretary in conveying the family housing facility.

(2) Notwithstanding section 2883(d) of this title, proceeds derived from a conveyance of a family housing facility under this section shall be available under paragraph (1) without any further appropriation.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of any family housing facility conveyed under this section, including any real property associated with such facility, shall be determined by such means as the Secretary concerned considers satisfactory, including by survey in the case of real property.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary concerned may require such additional terms and conditions in connection with the conveyance of family housing facilities under this section as the Secretary considers appropriate to protect the interests of the United States.

(Added Pub. L. 104–106, div. B, title XXVIII, § 2818(a)(1), Feb. 10, 1996, 110 Stat. 553; amended Pub. L. 107–107, div. A, title X, § 1048(d)(1), Dec. 28, 2001, 115 Stat. 1227; Pub. L. 107–217, § 3(b)(21), Aug. 21, 2002, 116 Stat. 1297; Pub. L. 108–136, div. A, title X, § 1031(a)(46), Nov. 24, 2003, 117 Stat. 1602; Pub. L. 111–350, § 5(b)(49), Jan. 4, 2011, 124 Stat. 3846; Pub. L. 115–91, div. B, title XXVIII, § 2801(c)(3), Dec. 12, 2017, 131 Stat. 1843.)

Editorial Notes

REFERENCES IN TEXT

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (d)(2), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482. Title V of the Act is classified generally to subchapter V (§ 11411 et seq.) of chapter 119 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 11301 of Title 42 and Tables.

AMENDMENTS

2017—Subsec. (c). Pub. L. 115–91 added subsec. (c) and struck out former subsec. (c) which set out written notice and wait requirements.

2011—Subsec. (d)(1). Pub. L. 111–350 substituted ''division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' for ''title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)''.

2003—Subsec. (c)(2). Pub. L. 108–136 struck out ''calendar'' after ''21'' and inserted before period at end ''or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the justification is provided in

an electronic medium pursuant to section 480 of this title''.

2002—Subsec. (d)(1). Pub. L. 107–217 substituted ''Subtitle I of title 40 and title III of the'' for ''The'' and ''(41 U.S.C. 251 et seq.)'' for ''(40 U.S.C. 471 et seq.)''.

2001—Subsec. (d)(2). Pub. L. 107–107 substituted ''McKinney-Vento Homeless Assistance Act'' for ''Stewart B. McKinney Homeless Assistance Act''.

§ 2855. Law applicable to contracts for architectural and engineering services and construction design

(a) Contracts for architectural and engineering services and construction design in connection with a military construction project or a military family housing project shall be awarded in accordance with chapter 11 of title 40.

(b)(1) In the case of a contract referred to in subsection (a), if the Secretary concerned estimates that the initial award of the contract will be in an amount less than the threshold amount determined under paragraph (2), the contract shall be awarded in accordance with the set aside provisions of the Small Business Act (15 U.S.C. 631 et seq.).

(2) The threshold amount under paragraph (1) is $1,000,000.

(3) This subsection does not restrict the award of contracts to small business concerns under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 166; amended Pub. L. 98–407, title VIII, §808(a), Aug. 28, 1984, 98 Stat. 1521; Pub. L. 107–217, §3(b)(22), Aug. 21, 2002, 116 Stat. 1297; Pub. L. 108–136, div. A, title XIV, §1427(a), Nov. 24, 2003, 117 Stat. 1670; Pub. L. 115–232, div. B, title XXVIII, §2804(a), (b), Aug. 13, 2018, 132 Stat. 2261.)

Editorial Notes

References in Text

The Small Business Act, referred to in subsec. (b)(1), is Pub. L. 85–536, §2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

Amendments

2018—Subsec. (b)(1). Pub. L. 115–232, §2804(a), substituted ''subsection (a),'' for ''subsection (a)—'', struck out subpar. (B) designation before ''if the Secretary'', and struck out subpar. (A) which read as follows: ''if the Secretary concerned estimates that the initial award of the contract will be in an amount greater than or equal to the threshold amount determined under paragraph (2), the contract may not be set aside exclusively for award to small business concerns; and''.

Subsec. (b)(2). Pub. L. 115–232, §2804(b), substituted ''threshold'' for ''initial threshold'' and ''$1,000,000'' for ''$300,000'' and struck out last sentence which read as follows: ''The Secretary of Defense may revise that amount in order to ensure that small business concerns receive a reasonable share of contracts referred to in subsection (a).''

2003—Subsec. (b)(2). Pub. L. 108–136 substituted ''$300,000'' for ''$85,000''.

2002—Subsec. (a). Pub. L. 107–217 substituted ''chapter 11 of title 40'' for ''title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.)''.

1984—Pub. L. 98–407 designated existing provisions as subsec. (a) and added subsec. (b).

Statutory Notes and Related Subsidiaries

Effective Date of 2018 Amendment

Pub. L. 115–232, div. B, title XXVIII, §2804(c), Aug. 13, 2018, 132 Stat. 2262, provided that: ''The amendments made by this section [amending this section] shall apply with respect to fiscal year 2019 and each succeeding fiscal year.''

Effective Date of 1984 Amendment

Pub. L. 98–407, title VIII, §808(b), Aug. 28, 1984, 98 Stat. 1522, provided that: ''Subsection (b) of section 2855 of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts awarded after September 30, 1984, except that the authority of the Secretary of Defense under paragraph (2) of that subsection shall apply only with respect to contracts awarded after September 30, 1985.''

Effective Date

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

§ 2856. Military unaccompanied housing: standards

(a) Local Comparability in Floor Areas.—In the construction, acquisition, and improvement of covered military unaccompanied housing, the Secretary concerned shall ensure that the floor areas of such housing in a particular locality (as designated by the Secretary concerned for purposes of this section) do not exceed the floor areas of similar housing in the private sector in that locality, except for purposes of meeting minimum area requirements under subsection (b)(1)(A).

(b) Floor Space and Number of Members Allowed.—In the design and configuration of covered military unaccompanied housing, the Secretary of Defense shall establish uniform design standards that—

(1) provide a minimum area of floor space, not including bathrooms or closets, per individual occupying a unit of covered military unaccompanied housing;

(2) ensure that not more than two individuals may occupy such a unit; and

(3) provide definitions and measures that specify—

(A) criteria of design;

(B) quality of construction material to be used; and

(C) levels of maintenance to be required.

(c) Covered Military Unaccompanied Housing.—For purposes of this section, section 2856a, and section 2856b, the term ''covered military unaccompanied housing'' means Government-owned military housing intended to be occupied by members of the armed forces serving a tour of duty unaccompanied by dependents.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 166; amended Pub. L. 101–510, div. A, title XIII, §1301(19), Nov. 5, 1990, 104 Stat. 1668; Pub. L. 109–364, div. B, title XXVIII, §2807(a)(1), Oct. 17, 2006, 120 Stat. 2468; Pub. L. 118–31, div. B, title XXVIII, §2831(a)(1), Dec. 22, 2023, 137 Stat. 753; Pub. L. 118–159, div. A, title XVII, §1701(a)(31), Dec. 23, 2024, 138 Stat. 2205.)

Editorial Notes

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–159 substituted ''subsection (b)(1)(A).'' for ''subsection (b)(1)(A),.''.

2023—Pub. L. 118–31, § 2831(a)(1)(B)–(D), designated existing provisions as subsec. (a) and inserted heading, inserted ''covered'' before ''military unaccompanied housing'' and '', except for purposes of meeting minimum area requirements under subsection (b)(1)(A),'' before period at end, and added subsecs. (b) and (c).

Pub. L. 118–31, § 2831(a)(1)(A), substituted ''standards'' for ''local comparability of floor areas'' in section catchline.

2006—Pub. L. 109–364 amended section catchline and text generally. Prior to amendment, text read as follows: ''The Secretary of Defense shall prescribe regulations establishing the maximum allowable net square feet per occupant for new permanent barracks construction. Such regulations shall be uniform for the armed forces under the jurisdiction of the Secretary of a military department.''

1990—Pub. L. 101–510 struck out ''(a)'' before ''The Secretary of Defense'' and struck out subsec. (b) which read as follows: ''Before taking effect, any regulations under this section, and any modifications to such regulations, shall be submitted to the appropriate committees of Congress. Such regulations (including any modifications to such regulations) may not then take effect until 21 days after being received by such committees.''

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

UNIFORM DESIGN STANDARDS

Pub. L. 118–31, div. B, title XXVIII, § 2831(b), (c), Dec. 22, 2023, 137 Stat. 753, 754, provided that:

''(b) COMPLETION AND ISSUANCE OF UNIFORM DESIGN STANDARDS.—Not later than 180 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall—

''(1) ensure that the uniform design standards required under section 2856(b)(1) of title 10, United States Code, as added by subsection (a)(1)(D), are completed, issued, and submitted to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; or

''(2) submit to the congressional defense committees a report—

''(A) explaining in detail why such standards are not completed and issued;

''(B) indicating when such standards are expected to be completed and issued; and

''(C) specifying the names of the personnel responsible for the failure to complete and issue such standards.

''(c) COMPLIANCE WITH UNIFORM DESIGN STANDARDS.—

''(1) IN GENERAL.—Not later than two years after the date of the enactment of this Act, the Secretary of each military department shall ensure that all covered military unaccompanied housing located on a military installation under the jurisdiction of such Secretary complies with the uniform standards established under section 2856(b)(1) of title 10, United States Code, as added by subsection (a)(1)(D).

''(2) NO WAIVER.—The requirement under paragraph (1) may not be waived.

''(3) COVERED MILITARY UNACCOMPANIED HOUSING DEFINED.—In this subsection, the term 'covered military unaccompanied housing' has the meaning given in section 2856 of title 10, United States Code (as amended by subsection (a)).''

§ 2856a. Covered military unaccompanied housing: waivers of covered privacy and configuration standards

(a) PROCEDURES FOR ISSUANCE OF CERTAIN WAIVERS.—Effective March 2, 2024, any waiver of covered privacy and configuration standards shall be issued in accordance with the following:

(1) A commander of a military installation desiring a waiver of covered habitability standards shall submit to the Secretary of the military department concerned a request for such waiver.

(2) A Secretary of a military department may approve a request under subparagraph (A) only if such Secretary has exhausted all options available to such Secretary to provide housing that meets covered privacy and configuration standards, including the—

(A) use of available privately-owned military housing;

(B) modification of unit integrity goals to allow the use of each available unit of covered military unaccompanied housing that meets covered privacy and configuration standards; and

(C) issuance of a certificate of nonavailability of covered military unaccompanied housing to allow eligibility for basic allowance for housing under section 403 of title 37.

(3) An official described in paragraph (1) or (2) may not delegate the respective authorities under such paragraphs.

(4) Any waiver of covered privacy and configuration standards issued pursuant to this paragraph shall terminate on the date that is 15 months after the date on which such waiver was issued. A Secretary of a military department may not renew any such waiver.

(b) ANNUAL REPORT ON WAIVERS.—Not later than March 1, 2025, and annually thereafter not later than 15 days after the submission of the budget of the President to Congress pursuant to section 1105 of title 31, the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and the Senate and the Comptroller General of the United States a report on waivers issued under this section that includes—

(1) the number of such waivers that were issued during the period covered by the report;

(2) a plan to remedy the deficiencies, if any, of covered military unaccompanied housing that required the issuance of such a waiver;

(3) a strategy to remedy issues, if any, caused by covered military unaccompanied housing that did not comply with such uniform standards;

(4) a strategy to remedy the factors, if any, that require a commander of a military installation to submit to the applicable Secretary of a military department a request for consecutive waivers of such uniform standards, including a timeline for the implementation of such strategy; and

(5) an analysis of strategies to remedy the factors described in paragraph (4), including—

(A) projects to modernize existing covered military unaccompanied housing to comply with such uniform standards;

(B) projects to construct new covered military unaccompanied housing; and

(C) modifications to relevant policies of the Department of Defense, excluding such policies relating to infrastructure.

(c) COVERED PRIVACY AND CONFIGURATION STANDARD DEFINED.—In this section, the term ''covered privacy and configuration standard'' means the minimum standards for privacy and configuration applicable to covered military unaccompanied housing described in Department of Defense Manual 4165.63 titled ''DoD Housing Management'' and dated October 28, 2010 (or a successor document).

(Added Pub. L. 118–31, div. B, title XXVIII, § 2833(b), Dec. 22, 2023, 137 Stat. 755; amended Pub. L. 118–159, div. B, title XXVIII, § 2824, Dec. 23, 2024, 138 Stat. 2256.)

Editorial Notes

CODIFICATION

Pub. L. 118–31, div. B, title XXVIII, § 2833(b), Dec. 22, 2023, 137 Stat. 755, which directed amendment of ''Subchapter III of title 10'' by adding this section after section 2856 of this title, was executed to subchapter III of chapter 169 of this title, to reflect the probable intent of Congress.

AMENDMENTS

2024—Subsec. (a)(4). Pub. L. 118–159 substituted ''15 months'' for ''9 months''.

Statutory Notes and Related Subsidiaries

REVISIONS TO RULES, GUIDANCE, OR OTHER ISSUANCES

Pub. L. 118–31, div. B, title XXVIII, § 2833(d), Dec. 22, 2023, 137 Stat. 757, provided that: ''Not later than 120 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense and Secretaries of the military departments shall revise any rule, guidance, or other issuance of the Department of Defense and the military departments under the respective jurisdictions of such Secretaries to include the procedures for the issuance of waivers of covered privacy and configuration standards [see section 2833(f) of Pub. L. 118–31, set out as a note below] pursuant to section 2856a of title 10, United States Code (as added by subsection (a)).''

TERMINATION OF EXISTING WAIVERS OF COVERED PRIVACY AND CONFIGURATION STANDARDS

Pub. L. 118–31, div. B, title XXVIII, § 2833(a), Dec. 22, 2023, 137 Stat. 755, provided that: ''Any waiver of covered privacy and configuration standards [see section 2833(f) of Pub. L. 118–31, set out as a note below] in effect on or before the date of the enactment of this Act [Dec. 22, 2023] shall terminate on March 1, 2024.''

COVERED PRIVACY AND CONFIGURATION STANDARD

Pub. L. 118–31, div. B, title XXVIII, § 2833(f), Dec. 22, 2023, 137 Stat. 757, provided that: ''The term 'covered privacy and configuration standard' has the meaning given in section 2856a of title 10, United States Code (as added by subsection (a)).''

DEFINITIONS

For definition of ''covered military unaccompanied housing'' as used in this section, see section 2856(c) of this title.

§ 2856b. Covered military unaccompanied housing: standards for habitability

(a) STANDARDS REQUIRED.—For the purposes of assigning a member of the armed forces to a unit of covered military unaccompanied housing, the Secretary of Defense shall establish uniform minimum standards for covered military unaccompanied housing, that shall include minimum requirements for—

(1) condition;

(2) habitability, health, and environmental comfort;

(3) safety and security; and

(4) any other element the Secretary of Defense determines appropriate.

(b) LIMITATION ON ISSUANCE OF WAIVERS.—Any waiver of a uniform standard described in subsection (a) may only be issued by a Secretary of a military department.

(c) CERTIFICATION.—The Secretary of Defense shall include, in conjunction with the submission of the budget of the President to Congress pursuant to section 1105 of title 31, a certification from each Secretary of a military department to the congressional defense committees that the cost for all needed repairs and improvements for each occupied covered military unaccompanied housing facility under the jurisdiction of such Secretary does not exceed 20 percent of the replacement cost of such facility, as mandated by Department of Defense Manual 4165.63 titled ''DoD Housing Management'' and dated October 28, 2010 (or a successor document).

(Added and amended Pub. L. 118–31, div. B, title XXVIII, §§ 2832(a), 2834, Dec. 22, 2023, 137 Stat. 754, 757.)

Editorial Notes

CODIFICATION

Pub. L. 118–31, div. B, title XXVIII, § 2832(a), Dec. 22, 2023, 137 Stat. 754, which directed amendment of ''Subchapter III of title 10'' by adding this section after section 2856a of this title, was executed to subchapter III of chapter 169 of this title, to reflect the probable intent of Congress.

AMENDMENTS

2023—Subsec. (c). Pub. L. 118–31, § 2834, added subsec. (c).

Statutory Notes and Related Subsidiaries

GUIDANCE

Pub. L. 118–31, div. B, title XXVIII, § 2832(b), Dec. 22, 2023, 137 Stat. 754, provided that: ''Not later than 30 days after the date on which the Secretary of Defense develops the uniform standards under section 2856b of title 10, United States Code (as added by subsection (a)), the Secretary of Defense shall issue to each Secretary of a military department guidance on such uniform standards.''

DEFINITIONS

For definition of ''covered military unaccompanied housing'' as used in this section, see section 2856(c) of this title.

§ 2857. Window fall prevention devices in military family housing units

(a) REQUIRING USE OF DEVICES ON CERTAIN WINDOWS.—

(1) REQUIREMENT.—The Secretary concerned shall ensure that if a window in any military family housing unit is described in subsection (c), including a window designed for emergency escape or rescue, the window is equipped

with fall prevention devices described in paragraph (3).

(2) EFFECTIVE DATE.—Paragraph (1) shall apply with respect to the following military family housing units:

(A) A unit for which the contract for the construction of the unit is first entered into after October 1, 2019.

(B) Any other unit which is subject to a whole-house renovation project for which the contract is entered into on or after October 1, 2019.

(3) FALL PREVENTION DEVICE DESCRIBED.—A fall prevention device is a window screen or guard that complies with applicable standards in ASTM standard F2090–13 (or any successor standard).

(b) RETROFITTING OR REPLACING EXISTING WINDOWS.—

(1) PROGRAM TO RETROFIT EXISTING WINDOWS.—The Secretary concerned shall carry out a program under which, in military family housing units which are not subject to the requirements of subsection (a), windows which are described in subsection (c), including windows designed for emergency escape or rescue, are retrofitted to be equipped with fall prevention devices described in paragraph (3) of subsection (a) or are replaced with windows which are equipped with fall prevention devices described in such paragraph.

(2) GRANTS.—The Secretary concerned may carry out the program under this subsection by making grants to private entities to retrofit or replace existing windows, in accordance with such criteria as the Secretary may establish by regulation.

(3) USE OF OPERATIONS FUNDING.—The Secretary may carry out the program under this subsection during a fiscal year with amounts made available to the Secretary for family housing operations for such fiscal year.

(c) WINDOWS DESCRIBED.—A window is described in this subsection if the bottom sill of the window is within 42 inches of the floor, as measured in the interior of the unit, and is more than 72 inches above the ground, as measured on the exterior grade of the building.

(d) RECORD OF INCIDENTS; ANNUAL REPORT.—The Secretary concerned shall keep a record of each incident (as defined in Department of Defense Instruction 6055.7 series) in which a minor child is injured or killed as the result of an unintentional window fall in a military family housing unit. Not later than 90 days after the end of each calendar year (beginning with 2017), the Secretary of Defense shall submit a report to the Committees on Armed Services of the House of Representatives and Senate on all such window falls occurring in the previous year.

(e) APPLICABILITY TO ALL MILITARY FAMILY HOUSING.—This section applies to military family housing under the jurisdiction of the Department of Defense and military family housing acquired or constructed under subchapter IV of this chapter.

(Added Pub. L. 115–91, div. B, title XXVIII, § 2817(a)(1), Dec. 12, 2017, 131 Stat. 1851, § 2879; amended Pub. L. 115–232, div. A, title X, § 1081(a)(28), div. B, title XXVIII, § 2823(a), Aug. 13, 2018, 132 Stat. 1985, 2269; Pub. L. 116–92, div. A, title XVII, § 1731(a)(57), div. B, title XXX, § 3034, Dec. 20, 2019, 133 Stat. 1815, 1936; renumbered § 2857 and amended Pub. L. 117–81, div. B, title XXVIII, § 2812(a), (b), Dec. 27, 2021, 135 Stat. 2191.)

Editorial Notes

PRIOR PROVISIONS

A prior section 2857 was renumbered section 2915 of this title.

AMENDMENTS

2021—Pub. L. 117–81, § 2812(a), renumbered section 2879 of this title as this section and transferred it to appear after section 2856 of this title.

Subsec. (a)(1). Pub. L. 117–81, § 2812(b)(1), struck out ''acquired or constructed under this chapter'' after ''housing unit''.

Subsec. (b)(1). Pub. L. 117–81, § 2812(b)(2), struck out ''acquired or constructed under this chapter'' after ''housing units''.

Subsec. (e). Pub. L. 117–81, § 2812(b)(3), added subsec. (e).

2019—Subsec. (a)(1). Pub. L. 116–92, § 3034(a)(1), substituted ''described in paragraph (3)'' for ''that protect against unintentional window falls by young children and that are in compliance with applicable International Building Code (IBC) standards''.

Subsec. (a)(2)(A). Pub. L. 116–92, § 3034(a)(2)(A), substituted ''October 1, 2019'' for ''December 11, 2017''.

Pub. L. 116–92, § 1731(a)(57), struck out comma before period at end.

Subsec. (a)(2)(B). Pub. L. 116–92, § 3034(a)(2)(B), substituted ''October 1, 2019'' for ''September 1, 2018''.

Subsec. (a)(3). Pub. L. 116–92, § 3034(a)(3), added par. (3).

Subsec. (b)(1). Pub. L. 116–92, § 3034(c), substituted ''paragraph (3)'' for ''paragraph (1)''.

Subsec. (c). Pub. L. 116–92, § 3034(b), substituted ''42 inches'' for ''24 inches''.

2018—Subsec. (a)(1). Pub. L. 115–232, § 2823(a)(1), substituted ''subsection (c)'' for ''subsection (b)''.

Subsec. (a)(2)(A). Pub. L. 115–232, § 1081(a)(28), substituted ''after December 11, 2017,'' for ''on or after the date of the enactment of this section''.

Subsecs. (b) to (d). Pub. L. 115–232, § 2823(a)(2), (3), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–232, div. B, title XXVIII, § 2823(b), Aug. 13, 2018, 132 Stat. 2269, provided that: ''The amendments made by this section [amending this section] shall apply with respect to fiscal year 2019 and each succeeding fiscal year.''

§ 2858. Limitation on the use of funds for expediting a construction project

Funds appropriated for military construction (including military family housing) may not be expended for additional costs involved in expediting a construction project unless the Secretary concerned (1) certifies that expenditures for such costs are necessary to protect the national interest, and (2) establishes a reasonable completion date for the project. In establishing such a completion date, the Secretary shall take into consideration the urgency of the requirement for completion of the project, the type and location of the project, the climatic and seasonal conditions affecting the construction in-

volved, and the application of economical construction practices.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 167.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

§ 2859. Construction requirements related to antiterrorism and force protection or urban-training operations

(a) ANTITERRORISM AND FORCE PROTECTION GUIDANCE AND CRITERIA.—The Secretary of Defense shall develop common guidance and criteria to be used by each Secretary concerned—

(1) to assess the vulnerability of military installations located inside and outside of the United States to terrorist attack;

(2) to develop construction standards that, taking into consideration other security or force-protection measures available for the facility or military installation concerned, are designed to reduce the vulnerability of structures to terrorist attack and improve the security of the occupants of such structures;

(3) to prepare and carry out military construction projects, such as gate and fenceline construction, to improve the physical security of military installations; and

(4) to assist in prioritizing such projects within the military construction budget of each of the armed forces.

(b) VULNERABILITY ASSESSMENTS.—The Secretary of Defense shall require vulnerability assessments of military installations to be conducted, at regular intervals, using the criteria developed under subsection (a).

(c) CERTIFICATION REQUIRED FOR MILITARY CONSTRUCTION PROJECTS DESIGNED TO PROVIDE TRAINING IN URBAN OPERATIONS.—(1) Except as provided in paragraph (3), the Secretary concerned may not carry out a military construction project to construct a facility designed to provide training in urban operations for members of the armed forces or personnel of the Department of Defense or other Federal agencies until—

(A) the Secretary of Defense approves a strategy for training and facility construction for operations in urban terrain; and

(B) the Under Secretary of Defense for Personnel and Readiness evaluates the project and certifies to the appropriate committees of Congress that the project—

(i) is consistent with the strategy; and

(ii) incorporates the appropriate capabilities for joint and interagency use in accordance with the strategy.

(2) This subsection shall not apply with respect to a military construction project carried out under the authority of section 2803, 2804, or 2808 of this title or section 2808 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1723).

(Added Pub. L. 108–375, div. B, title XXVIII, §2804(a)(1), Oct. 28, 2004, 118 Stat. 2121; amended Pub. L. 109–364, div. B, title XXVIII, §2808(a), (b)(1), Oct. 17, 2006, 120 Stat. 2469; Pub. L. 112–239, div. A, title X, §1081(2), Jan. 2, 2013, 126 Stat. 1960; Pub. L. 113–66, div. B, title XXVIII, §2803(a), Dec. 26, 2013, 127 Stat. 1006; Pub. L. 115–91, div. A, title X, §1051(a)(22), Dec. 12, 2017, 131 Stat. 1562.)

Editorial Notes

REFERENCES IN TEXT

Section 2808 of the Military Construction Authorization Act for Fiscal Year 2004, referred to in subsec. (c)(2), is section 2808 of title XXVIII of div. B of Pub. L. 108–136, Nov. 24, 2003, 117 Stat. 1723, which is not classified to the Code except for section 2808(e), which is set out as a note under section 2805 of this title.

PRIOR PROVISIONS

A prior section 2859, added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 167; amended Pub. L. 97–295, §1(36), Oct. 12, 1982, 96 Stat. 1296, provided for transmission of annual military construction authorization request, prior to repeal by Pub. L. 108–136, div. A, title X, §1044(b)(1), Nov. 24, 2003, 117 Stat. 1612.

AMENDMENTS

2017—Subsecs. (c), (d). Pub. L. 115–91 redesignated subsec. (d) as (c) and struck out former subsec. (c) which required annual reports describing vulnerability assessments and military construction requirements.

2013—Subsec. (a)(2). Pub. L. 113–66 substituted ''develop construction standards that, taking into consideration other security or force-protection measures available for the facility or military installation concerned, are designed'' for ''develop construction standards designed''.

Subsec. (d)(2), (3). Pub. L. 112–239 redesignated par. (3) as (2) and struck out former par. (2) which read as follows: ''The Under Secretary of Defense for Personnel and Readiness shall conduct the evaluation required by paragraph (1)(B) in consultation with the Commander of the United States Joint Forces Command.''

2006—Pub. L. 109–364, §2808(b)(1), inserted ''or urban-training operations'' after ''force protection'' in section catchline.

Subsec. (d). Pub. L. 109–364, §2808(a), added subsec. (d).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. B, title XXVIII, §2808(c), Oct. 17, 2006, 120 Stat. 2470, provided that: ''Subsection (d) [now (c)] of section 2859 of title 10, United States Code, as added by subsection (a), shall apply with respect to military construction projects described in such subsection (d) [(c)] for which funds are first provided for fiscal year 2007 or thereafter.''

JOINT STRATEGY FOR AIR BASE DEFENSE AGAINST MISSILE THREATS

Pub. L. 116–283, div. A, title I, §156, Jan. 1, 2021, 134 Stat. 3447, provided that:

''(a) STRATEGY REQUIRED.—The Chief of Staff of the Air Force and the Chief of Staff of the Army shall jointly develop and carry out a strategy to address the defense of air bases and prepositioned sites outside the continental United States against current and emerging missile threats, as validated by the Defense Intelligence Agency.

''(b) CERTIFICATION AND STRATEGY.—Not later than June 1, 2021, the Chief of Staff of the Air Force and the Chief of Staff of the Army shall jointly submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the following:

''(1) A certification that the defense of air bases and prepositioned sites outside the continental United

States against threats described in subsection (a) is being addressed jointly.

''(2) The strategy developed pursuant to subsection (a).''

SPECIAL REQUIREMENT FOR 2006 REPORT

Pub. L. 108–375, div. B, title XXVIII, §2804(b), Oct. 28, 2004, 118 Stat. 2122, required the 2006 report under former subsec. (c) of this section to include a certification that since Sept. 11, 2001, terrorist attack vulnerability assessments had been undertaken for all major military installations.

§ 2860. Availability of appropriations

Funds appropriated to a military department or to the Secretary of Defense for a fiscal year for military construction or military family housing purposes may remain available for obligation beyond such fiscal year to the extent provided in appropriation Acts.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 167; amended Pub. L. 99–167, title VIII, §812(a), Dec. 3, 1985, 99 Stat. 991; Pub. L. 99–173, §121(b), Dec. 10, 1985, 99 Stat. 1029; Pub. L. 99–661, div. A, title XIII, §1343(a)(21)(A), Nov. 14, 1986, 100 Stat. 3994.)

Editorial Notes

AMENDMENTS

1986—Pub. L. 99–661 substituted ''to the Secretary of Defense'' for ''defense agency'', inserted ''for obligation'' after ''remains available'', and struck out ''the'' before ''appropriation Acts''.

1985—Pub. L. 99–173 substituted ''Availability of appropriations'' for ''Availability of appropriations for five years'' as section catchline, and amended text generally. Prior to amendment, text read as follows: ''Subject to the provisions of appropriation Acts, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.''

Pub. L. 99–167 struck out subsection designation ''(a)'' and ''and except as otherwise provided under subsection (b)'' after ''provisions of appropriation Acts'', and struck out subsec. (b) which provided: ''Should a requirement develop to obligate funds for a military construction project after the end of the fourth fiscal year after the fiscal year for which such funds were appropriated, such obligation may be made after the end of the 21-day period beginning on the date on which the appropriate committees of Congress receive notification of the need for such obligation and the reasons therefor.''

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1985 AMENDMENTS

Pub. L. 99–173, §121(c), Dec. 10, 1985, 99 Stat. 1029, provided that: ''The amendment made by subsection (b) [amending this section] shall apply to funds appropriated after the date of the enactment of Public Law 99–103 [Sept. 30, 1985].''

Pub. L. 99–167, title VIII, §812(b), Dec. 3, 1985, 99 Stat. 991, provided that: ''The amendments made by subsection (a) [amending this section] shall apply to funds appropriated after September 30, 1985.''

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

AVAILABILITY OF APPROPRIATIONS FOR FIVE YEARS

Pub. L. 109–114, title I, §117, Nov. 30, 2005, 119 Stat. 2378, which provided that any funds made available to a military department or defense agency for the construction of military projects could be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were made available, if the funds obligated for such project: (1) were obligated from funds available for military construction projects; and (2) did not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law, was from the Military Construction, Military Quality of Life and Veterans Affairs Appropriations Act, 2006 and was repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were also contained in the following prior appropriations acts:

Pub. L. 108–324, div. A, §117, Oct. 13, 2004, 118 Stat. 1227.
Pub. L. 108–132, §117, Nov. 22, 2003, 117 Stat. 1380.
Pub. L. 107–249, §117, Oct. 23, 2002, 116 Stat. 1583.
Pub. L. 107–64, §117, Nov. 5, 2001, 115 Stat. 479.
Pub. L. 106–246, div. A, §117, July 13, 2000, 114 Stat. 516.
Pub. L. 106–52, §117, Aug. 17, 1999, 113 Stat. 264.
Pub. L. 105–237, §117, Sept. 20, 1998, 112 Stat. 1558.
Pub. L. 105–45, §117, Sept. 30, 1997, 111 Stat. 1147.
Pub. L. 104–196, §117, Sept. 16, 1996, 110 Stat. 2391.
Pub. L. 104–32, §117, Oct. 3, 1995, 109 Stat. 289.
Pub. L. 103–307, §118, Aug. 23, 1994, 108 Stat. 1664.
Pub. L. 103–110, §118, Oct. 21, 1993, 107 Stat. 1043.
Pub. L. 102–380, §119, Oct. 5, 1992, 106 Stat. 1371.
Pub. L. 102–136, §119, Oct. 25, 1991, 105 Stat. 643.
Pub. L. 101–519, §119, Nov. 5, 1990, 104 Stat. 2246.
Pub. L. 101–148, §121, Nov. 10, 1989, 103 Stat. 925.
Pub. L. 100–447, §124, Sept. 27, 1988, 102 Stat. 1835.

TRANSFER OF FUNDS FOR FOREIGN CURRENCY FLUCTUATIONS

Pub. L. 108–132, §118, Nov. 22, 2003, 117 Stat. 1380, which provided that during the 5-year period after appropriations available to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations would not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations could be transferred into the appropriation ''Foreign Currency Fluctuations, Construction, Defense'' to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred, was from the Military Construction Appropriations Act, 2005 and was repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were also contained in the following prior appropriations acts:

Pub. L. 107–249, §118, Oct. 23, 2002, 116 Stat. 1584.
Pub. L. 107–64, §118, Nov. 5, 2001, 115 Stat. 480.
Pub. L. 106–246, div. A, §118, July 13, 2000, 114 Stat. 516.
Pub. L. 106–52, §118, Aug. 17, 1999, 113 Stat. 264.
Pub. L. 105–237, §118, Sept. 20, 1998, 112 Stat. 1559.
Pub. L. 105–45, §118, Sept. 30, 1997, 111 Stat. 1147.
Pub. L. 104–196, §118, Sept. 16, 1996, 110 Stat. 2392.
Pub. L. 104–32, §118, Oct. 3, 1995, 109 Stat. 289.
Pub. L. 103–307, §119, Aug. 23, 1994, 108 Stat. 1665.
Pub. L. 103–110, §120, Oct. 21, 1993, 107 Stat. 1043.
Pub. L. 102–380, §121, Oct. 5, 1992, 106 Stat. 1372.

Pub. L. 102–136, § 122, Oct. 25, 1991, 105 Stat. 643.

Pub. L. 99–500, § 101(k) [title I, § 121], Oct. 18, 1986, 100 Stat. 1783–287, 1783–293, and Pub. L. 99–591, § 101(k) [title I, § 121], Oct. 30, 1986, 100 Stat. 3341–287, 3341–293, as amended by Pub. L. 102–136, § 122, Oct. 25, 1991, 105 Stat. 643, provided that: ''For Transfer by the Secretary of Defense to and from appropriations and funds not merged pursuant to subsection 1552(a)(1) of title 31 of the United States Code and available for obligation or expenditure during fiscal year 1987 or thereafter, for military construction or expenses of family housing for the military departments and Defense agencies, in order to maintain the budgeted level of operations for such appropriations and thereby eliminate substantial gains and losses to such appropriations caused by fluctuations in foreign currency exchange rates that vary substantially from those used in preparing budget submissions, an appropriation, to remain available until expended: *Provided*, That funds transferred from this appropriation shall be merged with and be available for the same purpose, and for the same time period, as the appropriation or fund to which transferred, and funds transferred to this appropriation shall be merged with, and available for the purpose of this appropriation until expended: *Provided further*, That transfers may be made from time to time from this appropriation to the extent the Secretary of Defense determines it may be necessary to do so to reflect downward fluctuations in the currency exchange rates from those used in preparing the budget submissions for such appropriations, but transfers shall be made from such appropriations to this appropriation to reflect upward fluctuations in currency exchange rates to prevent substantial net gains in such appropriations: *Provided further*, That authorizations or limitations now or hereafter contained within appropriations or other provisions of law limiting the amounts that may be obligated or expended for military construction and family housing expenses are hereby increased to the extent necessary to reflect downward fluctuations in foreign currency exchange rates from those used in preparing the applicable budget submission: *Provided further*, That for the purposes of the appropriation 'Foreign Currency Fluctuations, Construction, Defense' the foreign currency rates used in preparing budget submissions shall be the foreign currency exchange rates as adjusted or modified, as reflected in applicable Committee reports on the Acts making appropriations for military construction for the Department of Defense: *Provided further*, That the Secretary of Defense shall provide an annual report to the Congress on all transfers made to or made from this appropriation: *Provided further*, That contracts or other obligations entered into payable in foreign currencies may be recorded as obligations based on the currency exchange rates used in preparing budget submissions and adjustments to reflect fluctuations in such rates may be recorded as disbursements are made: *Provided further*, That, at the discretion of the Secretary of Defense, any savings generated in the military construction and family housing programs may be transferred to this appropriation.''

§ 2861. Military construction projects in connection with industrial facility investment program

(a) AUTHORITY.—The Secretary of Defense may carry out a military construction project, not previously authorized, for the purpose of carrying out activities under section 2474(a)(2) of this title, using funds appropriated or otherwise made available for that purpose in military construction accounts.

(b) CREDITING OF FUNDS TO CAPITAL BUDGET.—Funds appropriated or otherwise made available in a fiscal year for the purpose of carrying out a military construction project with respect to a covered depot (as defined in subsection (f) of section 2476 of this title) may be credited to the amount required by subsection (a)(1) of such section to be invested in the capital budgets of the covered depots in that fiscal year.

(c) NOTICE AND WAIT REQUIREMENT.—When a decision is made to carry out a project under subsection (a), the Secretary of Defense shall notify the appropriate committees of Congress of that decision and the savings estimated to be realized from the project. The project may then be carried out only after the end of the 14-day period beginning on the date the notification is received by such committees in an electronic medium pursuant to section 480 of this title.

(Added Pub. L. 109–364, div. B, title XXVIII, § 2809(a), Oct. 17, 2006, 120 Stat. 2470; amended Pub. L. 115–91, div. A, title X, § 1051(a)(23), div. B, title XXVIII, § 2801(c)(4), Dec. 12, 2017, 131 Stat. 1562, 1844; Pub. L. 117–263, div. A, title III, § 374(b)(2), Dec. 23, 2022, 136 Stat. 2542.)

Editorial Notes

PRIOR PROVISIONS

A prior section 2861, added Pub. L. 97–214, § 2(a), July 12, 1982, 96 Stat. 167; amended Pub. L. 100–26, § 7(f)(1), (j)(9), Apr. 21, 1987, 101 Stat. 281, 283; Pub. L. 104–106, div. B, title XXVIII, § 2811(b), Feb. 10, 1996, 110 Stat. 552; Pub. L. 104–201, div. B, title XXVIII, § 2802(d)(1), Sept. 23, 1996, 110 Stat. 2787, required the Secretary of Defense to submit an annual report to the appropriate committees of Congress with respect to military construction activities and military family housing activities, prior to repeal by Pub. L. 107–107, div. B, title XXVIII, § 2803(a), Dec. 28, 2001, 115 Stat. 1305.

AMENDMENTS

2022—Subsec. (b). Pub. L. 117–263 substituted ''subsection (f) of section 2476'' for ''subsection (e) of section 2476'' and ''subsection (a)(1) of such section'' for ''subsection (a) of such section''.

2017—Subsec. (c). Pub. L. 115–91, § 2801(c)(4), struck out ''in writing'' after ''shall notify'' and ''or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided'' after ''received by such committees'' and substituted ''14-day period'' for ''21-day period''.

Subsec. (d). Pub. L. 115–91, § 1051(a)(23), struck out subsec. (d). Text read as follows: ''Not later than December 31 of each year, the Secretary shall submit to Congress a report describing actions taken under this section and the savings realized from such actions during the fiscal year ending in the year in which the report is submitted.''

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117–263 applicable with respect to fiscal years beginning on or after Oct. 1, 2023, see section 374(c) of Pub. L. 117–263, set out as a note under section 2476 of this title.

§ 2862. Turn-key selection procedures

(a) AUTHORITY TO USE FOR CERTAIN PURPOSES.—The Secretary concerned may use one-step turn-key selection procedures for the purpose of entering into a contract for any of the following purposes:

(1) The construction of an authorized military construction project.

(2) A repair project (as defined in section 2811(e) of this title) with an approved cost equal to or less than $4,000,000.[1]

(3) The construction of a facility as part of an authorized security assistance activity.

(b) DEFINITIONS.—In this section:

(1) The term ''one-step turn-key selection procedures'' means procedures used for the selection of a contractor on the basis of price and other evaluation criteria to perform, in accordance with the provisions of a firm fixed-price contract, both the design and construction of a facility using performance specifications supplied by the Secretary concerned.

(2) The term ''security assistance activity'' means—

(A) humanitarian and civic assistance authorized by sections 401 and 2561 of this title;

(B) foreign disaster assistance authorized by section 404 of this title;

(C) foreign military construction sales authorized by section 29 of the Arms Export Control Act (22 U.S.C. 2769);

(D) foreign assistance authorized under sections 607 and 632 of the Foreign Assistance Act of 1961 (22 U.S.C. 2357, 2392); and

(E) other international security assistance specifically authorized by law.

(Added Pub. L. 99–167, title VIII, § 807(a), Dec. 3, 1985, 99 Stat. 988; amended Pub. L. 100–26, § 7(k)(3), Apr. 21, 1987, 101 Stat. 284; Pub. L. 100–180, div. B, subdiv. 3, title I, § 2301, Dec. 4, 1987, 101 Stat. 1214; Pub. L. 101–189, div. B, title XXVIII, § 2806, Nov. 29, 1989, 103 Stat. 1647; Pub. L. 102–190, div. B, title XXVIII, § 2802, Dec. 5, 1991, 105 Stat. 1537; Pub. L. 113–291, div. B, title XXVIII, § 2804, Dec. 19, 2014, 128 Stat. 3697.)

Editorial Notes

AMENDMENTS

2014—Pub. L. 113–291 amended section generally. Prior to amendment, text read as follows:

''(a) AUTHORITY TO USE.—The Secretary concerned may use one-step turn-key selection procedures for the purpose of entering into contracts for the construction of authorized military construction projects.

''(b) DEFINITION.—In this section, the term 'one-step turn-key selection procedures' means procedures used for the selection of a contractor on the basis of price and other evaluation criteria to perform, in accordance with the provisions of a firm fixed-price contract, both the design and construction of a facility using performance specifications supplied by the Secretary concerned.''

1991—Pub. L. 102–190 redesignated par. (1) of subsec. (a) as entire subsec. (a) and inserted heading, redesignated par. (2) of subsec. (a) as (b), inserted heading, and struck out former subsecs. (b) and (c) which read as follows:

''(b) The Secretary of Defense, with respect to any Defense Agency, or the Secretary of a military department may not, during any fiscal year, enter into more than three contracts for military construction projects using procedures authorized by this section.

''(c) The authority under this section shall expire on October 1, 1991.''

1989—Subsec. (a)(1). Pub. L. 101–189, § 2806(1), struck out at end ''Such procedures may be used by the Secretary of a military department only with the approval of the Secretary of Defense.''

Subsec. (c). Pub. L. 101–189, § 2806(2), substituted ''1991'' for ''1990''.

1987—Subsec. (a)(1). Pub. L. 100–180, § 2301(1), substituted ''The Secretary concerned'' for ''The Secretaries of the military departments, with the approval of the Secretary of Defense,'' and inserted provision at end that such procedures may be used by the Secretary of a military department only with the approval of the Secretary of Defense.

Subsec. (a)(2). Pub. L. 100–26 inserted ''the term'' after ''In this section,''.

Subsec. (b). Pub. L. 100–180, § 2301(2), inserted ''Secretary of Defense, with respect to any Defense Agency, or the'' after ''The''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 99–167, title VIII, § 807(c), Dec. 3, 1985, 99 Stat. 989, provided that: ''The amendments made by this section [enacting this section] shall take effect on October 1, 1986.''

TEMPORARY EXPANSION OF AUTHORITY FOR USE OF ONE-STEP TURN-KEY PROCEDURES FOR REPAIR PROJECTS

Pub. L. 118–31, div. B, title XXVIII, § 2806, Dec. 22, 2023, 137 Stat. 745, provided that: ''During the five-year period beginning on the date of the enactment of this Act [Dec. 22, 2023], section 2862(a)(2) of title 10, United States Code, shall be applied and administered by substituting '$8,000,000' for '$4,000,000'.''

§ 2863. Payment of contractor claims

Notwithstanding any other provision of law, the Secretary concerned may pay meritorious contractor claims that arise under military construction contracts or family housing contracts. The Secretary of Defense, with respect to a Defense Agency, or the Secretary of a military department may use for such purpose any unobligated funds appropriated to such department and available for military construction or family housing construction, as the case may be.

(Added Pub. L. 100–180, div. B, subdiv. 3, title I, § 2303(a), Dec. 4, 1987, 101 Stat. 1215.)

§ 2864. Master plans for major military installations

(a) PLANS REQUIRED.—(1) At a time interval prescribed by the Secretary concerned (but not less frequently than once every 10 years), the commander of each major military installation under the jurisdiction of the Secretary shall ensure that an installation master plan is developed to address environmental planning, sustainable design and development, sustainable range planning, real property master planning, military installation resilience, and transportation planning.

(2) To address the requirements under paragraph (1), each installation master plan shall include consideration of—

(A) planning for compact and infill development;

(B) horizontal and vertical mixed-use development;

(C) the full lifecycle costs of real property planning decisions;

(D) capacity planning through the establishment of growth boundaries around cantonment areas to focus development towards the core and preserve range and training space; and

[1] See Temporary Expansion of Authority for Use of One-Step Turn-Key Procedures for Repair Projects note below.

(E) energy and climate resiliency efforts and military installation resilience.

(3)(A) The commander of a major military installation shall develop and update the master plan for that major military installation in consultation with representatives of the government of the State in which the installation is located and representatives of local governments in the vicinity of the installation to improve cooperation and consistency between the Department of Defense and such governments in addressing each component of the master plan described in paragraph (1).

(B) The consultation required by subparagraph (A) is in addition to the consultation specifically required by subsection (b)(1) in connection with the transportation component of the master plan for a major military installation.

(b) TRANSPORTATION COMPONENT.—(1) The transportation component of the master plan for a major military installation shall be developed and updated in consultation with the metropolitan planning organization designated for the metropolitan planning area in which the military installation is located.

(2) To address the requirements under subsection (a) and paragraph (1), each installation master plan shall include consideration of ways to diversify and connect transit systems.

(c) MILITARY INSTALLATION RESILIENCE COMPONENT.—To address military installation resilience under subsection (a)(1), each installation master plan shall discuss the following:

(1) Risks and threats to military installation resilience that exist at the time of the development of the plan and that are projected for the future, including from extreme weather events, mean sea level fluctuation, wildfires, flooding, and other changes in environmental conditions.

(2) Assets or infrastructure located on the military installation vulnerable to the risks and threats described in paragraph (1), with a special emphasis on assets or infrastructure critical to the mission of the installation and the mission of members of the armed forces.

(3) Lessons learned from the impacts of extreme weather events, including changes made to the military installation to address such impacts, since the prior master plan developed under this section.

(4) Ongoing or planned infrastructure projects or other measures, as of the time of the development of the plan, to mitigate the impacts of the risks and threats described in paragraph (1).

(5) Community infrastructure and resources located outside the installation (such as medical facilities, transportation systems, and energy infrastructure) that are—

(A) necessary to maintain mission capability or that impact the resilience of the military installation; and

(B) vulnerable to the risks and threats described in paragraph (1).

(6) Agreements in effect or planned, as of the time of the development of the plan, with public or private entities for the purpose of maintaining or enhancing military installation resilience or resilience of the community infrastructure and resources described in paragraph (5).

(7) Extent of current coordination efforts and plans for additional coordination, as of the time of the development of the plan, with public or private entities for the purpose of maintaining or enhancing military installation resilience or resilience of the community infrastructure and resources described in paragraph (5).

(8) Projections from recognized governmental and scientific entities such as the Census Bureau, the National Academies of Sciences, the United States Geological Survey, and the United States Global Change Research Office (or any similar successor entities) with respect to future risks and threats (including the risks and threats described in paragraph (1)) to the resilience of any project considered in the installation master plan during the 50-year lifespan of the installation.

(d) REPORT.—Not later than March 1 of each year, the Secretary of Defense shall submit to the congressional defense committees a report listing all master plans completed pursuant to this section in the prior calendar year.

(e) SAVINGS CLAUSE.—Nothing in this section shall supersede the requirements of section 2859(a) of this title.

(f) DEFINITIONS.—In this section:

(1) The term ''major military installation'' has the meaning given to the term ''large site'' in the most recent version of the Department of Defense Base Structure Report issued before the time interval prescribed for development of installation master plans arises under subsection (a).

(2) The terms ''metropolitan planning area'' and ''metropolitan planning organization'' have the meanings given those terms in section 134(b) of title 23 and section 5303(b) of title 49.

(3) The term ''energy and climate resiliency'' means anticipation, preparation for, and adaptation to utility disruptions and changing environmental conditions and the ability to withstand, respond to, and recover rapidly from utility disruptions while ensuring the sustainment of mission-critical operations.

(4) The term ''military installation resilience'' has the meaning given that term in section 101(e)[1] of this title.

(Added Pub. L. 112–239, div. B, title XXVIII, § 2802(a), Jan. 2, 2013, 126 Stat. 2147; amended Pub. L. 113–66, div. B, title XXVIII, § 2811, Dec. 26, 2013, 127 Stat. 1013; Pub. L. 115–232, div. B, title XXVIII, § 2805(d), Aug. 13, 2018, 132 Stat. 2263; Pub. L. 116–92, div. B, title XXVIII, § 2801(a), Dec. 20, 2019, 133 Stat. 1879; Pub. L. 117–81, div. B, title XXVIII, §§ 2831, 2832, Dec. 27, 2021, 135 Stat. 2198; Pub. L. 118–31, div. A, title XVIII, § 1801(a)(23), Dec. 22, 2023, 137 Stat. 684.)

Editorial Notes

REFERENCES IN TEXT

Section 101(e) of this title, referred to in subsec. (f)(4), was redesignated section 101(f) of this title, and a new

[1] See References in Text note below.

subsec. (e) of section 101 was added, by Pub. L. 118–31, div. A, title XVII, §1713(a), Dec. 22, 2023, 137 Stat. 625.

PRIOR PROVISIONS

A prior section 2864, added Pub. L. 101–189, div. B, title XXVIII, §2807(a), Nov. 29, 1989, 103 Stat. 1648; amended Pub. L. 104–106, div. A, title X, §1062(g), Feb. 10, 1996, 110 Stat. 444, related to military construction contracts on Guam, prior to repeal by Pub. L. 109–364, div. B, title XXVIII, §2810(a), Oct. 17, 2006, 120 Stat. 2470.

AMENDMENTS

2023—Subsec. (f)(4), (6). Pub. L. 118–31 redesignated par. (6) as (4).

2021—Subsec. (a)(2)(E). Pub. L. 117–81, §2832(a), inserted ''and military installation resilience'' before period at end.

Subsec. (a)(3). Pub. L. 117–81, §2831, added par. (3).

Subsec. (c)(7), (8). Pub. L. 117–81, §2832(b), added par. (7) and redesignated former par. (7) as (8).

Subsec. (f)(6). Pub. L. 117–81, §2832(c), added par. (6).

2019—Subsec. (a)(1). Pub. L. 116–92, §2801(a)(1)(A), inserted ''military installation resilience,'' after ''master planning,''.

Subsec. (c). Pub. L. 116–92, §2801(a)(1)(C), added subsec. (c). Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 116–92, §2801(a)(2), added subsec. (d). Former subsec. (d) redesignated (f).

Subsecs. (e), (f). Pub. L. 116–92, §2801(a)(1)(B), redesignated subsecs. (c) and (d) as (e) and (f), respectively.

2018—Subsec. (a)(2)(E). Pub. L. 115–232, §2805(d)(1), added subpar. (E).

Subsec. (d)(3). Pub. L. 115–232, §2805(d)(2), added par. (3).

2013—Subsec. (a). Pub. L. 113–66, §2811(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 113–66, §2811(2), designated existing provisions as par. (1) and added par. (2).

Subsecs. (c), (d). Pub. L. 113–66, §2811(3), (4), added subsec. (c) and redesignated former subsec. (c) as (d).

Statutory Notes and Related Subsidiaries

INTERAGENCY REGIONAL COORDINATOR FOR RESILIENCE PILOT PROJECT

Pub. L. 117–263, div. B, title XXVIII, §2872, Dec. 23, 2022, 136 Stat. 3014, provided that:

''(a) PILOT PROJECT.—The Secretary of Defense shall carry out a pilot program under which the Secretary shall establish within the Department of Defense four Interagency Regional Coordinators. Each Interagency Regional Coordinator shall be responsible for improving the resilience of a community that supports a military installation and serving as a model for enhancing community resilience before disaster strikes.

''(b) SELECTION.—Each Interagency Regional Coordinator shall support military installations and surrounding communities within a geographic area, with at least one such Coordinator serving each of the East, West, and Gulf coasts. For purposes of the project, the Secretary shall select geographic areas—

''(1) with significant sea level rise and recurrent flooding that prevents members of the Armed Forces from reaching their posts or jeopardizes military readiness; and

''(2) where communities have collaborated on multi-jurisdictional climate adaptation planning efforts, including such collaboration with the Army Corps of Engineers Civil Works Department and through Joint Land Use Studies.

''(c) COLLABORATION.—In carrying out the pilot project, the Secretary shall build on existing efforts through collaboration with State and local entities, including emergency management, transportation, planning, housing, community development, natural resource managers, and governing bodies and with the heads of appropriate Federal departments and agencies.''

STRATEGIC DECISIONS RELATING TO MILITARY INSTALLATIONS; IMPLICATIONS OF MILITARY INSTALLATION RESILIENCE FOR STRATEGY; PLANS AND PLANNING DOCUMENTS; DEFINITIONS

Pub. L. 117–81, div. A, title III, §311(d)–(g), (j), Dec. 27, 2021, 135 Stat. 1626, 1627, provided that:

''(d) STRATEGIC DECISIONS RELATING TO MILITARY INSTALLATIONS.—The Secretary of each military department, with respect to any installation under the jurisdiction of that Secretary, and the Secretary of Defense, with respect to any installation of the Department of Defense that is not under the jurisdiction of the Secretary of a military department, shall consider the strategic risks associated with military installation resilience.

''(e) NATIONAL DEFENSE STRATEGY AND NATIONAL MILITARY STRATEGY.—The Secretary of Defense, in coordination with the heads of such other Federal agencies as the Secretary determines appropriate, shall incorporate the security implications of military installation resilience into the National Defense Strategy and the National Military Strategy.

''(f) NATIONAL SECURITY PLANNING DOCUMENTS.—The Secretary of Defense and the Chairman of the Joint Chiefs of Staff shall consider the security implications associated with military installation resilience in developing the Defense Planning Guidance under section 113(g)(2) of title 10, United States Code, the Risk Assessment of the Chairman of the Joint Chiefs of Staff under section 153(b)(2) of such title, and other relevant strategy, planning, and programming documents and processes.

''(g) CAMPAIGN PLANS OF COMBATANT COMMANDS.—The Secretary of Defense shall ensure that the national security implications associated with military installation resilience are integrated into the campaign plans of the combatant commands.

''(j) DEFINITIONS.—In this section [transferring section 118a of this title to section 118b of this title, amending sections 113, 153, and 2925 of this title, enacting provisions set out as notes under this section and section 2925 of this title, and amending provisions set out as a note under section 118b of this title]:

''(1) The term 'military installation resilience' has the meaning given that term in section 101(e) of title 10, United States Code [now 10 U.S.C. 101(f)].

''(2) The term 'National Defense Strategy' means the national defense strategy under section 113(g)(1) of such title.

''(3) The term 'National Military Strategy' means the national military strategy under section 153(b) of such title.''

PROMPT COMPLETION OF MILITARY INSTALLATION RESILIENCE COMPONENT OF MASTER PLANS FOR AT-RISK MAJOR MILITARY INSTALLATIONS

Pub. L. 117–81, div. B, title XXVIII, §2833, Dec. 27, 2021, 135 Stat. 2199, provided that:

''(a) IDENTIFICATION OF AT-RISK INSTALLATIONS.—Not later than 30 days after the date of the enactment of this Act [Dec. 27, 2021], each Secretary of a military department shall—

''(1) identify at least two major military installations under the jurisdiction of that Secretary that the Secretary considers at risk from extreme weather events; and

''(2) notify the Committees on Armed Services of the Senate and the House of Representatives of the major military installations identified under paragraph (1).

''(b) COMPLETION DEADLINE.—Not later than one year after the date of the enactment of this Act, each Secretary of a military department shall ensure that the military installation resilience component of the master plan for each major military installation identified by the Secretary under subsection (a) is completed.

''(c) BRIEFINGS.—Not later than 60 days after completion of a master plan component as required by subsection (b) for a major military installation, the Secretary of the military department concerned shall brief the Committees on Armed Services of the Senate and the House of Representatives regarding the results of the master plan efforts for that major military installation.

''(d) DEFINITIONS.—In this section:

''(1) The term 'major military installation' has the meaning given that term in section 2864(f) of title 10, United States Code.

''(2) The term 'master plan' means the master plan required by section 2864(a) of title 10, United States Code, for a major military installation.''

REMOVAL OF BARRIERS THAT DISCOURAGE INVESTMENTS TO INCREASE MILITARY INSTALLATION RESILIENCE

Pub. L. 116–92, div. A, title III, §327, Dec. 20, 2019, 133 Stat. 1311, provided that:

''(a) IN GENERAL.—The Secretary of Defense shall—

''(1) identify and seek to remove barriers that discourage investments to increase military installation resilience;

''(2) reform policies and programs that unintentionally increased the vulnerability of systems to related extreme weather events; and

''(3) develop, and update at least once every four years, an adaptation plan to assess how climate impacts affected the ability of the Department of Defense to accomplish its mission, and the short-and long- term actions the Department can take to ensure military installation resilience.

''(b) MILITARY INSTALLATION RESILIENCE.—In this section, the term 'military installation resilience' has the meaning given such term in section 101(e)(8) of title 10, United States Code [now 10 U.S.C. 101(f)(8)].''

INCORPORATION OF CHANGING ENVIRONMENTAL CONDITION PROJECTIONS IN MILITARY CONSTRUCTION DESIGNS AND MODIFICATIONS

Pub. L. 115–232, div. B, title XXVIII, §2805(c), Aug. 13, 2018, 132 Stat. 2262, as amended by Pub. L. 116–92, div. A, title XVII, §1731(b)(4), div. B, title XXVII, §2804(c), Dec. 20, 2019, 133 Stat. 1816, 1882, provided that:

''(1) FISCAL YEAR 2019.—Not later than 30 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall amend section 3–5.6.2.3 of Unified Facilities Criteria (UFC) 1-200-01 and UFC 1-200-02 (or any similar successor regulations) to provide that in order to anticipate changing environmental conditions during the design life of existing or planned new facilities and infrastructure, projections from reliable and authorized sources such as the Census Bureau (for population projections), the National Academies of Sciences (for land use change projections and climate projections), the U.S. Geological Survey (for land use change projections), and the U.S. Global Change Research Office and National Climate Assessment (for climate projections) shall be considered and incorporated into military construction designs and modifications.

''(2) FISCAL YEAR 2020.—

''(A) AMENDMENTS REQUIRED.—Not later than 30 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020 [Dec. 20, 2019], the Secretary of Defense shall amend the Unified Facilities Criteria as follows:

''(i) To require that installations of the Department of Defense assess the risks from extreme weather and related effects, and develop plans to address such risks.

''(ii) To require in the development of such Criteria the use of—

''(I) land use change projections through the use of land use and land cover modeling by the United States Geological Survey; and

''(II) weather projections—

''(aa) from the United States Global Change Research Program, including in the National Climate Assessment; or

''(bb) from the National Oceanic and Atmospheric Administration, if such projections are more up-to-date than projections under item (aa).

''(iii) To require the Secretary of Defense to provide guidance to project designers and master planners on how to use weather projections.

''(iv) To require the use throughout the Department of the Naval Facilities Engineering Command Climate Change Installation Adaptation and Resilience planning handbook, as amended (or similar publication of the Army Corps of Engineers).

''(B) NOTIFICATION.—If the Secretary of Defense determines that a projection other than a projection described in subparagraph (A)(ii) is more appropriate for use in amending the Unified Facilities Criteria, the Secretary shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of such determination, which shall include the rationale underlying such determination and a description of such other projection.''

[Section 1731(b)(4) of Pub. L. 116–92, which directed amendment of section 2805(c) of Pub. L. 115–232, set out above, by substituting ''Unified Facilities Criteria'' for ''United Facilities Criteria'', was not executed in light of the amendment by section 2804(c)(2) of Pub. L. 116–92, which substituted ''Unified Facilities Criteria (UFC) 1-200-01 and UFC 1-200-02'' for ''United Facilities Criteria (UFC) 2–100–01 and UFC 2–100–02''.]

§ 2865. Work in Process Curve charts and outlay tables for military construction projects

Along with the budget for each fiscal year submitted by the President pursuant to section 1105(a) of title 31, United States Code, the Secretary of Defense and the Secretaries of the military departments shall include for any military construction project over $90,000,000, as an addendum to be included within the same document as the 1391s for the Military Construction Program budget documentation, a Project Spending Plan that includes—

(1) a Work in Process Curve chart to identify funding, obligations, and outlay figures; and

(2) a monthly outlay table for funding, obligations, and outlay figures.

(Added Pub. L. 115–232, div. B, title XXVIII, §2806(a)(1), Aug. 13, 2018, 132 Stat. 2264.)

Editorial Notes

PRIOR PROVISIONS

A prior section 2865, added Pub. L. 101–510, div. B, title XXVIII, §2851(a), Nov. 5, 1990, 104 Stat. 1803; amended Pub. L. 102–484, div. B, title XXVIII, §2801, Oct. 23, 1992, 106 Stat. 2604; Pub. L. 103–160, div. B, title XXVIII, §2804, Nov. 30, 1993, 107 Stat. 1885; Pub. L. 103–337, div. A, title X, §1070(a)(14), Oct. 5, 1994, 108 Stat. 2856; Pub. L. 104–106, div. A, title XV, §1502(a)(27), div. B, title XXVIII, §2819, Feb. 10, 1996, 110 Stat. 506, 555; Pub. L. 105–85, div. A, title III, §371(d)(2), div. B, title XXVIII, §2804(a), Nov. 18, 1997, 111 Stat. 1706, 1990; Pub. L. 107–314, div. B, title XXVIII, §2805, Dec. 2, 2002, 116 Stat. 2705; Pub. L. 108–136, div. A, title X, §1031(a)(47), div. B, title XXVIII, §2812(a), Nov. 24, 2003, 117 Stat. 1602, 1725, related to energy savings at military installations, prior to repeal by Pub. L. 109–364, div. B, title XXVIII, §2851(a)(2), Oct. 17, 2006, 120 Stat. 2494.

Statutory Notes and Related Subsidiaries

DEPARTMENT OF DEFENSE GUIDANCE

Pub. L. 115–232, div. B, title XXVIII, §2806(b), Aug. 13, 2018, 132 Stat. 2264, provided that: ''The Secretary of Defense shall, in coordination with the Under Sec-

retary of Defense (Comptroller), update Department of Defense Financial Management Regulation 7000.14–R, and any other appropriate instructions and guidance, to ensure that the Department of Defense takes appropriate actions to comply with section 2865 of title 10, United States Code, as added by this section.''

§ 2866. Water conservation at military installations

(a) WATER CONSERVATION ACTIVITIES.—(1) The Secretary of Defense shall permit and encourage each military department, Defense Agency, and other instrumentality of the Department of Defense to participate in programs conducted by a utility for the management of water demand or for water conservation.

(2) The Secretary of Defense may authorize a military installation to accept a financial incentive (including an agreement to reduce the amount of a future water bill), goods, or services generally available from a utility, for the purpose of adopting technologies and practices that—

(A) relate to the management of water demand or to water conservation; and

(B) as determined by the Secretary, are cost effective for the Federal Government.

(3) Subject to paragraph (4), the Secretary of Defense may authorize the Secretary of a military department having jurisdiction over a military installation to enter into an agreement with a utility to design and implement a cost-effective program that provides incentives for the management of water demand and for water conservation and that addresses the requirements and circumstances of the installation. Activities under the program may include the provision of water management services, the alteration of a facility, and the installation and maintenance by the utility of a water-saving device or technology.

(4)(A) If an agreement under paragraph (3) provides for a utility to pay in advance the financing costs for the design or implementation of a program referred to in that paragraph and for such advance payment to be repaid by the United States, the cost of such advance payment may be recovered by the utility under terms that are not less favorable than the terms applicable to the most favored customer of the utility.

(B) Subject to the availability of appropriations, a repayment of an advance payment under subparagraph (A) shall be made from funds available to a military department for the purchase of utility services.

(C) An agreement under paragraph (3) shall provide that title to a water-saving device or technology installed at a military installation pursuant to the agreement shall vest in the United States. Such title may vest at such time during the term of the agreement, or upon expiration of the agreement, as determined to be in the best interests of the United States.

(b) USE OF FINANCIAL INCENTIVES AND WATER COST SAVINGS.—(1) Financial incentives received from utilities for management of water demand or water conservation under subsection (a)(2) shall be credited to an appropriation designated by the Secretary of Defense. Amounts so credited shall be merged with the appropriation to which credited and shall be available for the same purposes and the same period as the appropriation with which merged.

(2) Water cost savings realized under subsection (a)(3) shall be used as follows:

(A) One-half of the amount shall be used for water conservation activities at such buildings, facilities, or installations of the Department of Defense as may be designated (in accordance with regulations prescribed by the Secretary of Defense) by the head of the department, agency, or instrumentality that realized the water cost savings.

(B) One-half of the amount shall be used at the installation at which the savings were realized, as determined by the commanding officer of such installation consistent with applicable law and regulations, for—

(i) improvements to existing military family housing units;

(ii) any unspecified minor construction project that will enhance the quality of life of personnel; or

(iii) any morale, welfare, or recreation facility or service.

(c) WATER CONSERVATION CONSTRUCTION PROJECTS.—(1) The Secretary of Defense may carry out a military construction project for water conservation, not previously authorized, using funds appropriated or otherwise made available to the Secretary for water conservation.

(2) When a decision is made to carry out a project under paragraph (1), the Secretary of Defense shall notify the appropriate committees of Congress of that decision. Such project may be carried out only after the end of the 14-day period beginning on the date the notification is received by such committees in an electronic medium pursuant to section 480 of this title.

(Added Pub. L. 103–160, div. B, title XXVIII, § 2803(a), Nov. 30, 1993, 107 Stat. 1884; amended Pub. L. 104–106, div. A, title XV, § 1502(a)(27), Feb. 10, 1996, 110 Stat. 506; Pub. L. 105–85, div. B, title XXVIII, § 2804(b), Nov. 18, 1997, 111 Stat. 1991; Pub. L. 108–136, div. A, title X, § 1031(a)(48), Nov. 24, 2003, 117 Stat. 1602; Pub. L. 109–364, div. B, title XXVIII, § 2851(d), Oct. 17, 2006, 120 Stat. 2495; Pub. L. 113–291, div. A, title X, § 1071(f)(25), Dec. 19, 2014, 128 Stat. 3511; Pub. L. 115–91, div. A, title X, § 1051(a)(24), div. B, title XXVIII, § 2801(c)(5), Dec. 12, 2017, 131 Stat. 1562, 1844.)

Editorial Notes

AMENDMENTS

2017—Subsec. (b)(3). Pub. L. 115–91, § 1051(a)(24), struck out par. (3) which read as follows: ''The Secretary of Defense shall include in the budget material submitted to Congress in connection with the submission of the budget for a fiscal year pursuant to section 1105 of title 31 a separate statement of the amounts available for obligation under this subsection in that fiscal year.''

Subsec. (c)(2). Pub. L. 115–91, § 2801(c)(5), substituted ''14-day period'' for ''21-day period'' and struck out ''or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided'' after ''received by such committees''.

2014—Subsec. (a)(4)(A). Pub. L. 113–291 substituted ''repaid'' for ''repayed''.

2006—Subsec. (b). Pub. L. 109–364 reenacted heading without change and amended text generally. Prior to amendment, text read as follows:

''(1) Financial incentives received under subsection (a)(2) shall be used as provided in section 2865(b)(3) of this title.

''(2) Water cost savings realized under subsection (a)(3) shall be used as provided in section 2865(b)(2) of this title.''

2003—Subsec. (c)(2). Pub. L. 108–136 inserted before period at end ''or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title''.

1997—Subsec. (b). Pub. L. 105–85 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

''(b) USE OF WATER COST SAVINGS.—Water cost savings realized under this section shall be used as provided in section 2865(b)(2) of this title.''

1996—Subsec. (c)(2). Pub. L. 104–106 substituted ''appropriate committees of Congress'' for ''Committees on Armed Services and Appropriations of the Senate and House of Representatives''.

Statutory Notes and Related Subsidiaries

IMPROVING WATER MANAGEMENT AND SECURITY ON MILITARY INSTALLATIONS

Pub. L. 116–283, div. B, title XXVIII, §2827, Jan. 1, 2021, 134 Stat. 4336, provided that:

''(a) RISK-BASED APPROACH TO INSTALLATION WATER MANAGEMENT AND SECURITY.—

''(1) GENERAL REQUIREMENT.—The Secretary concerned shall adopt a risk-based approach to water management and security for each military installation under the jurisdiction of the Secretary.

''(2) IMPLEMENTATION PRIORITIES.—The Secretary concerned shall begin implementation of paragraph (1) by prioritizing those military installations under the jurisdiction of the Secretary that the Secretary determines—

''(A) are experiencing the greatest risks to sustainable water management and security; and

''(B) face the most severe existing or potential adverse impacts to mission assurance as a result of such risks.

''(3) DETERMINATION METHOD.—Determinations under paragraph (2) shall be made on the basis of the water management and security assessments made by the Secretary concerned under subsection (b).

''(b) WATER MANAGEMENT AND SECURITY ASSESSMENTS.—

''(1) ASSESSMENT METHODOLOGY.—The Secretaries concerned, acting jointly, shall develop a methodology to assess risks to sustainable water management and security and mission assurance.

''(2) ELEMENTS.—Required elements of the assessment methodology shall include the following:

''(A) An evaluation of the water sources and supply connections for a military installation, including water flow rate and extent of competition for the water sources.

''(B) An evaluation of the age, condition, and jurisdictional control of water infrastructure serving the military installation.

''(C) An evaluation of the military installation's water-security risks related to drought-prone climates, impacts of defense water usage on regional water demands, water quality, and legal issues, such as water rights disputes.

''(D) An evaluation of the resiliency of the military installation's water supply and the overall health of the aquifer basin of which the water supply is a part, including the robustness of the resource, redundancy, and ability to recover from disruption.

''(E) An evaluation of existing water metering and consumption at the military installation, considered at a minimum—

''(i) by type of installation activity, such as training, maintenance, medical, housing, and grounds maintenance and landscaping; and

''(ii) by fluctuations in consumption, including peak consumption by quarter.

''(c) EVALUATION OF INSTALLATIONS FOR POTENTIAL NET ZERO WATER USAGE.—

''(1) EVALUATION REQUIRED.—The Secretary concerned shall conduct an evaluation of each military installation under the jurisdiction of the Secretary to determine the potential for the military installation, or at a minimum certain installation activities, to achieve net zero water usage.

''(2) ELEMENTS.—Required elements of each evaluation shall include the following:

''(A) An evaluation of alternative water sources to offset use of freshwater, including water recycling and harvested rainwater for use as non-potable water.

''(B) An evaluation of the feasibility of implementing Department of Energy guidelines for net zero water usage, when practicable, to minimize water consumption and wastewater discharge in buildings scheduled for renovation.

''(C) An evaluation of the practicality of implementing net zero water usage technology into new construction in water-constrained areas, as determined by water management and security assessments conducted under subsection (b).

''(d) IMPROVED LANDSCAPING MANAGEMENT PRACTICES.—

''(1) LANDSCAPING MANAGEMENT.—The Secretary concerned shall implement, to the maximum extent practicable, at each military installation under the jurisdiction of the Secretary landscaping management practices to increase water resilience and ensure greater quantities of water availability for operational, training, and maintenance requirements.

''(2) ARID OR SEMI-ARID CLIMATES.—For military installations located in arid or semi-arid climates, landscaping management practices shall include the use of xeriscaping.

''(3) NON-ARID CLIMATES.—For military installations located in non-arid climates, landscaping management practices shall include the use of plants common to the region in which the installation is located and native grasses and plants.

''(4) POLLINATOR CONSERVATION REFERENCE GUIDE.—The Secretary concerned shall follow the recommendations of the Department of Defense Pollinator Conservation Reference Guide (September 2018) to the maximum extent practicable in order to reduce operation and maintenance costs related to landscaping management, while improving area management. Consistent with such guide, in the preparation of a military installation landscaping plan, the Secretary concerned should consider the following:

''(A) Adding native flowering plants to sunny open areas and removing overhanging tree limbs above open patches within forested areas or dense shrub.

''(B) Removing or controlling invasive plants to improve pollinator habitat.

''(C) Preserving known and potential pollinator nesting and overwintering sites.

''(D) Eliminating or minimizing pesticide use in pollinator habitat areas.

''(E) Mowing in late fall or winter after plants have bloomed and set seed, adjusting timing to avoid vulnerable life stages of special status pollinators.

''(F) Mowing mid-day when adult pollinators can avoid mowing equipment.

''(e) IMPLEMENTATION REPORT.—

''(1) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense, in coordination with the other Secretaries concerned, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the progress made in implementing this section.

''(2) REPORT ELEMENTS.—The report shall include the following:

''(A) The methodology developed under subsection (b) to conduct water management and security assessments.

''(B) A list of the military installations that have been assessed using such methodology and a description of the findings.

''(C) A list of planned assessments for the one-year period beginning on the date of the submission of the report.

''(D) An evaluation of the progress made on implementation of xeriscaping and other regionally appropriate landscaping practices at military installations.

''(f) DEFINITIONS.—In this section:

''(1) The term 'net zero water usage', with respect to a military installation or installation activity, means a situation in which the combination of limitations on the consumption of water resources and the return of water to an original water source by the installation or activity is sufficient to prevent any reduction in the water resources of the area in both quantity and quality over a reasonable period of time.

''(2) The terms 'Secretary concerned' and 'Secretary' mean the Secretary of a military department and the Secretary of Defense with respect to the Pentagon Reservation.

''(3) The term 'xeriscaping' means landscape design that emphasizes low water use and drought-tolerant plants that require little or no supplemental irrigation.''

ESTABLISHMENT OF TARGETS FOR WATER USE

Pub. L. 116–92, div. A, title III, § 319(c), Dec. 20, 2019, 133 Stat. 1306, provided that: ''The Secretary of Defense shall, where life-cycle cost-effective, improve water use efficiency and management by the Department of Defense, including storm water management, by—

''(1) installing water meters and collecting and using water balance data of buildings and facilities to improve water conservation and management;

''(2) reducing industrial, landscaping, and agricultural water consumption in gallons by two percent annually through fiscal year 2030 relative to a baseline of such consumption by the Department in fiscal year 2010; and

''(3) installing appropriate sustainable infrastructure features on installations of the Department to help with storm water and wastewater management.''

§ 2867. Energy monitoring and utility control system specification for military construction and military family housing activities

(a) ADOPTION OF DEPARTMENT-WIDE, OPEN PROTOCOL, ENERGY MONITORING AND UTILITY CONTROL SYSTEM SPECIFICATION.—(1) The Secretary of Defense shall adopt an open protocol energy monitoring and utility control system specification for use throughout the Department of Defense in connection with a military construction project, military family housing activity, or other activity under this chapter for the purpose of monitoring and controlling, with respect to the project or activity, the items specified in paragraph (2) with the goal of establishing installation-wide energy monitoring and utility control systems.

(2) The energy monitoring and utility control system specification required by paragraph (1) shall cover the following:

(A) Utilities and energy usage, including electricity, gas, steam, and water usage.

(B) Indoor environments, including temperature and humidity levels.

(C) Heating, ventilation, and cooling components.

(D) Central plant equipment.

(E) Renewable energy generation systems.

(F) Lighting systems.

(G) Power distribution networks.

(b) EXCLUSION.—(1) The energy monitoring and utility control system specification required by subsection (a) is not required to apply to projects carried out under the authority provided in subchapter IV of chapter 169 of this title.

(2) The Secretary concerned may waive the application of the energy monitoring and utility control system specification required by subsection (a) with respect to a specific military construction project, military family housing activity, or other activity under this chapter if the Secretary determines that the application of the specification to the project or activity is not life cycle cost-effective. The Secretary concerned shall notify the congressional defense committees of any waiver granted under this paragraph.

(Added Pub. L. 111–84, div. B, title XXVIII, § 2841(a)(1), Oct. 28, 2009, 123 Stat. 2679.)

Editorial Notes

PRIOR PROVISIONS

A prior section 2867 was renumbered section 2916 of this title.

Statutory Notes and Related Subsidiaries

SUSPENSION OF RESIDENT ENERGY CONSERVATION PROGRAM AND RELATED PROGRAMS FOR PRIVATIZED MILITARY HOUSING

Pub. L. 116–92, div. B, title XXX, § 3063, Dec. 20, 2019, 133 Stat. 1947, as amended by Pub. L. 116–283, div. B, title XXVIII, § 2811(j), Jan. 1, 2021, 134 Stat. 4326, provided that:

''(a) SUSPENSION REQUIRED.—The Secretary of Defense shall suspend the initiative of the Department of Defense known as the Resident Energy Conservation Program and instruct the Secretary of each military department to suspend any program carried out by such Secretary that measures the energy usage for individual units of privatized military housing on installations of the Department of Defense.

''(b) TERM OF SUSPENSION.—Subject to subsection (c), the suspension required by subsection (a) shall remain in effect for an installation of the Department of Defense until the Secretary of Defense certifies to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that 100 percent of the privatized military housing covered by a program suspended under subsection (a) on the installation is individually metered to each respective unit of privatized military housing and the meter accurately measures the energy usage of the unit.

''(c) TERMINATION.—If the Secretary of Defense is unable to make the certification required by subsection (b) for an installation of the Department of Defense before the end of the two-year period beginning on the date of the enactment of this Act [Dec. 20, 2019], each program suspended pursuant to subsection (a) at that installation shall terminate at the end of such period.''

[For definition of ''privatized military housing'' as used in section 3063 of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

DEADLINE FOR ADOPTION

Pub. L. 111–84, div. B, title XXVIII, § 2841(a)(3), Oct. 28, 2009, 123 Stat. 2680, provided that: ''The Secretary of

Defense shall adopt the open protocol energy monitoring and utility control system specification required by section 2867 of title 10, United States Code, as added by paragraph (1), not later than 180 days after the date of the enactment of this Act [Oct. 28, 2009].''

§ 2868. Utility services: furnishing for certain buildings

Appropriations for the Department of Defense may be used for utility services for buildings constructed at private cost, as authorized by law.

(Added Pub. L. 100–370, § 1(j)(1), July 19, 1988, 102 Stat. 848, § 2490; renumbered § 2868, Pub. L. 105–85, div. A, title III, § 371(b)(2), Nov. 18, 1997, 111 Stat. 1705; amended Pub. L. 108–375, div. A, title VI, § 651(e)(2), Oct. 28, 2004, 118 Stat. 1972.)

HISTORICAL AND REVISION NOTES

Section is based on Pub. L. 99–190, § 101(b) [title VIII, § 8006(b)], Dec. 19, 1985, 99 Stat. 1185.

In two instances, the source section for provisions to be codified provides that defense appropriations may be used for ''welfare and recreation'' or ''welfare and recreational'' purposes. (Section 735 of Public Law 98–212 and section 8006(b) of Public Law 99–190, to be codified as 10 U.S.C. 2241(a)(1) and 2490(2), respectively). The committee added the term ''morale'' in both of these two instances to conform to the usual ''MWR'' usage for morale, welfare, and recreation activities.

Editorial Notes

AMENDMENTS

2004—Pub. L. 108–375 substituted ''for buildings constructed at private cost, as authorized by law.'' for ''for—

''(1) buildings constructed at private cost, as authorized by law; and

''(2) buildings on military reservations authorized by regulation to be used for morale, welfare, and recreational purposes.''

1997—Pub. L. 105–85 renumbered section 2490 of this title as this section.

§ 2869. Exchange of property at military installations

(a) EXCHANGE AUTHORIZED.—(1) The Secretary concerned may enter into an agreement to convey real property, including any improvements thereon, described in paragraph (2) to any person who agrees, in exchange for the real property, to transfer to the United States all right, title, and interest of the person in and to a parcel of real property, including any improvements thereon under the person's control, or to carry out a land acquisition, including the acquisition of all right, title, and interest or a lesser interest in real property under an agreement entered into under section 2684a of this title to limit encroachments and other constraints on military training, testing, and operations.

(2) Paragraph (1) applies with respect to real property under the jurisdiction of the Secretary concerned—

(A) that is located on a military installation that is closed or realigned under a base closure law; or

(B) that is located on a military installation not covered by subparagraph (A) and for which the Secretary concerned makes a determination that the conveyance under paragraph (1) is advantageous to the United States.

(3)(A) The Secretary of Defense shall establish a pilot program under which the Secretary concerned, during the term of the pilot program, may use the authority provided by paragraph (1) to also convey real property, including any improvements thereon, described in paragraph (2) to any person who agrees, in exchange for the real property, to provide—

(i) installation-support services (as defined in section 2679(f) of this title); or

(ii) a new facility or improvements to an existing facility.

(B) The acquisition of a facility or improvements to an existing facility using the authority provided by subparagraph (A) shall not be treated as a military construction project for which an authorization is required by section 2802 of this title.

(C) The expanded conveyance authority provided by subparagraph (A) applies only during the eight-year period beginning on the date on which the Secretary of Defense issues guidance regarding the use by the Secretaries concerned of such authority.

(b) CONDITIONS ON CONVEYANCE AUTHORITY.—(1) The fair market value of the real property, installation-support services, or facility or improvements to an existing facility obtained by the Secretary concerned under subsection (a) in exchange for the conveyance of real property by the Secretary under such subsection shall be at least equal to the fair market value of the conveyed real property, as determined by the Secretary. If the fair market value of the real property conveyed by the Secretary concerned exceeds the fair market value of the real property, installation-support services, or facility or improvements received by the Secretary, the recipient of the property shall pay to the United States an amount equal to the difference in the fair market values.

(2) In the case of a conveyance of real property to a political subdivision of a State, the value of the real property to be conveyed by the Secretary concerned under subsection (a) may exceed the fair market value of the land to be obtained, as determined under paragraph (1), by an amount not to exceed the reduction in value of the land which is attributable to voluntary zoning actions taken by such political subdivision to limit encroachment on a military installation, but only if the notice required by subsection (d)(2) contains—

(A) a certification by the Secretary concerned that the military value to the United States of the land to be acquired justifies a payment in excess of the fair market value; and

(B) a description of the military value to be obtained.

(3) The Secretary concerned may agree to accept a facility or improvements to an existing facility under subsection (a)(3) only if the Secretary concerned determines that the facility or improvements—

(A) are completed and usable, fully functional, and ready for occupancy;

(B) satisfy all operational requirements; and

(C) meet all Federal, State, and local requirements applicable to the facility relating to health, safety, and the environment.

(c) LIMITATION ON USE OF CONVEYANCE AUTHORITY AT INSTALLATIONS CLOSED UNDER BASE CLOSURE LAWS.—The authority under subsection (a)(2)(A) to convey property located on a military installation may only be used to the extent the conveyance is consistent with an approved redevelopment plan for such installation.

(d) ADVANCE NOTICE OF USE OF AUTHORITY.—(1) Notice of the proposed use of the conveyance authority provided by subsection (a) shall be provided in such manner as the Secretary of Defense may prescribe, including publication in the Federal Register and otherwise. When real property located at a military installation is proposed for conveyance by means of a public sale, the Secretary concerned may notify prospective purchasers that consideration for the property may be provided in the manner authorized by such subsection.

(2) The Secretary concerned may not enter into an agreement under subsection (a) for the conveyance of real property until—

(A) the Secretary submits to Congress notice of the conveyance, including—

(i) a description of the real property to be conveyed by the Secretary under the agreement;

(ii) a description of the land acquisition to be carried out under the agreement in exchange for the conveyance of the property; and

(iii) the amount of any payment to be made under subsection (b) or under section 2684a(d)[1] of this title to equalize the fair market values of the property to be conveyed and the land acquisition to be carried out under the agreement in exchange for the conveyance of the property; and

(B) the waiting period applicable to that notice under paragraph (3) expires.

(3) If the notice submitted under paragraph (2) deals with the conveyance of real property located on a military installation that is closed or realigned under a base closure law or the conveyance of real property under an agreement entered into under section 2684a of this title, the Secretary concerned may enter into the agreement under subsection (a) for the conveyance of the property after the end of the 14-day period beginning on the date of the submission of the notice in an electronic medium pursuant to section 480 of this title. In the case of other real property to be conveyed under subsection (a), the Secretary concerned may enter into the agreement only after the end of the 45-day period beginning on the date of the submission of the notice in an electronic medium pursuant to section 480 of this title.

(e) DEPOSIT AND USE OF FUNDS.—The Secretary concerned shall deposit funds received under subsection (b) in the appropriation ''Foreign Currency Fluctuations, Construction, Defense''. The funds deposited shall be available, in such amounts as provided in appropriation Acts, for the purpose of paying increased costs of overseas military construction and family housing construction or improvement associated with unfavorable fluctuations in currency exchange rates. The use of such funds for this purpose does not relieve the Secretary concerned from the duty to provide advance notice to Congress under section 2853(c) of this title whenever the Secretary approves an increase in the cost of an overseas project under such section.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of real property conveyed under subsection (a) shall be determined by surveys satisfactory to the Secretary concerned.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary concerned may require such additional terms and conditions in connection with a conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(Added Pub. L. 108–136, div. B, title XXVIII, § 2805(a)(1), Nov. 24, 2003, 117 Stat. 1719; amended Pub. L. 109–364, div. B, title XXVIII, § 2811(a)–(f)(1), Oct. 17, 2006, 120 Stat. 2471–2473; Pub. L. 111–84, div. B, title XXVIII, § 2804(a)–(d)(1), Oct. 28, 2009, 123 Stat. 2661, 2662; Pub. L. 112–81, div. B, title XXVIII, § 2815(a), (b), Dec. 31, 2011, 125 Stat. 1688, 1689; Pub. L. 112–239, div. B, title XXVIII, § 2811, Jan. 2, 2013, 126 Stat. 2150; Pub. L. 115–91, div. B, title XXVIII, §§ 2801(c)(6), 2815, 2816, Dec. 12, 2017, 131 Stat. 1844, 1850; Pub. L. 116–283, div. B, title XXVIII, § 2862(a), (b), Jan. 1, 2021, 134 Stat. 4357; Pub. L. 118–159, div. B, title XXVIII, § 2851, Dec. 23, 2024, 138 Stat. 2269.)

REFERENCES IN TEXT

Section 2684a(d) of this title, referred to in subsec. (d)(2)(A)(iii), was redesignated section 2684a(e) of this title by Pub. L. 118–31, div. A, title III, § 314(1), Dec. 22, 2023, 137 Stat. 216.

Editorial Notes

AMENDMENTS

2024—Subsec. (a)(3)(A)(i). Pub. L. 118–159, § 2851(b), substituted ''section 2679(f)'' for ''2679(e)''.

Subsec. (a)(3)(C). Pub. L. 118–159, § 2851(a), substituted ''eight-year period'' for ''five-year period''.

2021—Subsec. (a)(3). Pub. L. 116–283, § 2862(a), added par. (3).

Subsec. (b)(1). Pub. L. 116–283, § 2862(b)(1), substituted ''of the real property, installation-support services, or facility or improvements to an existing facility'' for ''of the land to be'' and ''of the real property conveyed by the Secretary concerned exceeds the fair market value of the real property, installation-support services, or facility or improvements received by the Secretary'' for ''of the land is less than the fair market value of the real property to be conveyed''.

Subsec. (b)(3). Pub. L. 116–283, § 2862(b)(2), added par. (3).

2017—Subsec. (a)(2). Pub. L. 115–91, § 2815, amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''Paragraph (1) applies with respect to real property under the jurisdiction of the Secretary concerned that—

''(A) is located on a military installation that is closed or realigned under a base closure law; or

''(B) is located on a military installation not covered by subparagraph (A) and is determined to be excess to the needs of the Department of Defense.''

Subsec. (b). Pub. L. 115–91, § 2816, amended subsec. (b) generally. Prior to amendment, text read as follows: ''The fair market value of the land to be obtained by the Secretary concerned under subsection (a) in exchange for the conveyance of real property by the Secretary under such subsection shall be at least equal to

[1] See References in Text note below.

the fair market value of the conveyed real property, as determined by the Secretary. If the fair market value of the land is less than the fair market value of the real property to be conveyed, the recipient of the property shall pay to the United States an amount equal to the difference in the fair market values.''

Subsec. (d)(3). Pub. L. 115–91, §2801(c)(6), substituted ''after the end of the 14-day period beginning on the date of the submission of the notice in an electronic medium pursuant to section 480 of this title.'' for ''after a period of 21 days has elapsed from the date of receipt of the notice or, if over sooner, a period of 14 days has elapsed from the date on which a copy of the notice is provided in an electronic medium pursuant to section 480 of this title.'' and ''only after the end of the 45-day period beginning on the date of the submission of the notice in an electronic medium pursuant to section 480 of this title.'' for ''only after a period of 60 days has elapsed from the date of receipt of the notice or, if over sooner, a period of 45 days has elapsed from the date on which the electronic copy is provided.''

2013—Subsec. (a)(1). Pub. L. 112–239 substituted ''any person'' for ''any eligible entity'', ''the person'' for ''the entity'', and ''the person's control'' for ''their control''.

2011—Pub. L. 112–81, §2815(a)(1), substituted ''Exchange of property at military installations'' for ''Conveyance of property at military installations to limit encroachment'' in section catchline.

Subsec. (a). Pub. L. 112–81, §2815(a)(2)(A), substituted ''Exchange Authorized'' for ''Conveyance Authorized; Consideration'' in heading.

Subsec. (a)(1). Pub. L. 112–81, §2815(a)(2)(B), substituted ''to any eligible entity who agrees, in exchange for the real property, to transfer to the United States all right, title, and interest of the entity in and to a parcel of real property, including any improvements thereon under their control, or to carry out a land acquisition'' for ''to any person who agrees, in exchange for the real property, to carry out a land acquisition''.

Subsecs. (f) to (h). Pub. L. 112–81, §2815(b), redesignated subsecs. (g) and (h) as (f) and (g), respectively, and struck out former subsec. (f), which provided that authority to enter into an agreement under this section would expire on September 30, 2013.

2009—Pub. L. 111–84, §2804(d)(1), amended section catchline generally. Prior to amendment, catchline read as follows: ''Conveyance of property at military installations to support military construction or limit encroachment''.

Subsec. (a)(1). Pub. L. 111–84, §2804(a)(1)(A), struck out subpar. (A) designation before ''to carry out'', substituted ''real property,'' for ''real property—'', '' to carry out a land acquisition'' for ''to carry out a military construction project or land acquisition'', and a period for ''; or'', and struck out subpar. (B) which read as follows: ''to transfer to the Secretary concerned housing that is constructed or provided by the person and located at or near a military installation at which there is a shortage of suitable military family housing, military unaccompanied housing, or both.''

Subsec. (a)(3). Pub. L. 111–84, §2804(a)(1)(B), struck out par. (3) which read as follows: ''Subparagraph (B) of paragraph (2) shall apply only during the period beginning on the date of the enactment of the John Warner National Defense Authorization Act for Fiscal Year 2007 and ending on September 30, 2008. Any conveyance of real property described in such subparagraph for which the Secretary concerned has provided the advance public notice required by subsection (d)(1) before the expiration date may be completed after that date.''

Subsec. (b). Pub. L. 111–84, §2804(a)(2), substituted ''fair market value of the land'' for ''fair market value of the military construction, military family housing, or military unaccompanied housing'' in two places.

Subsec. (c). Pub. L. 111–84, §2804(a)(3), added subsec. (c) and struck out former subsec. (c) which related to pilot program for use of conveyance authority.

Subsec. (d)(2)(A)(ii), (iii). Pub. L. 111–84, §2804(a)(4), substituted ''land acquisition'' for ''military construction project, land acquisition, military family housing, or military unaccompanied housing''.

Subsec. (e). Pub. L. 111–84, §2804(b), designated par. (3) as entire subsec., substituted ''The Secretary concerned shall deposit funds received under subsection (b) in the appropriation 'Foreign Currency Fluctuations, Construction, Defense'. The funds deposited shall be available'' for ''The funds deposited under paragraph (2) shall be available'', and struck out pars. (1) and (2), which read as follows:

''(1) Except as provided in paragraph (2), the Secretary concerned may deposit funds received under subsection (b) in the Department of Defense housing funds established under section 2883(a) of this title.

''(2) During the period specified in paragraph (3) of subsection (a), the Secretary concerned shall deposit funds received under subsection (b) in the appropriation 'Foreign Currency Fluctuations, Construction, Defense'.''

Subsec. (f). Pub. L. 111–84, §2804(c), amended subsec. (f) generally. Prior to amendment, subsec. (f) related to annual reports on conveyances and effect of failure to submit report.

2006—Pub. L. 109–364, §2811(f)(1), substituted ''to support military construction or limit encroachment'' for ''closed or realigned to support military construction'' in section catchline.

Subsec. (a). Pub. L. 109–364, §2811(a), (b), designated existing provisions as par. (1), in introductory provisions substituted ''described in paragraph (2)'' for ''located on a military installation that is closed or realigned under a base closure law'', redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, in subpar. (A) substituted ''land acquisition, including the acquisition of all right, title, and interest or a lesser interest in real property under an agreement entered into under section 2684a of this title to limit encroachments and other constraints on military training, testing, and operations'' for ''land acquisition'', and added pars. (2) and (3).

Subsec. (d)(1). Pub. L. 109–364, §2811(c)(1), substituted ''is proposed for conveyance'' for ''closed or realigned under the base closure laws is to be conveyed''.

Subsec. (d)(2), (3). Pub. L. 109–364, §2811(c)(2), added pars. (2) and (3) and struck out former par. (2) which read as follows: ''The Secretary concerned may not enter into an agreement under subsection (a) for the conveyance of real property until—

''(A) the Secretary submits to Congress notice of the conveyance, including the military construction activities, military family housing, or military unaccompanied housing to be obtained in exchange for the conveyance; and

''(B) a period of 14 days expires beginning on the date on which the notice is submitted.''

Subsec. (e). Pub. L. 109–364, §2811(d), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: ''The Secretary concerned may deposit funds received under subsection (b) in the Department of Defense housing funds established under section 2883(a) of this title.''

Subsec. (f). Pub. L. 109–364, §2811(e), in heading substituted ''Annual Reports; Effect of Failure to Submit'' for ''Annual Report'', designated existing provisions as par. (1), in introductory provisions substituted ''Not later than March 15 of each year, the Secretary of Defense shall submit to Congress a report detailing the following:'' for ''In the budget materials submitted to Congress in connection with the submission of the budget for a fiscal year pursuant to section 1105 of title 31, the Secretary of Defense shall include a report detailing the following:'', redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, in subpar. (C) inserted ''and of excess real property at military installations'' before period at end, and added par. (2).

Statutory Notes and Related Subsidiaries

ISSUANCE OF GUIDANCE

Pub. L. 116–283, div. B, title XXVIII, §2862(c), Jan. 1, 2021, 134 Stat. 4358, provided that: ''Not later than 180

days after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall issue guidance providing for the implementation of the pilot program required by section 2869(a)(3) of title 10, United States Code, as added by this section.''

[§ 2870. Repealed. Pub. L. 116–283, div. A, title VIII, § 818(a), Jan. 1, 2021, 134 Stat. 3751]

Section, added Pub. L. 116–92, div. A, title VIII, § 865(a)(1), Dec. 20, 2019, 133 Stat. 1523, related to use of qualified apprentices by military construction contractors.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. A, title VIII, § 865(b), Dec. 20, 2019, 133 Stat. 1524, which provided that the amendments made by section 865 of Pub. L. 116–92 (enacting this section) would apply with respect to contracts awarded on or after 180 days after Dec. 20, 2019, was repealed by Pub. L. 116–283, div. A, title VIII, § 818(b)(2), Jan. 1, 2021, 134 Stat. 3751.

SUBCHAPTER IV—ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING

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Editorial Notes

AMENDMENTS

2021—Pub. L. 117–81, div. B, § 2003(b), title XXVIII, § 2812(a), Dec. 27, 2021, 135 Stat. 2162, 2191, renumbered item 2879 as 2857 and transferred it to appear after item 2856 in analysis under subchapter III of this chapter.

2019—Pub. L. 116–92, div. B, title XXX, §§ 3014(d)(2), 3033(b), Dec. 20, 2019, 133 Stat. 1926, 1936, added item 2872b and struck out item 2886 ''Prohibiting collection of amounts in addition to rent from members assigned to units''.

2018—Pub. L. 115–232, div. A, title X, § 1081(c)(5), Aug. 13, 2018, 132 Stat. 1985, made technical amendment to directory language of Pub. L. 115–91, § 2817(a)(2), effective as of Dec. 12, 2017, and as if included in Pub. L. 115–91 as enacted. See 2017 Amendment note below.

2017—Pub. L. 115–91, div. B, title XXVIII, § 2817(a)(2), Dec. 12, 2017, 131 Stat. 1852, as amended by Pub. L. 115–232, div. A, title X, § 1081(c)(5), Aug. 13, 2018, 132 Stat. 1985, added item 2879.

Pub. L. 115–91, div. A, title VI, § 602(b), Dec. 12, 2017, 131 Stat. 1418, added item 2886.

2008—Pub. L. 110–417, div. B, title XXVIII, § 2805(a)(2), (e)(2), Oct. 14, 2008, 122 Stat. 4722, 4724, added items 2882 and 2885 and struck out former item 2882 ''Assignment of members of the armed forces to housing units''.

2004—Pub. L. 108–375, div. B, title XXVIII, § 2805(b)(2), Oct. 28, 2004, 118 Stat. 2122, struck out item 2885 ''Expiration of authority''.

2002—Pub. L. 107–314, div. B, title XXVIII, §§ 2802(b)(3), (c)(2), 2803(a)(2), Dec. 2, 2002, 116 Stat. 2703, 2705, struck out ''to be constructed'' after ''Leasing of housing'' in item 2874, struck out item 2879 ''Interim leases'', and added item 2881a.

2001—Pub. L. 107–107, div. B, title XXVIII, § 2804(b), Dec. 28, 2001, 115 Stat. 1306, added item 2883a.

2000—Pub. L. 106–398, § 1 [div. B, title XXVIII, § 2805(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–415, added item 2872a.

1999—Pub. L. 106–65, div. B, title XXVIII, § 2803(h)(2), Oct. 5, 1999, 113 Stat. 849, added item 2875 and struck out former item 2875 ''Investments in nongovernmental entities''.

§ 2871. Definitions

In this subchapter and subchapter V of this chapter:

(1) The term ''ancillary supporting facilities'' means facilities related to housing units, including facilities to provide or support elementary or secondary education, child care centers, day care centers, child development centers, tot lots, community centers, housing offices, dining facilities, unit offices, and other similar facilities for the support of military housing.

(2) The term ''child development center'' includes a facility, and the utilities to support such facility, the function of which is to support the daily care of children aged six weeks old through five years old for full-day, part-day, and hourly service.

(3) The term ''construction'' means the construction of housing units and ancillary supporting facilities or the improvement or rehabilitation of existing units or ancillary supporting facilities.

(4) The term ''contract'' includes any contract, lease, or other agreement entered into under the authority of this subchapter. The fact that an agreement between an eligible entity and the Secretary concerned is designated as an agreement rather than a contract shall not be construed to exclude the agreement from the term ''contract'' for purposes of this subchapter and subchapter V.

(5) The term ''eligible entity'' means any private person, corporation, firm, partnership, company, State or local government, or housing authority of a State or local government that is prepared to enter into a contract as a partner with the Secretary concerned for the construction of housing units and ancillary supporting facilities.

(6) The term ''Fund'' means the Department of Defense Family Housing Improvement Fund or the Department of Defense Military Unaccompanied Housing Improvement Fund established under section 2883(a) of this title.

(7) The term ''housing document'' means a document developed by the Secretary of Defense under section 2890 of this title and known as the Military Housing Privatization

Initiative Tenant Bill of Rights or the Military Housing Privatization Initiative Tenant Responsibilities.

(8) The term ''housing unit'' means a unit of family housing or military unaccompanied housing acquired or constructed under this subchapter.

(9) The term ''incentive fees'' means any amounts payable to a landlord for meeting or exceeding performance metrics as specified in a contract with the Department of Defense.

(10) The term ''landlord'' means an eligible entity that enters into, or has entered into, a contract as a partner with the Secretary concerned for the acquisition or construction of a housing unit under this subchapter. The term includes any agent of the eligible entity or any subsequent lessor who owns, manages, or is otherwise responsible for a housing unit. The term does not include an entity of the Federal Government.

(11) The term ''military unaccompanied housing'' means military housing intended to be occupied by members of the armed forces serving a tour of duty unaccompanied by dependents and transient housing intended to be occupied by members of the armed forces on temporary duty.

(12) The term ''tenant'' means a member of the armed forces, including a reserve component thereof in an active status, or a dependent of a member of the armed forces who resides at a housing unit, is a party to a lease for a housing unit, or is authorized to act on behalf of the member under this subchapter and subchapter V of this chapter in the event of the assignment or deployment of a member.

(13) The term ''United States'' includes the Commonwealth of Puerto Rico.

(Added Pub. L. 104–106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 544; amended Pub. L. 105–261, div. B, title XXVIII, §2803, Oct. 17, 1998, 112 Stat. 2202; Pub. L. 106–65, div. B, title XXVIII, §2803(a), Oct. 5, 1999, 113 Stat. 848; Pub. L. 107–314, div. B, title XXVIII, §2803(b), Dec. 2, 2002, 116 Stat. 2705; Pub. L. 108–136, div. A, title X, §1043(c)(6), Nov. 24, 2003, 117 Stat. 1612; Pub. L. 109–163, div. B, title XXVIII, §2805(b), Jan. 6, 2006, 119 Stat. 3507; Pub. L. 110–417, div. B, title XXVIII, §2805(c), Oct. 14, 2008, 122 Stat. 4723; Pub. L. 116–92, div. B, title XXX, §§3001(b)–3011(a), Dec. 20, 2019, 133 Stat. 1916, 1917.)

Editorial Notes

Amendments

2019—Pub. L. 116–92, §3011(a), inserted ''and subchapter V of this chapter'' after ''this subchapter'' in introductory provisions.

Pars. (1), (3). Pub. L. 116–92, §3001(c), struck out ''military'' before ''housing units''.

Par. (4). Pub. L. 116–92, §3001(b)(1), inserted at end ''The fact that an agreement between an eligible entity and the Secretary concerned is designated as an agreement rather than a contract shall not be construed to exclude the agreement from the term 'contract' for purposes of this subchapter and subchapter V.''

Par. (5). Pub. L. 116–92, §3001(c), struck out ''military'' before ''housing units''.

Pars. (7) to (10). Pub. L. 116–92, §3001(b)(3), added pars. (7) to (10). Former pars. (7) and (8) redesignated (11) and (13), respectively.

Par. (11). Pub. L. 116–92, §3001(b)(2), redesignated par. (7) as (11).

Par. (12). Pub. L. 116–92, §3001(b)(4), added par. (12).

Par. (13). Pub. L. 116–92, §3001(b)(2), redesignated par. (8) as (13).

2008—Par. (5). Pub. L. 110–417 inserted before period at end ''that is prepared to enter into a contract as a partner with the Secretary concerned for the construction of military housing units and ancillary supporting facilities''.

2006—Par. (1). Pub. L. 109–163, §2805(b)(1), inserted ''child development centers,'' after ''day care centers,''.

Par. (2). Pub. L. 109–163, §2805(b)(2), added par. (2).

2003—Par. (2). Pub. L. 108–136 struck out par. (2) which read as follows: ''The term 'base closure law' means the following:

''(A) Section 2687 of this title.

''(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

''(C) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).''

2002—Par. (7). Pub. L. 107–314 inserted ''and transient housing intended to be occupied by members of the armed forces on temporary duty'' before period at end.

1999—Pars. (5) to (8). Pub. L. 106–65 added par. (5) and redesignated former pars. (5) to (7) as (6) to (8), respectively.

1998—Par. (1). Pub. L. 105–261 inserted ''facilities to provide or support elementary or secondary education,'' after ''including''.

Statutory Notes and Related Subsidiaries

Command Oversight of Military Privatized Housing as Element of Performance Evaluations

Pub. L. 117–81, div. A, title V, §525, Dec. 27, 2021, 135 Stat. 1688, provided that:

''(a) Evaluations in General.—Each Secretary of a military department shall ensure that the performance evaluations of any individual described in subsection (b) under the jurisdiction of such Secretary provides for an assessment of the extent to which such individual has or has not exercised effective oversight and leadership in the following:

''(1) Improving conditions of privatized housing under subchapter IV of chapter 169 of title 10, United States Code.

''(2) Addressing concerns with respect to such housing of members of the Armed Forces and their families who reside in such housing on an installation of the military department concerned.

''(b) Covered Individuals.—The individuals described in this subsection are as follows:

''(1) The commander of an installation of a military department at which on-installation housing is managed by a landlord of privatized housing under subchapter IV of chapter 169 of title 10, United States Code.

''(2) Each officer or senior enlisted member of the Armed Forces at an installation described in paragraph (1) whose duties include facilities or housing management at such installation.

''(3) Any other officer or enlisted member of the Armed Forces (whether or not at an installation described in paragraph (1)) as specified by the Secretary of the military department concerned for purposes of this section.''

Promulgation of Guidance To Facilitate Return of Military Families Displaced From Privatized Military Housing

Pub. L. 116–283, div. B, title XXVIII, §2816, Jan. 1, 2021, 134 Stat. 4328, provided that:

''(a) Guidance Required.—The Secretary of Defense shall promulgate guidance for commanders of military installations and installation housing management offices to assist such commanders and offices in facili-

tating and managing the relocation and return of tenants of privatized military housing when tenants are displaced from such housing—

''(1) as a result of an environmental hazard or other damage adversely affecting the habitability of the privatized military housing; or

''(2) during remediation or repair activities in response to the hazard or damages.

''(b) FINANCIAL IMPACT OF DISPLACEMENT.—As part of the promulgation of the guidance, the Secretary of Defense shall consider—

''(1) the extent to which displaced tenants of privatized military housing under the circumstances described in subsection (a) incur relocation, per diem, or similar expenses as a direct result of such displacement that are not covered by a landlord, insurance, or claims process; and

''(2) the feasibility of providing reimbursement for uncovered expenses.

''(c) CONSULTATION.—The Secretary of Defense shall promulgate the guidance in consultation with the Secretaries of the military departments, the Chief Housing Officer, landlords, and other interested persons.

''(d) IMPLEMENTATION.—The Secretaries of the military departments shall be responsible for implementation of the guidance at military installations under the jurisdiction of the Secretary concerned, while recognizing that the guidance cannot anticipate every situation in which tenants of privatized military housing must be displaced from such housing under the circumstances described in subsection (a).

''(e) DEFINITIONS.—In this section, the terms 'landlord', 'privatized military housing', and 'tenant' have the meanings given those terms in section 3001(a) of the Military Construction Authorization Act for Fiscal Year 2020 (division B of Public Law 116–92; 133 Stat. 1916; 10 U.S.C. 2821 note).''

UNIFORM CODE OF BASIC STANDARDS FOR PRIVATIZED MILITARY HOUSING AND PLAN TO CONDUCT INSPECTIONS AND ASSESSMENTS

Pub. L. 116–283, div. B, title XXVIII, §2818, Jan. 1, 2021, 134 Stat. 4329, provided that:

''(a) UNIFORM CODE OF BASIC STANDARDS FOR MILITARY HOUSING.—The Secretary of Defense shall expand the uniform code of basic housing standards for safety, comfort, and habitability for privatized military housing established pursuant to section 3051(a) of the Military Construction Authorization Act for Fiscal Year 2020 (division B of Public Law 116–92; 133 Stat. 1941; 10 U.S.C. 2871 note) [set out below] to include Government-owned and Government-controlled military family housing located inside or outside the United States and occupied by members of the Armed Forces.

''(b) INSPECTION AND ASSESSMENT PLAN.—The Secretary of Defense shall expand the Department of Defense housing inspection and assessment plan prepared pursuant to section 3051(b) of the Military Construction Authorization Act for Fiscal Year 2020 (division B of Public Law 116–92; 133 Stat. 1941; 10 U.S.C. 2871 note) [set out below] to include Government-owned and Government-controlled military family housing located inside or outside the United States and occupied by members of the Armed Forces and commence inspections and assessments of such military family housing pursuant to the plan.''

Pub. L. 116–92, div. B, title XXX, §3051, Dec. 20, 2019, 133 Stat. 1941, provided that:

''(a) UNIFORM CODE.—Not later than February 1, 2021, the Secretary of Defense shall establish and implement a uniform code of basic housing standards for safety, comfort, and habitability for privatized military housing, which shall meet or exceed requirements informed by a nationally recognized, consensus-based, model property maintenance code.

''(b) INSPECTION AND ASSESSMENT PLAN.—Not later than February 1, 2020, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a Department of Defense plan to contract with qualified home inspectors to conduct a thorough inspection and assessment of the structural integrity and habitability of each unit of privatized military housing. The plan shall include the implementation plan for the uniform code to be established under subsection (a).

''(c) IMPLEMENTATION OF INSPECTIONS AND ASSESSMENTS.—

''(1) IMPLEMENTATION.—Not later than February 1, 2021, the Secretary of the military department concerned shall commence conducting inspections and assessments of units of privatized military housing pursuant to the plan submitted under subsection (b) to identify issues and ensure compliance with applicable housing codes, including the uniform code established under subsection (a).

''(2) REPORT.—Not later than March 1, 2021, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the findings of the inspections and assessments conducted under paragraph (1).

''(d) QUALIFIED HOME INSPECTORS DESCRIBED.—For purposes of this section, a qualified home inspector must possess the appropriate credentials for the work the inspector will perform, as defined by the respective State in which the work will be performed. A qualified home inspector may not be an employee or in a fiduciary relationship with—

''(1) the Federal Government; or

''(2) an individual or entity who owns or manages privatized military housing.''

[For definition of ''privatized military housing'' as used in section 3051 of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

RADON TESTING OF PRIVATIZED MILITARY HOUSING

Pub. L. 116–92, div. B, title XXX, §3061, Dec. 20, 2019, 133 Stat. 1946, provided that:

''(a) REPORT.—Not later than March 1, 2020, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report identifying the installations of the Department of Defense that have privatized military housing that should be monitored for levels of radon at or above the action level.

''(b) TESTING PROCEDURES AND STANDARDS.—The Secretaries of the military departments shall ensure that landlords providing privatized military housing at installations identified under subsection (a) establish testing procedures that are consistent with then current national consensus standards and are in compliance with applicable Federal, State, and local radon regulations in order to ensure radon levels are below recommended levels established by the Environmental Protection Agency, whether through—

''(1) regular testing of privatized military housing by persons who possess certification pursuant to the proficiency program operated under section 305(a)(2) of the Toxic Substances Control Act (15 U.S.C. 2665(a)(2)); or

''(2) the installation of monitoring equipment in privatized military housing.

''(c) NOTIFICATION REGARDING NEED FOR MITIGATION.—If, as a result of testing described in subsection (b), a unit of privatized military housing needs radon mitigation to ensure radon levels are below recommended levels, the landlord providing the housing unit shall submit to the Secretary of the military department concerned, not later than seven days after the determination of the need for radon mitigation, the mitigation plan for the housing unit.''

[For definitions of ''landlord'' and ''privatized military housing'' as used in section 3061 of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

MILITARY HOUSING PRIVATIZATION INITIATIVE

Pub. L. 115–232, div. A, title VI, § 606, Aug. 13, 2018, 132 Stat. 1795, as amended by Pub. L. 116–92, div. B, title XXX, §§ 3036(a), 3037, Dec. 20, 2019, 133 Stat. 1938, 1939; Pub. L. 116–283, div. B, title XXVIII, § 2811(i), Jan. 1, 2021, 134 Stat. 4326; Pub. L. 117–81, div. B, title XXVIII, § 2811, Dec. 27, 2021, 135 Stat. 2191; Pub. L. 118–31, div. B, title XXVIII, §§ 2822(c), 2839(d), Dec. 22, 2023, 137 Stat. 751, 761, provided that:

''(a) USE OF FUNDS IN CONNECTION WITH MHPI.—

''(1) PAYMENTS TO LESSORS GENERALLY.—

''(A) PAYMENT AUTHORITY.—Each month beginning with the first month after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020 [Dec. 20, 2019], each Secretary of a military department shall use funds, in an amount determined under subparagraph (B), to make monthly payments to lessors of covered housing in the manner provided by this subsection, as in effect on the day before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020.

''(B) CALCULATION OF MONTHLY PAYMENTS.—For purposes of making payments under subparagraph (A) for a month, the Secretary of the military department concerned shall determine the amount equal to 50 percent of the aggregate of the amounts calculated under section 403(b)(3)(A)(ii) of title 37, United States Code, for covered housing under the jurisdiction of the Secretary for that month.

''(2) ADDITIONAL PAYMENTS TO LESSORS RESPONSIBLE FOR UNDERFUNDED PROJECTS.—

''(A) PAYMENT AUTHORITY.—Except as provided in subparagraph (D), each month beginning with the first month after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020, each Secretary of a military department shall use funds, in an amount determined under subparagraph (B), to make additional monthly payments, under such terms and in such amounts as determined by the Secretary, to one or more lessors responsible for underfunded MHPI housing projects identified pursuant to subparagraph (C) under the jurisdiction of the Secretary for the purposes of future sustainment, recapitalization, and financial sustainability of the projects.

''(B) CALCULATION OF MONTHLY PAYMENTS.—For purposes of making payments under subparagraph (A) for a month, the Secretary of the military department concerned shall determine the amount equal to 50 percent of the aggregate of the amounts calculated under section 403(b)(3)(A)(ii) of title 37, United States Code, for covered housing under the jurisdiction of the Secretary for that month.

''(C) IDENTIFICATION OF UNDERFUNDED PROJECTS.—The Chief Housing Officer of the Department of Defense, in conjunction with the Secretaries of the military departments, shall assess MHPI housing projects for the purpose of identifying all MHPI housing projects that are underfunded. Once identified, the Chief Housing Officer shall prioritize for payments under subparagraph (A) those MHPI housing projects most in need of funding to rectify such underfunding.

''(D) LIMITATION ON PAYMENT.—

''(i) IN GENERAL.—Subject to clause (ii), the Secretary of a military department may not make a payment under subparagraph (A) to a lessor unless the Assistant Secretary of Defense for Energy, Installations, and Environment determines the lessor is in compliance with the Military Housing Privatization Initiative Tenant Bill of Rights developed under section 2890 of title 10, United States Code.

''(ii) APPLICATION.—The limitation under clause (i) shall apply to any payment under a housing agreement entered into on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2024 [Dec. 22, 2023] by the Secretary of a military department with a lessor.

''(3) ALTERNATIVE AUTHORITY IN EVENT OF LACK OF UNDERFUNDED PROJECTS.—

''(A) IN GENERAL.—Subject to subparagraph (B), if the Chief Housing Officer determines that no MHPI housing projects for a military department require additional funding under paragraph (2) for a month, the Secretary of the military department concerned, in consultation with the Chief Housing Officer, may allocate the funds otherwise available to the Secretary under such paragraph for that month to support improvements designed to enhance the quality of life of members of the uniformed services and their families who reside in MHPI housing.

''(B) CONDITIONS.—Before the Secretary of a military department may allocate funds as authorized by subparagraph (A), the Chief Housing Officer shall certify to the Committees on Armed Services of the Senate and the House of Representatives that there are no MHPI housing projects for the military department that require additional funding under paragraph (2). The certification shall include sufficient details to show why no projects are determined to need the additional funds.

''(4) BRIEFING REQUIRED.—Not later than March 1, 2020, and each year thereafter, each Secretary of a military department shall provide a briefing to the Committee on Armed Services of the Senate and the House of Representatives detailing the expenditure of funds under paragraphs (2) and (3), the MHPI housing projects receiving funds under such paragraphs, and any other information the Secretary considers relevant.

''(b) PLAN FOR MHPI HOUSING.—Not later than December 1, 2018, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a long-range plan to develop measures to consistently address the future sustainment, recapitalization, and financial condition of MHPI housing. The plan shall include—

''(1) efforts to mitigate the losses incurred by MHPI housing projects because of the reductions to BAH under section 603 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; [which amended] 37 U.S.C. 403(b)(3)(B)); and

''(2) a full assessment of the effects of such reductions (in relation to calculations of market rates for rent and utilities) on the financial condition of MHPI housing.

''(c) REPORTING.—The Secretary shall direct the Assistant Secretary of Defense for Energy, Installations, and Environment to take the following steps regarding reports under section 2884(c) of title 10, United States Code:

''(1) Provide additional contextual information on MHPI housing to identify any differences in the calculation of debt coverage ratios and any effect of such differences on their comparability.

''(2) Immediately resume issuing such reports on the financial condition of MHPI housing.

''(3) Revise Department of Defense guidance on MHPI housing—

''(A) to ensure that relevant financial data (such as debt coverage ratios) in such reports are consistent and comparable in terms of the time periods of the data collected;

''(B) to include a requirement that the secretary of each military department includes measures of future sustainment into each assessments of MHPI housing projects; and

''(C) to require the secretary of each military department to define risk tolerance regarding the future sustainability of MHPI housing projects.

''(4) Report financial information on future sustainment of each MHPI housing project in such reports.

''(5) Provide Department of Defense guidance to the secretaries of the military departments to—

''(A) assess the significance of the specific risks to individual MHPI housing projects from the reduction in BAH; and

''(B) identify methods to mitigate such risks based on their significance.

''(6) Not later than December 1, 2018, finalize Department of Defense guidance that clearly defines—

''(A) the circumstances in which the military departments shall provide notification of housing project changes to the congressional defense committees; and

''(B) which types of such changes require prior notification to or prior approval from the congressional defense committees.

''(d) DEFINITIONS.—In this section:

''(1) The term 'BAH' means the basic allowance for housing under section 403 of title 37, United States Code.

''(2) The term 'covered housing' means a unit of MHPI housing that is leased to a member of a uniformed service who resides in such unit.

''(3) The term 'MHPI housing' means housing procured, acquired, constructed, or for which any phase or portion of a project agreement was first finalized and signed, under the alternative authority of subchapter IV of chapter 169 of title 10, United States Code (known as the Military Housing Privatization Initiative), on or before September 30, 2014.''

[Pub. L. 116–92, div. B, title XXX, § 3036(b), Dec. 20, 2019, 133 Stat. 1939, provided that: ''The amendment made by this section [amending section 606 of Pub. L. 115–232, set out above] shall take effect on the date of the enactment of this Act [Dec. 20, 2019] and shall apply with respect to months beginning after that date.'']

§ 2872. General authority

In addition to any other authority provided under this chapter for the acquisition or construction of military family housing or military unaccompanied housing, the Secretary concerned may exercise any authority or any combination of authorities provided under this subchapter in order to provide for the acquisition or construction by eligible entities of the following:

(1) Family housing units on or near military installations within the United States and its territories and possessions.

(2) Military unaccompanied housing units on or near such military installations.

(Added Pub. L. 104–106, div. B, title XXVIII, § 2801(a)(1), Feb. 10, 1996, 110 Stat. 545; amended Pub. L. 106–65, div. B, title XXVIII, § 2803(b), Oct. 5, 1999, 113 Stat. 849.)

Editorial Notes

AMENDMENTS

1999—Pub. L. 106–65 substituted ''eligible entities'' for ''private persons'' in introductory provisions.

§ 2872a. Utilities and services

(a) AUTHORITY TO FURNISH.—The Secretary concerned may furnish utilities and services referred to in subsection (b) in connection with any military housing acquired or constructed pursuant to the exercise of any authority or combination of authorities under this subchapter if the military housing is located on a military installation.

(b) COVERED UTILITIES AND SERVICES.—The utilities and services that may be furnished under subsection (a) are the following:

(1) Electric power.
(2) Steam.
(3) Compressed air.
(4) Water.
(5) Sewage and garbage disposal.
(6) Natural gas.
(7) Pest control.
(8) Snow and ice removal.
(9) Mechanical refrigeration.
(10) Telecommunications service.
(11) Firefighting and fire protection services.
(12) Police protection services.
(13) Street sweeping.
(14) Tree trimming and removal.

(c) REIMBURSEMENT.—(1) The Secretary concerned shall be reimbursed for any utilities or services furnished under subsection (a).

(2) The amount of any cash payment received under paragraph (1) as reimbursement for the cost of furnishing utilities or services shall—

(A) in the case of a cost paid using funds appropriated or otherwise made available before October 1, 2014, be credited to the appropriation or working capital account from which the cost of furnishing utilities or services concerned was paid; or

(B) in the case of a cost paid using funds appropriated or otherwise made available on or after October 1, 2014, be credited to the appropriation or working capital account currently available for the purpose of furnishing utilities or services under subsection (a).

(3) Amounts credited under paragraph (2) to an appropriation or account shall be merged with funds in such appropriation or account, and shall be available to the same extent, and subject to the same terms and conditions, as such funds.

(Added Pub. L. 106–398, § 1 [div. B, title XXVIII, § 2805(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–414; amended Pub. L. 107–314, div. B, title XXVIII, § 2802(a), Dec. 2, 2002, 116 Stat. 2703; Pub. L. 113–66, div. B, title XXVIII, § 2804, Dec. 26, 2013, 127 Stat. 1007; Pub. L. 116–92, div. B, title XXX, § 3032, Dec. 20, 2019, 133 Stat. 1936.)

Editorial Notes

AMENDMENTS

2019—Subsec. (b)(13), (14). Pub. L. 116–92 added pars. (13) and (14).

2013—Subsec. (c)(2), (3). Pub. L. 113–66 substituted ''under paragraph (1) as reimbursement for the cost of furnishing utilities or services shall—'' for ''under paragraph (1) shall be credited to the appropriation or working capital account from which the cost of furnishing the utilities or services concerned was paid.'', added subpars. (A) and (B), designated second sentence of par. (2) as par. (3), and substituted ''Amounts credited under paragraph (2)'' for ''Amounts so credited''.

2002—Subsec. (b)(11), (12). Pub. L. 107–314 added pars. (11) and (12).

§ 2872b. Treatment of breach of contract

(a) RESPONSE TO MATERIAL BREACH.—In the case of a material breach of contract under this subchapter by a party to the contract, the Secretary concerned shall use the authorities available to the Secretary, including withholding amounts to be paid under the contract, to encourage the party to cure the breach.

(b) RESCINDING OF CONTRACT.—If a material breach of the contract is not cured in a timely manner, as determined by the Secretary concerned, the Secretary may—

(1) rescind the contract pursuant to the terms of the contract; and

(2) prohibit the offending party from entering into a new contract or undertaking expansions of other existing contracts, or both, with the Secretary under this subchapter.

(Added Pub. L. 116–92, div. B, title XXX, § 3033(a), Dec. 20, 2019, 133 Stat. 1936.)

§ 2873. Direct loans and loan guarantees

(a) DIRECT LOANS.—(1) Subject to subsection (c), the Secretary concerned may make direct loans to an eligible entity in order to provide funds to the eligible entity for the acquisition or construction of housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

(2) The Secretary concerned shall establish such terms and conditions with respect to loans made under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the period and frequency for repayment of such loans and the obligations of the obligors on such loans upon default.

(b) LOAN GUARANTEES.—(1) Subject to subsection (c), the Secretary concerned may guarantee a loan made to an eligible entity if the proceeds of the loan are to be used by the eligible entity to acquire, or construct housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

(2) The amount of a guarantee on a loan that may be provided under paragraph (1) may not exceed the amount equal to the lesser of—

(A) the amount equal to 80 percent of the value of the project; or

(B) the amount of the outstanding principal of the loan.

(3) The Secretary concerned shall establish such terms and conditions with respect to guarantees of loans under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the rights and obligations of obligors of such loans and the rights and obligations of the United States with respect to such guarantees.

(c) LIMITATION ON DIRECT LOAN AND GUARANTEE AUTHORITY.—Direct loans and loan guarantees may be made under this section only to the extent that appropriations of budget authority to cover their cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) are made in advance, or authority is otherwise provided in appropriation Acts. If such appropriation or other authority is provided, there may be established a financing account (as defined in section 502(7) of such Act (2 U.S.C. 661a(7))), which shall be available for the disbursement of direct loans or payment of claims for payment on loan guarantees under this section and for all other cash flows to and from the Government as a result of direct loans and guarantees made under this section.

(Added Pub. L. 104–106, div. B, title XXVIII, § 2801(a)(1), Feb. 10, 1996, 110 Stat. 545; amended Pub. L. 106–65, div. B, title XXVIII, § 2803(c), Oct. 5, 1999, 113 Stat. 849.)

Editorial Notes

AMENDMENTS

1999—Subsec. (a)(1). Pub. L. 106–65, § 2803(c)(1), substituted ''an eligible entity'' for ''persons in the private sector'' and ''the eligible entity'' for ''such persons''.

Subsec. (b)(1). Pub. L. 106–65, § 2803(c)(2), substituted ''an eligible entity'' for ''any person in the private sector'' and ''the eligible entity'' for ''the person''.

§ 2874. Leasing of housing

(a) LEASE AUTHORIZED.—The Secretary concerned may enter into contracts for the lease of housing units that the Secretary determines are suitable for use as military family housing or military unaccompanied housing.

(b) USE OF LEASED UNITS.—The Secretary concerned shall utilize housing units leased under this section as military family housing or military unaccompanied housing, as appropriate.

(c) LEASE TERMS.—A contract under this section may be for any period that the Secretary concerned determines appropriate and may provide for the owner of the leased property to operate and maintain the property.

(Added Pub. L. 104–106, div. B, title XXVIII, § 2801(a)(1), Feb. 10, 1996, 110 Stat. 546; amended Pub. L. 107–314, div. B, title XXVIII, § 2802(b)(1), (2), Dec. 2, 2002, 116 Stat. 2703.)

Editorial Notes

AMENDMENTS

2002—Pub. L. 107–314, § 2802(b)(2), in section catchline struck out ''to be constructed'' after ''Leasing of housing''.

Subsec. (a). Pub. L. 107–314, § 2802(b)(1)(B), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: ''The Secretary concerned may enter into contracts for the lease of military family housing units or military unaccompanied housing units to be constructed under this subchapter.''

Subsecs. (b), (c). Pub. L. 107–314, § 2802(b)(1), added subsec. (b) and redesignated former subsec. (b) as (c).

§ 2875. Investments

(a) INVESTMENTS AUTHORIZED.—The Secretary concerned may make investments in an eligible entity carrying out projects for the acquisition or construction of housing units suitable for use as military family housing or as military unaccompanied housing.

(b) FORMS OF INVESTMENT.—An investment under this section may take the form of an acquisition of a limited partnership interest by the United States, a purchase of stock or other equity instruments by the United States, a purchase of bonds or other debt instruments by the United States, or any combination of such forms of investment.

(c) LIMITATION ON VALUE OF INVESTMENT.—(1) The cash amount of an investment under this section in an eligible entity may not exceed an amount equal to 33⅓ percent of the capital cost (as determined by the Secretary concerned) of the project or projects that the eligible entity proposes to carry out under this section with the investment.

(2) If the Secretary concerned conveys land or facilities to an eligible entity as all or part of an investment in the eligible entity under this section, the total value of the investment by the

Secretary under this section may not exceed an amount equal to 45 percent of the capital cost (as determined by the Secretary) of the project or projects that the eligible entity proposes to carry out under this section with the investment.

(3) In this subsection, the term ''capital cost'', with respect to a project for the acquisition or construction of housing, means the total amount of the costs included in the basis of the housing for Federal income tax purposes.

(d) COLLATERAL INCENTIVE AGREEMENTS.—The Secretary concerned shall enter into collateral incentive agreements with eligible entities in which the Secretary makes an investment under this section to ensure that a suitable preference will be afforded members of the armed forces and their dependents in the lease or purchase, as the case may be, of a reasonable number of the housing units covered by the investment.

(Added Pub. L. 104–106, div. B, title XXVIII, § 2801(a)(1), Feb. 10, 1996, 110 Stat. 546; amended Pub. L. 105–85, div. B, title XXVIII, § 2805, Nov. 18, 1997, 111 Stat. 1991; Pub. L. 106–65, div. B, title XXVIII, § 2803(d), (h)(1), Oct. 5, 1999, 113 Stat. 849; Pub. L. 108–136, div. A, title X, § 1031(a)(50), Nov. 24, 2003, 117 Stat. 1602; Pub. L. 113–66, div. B, title XXVIII, § 2805, Dec. 26, 2013, 127 Stat. 1008.)

Editorial Notes

AMENDMENTS

2013—Subsec. (e). Pub. L. 113–66 struck out subsec. (e). Text read as follows: ''Amounts in the Department of Defense Family Housing Improvement Fund or the Department of Defense Military Unaccompanied Housing Improvement Fund may be used to make a cash investment under this section in an eligible entity only after the end of the 30-day period beginning on the date the Secretary of Defense submits written notice of, and justification for, the investment to the appropriate committees of Congress or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notice and justification is provided in an electronic medium pursuant to section 480 of this title.''

2003—Subsec. (e). Pub. L. 108–136 inserted before period at end ''or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notice and justification is provided in an electronic medium pursuant to section 480 of this title''.

1999—Pub. L. 106–65, § 2803(h)(1), struck out ''in nongovernmental entities'' after ''Investments'' in section catchline.

Subsec. (a). Pub. L. 106–65, § 2803(d)(1), substituted ''an eligible entity'' for ''nongovernmental entities''.

Subsec. (c). Pub. L. 106–65, § 2803(d)(2), substituted ''an eligible entity'' for ''a nongovernmental entity'' in pars. (1) and (2) and ''the eligible entity'' for ''the entity'' wherever appearing in pars. (1) and (2).

Subsec. (d). Pub. L. 106–65, § 2803(d)(3), substituted ''eligible'' for ''nongovernmental''.

Subsec. (e). Pub. L. 106–65, § 2803(d)(4), substituted ''an eligible entity'' for ''a nongovernmental entity''.

1997—Subsec. (e). Pub. L. 105–85 added subsec. (e).

§ 2876. Rental guarantees

The Secretary concerned may enter into agreements with eligible entities that acquire or construct military family housing units or military unaccompanied housing units under this subchapter in order to assure—

(1) the occupancy of such units at levels specified in the agreements; or

(2) rental income derived from rental of such units at levels specified in the agreements.

(Added Pub. L. 104–106, div. B, title XXVIII, § 2801(a)(1), Feb. 10, 1996, 110 Stat. 546; amended Pub. L. 106–65, div. B, title XXVIII, § 2803(e), Oct. 5, 1999, 113 Stat. 849.)

Editorial Notes

AMENDMENTS

1999—Pub. L. 106–65 substituted ''eligible entities'' for ''private persons'' in introductory provisions.

§ 2877. Differential lease payments

Pursuant to an agreement entered into by the Secretary concerned and a lessor of military family housing or military unaccompanied housing to members of the armed forces, the Secretary may pay the lessor an amount in addition to the rental payments for the housing made by the members as the Secretary determines appropriate to encourage the lessor to make the housing available to members of the armed forces as military family housing or as military unaccompanied housing.

(Added Pub. L. 104–106, div. B, title XXVIII, § 2801(a)(1), Feb. 10, 1996, 110 Stat. 547; amended Pub. L. 106–65, div. B, title XXVIII, § 2803(f), Oct. 5, 1999, 113 Stat. 849.)

Editorial Notes

AMENDMENTS

1999—Pub. L. 106–65 substituted ''a lessor'' for ''a private lessor''.

§ 2878. Conveyance or lease of existing property and facilities

(a) CONVEYANCE OR LEASE AUTHORIZED.—The Secretary concerned may convey or lease property or facilities (including ancillary supporting facilities) to eligible entities for purposes of using the proceeds of such conveyance or lease to carry out activities under this subchapter.

(b) INAPPLICABILITY TO PROPERTY AT INSTALLATION APPROVED FOR CLOSURE.—The authority of this section does not apply to property or facilities located on or near a military installation approved for closure under a base closure law.

(c) COMPETITIVE PROCESS.—The Secretary concerned shall ensure that the time, method, and terms and conditions of the reconveyance or lease of property or facilities under this section from the eligible entity permit full and free competition consistent with the value and nature of the property or facilities involved.

(d) TERMS AND CONDITIONS.—(1) The conveyance or lease of property or facilities under this section shall be for such consideration and upon such terms and conditions as the Secretary concerned considers appropriate for the purposes of this subchapter and to protect the interests of the United States.

(2) As part or all of the consideration for a conveyance or lease under this section, the purchaser or lessor (as the case may be) shall enter into an agreement with the Secretary to ensure that a suitable preference will be afforded members of the armed forces and their dependents in the lease or sublease of a reasonable number of the housing units covered by the conveyance or lease, as the case may be, or in the lease of

other suitable housing units made available by the purchaser or lessee.

(e) INAPPLICABILITY OF CERTAIN PROPERTY MANAGEMENT LAWS.—The conveyance or lease of property or facilities under this section shall not be subject to the following provisions of law:

(1) Section 2667 of this title.

(2) Subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(3) Section 1302 of title 40.

(4) Section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411).

(f) NOTICE OF LEASE EXTENSIONS.—(1) The Secretary concerned shall provide to the congressional defense committees notice in writing and a briefing—

(A) not later than 60 days after beginning negotiations with a lessor for the extension of the term of any ground lease of property or facilities under this section; and

(B) not later than 90 days before extending the term of any ground lease of property or facilities under this section.

(2) A notice and briefing required under paragraph (1) shall include each of the following:

(A) A description of any material differences between the extended ground lease and the original ground lease, including with respect to—

(i) the length of the term of the lease, as extended; and

(ii) any new provisions that materially affect the rights and responsibilities of the ground lessor or the ground lessee under the original ground lease.

(B) The number of housing units or facilities subject to the ground lease that, during the lease extension, are to be—

(i) constructed;

(ii) demolished; or

(iii) renovated.

(C) The source of any additional financing the lessor has obtained, or intends to obtain, during the term of the ground lease extension that will be used for the development of the property or facilities subject to the ground lease.

(D) The following information, displayed annually, for the five-year period preceding the date of the notice and briefing:

(i) The debt-to-net operating income ratio for the property or facility subject to the ground lease.

(ii) The occupancy rates for the housing units subject to the ground lease.

(iii) A report on maintenance response times and completion of maintenance requests for the housing units subject to the ground lease.

(iv) The occupancy rates and debt-to-net operating income ratios of any other military privatized housing initiative projects managed by a company that controls, or that is under common control with, the ground lessee entering into the lease extension.

(E) An assessment of compliance by the lessor with the Military Housing Privatization Initiative Tenant Bill of Rights developed under section 2890 of this title.

(Added Pub. L. 104–106, div. B, title XXVIII, § 2801(a)(1), Feb. 10, 1996, 110 Stat. 547; amended Pub. L. 105–85, div. A, title X, § 1073(a)(60), Nov. 18, 1997, 111 Stat. 1903; Pub. L. 106–65, div. B, title XXVIII, § 2803(g), Oct. 5, 1999, 113 Stat. 849; Pub. L. 107–107, div. A, title X, § 1048(d)(1), Dec. 28, 2001, 115 Stat. 1227; Pub. L. 107–217, § 3(b)(23), Aug. 21, 2002, 116 Stat. 1297; Pub. L. 110–417, div. B, title XXVIII, § 2805(d), Oct. 14, 2008, 122 Stat. 4723; Pub. L. 111–350, § 5(b)(50), Jan. 4, 2011, 124 Stat. 3846; Pub. L. 117–263, div. B, title XXVIII, § 2822, Dec. 23, 2022, 136 Stat. 3000; Pub. L. 118–31, div. A, title XVIII, § 1801(a)(24), div. B, title XXVIII, § 2822(a), Dec. 22, 2023, 137 Stat. 684, 751.)

Editorial Notes

AMENDMENTS

2023—Subsec. (f)(2)(D)(iii). Pub. L. 118–31, § 1801(a)(24), substituted ''A report'' for ''An report''.

Subsec. (f)(2)(E). Pub. L. 118–31, § 2822(a), added subpar. (E).

2022—Subsec. (f). Pub. L. 117–263 added subsec. (f).

2011—Subsec. (e)(2). Pub. L. 111–350, which directed substitution of ''division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' for ''title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)'' in subsec. (d)(2), was executed by making the substitution in subsec. (e)(2) to reflect the probable intent of Congress and the amendment by Pub. L. 110–417. See 2008 Amendment note below.

2008—Subsecs. (c) to (e). Pub. L. 110–417 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

2002—Subsec. (d)(2). Pub. L. 107–217, § 3(b)(23)(A), substituted ''Subtitle I of title 40 and title III of the'' for ''The'' and ''(41 U.S.C. 251 et seq.)'' for ''(40 U.S.C. 471 et seq.)''.

Subsec. (d)(3). Pub. L. 107–217, § 3(b)(23)(B), substituted ''Section 1302 of title 40'' for ''Section 321 of the Act of June 30, 1932 (commonly known as the Economy Act) (40 U.S.C. 303b)''.

2001—Subsec. (d)(4). Pub. L. 107–107 substituted ''McKinney-Vento Homeless Assistance Act'' for ''Stewart B. McKinney Homeless Assistance Act''.

1999—Subsec. (a). Pub. L. 106–65 substituted ''eligible entities'' for ''private persons''.

1997—Subsec. (d)(4). Pub. L. 105–85 substituted ''11411'' for ''11401''.

[§ 2879. Renumbered § 2857]

Editorial Notes

PRIOR PROVISIONS

A prior section 2879, added Pub. L. 104–106, div. B, title XXVIII, § 2801(a)(1), Feb. 10, 1996, 110 Stat. 547, related to interim leases of completed units pending completion of a project to acquire or construct military family housing units or military unaccompanied housing units, prior to repeal by Pub. L. 107–314, div. B, title XXVIII, § 2802(c)(1), Dec. 2, 2002, 116 Stat. 2703.

§ 2880. Unit size and type

(a) CONFORMITY WITH SIMILAR HOUSING UNITS IN LOCALE.—The Secretary concerned shall ensure that the room patterns and floor areas of military family housing units and military unaccompanied housing units acquired or constructed under this subchapter are generally comparable to the room patterns and floor areas of similar housing units in the locality concerned.

(b) INAPPLICABILITY OF LIMITATIONS ON SPACE BY PAY GRADE.—Sections 2826 and 2856 of this title shall not apply to military family housing or military unaccompanied housing units acquired or constructed under this subchapter.

(Added Pub. L. 104–106, div. B, title XXVIII, § 2801(a)(1), Feb. 10, 1996, 110 Stat. 548; amended Pub. L. 108–136, div. B, title XXVIII, § 2806, Nov. 24, 2003, 117 Stat. 1722; Pub. L. 109–364, div. B, title XXVIII, § 2807(b), Oct. 17, 2006, 120 Stat. 2469.)

Editorial Notes

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–364 substituted ''Sections 2826 and 2856'' for ''(1) Section 2826'', inserted ''or military unaccompanied housing'' after ''military family housing'', and struck out par. (2) which read as follows: ''The regulations prescribed under section 2856 of this title shall not apply to any military unaccompanied housing unit acquired or constructed under this subchapter.''

2003—Subsec. (b)(2). Pub. L. 108–136 struck out ''unless the unit is located on a military installation'' before period at end.

§ 2881. Ancillary supporting facilities

(a) AUTHORITY TO ACQUIRE OR CONSTRUCT.—Any project for the acquisition or construction of military family housing units or military unaccompanied housing units under this subchapter may include the acquisition or construction of ancillary supporting facilities for the housing units concerned.

(b) RESTRICTION.—A project referred to in subsection (a) may not include the acquisition or construction of an ancillary supporting facility (other than a child development center) if, as determined by the Secretary concerned, the facility is to be used for providing merchandise or services in direct competition with—

(1) the Army and Air Force Exchange Service;

(2) the Navy Exchange Service Command;

(3) a Marine Corps exchange;

(4) the Defense Commissary Agency; or

(5) any nonappropriated fund activity of the Department of Defense for the morale, welfare, and recreation of members of the armed forces.

(Added Pub. L. 104–106, div. B, title XXVIII, § 2801(a)(1), Feb. 10, 1996, 110 Stat. 548; amended Pub. L. 106–65, div. B, title XXVIII, § 2804, Oct. 5, 1999, 113 Stat. 849; Pub. L. 109–163, div. B, title XXVIII, § 2805(a), Jan. 6, 2006, 119 Stat. 3507.)

Editorial Notes

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–163 inserted ''(other than a child development center)'' after ''ancillary supporting facility'' in introductory provisions.

1999—Pub. L. 106–65 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Statutory Notes and Related Subsidiaries

CONSTRUCTION OF 2006 AMENDMENT

Pub. L. 109–163, div. B, title XXVIII, § 2805(c), Jan. 6, 2006, 119 Stat. 3507, provided that: ''Nothing in the amendment made by subsection (a) [amending this section] may be construed to alter any law and regulation applicable to the operation of a child development center, as defined in section 2871(2) of title 10, United States Code.''

§ 2881a. Pilot projects for acquisition or construction of military unaccompanied housing

(a) PILOT PROJECTS AUTHORIZED.—The Secretary of the Navy may carry out not more than three pilot projects under the authority of this section or another provision of this subchapter to use the private sector for the acquisition or construction of military unaccompanied housing in the United States, including any territory or possession of the United States.

(b) TREATMENT OF HOUSING; ASSIGNMENT OF MEMBERS.—The Secretary of the Navy may assign members of the armed forces without dependents to housing units acquired or constructed under the pilot projects, and such housing units shall be considered as quarters of the United States or a housing facility under the jurisdiction of the Secretary for purposes of section 403 of title 37.

(c) BASIC ALLOWANCE FOR HOUSING.—(1) The Secretary of Defense may prescribe and, under section 403(*o*) of title 37, pay for members of the armed forces without dependents in privatized housing acquired or constructed under the pilot projects higher rates of partial basic allowance for housing than the rates authorized under paragraph (2) of such section.

(2) The partial basic allowance for housing paid for a member at a higher rate under this subsection may be paid directly to the private sector source of the housing to whom the member is obligated to pay rent or other charge for residing in such housing if the private sector source credits the amount so paid against the amount owed by the member for the rent or other charge.

(d) FUNDING.—(1) The Secretary of the Navy shall use the Department of Defense Military Unaccompanied Housing Improvement Fund to carry out activities under the pilot projects.

(2) Subject to 30 days prior notification to the appropriate committees of Congress in an electronic medium pursuant to section 480 of this title, such additional amounts as the Secretary of Defense considers necessary may be transferred to the Department of Defense Military Unaccompanied Housing Improvement Fund from amounts appropriated for construction of military unaccompanied housing in military construction accounts. The amounts so transferred shall be merged with and be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund.

[(e) Repealed. Pub. L. 115–91, div. A, title X, § 1051(a)(25), Dec. 12, 2017, 131 Stat. 1562.]

(f) EXPIRATION.—The authority of the Secretary of the Navy to enter into a contract under the pilot programs shall expire September 30, 2009.

(Added Pub. L. 107–314, div. B, title XXVIII, § 2803(a)(1), Dec. 2, 2002, 116 Stat. 2703; amended Pub. L. 109–163, div. A, title X, § 1056(c)(10), Jan. 6, 2006, 119 Stat. 3440; Pub. L. 109–364, div. B, title XXVIII, § 2812, Oct. 17, 2006, 120 Stat. 2473; Pub. L. 111–383, div. B, title XXVIII, § 2803(f), Jan. 7,

2011, 124 Stat. 4459; Pub. L. 115–91, div. A, title X, §1051(a)(25), div. B, title XXVIII, §2801(d)(1), Dec. 12, 2017, 131 Stat. 1562, 1844; Pub. L. 117–263, div. A, title VI, §613(b), Dec. 23, 2022, 136 Stat. 2623.)

Editorial Notes

AMENDMENTS

2022—Subsec. (c)(1). Pub. L. 117–263 substituted ''section 403(*o*)'' for ''section 403(n)''.

2017—Subsec. (d)(2). Pub. L. 115–91, §2801(d)(1), inserted ''in an electronic medium pursuant to section 480 of this title'' after ''Congress''.

Subsec. (e). Pub. L. 115–91, §1051(a)(25), struck out subsec. (e) which required reports describing certain proposed contracts, conveyances, or leases.

2011—Subsec. (e)(2). Pub. L. 111–383 inserted before period at end ''or, if earlier, a period of 20 days has elapsed from the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title''.

2006—Subsecs. (d)(2), (e)(2). Pub. L. 109–364, §2812(a), substituted ''30 days'' for ''90 days''.

Subsec. (f). Pub. L. 109–364, §2812(b), substituted ''2009'' for ''2007''.

Pub. L. 109–163 substituted ''The'' for ''Notwithstanding section 2885 of this title, the''.

§ 2882. Effect of assignment of members to housing units acquired or constructed under alternative authority

(a) TREATMENT AS QUARTERS OF THE UNITED STATES.—Except as provided in subsection (b), housing units acquired or constructed under this subchapter shall be considered as quarters of the United States or a housing facility under the jurisdiction of a uniformed service for purposes of section 403 of title 37.

(b) AVAILABILITY OF BASIC ALLOWANCE FOR HOUSING.—A member of the armed forces who is assigned to a housing unit acquired or constructed under this subchapter that is not owned or leased by the United States shall be entitled to a basic allowance for housing under section 403 of title 37.

(c) LEASE PAYMENTS THROUGH PAY ALLOTMENTS.—The Secretary concerned may require members of the armed forces who lease housing in housing units acquired or constructed under this subchapter to make lease payments for such housing pursuant to allotments of the pay of such members under section 701 of title 37.

(Added Pub. L. 104–106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 548; amended Pub. L. 105–85, div. A, title VI, §603(d)(2)(C), Nov. 18, 1997, 111 Stat. 1783; Pub. L. 110–417, div. B, title XXVIII, §2805(e)(1), Oct. 14, 2008, 122 Stat. 4723.)

Editorial Notes

AMENDMENTS

2008—Pub. L. 110–417 amended section generally. Prior to amendment, section related to assignment of members of the armed forces to housing units by the Secretary concerned, treatment of such housing as quarters of the United States, entitlement to a basic allowance for housing, and making of lease payments through pay allotments.

1997—Subsec. (b)(1). Pub. L. 105–85, §603(d)(2)(C)(i), substituted ''section 403'' for ''section 403(b)''.

Subsec. (b)(2). Pub. L. 105–85, §603(d)(2)(C)(ii), substituted ''basic allowance for housing under section 403 of title 37'' for ''basic allowance for quarters under section 403 of title 37 and, if in a high housing cost area, a variable housing allowance under section 403a of that title''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105–85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

§ 2883. Department of Defense Housing Funds

(a) ESTABLISHMENT.—There are hereby established on the books of the Treasury the following accounts:

(1) The Department of Defense Family Housing Improvement Fund.

(2) The Department of Defense Military Unaccompanied Housing Improvement Fund.

(b) COMMINGLING OF FUNDS PROHIBITED.—(1) The Secretary of Defense shall administer each Fund separately.

(2) Amounts in the Department of Defense Family Housing Improvement Fund may be used only to carry out activities under this subchapter with respect to military family housing.

(3) Amounts in the Department of Defense Military Unaccompanied Housing Improvement Fund may be used only to carry out activities under this subchapter with respect to military unaccompanied housing.

(c) CREDITS TO FUNDS.—(1) There shall be credited to the Department of Defense Family Housing Improvement Fund the following:

(A) Amounts authorized for and appropriated to that Fund.

(B) Subject to subsection (f), any amounts that the Secretary of Defense transfers, in such amounts as provided in appropriation Acts, to that Fund from amounts authorized and appropriated to the Department of Defense for the acquisition, improvement, or construction of military family housing.

(C) Proceeds from the conveyance or lease of property or facilities under section 2878 of this title for the purpose of carrying out activities under this subchapter with respect to military family housing.

(D) Income derived from any activities under this subchapter with respect to military family housing, including interest on loans made under section 2873 of this title, income and gains realized from investments under section 2875 of this title, and any return of capital invested as part of such investments.

(E) Any amounts that the Secretary of the Navy transfers to that Fund pursuant to section 2814(i)(3) of this title, subject to the restrictions on the use of the transferred amounts specified in that section.

(F) Any amounts that the Secretary concerned transfers to that Fund pursuant to section 2869 of this title.

(2) There shall be credited to the Department of Defense Military Unaccompanied Housing Improvement Fund the following:

(A) Amounts authorized for and appropriated to that Fund.

(B) Subject to subsection (f), any amounts that the Secretary of Defense transfers, in

such amounts as provided in appropriation Acts, to that Fund from amounts authorized and appropriated to the Department of Defense for the acquisition or construction of military unaccompanied housing.

(C) Proceeds from the conveyance or lease of property or facilities under section 2878 of this title for the purpose of carrying out activities under this subchapter with respect to military unaccompanied housing.

(D) Income derived from any activities under this subchapter with respect to military unaccompanied housing, including interest on loans made under section 2873 of this title, income and gains realized from investments under section 2875 of this title, and any return of capital invested as part of such investments.

(E) Any amounts that the Secretary of the Navy transfers to that Fund pursuant to section 2814(i)(3) of this title, subject to the restrictions on the use of the transferred amounts specified in that section.

(F) Any amounts that the Secretary concerned transfers to that Fund pursuant to section 2869 of this title.

(d) USE OF AMOUNTS IN FUNDS.—(1)(A) In such amounts as provided in appropriation Acts and except as provided in subsection (e), the Secretary of Defense may use amounts in the Department of Defense Family Housing Improvement Fund to carry out activities under this subchapter with respect to military family housing, including activities required in connection with the planning, execution, and administration of contracts entered into under the authority of this subchapter. The Secretary may also use for expenses of activities required in connection with the planning, execution, and administration of such contracts funds that are otherwise available to the Department of Defense for such types of expenses.

(B) The Secretary of Defense shall require that eligible entities receiving amounts from the Department of Defense Family Housing Improvement Fund prioritize the use of such amounts for expenditures related to asset recapitalization, operating expenses, and debt payments before other program management-incentive fee expenditures. In the case of asset recapitalization, the primary purpose of the expenditures must be to sustain existing housing units owned or managed by the eligible entity or for which the eligible entity is otherwise responsible.

(2) In such amounts as provided in appropriation Acts and except as provided in subsection (e), the Secretary of Defense may use amounts in the Department of Defense Military Unaccompanied Housing Improvement Fund to carry out activities under this subchapter with respect to military unaccompanied housing, including activities required in connection with the planning, execution, and administration of contracts entered into under the authority of this subchapter. The Secretary may also use for expenses of activities required in connection with the planning, execution, and administration of such contracts funds that are otherwise available to the Department of Defense for such types of expenses.

(3) Amounts made available under this subsection shall remain available until expended. The Secretary of Defense may transfer amounts made available under this subsection to the Secretaries of the military departments to permit such Secretaries to carry out the activities for which such amounts may be used.

(e) LIMITATION ON OBLIGATIONS.—(1) The Secretary may not incur an obligation under a contract or other agreement entered into under this subchapter in excess of the unobligated balance, at the time the contract is entered into, of the Fund required to be used to satisfy the obligation.

(2) The Funds established under subsection (a) shall be the sole source of funds for activities carried out under this subchapter.

(f) NOTIFICATION REQUIRED FOR TRANSFERS.—A transfer of appropriated amounts to a Fund under subparagraph (B) of paragraph (1) or subparagraph (B) of paragraph (2) of subsection (c) may be made only after the end of the 14-day period beginning on the date the Secretary of Defense submits notice of, and justification for, the transfer to the appropriate committees of Congress in an electronic medium pursuant to section 480 of this title.

(Added Pub. L. 104–106, div. B, title XXVIII, § 2801(a)(1), Feb. 10, 1996, 110 Stat. 548; amended Pub. L. 104–201, div. B, title XXVIII, § 2804, Sept. 23, 1996, 110 Stat. 2788; Pub. L. 106–65, div. B, title XXVIII, § 2802(b), Oct. 5, 1999, 113 Stat. 848; Pub. L. 108–136, div. A, title X, § 1031(a)(51), div. B, title XXVIII, § 2805(c), Nov. 24, 2003, 117 Stat. 1603, 1721; Pub. L. 108–375, div. B, title XXVIII, § 2805(a), Oct. 28, 2004, 118 Stat. 2122; Pub. L. 109–163, div. B, title XXVIII, § 2806(a), (b), Jan. 6, 2006, 119 Stat. 3507; Pub. L. 110–181, div. B, title XXVII, § 2705, Jan. 28, 2008, 122 Stat. 533; Pub. L. 112–239, div. B, title XXVII, § 2711(c)(5), Jan. 2, 2013, 126 Stat. 2144; Pub. L. 115–91, div. B, title XXVIII, § 2801(d)(2), Dec. 12, 2017, 131 Stat. 1844; Pub. L. 116–283, div. B, title XXVIII, § 2813(a), Jan. 1, 2021, 134 Stat. 4327.)

Editorial Notes

AMENDMENTS

2021—Subsec. (d)(1). Pub. L. 116–283 designated existing provisions as subpar. (A) and added subpar. (B).

2017—Subsec. (f). Pub. L. 115–91 substituted ''14-day period'' for ''30-day period'' and struck out ''written'' before ''notice'' and ''or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notice and justification is provided'' before ''in an electronic medium''.

2013—Subsec. (c)(1)(G). Pub. L. 112–239, § 2711(c)(5)(A)(i), struck out subpar. (G), which read as follows: ''Subject to subsection (f), any amounts that the Secretary of Defense transfers to that Fund from amounts in the Department of Defense Base Closure Account 2005.''

Subsec. (c)(2)(G). Pub. L. 112–239, § 2711(c)(5)(A)(ii), struck out subpar. (G), which read as follows: ''Subject to subsection (f), any amounts that the Secretary of Defense transfers to that Fund from amounts in the Department of Defense Base Closure Account 2005.''

Subsec. (f). Pub. L. 112–239, § 2711(c)(5)(B), struck out ''or (G)'' after ''subparagraph (B)'' in two places in first sentence, and struck out second sentence which read: ''In addition, the notice required in connection with a transfer under subparagraph (G) of paragraph (1) or subparagraph (G) of paragraph (2) shall include a certification that the amounts to be transferred from the Department of Defense Base Closure Account 2005 were specified in the conference report to accompany the most recent Military Construction Authorization Act.''

2008—Subsec. (c)(1)(G). Pub. L. 110–181, §2705(a)(1), added subpar. (G).

Subsec. (c)(2)(G). Pub. L. 110–181, §2705(a)(2), added subpar. (G).

Subsec. (f). Pub. L. 110–181, §2705(b), substituted ''subparagraph (B) or (G) of paragraph (1) or subparagraph (B) or (G) of paragraph (2)'' for ''paragraph (1)(B) or (2)(B)'' and inserted at end ''In addition, the notice required in connection with a transfer under subparagraph (G) of paragraph (1) or subparagraph (G) of paragraph (2) shall include a certification that the amounts to be transferred from the Department of Defense Base Closure Account 2005 were specified in the conference report to accompany the most recent Military Construction Authorization Act.''

2006—Subsec. (c)(1)(B). Pub. L. 109–163, §2806(b), substituted ''acquisition, improvement, or construction'' for ''acquisition or construction''.

Subsec. (e). Pub. L. 109–163, §2806(a), designated existing provisions as par. (1) and added par. (2).

2004—Subsec. (g). Pub. L. 108–375 struck out heading and text of subsec. (g). Text read as follows: ''The total value in budget authority of all contracts and investments undertaken using the authorities provided in this subchapter shall not exceed—

''(1) $850,000,000 for the acquisition or construction of military family housing; and

''(2) $150,000,000 for the acquisition or construction of military unaccompanied housing.''

2003—Subsec. (c)(1)(F). Pub. L. 108–136, §2805(c)(1), added subpar. (F).

Subsec. (c)(2)(F). Pub. L. 108–136, §2805(c)(2), added subpar. (F).

Subsec. (f). Pub. L. 108–136, §1031(a)(51), inserted before period at end ''or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notice and justification is provided in an electronic medium pursuant to section 480 of this title''.

1999—Subsec. (c)(1)(E). Pub. L. 106–65, §2802(b)(1), added subpar. (E).

Subsec. (c)(2)(E). Pub. L. 106–65, §2802(b)(2), added subpar. (E).

1996—Subsec. (d)(1), (2). Pub. L. 104–201 inserted at end ''The Secretary may also use for expenses of activities required in connection with the planning, execution, and administration of such contracts funds that are otherwise available to the Department of Defense for such types of expenses.''

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116–283, div. B, title XXVIII, §2813(b), Jan. 1, 2021, 134 Stat. 4327, provided that: ''The requirements set forth in subparagraph (B) of section 2883(d)(1) of title 10, United States Code, as added by subsection (a), shall apply to appropriate legal documents entered into or renewed on or after the date of the enactment of this Act [Jan. 1, 2021] between the Secretary of a military department and a landlord regarding privatized military housing. In this subsection, the terms 'landlord' and 'privatized military housing' have the meanings given those terms in section 3001(a) of the Military Construction Authorization Act for Fiscal Year 2020 (division B of Public Law 116–92; 133 Stat. 1916; 10 U.S.C. 2821 note).''

EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112–239 effective on the later of Oct. 1, 2013, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2014 (div. J of Pub. L. 113–76, approved Jan. 17, 2014), see section 2711(d) of Pub. L. 112–239, set out as a note under section 2701 of this title.

§ 2883a. Funds for housing allowances of members of the armed forces assigned to certain military family housing units

(a) AUTHORITY TO TRANSFER FUNDS TO COVER HOUSING ALLOWANCES.—During the fiscal year in which a contract is awarded for the acquisition or construction of military family housing units under this subchapter that are not to be owned by the United States, the Secretary of Defense may transfer the amount determined under subsection (b) with respect to such housing from appropriations available for support of military housing for the armed force concerned for that fiscal year to appropriations available for pay and allowances of military personnel of that same armed force for that same fiscal year.

(b) AMOUNT TRANSFERRED.—The total amount authorized to be transferred under subsection (a) in connection with a contract under this subchapter may not exceed an amount equal to any additional amounts payable during the fiscal year in which the contract is awarded to members of the armed forces assigned to the acquired or constructed housing units as basic allowance for housing under section 403 of title 37 that would not otherwise have been payable to such members if not for assignment to such housing units.

(c) TRANSFERS SUBJECT TO APPROPRIATIONS.—The transfer of funds under the authority of subsection (a) is limited to such amounts as may be provided in advance in appropriations Acts.

(Added Pub. L. 107–107, div. B, title XXVIII, §2804(a), Dec. 28, 2001, 115 Stat. 1305.)

§ 2884. Reports

(a) PROJECT REPORTS.—(1) The Secretary concerned shall transmit to the appropriate committees of Congress a report describing—

(A) each contract or agreement for the acquisition or construction of family housing units or unaccompanied housing units under this subchapter; and

(B) each conveyance or lease proposed under section 2878 of this title.

(2) A report required by paragraph (1) shall include the following:

(A) A description of the contract, agreement, conveyance, or lease, including a summary of the terms of the contract, agreement, conveyance, or lease.

(B) A description of the authorities to be utilized in entering into the contract, agreement, conveyance, or lease and the intended method of participation of the United States in the contract, agreement, conveyance, or lease, including a justification of the intended method of participation.

(C) A statement of the scored cost of the contract, agreement, conveyance, or lease, as determined by the Office of Management and Budget.

(D) A statement of the United States funds required for the contract, agreement, conveyance, or lease and a description of the source of such funds, including a description of the specific construction, acquisition, or improvement projects from which funds were transferred to the Funds established under section 2883 of this title in order to finance the contract, agreement, conveyance, or lease.

(E) An economic assessment of the life cycle costs of the contract, agreement, conveyance, or lease, including an estimate of the amount of United States funds that would be paid over

the life of the contract, agreement, conveyance, or lease from amounts derived from payments of government allowances, including the basic allowance for housing under section 403 of title 37, if the housing affected by the project were fully occupied by military personnel over the life of the contract, agreement, conveyance, or lease.

(3)(A) In the case of a contract or agreement described in paragraph (1) proposed to be entered into with a private party, the report shall specify whether the contract or agreement will or may include a guarantee (including the making of mortgage or rental payments) by the Secretary to the private party in the event of—

(i) the closure or realignment of the installation for which housing will be provided under the contract or agreement;

(ii) a reduction in force of units stationed at such installation; or

(iii) the extended deployment of units stationed at such installation.

(B) If the contract or agreement will or may include such a guarantee, the report shall also—

(i) describe the nature of the guarantee; and

(ii) assess the extent and likelihood, if any, of the liability of the United States with respect to the guarantee.

(4) The report shall be submitted in an electronic medium pursuant to section 480 of this title not later than 21 days before the date on which the Secretary issues the contract solicitation or offers the conveyance or lease.

(b) ANNUAL REPORTS TO ACCOMPANY BUDGET MATERIALS.—The Secretary of Defense shall include each year in the materials that the Secretary submits to Congress in support of the budget submitted by the President pursuant to section 1105 of title 31 the following:

(1) A separate report on the expenditures and receipts during the preceding fiscal year covering each of the Funds established under section 2883 of this title, including a description of the specific construction, acquisition, or improvement projects from which funds were transferred and the privatization projects or contracts to which those funds were transferred. Each report shall also include, for each military department or defense agency, a description of all funds to be transferred to such Funds for the current fiscal year and the next fiscal year.

(2) A report setting forth, by armed force, the following:

(A) An estimate of the amounts of basic allowance for housing under section 403 of title 37 that will be paid, during the current fiscal year and the fiscal year for which the budget is submitted, to members of the armed forces living in housing provided under the authorities in this subchapter.

(B) The number of units of military family housing and military unaccompanied housing upon which the estimate under subparagraph (A) for the current fiscal year and the next fiscal year is based.

(3) A description of the plans for housing privatization activities to be carried out under this subchapter—

(A) during the fiscal year for which the budget is submitted; and

(B) during the period covered by the then-current future-years defense plan under section 221 of this title.

(4) A report identifying each family housing unit acquired or constructed under this subchapter that is used, or intended to be used, as quarters for a general officer or flag officer and for which the total operation, maintenance, and repair costs for the unit exceeded $50,000. For each housing unit so identified, the report shall also include the total of such operation, maintenance, and repair costs.

(c) ANNUAL REPORT ON PRIVATIZATION PROJECTS.—The Secretary of Defense shall submit to the congressional defense committees a semi-annual report containing an evaluation of the status of oversight and accountability measures under section 2885 of this title for military housing privatization projects. To the extent each Secretary concerned has the right to attain the information described in this subsection, each report shall include, at a minimum, the following:

(1) An assessment of the backlog of maintenance and repair at each military housing privatization project where a significant backlog exists, including an estimation of the cost of eliminating the maintenance and repair backlog.

(2) If the debt associated with a privatization project exceeds net operating income or the occupancy rates for the housing units are below 75 percent for more than one year, the plan developed to mitigate the financial risk of the project.

(3) An assessment of any significant project variances between the actual and pro forma deposits in the recapitalization account, to specifically include any unique variances associated with litigation costs.

(4) The details of any significant withdrawals from a recapitalization account, including the purpose and rationale of the withdrawal and, if the withdrawal occurs before the normal recapitalization period, the impact of the early withdrawal on the financial health of the project.

(5) An assessment of the extent to which the information required to comply with paragraphs (1) through (4) has been requested by the Secretaries, but has not been made available.

(6) An assessment of cost assessed to members of the armed forces for utilities compared to utility rates in the local area.

(7) An assessment of the condition of housing units based on the average age of those units and the estimated time until recapitalization.

(8) An assessment of tenant complaints.

(9) An assessment of maintenance response times and completion of maintenance requests.

(10) An assessment of the dispute resolution process under section 2894(c) of this title, which shall include a list of dispute resolution cases by installation and the final outcome of each case.

(11) An assessment of overall customer service for tenants.

(12) A description of the results of any no-notice housing inspections conducted.

(13) The results of any resident surveys conducted.

(14) With regard to issues of lead-based paint in housing units, a summary of data relating to the presence of lead-based paint in such housing units, including the following by military department:

(A) The total number of housing units containing lead-based paint.

(B) A description of the reasons for the failure to inspect any housing unit that contains lead-based paint.

(C) A description of all abatement or mitigation efforts completed or underway in housing units containing lead-based paint.

(D) A certification as to whether military housing under the jurisdiction of the Secretary concerned complies with requirements relating to lead-based paint, lead-based paint activities, and lead-based paint hazards, as described in section 408 of the Toxic Substances Control Act (15 U.S.C. 2688).

(d) ANNUAL BRIEFINGS.—Not later than February 1 of each year, each Secretary concerned shall provide to the Committees on Armed Services of the Senate and House of Representatives a briefing on military housing privatization projects under the jurisdiction of the Secretary. Such briefing shall include, for the 12-month period preceding the date of the briefing, each of the following:

(1) The information described in paragraphs (1) through (14) of subsection (c) with respect to all military housing privatization projects under the jurisdiction of the Secretary.

(2) A review of any such project that is expected to require the restructuring of a loan, including any public or private loan.

(3) For any such project expected to require restructuring, a timeline for when such restructuring is expected to occur.

(4) Such other information as the Secretary determines appropriate.

(Added Pub. L. 104–106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 550; amended Pub. L. 108–136, div. B, title XXVIII, §2807, Nov. 24, 2003, 117 Stat. 1722; Pub. L. 108–375, div. B, title XXVIII, §2806, Oct. 28, 2004, 118 Stat. 2122; Pub. L. 109–163, div. B, title XXVIII, §2806(c), Jan. 6, 2006, 119 Stat. 3507; Pub. L. 110–417, div. B, title XXVIII, §2805(b), (f), Oct. 14, 2008, 122 Stat. 4723, 4724; Pub. L. 111–383, div. A, title X, §1075(h)(6), div. B, title XXVIII, §2803(g), Jan. 7, 2011, 124 Stat. 4377, 4459; Pub. L. 112–239, div. B, title XXVIII, §2803(b), Jan. 2, 2013, 126 Stat. 2148; Pub. L. 113–66, div. B, title XXVIII, §2806, Dec. 26, 2013, 127 Stat. 1008; Pub. L. 113–291, div. A, title X, §1071(f)(26), Dec. 19, 2014, 128 Stat. 3511; Pub. L. 115–91, div. B, title XXVIII, §2801(d)(3), Dec. 12, 2017, 131 Stat. 1844; Pub. L. 116–92, div. B, title XXX, §3016(d), Dec. 20, 2019, 133 Stat. 1929; Pub. L. 116–283, div. B, title XXVIII, §§2803(c), 2811(h), Jan. 1, 2021, 134 Stat. 4320, 4326; Pub. L. 117–263, div. B, title XXVIII, §2823, Dec. 23, 2022, 136 Stat. 3001.)

Editorial Notes

AMENDMENTS

2022—Subsec. (d). Pub. L. 117–263 added subsec. (d).

2021—Subsec. (a)(1). Pub. L. 116–283, §2803(c)(1)(A), substituted ''The Secretary concerned'' for ''The Secretary of Defense'' in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 116–283, §2803(c)(1)(B), inserted ''or agreement'' after ''each contract'' and struck out ''that the Secretary proposes to solicit'' after ''unaccompanied housing units''.

Subsec. (a)(2). Pub. L. 116–283, §2803(c)(2), substituted ''A report required by paragraph (1)'' for ''For each proposed contract, conveyance, or lease described in paragraph (1), the report required by such paragraph'' in introductory provisions and inserted ''agreement,'' after ''contract,'' wherever appearing.

Subsec. (a)(3). Pub. L. 116–283, §2803(c)(3), inserted ''or agreement'' after ''contract'' wherever appearing.

Subsec. (c)(10). Pub. L. 116–283, §2811(h), amended par. (10) generally. Prior to amendment, par. (10) read as follows: ''An assessment of the dispute resolution process, which shall include a specific analysis of each denied tenant request to withhold rent payments and each instance in which the dispute resolution process resulted in a favorable outcome for the landlord.''

2019—Subsec. (c)(7) to (14). Pub. L. 116–92 added pars. (7) to (14).

2017—Subsec. (a)(4). Pub. L. 115–91 added par. (4) and struck out former par. (4) which read as follows: ''The report shall be submitted not later than 30 days before the date on which the Secretary issues the contract solicitation or offers the conveyance or lease or, if earlier, a period of 20 days has elapsed from the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title.''

2014—Subsec. (c). Pub. L. 113–291 substituted ''an evaluation'' for ''on evaluation'' in introductory provisions.

2013—Subsecs. (b), (c). Pub. L. 112–239 added subsecs. (b) and (c) and struck out former subsec. (b) which required the Secretary of Defense to provide annual reports to Congress.

Subsec. (c)(3). Pub. L. 113–66 inserted '', to specifically include any unique variances associated with litigation costs'' before period at end.

2011—Subsec. (a)(4). Pub. L. 111–383, §2803(g), inserted before period at end ''or, if earlier, a period of 20 days has elapsed from the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title''.

Subsec. (b)(1). Pub. L. 111–383, §1075(h)(6), made technical correction to directory language of Pub. L. 109–163, §2806(c)(2)(A). See 2006 Amendment note below.

2008—Subsec. (b)(7). Pub. L. 110–417, §2805(b), added par. (7).

Subsec. (b)(8). Pub. L. 110–417, §2805(f), added par. (8).

2006—Subsec. (a)(2)(D). Pub. L. 109–163, §2806(c)(1), inserted before period '', including a description of the specific construction, acquisition, or improvement projects from which funds were transferred to the Funds established under section 2883 of this title in order to finance the contract, conveyance, or lease''.

Subsec. (b)(1). Pub. L. 109–163, §2806(c)(2)(B), (C), substituted ''covering each of the Funds'' for ''covering the Funds'' and inserted before period at end '', including a description of the specific construction, acquisition, or improvement projects from which funds were transferred and the privatization projects or contracts to which those funds were transferred. Each report shall also include, for each military department or defense agency, a description of all funds to be transferred to such Funds for the current fiscal year and the next fiscal year''.

Pub. L. 109–163, §2806(c)(2)(A), as amended by Pub. L. 111–383, §1075(h)(6), substituted ''A separate report'' for ''A report''.

2004—Subsec. (a)(2). Pub. L. 108–375, §2806(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The report shall describe the proposed contract, conveyance, or lease and the intended method of

participation of the United States in the contract, conveyance, or lease and provide a justification of such method of participation.''

Subsec. (b)(5), (6). Pub. L. 108–375, § 2806(b), added par. (5) and redesignated former par. (5) as (6).

2003—Subsec. (a)(2) to (4). Pub. L. 108–136, § 2807(a), designated second sentence of par. (2) as par. (4) and added par. (3).

Subsec. (b)(2). Pub. L. 108–136, § 2807(b)(1), inserted before period at end '', and such recommendations as the Secretary considers necessary for improving the extent and effectiveness of the use of such authorities in the future''.

Subsec. (b)(3) to (5). Pub. L. 108–136, § 2807(b)(2), added pars. (3) to (5) and struck out former par. (3) which read as follows: ''A description of the objectives of the Department of Defense for providing military family housing and military unaccompanied housing for members of the armed forces.''

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111–383, div. A, title X, § 1075(h), Jan. 7, 2011, 124 Stat. 4377, provided that amendment by section 1075(h)(6) is effective as of Jan. 6, 2006, and as if included in Pub. L. 109–163 as enacted.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsecs. (b) and (c) of this section requiring submittal of reports to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

FINAL REPORT

Pub. L. 104–106, div. B, title XXVIII, § 2801(b), Feb. 10, 1996, 110 Stat. 551, provided that, not later than Mar. 1, 2000, the Secretary of Defense was to submit to the congressional defense committees a report on the use by the Secretary of Defense and the Secretaries of the military departments of the authorities provided by subchapter IV of chapter 169 of this title.

§ 2885. Oversight and accountability for privatization projects

(a) OVERSIGHT AND ACCOUNTABILITY MEASURES.—Each Secretary concerned shall prescribe regulations to effectively oversee and manage military housing privatization projects carried out under this subchapter during the course of the construction or renovation of the housing units. The regulations shall include the following requirements for each privatization project:

(1) The installation asset manager shall conduct monthly site visits and provide quarterly reports on the progress of the construction or renovation of the housing units. The reports shall be submitted quarterly to the assistant secretary for installations and environment of the respective military department.

(2) The installation asset manager, and, as applicable, the resident construction manager, privatization asset manager, bondholder representative, project owner, developer, general contractor, and construction consultant for the project shall conduct meetings to ensure that the construction or renovation of the units meets performance and schedule requirements and that appropriate operating and ground lease agreements are in place and adhered to.

(3) In the case of a project for new construction, if the project is 90 days or more behind schedule or otherwise appears to be substantially failing to adhere to the obligations or milestones under the contract, the assistant secretary for installations and environment of the respective military department shall submit a notice of deficiency to the Assistant Secretary of Defense for Energy, Installations, and Environment, the Secretary concerned, the managing member, and the trustee for the project.

(4)(A) Not later than 15 days after the submittal of a notice of deficiency under paragraph (3), the Secretary concerned or designated representative shall submit to the project owner, developer, or general contractor responsible for the project a summary of deficiencies related to the project.

(B) If the project owner, developer, or general contractor responsible for the privatization project is unable, within 60 days after receiving a notice of deficiency under subparagraph (A), to make progress on the issues outlined in such notice, the Secretary concerned shall notify, in an electronic medium pursuant to section 480 of this title, the congressional defense committees of the status of the project and include a recommended course of action to correct the problems.

(b) REQUIRED QUALIFICATIONS.—The Secretary concerned or designated representative shall ensure that the project owner, developer, or general contractor that is selected for each military housing privatization initiative project has construction experience commensurate with that required to complete the project.

(c) BONDING LEVELS.—The Secretary concerned shall ensure that the project owner, developer, or general contractor responsible for a military housing privatization initiative project has sufficient payment and performance bonds or suitable instruments in place for each phase of a construction or renovation portion of the project to ensure successful completion of the work in amounts as agreed to in the project's legal documents, but in no case less than 50 percent of the total value of the active phases of the project, prior to the commencement of work for that phase.

(d) REPORTING OF EFFORTS TO SELECT SUCCESSOR IN EVENT OF DEFAULT.—In the event a military housing privatization initiative project enters into default, the assistant secretary for installations and environment of the respective military department shall submit, in an electronic medium pursuant to section 480 of this title, a report to the congressional defense committees every 90 days detailing the status of negotiations to award the project to a new project owner, developer, or general contractor.

(e) EFFECT OF NOTICES OF DEFICIENCY ON CONTRACTORS AND AFFILIATED ENTITIES.—(1) The Secretary concerned shall keep a record of all plans of action or notices of deficiency issued to a project owner, developer, or general contractor under subsection (a)(4), including the identity of each parent, subsidiary, affiliate, or other controlling entity of such owner, developer, or contractor.

(2) Each military department shall consult all records maintained under paragraph (1) when reviewing the past performance of owners, devel-

opers, and contractors in the bidding process for a contract or other agreement for a military housing privatization initiative project.

(f) FINANCIAL INTEGRITY AND ACCOUNTABILITY MEASURES.—(1) The regulations required by subsection (a) shall address the following requirements for each military housing privatization project upon the completion of the construction or renovation of the housing units:

(A) The financial health and performance of the privatization project, including the debt-coverage ratio of the project and occupancy rates for the housing units.

(B) An assessment of the backlog of maintenance and repair of the housing units.

(2) If the debt service coverage for a military housing privatization project falls below 1.0 or the occupancy rates for the housing units of the project are below 75 percent for more than one year, the Secretary concerned shall require the development of a plan to address the financial risk of the project.

(Added Pub. L. 110–417, div. B, title XXVIII, §2805(a)(1), Oct. 14, 2008, 122 Stat. 4721; amended Pub. L. 112–239, div. B, title XXVIII, §2803(a), Jan. 2, 2013, 126 Stat. 2147; Pub. L. 113–66, div. A, title X, §1084(a)(3), Dec. 26, 2013, 127 Stat. 871; Pub. L. 113–291, div. A, title IX, §901(n)(2), Dec. 19, 2014, 128 Stat. 3469; Pub. L. 115–91, div. B, title XXVIII, §2801(d)(4), Dec. 12, 2017, 131 Stat. 1844.)

Editorial Notes

PRIOR PROVISIONS

A prior section 2885, added Pub. L. 104–106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 551; amended Pub. L. 105–85, div. A, title X, §1073(a)(61), Nov. 18, 1997, 111 Stat. 1903; Pub. L. 106–398, §1 [div. B, title XXVIII, §2806], Oct. 30, 2000, 114 Stat. 1654, 1654A–415; Pub. L. 107–107, div. B, title XXVIII, §2805, Dec. 28, 2001, 115 Stat. 1306, related to expiration of authority to enter into a contract under this subchapter, prior to repeal by Pub. L. 108–375, div. B, title XXVIII, §2805(b)(1), Oct. 28, 2004, 118 Stat. 2122.

AMENDMENTS

2017—Subsec. (a)(4)(B). Pub. L. 115–91, §2801(d)(4)(A), inserted '', in an electronic medium pursuant to section 480 of this title,'' after ''notify'' and substituted ''and include'' for '', and shall provide''.

Subsec. (d). Pub. L. 115–91, §2801(d)(4)(B), inserted '', in an electronic medium pursuant to section 480 of this title,'' after ''submit''.

2013—Subsec. (a). Pub. L. 112–239, §2803(a)(2), in introductory provisions, inserted ''during the course of the construction or renovation of the housing units'' before period at end of first sentence.

Subsec. (a)(3). Pub. L. 113–66 substituted ''In the case of a project for new construction, if the project'' for ''If a project''.

Subsec. (f). Pub. L. 112–239, §2803(a)(1), added subsec. (f).

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

''Assistant Secretary of Defense for Energy, Installations, and Environment'' substituted for ''Deputy Under Secretary of Defense (Installations and Environment)'' in subsec. (a)(3) on authority of section 901(n)(2) of Pub. L. 113–291, set out as a References note under section 131 of this title.

[§ 2886. Repealed. Pub. L. 116–92, div. B, title XXX, § 3014(d)(1), Dec. 20, 2019, 133 Stat. 1926]

Section, added Pub. L. 115–91, div. A, title VI, §602(a), Dec. 12, 2017, 131 Stat. 1417, prohibited collection of amounts in addition to rent from members assigned to military family housing units or military unaccompanied housing units. See section 2891a(f) of this title.

SUBCHAPTER V—OVERSIGHT OF LANDLORDS AND PROTECTIONS AND RESPONSIBILITIES FOR TENANTS OF PRIVATIZED MILITARY HOUSING

Sec.
2890. Rights and responsibilities of tenants of housing units.
[2890a. Renumbered.]
2891. Requirements relating to contracts for provision of housing units.
2891a. Requirements relating to management of housing units.
2891b. Considerations of eligible entity housing history in contracts for privatized military housing.
2891c. Transparency regarding finances and performance metrics.
2892. Maintenance work order system for housing units.
2892a. Access by tenants to historical maintenance information.
2892b. Prohibition on requirement to disclose personally identifiable information in requests for certain maintenance.
2893. Treatment of incentive fees for landlords of housing units for failure to remedy health or environmental hazards.
2894. Landlord-tenant dispute resolution process and treatment of certain payments during process.
2894a. Complaint database.

Editorial Notes

AMENDMENTS

2021—Pub. L. 116–283, div. B, title XXVIII, §§2811(k)(1)(B), (2), 2814(d)(2), Jan. 1, 2021, 134 Stat. 4326, 4328, added items 2891c and 2892b and struck out former items 2890a ''Chief Housing Officer'', 2891c ''Financial transparency'', and 2892b ''Prohibition on requirement to disclose personally identifiable information in electronic requests for maintenance''.

§ 2890. Rights and responsibilities of tenants of housing units

(a) DEVELOPMENT OF TENANT BILL OF RIGHTS AND TENANT RESPONSIBILITIES DOCUMENTS.—(1) The Secretary of Defense shall develop two separate documents, to be known as the Military Housing Privatization Initiative Tenant Bill of Rights and the Military Housing Privatization Initiative Tenant Responsibilities, for tenants of housing units.

(2) The Secretary of each military department shall ensure that the housing documents are attached to each lease agreement for a housing unit.

(3) The rights and responsibilities contained in the housing documents are not intended to be exclusive. The omission of a tenant right or responsibility shall not be construed to deny the existence of such a right or responsibility for tenants.

(4) Each contract between the Secretary concerned and a landlord shall incorporate the housing documents and guarantee the rights and

responsibilities of tenants who reside in housing units covered by the contract.

(5) The Secretary of Defense shall develop the housing documents in coordination with the Secretaries of the military departments.

(b) ELEMENTS OF TENANT BILL OF RIGHTS.—At a minimum, the Military Housing Privatization Initiative Tenant Bill of Rights shall address the following rights of tenants of housing units:

(1) The right to reside in a housing unit and community that meets applicable health and environmental standards.

(2) The right to reside in a housing unit that has working fixtures, appliances, and utilities and to reside in a community with well-maintained common areas and amenity spaces.

(3) The right to be provided with a maintenance history of the prospective housing unit before signing a lease, as provided in section 2892a of this title.

(4) The right to a written lease with clearly defined rental terms to establish tenancy in a housing unit, including any addendums and other regulations imposed by the landlord regarding occupancy of the housing unit and use of common areas.

(5) The right to a plain-language briefing, before signing a lease and 30 days after move-in, by the installation housing office on all rights and responsibilities associated with tenancy of the housing unit, including information regarding the existence of any additional fees authorized by the lease, any utilities payments, the procedures for submitting and tracking work orders, the identity of the military tenant advocate, and the dispute resolution process.

(6) The right to have sufficient time and opportunity to prepare and be present for move-in and move-out inspections, including an opportunity to obtain and complete necessary paperwork.

(7) The right to report inadequate housing standards or deficits in habitability of the housing unit to the landlord, the chain of command, and housing management office without fear of reprisal or retaliation, as provided in subsection (e), including reprisal or retaliation in the following forms:

(A) Unlawful recovery of, or attempt to recover, possession of the housing unit.

(B) Unlawfully increasing the rent, decreasing services, or increasing the obligations of a tenant.

(C) Interference with a tenant's right to privacy.

(D) Harassment of a tenant.

(E) Refusal to honor the terms of the lease.

(F) Interference with the career of a tenant.

(8) The right of access to a military tenant advocate, as provided in section 2894(b)(4) of this title, through the housing management office of the installation of the Department at which the housing unit is located.

(9) The right to receive property management services provided by a landlord that meet or exceed industry standards and that are performed by professionally and appropriately trained, responsive, and courteous customer service and maintenance staff.

(10) The right to have multiple, convenient methods to communicate directly with the landlord maintenance staff, and to receive consistently honest, accurate, straightforward, and responsive communications.

(11) The right to have access to an electronic work order system through which a tenant may request maintenance or repairs of a housing unit and track the progress of the work.

(12) With respect to maintenance and repairs to a housing unit, the right to the following:

(A) Prompt and professional maintenance and repair.

(B) To be informed of the required time frame for maintenance or repairs when a maintenance request is submitted.

(C) In the case of maintenance or repairs necessary to ensure habitability of a housing unit, to prompt relocation into suitable lodging or other housing at no cost to the tenant until the maintenance or repairs are completed.

(13) The right to receive advice from military legal assistance on procedures involving mechanisms for resolving disputes with the property management company or property manager to include mediation, arbitration, and filing claims against a landlord.

(14) The right to enter into a dispute resolution process, as provided in section 2894 of this title, should all other methods be exhausted and, in which case, a decision in favor of the tenant may include a reduction in rent or an amount to be reimbursed or credited to the tenant.

(15) The right to have the tenant's basic allowance housing payments segregated, with approval of a designated commander, and not used by the property owner, property manager, or landlord pending completion of the dispute resolution process.

(16) The right to have reasonable, advance notice of any entrance by a landlord, installation housing staff, or chain of command into the housing unit, except in the case of an emergency or abandonment of the housing unit.

(17) The right to not pay non-refundable fees or have application of rent credits arbitrarily held.

(18) The right to expect common documents, forms, and processes for housing units will be the same for all installations of the Department, to the maximum extent applicable without violating local, State, and Federal regulations.

(c) ELEMENTS OF TENANT RESPONSIBILITIES.—At a minimum, the Military Housing Privatization Initiative Tenant Responsibilities shall address the following responsibilities of tenants of housing units:

(1) The responsibility to report in a timely manner any apparent environmental, safety, or health hazards of the housing unit to the landlord and any defective, broken, damaged, or malfunctioning building systems, fixtures, appliances, or other parts of the housing unit, the common areas, or related facilities.

(2) The responsibility to maintain standard upkeep of the housing unit as instructed by the housing management office.

(3) The responsibility to conduct oneself as a tenant in a manner that will not disturb neighbors, and to assume responsibility for one's actions and those of a family member or guest in the housing unit or common areas.

(4) The responsibility not to engage in any inappropriate, unauthorized, or criminal activity in the housing unit or common areas.

(5) The responsibility to allow the landlord reasonable access to the rental home in accordance with the terms of the tenant lease agreement to allow the landlord to make necessary repairs in a timely manner.

(6) The responsibility to read all lease-related materials provided by the landlord and to comply with the terms of the lease agreement, lease addenda, and any associated rules and guidelines.

(d) SUBMISSION TO CONGRESS AND PUBLIC AVAILABILITY.—(1) As part of the budget submission for fiscal year 2021, and biennially thereafter, each Secretary of a military department shall submit the then-current housing documents to the congressional defense committees.

(2) Any change made to a housing document must be submitted to Congress at least 30 days before the change takes effect.

(3) Upon submission of a housing document under paragraph (1) or (2), each Secretary of a military department shall publish the housing document on a publicly available Internet website of the military department under the jurisdiction of such Secretary.

(e) INVESTIGATION OF REPORTS OF REPRISALS.—(1) The Inspector General of the Department of Defense shall investigate all reports of reprisal against a tenant for reporting an issue relating to a housing unit.

(2) If the Inspector General determines under paragraph (1) that a landlord has retaliated against a tenant for reporting an issue relating to a housing unit, the Inspector General shall—

(A) provide initial notice to the Committees on Armed Services of the Senate and the House of Representatives as soon as practicable after making that determination; and

(B) following that initial notice, provide an update to such committees every 30 days thereafter until such time as the Inspector General has taken final action with respect to the retaliation.

(3) The Inspector General of the Department of Defense shall carry out this subsection in coordination with the Inspector General of the military department concerned.

(f) PROHIBITION ON USE OF NONDISCLOSURE AGREEMENTS.—(1) A tenant or prospective tenant of a housing unit may not be required to sign a nondisclosure agreement in connection with entering into, continuing, or terminating a lease for the housing unit. Any such agreement against the interests of the tenant is invalid.

(2) Paragraph (1) shall not apply to a nondisclosure agreement executed—

(A) as part of the settlement of litigation; or

(B) to avoid litigation if the tenant has retained legal counsel or has sought military legal assistance under section 1044 of this title.

(3) A party presenting a proposed nondisclosure agreement to a tenant shall notify such tenant that such tenant may, not later than 10 business days after such presentation, seek legal counsel with respect to the terms of and implications of entering into such agreement. A tenant may not be required to sign such agreement before the end of such 10-day period.

(Added and amended Pub. L. 116–92, div. B, title XXX, §§ 3011(b), 3023, 3024(a), Dec. 20, 2019, 133 Stat. 1917, 1935; Pub. L. 116–283, div. B, title XXVIII, § 2811(b), Jan. 1, 2021, 134 Stat. 4323; Pub. L. 118–31, div. B, title XXVIII, §§ 2822(b), 2823, 2839(e), Dec. 22, 2023, 137 Stat. 751, 752, 761.)

Editorial Notes

AMENDMENTS

2023—Subsec. (d)(1). Pub. L. 118–31, § 2839(e)(1), substituted ''each Secretary of a military department'' for ''the Secretary of Defense''.

Subsec. (d)(3). Pub. L. 118–31, § 2839(e), substituted ''each Secretary of a military department'' for ''the Secretary of Defense'' and ''the military department under the jurisdiction of such Secretary'' for ''the Department of Defense''.

Subsec. (e)(1). Pub. L. 118–31, § 2822(b)(1), substituted ''Inspector General of the Department of Defense'' for ''Assistant Secretary of Defense for Sustainment'' and ''tenant'' for ''member of the armed forces''.

Subsec. (e)(2). Pub. L. 118–31, § 2822(b)(2)(A), in introductory provisions, substituted ''Inspector General determines'' for ''Assistant Secretary of Defense for Sustainment determines'', ''tenant'' for ''member of the armed forces'', and ''Inspector General shall'' for ''Assistant Secretary shall''.

Subsec. (e)(2)(B). Pub. L. 118–31, § 2822(b)(2)(B), substituted ''Inspector General'' for ''Assistant Secretary''.

Subsec. (e)(3). Pub. L. 118–31, § 2822(b)(3), substituted ''Inspector General of the Department of Defense'' for ''Assistant Secretary of Defense for Sustainment'' and ''Inspector General of the military department concerned'' for ''Secretary of the military department concerned''.

Subsec. (f)(3). Pub. L. 118–31, § 2823, added par. (3).

2021—Subsec. (b)(15). Pub. L. 116–283, § 2811(b)(1), struck out ''and held in escrow'' after ''payments segregated''.

Subsec. (e)(2). Pub. L. 116–283, § 2811(b)(2), inserted ''a'' before ''landlord'' in introductory provisions.

Subsec. (f)(2). Pub. L. 116–283, § 2811(b)(3), added par. (2) and struck out former par. (2) which read as follows: ''Paragraph (1) shall not apply to a nondisclosure agreement executed as part of the settlement of litigation.''

2019—Subsec. (e). Pub. L. 116–92, § 3023, added subsec. (e).

Subsec. (f). Pub. L. 116–92, § 3024(a), added subsec. (f).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. B, title XXX, § 3024(c), Dec. 20, 2019, 133 Stat. 1935, provided that: ''Subsection (f) of section 2890 of title 10, United States Code, as added by subsection (a), shall apply with respect to any nondisclosure agreement covered by the terms of such subsection (f) regardless of the date on which the agreement was executed.''

REGULATIONS

Pub. L. 116–92, div. B, title XXX, § 3024(b), Dec. 20, 2019, 133 Stat. 1935, provided that: ''The Secretary of Defense and the Secretaries of the military departments shall promulgate such regulations as may be necessary to give full force and effect to subsection (f)

of section 2890 of title 10, United States Code, as added by subsection (a).''

IMPLEMENTATION OF COMPTROLLER GENERAL RECOMMENDATIONS RELATING TO STRENGTHENING OVERSIGHT OF PRIVATIZED MILITARY HOUSING

Pub. L. 118–31, div. B, title XXVIII, § 2825, Dec. 22, 2023, 137 Stat. 752, provided that:

''(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall implement each recommendation of the Comptroller General of the United States contained in the report titled 'DOD Can Further Strengthen Oversight of Its Privatized Housing Program' (GAO–23–105377), dated April 6, 2023, and reissued with revisions on April 20, 2023.

''(b) NON-IMPLEMENTATION REPORTING REQUIREMENT.—If the Secretary elects not to implement any such recommendation, the Secretary shall, not later than one year after the date of the enactment of this Act, submit to the Committees on Armed Services of the Senate and the House of Representatives a report that includes a justification for such election.''

REQUIREMENTS RELATING TO MOVE-IN, MOVE-OUT, AND MAINTENANCE OF PRIVATIZED MILITARY HOUSING

Pub. L. 116–92, div. B, title XXX, § 3056, Dec. 20, 2019, 133 Stat. 1944, provided that:

''(a) MOVE-IN AND MOVE-OUT CHECKLIST.—

''(1) CHECKLIST REQUIRED.—The Secretary of Defense shall develop a uniform move-in and move-out checklist for use by landlords providing privatized military housing and by tenants of such housing.

''(2) REQUIRED MOVE-IN ELEMENT.—A tenant who will occupy a unit of privatized military housing is entitled to be present for an inspection of the housing unit before accepting occupancy of the housing unit to ensure that the unit is habitable and that facilities and common areas of the building are in good repair.

''(3) REQUIRED MOVE-OUT ELEMENT.—A tenant of a unit of privatized military housing is entitled to be present for the move-out inspection of the housing unit and must be given sufficient time to address any concerns related to the tenant's occupancy of the housing unit.

''(b) MAINTENANCE CHECKLIST.—The Secretary of Defense shall—

''(1) develop a uniform checklist to be used by housing management offices to validate the completion of all maintenance work related to health and safety issues at privatized military housing; and

''(2) require that all maintenance issues and work orders related to health and safety issues at privatized military housing be reported to the commander of the installation for which the housing is provided.

''(c) CONSULTATION.—The Secretary of Defense shall carry out this section in consultation with the Secretaries of the military departments.

''(d) DEADLINE.—The uniform checklists required by this section shall be completed not later than 60 days after the date of the enactment of this Act [Dec. 20, 2019].''

[For definitions of ''landlord'', ''privatized military housing'', and ''tenant'' as used in section 3056 of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

STANDARDIZED DOCUMENTATION, TEMPLATES, AND FORMS FOR PRIVATIZED MILITARY HOUSING

Pub. L. 116–92, div. B, title XXX, § 3057, Dec. 20, 2019, 133 Stat. 1945, provided that:

''(a) DEVELOPMENT REQUIRED.—

''(1) IN GENERAL.—The Secretary of Defense shall develop standardized documentation, templates, and forms for use throughout the Department of Defense with respect to privatized military housing. In developing such documentation, templates, and forms, the Secretary shall ensure that, to the maximum extent practicable, the documentation, templates, and forms do not conflict with applicable State and local housing regulations.

''(2) INITIAL GUIDANCE.—Not later than 30 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall issue guidance for the development of the following:

''(A) Policies and standard operating procedures of the Department for privatized military housing.

''(B) A universal lease agreement for privatized military housing that includes—

''(i) the documents developed pursuant to section 2890 of title 10, United States Code, as added by section 3011, entitled Military Housing Privatization Initiative Tenant Bill of Rights and Military Housing Privatization Initiative Tenant Responsibilities; and

''(ii) any lease addendum required by the law of the State in which the unit of privatized military housing is located.

''(3) CONSULTATION.—The Secretary of Defense shall carry out this subsection in consultation with the Secretaries of the military departments.

''(b) MILITARY DEPARTMENT PLANS.—Not later than February 1, 2020, the Secretary of each military department shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for the implementation of this section by that military department.''

[For definition of ''privatized military housing'' as used in section 3057 of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

[§ 2890a. Renumbered § 2851a]

§ 2891. Requirements relating to contracts for provision of housing units

(a) IN GENERAL.—The requirements of this section condition contracts entered into using the authorities provided to the Secretary concerned under section 2872 of this title and other authorities provided under subchapter IV of this chapter and this subchapter.

(b) EXCLUSION OF CERTAIN EMPLOYEES.—A landlord providing a housing unit shall prohibit any employee of the landlord who commits work-order fraud under the contract from doing any work under the contract.

(c) DISPUTE RESOLUTION PROCESS.—Any decision the commander renders in favor of the tenant in the formal dispute resolution process established pursuant to section 2894 of this title will be taken into consideration in determining whether to pay or withhold all or part of any incentive fees for which a landlord may otherwise be eligible under the contract.

(d) RESPONSIBILITY FOR CERTAIN MEDICAL COSTS.—

(1) REIMBURSEMENT REQUIRED UNDER CERTAIN CIRCUMSTANCES.—If the Secretary concerned finds that a landlord fails to maintain safe and sanitary conditions for a housing unit under the contract and that, subject to paragraph (2), these conditions result in a tenant of the housing unit receiving medical evaluations and treatment, the landlord shall be responsible for reimbursing the Department of Defense for any costs incurred by the Department to provide the medical evaluations and treatment to the tenant, whether such evaluations and treatment are provided in a military medical treatment facility or through the TRICARE provider network.

(2) REVIEW PROCESS.—Before the Secretary concerned may submit a claim under paragraph (1) to a landlord for reimbursement of Department medical evaluation and treatment costs—

(A) a military medical professional must determine that the tenant's medical conditions were caused by unsafe and unsanitary conditions of the housing unit; and

(B) the documentation of the medical evaluation showing causation must be sent to the Director of the Defense Health Agency for review and approval.

(3) UNIFORM PROCESSES AND PROCEDURES.—Not later than 180 days after the date of the enactment of this section, the Director of the Defense Health Agency shall develop and publish uniform processes and procedures to be used by medical providers in military medical treatment facilities to make determinations regarding whether environmental hazards within housing units serve as causative factors for medical conditions being evaluated and treated in military medical treatment facilities or through the TRICARE provider network.

(e) RESPONSIBILITY FOR RELOCATION COSTS.—

(1) PERMANENT RELOCATION.—A landlord providing a housing unit shall pay reasonable relocation costs associated with the permanent relocation of a tenant from the housing unit to a different housing unit due to health or environmental hazards—

(A) present in the housing unit being vacated through no fault of the tenant; and

(B) confirmed by the housing management office of the installation for which the housing unit is provided as making the unit uninhabitable or unable to be remediated safely while the tenant occupies the housing unit.

(2) TEMPORARY RELOCATION.—The landlord shall pay reasonable relocation costs and actual costs of living, including per diem, associated with the temporary relocation of a tenant to a different housing unit due to health or environmental hazards—

(A) present in the housing unit being vacated through no fault of the tenant; and

(B) confirmed by the housing management office of the installation as making the unit uninhabitable or unable to be remediated safely while the tenant occupies the housing unit.

(f) MAINTENANCE WORK ORDER SYSTEM.—A landlord providing a housing unit shall ensure that the maintenance work order system of the landlord (hardware and software) is up to date, including—

(1) by providing a reliable mechanism through which a tenant may submit work order requests through an Internet portal and mobile application, which shall incorporate the ability to upload photos, communicate with maintenance personnel, and rate individual service calls;

(2) by allowing real-time access to such system by officials of the Department at the installation, major subordinate command, and service-wide levels; and

(3) by allowing the work order or maintenance ticket to be closed only once the tenant and the head of the housing management office of the installation sign off.

(g) APPLICABILITY OF DISABILITY LAWS.—For purposes of this subchapter and subchapter IV of this chapter, housing units shall be considered as military family housing for purposes of application of Department of Defense policy implementing section 804 of the Fair Housing Act (42 U.S.C. 3604) and title III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181 et seq.).

(h) IMPLEMENTATION.—The Secretary concerned shall create such legal documents as may be necessary to carry out this section.

(Added Pub. L. 116–92, div. B, title XXX, §3013(a), Dec. 20, 2019, 133 Stat. 1921; amended Pub. L. 116–283, div. B, title XXVIII, §2811(c), Jan. 1, 2021, 134 Stat. 4323; Pub. L. 117–81, div. B, title XXVIII, §2813(a), Dec. 27, 2021, 135 Stat. 2192.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (d)(3), is the date of enactment of Pub. L. 116–92, which was approved Dec. 20, 2019.

The Americans with Disabilities Act of 1990, referred to in subsec. (g), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327. Title III of the Act is classified generally to subchapter III (§12181 et seq.) of chapter 126 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 12101 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 2891, added Pub. L. 100–456, div. A, title III, §342(a)(1), Sept. 29, 1988, 102 Stat. 1959; amended Pub. L. 102–484, div. A, title III, §372, Oct. 23, 1992, 106 Stat. 2384, required Secretary of Defense to submit to Congress for each of fiscal years 1992, 1993, and 1994, a report regarding security and control of Department of Defense supplies, prior to repeal by Pub. L. 104–106, div. A, title X, §1061(b)(1), Feb. 10, 1996, 110 Stat. 442.

AMENDMENTS

2021—Subsec. (e)(1). Pub. L. 116–283, §2811(c)(1)(A), inserted ''unit'' after ''different housing'' in introductory provisions.

Subsec. (e)(1)(B). Pub. L. 116–283, §2811(c)(1)(B), inserted ''the'' before ''tenant''.

Subsec. (e)(2)(B). Pub. L. 116–283, §2811(c)(2), inserted ''the'' before ''tenant''.

Subsecs. (g), (h). Pub. L. 117–81 added subsec. (g) and redesignated former subsec. (g) as (h).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. B, title XXX, §3013(b), Dec. 20, 2019, 133 Stat. 1923, provided that: ''The requirements set forth in section 2891 of title 10, United States Code, as added by subsection (a), shall apply to appropriate legal documents entered into or renewed on or after the date of the enactment of this Act [Dec. 20, 2019] between the Secretary of a military department and a landlord regarding privatized military housing.''

[For definitions of ''landlord'' and ''privatized military housing'' as used in section 3013(b) of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

RETROACTIVE LANDLORD AGREEMENTS

Pub. L. 116–92, div. B, title XXX, §3013(c), Dec. 20, 2019, 133 Stat. 1923, provided that:

''(1) IN GENERAL.—Not later than February 1, 2020, the Secretary of Defense shall seek agreement from all landlords to accept the application of the requirements set forth in section 2891 of title 10, United States Code, as added by subsection (a), to appropriate legal documents entered into or renewed before the date of the enactment of this Act [Dec. 20, 2019] between the Secretary of a military department and a landlord regarding privatized military housing [sic]

''(2) SUBMITTAL OF LIST TO CONGRESS.—Not later than March 1, 2020, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a list of any landlords that did not agree under paragraph (1) to accept the requirements set forth in section 2891 of title 10, United States Code, as added by subsection (a).

''(3) CONSIDERATION OF LACK OF AGREEMENT IN FUTURE CONTRACTS.—The Secretary of Defense and the Secretaries of the military departments shall include any lack of agreement under paragraph (1) as past performance considered under section 2891b of title 10, United States Code, as added by section 3015, with respect to entering into or renewing any future contracts regarding privatized military housing.''

[For definitions of ''landlord'' and ''privatized military housing'' as used in section 3013(c) of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

§ 2891a. Requirements relating to management of housing units

(a) IN GENERAL.—The Secretary of Defense shall ensure that each contract between the Secretary concerned and a landlord regarding the management of housing units for an installation of the Department of Defense includes the requirements set forth in this section.

(b) REQUIREMENTS FOR INSTALLATION COMMANDERS.—(1) The installation commander shall be responsible for—

(A) reviewing, on an annual basis, the mold mitigation plan and pest control plan of each landlord managing housing units for the installation; and

(B) notifying the landlord and the major subordinate command of any deficiencies found in either plan.

(2) In response to a request by the head of the housing management office of an installation, the installation commander shall use the assigned bio-environmental personnel or contractor equivalent at the installation to test housing units for mold, unsafe water conditions, and other health and safety conditions.

(c) REQUIREMENTS FOR HOUSING MANAGEMENT OFFICE.—(1) The head of the housing management office of an installation shall be responsible for—

(A) conducting a physical inspection of, and approving the habitability of, a vacant housing unit for the installation before the landlord managing the housing unit is authorized to offer the housing unit available for occupancy;

(B) conducting a physical inspection of the housing unit upon tenant move-out; and

(C) maintaining all test results relating to the health, environmental, and safety condition of the housing unit and the results of any inspection conducted by the housing management office, landlord, or third-party contractor for the life of the contract relating to that housing unit.

(2) The head of the installation housing management office shall be provided a list of any move-out charges that a landlord seeks to collect from an outgoing tenant.

(3) The head of the installation housing management office shall initiate contact with a tenant regarding the satisfaction of the tenant with the housing unit of the tenant not later than—

(A) 15 days after move-in; and

(B) 60 days after move-in.

(d) REQUIREMENTS FOR LANDLORDS.—(1) The landlord providing a housing unit shall disclose to the Secretary of Defense any bonus structures offered for community managers and regional executives and any bonus structures relating to maintenance of housing units, in order to minimize the impact of those incentives on the operating budget of the installation for which the housing units are provided.

(2) With respect to test results relating to the health and safety condition of a housing unit, the landlord providing the housing unit shall—

(A) not later than three days after receiving the test results, share the results with the tenant of the housing unit and submit the results to the head of the installation housing management office; and

(B) include with any environmental hazard test results a simple guide explaining those results, preferably citing standards set forth by the Federal Government relating to environmental hazards.

(3) Before a prospective tenant signs a lease to occupy a housing unit, the landlord providing the housing unit shall conduct a walkthrough inspection of the housing unit—

(A) for the prospective tenant; or

(B) if the prospective tenant is not able to be present for the inspection, with an official of the housing management office designated by the prospective tenant to conduct the inspection on the tenant's behalf.

(4) In the event that the installation housing management office determines that a housing unit does not meet minimum health, safety, and welfare standards set forth in Federal, State, and local law as a result of a walkthrough inspection or an inspection conducted under subsection (c), the landlord providing the housing unit shall remediate any issues and make any appropriate repairs to the satisfaction of the housing management office and subject to another inspection by the housing management office.

(5) A landlord providing a housing unit may not conduct any promotional events to encourage tenants to fill out maintenance comment cards or satisfaction surveys of any kind, without the approval of the chief of the housing management office.

(6) A landlord providing a housing unit may not award an installation of the Department of Defense or an officer or employee of the Department a ''Partner of the Year award'' or similar award.

(7) A landlord providing a housing unit may not enter into any form of settlement, nondisclosure, or release of liability agreement with a tenant without—

(A) first notifying the tenant of the tenant's right to assistance from the legal assistance office at the installation; and

(B) not later than five days before entering into such settlement, nondisclosure, or release of liability agreement, providing a copy of the agreement and terms to the Assistant Secretary of Defense for Sustainment.

(8) A landlord providing a housing unit may not change the position of a prospective tenant on a waiting list for a housing unit or remove a prospective tenant from the waiting list in response to the prospective tenant turning down an offer for a housing unit, if the housing unit is determined unsatisfactory by the prospective tenant and the determination is confirmed by the housing management office and the installation commander.

(9) A landlord providing a housing unit shall allow employees of the housing management office and other officers and employees of the Department to conduct—

(A) with the permission of the tenant of the housing unit as appropriate, physical inspections of the housing unit; and

(B) physical inspections of any common areas maintained by the landlord.

(10) A landlord providing a housing unit shall agree to participate in the dispute resolution and payment-withholding processes established pursuant to section 2894 of this title.

(11) Upon request by a prospective tenant, a landlord providing a housing unit shall ensure that the needs of enrollees in the Exceptional Family Member Program, or any successor program, are considered in assigning the prospective tenant to a housing unit provided by the landlord.

(12) A landlord providing a housing unit shall maintain an electronic work order system that enables access by the tenant to view work order history, status, and other relevant information, as required by section 2892 of this title.

(13) A landlord providing a housing unit shall agree to have any agreements or forms to be used by the landlord approved by the Assistant Secretary of Defense for Sustainment, including the following:

(A) A common lease agreement.

(B) Any disclosure or nondisclosure forms that could be given to a tenant.

(e) REQUIREMENTS FOR SECRETARY CONCERNED.—The Secretary concerned shall be responsible for—

(1) providing for a mold inspection of each vacant housing unit before any new tenant moves into the unit; and

(2) providing to the new tenant the results of the inspection.

(f) PROHIBITION AGAINST COLLECTION OF AMOUNTS IN ADDITION TO RENT.—(1) A landlord providing a housing unit may not impose on a tenant of the housing unit a supplemental payment, such as an out-of-pocket fee, in addition to the amount of rent the landlord charges for a unit of similar size and composition to the housing unit, without regard to whether or not the amount of the basic allowance for housing under section 403 of title 37 the tenant may receive as a member of the armed forces is less than the amount of the rent.

(2) Nothing in paragraph (1) shall be construed—

(A) to prohibit a landlord from imposing an additional payment—

(i) for optional services provided to military tenants, such as access to a gym or a parking space;

(ii) for non-essential utility services, as determined in accordance with regulations promulgated by the Secretary concerned; or

(iii) to recover damages associated with tenant negligence, consistent with subsection (c)(2); or

(B) to limit or otherwise affect the authority of the Secretary concerned to enter into rental guarantee agreements under section 2876 of this title or to make differential lease payments under section 2877 of this title, so long as such agreements or payments do not require a tenant to pay an out-of-pocket fee or payment in addition to the amount of any basic allowance for housing under section 403 of title 37 the tenant may receive as a member of the armed forces.

(3)(A) Costs incurred to reasonably modify or upgrade a housing unit to comply with standards addressing discrimination against an individual with a disability established pursuant to the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), or to meet the reasonable modification and accommodation requirements of section 804 of the Fair Housing Act (42 U.S.C. 3604) and in order to facilitate occupancy of a housing unit by an individual with a disability, may not be considered optional services under paragraph (2)(A)(i) or another exception to the prohibition in paragraph (1) against collection from tenants of housing units of amounts in addition to rent.

(B) In subparagraph (A), the term ''disability'' has the meaning given that term in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

(Added Pub. L. 116–92, div. B, title XXX, § 3014(a), Dec. 20, 2019, 133 Stat. 1924; amended Pub. L. 116–283, div. B, title XXVIII, § 2811(d), Jan. 1, 2021, 134 Stat. 4324; Pub. L. 117–81, div. A, title X, § 1081(a)(31), div. B, title XXVIII, § 2813(b)(1), Dec. 27, 2021, 135 Stat. 1921, 2192; Pub. L. 117–263, div. B, title XXVIII, § 2824, Dec. 23, 2022, 136 Stat. 3001.)

Editorial Notes

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (e)(3)(A), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§ 12101 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 12101 of Title 42 and Tables.

AMENDMENTS

2022—Subsecs. (e), (f). Pub. L. 117–263 added subsec. (e) and redesignated former subsec. (e) as (f).

2021—Subsec. (b)(2). Pub. L. 116–283, § 2811(d)(1), inserted period at end.

Subsec. (d)(11). Pub. L. 116–283, § 2811(d)(2), added par. (11) and struck out former par. (11) which read as fol-

lows: ''A landlord providing a housing unit shall ensure that the needs of enrollees in the Exceptional Family Member Program, or any successor program, are considered in assigning prospective tenants to housing units provided by the landlord.''

Subsec. (e)(1). Pub. L. 117–81, § 1081(a)(31), substituted ''the basic allowance'' for ''the any basic allowance''.

Subsec. (e)(2)(B). Pub. L. 116–283, § 2811(d)(3), substituted ''any'' for ''the any''.

Subsec. (e)(3). Pub. L. 117–81, § 2813(b)(1), added par. (3).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117–81, div. B, title XXVIII, § 2813(b)(2), Dec. 27, 2021, 135 Stat. 2192, provided that: ''Subsection (e)(3) of section 2891a of title 10, United States Code [now 10 U.S.C. 2891e(f)(3)], as added by paragraph (1), shall apply to contracts described in subsection (a) of such section entered into on or after the date of the enactment of this Act [Dec. 27, 2021].''

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. B, title XXX, § 3014(c), Dec. 20, 2019, 133 Stat. 1926, provided that: ''The requirements set forth in section 2891a of title 10, United States Code, as added by subsection (a), shall apply to appropriate legal documents entered into or renewed on or after the date of the enactment of this Act [Dec. 20, 2019] between the Secretary of a military department and a landlord regarding privatized military housing.''

[For definitions of ''landlord'' and ''privatized military housing'' as used in section 3014(c) of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

IMPLEMENTATION OF RECOMMENDATIONS FROM AUDIT OF MEDICAL CONDITIONS OF RESIDENTS IN PRIVATIZED MILITARY HOUSING

Pub. L. 117–263, div. B, title XXVIII, § 2825, Dec. 23, 2022, 136 Stat. 3001, provided that: ''Not later than March 1, 2023, the Secretary of Defense shall implement the recommendations contained in the report of the Inspector General of the Department of Defense published on April 1, 2022, and titled 'Audit of Medical Conditions of Residents in Privatized Military Housing' (DODIG–2022–078).''

MILITARY DEPARTMENT IMPLEMENTATION PLANS

Pub. L. 116–92, div. B, title XXX, § 3014(b), Dec. 20, 2019, 133 Stat. 1926, provided that: ''Not later than February 1, 2020, the Secretary of each military department shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for the implementation by that military department of section 2891a of title 10, United States Code, as added by subsection (a).''

RETROACTIVE LANDLORD AGREEMENTS

Pub. L. 116–92, div. B, title XXX, § 3014(e), Dec. 20, 2019, 133 Stat. 1926, provided that:

''(1) IN GENERAL.—Not later than February 1, 2020, the Secretary of Defense shall seek agreement from all landlords to accept the application of the requirements set forth in section 2891a of title 10, United States Code, as added by subsection (a), to appropriate legal documents entered into or renewed before the date of the enactment of this Act [Dec. 20, 2019] between the Secretary of a military department and a landlord regarding privatized military housing [sic]

''(2) SUBMITTAL OF LIST TO CONGRESS.—Not later than March 1, 2020, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a list of any landlords that did not agree under paragraph (1) to accept the requirements set forth in section 2891a of title 10, United States Code, as added by subsection (a).

''(3) CONSIDERATION OF LACK OF AGREEMENT IN FUTURE CONTRACTS.—The Secretary of Defense and the Secretaries of the military departments shall include any lack of agreement under paragraph (1) as past performance considered under section 2891b of title 10, United States Code, as added by section 3015, with respect to entering into or renewing any future contracts regarding privatized military housing.''

[For definitions of ''landlord'' and ''privatized military housing'' as used in section 3014(e) of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

§ 2891b. Considerations of eligible entity housing history in contracts for privatized military housing

(a) CONSIDERATION REQUIRED.—To assist in making a determination whether to enter into a new contract, or renew an existing contract, with an eligible entity, the Secretary of Defense shall develop a standard process by which the Secretary concerned may evaluate the past performance of the eligible entity for purposes of informing future decisions regarding the award of such a contract.

(b) ELEMENTS OF PROCESS.—The process developed under subsection (a) shall include, at a minimum, consideration of the following:

(1) Any history of the eligible entity of providing substandard housing.

(2) The recommendation of the commander of the installation for which housing units will be provided under the contract.

(3) The recommendation of the commander of any other installation for which the eligible entity has provided housing units.

(Added Pub. L. 116–92, div. B, title XXX, § 3015, Dec. 20, 2019, 133 Stat. 1927.)

§ 2891c. Transparency regarding finances and performance metrics

(a) SUBMISSION OF LANDLORD FINANCIAL INFORMATION.—(1) Not less frequently than annually, the Secretary of Defense shall require that each landlord submit to the Secretary a report providing information regarding all housing units provided by the landlord.

(2) Information provided under paragraph (1) by a landlord shall include the following:

(A) A comprehensive summary of the landlord's financial performance.

(B) The amount of base management fees relating to all housing units provided by the landlord.

(C) The amount of asset management fees relating to such housing units.

(D) The amount of preferred return fees relating to such housing units.

(E) The residual cashflow distributions relating to such housing units.

(F) The amount of deferred fees or other fees relating to such housing units.

(3) In this subsection:

(A) The term ''base management fees'' means the monthly management fees collected for services associated with accepting and processing rent payments, ensuring tenant rent payments, property inspections, maintenance management, and emergency maintenance calls.

(B) the term ''asset management fees'' means fees paid to manage a housing unit for the purpose of ensuring the housing unit is maintained in good condition and making repairs over the lifecycle of the housing unit.

(C) the term ''preferred return fees'' means fees associated with any claims on profits furnished to preferred investors with an interest in the housing unit.

(D) the term ''residual cashflow distribution'' means the steps a specific housing project takes to restructure after it is determined that the project is in an unacceptable financial condition.

(E) the term ''deferred fee'' means any fee that was not paid to a person in a calendar year in order to meet other financial obligations of the landlord.

(b) AVAILABILITY OF INFORMATION ON PERFORMANCE METRICS AND USE OF INCENTIVE FEES.—(1) Not less frequently than annually, the Secretary of Defense shall make available, upon request of a tenant, at the applicable installation housing office the following:

(A) An assessment of the indicators underlying the performance metrics for each contract for the provision or management of housing units to ensure such indicators adequately measure the condition and quality of each housing unit covered by the contract.

(B) Information regarding the use by the Secretary concerned of incentive fees to support contracts for the provision or management of housing units.

(2)(A) For purposes of paragraph (1)(A), the indicators underlying the performance metrics for a contract for the provision or management of housing units shall measure at a minimum the following:

(i) Tenant satisfaction.

(ii) Maintenance management.

(iii) Safety.

(iv) Financial management.

(B) An assessment required to be made available under paragraph (1)(A) shall include a detailed description of each indicator underlying the performance metrics, including the following information:

(i) The limitations of available survey data.

(ii) How tenant satisfaction and maintenance management is calculated.

(iii) Whether any relevant data is missing.

(3) The information provided under paragraph (1)(B) shall include, with respect to each contract for the provision or management of housing units, the following:

(A) The applicable incentive fees.

(B) The metrics used to determine the incentive fees.

(C) Whether incentive fees were paid in full, or were withheld in part or in full, during the period covered by the release of information.

(D) If any incentive fees were withheld, the reasons for such withholding.

(Added Pub. L. 116–92, div. B, title XXX, §3016(a), Dec. 20, 2019, 133 Stat. 1927; amended Pub. L. 116–283, div. B, title XXVIII, §2814(a)–(d)(1), Jan. 1, 2021, 134 Stat. 4327, 4328.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116–283, §2814(d)(1), amended section catchline generally. Prior to amendment, catchline read as follows: ''Financial transparency''.

Subsec. (b). Pub. L. 116–283, §2814(a)(1), inserted ''Performance Metrics and'' before ''Use of Incentive Fees'' in heading.

Subsec. (b)(1). Pub. L. 116–283, §2814(a)(2), substituted ''shall make available, upon request of a tenant, at the applicable installation housing office the following:

(A) An assessment of the indicators underlying the performance metrics for each contract for the provision or management of housing units to ensure such indicators adequately measure the condition and quality of each housing unit covered by the contract.

(B) Information''

for ''shall publish, on a publicly accessible website, information''.

Subsec. (b)(2). Pub. L. 116–283, §2814(b)(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 116–283, §2814(b)(1), (c), redesignated par. (2) as (3) and substituted ''paragraph (1)(B)'' for ''paragraph (1)'' and ''each contract for the provision or management of housing units'' for ''each contract'' in introductory provisions.

§ 2892. Maintenance work order system for housing units

(a) ELECTRONIC WORK ORDER SYSTEM REQUIRED.—The Secretary of Defense shall require that each landlord of a housing unit have an electronic work order system to track all maintenance requests relating to the housing unit.

(b) ACCESS BY DEPARTMENT PERSONNEL.—The Secretary of Defense shall require each landlord of a housing unit to provide access to the maintenance work order system of the landlord relating to the housing unit to the following persons:

(1) Personnel of the housing management office at the installation for which the housing unit is provided.

(2) Personnel of the installation and engineer command or center of the military department concerned.

(3) Such other personnel of the Department of Defense as the Secretary determines necessary.

(c) ACCESS BY TENANTS.—The Secretary of Defense shall require each landlord of a housing unit to provide access to the maintenance work order system of the landlord relating to the housing unit to the tenant of the housing unit to permit the tenant, at a minimum, to track the status and progress of work orders for maintenance requests relating to the housing unit.

(Added and amended Pub. L. 116–92, div. B, title XXX, §§3017, 3018, Dec. 20, 2019, 133 Stat. 1930.)

Editorial Notes

AMENDMENTS

2019—Subsec. (c). Pub. L. 116–92, §3018, added subsec. (c).

§ 2892a. Access by tenants to historical maintenance information

(a) MAINTENANCE INFORMATION FOR PROSPECTIVE TENANTS.—The Secretary concerned shall require each eligible entity or subsequent landlord that offers for lease a housing unit to pro-

vide to a prospective tenant of the housing unit—

(1) not later than five business days before the prospective tenant is asked to sign the lease, a summary of maintenance conducted with respect to that housing unit for the previous seven years; and

(2) not later than two business days after the prospective tenant requests additional information regarding maintenance conducted with respect to that housing unit during such period, all information possessed by the eligible entity or subsequent landlord regarding such maintenance conducted during such period.

(b) MAINTENANCE INFORMATION FOR EXISTING TENANTS.—A tenant of a housing unit who did not receive maintenance information described in subsection (a) regarding that housing unit while a prospective tenant may request such maintenance information and shall receive such maintenance information not later than five business days after the making the request.

(c) MAINTENANCE DEFINED.—In the section, the term ''maintenance'' includes any renovations of the housing unit during the period specified in subsection (a)(1).

(Added Pub. L. 116–92, div. B, title XXX, § 3019, Dec. 20, 2019, 133 Stat. 1931; amended Pub. L. 116–283, div. B, title XXVIII, § 2811(e), Jan. 1, 2021, 134 Stat. 4324.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116–283 added section text and struck out former text which read as follows: ''The Secretary concerned shall require each eligible entity or subsequent landlord that offers for lease a housing unit to provide to a prospective tenant of the housing unit, before the prospective tenant moves into the housing unit as a tenant, all information regarding maintenance conducted with respect to that housing unit for the previous seven years. In this section, the term 'maintenance' includes any renovations of the housing unit during such period.''

§ 2892b. Prohibition on requirement to disclose personally identifiable information in requests for certain maintenance

A landlord responsible for a housing unit may not require the disclosure of personally identifiable information as a part of the submission of a request for maintenance regarding a housing unit or common area when the disclosure of personally identifiable information is not needed to identify the location at which such maintenance will be performed.

(Added Pub. L. 116–92, div. B, title XXX, § 3020(a), Dec. 20, 2019, 133 Stat. 1931.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. B, title XXX, § 3020(b), Dec. 20, 2019, 133 Stat. 1931, provided that: ''The prohibition in section 2892b of title 10, United States Code, as added by subsection (a), shall take effect on the date that is one year after the date of the enactment of this Act [Dec. 20, 2019].''

§ 2893. Treatment of incentive fees for landlords of housing units for failure to remedy health or environmental hazards

The Secretary concerned shall not approve the payment of incentive fees otherwise authorized to be paid to a landlord that the Secretary determines has demonstrated a pattern of failing to remedy, or failing to remedy in a timely manner, a health or environmental hazard at a housing unit provided by the landlord.

(Added Pub. L. 116–92, div. B, title XXX, § 3021, Dec. 20, 2019, 133 Stat. 1931; amended Pub. L. 116–283, div. B, title XXVIII, § 2811(f), Jan. 1, 2021, 134 Stat. 4324.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116–283 substituted ''pattern of'' for ''propensity for''.

§ 2894. Landlord-tenant dispute resolution process and treatment of certain payments during process

(a) PROCESS REQUIRED; PURPOSE.—The Secretary concerned shall implement a standardized formal dispute resolution process to ensure the prompt and fair resolution of disputes that arise between landlords providing housing units and tenants residing in housing units concerning maintenance and repairs, damage claims, rental payments, move-out charges, and such other issues relating to housing units as the Secretary determines appropriate.

(b) PROCESS ELEMENTS.—(1) The dispute resolution process shall include the process by which a tenant may request that certain payments otherwise authorized to be paid to a landlord are withheld, as provided in subsection (e).

(2) The process shall designate the installation or regional commander in charge of oversight of housing units as the deciding authority under the dispute resolution process.

(3) The Secretary concerned shall establish a standardized mechanism and forms by which a tenant of a housing unit may submit, through online or other means, a request for resolution of a landlord-tenant dispute through the dispute resolution process.

(4) The Secretary shall ensure that, in preparing a request described in paragraph (3), a tenant has access to advice and assistance from a military housing advocate employed by the military department concerned or a military legal assistance attorney under section 1044 of this title.

(5) The Secretary concerned shall minimize costs to tenants for participation in the dispute resolution process.

(6) The dispute resolution process shall require the installation or regional commander (as the case may be) to record each dispute in the complaint database established under section 2894a of this title.

(c) RESOLUTION PROCESS.—(1) Not later than two business days after receiving a request from a tenant for resolution of a landlord-tenant dispute through the dispute resolution process, the Secretary concerned shall—

(A) notify the tenant that the request has been received;

(B) transmit a copy of the request to the installation or regional commander (as the case may be), housing management office responsible for the housing unit, and the landlord of the housing unit; and

(C) if the request includes a request to withhold payments under subsection (e), initiate the process under such subsection.

(2) For purposes of conducting an assessment necessary to render a decision under the dispute resolution process, both the landlord and representatives of the installation housing management office may access the housing unit at a time and for a duration mutually agreed upon amongst the parties.

(3) Not later than seven business days after the date on which the request was received by the installation housing management office, such office shall complete an investigation that includes a physical inspection and transmit the results of the investigation to the installation or regional commander (as the case may be).

(4) Before making any decision with respect to a dispute under the dispute resolution process, the commander shall certify that the commander has solicited recommendations or information relating to the dispute from, at a minimum, the following persons:

(A) The chief of the installation housing management office.

(B) A representative of the landlord for the housing unit.

(C) The tenant submitting the request for dispute resolution.

(D) A qualified judge advocate or civilian attorney who is a Federal employee.

(E) If the dispute involves maintenance or another facilities-related matter, a civil engineer.

(5)(A) The commander shall make a decision with respect to a request under the dispute resolution process not later than 30 calendar days after the request was submitted.

(B) The commander may take longer than such 30-day period in limited circumstances as determined by the Secretary of Defense, but in no case shall such a decision be made more than 60 calendar days after the request was submitted.

(6) Except as provided in paragraph (5)(B), a final decision shall be transmitted to the tenant, landlord, and the installation or regional commander (as the case may be) not later than 30 calendar days after the request was submitted.

(7) The decision shall include instructions for distribution of any funds that were withheld under subsection (e) and such instructions for the landlord for further remediation as the commander considers necessary.

(8) The decision by the commander under this subsection shall be final.

(d) EFFECT OF FAILURE TO COMPLY WITH DECISION.—(1) If the final decision rendered under subsection (c) for resolution of a landlord-tenant dispute includes instructions for the landlord responsible for the housing unit to further remediate the housing unit, the decision shall specify a reasonable period of time, but not less than 10 business days, for the landlord to complete the remediation.

(2) If the landlord does not remediate the issues before the end of the time period specified in the final decision in a manner consistent with the instructions contained in the decision, any amounts payable to the landlord for the housing unit shall be reduced by 10 percent for each period of five calendar days during which the issues remain unremediated.

(e) REQUEST TO WITHHOLD PAYMENTS DURING RESOLUTION PROCESS.—(1) As part of the submission of a request for resolution of a landlord-tenant dispute through the dispute resolution process regarding maintenance guidelines or procedures or habitability, the tenant may request that all or part of the payments described in paragraph (3) for lease of the housing unit be segregated and not used by the property owner, property manager, or landlord pending completion of the dispute resolution process.

(2) The amount allowed to be withheld under paragraph (1) shall be limited to amounts associated with the period during which—

(A) the landlord has not met maintenance guidelines and procedures established by the Department of Defense, either through contract or otherwise; or

(B) the housing unit is uninhabitable according to State and local law for the jurisdiction in which the housing unit is located.

(3) This subsection applies to the following:

(A) Any basic allowance for housing payable to the tenant (including for any dependents of the tenant in the tenant's household) under section 403 of title 37.

(B) All or part of any pay of a tenant subject to allotment as described in section 2882(c) of this title.

(f) DISCLOSURE OF RIGHTS.—(1) Each housing management office of the Department of Defense shall disclose in writing to each new tenant of a housing unit, upon the signing of the lease for the housing unit, the tenant's rights under this section and the procedures under this section for submitting a request for resolution of a landlord-tenant dispute through the dispute resolution process, including the ability to submit a request to withhold payments during the resolution process.

(2) The Secretary of Defense shall ensure that each lease entered into with a tenant for a housing unit clearly expresses, in a separate addendum, the dispute resolution procedures.

(g) RULE OF CONSTRUCTION ON USE OF OTHER ADJUDICATIVE BODIES.—Nothing in this section or any other provision of law shall be construed to prohibit a tenant of a housing unit from pursuing a claim against a landlord in any adjudicative body with jurisdiction over the housing unit or the claim.

(Added Pub. L. 116–92, div. B, title XXX, § 3022(a), Dec. 20, 2019, 133 Stat. 1932; amended Pub. L. 116–283, div. B, title XXVIII, § 2811(g), Jan. 1, 2021, 134 Stat. 4324.)

Editorial Notes

AMENDMENTS

2021—Subsec. (b)(6). Pub. L. 116–283, § 2811(g)(1), added par. (6).

Subsec. (c)(1). Pub. L. 116–283, § 2811(g)(2)(A), substituted ''two business days'' for ''24 hours'' in introductory provisions.

Subsec. (c)(3). Pub. L. 116–283, § 2811(g)(2)(B), inserted ''business'' before ''days'' and '', such office'' before ''shall complete''.

Subsec. (c)(4). Pub. L. 116–283, § 2811(g)(2)(C), inserted '', at a minimum,'' before ''the following persons'' in introductory provisions.

Subsec. (c)(5). Pub. L. 116–283, § 2811(g)(2)(D), inserted ''calendar'' before ''days'' in subpars. (A) and (B).

Subsec. (c)(6). Pub. L. 116–283, § 2811(g)(2)(E), added par. (6) and struck out former par. (6) which read as follows: ''A final decision will be transmitted to the tenant and landlord no later than 30 days from initial receipt by the office of the commander, except as provided in paragraph (5)(B).''

Subsecs. (d), (e). Pub. L. 116–283, § 2811(g)(3), added subsecs. (d) and (e) and struck out former subsecs. (d) and (e) which related to effect of failure to comply with decision and request to withhold payments during resolution process, respectively.

Statutory Notes and Related Subsidiaries

TIMING OF ESTABLISHMENT OF DISPUTE RESOLUTION PROCESS

Pub. L. 116–92, div. B, title XXX, § 3022(c), Dec. 20, 2019, 133 Stat. 1934, provided that: ''Not later than 180 days after the date of the enactment of this Act [Dec. 20, 2019], the Secretary of Defense shall establish the dispute resolution process required under section 2894 of title 10, United States Code, as added by subsection (a).''

LANDLORD AGREEMENTS

Pub. L. 116–92, div. B, title XXX, § 3022(d), Dec. 20, 2019, 133 Stat. 1934, provided that:

''(1) IN GENERAL.—Not later than February 1, 2020, the Secretary of Defense shall seek agreement from all landlords to participate in the dispute resolution and payment-withholding processes required under section 2894 of title 10, United States Code, as added by subsection (a).

''(2) SUBMITTAL OF LIST TO CONGRESS.—Not later than March 1, 2020, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a list of any landlords that did not agree under paragraph (1) to participate in the dispute resolution and payment-withholding processes.

''(3) CONSIDERATION OF LACK OF AGREEMENT IN FUTURE CONTRACTS.—The Secretary of Defense and the Secretaries of the military departments shall include any lack of agreement under paragraph (1) as past performance considered under section 2891b of title 10, United States Code, as added by section 3015, with respect to entering into or renewing any future contracts regarding privatized military housing.''

[For definitions of ''landlord'' and ''privatized military housing'' as used in section 3022(d) of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

§ 2894a. Complaint database

(a) DATABASE REQUIRED.—The Secretary of Defense shall establish a database of complaints made by a tenant regarding covered dwelling units.

(b) PUBLIC AVAILABILITY.—The database shall be available to the public.

(c) INCLUSION OF TENANT COMPLAINTS.—The Secretary of Defense shall permit a tenant of a covered dwelling unit to file a complaint regarding the covered dwelling unit for inclusion in the database.

(d) INCLUSION OF CERTAIN INFORMATION.—(1) Information accessible in the database regarding a complaint shall include the following:

(A) The name of the installation for which the covered dwelling unit is provided.

(B) The name of the landlord responsible for the covered dwelling unit.

(C) A description of the nature of the complaint.

(2) The Secretary of Defense may not disclose personally identifiable information through the database.

(e) RESPONSE BY LANDLORDS.—(1) The Secretary of Defense shall include in any contract with a landlord responsible for a housing unit a requirement that the landlord respond in a timely manner to any complaints included in the database that relate to the housing unit.

(2) The Secretary shall include landlord responses in the database.

(f) DEFINITIONS.—In this section:

(1) The term ''covered armed force'' means the Army, Navy, Marine Corps, Air Force, or Space Force.

(2) The term ''covered dwelling unit'' means a unit of accompanied family housing, unaccompanied housing, or barracks—

(A) that is acquired or constructed pursuant to subchapter IV of chapter 169 of this title;

(B) in which a member of a covered armed force resides; and

(C) that such member does not own.

(3) The term ''tenant'' means any of the following:

(A) A member of a covered armed force who resides in a covered dwelling unit.

(B) A dependent of a member described in subparagraph (A) who resides in a covered dwelling unit.

(Added Pub. L. 116–92, div. B, title XXX, § 3016(b), Dec. 20, 2019, 133 Stat. 1929; amended Pub. L. 118–159, div. B, title XXVIII, § 2825(a), Dec. 23, 2024, 138 Stat. 2256.)

Editorial Notes

AMENDMENTS

2024—Subsec. (a). Pub. L. 118–159, § 2825(a)(1), substituted ''by a tenant regarding covered dwelling units'' for ''regarding housing units''.

Subsecs. (c), (d). Pub. L. 118–159, § 2825(a)(2), substituted ''covered dwelling unit'' for ''housing unit'' in two places.

Subsec. (f). Pub. L. 118–159, § 2825(a)(3), added subsec. (f).

[CHAPTER 171—REPEALED]

[§§ 2891, 2892. Repealed. Pub. L. 104–106, div. A, title X, § 1061(b)(1), Feb. 10, 1996, 110 Stat. 442]

Section 2891, added Pub. L. 100–456, div. A, title III, § 342(a)(1), Sept. 29, 1988, 102 Stat. 1959; amended Pub. L. 102–484, div. A, title III, § 372, Oct. 23, 1992, 106 Stat. 2384, required Secretary of Defense to submit to Congress for each of fiscal years 1992, 1993, and 1994, a report regarding security and control of Department of Defense supplies.

Section 2892, added Pub. L. 100–456, div. A, title III, § 342(a)(1), Sept. 29, 1988, 102 Stat. 1960, directed Secretary of Defense to require investigations of discrepancies in accounting for Department supplies and to separate offices ordering supplies from offices receiving supplies.