

## AMENDMENTS

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).

## EFFECTIVE DATE OF 1984 AMENDMENT

Section 808(b) of Pub. L. 98-407 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: local comparability of floor areas**

In the construction, acquisition, and improvement of 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.

(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.)

## AMENDMENTS

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.”

## 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.

**[§ 2857. Renumbered § 2915]**

**§ 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 na-

tional 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 involved, and the application of economical construction practices.

(Added Pub. L. 97-214, §2(a), July 12, 1982, 96 Stat. 167.)

## 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 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) MILITARY CONSTRUCTION REQUIREMENTS.—As part of 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, but in no case later than March 15 of each year, the Secretary of Defense shall submit a report, in both classified and unclassified form, describing—

(1) the location and results of the vulnerability assessments conducted under subsection (b) during the most recently completed fiscal year;

(2) the military construction requirements anticipated to be necessary during the period covered by the then-current future-years defense plan under section 221 of this title to improve the physical security of military installations; and

(3) the extent to which funds to meet those requirements are not requested in the Department of Defense budget for the fiscal year for which the budget is submitted.

(d) 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 construc-

tion 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) 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.

(3) 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.)

#### REFERENCES IN TEXT

Section 2808 of the Military Construction Authorization Act for Fiscal Year 2004, referred to in subsec. (d)(3), 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

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).

#### 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) 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) for which funds are first provided for fiscal year 2007 or thereafter.”

#### SPECIAL REQUIREMENT FOR 2006 REPORT

Pub. L. 108-375, div. B, title XXVIII, §2804(b), Oct. 28, 2004, 118 Stat. 2122, provided that: “In the case of the report required to be submitted in 2006 under section 2859(c) of title 10, United States Code, as added by subsection (a), the Secretary of Defense shall include a certification by the Secretary that since September 11, 2001, assessments regarding the vulnerability of military installations to terrorist attack have been undertaken for all major military installations. The Sec-

retary shall indicate the basis by which the Secretary differentiated between major and nonmajor military installations for purposes of making the certification.”

#### § 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.)

#### 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.”

#### EFFECTIVE DATE OF 1985 AMENDMENTS

Section 121(c) of Pub. L. 99-173 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].”

Section 812(b) of Pub. L. 99-167 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 avail-