

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.

(d) ANNUAL REPORT.—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.

(Added Pub. L. 109-364, div. B, title XXVIII, §2809(a), Oct. 17, 2006, 120 Stat. 2470.)

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.

§ 2862. Turn-key selection procedures

(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.

(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.)

AMENDMENTS

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”.

EFFECTIVE DATE

Section 807(c) of Pub. L. 99-167 provided that: “The amendments made by this section [enacting this section] shall take effect on October 1, 1986.”

§ 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, 2865. Repealed. Pub. L. 109-364, div. B, title XXVIII, §§ 2810(a), 2851(a)(2), Oct. 17, 2006, 120 Stat. 2470, 2494]

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.

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. See sections 2911 to 2914 and 2925 of this title.

§ 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 mili-

tary 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 repayed 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.

(3) 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.

(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 21-day period beginning on the date the notification is received by such committees 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.

(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.)

AMENDMENTS

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”.

§ 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.