

“(1) The term ‘Account’ means the Department of Defense Base Closure Account established by section 207(a)(1).

“(2) The term ‘appropriate committees of Congress’ means the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives.

“(3) The terms ‘Commission on Base Realignment and Closure’ and ‘Commission’ mean the Commission established by the Secretary of Defense in the charter signed by the Secretary on May 3, 1988, and as altered thereafter with respect to the membership and voting.

“(4) The term ‘charter establishing such Commission’ means the charter referred to in paragraph (3).

“(5) The term ‘initiate’ includes any action reducing functions or civilian personnel positions but does not include studies, planning, or similar activities carried out before there is a reduction of such functions or positions.

“(6) The term ‘military installation’ means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Secretary of a military department.

“(7) The term ‘realignment’ includes any action which both reduces and relocates functions and civilian personnel positions.

“(8) The term ‘Secretary’ means the Secretary of Defense.

“(9) The term ‘United States’ means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and any other commonwealth, territory, or possession of the United States.

“(10) The term ‘redevelopment authority’, in the case of an installation to be closed under this title, means any entity (including an entity established by a State or local government) recognized by the Secretary of Defense as the entity responsible for developing the redevelopment plan with respect to the installation or for directing the implementation of such plan.

“(11) The term ‘redevelopment plan’ in the case of an installation to be closed under this title, means a plan that—

“(A) is agreed to by the redevelopment authority with respect to the installation; and

“(B) provides for the reuse or redevelopment of the real property and personal property of the installation that is available for such reuse or redevelopment as a result of the closure of the installation.”

[Pub. L. 112-239, div. B, title XXVII, § 2711(c)(3)(B)(ii), (d), Jan. 2, 2013, 126 Stat. 2144, provided that, 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, the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note) is amended in section 209(1), by striking “established by section 207(a)(1)” and inserting “established by section 2906(a) of 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)”.]

[For effective date of amendments by section 2711(c)(1), (3)(B) of Pub. L. 112-239 to sections 204, 207, and 209 of Pub. L. 100-526, set out above, see section 2711(d) of Pub. L. 112-239, set out as an Effective Date of 2013 Amendment note under section 2701 of this title.]

[For effective date of amendment by section 2813(d)(1) of Pub. L. 103-337 to section 209 of Pub. L. 100-526, set out above, see Effective Date of Amendment by Section 2813(d)(1) and (2) of Pub. L. 103-337 note set out above.]

[For effective date of amendment by section 344(a) of Pub. L. 102-190 to sections 204 and 209 of Pub. L. 100-526, set out above, see Effective Date of 1991 Amendments by Section 344 of Pub. L. 102-190 note set out above.]

[Pub. L. 101-510, div. B, title XXIX, § 2923(b)(2), Nov. 5, 1990, 104 Stat. 1821, provided that: “The amendment made by paragraph (1) [amending section 207 of Pub. L.

100-526 set out above] does not apply with respect to the availability of funds appropriated before the date of the enactment of this Act [Nov. 5, 1990].”]

§ 2687a. Overseas base closures and realignments and basing master plans

(a) ANNUAL REPORT ON STATUS OF OVERSEAS CLOSURES AND REALIGNMENTS AND MASTER PLANS.—(1) At the same time that the budget is submitted under section 1105(a) of title 31 for a fiscal year, the Secretary of Defense shall submit to the congressional defense committees and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on—

(A) the status of overseas base closure and realignment actions undertaken as part of a global defense posture realignment strategy; and

(B) the status of development and execution of comprehensive master plans for overseas military main operating bases, forward operating sites, and cooperative security locations.

(2) A report under paragraph (1) shall address the following:

(A) How the master plans described in paragraph (1)(B) would support the security commitments undertaken by the United States pursuant to any international security treaty.

(B) The impact of such plans on the current security environments in the combatant commands, including United States participation in theater security cooperation activities and bilateral partnership, exchanges, and training exercises.

(C) Any comments of the Secretary of Defense resulting from an interagency review of these plans that includes the Department of State and other Federal departments and agencies that the Secretary of Defense considers necessary for national security.

(b) DEPARTMENT OF DEFENSE OVERSEAS MILITARY FACILITY INVESTMENT RECOVERY ACCOUNT.—(1) Except as provided in subsection (c), amounts paid to the United States, pursuant to any treaty, status of forces agreement, or other international agreement to which the United States is a party, for the residual value of real property or improvements to real property used by civilian or military personnel of the Department of Defense shall be deposited into the Department of Defense Overseas Military Facility Investment Recovery Account.

(2) Money deposited in the Department of Defense Overseas Military Facility Investment Recovery Account shall be available to the Secretary of Defense for payment, as provided in appropriation Acts, of costs incurred by the Department of Defense in connection with—

(A) military construction, facility maintenance and repair, and environmental restoration at military installations in the United States; and

(B) military construction, facility maintenance and repair, and compliance with applicable environmental laws at military installations outside the United States at which the Secretary anticipates the United States will have an enduring presence.

(3) Funds in the Department of Defense Overseas Facility Investment Recovery Account shall remain available until expended.

(4) Not later than December 1 of each year, the Secretary of Defense shall submit to the congressional defense committees a report detailing all expenditures made from the Department of Defense Overseas Facility Investment Recovery Account during the preceding fiscal year.

(c) TREATMENT OF AMOUNTS CORRESPONDING TO THE VALUE OF PROPERTY PURCHASED WITH NON-APPROPRIATED FUNDS.—In the case of a payment referred to in subsection (b)(1) for the residual value of real property or improvements at an overseas military facility, the portion of the payment that is equal to the depreciated value of the investment made with nonappropriated funds shall be deposited in the reserve account established under section 204(b)(7)(C) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note). The Secretary of Defense may use amounts in the account (in such an aggregate amount as is provided in advance by appropriation Acts) for the purpose of acquiring, constructing, or improving commissary stores and nonappropriated fund instrumentalities.

(d) OMB REVIEW OF PROPOSED OVERSEAS BASING SETTLEMENTS.—(1) The Secretary of Defense may not enter into an agreement of settlement with a host country regarding the release to the host country of improvements made by the United States to facilities at an installation located in the host country until 30 days after the date on which the Secretary submits the proposed settlement to the Director of the Office of Management and Budget. The prohibition set forth in the preceding sentence shall apply only to agreements of settlement for improvements having a value in excess of \$10,000,000. The Director shall evaluate the overall equity of the proposed settlement. In evaluating the proposed settlement, the Director shall consider such factors as the extent of the United States capital investment in the improvements being released to the host country, the depreciation of the improvements, the condition of the improvements, and any applicable requirements for environmental remediation or restoration at the installation.

(2) Each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on each proposed agreement of settlement that was not submitted by the Secretary to the Director of the Office of Management and Budget in the previous year under paragraph (1) because the value of the improvements to be released pursuant to the proposed agreement did not exceed \$10,000,000.

(e) CONGRESSIONAL OVERSIGHT OF USE OF PAYMENTS-IN-KIND FOR CONSTRUCTION OR OPERATIONS.—(1) Before concluding an agreement for acceptance of military construction or facility improvements as a payment-in-kind, the Secretary of Defense shall submit to the congressional defense committees a notification on the proposed agreement. Any such notification shall contain the following:

(A) A description of the military construction project or facility improvement project.

(B) An explanation of the military requirement to be satisfied with the project.

(C) A certification that the project is included in the current future-years defense program.

(2) Before concluding an agreement for acceptance of host nation support or host nation payment of operating costs of United States forces as a payment-in-kind, the Secretary of Defense shall submit to the congressional defense committees a notification on the proposed agreement. Any such notification shall contain the following:

(A) A description of each activity to be covered by the payment-in-kind.

(B) A certification that the costs to be covered by the payment-in-kind are included in the budget of one or more of the military departments or that it will otherwise be necessary to provide for payment of such costs in a budget of one or more of the military departments in the current or the next fiscal year.

(3) When the Secretary of Defense submits a notification of a proposed agreement under paragraph (1) or (2), the Secretary may then enter into the agreement described in the notification only after the end of the 30-day period beginning on the date on which the notification is submitted 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.

(f) AUTHORIZED USE OF PAYMENTS-IN-KIND.—(1) A military construction project, as defined in chapter 159 of this title, may be accepted as a payment-in-kind contribution pursuant to a bilateral agreement with a host country only if that military construction project is authorized by law.

(2) Operations of United States forces may be funded through a payment-in-kind contribution under this section only if the costs covered by such payment are included in the budget justification documents for the Department of Defense submitted to Congress in connection with the budget submitted under 1105 of title 31.

(3) If funds previously appropriated for a military construction project, facility improvement, or operating costs are subsequently addressed in an agreement for a payment-in-kind contribution, the Secretary of Defense shall return to the Treasury funds in the amount equal to the value of the appropriated funds.

(4) This subsection does not apply to a military construction project that—

(A) was specified in a bilateral agreement with a host country that was entered into prior to the date of the enactment of the Military Construction Authorization Act for Fiscal Year 2014;

(B) was accepted as payment-in-kind for the residual value of improvements made by the United States at military installations released to the host country under section 2921 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101-510; 10 U.S.C. 2687 note) prior to the date of the enactment of the Military Construction Authorization Act for Fiscal Year 2014; or

(C) subject to paragraph (5), will cost less than the cost specified in subsection (a)(2) of section 2805 of this title for certain unspecified minor military construction projects.

(5) In the case of a military construction project excluded pursuant to paragraph (4)(C) whose cost will exceed the cost specified in subsection (b) of section 2805 of this title for certain unspecified minor military construction projects, the congressional notification requirements and waiting period specified in paragraph (2) of such subsection shall apply.

(g) DEFINITIONS.—In this section:

(1) The term “fair market value of the improvements” means the value of improvements determined by the Secretary of Defense on the basis of their highest use.

(2) The term “improvements” includes new construction of facilities and all additions, improvements, modifications, or renovations made to existing facilities or to real property, without regard to whether they were carried out with appropriated or nonappropriated funds.

(3) The term “nonappropriated funds” means funds received from—

(A) the adjustment of, or surcharge on, selling prices at commissary stores fixed under section 2685 of this title; or

(B) a nonappropriated fund instrumentality.

(4) The term “nonappropriated fund instrumentality” means an instrumentality of the United States under the jurisdiction of the armed forces (including the Army and Air Force Exchange Service, the Navy Resale and Services Support Office, and the Marine Corps exchanges) which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the armed forces.

(Added Pub. L. 111-84, div. B, title XXVIII, § 2822(a)(1), Oct. 28, 2009, 123 Stat. 2665; amended Pub. L. 111-383, div. A, title X, § 1075(b)(44), Jan. 7, 2011, 124 Stat. 4371; Pub. L. 112-239, div. A, title X, § 1076(f)(34), Jan. 2, 2013, 126 Stat. 1954; Pub. L. 113-66, div. B, title XXVIII, § 2807(a), Dec. 26, 2013, 127 Stat. 1008.)

REFERENCES IN TEXT

The date of the enactment of the Military Construction Authorization Act for Fiscal Year 2014, referred to in subsec. (f)(4)(A) and (B), is the date of enactment of div. B of Pub. L. 113-66, which was approved Dec. 26, 2013.

AMENDMENTS

2013—Pub. L. 113-66, § 2807(a), amended section generally. Prior to amendment, section consisted of subsecs. (a) and (b) which related to an annual status report of overseas base closures, realignments, and basing master plans and required elements of the report, respectively.

Subsec. (a). Pub. L. 112-239, § 1076(f)(34)(A), substituted “Foreign Relations” for “Foreign relations”.

Subsec. (b)(1). Pub. L. 112-239, § 1076(f)(34)(B), struck out comma after “including” and substituted “the Treaty” for “The Treaty”.

2011—Subsec. (a). Pub. L. 111-383 substituted “31 for” for “31for” in introductory provisions.

§ 2688. Utility systems: conveyance authority

(a) CONVEYANCE AUTHORITY.—The Secretary of a military department may convey a utility system, or part of a utility system, under the jurisdiction of the Secretary to a municipal, private, regional, district, or cooperative utility company or other entity. The conveyance may consist of all right, title, and interest of the United States in the utility system or such lesser estate as the Secretary considers appropriate to serve the interests of the United States.

(b) SELECTION OF CONVEYEE.—(1) If more than one utility or entity referred to in subsection (a) notifies the Secretary concerned of an interest in a conveyance under such subsection, the Secretary shall carry out the conveyance through the use of competitive procedures.

(2) Notwithstanding paragraph (1), the Secretary concerned may use procedures other than competitive procedures, but only in accordance with subsections (c) through (f) of section 2304 of this title, to select the conveyee of a utility system (or part of a utility system) under subsection (a).

(3) With respect to the solicitation process used in connection with the conveyance of a utility system (or part of a utility system) under subsection (a), the Secretary concerned shall ensure that the process is conducted in a manner consistent with the laws and regulations of the State in which the utility system is located to the extent necessary to ensure that all interested regulated and unregulated utility companies and other interested entities receive an opportunity to acquire and operate the utility system to be conveyed.

(c) CONSIDERATION.—(1) The Secretary concerned may require as consideration for a conveyance under subsection (a) an amount equal to the fair market value (as determined by the Secretary) of the right, title, or interest of the United States conveyed. The consideration may take the form of—

(A) a lump sum payment; or

(B) a reduction in charges for utility services provided by the utility or entity concerned to the military installation at which the utility system is located.

(2) If the utility services proposed to be provided as consideration under paragraph (1) are subject to regulation by a Federal or State agency, any reduction in the rate charged for the utility services shall be subject to establishment or approval by that agency.

(d) CONTRACTS FOR UTILITY SERVICES.—(1) Except as provided in paragraph (2), a contract for the receipt of utility services as consideration under subsection (c), or any other contract for utility services entered into by the Secretary concerned in connection with the conveyance of a utility system under this section, may be for a period not to exceed 10 years.

(2) The Secretary of Defense, or the designee of the Secretary, may authorize a contract for utility services described in paragraph (1) to have a term in excess of 10 years, but not to exceed 50 years, if the Secretary determines that a contract for a longer term will be cost effective. The determination of cost effectiveness shall be made using a business case analysis that in-