

using a business case analysis that includes an independent estimate of the level of investment that should be required to maintain adequate operation of the utility system over the proposed term of the contract.”

2011—Subsec. (a). Pub. L. 112–81, §1061(21)(A), struck out par. (1) designation before “The Secretary of a military department” and struck out pars. (2) and (3) which related to conditions for entry into a contract to convey all or part of a utility system and conditions under which the Secretary concerned could not reconsider conversion to contractor operation under section 2461 of this title for a five-year period, respectively.

Subsec. (d)(2). Pub. L. 112–81, §1061(21)(B), struck out at end “The economic analysis submitted to the congressional defense committees under subsection (a)(2) for the conveyance of the utility system, or part thereof, with regard to which the utility services contract will be entered into by the Secretary concerned shall include the determination required by this paragraph, an explanation of the need for the longer term contract, and a comparison of costs between a 10-year contract and the longer-term contract.”

Subsec. (f). Pub. L. 112–81, §1061(21)(C), struck out subsec. (f). Prior to amendment, text read as follows: “Not later than 30 days after the end of each quarter of a fiscal year, the Secretary shall submit to the congressional defense committees a report on the conveyances made under subsection (a) during such fiscal quarter.”

Subsec. (h). Pub. L. 112–81, §1061(21)(D), struck out at end “The Secretary concerned shall consider any such contribution in the economic analysis required under subsection (a)(2).”

2009—Subsec. (a)(2)(A)(ii). Pub. L. 111–84, §2821(a), substituted “system by 10 percent of the long-term cost for provision of those utility services in the agency tender; and” for “system; and”.

Subsec. (a)(3). Pub. L. 111–84, §2821(b), added par. (3).
2008—Subsecs. (j), (k). Pub. L. 110–417 added subsec. (j) and redesignated former subsec. (j) as (k).

2006—Subsec. (a). Pub. L. 109–163, §2823(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (c)(1). Pub. L. 109–163, §2823(b), substituted “may require” for “shall require” in introductory provisions.

Subsec. (c)(3). Pub. L. 109–163, §2823(c)(2), redesignated subsec. (c)(3) as (d).

Subsec. (d). Pub. L. 109–163, §2823(c)(2), redesignated subsec. (c)(3) as (d), substituted “CONTRACTS FOR UTILITY SERVICES.—(1) Except as provided in paragraph (2), a contract” for “A contract”, “subsection (c)” for “paragraph (1)”, and “10 years” for “50 years”, and added par. (2). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 109–163, §2823(c)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 109–163, §2823(d)(1), struck out at end “The report shall include, for each such conveyance, an economic analysis (based upon accepted life-cycle costing procedures approved by the Secretary of Defense) demonstrating that—

“(1) the long-term economic benefit of the conveyance to the United States exceeds the long-term economic cost of the conveyance to the United States; and

“(2) the conveyance will reduce the long-term costs of the United States for utility services provided by the utility system concerned.”

Pub. L. 109–163, §2823(c)(1), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 109–163, §2823(c)(1), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 109–163, §2823(d)(2), substituted “subsection (a)(2)” for “subsection (e)”.

Pub. L. 109–163, §2823(c)(1), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsecs. (i), (j). Pub. L. 109–163, §2823(c)(1), redesignated subsecs. (h) and (i) as (i) and (j), respectively.

2003—Subsec. (e). Pub. L. 108–136 amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: “The Secretary concerned may not make a conveyance under subsection (a) until—

“(1) the Secretary submits to 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 an economic analysis (based upon accepted life-cycle costing procedures approved by the Secretary of Defense) demonstrating that—

“(A) the long-term economic benefit of the conveyance to the United States exceeds the long-term economic cost of the conveyance to the United States; and

“(B) the conveyance will reduce the long-term costs of the United States for utility services provided by the utility system concerned; and

“(2) a period of 21 days has elapsed after the date on which the economic analysis is received by the committees.”

2000—Subsec. (b). Pub. L. 106–398, §1 [div. B, title XXVIII, §2813(a)], designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (f). Pub. L. 106–398, §1 [div. B, title XXVIII, §2813(b)], designated existing provisions as par. (1) and added par. (2).

Subsecs. (h) to (j). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(15)], redesignated subsecs. (i) and (j) as (h) and (i), respectively.

1999—Subsec. (c)(3). Pub. L. 106–65, §2812(a), added par. (3).

Subsec. (e)(1). Pub. L. 106–65, §1067(1), substituted “and the Committee on Armed Services” for “and the Committee on National Security” in introductory provisions.

Subsec. (g). Pub. L. 106–65, §2812(c)(2), added subsec. (g). Former subsec. (g) redesignated (i).

Subsec. (g)(2)(B). Pub. L. 106–65, §2812(b), substituted “Real property, easements,” for “Easements”.

Subsecs. (h) to (j). Pub. L. 106–65, §2812(c)(1), redesignated subsecs. (g) and (h) as (i) and (j), respectively.

[§ 2689. Renumbered § 2917]

[§ 2690. Renumbered § 2918]

§ 2691. Restoration of land used by permit or lease

(a) The Secretary of the military department concerned may remove improvements and take any other action necessary in the judgment of the Secretary to restore land used by that military department by permit or lease from another military department or Federal agency if the restoration is required by the permit or lease making that land available to the military department. The Secretary concerned may carry out this section using funds available for operations and maintenance or for military construction.

(b) Unless otherwise prohibited by law or the terms of the permit or lease, before restoration of any land under subsection (a) is begun, the Secretary concerned shall determine, under the provisions of subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, whether another military department or Federal agency has a use for the land in its existing, improved state. During the period required to make such a determination, the Secretary may provide for maintenance and repair of improvements on the land to the standards established for excess property by the Administrator of General Services.

(c)(1) As a condition of any lease, permit, license, or other grant of access entered into by

the Secretary of a military department with another Federal agency authorizing the agency to use lands under the control of the Secretary, the Secretary may require the agency to agree to remove any improvements and to take any other action necessary in the judgment of the Secretary to restore the land used by the agency to its condition before its use by the agency.

(2) In lieu of performing any removal or restoration work under paragraph (1), a Federal agency may elect, with the consent of the Secretary, to reimburse the Secretary for the costs incurred by the military department in performing such removal or restoration work.

(Added Pub. L. 98-407, title VIII, §804(a), Aug. 28, 1984, 98 Stat. 1519; amended Pub. L. 99-145, title XIII, §1303(a)(17), Nov. 8, 1985, 99 Stat. 739; Pub. L. 105-261, div. B, title XXVIII, §2812(a), (b)(1), Oct. 17, 1998, 112 Stat. 2205; Pub. L. 107-217, §3(b)(15), Aug. 21, 2002, 116 Stat. 1296; Pub. L. 111-350, §5(b)(46), Jan. 4, 2011, 124 Stat. 3846.)

AMENDMENTS

2011—Subsec. (b). 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.)”.

2002—Subsec. (b). Pub. L. 107-217 inserted “subtitle I of title 40 and title III of” before “the Federal Property and Administrative Services Act of 1949” and substituted “(41 U.S.C. 251 et seq.)” for “(40 U.S.C. 471 et seq.)”.

1998—Pub. L. 105-261, §2812(b)(1), struck out “from other agencies” after “lease” in section catchline.

Subsec. (c). Pub. L. 105-261, §2812(a), added subsec. (c).
1985—Pub. L. 99-145 substituted “used by” for “used of” in section catchline.

§ 2692. Storage, treatment, and disposal of non-defense toxic and hazardous materials

(a)(1) Except as otherwise provided in this section, the Secretary of Defense may not permit the use of an installation of the Department of Defense for the storage, treatment, or disposal of any material that is a toxic or hazardous material and that is not owned either by the Department of Defense or by a member of the armed forces (or a dependent of the member) assigned to or provided military housing on the installation.

(2) The Secretary of Defense shall define by regulation what materials are hazardous or toxic materials for the purposes of this section, including specification of the quantity of a material that serves to make it hazardous or toxic for the purposes of this section. The definition shall include materials referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14)) and materials designated under section 102 of that Act (42 U.S.C. 9602) and shall include materials that are of an explosive, flammable, or pyrotechnic nature.

(b) Subsection (a) does not apply to the following:

(1) The storage, treatment, or disposal of materials that will be or have been used in connection with an activity of the Department of Defense or in connection with a service to be performed on an installation of the Department for the benefit of the Department.

(2) The storage of strategic and critical materials in the National Defense Stockpile under an agreement for such storage with the Administrator of General Services.

(3) The temporary storage or disposal of explosives in order to protect the public or to assist agencies responsible for Federal, State, or local law enforcement in storing or disposing of explosives when no alternative solution is available, if such storage or disposal is made in accordance with an agreement between the Secretary of Defense and the head of the Federal, State, or local agency concerned.

(4) The temporary storage or disposal of explosives in order to provide emergency lifesaving assistance to civil authorities.

(5) The disposal of excess explosives produced under a Department of Defense contract, if the head of the military department concerned determines, in each case, that an alternative feasible means of disposal is not available to the contractor, taking into consideration public safety, available resources of the contractor, and national defense production requirements.

(6) The temporary storage of nuclear materials or nonnuclear classified materials in accordance with an agreement with the Secretary of Energy.

(7) The storage of materials that constitute military resources intended to be used during peacetime civil emergencies in accordance with applicable Department of Defense regulations.

(8) The temporary storage of materials of other Federal agencies in order to provide assistance and refuge for commercial carriers of such material during a transportation emergency.

(9) The storage of any material that is not owned by the Department of Defense if the Secretary of the military department concerned determines that the material is required or generated in connection with the authorized and compatible use of a facility of the Department of Defense, including the use of such a facility for testing material or training personnel.

(10) The treatment and disposal of any material that is not owned by the Department of Defense if the Secretary of the military department concerned determines that the material is required or generated in connection with the authorized and compatible use of a facility of that military department and the Secretary enters into a contract or agreement with the prospective user that—

(A) is consistent with the best interest of national defense and environmental security; and

(B) provides for the prospective user's continued financial and environmental responsibility and liability with regard to the material.

(11) The storage of any material that is not owned by the Department of Defense if the Secretary of the military department concerned determines that the material is required or generated in connection with the use of a space launch facility located on an installation of the Department of Defense or on other land controlled by the United States.