

cess of \$7,500,000, the Secretary concerned shall submit 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 to restore a real property facility, system, or component to such a condition that it may effectively be used for its designated functional purpose.

(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.)

#### AMENDMENTS

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 not enter into a lease under this section until—

(A) the Secretary submits to the appropriate committees of Congress a justification of the need for the facility for which the proposed lease is being entered into and 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; and

(B) a period of 21 days has expired following the date on which the justification and economic analysis 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 economic analysis are provided in an electronic medium pursuant to section 480 of this title.

(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.)

#### AMENDMENTS

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 transmits to the appropriate committees of Congress a written notification 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 21-day period beginning on the date on which the notification is received by the committees or, if earlier, the end of the 14-day period beginning on the date on which a copy of the report is provided 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.)

#### AMENDMENTS

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”.

#### 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.