

(1) the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605; November 28, 1995);

(2) the Guidance for the Establishment, Use, and Operation of Conservation Banks (68 Fed. Reg. 24753; May 2, 2003);

(3) the Federal Guidance on the Use of In-Lieu-Fee Arrangements for Compensatory Mitigation Under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act (65 Fed. Reg. 66915; November 7, 2000); or

(4) any successor or related administrative guidance or regulation.

(b) COVERED ACTIVITIES.—Payments to a conservation banking program or “in-lieu-fee” mitigation sponsor under subsection (a) may be made only for the purpose of facilitating one or more of the following activities:

(1) Military testing, operations, training, or other military activity.

(2) Military construction.

(c) TREATMENT OF AMOUNTS FOR CONSERVATION BANKING.—Payments made under subsection (a) to a conservation banking program or “in-lieu-fee” mitigation sponsor for the purpose of facilitating military construction may be treated as eligible costs of the military construction project.

(d) SOURCE OF FUNDS.—Amounts available from any of the following shall be available for activities under this section:

(1) Operation and maintenance.

(2) Military construction.

(3) Research, development, test, and evaluation.

(4) The Support for United States Relocation to Guam Account established under section 2824 of the Military Construction Authorization Act for Fiscal Year 2009 (division B of Public Law 110-417; 122 Stat. 4730; 10 U.S.C. 2687 note).

(e) SECRETARY CONCERNED DEFINED.—In this section, the term “Secretary concerned” means—

(1) the Secretary of a military department; and

(2) the Secretary of Defense with respect to a Defense Agency.

(Added Pub. L. 110-417, [div. A], title III, §311(a), Oct. 14, 2008, 122 Stat. 4408; amended Pub. L. 111-84, div. A, title III, §311, Oct. 28, 2009, 123 Stat. 2247; Pub. L. 111-383, div. A, title X, §1075(b)(45), Jan. 7, 2011, 124 Stat. 4371.)

#### AMENDMENTS

2011—Subsec. (d)(4). Pub. L. 111-383 inserted “Authorization” after “Military Construction”.

2009—Subsec. (a). Pub. L. 111-84, §311(1), struck out “to carry out this section” after “appropriated funds” in introductory provisions.

Subsecs. (d), (e). Pub. L. 111-84, §311(2), (3), added subsec. (d) and redesignated former subsec. (d) as (e).

#### EFFECTIVE DATE

Pub. L. 110-417, [div. A], title III, §311(c), Oct. 14, 2008, 122 Stat. 4409, provided that: “Section 2694c of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2008, and only funds appropriated for fiscal years beginning after September 30, 2008, may be used to carry out such section.”

### § 2695. Acceptance of funds to cover administrative expenses relating to certain real property transactions

(a) AUTHORITY TO ACCEPT.—In connection with a real property transaction referred to in subsection (b) with a non-Federal person or entity, the Secretary of a military department may accept amounts provided by the person or entity to cover administrative expenses incurred by the Secretary in entering into the transaction.

(b) COVERED TRANSACTIONS.—Subsection (a) applies to the following transactions involving real property under the control of the Secretary of a military department:

(1) The exchange of real property.

(2) The grant of an easement over, in, or upon real property of the United States.

(3) The lease or license of real property of the United States.

(4) The disposal of real property of the United States for which the Secretary will be the disposal agent.

(5) The conveyance of real property under section 2694a of this title.

(c) USE OF AMOUNTS COLLECTED.—(1) Amounts collected by the Secretary of a military department under subsection (a) for administrative expenses shall be credited, at the option of the Secretary—

(A) to the appropriation, fund, or account from which the expenses were paid; or

(B) to an appropriate appropriation, fund, or account currently available to the Secretary for the purposes for which the expenses were paid.

(2) Amounts credited under paragraph (1) shall be merged with funds in such appropriation, fund, or account and shall be available for the same purposes and subject to the same limitations as the funds with which merged.

(Added Pub. L. 105-85, div. B, title XXVIII, §2813(a), Nov. 18, 1997, 111 Stat. 1993; amended Pub. L. 106-65, div. B, title XXVIII, §2813, Oct. 5, 1999, 113 Stat. 851; Pub. L. 107-314, div. B, title XXVIII, §2812(b), Dec. 2, 2002, 116 Stat. 2709; Pub. L. 113-291, div. B, title XXVIII, §2812(a), Dec. 19, 2014, 128 Stat. 3700.)

#### AMENDMENTS

2014—Subsec. (c)(1). Pub. L. 113-291, §2812(a)(1), substituted “(1) Amounts collected by the Secretary of a military department under subsection (a) for administrative expenses shall be credited, at the option of the Secretary—” and subpars. (A) and (B) for “Amounts collected under subsection (a) for administrative expenses shall be credited to the appropriation, fund, or account from which the expenses were paid.”

Subsec. (c)(2). Pub. L. 113-291, §2812(a)(2), substituted “(2) Amounts credited under paragraph (1)” for “Amounts so credited”.

2002—Subsec. (b)(5). Pub. L. 107-314 added par. (5).

1999—Subsec. (b). Pub. L. 106-65 inserted “involving real property under the control of the Secretary of a military department” after “transactions” in introductory provisions and added par. (4).

#### EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-291, div. B, title XXVIII, §2812(b), Dec. 19, 2014, 128 Stat. 3700, provided that: “The amendments made by subsection (a) [amending this section] shall not apply to administrative expenses related to a real

property transaction referred to in section 2695(b) of title 10, United States Code, that were covered by the Secretary of a military department using amounts appropriated to the Secretary before the date of the enactment of this Act [Dec. 19, 2014].”

#### ADMINISTRATIVE COSTS OF LAND CONVEYANCES

Pub. L. 106-541, title II, §226, Dec. 11, 2000, 114 Stat. 2598, provided that: “Notwithstanding any other provision of law, the administrative costs associated with the conveyance of property by the Secretary to a non-Federal governmental or nonprofit entity shall be limited to the extent that the Secretary determines that such limitation is necessary to complete the conveyance based on the entity’s ability to pay.”

#### § 2696. Real property: transfer between armed forces and screening requirements for other Federal use

(a) TRANSFERS BETWEEN ARMED FORCES.—If either of the Secretaries concerned requests it and the other approves, real property may be transferred, without compensation, from one armed force to another. Section 2571(d) of this title shall apply to the transfer of real property under this subsection.

(b) SCREENING REQUIREMENTS FOR ADDITIONAL FEDERAL USE.—The Secretary concerned may not convey real property that is authorized or required to be conveyed, whether for or without consideration, by any provision of law enacted after December 31, 1997, unless the Administrator of General Services has screened the property for further Federal use in accordance with subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(c) TIME FOR SCREENING.—(1) Before the end of the 30-day period beginning on the date of the enactment of a provision of law authorizing or requiring the conveyance of a parcel of real property by the Secretary concerned, the Administrator of General Services shall complete the screening referred to in subsection (b) with regard to the real property and notify the Secretary concerned and Congress of the results of the screening. The notice shall include—

(A) the name of the Federal agency requesting transfer of the property;

(B) the proposed use to be made of the property by the Federal agency; and

(C) the fair market value of the property, including any improvements thereon, as estimated by the Administrator.

(2) If the Administrator fails to complete the screening and notify the Secretary concerned and Congress within such period, the Secretary concerned shall proceed with the conveyance of the real property as provided in the provision of law authorizing or requiring the conveyance.

(d) EFFECT OF SUBMISSION OF NOTICE.—If the Administrator of General Services submits notice under subsection (c)(1) that further Federal use of a parcel of real property is requested by a Federal agency, the Secretary concerned may not proceed with the conveyance of the real property as provided in the provision of law authorizing or requiring the conveyance until the end of the 180-day period beginning on the date on which the notice is submitted to Congress.

(e) EXCEPTED CONVEYANCE AUTHORITIES.—The screening requirements of subsection (b) shall

not apply to real property authorized or required to be conveyed under any of the following provisions of law:

(1) A base closure law.

(2) Chapter 5 of title 40.

(3) Any specific provision of law authorizing or requiring the transfer of administrative jurisdiction over a parcel of real property between Federal agencies.

(f) SCREENING AND CONVEYANCE OF PROPERTY FOR CORRECTIONAL FACILITIES PURPOSES.—(1) Except as provided in paragraph (2), before any real property or facility of the United States that is under the jurisdiction of any department, agency, or instrumentality of the Department of Defense is determined to be excess to the needs of such department, agency, or instrumentality, the Secretary of Defense shall—

(A) provide adequate notification of the availability of such real property or facility within the Department of Defense;

(B) if the real property or facility remains available after such notification, notify the Attorney General of its availability; and

(C) if the Attorney General certifies to the Secretary of Defense that a determination has been made by the Director of the Bureau of Justice Assistance within the Department of Justice to utilize the real property or facility under the correctional options program carried out under section 515 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762a), convey the real property or facility, without reimbursement, to a public agency referred to in paragraph (1) or (3) of subsection (a) of such section for such utilization.

(2) Paragraph (1) shall not apply—

(A) to real property and facilities to which title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526) is applicable; and

(B) during any portion of a fiscal year after four conveyances have been made under paragraph (1) in such fiscal year.

(Added Pub. L. 105-85, div. B, title XXVIII, §2814(a)(1), Nov. 18, 1997, 111 Stat. 1994; amended Pub. L. 106-65, div. A, title X, §1066(a)(26), Oct. 5, 1999, 113 Stat. 772; Pub. L. 107-217, §3(b)(16), Aug. 21, 2002, 116 Stat. 1296; Pub. L. 108-136, div. A, title X, §§1031(a)(33), 1043(c)(4), Nov. 24, 2003, 117 Stat. 1600, 1612; Pub. L. 109-364, div. B, title XXVIII, §2825(a), (b)(5), (c)(3), (d)(2)(A), Oct. 17, 2006, 120 Stat. 2476, 2477; Pub. L. 111-350, §5(b)(47), Jan. 4, 2011, 124 Stat. 3846.)

#### REFERENCES IN TEXT

The Defense Authorization Amendments and Base Closure and Realignment Act, referred to in subsec. (f)(2)(A), is Pub. L. 100-526, Oct. 24, 1988, 102 Stat. 2623. Title II of the Act is set out as a note under section 2687 of this title. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 2687 of this title and Tables.

#### CODIFICATION

The text of section 2693 of this title, which was transferred to the end of this section and redesignated as subsec. (f), by Pub. L. 109-364, §2825(b)(5), was based on Pub. L. 101-647, title XVIII, §1802(a), Nov. 29, 1990, 104 Stat. 4849; amended Pub. L. 107-107, div. A, title X,