

services or other similar first responder agreements or arrangements.

(c) AVAILABILITY OF FUNDS.—Funds available to the Secretary concerned for operation and maintenance may be used to pay for such installation-support services. The costs of agreements under this section for any fiscal year may be paid using annual appropriations made available for that year. Funds received by the Secretary as reimbursement for providing installation-support services pursuant to such an agreement shall be credited to the appropriation or account charged with providing installation support.

(d) EFFECT ON OMB CIRCULAR A-76.—The Secretary concerned shall ensure that intergovernmental support agreements authorized by this section are not used to circumvent the requirements of Office of Management and Budget Circular A-76 regarding public-private competitions.

(e) DEFINITIONS.—In this section:

(1) The term “installation-support services” means those services, supplies, resources, and support typically provided by a local government for its own needs and without regard to whether such services, supplies, resources, and support are provided to its residents generally, except that the term does not include security guard or fire-fighting functions.

(2) The term “local government” includes a county, parish, municipality, city, town, township, local public authority, school district, special district, and any agency or instrumentality of a local government.

(3) The term “State” includes the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands, and any agency or instrumentality of a State.

(4) The term “intergovernmental support agreement” means a legal instrument reflecting a relationship between the Secretary concerned and a State or local government that contains such terms and conditions as the Secretary concerned considers appropriate for the purposes of this section and necessary to protect the interests of the United States.

(Added Pub. L. 112-239, div. A, title III, § 331(a), Jan. 2, 2013, 126 Stat. 1696, § 2336; renumbered § 2679 and amended Pub. L. 113-291, div. A, title III, § 351(a), (b), Dec. 19, 2014, 128 Stat. 3346; Pub. L. 114-92, div. A, title X, § 1081(a)(9), (b)(1), Nov. 25, 2015, 129 Stat. 1001.)

PRIOR PROVISIONS

A prior section 2679, added Pub. L. 87-651, title I, § 112(c), Sept. 7, 1962, 76 Stat. 511; amended Pub. L. 101-189, div. A, title XVI, § 1621(a)(9), Nov. 29, 1989, 103 Stat. 1603; Pub. L. 103-337, div. A, title X, § 1070(e)(9), Oct. 5, 1994, 108 Stat. 2859, related to use of space and equipment by representatives of veterans' organizations, prior to repeal by Pub. L. 108-375, div. B, title XXVIII, § 2821(c)(2), Oct. 28, 2004, 118 Stat. 2129.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114-92, § 1081(a)(9), struck out “with” before “, on a sole source”.

Subsec. (a)(4). Pub. L. 114-92, § 1081(b)(1), amended directory language of Pub. L. 113-291, § 351(b)(1)(C). See 2014 Amendment note below.

2014—Pub. L. 113-291, § 351(a), renumbered section 2336 of this title as this section and substituted “Install-

ation-support services: intergovernmental support agreement” for “Intergovernmental support agreements with State and local governments” in section catchline.

Subsec. (a)(1). Pub. L. 113-291, § 351(b)(1)(A), substituted “Notwithstanding any other provision of law governing the award of Federal government contracts for goods and services, the Secretary concerned” for “The Secretary concerned” and “, on a sole source basis, with a State or local” for “a State or local”.

Subsec. (a)(2). Pub. L. 113-291, § 351(b)(1)(B), substituted “An” for “Notwithstanding any other provision of law, an” in introductory provisions, redesignated subpars. (B) and (C) as (A) and (B), respectively, and struck out former subpar. (A) which read as follows: “may be entered into on a sole-source basis;”.

Subsec. (a)(4). Pub. L. 113-291, § 351(b)(1)(C), as amended by Pub. L. 114-92, § 1081(b)(1), added par. (4).

Subsec. (e)(4). Pub. L. 113-291, § 351(b)(2), added par. (4).

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-92, div. A, title X, § 1081(b), Nov. 25, 2015, 129 Stat. 1001, provided in part that the amendment made by section 1081(b)(1) is effective as of Dec. 19, 2014, and as if included in Pub. L. 113-291 as enacted.

[§ 2680. Repealed. Pub. L. 111-383, div. B, title XXVIII, § 2814(a), Jan. 7, 2011, 124 Stat. 4464]

Section, added Pub. L. 102-190, div. B, title XXVIII, § 2863(a)(1), Dec. 5, 1991, 105 Stat. 1560; amended Pub. L. 103-160, div. B, title XXVIII, § 2807(a), Nov. 30, 1993, 107 Stat. 1887; Pub. L. 104-106, div. B, title XXVIII, § 2820(a), (b), Feb. 10, 1996, 110 Stat. 556; Pub. L. 106-65, div. A, title X, § 1067(1), div. B, title XXVIII, § 2811, Oct. 5, 1999, 113 Stat. 774, 851; Pub. L. 107-314, div. A, title X, § 1062(a)(13), Dec. 2, 2002, 116 Stat. 2650; Pub. L. 108-136, div. A, title X, § 1031(a)(31), Nov. 24, 2003, 117 Stat. 1600, related to leases of land for special operations activities.

PRIOR PROVISIONS

A prior section 2680, added Pub. L. 87-651, title I, § 112(c), Sept. 7, 1962, 76 Stat. 511; amended Pub. L. 89-718, § 20, Nov. 2, 1966, 80 Stat. 1118, authorized reimbursement of moving expenses to owners of property acquired for public works projects, prior to repeal by Pub. L. 91-646, title II, § 220(a)(3), Jan. 2, 1971, 84 Stat. 1903. See section 4601 et seq. of Title 42, The Public Health and Welfare.

EFFECT OF REPEAL

Pub. L. 111-383, div. B, title XXVIII, § 2814(b), Jan. 7, 2011, 124 Stat. 4464, provided that: “The amendment made by subsection (a) [repealing this section] shall not affect the validity of any contract entered into under section 2680 of title 10, United States Code, on or before September 30, 2005.”

§ 2681. Use of test and evaluation installations by commercial entities

(a) CONTRACT AUTHORITY.—The Secretary of Defense may enter into contracts with commercial entities that desire to conduct commercial test and evaluation activities at a Major Range and Test Facility Installation.

(b) TERMINATION OR LIMITATION OF CONTRACT UNDER CERTAIN CIRCUMSTANCES.—A contract entered into under subsection (a) shall contain a provision that the Secretary of Defense may terminate, prohibit, or suspend immediately any commercial test or evaluation activity to be conducted at the Major Range and Test Facility Installation under the contract if the Secretary of Defense certifies in writing that the test or evaluation activity is or would be detrimental—

- (1) to the public health and safety;
- (2) to property (either public or private); or
- (3) to any national security interest or foreign policy interest of the United States.

(c) **CONTRACT PRICE.**—A contract entered into under subsection (a) shall include a provision that requires a commercial entity using a Major Range and Test Facility Installation under the contract to reimburse the Department of Defense for all direct costs to the United States that are associated with the test and evaluation activities conducted by the commercial entity under the contract. In addition, the contract may include a provision that requires the commercial entity to reimburse the Department of Defense for such indirect costs related to the use of the installation as the Secretary of Defense considers to be appropriate. The Secretary may delegate to the commander of the Major Range and Test Facility Installation the authority to determine the appropriateness of the amount of indirect costs included in such a contract provision.

(d) **RETENTION OF FUNDS COLLECTED FROM COMMERCIAL USERS.**—Amounts collected under subsection (c) from a commercial entity conducting test and evaluation activities at a Major Range and Test Facility Installation shall be credited to the appropriation accounts under which the costs associated with the test and evaluation activities of the commercial entity were incurred.

(e) **REGULATIONS AND LIMITATIONS.**—The Secretary of Defense shall prescribe regulations to carry out this section.

(f) **DEFINITIONS.**—In this section:

(1) The term “Major Range and Test Facility Installation” means a test and evaluation installation under the jurisdiction of the Department of Defense and designated as a Major Range and Test Facility Installation by the Secretary.

(2) The term “direct costs” includes the cost of—

(A) labor, material, facilities, utilities, equipment, supplies, and any other resources damaged or consumed during test or evaluation activities or maintained for a particular commercial entity; and

(B) construction specifically performed for a commercial entity to conduct test and evaluation activities.

(Added Pub. L. 103-160, div. A, title VIII, §846(a), Nov. 30, 1993, 107 Stat. 1722; amended Pub. L. 105-85, div. A, title VIII, §842, Nov. 18, 1997, 111 Stat. 1844; Pub. L. 105-261, div. A, title VIII, §820, Oct. 17, 1998, 112 Stat. 2090.)

PRIOR PROVISIONS

A prior section, added Pub. L. 87-651, title II, §209(a), Sept. 7, 1962, 76 Stat. 523; amended Pub. L. 88-174, title V, §508, Nov. 7, 1963, 77 Stat. 326; Pub. L. 96-513, title V, §511(93), Dec. 12, 1980, 94 Stat. 2928, related to construction or acquisition of family housing and community facilities in foreign countries, prior to repeal by Pub. L. 97-214, §§7(1), 12(a), July 12, 1982, 96 Stat. 173, 176, effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date.

AMENDMENTS

1998—Subsec. (g). Pub. L. 105-261, §820(a), struck out heading and text of subsec. (g). Text read as follows:

“The authority provided to the Secretary of Defense by subsection (a) shall terminate on September 30, 2002.”

Subsec. (h). Pub. L. 105-261, §820(b), struck out heading and text of subsec. (h). Text read as follows: “Not later than March 1, 1998, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report identifying existing and proposed procedures to ensure that the use of Major Range and Test Facility Installations by commercial entities does not compete with private sector test and evaluation services.”

1997—Subsec. (g). Pub. L. 105-85, §842(a), substituted “2002” for “1998”.

Subsec. (h). Pub. L. 105-85, §842(b), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows:

“(h) **REPORT.**—Not later than January 1, 1998, the Secretary of Defense shall submit to Congress a report describing the number and purposes of contracts entered into under subsection (a) and evaluating the extent to which the authority under this section is exercised to open Major Range and Test Facility Installations to commercial test and evaluation activities.”

§ 2682. Facilities for defense agencies

(a) **MAINTENANCE AND REPAIR.**—Subject to subsection (c), the maintenance and repair of a real property facility for an activity or agency of the Department of Defense (other than a military department) financed from appropriations for military functions of the Department of Defense will be accomplished by or through a military department designated by the Secretary of Defense.

(b) **JURISDICTION.**—Subject to subsection (c), a real property facility under the jurisdiction of the Department of Defense which is used by an activity or agency of the Department of Defense (other than a military department) shall be under the jurisdiction of a military department designated by the Secretary of Defense.

(c) **FACILITIES FOR INTELLIGENCE COLLECTION OR FOR SPECIAL OPERATIONS ABROAD.**—(1) The Secretary of Defense may waive the requirements of subsections (a) and (b) if necessary to provide security for authorized intelligence collection or special operations activities abroad undertaken by the Department of Defense.

(2) Not later than 48 hours after using the waiver authority under paragraph (1) for any facility for intelligence collection conducted under the authorities of the Department of Defense or special operations activity, the Secretary of Defense shall submit to the appropriate congressional committees written notification of the use of the authority, including the justification for the waiver and the estimated cost of the project for which the waiver applies.

(3) In this subsection, the term “appropriate congressional committees” means the following:

(A) With respect to a waiver regarding special operations activities, the congressional defense committees.

(B) With respect to a waiver regarding intelligence collection conducted under the authorities of the Department of Defense—

(i) the congressional defense committees; and

(ii) the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.