

the result of the availability of generic equivalents increasing during the term of the contract.

(b)(1) A multiyear contract authorized by this section shall contain—

(A) a provision that the obligation of the United States under the contract during any fiscal year which is included in the contract period and is subsequent to the fiscal year during which the contract is entered into is contingent on the availability of sufficient appropriations (as determined by the Secretary pursuant to paragraph (2)(A) of this subsection) if, at the time the contract is entered into, appropriations are not available to cover the total estimated payments that will be required during the full term of the contract; and

(B) notwithstanding section 1502(a) of title 31, a provision for the payment of reasonable cancellation charges to compensate the contractor for nonrecurring, unrecovered costs, if any, if the performance is cancelled pursuant to the provision required by subparagraph (A) of this paragraph.

(2)(A) If, during a fiscal year after the fiscal year during which a multiyear contract is entered into under this section, the Secretary determines that, in light of other funding needs involved in the operation of Department programs, the amount of funds appropriated for such subsequent fiscal year is not sufficient for such contract, the Secretary shall cancel such contract pursuant to the provisions required by paragraph (1)(A) of this subsection.

(B) Cancellation charges under a multiyear contract shall be paid from the appropriated funds which were originally available for performance of the contract or the payment of cancellation costs unless such funds are not available in an amount sufficient to pay the entire amount of the cancellation charges payable under the contract. In a case in which such funds are not available in such amount, funds available for the procurement of supplies and services for use for the same purposes as the supplies or services procured through such contract shall be used to the extent necessary to pay such cost.

(c) Nothing in this section shall be construed so as to restrict the Secretary's exercise of the right to terminate for convenience a contract under any other provision of law which authorizes multiyear contracting.

(d) The Secretary shall prescribe regulations for the implementation of this section.

(e) For the purposes of this section:

(1) The term "appropriations" has the meaning given that term in section 1511 of title 31.

(2) The term "multiyear contract" means a contract which by its terms is to remain in effect for a period which extends beyond the end of the fiscal year during which the contract is entered into but not beyond the end of the fourth fiscal year following such fiscal year. Such term does not include a contract for construction or for a lease of real property.

(3) The term "nonrecurring, unrecovered costs" means those costs reasonably incurred by the contractor in performing a multiyear

contract which (as determined under regulations prescribed under subsection (d) of this section) are generally incurred on a one-time basis.

(Added Pub. L. 100-322, title IV, §404(a), May 20, 1988, 102 Stat. 545; amended Pub. L. 101-237, title VI, §601(a), (b)(1), Dec. 18, 1989, 103 Stat. 2094; Pub. L. 102-83, §4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places in introductory provisions.

Subsec. (a)(2)(B). Pub. L. 102-83, §4(a)(3), (4), substituted "Department" for "Veterans' Administration".

Subsec. (b)(1)(A). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

Subsec. (b)(2)(A). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places.

Pub. L. 102-83, §4(a)(3), (4), substituted "Department" for "Veterans' Administration".

Subsec. (c). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary's" for "Administrator's".

Subsec. (d). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

1989—Pub. L. 101-237, §601(b)(1), struck out "for certain medical items" after "Multiyear procurement" in section catchline.

Subsec. (a). Pub. L. 101-237, §601(a)(1), struck out "for use in Veterans' Administration health-care facilities" after "supplies or services".

Subsec. (b)(2)(A). Pub. L. 101-237, §601(a)(2), struck out "health-care" before "programs, the amount".

Subsec. (e)(2) to (4). Pub. L. 101-237, §601(a)(3), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which read as follows: "The term 'cancel' or 'cancellation' refers to the termination of a contract by the Administrator as required under paragraph (2)(B)(i) of this subsection."

§ 115. Acquisition of real property

For the purposes of sections 314, 315, 316, and 2406 of this title and subchapter I of chapter 81 of this title, the Secretary may acquire and use real property—

(1) before title to the property is approved under section 3111 of title 40; and

(2) even though the property will be held in other than a fee simple interest in a case in which the Secretary determines that the interest to be acquired is sufficient for the purposes of the intended use.

(Added Pub. L. 102-86, title IV, §402(a), Aug. 14, 1991, 105 Stat. 422; amended Pub. L. 102-83, §5(c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103-446, title XII, §1201(d)(1), Nov. 2, 1994, 108 Stat. 4684; Pub. L. 107-217, §3(j)(1), Aug. 21, 2002, 116 Stat. 1300.)

AMENDMENTS

2002—Par. (1). Pub. L. 107-217 substituted "section 3111 of title 40" for "section 355 of the Revised Statutes (40 U.S.C. 255)".

1994—Pub. L. 103-446 substituted "sections 314, 315, 316," for "sections 230" in introductory provisions.

1991—Pub. L. 102-83 substituted "2406" for "1006" in introductory provisions.

§ 116. Reports to Congress: cost information

Whenever the Secretary submits to Congress, or any committee of Congress, a report that is

required by law or by a joint explanatory statement of a committee of conference of the Congress, the Secretary shall include with the report—

(1) a statement of the cost of preparing the report; and

(2) a brief explanation of the methodology used in preparing that cost statement.

(Added Pub. L. 106-419, title IV, §403(d)(1)(A), Nov. 1, 2000, 114 Stat. 1864.)

EFFECTIVE DATE

Pub. L. 106-419, title IV, §403(d)(2), Nov. 1, 2000, 114 Stat. 1864, provided that: "Section 116 of title 38, United States Code, as added by paragraph (1) of this subsection, shall apply with respect to any report submitted by the Secretary of Veterans Affairs after the end of the 90-day period beginning on the date of the enactment of this Act [Nov. 1, 2000]."

§ 117. Advance appropriations for certain accounts

(a) IN GENERAL.—For each fiscal year, new budget authority provided in an appropriations Act for the covered accounts of the Department shall—

(1) be made available for that fiscal year; and

(2) include, for each such account, advance new budget authority that first becomes available for the first fiscal year after the budget year.

(b) ESTIMATES REQUIRED.—The Secretary shall include in documents submitted to Congress in support of the President's budget submitted pursuant to section 1105 of title 31, United States Code, detailed estimates of the funds necessary for the covered accounts of the Department for the fiscal year following the fiscal year for which the budget is submitted.

(c) COVERED ACCOUNTS OF THE DEPARTMENT.—For purposes of this section, the term "covered accounts of the Department" means the following accounts of the Department of Veterans Affairs account:

(1) Veterans Benefits Administration, Compensation and Pensions.

(2) Veterans Benefits Administration, Readjustment Benefits.

(3) Veterans Benefits Administration, Veterans Insurance and Indemnities.

(4) Veterans Health Administration, Medical Services.

(5) Veterans Health Administration, Medical Support and Compliance.

(6) Veterans Health Administration, Medical Facilities.

(d) ANNUAL REPORT.—Not later than July 31 of each year, the Secretary shall submit to Congress an annual report on the sufficiency of the Department's resources for the next fiscal year beginning after the date of the submittal of the report for the provision of medical care. Such report shall also include estimates of the workload and demand data for that fiscal year.

(Added Pub. L. 111-81, §3(a), Oct. 22, 2009, 123 Stat. 2137; Pub. L. 113-235, div. I, title II, §244(a), Dec. 16, 2014, 128 Stat. 2568.)

AMENDMENTS

2014—Pub. L. 113-235, §244(a)(4), substituted "certain accounts" for "certain medical care accounts" in section catchline.

Subsec. (a). Pub. L. 113-235, §244(a)(2), struck out "beginning with fiscal year 2011," after "each fiscal year," in introductory provisions and "discretionary" before "new budget authority" in introductory provisions and par. (2).

Pub. L. 113-235, §244(a)(1), substituted "covered accounts of the Department" for "medical care accounts of the Department" in introductory provisions.

Subsec. (b). Pub. L. 113-235, §244(a)(1), substituted "covered accounts of the Department" for "medical care accounts of the Department".

Subsec. (c). Pub. L. 113-235, §244(a)(1), (3)(A), (G), in heading, substituted "Covered Accounts of the Department" for "Medical Care Accounts" and, in introductory provisions, substituted "covered accounts of the Department" for "medical care accounts of the Department" and "accounts of the Department of Veterans Affairs account" for "medical care accounts of the Veterans Health Administration, Department of Veterans Affairs account".

Subsec. (c). Pub. L. 113-235, §244(a)(3)(B)–(F), inserted "Veterans Health Administration," after enumerators for pars. (1) to (3), redesignated pars. (1) to (3) as (4) to (6), respectively, and added pars. (1) to (3).

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-235, div. I, title II, §244(b), Dec. 16, 2014, 128 Stat. 2569, provided that: "Section 117 of title 38, United States Code, shall apply as follows:

"(1) With respect to an account described in paragraph (4), (5), or (6) of subsection (c) of such section, as redesignated by subsection (a) of this section, for each fiscal year beginning with fiscal year 2011.

"(2) With respect to an account described in paragraph (1), (2), or (3) of such subsection (c), as added by subsection (a) of this section, for each fiscal year beginning with 2017."

COMPTROLLER GENERAL REVIEW OF THE ACCURACY OF VA MEDICAL CARE BUDGET SUBMISSION IN RELATION TO BASELINE HEALTH CARE MODEL PROJECTION

Pub. L. 111-81, §4, Oct. 22, 2009, 123 Stat. 2138, provided that:

"(a) REVIEW OF ACCURACY OF MEDICAL CARE BUDGET SUBMISSION.—The Comptroller General shall conduct a review of each budget of the President for a fiscal year that is submitted to Congress pursuant to section 1105(a) of title 31 in order to assess whether or not the relevant components of the amounts requested in such budget for such fiscal year for the medical care accounts of the Department of Veterans Affairs specified in section 117(c) of title 38, United States Code, as added by section 3, are consistent with estimates of the resources required by the Department for the provision of medical care and services in such fiscal year, as forecast using the Enrollee Health Care Projection Model, or other methodologies used by the Department.

"(b) REPORTS.—

"(1) IN GENERAL.—Not later than 120 days after the date of each year in 2011, 2012, and 2013, on which the President submits the budget request for the next fiscal year under section 1105 of title 31, United States Code, the Comptroller General shall submit to the Committees on Veterans' Affairs, Appropriations, and the Budget of the Senate and the Committees on Veterans' Affairs, Appropriations, and the Budget of the House of Representatives and to the Secretary a report on the review conducted under subsection (a).

"(2) ELEMENTS.—Each report under this paragraph shall include, for the fiscal year beginning in the year in which such report is submitted, the following:

"(A) An assessment of the review conducted under subsection (a).

"(B) The basis for such assessment.

"(C) Such additional information as the Comptroller General determines appropriate.