

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 Repealed.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