

“(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.)