

which it had been furnished, the proceeds of disposal of scrap, excess or surplus personal property of the fund, and receipts from carriers and others for loss of or damage to personal property.

(b) The Secretary may authorize the Secretary of Defense to make purchases through the fund in the same manner as activities of the Department. When services, equipment, or supplies are furnished to the Secretary of Defense through the fund, the reimbursement required by paragraph (2) of subsection (a) shall be made from appropriations made to the Department of Defense, and when services or supplies are to be furnished to the Department of Defense, the fund may be credited, as provided in paragraph (3) of subsection (a), with advances from appropriations available to the Department of Defense.

(c) At the end of each fiscal year, there shall be covered into the Treasury of the United States as miscellaneous receipts such amounts as the Secretary determines to be in excess of the requirements necessary for the maintenance of adequate inventory levels and for the effective financial management of the revolving supply fund.

(d) An adequate system of accounts for the fund shall be maintained on the accrual method, and financial reports prepared on the basis of such accounts. An annual business type budget shall be prepared for operations under the fund.

(e) The Secretary is authorized to capitalize, at fair and reasonable values as determined by the Secretary, all supplies and materials and depot stocks of equipment on hand or on order.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1253, §5011; amended Pub. L. 87-314, Sept. 26, 1961, 75 Stat. 675; Pub. L. 94-581, title II, §210(e)(6), Oct. 21, 1976, 90 Stat. 2865; renumbered §5021, Pub. L. 96-22, title III, §301(b)(1), June 13, 1979, 93 Stat. 61; Pub. L. 96-330, title IV, §402(a), Aug. 26, 1980, 94 Stat. 1051; renumbered §8121, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, §4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 108-170, title IV, §403(a), Dec. 6, 2003, 117 Stat. 2062.)

AMENDMENTS

2003—Pub. L. 108-170 redesignated last sentence of subsec. (a) as subsec. (c), added subsec. (b), and redesignated former subsecs. (b) and (c) as (d) and (e), respectively.

1991—Pub. L. 102-40 renumbered section 5021 of this title as this section.

Subsec. (a). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in par. (2) and in last sentence.

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

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

1980—Subsec. (a). Pub. L. 96-330 substituted "actual direct cost (which may be based on the cost of recent significant purchases of the equipment or supply item involved)" for "actual direct" in par. (2), and, in provisions following par. (3), substituted "At the end of each fiscal year, there shall be covered into the Treasury of the United States as miscellaneous receipts such amounts as the Administrator determines to be in excess of the requirements necessary for the maintenance of adequate inventory levels and for the effective finan-

cial management of the revolving supply fund" for "At the end of each fiscal year, any net income of the fund, after making provision for prior losses, shall be covered into the Treasury of the United States as miscellaneous receipts".

1976—Subsec. (c). Pub. L. 94-581 substituted "the Administrator" for "him".

1961—Subsec. (a). Pub. L. 87-314 included among the purposes for which the supply fund was established, the repair and reclamation of used, spent, or excess personal property, and authorized the crediting of the fund with property returned to the supply system when no longer required by activities to which it had been furnished.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-170, title IV, §403(b), Dec. 6, 2003, 117 Stat. 2062, provided that: "The amendments made by subsection (a) [amending this section] shall apply only with respect to funds appropriated for a fiscal year after fiscal year 2003."

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-330, title IV, §402(b), Aug. 26, 1980, 94 Stat. 1051, provided that: "The amendments made by subsection (a) [amending this section] shall take effect as of October 1, 1979."

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as a note under section 111 of this title.

§ 8122. Authority to procure and dispose of property and to negotiate for common services

(a)(1) The Secretary may lease for a term not exceeding three years lands or buildings, or parts or parcels thereof, belonging to the United States and under the Secretary's control. Any lease made pursuant to this subsection to any public or nonprofit organization may be made without regard to the provisions of section 6101(b) to (d) of title 41. Notwithstanding section 1302 of title 40, or any other provision of law, a lease made pursuant to this subsection to any public or nonprofit organization may provide for the maintenance, protection, or restoration, by the lessee, of the property leased, as a part or all of the consideration for the lease. Prior to the execution of any such lease, the Secretary shall give appropriate public notice of the Secretary's intention to do so in the newspaper of the community in which the lands or buildings to be leased are located. The proceeds from such leases, less expenses for maintenance, operation, and repair of buildings leased for living quarters, shall be covered into the Treasury of the United States as miscellaneous receipts.

(2) Except as provided in paragraph (3), the Secretary may not during any fiscal year transfer to any other department or agency of the United States or to any other entity real property that is owned by the United States and administered by the Secretary unless the proposed transfer is described in the budget submitted to Congress pursuant to section 1105 of title 31 for that fiscal year.

(3)(A) Subject to subparagraph (B) of this paragraph, the Secretary may, without regard to paragraph (2) of this subsection or any other provision of law relating to the disposition of real property by the United States, transfer to a State for use as the site of a State nursing-home or domiciliary facility real property described in

subparagraph (E) of this paragraph which the Secretary determines to be excess to the needs of the Department.

(B) A transfer of real property may not be made under this paragraph unless—

(i) the Secretary has determined that the State has provided sufficient assurance that it has the resources (including any resources which are reasonably likely to be available to the State under subchapter III of chapter 81 of this title and section 1741 of this title) necessary to construct and operate a State home nursing or domiciliary care facility; and

(ii) the transfer is made subject to the conditions (I) that the property be used by the State for a nursing-home or domiciliary care facility in accordance with the conditions and limitations applicable to State home facilities constructed with assistance under subchapter III of chapter 81 of this title, and (II) that, if the property is used at any time for any other purpose, all right, title, and interest in and to the property shall revert to the United States.

(C) A transfer of real property may not be made under this paragraph until—

(i) the Secretary submits to the Committees on Veterans' Affairs of the Senate and House of Representatives, not later than June 1 of the year in which the transfer is proposed to be made (or the year preceding that year), a report providing notice of the proposed transfer; and

(ii) a period of 90 consecutive days elapses after the report is received by those committees.

(D) A transfer under this paragraph shall be made under such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

(E) Real property described in this subparagraph is real property that is owned by the United States and administered by the Secretary.

(b) The Secretary may, for the purpose of extending benefits to veterans and dependents, and to the extent the Secretary deems necessary, procure the necessary space for administrative purposes by lease, purchase, or construction of buildings, or by condemnation or declaration of taking, pursuant to law.

(c) The Secretary may procure laundry services, and other common services as specifically approved by the Secretary from nonprofit, tax-exempt educational, medical or community institutions, without regard to the requirements of section 302(c)¹ of the Federal Property and Administrative Services Act of 1949, as amended, whenever such services are not reasonably available from private commercial sources. Notwithstanding this exclusion, the provisions of sections 3901 and 3905 of title 41 shall apply to procurement authorized by this subsection.

(d)(1) Real property under the jurisdiction of the Secretary may not be declared excess by the Secretary and disposed of by the General Services Administration or any other entity of the Federal Government unless the Secretary determines that the property is no longer needed by

the Department in carrying out its functions and is not suitable for use for the provision of services to homeless veterans by the Department or by another entity under an enhanced-use lease of such property under section 8162 of this title.

(2) The Secretary may transfer real property under this section, or under section 8118 of this title, if the Secretary—

(A) places a notice in the real estate section of local newspapers and in the Federal Register of the Secretary's intent to transfer that real property (including land, structures, and equipment associated with the property);

(B) holds a public hearing;

(C) provides notice to the Administrator of General Services of the Secretary's intention to transfer that real property and waits for 30 days to elapse after providing that notice; and

(D) after such 30-day period has elapsed, notifies the congressional veterans' affairs committees of the Secretary's intention to dispose of the property and waits for 60 days to elapse from the date of that notice.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1253, § 5012; amended Pub. L. 89-785, title II, § 202(a), (b), Nov. 7, 1966, 80 Stat. 1373; Pub. L. 93-82, title III, § 302(2), Aug. 2, 1973, 87 Stat. 195; Pub. L. 94-581, title II, § 210(e)(7), Oct. 21, 1976, 90 Stat. 2865; renumbered § 5022 and amended Pub. L. 96-22, title III, § 301(b), June 13, 1979, 93 Stat. 61; Pub. L. 96-330, title IV, § 403(a), Aug. 26, 1980, 94 Stat. 1052; Pub. L. 97-295, § 4(91), Oct. 12, 1982, 96 Stat. 1313; Pub. L. 98-160, title IV, § 401, Nov. 21, 1983, 97 Stat. 1004; Pub. L. 100-322, title IV, § 421(a)(1), May 20, 1988, 102 Stat. 552; Pub. L. 100-687, div. B, title XV, § 1505, Nov. 18, 1988, 102 Stat. 4135; renumbered § 8122 and amended Pub. L. 102-40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-54, § 14(f)(5), June 13, 1991, 105 Stat. 288; Pub. L. 102-83, §§ 4(a)(1), (3), (4), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 403-406; Pub. L. 107-95, § 10(a), Dec. 21, 2001, 115 Stat. 920; Pub. L. 107-217, § 3(j)(3), Aug. 21, 2002, 116 Stat. 1300; Pub. L. 108-422, title IV, § 411(e)(1), (2), Nov. 30, 2004, 118 Stat. 2389, 2390; Pub. L. 111-350, § 5(j)(6), Jan. 4, 2011, 124 Stat. 3850.)

REFERENCES IN TEXT

Section 302(c) of the Federal Property and Administrative Services Act of 1949, referred to in subsec. (c), was section 302(c) of act June 30, 1949, ch. 288, 63 Stat. 393, which was classified to section 252(c) of former Title 41, Public Contracts, and was struck out by Pub. L. 98-369, div. B, title VII, § 2714(a)(1)(B), July 18, 1984, 98 Stat. 1184.

AMENDMENTS

2011—Subsec. (a)(1). Pub. L. 111-350, § 5(j)(6)(A), substituted “section 6101(b) to (d) of title 41” for “section 3709 of the Revised Statutes (41 U.S.C. 5)”.

Subsec. (c). Pub. L. 111-350, § 5(j)(6)(B), struck out “(41 U.S.C. 252(c))” after “1949, as amended” and substituted “sections 3901 and 3905 of title 41” for “section 304 of that Act (41 U.S.C. 254)”.

2004—Subsec. (a)(2). Pub. L. 108-422, § 411(e)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows:

“(2)(A) Except as provided in paragraph (3) of this subsection, the Secretary may not during any fiscal year transfer to another Federal agency or to a State (or any political subdivision of a State) any interest in real property described in subparagraph (B) of this

¹ See References in Text note below.

paragraph unless (i) the transfer (as proposed) was described in the budget for that fiscal year submitted to Congress pursuant to section 1105 of title 31, and (ii) the Department receives compensation equal to the fair market value of the property.

“(B) An interest in real property described in this subparagraph is an interest in real property that is owned by the United States and administered by the Secretary and that has an estimated value in excess of \$50,000.

“(C) Amounts realized from the transfer of any interest in real property described in subparagraph (B) of this paragraph shall be deposited in the nursing home revolving fund established under section 8116 of this title.”

Subsec. (d). Pub. L. 108-422, §411(e)(2), designated existing provisions as par. (1) and added par. (2).

2002—Subsec. (a)(1). Pub. L. 107-217 substituted “section 1302 of title 40” for “section 321 of the Act of June 30, 1932 (40 U.S.C. 303b)”.

2001—Subsec. (d). Pub. L. 107-95 inserted before period at end “and is not suitable for use for the provision of services to homeless veterans by the Department or by another entity under an enhanced-use lease of such property under section 8162 of this title”.

1991—Pub. L. 102-40, §402(b)(1), renumbered section 5022 of this title as this section.

Subsec. (a). Pub. L. 102-83, §5(c)(1), substituted “1741” for “641” in par. (3)(B)(i).

Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” and “Secretary’s” for “Administrator’s” wherever appearing.

Pub. L. 102-83, §4(a)(3), (4), substituted “Department” for “Veterans’ Administration” in pars. (2)(A) and (3)(A).

Pub. L. 102-83, §4(a)(1), substituted “administered by the Secretary” for “administered by the Veterans’ Administration” in pars. (2)(B) and (3)(E).

Pub. L. 102-54 amended subsec. (a)(3)(A) as in effect immediately before the enactment of Pub. L. 102-40 by substituting “State” for “State home” before “nursing-home” and “this paragraph” for “the paragraph” before “which”.

Pub. L. 102-40, §402(d)(1), substituted “8116” for “5016” in par. (2)(C).

Subsecs. (b), (c). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” wherever appearing.

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

Pub. L. 102-83, §4(a)(3), (4), substituted “Department” for “Veterans’ Administration”.

1988—Subsec. (a)(2). Pub. L. 100-687, §1505(1), substituted “Except as provided in paragraph (3) of this subsection, the” for “The” at beginning.

Pub. L. 100-322 amended par. (2) generally. Prior to amendment, par. (2) read as follows:

“(A) Before entering into a transaction described in subparagraph (B) of this paragraph with respect to any real property owned by the United States and administered by the Veterans’ Administration which has an estimated value in excess of \$50,000, the Administrator shall submit a report of the facts concerning the proposed transaction to the Committees on Veterans’ Affairs of the Senate and House of Representatives, and such transaction may not then be entered into until after the expiration of 180 days from the date upon which the report is submitted.

“(B) Subparagraph (A) of this paragraph applies to (i) any transfer of an interest in real property to another Federal agency or to a State (or any political subdivision of a State), and (ii) any report to a Federal disposal agency of excess real property.

“(C) A statement in an instrument of conveyance, including a lease, that the requirements of this paragraph have been met, or that the conveyance is not subject to this paragraph, is conclusive for the purposes of all matters pertaining to the ownership of any right or interest in the property conveyed by such instrument.”

Subsec. (a)(3). Pub. L. 100-687, §1505(2), added par. (3). 1983—Subsec. (a)(2)(A). Pub. L. 98-160, §401(1), substituted “180 days” for “30 days”.

Subsec. (d). Pub. L. 98-160, §401(2), added subsec. (d). 1982—Subsec. (a). Pub. L. 97-295, §4(91)(A), substituted “of” for “entitled ‘An Act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1933, and for other purposes,’ approved” after “section 321 of the Act”.

Subsec. (c). Pub. L. 97-295, §4(91)(B), inserted “(41 U.S.C. 254)” after “section 304 of that Act”.

1980—Subsec. (a). Pub. L. 96-330 designated existing provisions as par. (1) and added par. (2).

1979—Subsec. (b). Pub. L. 96-22 substituted “necessary space for administrative purposes by lease” for “necessary space for administrative, clinical, medical, and outpatient treatment purposes by lease”.

1976—Subsec. (a). Pub. L. 94-581, §210(e)(7)(A), substituted “under the Administrator’s control” for “under his control” and “notice of the Administrator’s intention” for “notice of his intention”.

Subsec. (b). Pub. L. 94-581, §210(e)(7)(B), substituted “the Administrator” for “he”.

Subsec. (c). Pub. L. 94-581, §210(e)(7)(C), substituted “the Administrator” for “him”.

1973—Subsec. (a). Pub. L. 93-82 inserted provisions that leases under this subsection may be made without regard to section 5 of title 41, that notwithstanding section 303b of title 40 or any other provision of law, such leases may provide for the maintenance, protection, or restoration, by the lessee, of the property leased, as a part or all of the consideration for the lease and that prior to the execution of the leases, the Administrator shall give notice of his intention in the local newspaper.

1966—Pub. L. 89-785 inserted “and to negotiate for common services” in section catchline and added subsec. (c).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-22 effective Oct. 1, 1979, except that the amendment shall not apply with respect to the acquisition, construction, or alteration of any medical facilities if the acquisition, construction, or alteration (not including exchange) was approved by the President before Oct. 1, 1979, see section 302 of Pub. L. 96-22, set out as an Effective Date note under section 8101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as a note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as a note under section 1701 of this title.

TRANSFER OF REAL PROPERTY DEEMED DESCRIBED IN BUDGET FOR FISCAL YEAR 1989

Pub. L. 100-322, title IV, §421(a)(2), May 20, 1988, 102 Stat. 553, provided that any proposed transfer of real property described in subsec. (a)(2)(B) of this section that was described in a report submitted to Committees on Veterans’ Affairs of Senate and House of Representatives by Administrator not later than 30 days after May 20, 1988, was to be deemed for purposes of subsec. (a)(2)(A) of this section to have been described in the President’s budget for fiscal year 1989.

§ 8123. Procurement of prosthetic appliances

The Secretary may procure prosthetic appliances and necessary services required in the fitting, supplying, and training and use of prosthetic appliances by purchase, manufacture, contract, or in such other manner as the Secretary may determine to be proper, without regard to any other provision of law.