

retary of State, may accept cash contributions from the government of Kuwait for the purpose of paying for the costs of construction (including military construction not otherwise authorized by law), maintenance, and repair projects mutually beneficial to the Department of Defense and Kuwait military forces.

“(b) ACCOUNTING.—Contributions accepted under subsection (a) shall be placed in an account established by the Secretary of Defense and shall remain available until expended as provided in such subsection.

“(c) PROHIBITION ON USE OF CONTRIBUTIONS TO OFFSET BURDEN SHARING CONTRIBUTIONS.—Contributions accepted under subsection (a) may not be used to offset any burden sharing contributions made by the government of Kuwait.

“(d) NOTICE.—When a decision is made to carry out a project using contributions accepted under subsection (a) and the estimated cost of the project will exceed the thresholds prescribed by section 2805 of title 10, United States Code, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives written notice of decision, the justification for the project, and the estimated cost of the project.

“(e) MUTUALLY BENEFICIAL DEFINED.—A project described in subsection (a) shall be considered to be ‘mutually beneficial’ if—

“(1) the project is in support of a bilateral defense cooperation agreement between the United States and the government of Kuwait; or

“(2) the Secretary of Defense determines that the United States may derive a benefit from the project, including—

“(A) access to and use of facilities of the Kuwait military forces;

“(B) ability or capacity for future force posture; and

“(C) increased interoperability between the Department of Defense and Kuwait military forces.

“(f) EXPIRATION OF PROJECT AUTHORITY.—The authority to carry out projects under this section expires on September 30, 2030. The expiration of the authority does not prevent the continuation of any project commenced before that date.”

§ 2350k. Relocation within host nation of elements of armed forces overseas

(a) AUTHORITY TO ACCEPT CONTRIBUTIONS.—The Secretary of Defense may accept contributions from any nation because of or in support of the relocation of elements of the armed forces from or to any location within that nation. Such contributions may be accepted in dollars or in the currency of the host nation. Any such contribution shall be placed in an account established for such purpose and shall remain available until expended for the purposes specified in subsection (b). The Secretary shall establish a separate account for such purpose for each country from which such contributions are accepted.

(b) USE OF CONTRIBUTIONS.—The Secretary may use a contribution accepted under subsection (a) only for payment of costs incurred in connection with the relocation concerning which the contribution was made. Those costs include the following:

(1) Design and construction services, including development and review of statements of work, master plans and designs, acquisition of construction, and supervision and administration of contracts relating thereto.

(2) Transportation and movement services, including packing, unpacking, storage, and transportation.

(3) Communications services, including installation and deinstallation of communications equipment, transmission of messages and data, and rental of transmission capability.

(4) Supply and administration, including acquisition of expendable office supplies, rental of office space, budgeting and accounting services, auditing services, secretarial services, and translation services.

(5) Personnel costs, including salary, allowances and overhead of employees whether full-time or part-time, temporary or permanent (except for military personnel), and travel and temporary duty costs.

(6) All other clearly identifiable expenses directly related to relocation.

(c) METHOD OF CONTRIBUTION.—Contributions may be accepted in any of the following forms:

(1) Irrevocable letter of credit issued by a financial institution acceptable to the Treasurer of the United States.

(2) Drawing rights on a commercial bank account established and funded by the host nation, which account is blocked such that funds deposited cannot be withdrawn except by or with the approval of the United States.

(3) Cash, which shall be deposited in a separate trust fund in the United States Treasury pending expenditure and which shall accrue interest in accordance with section 9702 of title 31.

(Added Pub. L. 104-106, div. A, title XIII, §1332(a)(1), Feb. 10, 1996, 110 Stat. 482; amended Pub. L. 107-314, div. A, title X, §1041(a)(11), Dec. 2, 2002, 116 Stat. 2645.)

AMENDMENTS

2002—Subsec. (d). Pub. L. 107-314 struck out heading and text of subsec. (d). Text read as follows: “Not later than 30 days after the end of each fiscal year, the Secretary shall submit to Congress a report specifying—

“(1) the amount of the contributions accepted by the Secretary during the preceding fiscal year under subsection (a) and the purposes for which the contributions were made; and

“(2) the amount of the contributions expended by the Secretary during the preceding fiscal year and the purposes for which the contributions were expended.”

EFFECTIVE DATE

Pub. L. 104-106, div. A, title XIII, §1332(b), Feb. 10, 1996, 110 Stat. 484, provided that: “Section 2350k of title 10, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act [Feb. 10, 1996] and shall apply to contributions for relocation of elements of the Armed Forces in or to any nation received on or after such date.”

§ 2350I. Cooperative agreements for reciprocal use of test facilities: foreign countries and international organizations

(a) AUTHORITY.—The Secretary of Defense, with the concurrence of the Secretary of State, may enter into a memorandum of understanding (or other formal agreement) with a foreign country or international organization to provide for the testing, on a reciprocal basis, of defense equipment (1) by the United States using test facilities of that country or organization, and (2) by that country or organization using test facilities of the United States.

(b) **PAYMENT OF COSTS.**—A memorandum or other agreement under subsection (a) shall provide that, when a party to the agreement uses a test facility of another party to the agreement, the party using the test facility is charged by the party providing the test facility in accordance with the following principles:

(1) The user party shall be charged the amount equal to the direct costs incurred by the provider party in furnishing test and evaluation services by the providing party's officers, employees, or governmental agencies.

(2) The user party may also be charged indirect costs relating to the use of the test facility, but only to the extent specified in the memorandum or other agreement.

(c) **DETERMINATION OF INDIRECT COSTS; DELEGATION OF AUTHORITY.**—(1) The Secretary of Defense shall determine the appropriateness of the amount of indirect costs charged by the United States pursuant to subsection (b)(2).

(2) The Secretary may delegate the authority under paragraph (1) only to the Deputy Secretary of Defense and to one other official of the Department of Defense.

(d) **RETENTION OF FUNDS COLLECTED BY THE UNITED STATES.**—Amounts collected by the United States from a party using a test facility of the United States pursuant to a memorandum or other agreement under this section shall be credited to the appropriation accounts from which the costs incurred by the United States in providing such test facility were paid.

(e) **DEFINITIONS.**—In this section:

(1) The term “direct cost”, with respect to the use of a test facility pursuant to a memorandum or other agreement under subsection (a)—

(A) means any item of cost that is easily and readily identified to a specific unit of work or output within the test facility where the use occurred, that would not have been incurred if such use had not occurred; and

(B) may include costs of labor, materials, facilities, utilities, equipment, supplies, and any other resources of the test facility that are consumed or damaged in connection with—

- (i) the use; or
- (ii) the maintenance of the test facility for purposes of the use.

(2) The term “indirect cost”, with respect to the use of a test facility pursuant to a memorandum or other agreement under subsection (a)—

(A) means any item of cost that is not easily and readily identified to a specific unit of work or output within the test facility where the use occurred; and

(B) may include general and administrative expenses for such activities as supporting base operations, manufacturing, supervision, procurement of office supplies, and utilities that are accumulated costs allocated among several users.

(3) The term “test facility” means a range or other facility at which testing of defense equipment may be carried out.

(Added Pub. L. 107-107, div. A, title XII, §1213(a), Dec. 28, 2001, 115 Stat. 1250.)

TRANSFER OF SECTION

Pub. L. 116-283, div. A, title XVIII, §§1801(d), 1844(b)(1), Jan. 1, 2021, 134 Stat. 4151, 4245, provided in part that, effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, this section is transferred to chapter 307 of this title, as added by section 1844(a) of Pub. L. 116-283, inserted after section 4144, and redesignated as section 4145 of this title. See Effective Date of 2021 Amendment note below.

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

§ 2350m.¹ Participation in European program on multilateral exchange of surface transportation services

(a) **PARTICIPATION AUTHORIZED.**—

(1) **IN GENERAL.**—The Secretary of Defense, with the concurrence of the Secretary of State, may authorize the participation of the Department of Defense in the Surface Exchange of Services program (in this section referred to as the “SEOS program”) of the Movement Coordination Centre Europe.

(2) **SCOPE OF PARTICIPATION.**—Participation of the Department of Defense in the SEOS program under paragraph (1) may include—

- (A) the reciprocal exchange or transfer of surface transportation on a reimbursable basis or by replacement-in-kind; and
- (B) the exchange of surface transportation services of an equal value.

(b) **WRITTEN ARRANGEMENT OR AGREEMENT.**—

(1) **IN GENERAL.**—Participation of the Department of Defense in the SEOS program shall be in accordance with a written arrangement or agreement entered into by the Secretary of Defense, with the concurrence of the Secretary of State, and the Movement Coordination Centre Europe.

(2) **NOTIFICATION.**—The Secretary of Defense shall provide to the congressional defense committees notification of any arrangement or agreement entered into under paragraph (1).

(3) **FUNDING ARRANGEMENTS.**—If Department of Defense facilities, equipment, or funds are used to support the SEOS program, the written arrangement or agreement under paragraph (1) shall specify the details of any equitable cost-sharing or other funding arrangement.

(4) **OTHER ELEMENTS.**—Any written arrangement or agreement entered into under paragraph (1) shall require that any accrued credits or liability resulting from an unequal exchange or transfer of surface transportation services shall be liquidated through the SEOS program not less than once every five years.

(c) **IMPLEMENTATION.**—In carrying out any arrangement or agreement entered into under subsection (b), the Secretary of Defense may—

¹ Another section 2350m is set out after section 2350p of this title.