

bid, or competitively negotiated, contracting procedures as provided in chapter 137 of this title. In accordance with such procedures, the Secretary of a military department, or the Secretary of Homeland Security, as the case may be, shall solicit bids or proposals for a contract for the lease of military housing authorized in accordance with subsection (b)(1). Such a contract may provide for the contractor of the housing facilities to operate and maintain such housing facilities during the term of the lease.

(d) **CONDITIONS ON OBLIGATION OF FUNDS.**—A lease contract entered into for a military housing project under subsection (a) shall include the following provisions:

(1) A statement that the obligation of the United States to make payments under the contract in any fiscal year is subject to appropriations being provided specifically for that fiscal year and specifically for that project.

(2) A commitment to obligate the necessary amount for each fiscal year covered by the contract when and to the extent that funds are appropriated for that project for that fiscal year.

(3) A statement that such a commitment entered into under the authority of this section does not constitute an obligation of the United States.

(4) A requirement that housing units constructed pursuant to the contract shall be constructed—

(A) to Department of Defense specifications, in the case of a Department of Defense contract; and

(B) to Department of Homeland Security specifications, in the case of a contract for the Coast Guard.

(e) **LEASE TERM.**—A contract under this section may be for any period not in excess of 20 years (excluding the period required for construction of the housing facilities).

(f) **RIGHT OF FIRST REFUSAL TO ACQUIRE.**—A contract under this section shall provide that, upon the termination of the lease period, the United States shall have the right of first refusal to acquire all right, title, and interest to the housing facilities constructed and leased under the contract.

(g) **NOTICE AND WAIT REQUIREMENTS.**—A contract may be entered into for the lease of housing facilities under this section only after the end of the 14-day period beginning on the date on which the Secretary of Defense, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress an economic analysis (based upon accepted life cycle costing procedures) which demonstrates that the proposed contract is cost-effective when compared with alternative means of furnishing the same housing facilities.

(h) **SUPPORT BUILDINGS.**—A contract for the lease of family housing under this section may include provision for the lease of a child care center, civic center building, and similar type buildings constructed for the support of family housing.

(Added Pub. L. 102-190, div. B, title XXVIII, §2806(a)(1), Dec. 5, 1991, 105 Stat. 1539; amended

Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 111-383, div. B, title XXVIII, §2803(e), Jan. 7, 2011, 124 Stat. 4459; Pub. L. 112-239, div. A, title X, §1076(f)(35), Jan. 2, 2013, 126 Stat. 1954; Pub. L. 115-91, div. B, title XXVIII, §2801(b)(5), Dec. 12, 2017, 131 Stat. 1843.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in subsec. (g) of section 2828 of this title, prior to repeal by Pub. L. 102-190, §2806(b)(1).

AMENDMENTS

2017—Subsec. (g). Pub. L. 115-91 added subsec. (g) and struck out former subsec. (g) which set out written notice and wait requirements.

2013—Subsec. (a), (g)(1). Pub. L. 112-239 inserted “when it is not operating as a service in the Navy” after “Coast Guard”.

2011—Subsec. (g)(2). Pub. L. 111-383 struck out “calendar” after “21” and inserted before period at end “or, if earlier, a period of 14 days has elapsed from the date on which a copy of the analysis is provided in an electronic medium pursuant to section 480 of this title”.

2002—Subsecs. (a) to (c), (d)(4)(B), (g)(1). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation” wherever appearing.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

EFFECTIVE DATE

Section applicable with respect to contracts entered into under this section on or after Dec. 5, 1991, see section 2806(c) of Pub. L. 102-190, set out as an Effective Date of 1991 Amendment note under section 2828 of this title.

§2835a. Use of military family housing constructed under build and lease authority to house other members

(a) **INDIVIDUAL ASSIGNMENT OF MEMBERS WITHOUT DEPENDENTS.**—(1) To the extent that the Secretary concerned determines that military family housing constructed and leased under section 2835 of this title is not needed to house members of the armed forces eligible for assignment to military family housing, the Secretary may assign, without rental charge, members without dependents to the housing.

(2) A member without dependents who is assigned to housing pursuant to paragraph (1) shall be considered to be assigned to quarters pursuant to section 403(e) of title 37.

(b) **CONVERSION TO LONG-TERM LEASING OF MILITARY UNACCOMPANIED HOUSING.**—(1) If the Secretary concerned determines that military family housing constructed and leased under section 2835 of this title is excess to the long-term needs of the family housing program of the Secretary, the Secretary may convert the lease contract entered into under subsection (a) of such section into a long-term lease of military unaccompanied housing.

(2) The term of the lease contract for military unaccompanied housing converted from military family housing under paragraph (1) may not exceed the remaining term of the lease contract for the family housing so converted.

(c) **NOTICE AND WAIT REQUIREMENTS.**—The Secretary concerned may not convert military fam-

ily housing to military unaccompanied housing under subsection (b) until after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress a notice of the intent to undertake the conversion.

(d) APPLICATION TO HOUSING LEASED UNDER FORMER AUTHORITY.—This section also shall apply to housing initially acquired or constructed under the former section 2828(g) of this title (commonly known as the “Build to Lease program”), as added by section 801 of the Military Construction Authorization Act, 1984 (Public Law 98–115; 97 Stat 782).

(Added Pub. L. 110–417, div. B, title XXVIII, §2803(a), Oct. 14, 2008, 122 Stat. 4719; amended Pub. L. 115–91, div. B, title XXVIII, §2801(b)(6), Dec. 12, 2017, 131 Stat. 1843; Pub. L. 116–92, div. A, title XVII, §1731(a)(56), Dec. 20, 2019, 133 Stat. 1815.)

REFERENCES IN TEXT

Section 2828(g) of this title (commonly known as the “Build to Lease program”), as added by section 801 of the Military Construction Authorization Act, 1984, referred to in subsec. (d), means the subsection (g) added to section 2828 of this title by section 801 of Pub. L. 98–115, which was repealed by Pub. L. 102–190, div. B, title XXVIII, §2806(b), Dec. 5, 1991, 105 Stat. 1540.

AMENDMENTS

2019—Subsec. (c). Pub. L. 116–92 struck out par. (1) designation before “The Secretary”.

2017—Subsec. (c). Pub. L. 115–91 substituted “until after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress a notice of the intent to undertake the conversion.” for “until—” and struck out subpars. (A) and (B) which required a notice of intent and a wait period and par. (2) which read as follows: “The notice required by paragraph (1) shall include—

“(A) an explanation of the reasons for the conversion of the military family housing to military unaccompanied housing;

“(B) a description of the long-term lease to be converted;

“(C) amounts to be paid under the lease; and

“(D) the expiration date of the lease.”

§ 2836. Military housing rental guarantee program

(a) AUTHORITY.—Subject to subsection (b), the Secretary of a military department, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may enter into an agreement to assure the occupancy of rental housing to be constructed or rehabilitated to residential use by a private developer or by a State or local housing authority on private land, on land owned by a State or local government, or on land owned by the United States, if the housing is to be located on or near a new military installation or an existing military installation that has a shortage of housing to meet the requirements of eligible members of the armed forces (with or without accompanying dependents). The authority provided under this subsection shall be exercised under uniform regulations prescribed by the Secretary of Defense.

(b) SUBMISSION AND AUTHORIZATION OF PROPOSED AGREEMENTS.—The Secretary of a military department, or the Secretary of Homeland Security with respect to the Coast Guard, may enter into agreements pursuant to subsection (a) for such military housing rental guaranty projects as are authorized by law.

(c) CONTENT OF AGREEMENT.—An agreement under subsection (a)—

(1) may not assure the occupancy of more than 97 percent of the units constructed under the agreement;

(2) shall establish initial rental rates that are not more than rates for comparable rental dwelling units in the same general market area and may include an escalation clause;

(3) may apply to existing housing;

(4) shall require that the housing units be constructed—

(A) in the case of a Department of Defense agreement, to Department of Defense specifications or, at the discretion of the Secretary of the military department concerned, in compliance with the local building codes; and

(B) in the case of an agreement for the Coast Guard when it is not operating as a service in the Navy, to Department of Homeland Security specifications;

(5) may not be for a term in excess of 25 years;

(6) may not be renewed unless the project is located on government owned land, in which case the renewal period may not exceed the original contract term;

(7) may not assure more than an amount equivalent to the shelter rent of the housing units, determined on the basis of amortizing initial construction costs;

(8) may only be entered into to the extent that there is a shortage in military family housing;

(9) may only be entered into if existing military-controlled housing at all installations in the commuting area (except for a new installation or an installation for which there is projected a significant increase in the number of families due to an increase in the number of authorized personnel) has exceeded 97 percent use for a period of not less than 18 consecutive months immediately preceding the date on which the agreement is entered into, excluding units temporarily inactivated for major repair or improvements;

(10) shall provide for priority of occupancy for military families;

(11) shall include a provision authorizing the Secretary of the military department concerned, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, to take such action as the Secretary considers appropriate to protect the interests of the United States, including rendering the agreement null and void if, in the opinion of the Secretary, the owner of the housing fails to maintain a satisfactory level of operation and maintenance;

(12) may provide in the agreement for the rental of a child care center, civic center building, and similar type buildings constructed for the support of family housing;