

(13) may provide that utilities, trash collection, snow removal, and entomological services will be furnished by the Federal Government at no cost to the occupant to the same extent that these items are provided to occupants of housing owned by the Federal Government; and

(14) may require that rent collection and operation and maintenance services in connection with the housing be under the terms of a separate agreement or be carried out by personnel of the Federal Government.

(d) **CONDITIONS ON OBLIGATION OF FUNDS.**—An agreement entered into for a project pursuant to subsection (a) shall include the following provisions:

(1) A statement that the obligation of the United States to make payments under the agreement 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 agreement when and to the extent that funds are appropriated for such project for such 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.

(e) **COMPETITIVE PROCESS.**—An agreement under subsection (a) shall be made through the use of publicly advertised, competitively 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 guaranty agreement for each military housing rental guaranty project authorized in accordance with subsection (b).

(f) **DISPUTES.**—The Secretary concerned may require that disputes arising under an agreement entered into under subsection (a) be decided in accordance with the procedures provided for by chapter 71 of title 41.

(Added Pub. L. 102-190, div. B, title XXVIII, §2809(a)(1), Dec. 5, 1991, 105 Stat. 1541; amended Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108-136, div. A, title X, §1031(a)(43), Nov. 24, 2003, 117 Stat. 1602; Pub. L. 111-350, §5(b)(48), Jan. 4, 2011, 124 Stat. 3846; Pub. L. 112-81, div. A, title X, §1061(25), Dec. 31, 2011, 125 Stat. 1584; Pub. L. 112-239, div. A, title X, §1076(f)(36), Jan. 2, 2013, 126 Stat. 1954.)

PRIOR PROVISIONS

Similar provisions were contained in Pub. L. 98-115, title VIII, §802, Oct. 11, 1983, 97 Stat. 783, as amended, which was set out as a note under section 2821 of this title, prior to repeal by Pub. L. 102-190, §2809(b).

AMENDMENTS

2013—Subsecs. (a), (c)(4)(B), (11). Pub. L. 112-239 inserted “when it is not operating as a service in the Navy” after “Coast Guard”.

2011—Subsec. (b). Pub. L. 112-81, §1061(25)(A), struck out par. (1) designation before “The Secretary of a military department” and struck out par. (2) which

read as follows: “The budget material submitted to Congress by the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, in connection with the budget submitted pursuant to section 1105 of title 31 for each fiscal year shall include materials that identify the military housing rental guaranty projects for which agreements are proposed to be entered into under subsection (a) in that fiscal year.”

Subsec. (f). Pub. L. 112-81, §1061(25)(B), (C), redesignated subsec. (g) as (f) and struck out former subsec. (f). Prior to amendment, text of subsec. (f) read as follows: “An agreement may not be entered into under subsection (a) until—

“(1) the Secretary of Defense, or the Secretary of Homeland Security with respect to the Coast Guard, submits to the appropriate committees of Congress, in writing, an economic analysis (based upon accepted life cycle costing procedures) which demonstrates that the proposed agreement is cost effective when compared with alternative means of furnishing the same housing facilities; and

“(2) a period of 21 days has expired following the date on which the economic analysis is received by those committees or, if over sooner, a period of 14 days has expired following the date on which a copy of the economic analysis is provided in an electronic medium pursuant to section 480 of this title.”

Subsec. (g). Pub. L. 112-81, §1061(25)(C), redesignated subsec. (g) as (f).

Pub. L. 111-350 substituted “chapter 71 of title 41” for “the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.)”.

2003—Subsec. (f)(2). Pub. L. 108-136 substituted “21 days” for “21 calendar days” and 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 economic analysis is provided in an electronic medium pursuant to section 480 of this title”.

2002—Subsecs. (a), (b), (c)(4)(B), (11), (e), (f)(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

Pub. L. 102-190, div. B, title XXVII, §2809(c), Dec. 5, 1991, 105 Stat. 1543, provided that: “Section 2836 of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts entered into under that section on or after the date of the enactment of this Act [Dec. 5, 1991]. The amendment made by subsection (b) [repealing provisions set out as a note under section 2821 of this title] shall not affect the validity of any contract entered into before that date under section 802 of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), as in effect on the day before that date.”

[§ 2837. Repealed. Pub. L. 113-66, div. B, title XXVIII, § 2802(a)(1), Dec. 26, 2013, 127 Stat. 1006]

Section, added Pub. L. 103-337, div. B, title XXVIII, §2803(a), Oct. 5, 1994, 108 Stat. 3051; amended Pub. L. 104-106, div. B, title XXVIII, §2802, Feb. 10, 1996, 110 Stat. 551; Pub. L. 106-65, div. A, title X, §1066(a)(28), Oct. 5, 1999, 113 Stat. 772; Pub. L. 108-136, div. A, title X, §1031(a)(44), Nov. 24, 2003, 117 Stat. 1602, authorized the Secretary of a military department to enter into limited partnerships with private developers of housing through Sept. 30, 2000, further authorized such Secretary to enter into collateral incentive agreements with those private developers, and established the Defense Housing Investment Account.

EFFECT ON EXISTING CONTRACTS

Pub. L. 113-66, div. B, title XXVIII, § 2802(b), Dec. 26, 2013, 127 Stat. 1006, provided that: “The repeal of section 2837 of title 10, United States Code, shall not affect the validity or terms of any contract in connection with a limited partnership under subsection (a) or a collateral incentive agreement under subsection (b) of such section entered into before the date of the enactment of this Act [Dec. 26, 2013].”

EFFECT ON DEFENSE HOUSING INVESTMENT ACCOUNT

Pub. L. 113-66, div. B, title XXVIII, § 2802(c), Dec. 26, 2013, 127 Stat. 1006, provided that: “Any unobligated amounts remaining in the Defense Housing Investment Account on the date of the enactment of this Act [Dec. 26, 2013] shall be transferred to the Department of Defense Family Housing Improvement Fund. Amounts transferred shall be merged with amounts in such fund and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund.”

§ 2838. Leasing of military family housing to Secretary of Defense

(a) AUTHORITY.—(1) The Secretary of a military department may lease to the Secretary of Defense military family housing in the National Capital Region (as defined in section 2674(f) of this title).

(2) In determining the military housing unit to lease under this section, the Secretary of Defense should first consider any available military housing units that are already substantially equipped for executive communications and security.

(b) RENTAL RATE.—A lease under subsection (a) shall provide for the payment by the Secretary of Defense of consideration in an amount equal to 105 percent of the monthly rate of basic allowance for housing prescribed under section 403(b) of title 37 for a member of the uniformed services in the pay grade of O-10 with dependents assigned to duty at the military installation on which the leased housing unit is located. A rate so established shall be considered the fair market value of the lease interest.

(c) TREATMENT OF PROCEEDS.—(1) The Secretary of a military department shall deposit all amounts received pursuant to leases entered into by the Secretary under this section into a special account in the Treasury established for such military department.

(2) The proceeds deposited into the special account of a military department pursuant to paragraph (1) shall be available to the Secretary of that military department, without further appropriation, for the maintenance, protection, alteration, repair, improvement, or restoration of military housing on the military installation at which the housing leased pursuant to subsection (a) is located.

(Added Pub. L. 110-417, div. B, title XXVIII, § 2804(a), Oct. 14, 2008, 122 Stat. 4720.)

SUBCHAPTER III—ADMINISTRATION OF MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING

Sec.	
2851.	Supervision of military construction projects.
2851a.	Supervision of military housing by Chief Housing Officer.
2852.	Military construction projects: waiver of certain restrictions.

Sec.	
2853.	Authorized cost and scope of work variations.
2854.	Restoration or replacement of damaged or destroyed facilities.
2854a.	Conveyance of damaged or deteriorated military family housing; use of proceeds.
2855.	Law applicable to contracts for architectural and engineering services and construction design.
2856.	Military unaccompanied housing: local comparability of floor areas.
[2857.	Renumbered.]
2858.	Limitation on the use of funds for expediting a construction project.
2859.	Construction requirements related to antiterrorism and force protection or urban-training operations.
2860.	Availability of appropriations.
2861.	Military construction projects in connection with industrial facility investment program.
2862.	Turn-key selection procedures.
2863.	Payment of contractor claims.
2864.	Master plans for major military installations.
2865.	Work in Process Curve charts and outlay tables for military construction projects.
2866.	Water conservation at military installations.
2867.	Energy monitoring and utility control system specification for military construction and military family housing activities.
2868.	Utility services: furnishing for certain buildings.
2869.	Exchange of property at military installations.
[2870.	Repealed.]

AMENDMENTS

2021—Pub. L. 116-283, div. A, title VIII, § 818(b)(1), div. B, title XXVIII, § 2811(k)(1)(A), Jan. 1, 2021, 134 Stat. 3751, 4326, added item 2851a and struck out item 2870 “Use of qualified apprentices by military construction contractors”.

2019—Pub. L. 116-92, div. A, title VIII, § 865(a)(2), Dec. 20, 2019, 133 Stat. 1524, added item 2870.

2018—Pub. L. 115-232, div. B, title XXVIII, § 2806(a)(2), Aug. 13, 2018, 132 Stat. 2264, added item 2865.

2013—Pub. L. 112-239, div. B, title XXVIII, § 2802(b), Jan. 2, 2013, 126 Stat. 2147, added item 2864.

Pub. L. 112-239, div. A, title X, § 1076(a)(22), Jan. 2, 2013, 126 Stat. 1949, made technical amendment to directory language of Pub. L. 112-81, § 2815(c). See 2011 Amendment note below.

2011—Pub. L. 112-81, div. B, title XXVIII, § 2815(c), Dec. 31, 2011, 125 Stat. 1689, as amended by Pub. L. 112-239, div. A, title X, § 1076(a)(22), Jan. 2, 2013, 126 Stat. 1949, substituted “Exchange of property at military installations” for “Conveyance of property at military installations to limit encroachment” in item 2869.

Pub. L. 111-383, div. A, title X, § 1075(d)(23), Jan. 7, 2011, 124 Stat. 4374, made technical amendment to directory language of Pub. L. 111-84, § 2804(d)(2). See 2009 Amendment note below.

2009—Pub. L. 111-84, div. B, title XXVIII, § 2841(a)(2), Oct. 28, 2009, 123 Stat. 2680, added item 2867.

Pub. L. 111-84, div. B, title XXVIII, § 2804(d)(2), Oct. 28, 2009, 123 Stat. 2662, as amended by Pub. L. 111-383, div. A, title X, § 1075(d)(23), Jan. 7, 2011, 124 Stat. 4374, substituted “Conveyance of property at military installations to limit encroachment” for “Conveyance of property at military installations to support military construction or limit encroachment” in item 2869.

2006—Pub. L. 109-364, div. B, title XXVIII, §§ 2807(a)(2), 2808(b)(2), 2809(b), 2810(b), 2811(f)(2), 2851(c)(4), Oct. 17, 2006, 120 Stat. 2468-2471, 2473, 2495, added item 2861, inserted “or urban-training operations” after “force protection” in item 2859, substituted “Military unaccompanied housing: local comparability of floor areas” for “Limitations on barracks space by pay grade” in item 2856 and “to support military construction or limit encroachment” for “closed or realigned to support mili-