

ment of Defense on behalf of foreign governments who are parties to memorandums of agreement with the United States concerning acquisition matters under the jurisdiction of the Secretary of Defense. The official so designated shall assist officials of those foreign governments in understanding and complying with procedures and requirements of the Department of Defense (and, as appropriate, other departments and agencies of the United States) insofar as they relate to any such memorandum of agreement.

(Added Pub. L. 101-510, div. A, title XIV, §1452(a)(1), Nov. 5, 1990, 104 Stat. 1693.)

Statutory Notes and Related Subsidiaries

DEADLINE FOR DESIGNATION OF OMBUDSMAN

Pub. L. 101-510, div. A, title XIV, §1452(b), Nov. 5, 1990, 104 Stat. 1694, provided that the official required to be designated under this section was to be designated by the Secretary of Defense not later than 90 days after Nov. 5, 1990.

§ 2350i. Foreign contributions for cooperative projects

(a) CREDITING OF CONTRIBUTIONS.—Whenever the United States participates in a cooperative project with a friendly foreign country or the North Atlantic Treaty Organization (NATO) on a cost-sharing basis, any contribution received by the United States from that foreign country or NATO to meet its share of the costs of the project may be credited to appropriations available to an appropriate military department or another appropriate organization within the Department of Defense, as determined by the Secretary of Defense.

(b) USE OF AMOUNTS CREDITED.—The amount of a contribution credited pursuant to subsection (a) to an appropriation account in connection with a cooperative project referred to in that subsection shall be available only for payment of the share of the project expenses allocated to the foreign country or NATO making the contribution. Payments for which such amount is available include the following:

- (1) Payments to contractors and other suppliers (including the Department of Defense and other participants acting as suppliers) for necessary articles and services.
- (2) Payments for any damages and costs resulting from the performance or cancellation of any contract or other obligation.
- (3) Payments or reimbursements of other program expenses, including program office overhead and administrative costs.
- (4) Refunds to other participants.

(c) DEFINITIONS.—In this section:

(1) The term “cooperative project” means a jointly managed arrangement, described in a written cooperative agreement entered into by the participants, that—

(A) is undertaken by the participants in order to improve the conventional defense capabilities of the participants; and

(B) provides for—

(i) one or more participants (other than the United States) to share with the United States the cost of research and de-

velopment, testing, evaluation, or joint production (including follow-on support) of defense articles;

(ii) the United States and another participant concurrently to produce in the United States and the country of such other participant a defense article jointly developed in a cooperative project described in clause (i); or

(iii) the United States to procure a defense article or a defense service from another participant in the cooperative project.

(2) The term “defense article” has the meaning given such term in section 47(3) of the Arms Export Control Act (22 U.S.C. 2794(3)).

(3) The term “defense service” has the meaning given such term in section 47(4) of the Arms Export Control Act (22 U.S.C. 2794(4)).

(Added Pub. L. 102-190, div. A, title X, §1047(a), Dec. 5, 1991, 105 Stat. 1467.)

§ 2350j. Burden sharing contributions by designated countries and regional organizations

(a) AUTHORITY TO ACCEPT CONTRIBUTIONS.—The Secretary of Defense, after consultation with the Secretary of State, may accept cash contributions from any country or regional organization designated for purposes of this section by the Secretary of Defense, in consultation with the Secretary of State, for the purposes specified in subsection (c).

(b) ACCOUNTING.—Contributions accepted under subsection (a) which are not related to security assistance may be accepted, managed, and expended in dollars or in the currency of the host nation (or, in the case of a contribution from a regional organization, in the currency in which the contribution was provided). 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 (c). The Secretary of Defense shall establish a separate account for such purpose for each country or regional organization from which such contributions are accepted under subsection (a).

(c) AVAILABILITY OF CONTRIBUTIONS.—Contributions accepted under subsection (a) shall be available only for the payment of the following costs:

- (1) Compensation for local national employees of the Department of Defense.
- (2) Military construction projects of the Department of Defense.
- (3) Supplies and services of the Department of Defense.

(d) AUTHORIZATION OF MILITARY CONSTRUCTION.—Contributions placed in an account established under subsection (b) may be used—

- (1) by the Secretary of Defense to carry out a military construction project that is consistent with the purposes for which the contributions were made and is not otherwise authorized by law; or
- (2) by the Secretary of a military department, with the approval of the Secretary of Defense, to carry out such a project.

(e) NOTICE AND WAIT REQUIREMENTS.—(1) When a decision is made to carry out a military con-

struction project under subsection (d), the Secretary of Defense shall submit to the congressional defense committees a report containing—

- (A) an explanation of the need for the project;
- (B) the then current estimate of the cost of the project; and
- (C) a justification for carrying out the project under that subsection.

(2) The Secretary of Defense or the Secretary of a military department may not commence a military construction project under subsection (d) until the end of the 14-day period beginning on the date on which the Secretary of Defense submits the report under paragraph (1) regarding the project in an electronic medium pursuant to section 480 of this title.

(3)(A) A military construction project under subsection (d) may be carried out without regard to the requirement in paragraph (1) and the limitation in paragraph (2) if the project is necessary to support the armed forces in the country or region in which the project is carried out by reason of a declaration of war, or a declaration by the President of a national emergency pursuant to the National Emergencies Act (50 U.S.C. 1601 et seq.), that is in force at the time of the commencement of the project.

(B) When a decision is made to carry out a military construction project under subparagraph (A), the Secretary of Defense shall submit to the congressional defense committees—

- (i) a notice of the decision; and
- (ii) a statement of the current estimated cost of the project, including the cost of any real property transaction in connection with the project.

(f) REPORT ON CONTRIBUTIONS RECEIVED FROM DESIGNATED COUNTRIES.—

(1) IN GENERAL.—Not later than January 15 each year, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the burden sharing contributions received under this section from designated countries.

(2) ELEMENTS.—Each report required by paragraph (1) shall include the following for the preceding fiscal year:

(A) A list of all designated countries from which burden sharing contributions were received.

(B) An explanation of the purpose for which each such burden sharing contribution was provided.

(C) A description of any written agreement entered into with a designated country under this section, including the date on which the agreement was signed.

(D) For each designated country—

- (i) the amount provided by the designated country; and
- (ii) the amount of any remaining unobligated balance.

(E) The amount of such burden sharing contributions expended, by eligible category, including compensation for local national employees, military construction projects, and supplies and services of the Department of Defense.

(F) Any other matter the Secretary of Defense considers relevant.

(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term “appropriate committees of Congress” means—

(A) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.

(Added Pub. L. 103-160, div. A, title XIV, §1402(a), Nov. 30, 1993, 107 Stat. 1825; amended Pub. L. 103-337, div. A, title X, §1070(a)(10), Oct. 5, 1994, 108 Stat. 2856; Pub. L. 104-106, div. A, title XIII, §1331, Feb. 10, 1996, 110 Stat. 482; Pub. L. 106-65, div. A, title X, §1067(1), div. B, title XXVIII, §2801, Oct. 5, 1999, 113 Stat. 774, 845; Pub. L. 108-136, div. A, title X, §§1031(a)(18), 1043(b)(12), Nov. 24, 2003, 117 Stat. 1597, 1611; Pub. L. 115-91, div. A, title X, §1051(a)(15), div. B, title XXVIII, §2801(f), Dec. 12, 2017, 131 Stat. 1561, 1845; Pub. L. 116-283, div. A, title XII, §1299B, Jan. 1, 2021, 134 Stat. 3998.)

Editorial Notes

REFERENCES IN TEXT

The National Emergencies Act, referred to in subsec. (e)(3), is Pub. L. 94-412, Sept. 14, 1976, 90 Stat. 1255, as amended, which is classified principally to chapter 34 (§1601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

CODIFICATION

Section, as added by Pub. L. 103-160, consists of text of Pub. L. 102-190, div. A, title X, §1045, Dec. 5, 1991, 105 Stat. 1465, as amended by Pub. L. 102-484, div. A, title XIII, §1305(a), (b), Oct. 23, 1992, 106 Stat. 2546, and revised by Pub. L. 103-160, in subsec. (a), by substituting “The Secretary” for “During fiscal years 1992 and 1993, the Secretary”, inserting “, after consultation with the Secretary of State,” after “Secretary of Defense”, and substituting “from any country or regional organization designated for purposes of this section by the Secretary of Defense, in consultation with the Secretary of State” for “from Japan, Kuwait, and the Republic of Korea”, and in former subsec. (f), by substituting “each fiscal year” for “each quarter of fiscal years 1992 and 1993”, “Congress” for “congressional defense committees”, “each country and regional organization from which contributions have been accepted by the Secretary under subsection (a)” for “Japan, Kuwait, and the Republic of Korea”, and “the preceding fiscal year” for “the preceding quarter” in pars. (1) and (2).

AMENDMENTS

2021—Subsec. (f). Pub. L. 116-283 added subsec. (f).

2017—Subsec. (e)(2). Pub. L. 115-91, §2801(f)(2), which directed striking out “or, if earlier, the end of the 14-day period beginning on the date on which a copy of the report is provided”, was executed by striking out “or, if earlier, the end of the 14-day period beginning on the date on which a copy of that report is provided” after “regarding the project”, to reflect the probable intent of Congress.

Pub. L. 115-91, §2801(f)(1), substituted “14-day period” for “21-day period”.

Subsec. (f). Pub. L. 115-91, §1051(a)(15), struck out subsec. (f). Text read as follows: “Not later than 30 days after the end of each fiscal year, the Secretary of Defense shall submit to Congress a report specifying sepa-

rately for each country and regional organization from which contributions have been accepted by the Secretary under subsection (a)—

“(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.”

2003—Subsec. (e)(1). Pub. L. 108–136, §1043(b)(12)(A), substituted “congressional defense committees” for “congressional committees specified in subsection (g)” in introductory provisions.

Subsec. (e)(2). Pub. L. 108–136, §1031(a)(18), inserted before period at end “or, if earlier, the end of the 14-day period beginning on the date on which a copy of that report is provided in an electronic medium pursuant to section 480 of this title”.

Subsec. (e)(3)(B). Pub. L. 108–136, §1043(b)(12)(A), substituted “congressional defense committees” for “congressional committees specified in subsection (g)” in introductory provisions.

Subsec. (g). Pub. L. 108–136, §1043(b)(12)(B), struck out subsec. (g) which listed the congressional committees referred to in subsec. (e).

1999—Subsec. (e)(3). Pub. L. 106–65, §2801(a), added par. (3).

Subsec. (g). Pub. L. 106–65, §2801(b), substituted “subsection (e)” for “subsection (e)(1)” in introductory provisions.

Subsec. (g)(2). Pub. L. 106–65, §1067(1), substituted “Committee on Armed Services” for “Committee on National Security”.

1996—Subsec. (b). Pub. L. 104–106, §1331(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “CREDIT TO APPROPRIATIONS.—Contributions accepted in a fiscal year under subsection (a) shall be credited to appropriations of the Department of Defense that are available for that fiscal year for the purposes for which the contributions are made. The contributions so credited shall be—

“(1) merged with the appropriations to which they are credited; and

“(2) available for the same time period as those appropriations.”

Subsec. (d). Pub. L. 104–106, §1331(b), substituted “placed in an account established under subsection (b)” for “credited under subsection (b) to an appropriation account of the Department of Defense”.

Subsec. (e)(1). Pub. L. 104–106, §1331(c)(1), substituted “to the congressional committees specified in subsection (g) a report” for “a report to the congressional defense committees”.

Subsec. (g). Pub. L. 104–106, §1331(c)(2), added subsec. (g).

1994—Subsec. (a). Pub. L. 103–337, §1070(a)(10)(A), inserted a comma after second reference to “Secretary of State”.

Subsec. (f). Pub. L. 103–337, §1070(a)(10)(B), struck out “the” before “Congress” in introductory provisions.

Statutory Notes and Related Subsidiaries

TEMPORARY AUTHORITY FOR ACCEPTANCE AND USE OF CONTRIBUTIONS FOR CERTAIN CONSTRUCTION, MAINTENANCE, AND REPAIR PROJECTS MUTUALLY BENEFICIAL TO THE DEPARTMENT OF DEFENSE AND KUWAIT MILITARY FORCES

Pub. L. 114–92, div. B, title XXVIII, §2804, Nov. 25, 2015, 129 Stat. 1170, as amended by Pub. L. 114–328, div. B, title XXVIII, §2807, Dec. 23, 2016, 130 Stat. 2715, provided that:

“(a) AUTHORITY TO ACCEPT CONTRIBUTIONS.—The Secretary of Defense, after consultation with the Secretary of State, may accept cash contributions from the government of Kuwait for the purpose of paying for the costs of construction (including military construc-

tion 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 communica-