

§ 2855. Law applicable to contracts for architectural and engineering services and construction design

(a) Contracts for architectural and engineering services and construction design in connection with a military construction project or a military family housing project shall be awarded in accordance with chapter 11 of title 40.

(b)(1) In the case of a contract referred to in subsection (a), if the Secretary concerned estimates that the initial award of the contract will be in an amount less than the threshold amount determined under paragraph (2), the contract shall be awarded in accordance with the set aside provisions of the Small Business Act (15 U.S.C. 631 et seq.).

(2) The threshold amount under paragraph (1) is \$1,000,000.

(3) This subsection does not restrict the award of contracts to small business concerns under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

(Added Pub. L. 97-214, §2(a), July 12, 1982, 96 Stat. 166; amended Pub. L. 98-407, title VIII, §808(a), Aug. 28, 1984, 98 Stat. 1521; Pub. L. 107-217, §3(b)(22), Aug. 21, 2002, 116 Stat. 1297; Pub. L. 108-136, div. A, title XIV, §1427(a), Nov. 24, 2003, 117 Stat. 1670; Pub. L. 115-232, div. B, title XXVIII, §2804(a), (b), Aug. 13, 2018, 132 Stat. 2261.)

Editorial Notes

REFERENCES IN TEXT

The Small Business Act, referred to in subsec. (b)(1), is Pub. L. 85-536, §2(1 et seq.), July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

AMENDMENTS

2018—Subsec. (b)(1). Pub. L. 115-232, §2804(a), substituted “subsection (a),” for “subsection (a)—”, struck out subpar. (B) designation before “if the Secretary”, and struck out subpar. (A) which read as follows: “if the Secretary concerned estimates that the initial award of the contract will be in an amount greater than or equal to the threshold amount determined under paragraph (2), the contract may not be set aside exclusively for award to small business concerns; and”.

Subsec. (b)(2). Pub. L. 115-232, §2804(b), substituted “threshold” for “initial threshold” and “\$1,000,000” for “\$300,000” and struck out last sentence which read as follows: “The Secretary of Defense may revise that amount in order to ensure that small business concerns receive a reasonable share of contracts referred to in subsection (a).”

2003—Subsec. (b)(2). Pub. L. 108-136 substituted “\$300,000” for “\$85,000”.

2002—Subsec. (a). Pub. L. 107-217 substituted “chapter 11 of title 40” for “title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.)”.

1984—Pub. L. 98-407 designated existing provisions as subsec. (a) and added subsec. (b).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-232, div. B, title XXVIII, §2804(c), Aug. 13, 2018, 132 Stat. 2262, provided that: “The amendments made by this section [amending this section] shall apply with respect to fiscal year 2019 and each succeeding fiscal year.”

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-407, title VIII, §808(b), Aug. 28, 1984, 98 Stat. 1522, provided that: “Subsection (b) of section 2855 of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts awarded after September 30, 1984, except that the authority of the Secretary of Defense under paragraph (2) of that subsection shall apply only with respect to contracts awarded after September 30, 1985.”

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97-214, set out as a note under section 2801 of this title.

§ 2856. Military unaccompanied housing: local comparability of floor areas

In the construction, acquisition, and improvement of military unaccompanied housing, the Secretary concerned shall ensure that the floor areas of such housing in a particular locality (as designated by the Secretary concerned for purposes of this section) do not exceed the floor areas of similar housing in the private sector in that locality.

(Added Pub. L. 97-214, §2(a), July 12, 1982, 96 Stat. 166; amended Pub. L. 101-510, div. A, title XIII, §1301(19), Nov. 5, 1990, 104 Stat. 1668; Pub. L. 109-364, div. B, title XXVIII, §2807(a)(1), Oct. 17, 2006, 120 Stat. 2468.)

Editorial Notes

AMENDMENTS

2006—Pub. L. 109-364 amended section catchline and text generally. Prior to amendment, text read as follows: “The Secretary of Defense shall prescribe regulations establishing the maximum allowable net square feet per occupant for new permanent barracks construction. Such regulations shall be uniform for the armed forces under the jurisdiction of the Secretary of a military department.”

1990—Pub. L. 101-510 struck out “(a)” before “The Secretary of Defense” and struck out subsec. (b) which read as follows: “Before taking effect, any regulations under this section, and any modifications to such regulations, shall be submitted to the appropriate committees of Congress. Such regulations (including any modifications to such regulations) may not then take effect until 21 days after being received by such committees.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97-214, set out as a note under section 2801 of this title.

§ 2857. Window fall prevention devices in military family housing units

(a) REQUIRING USE OF DEVICES ON CERTAIN WINDOWS.—

(1) REQUIREMENT.—The Secretary concerned shall ensure that if a window in any military family housing unit is described in subsection (c), including a window designed for emergency escape or rescue, the window is equipped with fall prevention devices described in paragraph (3).

(2) EFFECTIVE DATE.—Paragraph (1) shall apply with respect to the following military family housing units:

(A) A unit for which the contract for the construction of the unit is first entered into after October 1, 2019.

(B) Any other unit which is subject to a whole-house renovation project for which the contract is entered into on or after October 1, 2019.

(3) FALL PREVENTION DEVICE DESCRIBED.—A fall prevention device is a window screen or guard that complies with applicable standards in ASTM standard F2090-13 (or any successor standard).

(b) RETROFITTING OR REPLACING EXISTING WINDOWS.—

(1) PROGRAM TO RETROFIT EXISTING WINDOWS.—The Secretary concerned shall carry out a program under which, in military family housing units which are not subject to the requirements of subsection (a), windows which are described in subsection (c), including windows designed for emergency escape or rescue, are retrofitted to be equipped with fall prevention devices described in paragraph (3) of subsection (a) or are replaced with windows which are equipped with fall prevention devices described in such paragraph.

(2) GRANTS.—The Secretary concerned may carry out the program under this subsection by making grants to private entities to retrofit or replace existing windows, in accordance with such criteria as the Secretary may establish by regulation.

(3) USE OF OPERATIONS FUNDING.—The Secretary may carry out the program under this subsection during a fiscal year with amounts made available to the Secretary for family housing operations for such fiscal year.

(c) WINDOWS DESCRIBED.—A window is described in this subsection if the bottom sill of the window is within 42 inches of the floor, as measured in the interior of the unit, and is more than 72 inches above the ground, as measured on the exterior grade of the building.

(d) RECORD OF INCIDENTS; ANNUAL REPORT.—The Secretary concerned shall keep a record of each incident (as defined in Department of Defense Instruction 6055.7 series) in which a minor child is injured or killed as the result of an unintentional window fall in a military family housing unit. Not later than 90 days after the end of each calendar year (beginning with 2017), the Secretary of Defense shall submit a report to the Committees on Armed Services of the House of Representatives and Senate on all such window falls occurring in the previous year.

(e) APPLICABILITY TO ALL MILITARY FAMILY HOUSING.—This section applies to military family housing under the jurisdiction of the Department of Defense and military family housing acquired or constructed under subchapter IV of this chapter.

(Added Pub. L. 115-91, div. B, title XXVIII, §2817(a)(1), Dec. 12, 2017, 131 Stat. 1851, §2879; amended Pub. L. 115-232, div. A, title X, §1081(a)(28), div. B, title XXVIII, §2823(a), Aug. 13, 2018, 132 Stat. 1985, 2269; Pub. L. 116-92, div. A, title XVII, §1731(a)(57), div. B, title XXX, §3034, Dec. 20, 2019, 133 Stat. 1815, 1936; renumbered §2857 and amended Pub. L. 117-81, div. B, title XXVIII, §2812(a), (b), Dec. 27, 2021, 135 Stat. 2191.)

Editorial Notes

PRIOR PROVISIONS

A prior section 2857 was renumbered section 2915 of this title.

AMENDMENTS

2021—Pub. L. 117-81, §2812(a), renumbered section 2879 of this title as this section and transferred it to appear after section 2856 of this title.

Subsec. (a)(1). Pub. L. 117-81, §2812(b)(1), struck out “acquired or constructed under this chapter” after “housing unit”.

Subsec. (b)(1). Pub. L. 117-81, §2812(b)(2), struck out “acquired or constructed under this chapter” after “housing units”.

Subsec. (e). Pub. L. 117-81, §2812(b)(3), added subsec. (e).

2019—Subsec. (a)(1). Pub. L. 116-92, §3034(a)(1), substituted “described in paragraph (3)” for “that protect against unintentional window falls by young children and that are in compliance with applicable International Building Code (IBC) standards”.

Subsec. (a)(2)(A). Pub. L. 116-92, §3034(a)(2)(A), substituted “October 1, 2019” for “December 11, 2017”.

Pub. L. 116-92, §1731(a)(57), struck out comma before period at end.

Subsec. (a)(2)(B). Pub. L. 116-92, §3034(a)(2)(B), substituted “October 1, 2019” for “September 1, 2018”.

Subsec. (a)(3). Pub. L. 116-92, §3034(a)(3), added par. (3).

Subsec. (b)(1). Pub. L. 116-92, §3034(c), substituted “paragraph (3)” for “paragraph (1)”.

Subsec. (c). Pub. L. 116-92, §3034(b), substituted “42 inches” for “24 inches”.

2018—Subsec. (a)(1). Pub. L. 115-232, §2823(a)(1), substituted “subsection (c)” for “subsection (b)”.

Subsec. (a)(2)(A). Pub. L. 115-232, §1081(a)(28), substituted “after December 11, 2017,” for “on or after the date of the enactment of this section”.

Subsecs. (b) to (d). Pub. L. 115-232, §2823(a)(2), (3), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-232, div. B, title XXVIII, §2823(b), Aug. 13, 2018, 132 Stat. 2269, provided that: “The amendments made by this section [amending this section] shall apply with respect to fiscal year 2019 and each succeeding fiscal year.”

§ 2858. Limitation on the use of funds for expediting a construction project

Funds appropriated for military construction (including military family housing) may not be expended for additional costs involved in expediting a construction project unless the Secretary concerned (1) certifies that expenditures for such costs are necessary to protect the national interest, and (2) establishes a reasonable completion date for the project. In establishing such a completion date, the Secretary shall take into consideration the urgency of the requirement for completion of the project, the type and location of the project, the climatic and seasonal conditions affecting the construction involved, and the application of economical construction practices.

(Added Pub. L. 97-214, §2(a), July 12, 1982, 96 Stat. 167.)