

(D) foreign assistance authorized under sections 607 and 632 of the Foreign Assistance Act of 1961 (22 U.S.C. 2357, 2392); and

(E) other international security assistance specifically authorized by law.

(Added Pub. L. 99-167, title VIII, §807(a), Dec. 3, 1985, 99 Stat. 988; amended Pub. L. 100-26, §7(k)(3), Apr. 21, 1987, 101 Stat. 284; Pub. L. 100-180, div. B, subdiv. 3, title I, §2301, Dec. 4, 1987, 101 Stat. 1214; Pub. L. 101-189, div. B, title XXVIII, §2806, Nov. 29, 1989, 103 Stat. 1647; Pub. L. 102-190, div. B, title XXVIII, §2802, Dec. 5, 1991, 105 Stat. 1537; Pub. L. 113-291, div. B, title XXVIII, §2804, Dec. 19, 2014, 128 Stat. 3697.)

Editorial Notes

AMENDMENTS

2014—Pub. L. 113-291 amended section generally. Prior to amendment, text read as follows:

“(a) AUTHORITY TO USE.—The Secretary concerned may use one-step turn-key selection procedures for the purpose of entering into contracts for the construction of authorized military construction projects.

“(b) DEFINITION.—In this section, the term ‘one-step turn-key selection procedures’ means procedures used for the selection of a contractor on the basis of price and other evaluation criteria to perform, in accordance with the provisions of a firm fixed-price contract, both the design and construction of a facility using performance specifications supplied by the Secretary concerned.”

1991—Pub. L. 102-190 redesignated par. (1) of subsec. (a) as entire subsec. (a) and inserted heading, redesignated par. (2) of subsec. (a) as (b), inserted heading, and struck out former subsecs. (b) and (c) which read as follows:

“(b) The Secretary of Defense, with respect to any Defense Agency, or the Secretary of a military department may not, during any fiscal year, enter into more than three contracts for military construction projects using procedures authorized by this section.

“(c) The authority under this section shall expire on October 1, 1991.”

1989—Subsec. (a)(1). Pub. L. 101-189, §2806(1), struck out at end “Such procedures may be used by the Secretary of a military department only with the approval of the Secretary of Defense.”

Subsec. (c). Pub. L. 101-189, §2806(2), substituted “1991” for “1990”.

1987—Subsec. (a)(1). Pub. L. 100-180, §2301(1), substituted “The Secretary concerned” for “The Secretaries of the military departments, with the approval of the Secretary of Defense,” and inserted provision at end that such procedures may be used by the Secretary of a military department only with the approval of the Secretary of Defense.

Subsec. (a)(2). Pub. L. 100-26 inserted “the term” after “In this section.”

Subsec. (b). Pub. L. 100-180, §2301(2), inserted “Secretary of Defense, with respect to any Defense Agency, or the” after “The”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 99-167, title VIII, §807(c), Dec. 3, 1985, 99 Stat. 989, provided that: “The amendments made by this section [enacting this section] shall take effect on October 1, 1986.”

§ 2863. Payment of contractor claims

Notwithstanding any other provision of law, the Secretary concerned may pay meritorious contractor claims that arise under military construction contracts or family housing contracts.

The Secretary of Defense, with respect to a Defense Agency, or the Secretary of a military department may use for such purpose any unobligated funds appropriated to such department and available for military construction or family housing construction, as the case may be.

(Added Pub. L. 100-180, div. B, subdiv. 3, title I, §2303(a), Dec. 4, 1987, 101 Stat. 1215.)

§ 2864. Master plans for major military installations

(a) PLANS REQUIRED.—(1) At a time interval prescribed by the Secretary concerned (but not less frequently than once every 10 years), the commander of each major military installation under the jurisdiction of the Secretary shall ensure that an installation master plan is developed to address environmental planning, sustainable design and development, sustainable range planning, real property master planning, military installation resilience, and transportation planning.

(2) To address the requirements under paragraph (1), each installation master plan shall include consideration of—

(A) planning for compact and infill development;

(B) horizontal and vertical mixed-use development;

(C) the full lifecycle costs of real property planning decisions;

(D) capacity planning through the establishment of growth boundaries around cantonment areas to focus development towards the core and preserve range and training space; and

(E) energy and climate resiliency efforts and military installation resilience.

(3)(A) The commander of a major military installation shall develop and update the master plan for that major military installation in consultation with representatives of the government of the State in which the installation is located and representatives of local governments in the vicinity of the installation to improve cooperation and consistency between the Department of Defense and such governments in addressing each component of the master plan described in paragraph (1).

(B) The consultation required by subparagraph (A) is in addition to the consultation specifically required by subsection (b)(1) in connection with the transportation component of the master plan for a major military installation.

(b) TRANSPORTATION COMPONENT.—(1) The transportation component of the master plan for a major military installation shall be developed and updated in consultation with the metropolitan planning organization designated for the metropolitan planning area in which the military installation is located.

(2) To address the requirements under subsection (a) and paragraph (1), each installation master plan shall include consideration of ways to diversify and connect transit systems.

(c) MILITARY INSTALLATION RESILIENCE COMPONENT.—To address military installation resilience under subsection (a)(1), each installation master plan shall discuss the following:

(1) Risks and threats to military installation resilience that exist at the time of the devel-

opment of the plan and that are projected for the future, including from extreme weather events, mean sea level fluctuation, wildfires, flooding, and other changes in environmental conditions.

(2) Assets or infrastructure located on the military installation vulnerable to the risks and threats described in paragraph (1), with a special emphasis on assets or infrastructure critical to the mission of the installation and the mission of members of the armed forces.

(3) Lessons learned from the impacts of extreme weather events, including changes made to the military installation to address such impacts, since the prior master plan developed under this section.

(4) Ongoing or planned infrastructure projects or other measures, as of the time of the development of the plan, to mitigate the impacts of the risks and threats described in paragraph (1).

(5) Community infrastructure and resources located outside the installation (such as medical facilities, transportation systems, and energy infrastructure) that are—

(A) necessary to maintain mission capability or that impact the resilience of the military installation; and

(B) vulnerable to the risks and threats described in paragraph (1).

(6) Agreements in effect or planned, as of the time of the development of the plan, with public or private entities for the purpose of maintaining or enhancing military installation resilience or resilience of the community infrastructure and resources described in paragraph (5).

(7) Extent of current coordination efforts and plans for additional coordination, as of the time of the development of the plan, with public or private entities for the purpose of maintaining or enhancing military installation resilience or resilience of the community infrastructure and resources described in paragraph (5).

(8) Projections from recognized governmental and scientific entities such as the Census Bureau, the National Academies of Sciences, the United States Geological Survey, and the United States Global Change Research Office (or any similar successor entities) with respect to future risks and threats (including the risks and threats described in paragraph (1)) to the resilience of any project considered in the installation master plan during the 50-year lifespan of the installation.

(d) REPORT.—Not later than March 1 of each year, the Secretary of Defense shall submit to the congressional defense committees a report listing all master plans completed pursuant to this section in the prior calendar year.

(e) SAVINGS CLAUSE.—Nothing in this section shall supersede the requirements of section 2859(a) of this title.

(f) DEFINITIONS.—In this section:

(1) The term “major military installation” has the meaning given to the term “large site” in the most recent version of the Department of Defense Base Structure Report issued before the time interval prescribed for devel-

opment of installation master plans arises under subsection (a).

(2) The terms “metropolitan planning area” and “metropolitan planning organization” have the meanings given those terms in section 134(b) of title 23 and section 5303(b) of title 49.

(3) The term “energy and climate resiliency” means anticipation, preparation for, and adaptation to utility disruptions and changing environmental conditions and the ability to withstand, respond to, and recover rapidly from utility disruptions while ensuring the sustainment of mission-critical operations.

(6)¹ The term “military installation resilience” has the meaning given that term in section 101(e) of this title.

(Added Pub. L. 112-239, div. B, title XXVIII, §2802(a), Jan. 2, 2013, 126 Stat. 2147; amended Pub. L. 113-66, div. B, title XXVIII, §2811, Dec. 26, 2013, 127 Stat. 1013; Pub. L. 115-232, div. B, title XXVIII, §2805(d), Aug. 13, 2018, 132 Stat. 2263; Pub. L. 116-92, div. B, title XXVIII, §2801(a), Dec. 20, 2019, 133 Stat. 1879; Pub. L. 117-81, div. B, title XXVIII, §§2831, 2832, Dec. 27, 2021, 135 Stat. 2198.)

Editorial Notes

PRIOR PROVISIONS

A prior section 2864, added Pub. L. 101-189, div. B, title XXVIII, §2807(a), Nov. 29, 1989, 103 Stat. 1648; amended Pub. L. 104-106, div. A, title X, §1062(g), Feb. 10, 1996, 110 Stat. 444, related to military construction contracts on Guam, prior to repeal by Pub. L. 109-364, div. B, title XXVIII, §2810(a), Oct. 17, 2006, 120 Stat. 2470.

AMENDMENTS

2021—Subsec. (a)(2)(E). Pub. L. 117-81, §2832(a), inserted “and military installation resilience” before period at end.

Subsec. (a)(3). Pub. L. 117-81, §2831, added par. (3).

Subsec. (c)(7), (8). Pub. L. 117-81, §2832(b), added par. (7) and redesignated former par. (7) as (8).

Subsec. (f)(6). Pub. L. 117-81, §2832(c), added par. (6).

2019—Subsec. (a)(1). Pub. L. 116-92, §2801(a)(1)(A), inserted “military installation resilience,” after “master planning;”.

Subsec. (c). Pub. L. 116-92, §2801(a)(1)(C), added subsec. (c). Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 116-92, §2801(a)(2), added subsec. (d). Former subsec. (d) redesignated (f).

Subsecs. (e), (f). Pub. L. 116-92, §2801(a)(1)(B), redesignated subsecs. (c) and (d) as (e) and (f), respectively.

2018—Subsec. (a)(2)(E). Pub. L. 115-232, §2805(d)(1), added subpar. (E).

Subsec. (d)(3). Pub. L. 115-232, §2805(d)(2), added par. (3).

2013—Subsec. (a). Pub. L. 113-66, §2811(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 113-66, §2811(2), designated existing provisions as par. (1) and added par. (2).

Subsecs. (c), (d). Pub. L. 113-66, §2811(3), (4), added subsec. (c) and redesignated former subsec. (c) as (d).

Statutory Notes and Related Subsidiaries

STRATEGIC DECISIONS RELATING TO MILITARY INSTALLATIONS; IMPLICATIONS OF MILITARY INSTALLATION RESILIENCE FOR STRATEGY; PLANS AND PLANNING DOCUMENTS; DEFINITIONS

Pub. L. 117-81, div. A, title III, §311(d)-(g), (j), Dec. 27, 2021, 135 Stat. 1626, 1627, provided that:

¹ So in original. No pars. (4) and (5) have been enacted.

“(d) STRATEGIC DECISIONS RELATING TO MILITARY INSTALLATIONS.—The Secretary of each military department, with respect to any installation under the jurisdiction of that Secretary, and the Secretary of Defense, with respect to any installation of the Department of Defense that is not under the jurisdiction of the Secretary of a military department, shall consider the strategic risks associated with military installation resilience.

“(e) NATIONAL DEFENSE STRATEGY AND NATIONAL MILITARY STRATEGY.—The Secretary of Defense, in coordination with the heads of such other Federal agencies as the Secretary determines appropriate, shall incorporate the security implications of military installation resilience into the National Defense Strategy and the National Military Strategy.

“(f) NATIONAL SECURITY PLANNING DOCUMENTS.—The Secretary of Defense and the Chairman of the Joint Chiefs of Staff shall consider the security implications associated with military installation resilience in developing the Defense Planning Guidance under section 113(g)(2) of title 10, United States Code, the Risk Assessment of the Chairman of the Joint Chiefs of Staff under section 153(b)(2) of such title, and other relevant strategy, planning, and programming documents and processes.

“(g) CAMPAIGN PLANS OF COMBATANT COMMANDS.—The Secretary of Defense shall ensure that the national security implications associated with military installation resilience are integrated into the campaign plans of the combatant commands.

“(j) DEFINITIONS.—In this section [transferring section 118a of this title to section 118b of this title, amending sections 113, 153, and 2925 of this title, enacting provisions set out as notes under this section and section 2925 of this title, and amending provisions set out as a note under section 118b of this title]:

“(1) The term ‘military installation resilience’ has the meaning given that term in section 101(e) of title 10, United States Code.

“(2) The term ‘National Defense Strategy’ means the national defense strategy under section 113(g)(1) of such title.

“(3) The term ‘National Military Strategy’ means the national military strategy under section 153(b) of such title.”

PROMPT COMPLETION OF MILITARY INSTALLATION RESILIENCE COMPONENT OF MASTER PLANS FOR AT-RISK MAJOR MILITARY INSTALLATIONS

Pub. L. 117-81, div. B, title XXVIII, §2833, Dec. 27, 2021, 135 Stat. 2199, provided that:

“(a) IDENTIFICATION OF AT-RISK INSTALLATIONS.—Not later than 30 days after the date of the enactment of this Act [Dec. 27, 2021], each Secretary of a military department shall—

“(1) identify at least two major military installations under the jurisdiction of that Secretary that the Secretary considers at risk from extreme weather events; and

“(2) notify the Committees on Armed Services of the Senate and the House of Representatives of the major military installations identified under paragraph (1).

“(b) COMPLETION DEADLINE.—Not later than one year after the date of the enactment of this Act, each Secretary of a military department shall ensure that the military installation resilience component of the master plan for each major military installation identified by the Secretary under subsection (a) is completed.

“(c) BRIEFINGS.—Not later than 60 days after completion of a master plan component as required by subsection (b) for a major military installation, the Secretary of the military department concerned shall brief the Committees on Armed Services of the Senate and the House of Representatives regarding the results of the master plan efforts for that major military installation.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘major military installation’ has the meaning given that term in section 2864(f) of title 10, United States Code.

“(2) The term ‘master plan’ means the master plan required by section 2864(a) of title 10, United States Code, for a major military installation.”

REMOVAL OF BARRIERS THAT DISCOURAGE INVESTMENTS TO INCREASE MILITARY INSTALLATION RESILIENCE

Pub. L. 116-92, div. A, title III, §327, Dec. 20, 2019, 133 Stat. 1311, provided that:

“(a) IN GENERAL.—The Secretary of Defense shall—

“(1) identify and seek to remove barriers that discourage investments to increase military installation resilience;

“(2) reform policies and programs that unintentionally increased the vulnerability of systems to related extreme weather events; and

“(3) develop, and update at least once every four years, an adaptation plan to assess how climate impacts affected the ability of the Department of Defense to accomplish its mission, and the short- and long- term actions the Department can take to ensure military installation resilience.

“(b) MILITARY INSTALLATION RESILIENCE.—In this section, the term ‘military installation resilience’ has the meaning given such term in section 101(e)(8) of title 10, United States Code.”

INCORPORATION OF CHANGING ENVIRONMENTAL CONDITION PROJECTIONS IN MILITARY CONSTRUCTION DESIGNS AND MODIFICATIONS

Pub. L. 115-232, div. B, title XXVIII, §2805(c), Aug. 13, 2018, 132 Stat. 2262, as amended by Pub. L. 116-92, div. A, title XVII, §1731(b)(4), div. B, title XXVII, §2804(c), Dec. 20, 2019, 133 Stat. 1816, 1882, provided that:

“(1) FISCAL YEAR 2019.—Not later than 30 days after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall amend section 3-5.6.2.3 of Unified Facilities Criteria (UFC) 1-200-01 and UFC 1-200-02 (or any similar successor regulations) to provide that in order to anticipate changing environmental conditions during the design life of existing or planned new facilities and infrastructure, projections from reliable and authorized sources such as the Census Bureau (for population projections), the National Academies of Sciences (for land use change projections and climate projections), the U.S. Geological Survey (for land use change projections), and the U.S. Global Change Research Office and National Climate Assessment (for climate projections) shall be considered and incorporated into military construction designs and modifications.

“(2) FISCAL YEAR 2020.—

“(A) AMENDMENTS REQUIRED.—Not later than 30 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2020 [Dec. 20, 2019], the Secretary of Defense shall amend the Unified Facilities Criteria as follows:

“(i) To require that installations of the Department of Defense assess the risks from extreme weather and related effects, and develop plans to address such risks.

“(ii) To require in the development of such Criteria the use of—

“(I) land use change projections through the use of land use and land cover modeling by the United States Geological Survey; and

“(II) weather projections—

“(aa) from the United States Global Change Research Program, including in the National Climate Assessment; or

“(bb) from the National Oceanic and Atmospheric Administration, if such projections are more up-to-date than projections under item (aa).

“(iii) To require the Secretary of Defense to provide guidance to project designers and master planners on how to use weather projections.

“(iv) To require the use throughout the Department of the Naval Facilities Engineering Command Climate Change Installation Adaptation and Resilience planning handbook, as amended (or similar publication of the Army Corps of Engineers).

“(B) NOTIFICATION.—If the Secretary of Defense determines that a projection other than a projection described in subparagraph (A)(ii) is more appropriate for use in amending the Unified Facilities Criteria, the Secretary shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of such determination, which shall include the rationale underlying such determination and a description of such other projection.”

[Section 1731(b)(4) of Pub. L. 116-92, which directed amendment of section 2805(c) of Pub. L. 115-232, set out above, by substituting “Unified Facilities Criteria” for “United Facilities Criteria”, was not executed in light of the amendment by section 2804(c)(2) of Pub. L. 116-92, which substituted “Unified Facilities Criteria (UFC) 1-200-01 and UFC 1-200-02” for “United Facilities Criteria (UFC) 2-100-01 and UFC 2-100-02”.]

§ 2865. Work in Process Curve charts and outlay tables for military construction projects

Along with the budget for each fiscal year submitted by the President pursuant to section 1105(a) of title 31, United States Code, the Secretary of Defense and the Secretaries of the military departments shall include for any military construction project over \$90,000,000, as an addendum to be included within the same document as the 1391s for the Military Construction Program budget documentation, a Project Spending Plan that includes—

- (1) a Work in Process Curve chart to identify funding, obligations, and outlay figures; and
- (2) a monthly outlay table for funding, obligations, and outlay figures.

(Added Pub. L. 115-232, div. B, title XXVIII, § 2806(a)(1), Aug. 13, 2018, 132 Stat. 2264.)

Editorial Notes

PRIOR PROVISIONS

A prior section 2865, added Pub. L. 101-510, div. B, title XXVIII, § 2851(a), Nov. 5, 1990, 104 Stat. 1803; amended Pub. L. 102-484, div. B, title XXVIII, § 2801, Oct. 23, 1992, 106 Stat. 2604; Pub. L. 103-160, div. B, title XXVIII, § 2804, Nov. 30, 1993, 107 Stat. 1885; Pub. L. 103-337, div. A, title X, § 1070(a)(14), Oct. 5, 1994, 108 Stat. 2856; Pub. L. 104-106, div. A, title XV, § 1502(a)(27), div. B, title XXVIII, § 2819, Feb. 10, 1996, 110 Stat. 506, 555; Pub. L. 105-85, div. A, title III, § 371(d)(2), div. B, title XXVIII, § 2804(a), Nov. 18, 1997, 111 Stat. 1706, 1990; Pub. L. 107-314, div. B, title XXVIII, § 2805, Dec. 2, 2002, 116 Stat. 2705; Pub. L. 108-136, div. A, title X, § 1031(a)(47), div. B, title XXVIII, § 2812(a), Nov. 24, 2003, 117 Stat. 1602, 1725, related to energy savings at military installations, prior to repeal by Pub. L. 109-364, div. B, title XXVIII, § 2851(a)(2), Oct. 17, 2006, 120 Stat. 2494.

Statutory Notes and Related Subsidiaries

DEPARTMENT OF DEFENSE GUIDANCE

Pub. L. 115-232, div. B, title XXVIII, § 2806(b), Aug. 13, 2018, 132 Stat. 2264, provided that: “The Secretary of Defense shall, in coordination with the Under Secretary of Defense (Comptroller), update Department of Defense Financial Management Regulation 7000.14-R, and any other appropriate instructions and guidance, to ensure that the Department of Defense takes appropriate actions to comply with section 2865 of title 10, United States Code, as added by this section.”

§ 2866. Water conservation at military installations

(a) WATER CONSERVATION ACTIVITIES.—(1) The Secretary of Defense shall permit and encourage

each military department, Defense Agency, and other instrumentality of the Department of Defense to participate in programs conducted by a utility for the management of water demand or for water conservation.

(2) The Secretary of Defense may authorize a military installation to accept a financial incentive (including an agreement to reduce the amount of a future water bill), goods, or services generally available from a utility, for the purpose of adopting technologies and practices that—

(A) relate to the management of water demand or to water conservation; and

(B) as determined by the Secretary, are cost effective for the Federal Government.

(3) Subject to paragraph (4), the Secretary of Defense may authorize the Secretary of a military department having jurisdiction over a military installation to enter into an agreement with a utility to design and implement a cost-effective program that provides incentives for the management of water demand and for water conservation and that addresses the requirements and circumstances of the installation. Activities under the program may include the provision of water management services, the alteration of a facility, and the installation and maintenance by the utility of a water-saving device or technology.

(4)(A) If an agreement under paragraph (3) provides for a utility to pay in advance the financing costs for the design or implementation of a program referred to in that paragraph and for such advance payment to be repaid by the United States, the cost of such advance payment may be recovered by the utility under terms that are not less favorable than the terms applicable to the most favored customer of the utility.

(B) Subject to the availability of appropriations, a repayment of an advance payment under subparagraph (A) shall be made from funds available to a military department for the purchase of utility services.

(C) An agreement under paragraph (3) shall provide that title to a water-saving device or technology installed at a military installation pursuant to the agreement shall vest in the United States. Such title may vest at such time during the term of the agreement, or upon expiration of the agreement, as determined to be in the best interests of the United States.

(b) USE OF FINANCIAL INCENTIVES AND WATER COST SAVINGS.—(1) Financial incentives received from utilities for management of water demand or water conservation under subsection (a)(2) shall be credited to an appropriation designated by the Secretary of Defense. Amounts so credited shall be merged with the appropriation to which credited and shall be available for the same purposes and the same period as the appropriation with which merged.

(2) Water cost savings realized under subsection (a)(3) shall be used as follows:

(A) One-half of the amount shall be used for water conservation activities at such buildings, facilities, or installations of the Department of Defense as may be designated (in accordance with regulations prescribed by the Secretary of Defense) by the head of the de-