

(B) In subparagraph (A), the term “disability” has the meaning given that term in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

(Added Pub. L. 116–92, div. B, title XXX, §3014(a), Dec. 20, 2019, 133 Stat. 1924; amended Pub. L. 116–283, div. B, title XXVIII, §2811(d), Jan. 1, 2021, 134 Stat. 4324; Pub. L. 117–81, div. A, title X, §1081(a)(31), div. B, title XXVIII, §2813(b)(1), Dec. 27, 2021, 135 Stat. 1921, 2192.)

Editorial Notes

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (e)(3)(A), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

AMENDMENTS

2021—Subsec. (b)(2). Pub. L. 116–283, §2811(d)(1), inserted period at end.

Subsec. (d)(11). Pub. L. 116–283, §2811(d)(2), added par. (11) and struck out former par. (11) which read as follows: “A landlord providing a housing unit shall ensure that the needs of enrollees in the Exceptional Family Member Program, or any successor program, are considered in assigning prospective tenants to housing units provided by the landlord.”

Subsec. (e)(1). Pub. L. 117–81, §1081(a)(31), substituted “the basic allowance” for “the any basic allowance”.

Subsec. (e)(2)(B). Pub. L. 116–283, §2811(d)(3), substituted “any” for “the any”.

Subsec. (e)(3). Pub. L. 117–81, §2813(b)(1), added par. (3).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117–81, div. B, title XXVIII, §2813(b)(2), Dec. 27, 2021, 135 Stat. 2192, provided that: “Subsection (e)(3) of section 2891a of title 10, United States Code, as added by paragraph (1), shall apply to contracts described in subsection (a) of such section entered into on or after the date of the enactment of this Act [Dec. 27, 2021].”

EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. B, title XXX, §3014(c), Dec. 20, 2019, 133 Stat. 1926, provided that: “The requirements set forth in section 2891a of title 10, United States Code, as added by subsection (a), shall apply to appropriate legal documents entered into or renewed on or after the date of the enactment of this Act [Dec. 20, 2019] between the Secretary of a military department and a landlord regarding privatized military housing.”

[For definitions of “landlord” and “privatized military housing” as used in section 3014(c) of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

MILITARY DEPARTMENT IMPLEMENTATION PLANS

Pub. L. 116–92, div. B, title XXX, §3014(b), Dec. 20, 2019, 133 Stat. 1926, provided that: “Not later than February 1, 2020, the Secretary of each military department shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for the implementation by that military department of section 2891a of title 10, United States Code, as added by subsection (a).”

RETROACTIVE LANDLORD AGREEMENTS

Pub. L. 116–92, div. B, title XXX, §3014(e), Dec. 20, 2019, 133 Stat. 1926, provided that:

“(1) IN GENERAL.—Not later than February 1, 2020, the Secretary of Defense shall seek agreement from all landlords to accept the application of the requirements set forth in section 2891a of title 10, United States Code, as added by subsection (a), to appropriate legal documents entered into or renewed before the date of the enactment of this Act [Dec. 20, 2019] between the Secretary of a military department and a landlord regarding privatized military housing [sic]

“(2) SUBMITTAL OF LIST TO CONGRESS.—Not later than March 1, 2020, 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] a list of any landlords that did not agree under paragraph (1) to accept the requirements set forth in section 2891a of title 10, United States Code, as added by subsection (a).

“(3) CONSIDERATION OF LACK OF AGREEMENT IN FUTURE CONTRACTS.—The Secretary of Defense and the Secretaries of the military departments shall include any lack of agreement under paragraph (1) as past performance considered under section 2891b of title 10, United States Code, as added by section 3015, with respect to entering into or renewing any future contracts regarding privatized military housing.”

[For definitions of “landlord” and “privatized military housing” as used in section 3014(e) of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

§ 2891b. Considerations of eligible entity housing history in contracts for privatized military housing

(a) CONSIDERATION REQUIRED.—To assist in making a determination whether to enter into a new contract, or renew an existing contract, with an eligible entity, the Secretary of Defense shall develop a standard process by which the Secretary concerned may evaluate the past performance of the eligible entity for purposes of informing future decisions regarding the award of such a contract.

(b) ELEMENTS OF PROCESS.—The process developed under subsection (a) shall include, at a minimum, consideration of the following:

(1) Any history of the eligible entity of providing substandard housing.

(2) The recommendation of the commander of the installation for which housing units will be provided under the contract.

(3) The recommendation of the commander of any other installation for which the eligible entity has provided housing units.

(Added Pub. L. 116–92, div. B, title XXX, §3015, Dec. 20, 2019, 133 Stat. 1927.)

§ 2891c. Transparency regarding finances and performance metrics

(a) SUBMISSION OF LANDLORD FINANCIAL INFORMATION.—(1) Not less frequently than annually, the Secretary of Defense shall require that each landlord submit to the Secretary a report providing information regarding all housing units provided by the landlord.

(2) Information provided under paragraph (1) by a landlord shall include the following:

(A) A comprehensive summary of the landlord’s financial performance.

(B) The amount of base management fees relating to all housing units provided by the landlord.

(C) The amount of asset management fees relating to such housing units.

(D) The amount of preferred return fees relating to such housing units.

(E) The residual cashflow distributions relating to such housing units.

(F) The amount of deferred fees or other fees relating to such housing units.

(3) In this subsection:

(A) The term “base management fees” means the monthly management fees collected for services associated with accepting and processing rent payments, ensuring tenant rent payments, property inspections, maintenance management, and emergency maintenance calls.

(B) the term “asset management fees” means fees paid to manage a housing unit for the purpose of ensuring the housing unit is maintained in good condition and making repairs over the lifecycle of the housing unit.

(C) the term “preferred return fees” means fees associated with any claims on profits furnished to preferred investors with an interest in the housing unit.

(D) the term “residual cashflow distribution” means the steps a specific housing project takes to restructure after it is determined that the project is in an unacceptable financial condition.

(E) the term “deferred fee” means any fee that was not paid to a person in a calendar year in order to meet other financial obligations of the landlord.

(b) AVAILABILITY OF INFORMATION ON PERFORMANCE METRICS AND USE OF INCENTIVE FEES.—(1) Not less frequently than annually, the Secretary of Defense shall make available, upon request of a tenant, at the applicable installation housing office the following:

(A) An assessment of the indicators underlying the performance metrics for each contract for the provision or management of housing units to ensure such indicators adequately measure the condition and quality of each housing unit covered by the contract.

(B) Information regarding the use by the Secretary concerned of incentive fees to support contracts for the provision or management of housing units.

(2)(A) For purposes of paragraph (1)(A), the indicators underlying the performance metrics for a contract for the provision or management of housing units shall measure at a minimum the following:

- (i) Tenant satisfaction.
- (ii) Maintenance management.
- (iii) Safety.
- (iv) Financial management.

(B) An assessment required to be made available under paragraph (1)(A) shall include a detailed description of each indicator underlying the performance metrics, including the following information:

- (i) The limitations of available survey data.
- (ii) How tenant satisfaction and maintenance management is calculated.
- (iii) Whether any relevant data is missing.

(3) The information provided under paragraph (1)(B) shall include, with respect to each contract for the provision or management of housing units, the following:

(A) The applicable incentive fees.

(B) The metrics used to determine the incentive fees.

(C) Whether incentive fees were paid in full, or were withheld in part or in full, during the period covered by the release of information.

(D) If any incentive fees were withheld, the reasons for such withholding.

(Added Pub. L. 116–92, div. B, title XXX, § 3016(a), Dec. 20, 2019, 133 Stat. 1927; amended Pub. L. 116–283, div. B, title XXVIII, § 2814(a)–(d)(1), Jan. 1, 2021, 134 Stat. 4327, 4328.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116–283, § 2814(d)(1), amended section catchline generally. Prior to amendment, catchline read as follows: “Financial transparency”.

Subsec. (b). Pub. L. 116–283, § 2814(a)(1), inserted “Performance Metrics and” before “Use of Incentive Fees” in heading.

Subsec. (b)(1). Pub. L. 116–283, § 2814(a)(2), substituted “shall make available, upon request of a tenant, at the applicable installation housing office the following:

(A) An assessment of the indicators underlying the performance metrics for each contract for the provision or management of housing units to ensure such indicators adequately measure the condition and quality of each housing unit covered by the contract.

(B) Information” for “shall publish, on a publicly accessible website, information”.

Subsec. (b)(2). Pub. L. 116–283, § 2814(b)(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 116–283, § 2814(b)(1), (c), redesignated par. (2) as (3) and substituted “paragraph (1)(B)” for “paragraph (1)” and “each contract for the provision or management of housing units” for “each contract” in introductory provisions.

§ 2892. Maintenance work order system for housing units

(a) ELECTRONIC WORK ORDER SYSTEM REQUIRED.—The Secretary of Defense shall require that each landlord of a housing unit have an electronic work order system to track all maintenance requests relating to the housing unit.

(b) ACCESS BY DEPARTMENT PERSONNEL.—The Secretary of Defense shall require each landlord of a housing unit to provide access to the maintenance work order system of the landlord relating to the housing unit to the following persons:

(1) Personnel of the housing management office at the installation for which the housing unit is provided.

(2) Personnel of the installation and engineer command or center of the military department concerned.

(3) Such other personnel of the Department of Defense as the Secretary determines necessary.

(c) ACCESS BY TENANTS.—The Secretary of Defense shall require each landlord of a housing unit to provide access to the maintenance work order system of the landlord relating to the housing unit to the tenant of the housing unit to permit the tenant, at a minimum, to track the status and progress of work orders for maintenance requests relating to the housing unit.

(Added and amended Pub. L. 116–92, div. B, title XXX, §§ 3017, 3018, Dec. 20, 2019, 133 Stat. 1930.)