

2018—Subsec. (c). Pub. L. 115-232 inserted “a State or local government” after “generally available from”.

2008—Subsec. (e). Pub. L. 110-181, which directed the amendment of this section by striking out subsec. (e), could not be executed because subsec. (e) was previously repealed by Pub. L. 110-140, §511(c). See 2007 Amendment note below.

2007—Subsec. (e). Pub. L. 110-140 struck out heading and text of subsec. (e). Text read as follows: “When a decision is made to award an energy savings performance contract that contains a clause setting forth a cancellation ceiling in excess of \$7,000,000, the Secretary of Defense shall submit to the appropriate committees of Congress written notification of the proposed contract and of the proposed cancellation ceiling for the contract. The notification shall include the justification for the proposed cancellation ceiling. The contract may then be awarded only after the end of the 30-day period beginning on the date the notification is received by such committees or, if earlier, the end of the 15-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.”

2006—Subsec. (e). Pub. L. 109-364, §2853, added subsec. (e).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§ 2914. Military construction projects for energy resilience, energy security, and energy conservation

(a) PROJECT AUTHORIZATION REQUIRED.—The Secretary of Defense may carry out such military construction projects for energy resilience, energy security, and energy conservation as are authorized by law, using funds appropriated or otherwise made available for that purpose.

(b) SUBMISSION OF PROJECT PROPOSALS.—(1) As part of the Department of Defense Form 1391 submitted to the appropriate committees of Congress for a military construction project covered by subsection (a), the Secretary of Defense shall include the following information:

(A) The project title.

(B) The location of the project.

(C) A brief description of the scope of work.

(D) The original project cost estimate and the current working cost estimate, if different.

(E) Such other information as the Secretary considers appropriate.

(2) In the case of a military construction project for energy conservation, the Secretary also shall include the following information:

(A) The original expected savings-to-investment ratio and simple payback estimates and measurement and verification cost estimate.

(B) The most current expected savings-to-investment ratio and simple payback estimates and measurement and verification plan and costs.

(C) A brief description of the measurement and verification plan and planned funding source.

(3) In the case of a military construction project for energy resilience or energy security, the Secretary also shall include the rationale

for how the project would enhance mission assurance, support mission critical functions, and address known vulnerabilities.

(c) ALTERNATIVE FUNDING SOURCE.—(1) In addition to the authority under section 2805(c) of this title, in carrying out a military construction project for energy resilience, energy security, or energy conservation under this section, the Secretary concerned may use amounts available for operation and maintenance for the military department concerned if the Secretary concerned submits to the congressional defense committees a notification of the decision to carry out the project using such amounts and includes in the notification—

(A) the current estimate of the cost of the project;

(B) the source of funds for the project; and

(C) a certification that deferring the project pending the availability of funds appropriated for or otherwise made available for military construction would be inconsistent with the timely assurance of energy resilience, energy security, or energy conservation for one or more critical national security functions.

(2) A project carried out under this section using amounts under paragraph (1) may be carried out only after the end of the seven-day period beginning on the date on which a copy of the notification described in paragraph (1) is provided in an electronic medium pursuant to section 480 of this title.

(3) The maximum aggregate amount that the Secretary concerned may obligate from amounts available to the military department concerned for operation and maintenance in any fiscal year for projects under the authority of this subsection is \$100,000,000.

(d) RELATION TO CERTAIN OTHER AUTHORITIES.—A project under this section may include—

(1) activities related to a utility system authorized under subsections (h), (j), and (k) of section 2688 or section 2913 of this title, notwithstanding that the United States does not own the utility system covered by the project; and

(2) energy-related activities included as a separate requirement in an energy savings performance contract (as defined in section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3))).

(e) APPLICATION TO MILITARY CONSTRUCTION PROJECTS.—This section shall apply to military construction projects covered by subsection (a) for which a Department of Defense Form 1391 is submitted to the appropriate committees of Congress in connection with the budget of the Department of Defense for fiscal year 2023 and thereafter.

(Added Pub. L. 109-364, div. B, title XXVIII, §2851(a)(1), Oct. 17, 2006, 120 Stat. 2493; amended Pub. L. 114-328, div. B, title XXVIII, §2805(a)(1), (b)(1)(A), (2), Dec. 23, 2016, 130 Stat. 2713, 2714; Pub. L. 115-91, div. B, title XXVIII, §§2801(e)(1), 2831(c)(1), Dec. 12, 2017, 131 Stat. 1845, 1857; Pub. L. 115-232, div. A, title X, §1081(a)(29), Aug. 13, 2018, 132 Stat. 1985; Pub. L. 116-283, div. B, title XXVIII, §§2805(a), 2823(b), Jan. 1, 2021, 134 Stat. 4321, 4333; Pub. L. 117-81, div. B, title XXVIII, §2804, Dec. 27, 2021, 135 Stat. 2188.)

Editorial Notes**AMENDMENTS**

2021—Pub. L. 116-283, § 2805(a), amended section generally. Prior to amendment, section related to energy resilience and conservation construction projects.

Subsecs. (c), (d). Pub. L. 117-81 added subsec. (c) and redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Pub. L. 116-283, § 2823(b), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (e). Pub. L. 117-81, § 2804(1), redesignated subsec. (d) as (e).

2018—Pub. L. 115-232 substituted “resilience” for “resiliency” in section catchline.

2017—Pub. L. 115-91, § 2831(c)(1), substituted “energy resilience” for “energy resiliency” wherever appearing in text.

Subsec. (b)(1). Pub. L. 115-91, § 2801(e)(1), struck out “in writing” after “shall notify” and “or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided” after “received by such committees” and substituted “14-day period” for “21-day period”.

2016—Pub. L. 114-328, § 2805(a)(1)(A), inserted “resiliency and” before “conservation construction projects” in section catchline. Text quoted in directory language of amendment was editorially conformed to the style of the catchline.

Subsec. (a). Pub. L. 114-328, § 2805(a)(1)(B), substituted “military construction project for energy resiliency, energy security, or energy conservation” for “military construction project for energy conservation”.

Subsec. (b). Pub. L. 114-328, § 2805(b)(1)(A), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 114-328, § 2805(b)(2), added subsec. (c).

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2016 AMENDMENT**

Pub. L. 114-328, div. B, title XXVIII, § 2805(b)(1)(B), Dec. 23, 2016, 130 Stat. 2714, provided that: “The amendment made by subparagraph (A) [amending this section] shall apply with respect to notifications provided during fiscal year 2017 or any succeeding fiscal year.”

§ 2915. Facilities: use of renewable forms of energy and energy efficient products

(a) **USE OF RENEWABLE FORMS OF ENERGY ENCOURAGED.**—The Secretary of Defense shall encourage the use of energy systems using solar energy or other renewable forms of energy as a source of energy for military construction projects (including military family housing projects) and facility repairs and renovations where use of such form of energy is consistent with the energy performance goals and energy performance master plan for the Department of Defense developed under section 2911 of this title and supported by the special considerations specified in subsection (e) of such section.

(b) **CONSIDERATION DURING DESIGN PHASE OF PROJECTS.**—(1) The Secretary concerned shall require that the design for the construction, repair, or renovation of facilities (including family housing and back-up power generation facilities) requires consideration of energy systems using solar energy or other renewable forms of energy when use of a renewable form of energy—

(A) is consistent with the energy performance goals and energy performance master plan for the Department of Defense developed under section 2911 of this title; and

(B) supported by the special considerations specified in subsection (e) of such section.

(2) The Secretary concerned shall require that contracts for construction resulting from such design include a requirement that energy systems using solar energy or other renewable forms of energy be installed if such systems can be shown to be cost effective.

(c) **DETERMINATION OF COST EFFECTIVENESS.**—

(1) For the purposes of this section, an energy system using solar energy or other renewable forms of energy for a facility shall be considered to be cost effective if the difference between (A) the original investment cost of the energy system for the facility with such a system, and (B) the original investment cost of the energy system for the facility without such a system can be recovered over the expected life of the facility.

(2) A determination under paragraph (1) concerning whether a cost-differential can be recovered over the expected life of a facility shall be made using the life-cycle cost methods and procedures established pursuant to section 544(a) of the National Energy Conservation Policy Act (42 U.S.C. 8254(a)).

(d) **EXCEPTION TO SQUARE FEET AND COST PER SQUARE FOOT LIMITATIONS.**—In order to equip a military construction project (including a military family housing project) with heating equipment, cooling equipment, or both heating and cooling equipment using solar energy or other renewable forms of energy or with a passive energy system using solar energy or other renewable forms of energy, the Secretary concerned may authorize an increase in any otherwise applicable limitation with respect to the number of square feet or the cost per square foot of the project by such amount as may be necessary for such purpose. Any such increase under this subsection shall be in addition to any other administrative increase in cost per square foot or variation in floor area authorized by law.

(e) **USE OF ENERGY EFFICIENT PRODUCTS IN FACILITIES.**—(1) The Secretary of Defense shall ensure, to the maximum extent practicable, that energy efficient products meeting the requirements of the Department of Defense are used in construction, repair, or renovation of facilities by or for the Department carried out under chapter 169 of this title if such products are readily available and their use is consistent with the energy performance goals and energy performance master plan for the Department developed under section 2911 of this title and supported by the special considerations specified in subsection (e) of such section.

(2)(A) The Secretary of Defense shall prescribe a definition of the term “energy-efficient product” for purposes of this subsection and establish and maintain a list of products satisfying the definition. The definition and list shall be developed in consultation with the Secretary of Energy to ensure, to the maximum extent practicable, consistency with definitions of the term used by other Federal agencies.

(B) The Secretary shall modify the definition and list of energy-efficient products as necessary to account for emerging or changing technologies.

(C) The list of energy-efficient products shall be included as part of the energy performance master plan developed pursuant to section 2911(d)(2) of this title.