

1958—Cl. (3). Pub. L. 85-861 added cl. (3).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-214 effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97-214, set out as an Effective Date note under section 2801 of this title.

§ 18233. Acquisition

(a) Subject to sections 18233a, 18234, 18235, 18236, and 18238 of this title and to subsection (c), the Secretary of Defense may—

(1) acquire by purchase, lease, or transfer, and construct, expand, rehabilitate, or convert and equip, such facilities as are authorized by law to carry out the purposes of this chapter;

(2) contribute to any State such amounts as he determines to be necessary to expand, rehabilitate, or convert facilities owned by it or by the United States for use jointly by units of two or more reserve components of the armed forces or to acquire or construct facilities for such use;

(3) contribute to any State such amounts as he determines to be necessary to expand, rehabilitate, or convert facilities owned by it (or to acquire, construct, expand, rehabilitate, or convert additional facilities) made necessary by the conversion, redesignation, or reorganization of units of the Army National Guard of the United States or the Air National Guard of the United States authorized by the Secretary of the military department concerned;

(4) contribute to any State such amounts for the acquisition, construction, expansion, rehabilitation, or conversion by it of additional facilities as he determines to be required by any increase in the strength of the Army National Guard of the United States or the Air National Guard of the United States;

(5) contribute to any State amounts for the acquisition, construction, expansion, rehabilitation, and conversion by such State of such additional facilities as the Secretary determines to be required because of the failure of existing facilities to meet the purposes of this chapter; and

(6) contribute to any State such amounts for the construction, alteration, or rehabilitation of critical portions of facilities as the Secretary determines to be required to meet a change in Department of Defense construction criteria or standards related to the execution of the Federal military mission assigned to the unit using the facility.

(b) Title to property acquired by the United States under subsection (a)(1) vests in the United States. Such property may be transferred to any State incident to the expansion, rehabilitation, or conversion of such property under subsection (a)(2) so long as the transfer of such property does not result in the creation of an enclave owned by a State within a Federal installation.

(c) The Secretary of Defense may delegate any of his authority or functions under this chapter to any department, agency, or officer of the Department of Defense.

(d) The expenses of leasing property under subsection (a)(1) may be paid from appropriations available for the payment of rent.

(e) The Secretary of Defense may procure, or contribute to any State such amounts as the Secretary determines to be necessary to procure, architectural and engineering services and construction design in connection with facilities to be established or developed under this chapter which are not otherwise authorized by law.

(f)(1) Authority provided by law to construct, expand, rehabilitate, convert, or equip any facility under this section includes authority to expend funds for surveys, administration, overhead, planning, design, and supervision incident to any such activity.

(2) Authority to acquire real property under this section includes authority to make surveys and to acquire interests in land (including temporary interests) by purchase or gift.

(Aug. 10, 1956, ch. 1041, 70A Stat. 121, §2233; Pub. L. 85-685, title VI, §601(1), (2), Aug. 20, 1958, 72 Stat. 664; Pub. L. 85-861, §1(37)-(39), Sept. 2, 1958, 72 Stat. 1456; Pub. L. 96-125, title VII, §703, Nov. 26, 1979, 93 Stat. 947; Pub. L. 97-99, title VIII, §§803, 804, Dec. 23, 1981, 95 Stat. 1380, 1381; Pub. L. 97-214, §§3(a), (d)(2), (e)(1), 10(a)(2), July 12, 1982, 96 Stat. 169, 170, 175; Pub. L. 98-407, title VII, §703(a), Aug. 28, 1984, 98 Stat. 1517; Pub. L. 98-525, title XIV, §1405(34), Oct. 19, 1984, 98 Stat. 2624; Pub. L. 99-167, title VII, §702(a), Dec. 3, 1985, 99 Stat. 985; Pub. L. 102-190, div. B, title XXVIII, §2801, Dec. 5, 1991, 105 Stat. 1537; renumbered §18233 and amended Pub. L. 103-337, div. A, title XVI, §1664(b)(2), (4), Oct. 5, 1994, 108 Stat. 3010; Pub. L. 106-65, div. B, title XXVIII, §2805, Oct. 5, 1999, 113 Stat. 850; Pub. L. 108-375, div. B, title XXVIII, §2809(b), Oct. 28, 2004, 118 Stat. 2127; Pub. L. 109-364, div. A, title X, §1071(a)(42), Oct. 17, 2006, 120 Stat. 2400; Pub. L. 111-84, div. B, title XXVIII, §2805, Oct. 28, 2009, 123 Stat. 2662.)

HISTORICAL AND REVISION NOTES
1956 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2233(a)	50:882.	Sept. 11, 1950, ch. 945, §§3, 4(c) (1st sentence), 5, 64 Stat. 830, 831.
2233(b)	50:883(c) (1st sentence).	
2233(c)	50:884.	

In subsection (a), the 16th through the 31st words are omitted as executed on July 1, 1955, the end of the 5-year period.

In subsection (a)(2), the words “to the extent required” are omitted as covered by the word “necessary”. The words “use jointly by units of two or more of the reserve components of the armed forces” are substituted for the words “joint utilization of such facilities” to reflect 50:886(d).

In subsections (a)(2) and (3), the words “Territory, Puerto Rico, or the District of Columbia” are inserted to reflect 50:886(b).

In subsection (a)(3), the words “to be required” are substituted for the words “to have been made essential”.

In subsection (b), the words “real or personal” are omitted as surplusage.

In subsection (c), the words “all or * * * part”, “conferred”, “imposed”, “without relieving himself of the responsibility therefor”, “or officers”, and “as he may designate from time to time” are omitted as surplusage.

1958 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2233(a)	50:882 (less 16th through 36th words and (a)).	Aug. 9, 1955, ch. 662, §1(b), (d), 69 Stat. 593.
2233(b)	50:883(c) (2d sentence).	
2233(d)	50:882(a) (less last 12 words).	Aug. 3, 1956, ch. 939, §414 (less last 12 words), 70 Stat. 1018.

In subsections (a)(2), (3), and (4), the words “Territory, Puerto Rico, or the District of Columbia” are inserted to reflect 50:886(c).

In subsection (d), 50:882(a) (1st 28 words) is omitted as covered by section 2233(a)(1) of this title.

Editorial Notes

CODIFICATION

Subsequent to enactment of this section, act Sept. 11, 1950 (cited in the Historical and Revision Notes above) was amended by acts Aug. 9, 1955, ch. 662, 69 Stat. 593; Aug. 3, 1956, ch. 939, title IV, §414, 70 Stat. 1018; Aug. 29, 1957, Pub. L. 85-215, §2, 71 Stat. 490. The amendments were later repealed and reenacted in sections 2233 and 2236 to 2238 [now 18233 and 18236 to 18238] of this title by Pub. L. 85-685, title VI, §602, Aug. 20, 1958, 72 Stat. 665, and Pub. L. 85-861, §§1(37)–(39), 16, 36, Sept. 2, 1958, 72 Stat. 1456, 1558, 1568.

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111-84 substituted “as are authorized by law” for “as he determines to be necessary”.

2006—Subsec. (f)(2). Pub. L. 109-364 struck out comma after “purchase”.

2004—Subsec. (f)(2). Pub. L. 108-375 substituted “or gift” for “gift, exchange of Government-owned land, or otherwise”.

1999—Subsec. (f)(1). Pub. L. 106-65 inserted “design,” after “planning,”.

1994—Pub. L. 103-337, §1664(b)(2), renumbered section 2233 of this title as this section.

Subsec. (a). Pub. L. 103-337, §1664(b)(4), substituted “18233a, 18234, 18235, 18236, and 18238” for “2233a, 2234, 2235, 2236, and 2238”.

1991—Subsec. (a)(2). Pub. L. 102-190 inserted before semicolon “or to acquire or construct facilities for such use”.

1985—Subsec. (e). Pub. L. 99-167 amended subsec. (e) generally, inserting “, or contribute to any State such amounts as the Secretary determines to be necessary to procure,”.

1984—Subsec. (a). Pub. L. 98-525, §1405(34)(A), substituted “to subsection (c)” for “subsection (c) of this section”.

Subsec. (a)(6). Pub. L. 98-407 substituted “critical portions of facilities” for “arms storage rooms” and “construction criteria or standards related to the execution of the Federal military mission assigned to the unit using the facility” for “standards related to the safe-keeping of arms”.

Subsec. (b). Pub. L. 98-525, §1405(34)(B), struck out “or Territory, Puerto Rico, or the District of Columbia” after “State” in two places. See section 18232(1) of this title.

1982—Subsec. (a)(2) to (4). Pub. L. 97-214, §3(d)(2), struck out “or Territory, Puerto Rico, or the District of Columbia” after “contribute to any State”.

Subsec. (a)(5). Pub. L. 97-214, §3(e)(1), substituted “contribute to any State amounts for the acquisition, construction, expansion, rehabilitation, and conversion by such State of such additional facilities as the Secretary determines to be required because of the failure of existing facilities to meet the purposes of this chapter” for “contribute to any State or Territory, Puerto Rico, or the District of Columbia, such amounts for the acquisition, construction, expansion, rehabilitation, or conversion by the failure of existing facilities to meet

the purposes of this chapter” and “A contribution made for an armory may not be more than 75 percent of the cost of construction of which it is applied”.

Subsec. (a)(6). Pub. L. 97-214, §3(d)(2), struck out “or Territory, Puerto Rico, or the District of Columbia” after “contribute to any State”.

Subsec. (e). Pub. L. 97-214, §10(a)(2), substituted “architectural and engineering services and construction design” for “advance planning, construction design, and architectural services”.

Subsec. (f). Pub. L. 97-214, §3(a), expanded subsec. (f) into pars. (1) and (2), and substituted provision that legal authority to construct, expand, rehabilitate, etc., any facility under this section, also includes the authority to expend funds for surveys, administration, overhead, planning, and supervision incident to any such activity and provisions that authority to acquire real property under this section includes authority to make surveys and to acquire interests in land (including temporary interests) by purchase, gift, exchange of Government-owned land, or otherwise, for provisions that facilities authorized by subsec. (a) could not be considered “military public works” under the military construction authorization acts that repeal prior authorizations for military public works.

1981—Subsec. (a)(2). Pub. L. 97-99, §803(1), inserted “or by the United States” after “or convert facilities owned by it”.

Subsec. (a)(6). Pub. L. 97-99, §804, added par. (6).

Subsec. (b). Pub. L. 97-99, §803(2), inserted provisions that such property may be transferred to any State or Territory, Puerto Rico, or the District of Columbia incident to the expansion, rehabilitation, or conversion of such property under subsec. (a)(2) so long as the transfer of such property does not result in the creation of an enclave owned by a State or Territory, Puerto Rico, or the District of Columbia within a Federal installation.

1979—Subsec. (a)(5). Pub. L. 96-125 added par. (5).

1958—Subsec. (a). Pub. L. 85-861, §1(37), substituted “two or more reserve components” for “two or more of the reserve components” in cl. (2), added cl. (3), and redesignated former cl. (3) as (4).

Pub. L. 85-685, §601(1), inserted reference to section 2233a of this title in opening provisions, and struck out provisions which required the Secretary of Defense to consult with the Committees on Armed Services of the Senate and House of Representatives.

Subsec. (b). Pub. L. 85-861, §1(38), inserted “by the United States” after “property acquired”.

Subsec. (d). Pub. L. 85-861, §1(39), added subsec. (d).

Subsecs. (e), (f). Pub. L. 85-685, §601(2), added subsecs. (e) and (f).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-407, title VII, §703(b), Aug. 28, 1984, 98 Stat. 1517, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1984.”

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-214 effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97-214, set out as an Effective Date note under section 2801 of this title.

OBLIGATION OF FUNDS BEFORE JULY 1, 1958

Section 16 of Pub. L. 85-861, Sept. 2, 1958, 72 Stat. 1558, provided that not more than \$580,000,000 could be obli-

gated for the purposes of this section before July 1, 1958, but with such limitation not applicable to the expenses for the leasing of property under subsec. (a)(1) of this section.

§ 18233a. Notice and wait requirements for certain projects

(a) CONGRESSIONAL NOTIFICATION.—Except as provided in subsection (b), an expenditure or contribution in excess of the amount specified in section 2805(b)(1) of this title may not be made under section 18233 of this title for any facility until—

(1) the Secretary of Defense has notified the congressional defense committees of the location, nature, and estimated cost of the facility; and

(2) a period of 21 days has elapsed after the notification has been received by those committees or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.

(b) CERTAIN EXPENDITURES OR CONTRIBUTIONS EXEMPTED.—Subsection (a) does not apply to expenditures or contributions for the following:

(1) Facilities acquired by lease.

(2) A project for a facility that has been authorized by Congress, if the location and purpose of the facility are the same as when authorized and if, based upon bids received—

(A) the scope of work of the project, as approved by Congress, is not proposed to be reduced by more than 25 percent; and

(B) the current working estimate of the cost of the project does not exceed the amount approved for the project by more than the lesser of the following:

(i) 25 percent.

(ii) 200 percent of the amount specified by section 2805(a) of this title as the maximum amount for a minor military construction project.

(3) A repair project (as that term is defined in subsection (e) of section 2811 of this title) that costs less than the amount specified in subsection (d) of such section.

(Added Pub. L. 85-685, title VI, § 601(3), Aug. 20, 1958, 72 Stat. 665, § 2233a; amended Pub. L. 87-554, title VII, § 701, July 27, 1962, 76 Stat. 243; Pub. L. 93-552, title VII, § 703, Dec. 27, 1974, 88 Stat. 1770; Pub. L. 94-107, title VII, § 703, Oct. 7, 1975, 89 Stat. 569; Pub. L. 96-125, title VII, § 704, Nov. 26, 1979, 93 Stat. 947; Pub. L. 97-214, § 3(c)(1), July 12, 1982, 96 Stat. 169; Pub. L. 98-115, title VII, § 702, Oct. 11, 1983, 97 Stat. 782; Pub. L. 98-407, title VII, § 702, Aug. 28, 1984, 98 Stat. 1517; Pub. L. 100-26, § 7(f)(1), Apr. 21, 1987, 101 Stat. 281; Pub. L. 100-180, div. B, subdiv. 3, title I, § 2304(a), Dec. 4, 1987, 101 Stat. 1215; Pub. L. 102-190, div. B, title XXVIII, § 2804, Dec. 5, 1991, 105 Stat. 1537; renumbered § 18233a and amended Pub. L. 103-337, div. A, title XVI, § 1664(b)(2), (5), Oct. 5, 1994, 108 Stat. 3010; Pub. L. 104-106, div. A, title XV, § 1502(a)(10), Feb. 10, 1996, 110 Stat. 503; Pub. L. 104-201, div. B, title XXVIII, § 2801(b), (c), Sept. 23, 1996, 110 Stat. 2787; Pub. L. 106-65, div. A, title X, § 1067(1), div. B, title XXVIII, § 2806, Oct. 5, 1999, 113 Stat. 774, 850; Pub. L. 106-398, § 1 [[div. A], title X, § 1087(a)(22)], Oct. 30, 2000, 114 Stat.

1654, 1654A-291; Pub. L. 108-375, div. B, title XXVIII, § 2808(a), Oct. 28, 2004, 118 Stat. 2124; Pub. L. 112-81, div. B, title XXVIII, § 2802(c)(3), Dec. 31, 2011, 125 Stat. 1685; Pub. L. 114-92, div. B, title XXVIII, § 2801, Nov. 25, 2015, 129 Stat. 1168.)

Editorial Notes

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-92, § 2801(1), substituted “in excess of the amount specified in section 2805(b)(1) of this title” for “in an amount in excess of \$750,000” in introductory provisions.

Subsec. (b)(3). Pub. L. 114-92, § 2801(2), substituted “subsection (e) of section 2811 of this title) that costs less than the amount specified in subsection (d) of such section” for “section 2811(e) of this title) that costs less than \$7,500,000”.

2011—Subsec. (b)(2)(B)(ii). Pub. L. 112-81 substituted “section 2805(a)” for “section 2805(a)(2)”.

2004—Pub. L. 108-375 amended section generally, substituting provisions relating to notice and wait requirements for certain projects for provisions relating to limitation on certain projects and authority to carry out small projects with operation and maintenance funds.

2000—Subsec. (b)(1). Pub. L. 106-398, § 1 [[div. A], title X, § 1087(a)(22)(A)], substituted “section 2805(c)(1)(A)” for “section 2805(c)(1)”.

Subsec. (b)(2). Pub. L. 106-398, § 1 [[div. A], title X, § 1087(a)(22)(B)], substituted “section 2805(c)(1)(B)” for “section 2805(c)(2)”.

1999—Subsec. (a)(1). Pub. L. 106-65, § 1067(1), substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

Subsec. (a)(2)(C). Pub. L. 106-65, § 2806(a), added subpar. (C).

Subsec. (b). Pub. L. 106-65, § 2806(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Under such regulations as the Secretary of Defense may prescribe, a project authorized under section 18233(a) of this title that costs \$500,000 or less may be carried out with funds available for operations and maintenance.”

1996—Subsec. (a)(1). Pub. L. 104-201, § 2801(c), substituted “\$1,500,000” for “\$400,000”.

Pub. L. 104-106 substituted “the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the” for “the Committees on Armed Services and on Appropriations of the Senate and”.

Subsec. (b). Pub. L. 104-201, § 2801(b), substituted “\$500,000” for “\$300,000”.

1994—Pub. L. 103-337, § 1664(b)(2), renumbered section 2233a of this title as this section.

Subsec. (a)(1). Pub. L. 103-337, § 1664(b)(5)(A), substituted “18233” for “2233”.

Subsec. (b). Pub. L. 103-337, § 1664(b)(5)(B), substituted “18233(a)” for “2233(a)”.

1991—Subsec. (b). Pub. L. 102-190 substituted “\$300,000” for “\$200,000”.

1987—Subsec. (a)(2)(B)(ii)(II). Pub. L. 100-26 substituted “specified by section 2805(a)(2) of this title” for “specified by law”.

Subsec. (b). Pub. L. 100-180 substituted “\$200,000” for “\$100,000”.

1984—Subsec. (b). Pub. L. 98-407 substituted “\$100,000” for “\$50,000”.

1983—Subsec. (a)(1). Pub. L. 98-115 substituted “\$400,000” for “\$200,000”.

1982—Pub. L. 97-214 substituted “Limitation on certain projects; authority to carry out small projects with operation and maintenance funds” for “Limitation” as section catchline and completely revised text. Before such revision section had provided that no expenditure or contribution of more than \$175,000 could be made under section 2233 of this title for any facility until after the expiration of thirty days from the date