Public Law 88-433

AN ACT

August 14, 1964
[H. R. 8611]

To facilitate the performance of medical research and development within the Veterans' Administration, by providing for the indemnification of contractors.

Veterans Administration.
Research contractors, indemnification.
72 Stat. 1116.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 216 of title 38, United States Code, is amended by inserting "(1)" immediately after "(a)", and changing "(b)" and "(c)" to "(2)" and "(3)", respectively.

(b) Such section 216 is further amended by adding at the end thereof a new subsection (b), as follows:

"(b)(1) With the approval of the Administrator, any contract for research authorized by this section or for medical research or development authorized by section 4101 of this title, the performance of which involves a risk of an unusually hazardous nature, may provide that the United States will indemnify the contractor against either or both of the following, but only to the extent that they arise out of the direct performance of the contract and to the extent not covered by the financial protection required under subsection (b)(5)—

72 Stat. 1243.

"(A) liability (including reasonable expenses of litigation or settlement) to third persons, except liability under State or Federal Workmen's Compensation Acts to employees of the contractor employed at the site of and in connection with the contract for which indemnification is granted, for death, bodily injury, or loss of or damage to property, from a risk that the contract defines as unusually hazardous.

"(B) loss of or damage to property of the contractor from a risk that the contract defines as unusually hazardous.

"(2) A contract that provides for indemnification in accordance with subsection (b)(1) must also provide for—

"(A) notice to the United States of any claim or suit against the contractor for death, bodily injury, or loss of or damage to property; and

"(B) control of or assistance in the defense by the United States, at its election, of any such suit or claim for which indemnification is provided hereunder.

"(3) No payment may be made under subsection (b)(1) unless the Administrator, or his designee, certifies that the amount is just and reasonable.

"(4) Upon approval by the Administrator, payments under subsection (b)(1) may be made from—

"(A) funds obligated for the performance of the contract concerned;

"(B) funds available for research or development, or both, and not otherwise obligated; or

"(C) funds appropriated for those payments.

"(5) Each contractor which is a party to an indemnification agreement under subsection (b)(1) shall have and maintain financial protection of such type and in such amounts as the Administrator shall require to cover liability to third persons and loss of or damage to the contractor's property. The amount of financial protection required shall be the maximum amount of insurance available from private sources, except that the Administrator may establish a lesser amount, taking into consideration the cost and terms of private insurance. Such financial protection may include private insurance, private contractual indemnities, self-insurance, other proof of financial responsibility, or a combination of such measures.

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"(6) In administering the provisions of this section, the Administrator may use the facilities and services of private insurance organizations, and he may contract to pay a reasonable compensation therefor. Any contract made under the provisions of this subsection may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5), upon a showing by the Administrator that advertising is not reasonably practicable, and advance payments may be made.

"(7) The authority to indemnify contractors under this section does not create any rights in third persons which would not otherwise exist by law.

"Contractor."

"(8) As used in this section, the term 'contractor' includes subcontractors of any tier under a contract in which an indemnification provision pursuant to subsection (b)(1) is contained."

(c) Such section 216 is further amended by adding the following at the end of the catchline: "**; indemnification of contractors**".

(d) The analysis of chapter 3 of such title 38 regarding section 216 is amended by inserting before the period at the end thereof "; indemnification of contractors".

Special restorative training. Effective date.

SEC. 2. The amendments made by section 6 of the Act of July 7, 1964 (Public Law 88-361, 78 Stat. 297), shall take effect as of January 1, 1964.

Approved August 14, 1964.

Public Law 88-434

August 14, 1964
[H. R. 7751]

AN ACT

To extend certain construction authority to the Administrator of Veterans' Affairs in order to provide adequate veterans' hospital facilities in Los Angeles, California.

Los Angeles, Calif.; Hazard Park. Army Reserve Center, construction.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to make available an adequate site for the proposed Veterans' Administration hospital on land known as Hazard Park, city of Los Angeles, California, the Administrator of Veterans' Affairs is authorized to construct for the Department of Defense an Army Reserve Center on a site approved by the Department of Defense to be provided for such purpose by the city of Los Angeles and pursuant to specifications established by such Department or any component thereof. Such construction may be effected under any procedure now authorized for the construction of Veterans' Administration hospitals.

SEC. 2. Upon completion of such Reserve Center the Department of Defense is authorized to (1) assume full control and jurisdiction thereof, and (2) relinquish to the Veterans' Administration all right, title, and interest in and to the now existing Army Reserve Center located on the Hazard Park tract.

SEC. 3. Funds appropriated to the Veterans' Administration for the construction of hospital and domiciliary facilities shall be available for the purpose of the first section of this Act.

Approved August 14, 1964.