

use of publicly advertised, competitively bid, or competitively negotiated, contracting procedures as provided in chapter 137 of this title. In accordance with such procedures, the Secretary of a military department, or the Secretary of Homeland Security, as the case may be, shall solicit bids or proposals for a guaranty agreement for each military housing rental guaranty project authorized in accordance with subsection (b).

(f) NOTICE AND WAIT REQUIREMENTS.—An agreement may not be entered into under subsection (a) until—

(1) the Secretary of Defense, or the Secretary of Homeland Security with respect to the Coast Guard, submits to the appropriate committees of Congress, in writing, an economic analysis (based upon accepted life cycle costing procedures) which demonstrates that the proposed agreement is cost effective when compared with alternative means of furnishing the same housing facilities; and

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

(g) DISPUTES.—The Secretary concerned may require that disputes arising under an agreement entered into under subsection (a) be decided in accordance with the procedures provided for by chapter 71 of title 41.

(Added Pub. L. 102-190, div. B, title XXVIII, §2809(a)(1), Dec. 5, 1991, 105 Stat. 1541; amended Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108-136, div. A, title X, §1031(a)(43), Nov. 24, 2003, 117 Stat. 1602; Pub. L. 111-350, §5(b)(48), Jan. 4, 2011, 124 Stat. 3846.)

PRIOR PROVISIONS

Similar provisions were contained in Pub. L. 98-115, title VIII, §802, Oct. 11, 1983, 97 Stat. 783, as amended, which was set out as a note under section 2821 of this title, prior to repeal by Pub. L. 102-190, §2809(b).

AMENDMENTS

2011—Subsec. (g). Pub. L. 111-350 substituted “chapter 71 of title 41” for “the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.)”.

2003—Subsec. (f)(2). Pub. L. 108-136 substituted “21 days” for “21 calendar days” and inserted before period at end “or, if over sooner, a period of 14 days has expired following the date on which a copy of the economic analysis is provided in an electronic medium pursuant to section 480 of this title”.

2002—Subsecs. (a), (b), (c)(4)(B), (11), (e), (f)(1). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation” wherever appearing.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

EFFECTIVE DATE

Section 2809(c) of Pub. L. 102-190 provided that: “Section 2836 of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts entered into under that section on or after the date of the enactment of this Act [Dec. 5, 1991]. The amendment

made by subsection (b) [repealing provisions set out as a note under section 2821 of this title] shall not affect the validity of any contract entered into before that date under section 802 of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), as in effect on the day before that date.”

§ 2837. Limited partnerships with private developers of housing

(a) LIMITED PARTNERSHIPS.—(1) In order to meet the housing requirements of members of the armed forces, and the dependents of such members, at a military installation described in paragraph (2), the Secretary of a military department may enter into a limited partnership with one or more private developers to encourage the construction of housing and accessory structures within commuting distance of the installation. The Secretary may contribute not less than five percent, but not more than 35 percent, of the development costs under a limited partnership.

(2) Paragraph (1) applies to a military installation under the jurisdiction of the Secretary concerned at which there is a shortage of suitable housing to meet the requirements of members and dependents referred to in such paragraph.

(b) COLLATERAL INCENTIVE AGREEMENTS.—The Secretary concerned may also enter into collateral incentive agreements with private developers who enter into a limited partnership under subsection (a) to ensure that, where appropriate—

(1) a suitable preference will be afforded members of the armed forces in the lease or purchase, as the case may be, of a reasonable number of the housing units covered by the limited partnership; or

(2) the rental rates or sale prices, as the case may be, for some or all of such units will be affordable for such members.

(c) SELECTION OF INVESTMENT OPPORTUNITIES.—(1) The Secretary concerned shall use publicly advertised, competitively bid or competitively negotiated, contracting procedures, as provided in chapter 137 of this title, to enter into limited partnerships under subsection (a).

(2) When a decision is made to enter into a limited partnership under subsection (a), the Secretary concerned shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include the justification for the limited partnership, the terms and conditions of the limited partnership, a description of the development costs for projects under the limited partnership, and a description of the share of such costs to be incurred by the Secretary concerned. The Secretary concerned may then enter into the limited partnership only after the end of the 21-day period beginning on the date the report is received by such committees or, if earlier, the end of the 14-day period beginning on the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title.

(d) ACCOUNT.—(1) There is hereby established on the books of the Treasury an account to be known as the “Defense Housing Investment Account”.

(2) There shall be deposited into the Account—

(A) such funds as may be authorized for and appropriated to the Account; and

(B) any proceeds received by the Secretary concerned from the repayment of investments or profits on investments of the Secretary under subsection (a).

(3) From such amounts as are provided in advance in appropriation Acts, funds in the Account shall be available to the Secretaries concerned in amounts determined by the Secretary of Defense for contracts, investments, and expenses necessary for the implementation of this section.

(4) The Secretary concerned may not enter into a contract in connection with a limited partnership under subsection (a) or a collateral incentive agreement under subsection (b) unless a sufficient amount of the unobligated balance of the funds in the Account is available to the Secretary, as of the time the contract is entered into, to satisfy the total obligations to be incurred by the United States under the contract.

[(e) Repealed. Pub. L. 104-106, div. B, title XXVIII, § 2802(d)(1), Feb. 10, 1996, 110 Stat. 552.]

(f) REPORT.—Not later than 60 days after the end of each fiscal year in which activities are carried out under this section, the Secretaries concerned shall jointly transmit to Congress a report specifying the amount and nature of the deposits into, and the expenditures from, the Account during such fiscal year and of the amount and nature of all other expenditures made pursuant to such section during such fiscal year.

(g) TRANSFER OF LANDS PROHIBITED.—Nothing in this section shall be construed to permit the Secretary concerned, as part of a limited partnership entered into under this section, to transfer the right, title, or interest of the United States in any real property under the jurisdiction of the Secretary concerned.

(h) EXPIRATION AND TERMINATION OF AUTHORITY.—The authority of the Secretary concerned to enter into a limited partnership under this section shall expire on September 30, 2000.

(Added Pub. L. 103-337, div. B, title XXVIII, § 2803(a), Oct. 5, 1994, 108 Stat. 3051; amended Pub. L. 104-106, div. B, title XXVIII, § 2802, Feb. 10, 1996, 110 Stat. 551; Pub. L. 106-65, div. A, title X, § 1066(a)(28), Oct. 5, 1999, 113 Stat. 772; Pub. L. 108-136, div. A, title X, § 1031(a)(44), Nov. 24, 2003, 117 Stat. 1602.)

AMENDMENTS

2003—Subsec. (c)(2). Pub. L. 108-136 inserted before period at end “or, if earlier, the end of the 14-day period beginning on the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title”.

1999—Subsec. (d)(2). Pub. L. 106-65 inserted “and” at end of subpar. (A), substituted a period for “; and” at end of subpar. (B), and struck out subpar. (C) which read as follows: “any unobligated balances which remain in the Navy Housing Investment Account as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996.”

1996—Subsec. (a)(1). Pub. L. 104-106, § 2802(b)(1), substituted “the Secretary of a military department” for “the Secretary of the Navy”.

Pub. L. 104-106, § 2802(a)(1), substituted “of the armed forces” for “of the naval service”.

Subsec. (a)(2). Pub. L. 104-106, § 2802(b)(2), substituted “Secretary concerned” for “Secretary”.

Subsec. (b). Pub. L. 104-106, § 2802(b)(2), substituted “Secretary concerned” for “Secretary”.

Subsec. (b)(1). Pub. L. 104-106, § 2802(a)(2), substituted “of the armed forces” for “of the naval service”.

Subsec. (c). Pub. L. 104-106, § 2802(b)(2), substituted “Secretary concerned” for “Secretary” wherever appearing.

Subsec. (d). Pub. L. 104-106, § 2802(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows:

“(d) ACCOUNT.—(1) There is hereby established on the books of the Treasury an account to be known as the ‘Navy Housing Investment Account’.

“(2) There shall be deposited into the Account—

“(A) such funds as may be authorized for and appropriated to the Account; and

“(B) any proceeds received by the Secretary from the repayment of investments or profits on investments of the Secretary under subsection (a).

“(3) In such amounts as is provided in advance in appropriation Acts, the Account shall be available for contracts, investments, and expenses necessary for the implementation of this section.

“(4) The Secretary may not enter into a contract in connection with a limited partnership under subsection (a) or a collateral incentive agreement under subsection (b) unless the Account contains sufficient funds, as of the time the contract is entered into, to satisfy the total obligations to be incurred by the United States under the contract.”

Subsec. (e). Pub. L. 104-106, § 2802(d)(1), struck out subsec. (e) which related to establishment of Navy Housing Investment Board.

Subsec. (f). Pub. L. 104-106, § 2802(e), substituted “activities are carried out” for “the Secretary carries out activities” and “the Secretaries concerned shall jointly” for “the Secretary shall”.

Subsec. (g). Pub. L. 104-106, § 2802(g), struck out “Navy” after “Transfer of” in heading.

Pub. L. 104-106, § 2802(b)(2), substituted “Secretary concerned” for “Secretary” in two places.

Subsec. (h). Pub. L. 104-106, § 2802(f), substituted “September 30, 2000” for “September 30, 1999”.

Pub. L. 104-106, § 2802(d)(2), substituted “Authority” for “Authorities” in heading and struck out “(1)” before “The authority” and par. (2) which read as follows: “The Navy Housing Investment Board shall terminate on November 30, 1999.”

Pub. L. 104-106, § 2802(b)(2), substituted “Secretary concerned” for “Secretary” in par. (1).

§ 2838. Leasing of military family housing to Secretary of Defense

(a) AUTHORITY.—(1) The Secretary of a military department may lease to the Secretary of Defense military family housing in the National Capital Region (as defined in section 2674(f) of this title).

(2) In determining the military housing unit to lease under this section, the Secretary of Defense should first consider any available military housing units that are already substantially equipped for executive communications and security.

(b) RENTAL RATE.—A lease under subsection (a) shall provide for the payment by the Secretary of Defense of consideration in an amount equal to 105 percent of the monthly rate of basic allowance for housing prescribed under section 403(b) of title 37 for a member of the uniformed services in the pay grade of O-10 with dependents assigned to duty at the military installation on which the leased housing unit is located. A rate so established shall be considered the fair market value of the lease interest.

(c) TREATMENT OF PROCEEDS.—(1) The Secretary of a military department shall deposit all