

114TH CONGRESS
2D SESSION

H. R. 3106

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10, 2016

Received; read twice and referred to the Committee on Veterans' Affairs

AN ACT

To amend title 38, United States Code, to make certain improvements in the administration of Department medical facility construction projects.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Construction Reform
3 Act of 2016”.

4 **SEC. 2. DEPARTMENT OF VETERANS AFFAIRS CONSTRU-**
5 **CTION REFORMS.**

6 (a) APPLICATION OF INDUSTRY STANDARDS; ASSIST-
7 ANCE.—Section 8103 of title 38, United States Code, is
8 amended by adding at the end the following new sub-
9 sections:

10 “(f) To the maximum extent practicable, the Sec-
11 retary shall use industry standards, standard designs, and
12 best practices in carrying out the construction of medical
13 facilities.

14 “(g)(1) The Secretary shall provide to a non-Depart-
15 ment Federal entity with which the Secretary has entered
16 into an agreement under subsection (e)—

17 “(A) design, planning, and construction assist-
18 ance before the entity issues a request for proposals
19 for the design or construction of the super construc-
20 tion project covered by the agreement;

21 “(B) any documents or information needed for
22 the entity to carry out the responsibilities of the en-
23 tity with respect to the super construction project;
24 and

1 “(C) upon the request of the entity, any other
2 assistance that the entity determines necessary to
3 carry out such responsibilities.

4 “(2) Any assistance provided under paragraph (1)
5 shall be provided to the non-Department Federal entity
6 on a non-reimbursable basis.

7 “(h)(1) With respect to a proposed change to a con-
8 tract entered into by a non-Department Federal entity
9 with which the Secretary has entered into an agreement
10 under subsection (e) that is estimated at a value of less
11 than \$250,000, the non-Department Federal entity shall
12 issue a final decision regarding such change not later than
13 30 days after the date on which the change is proposed.

14 “(2) With respect to a proposed change to such a con-
15 tract that is estimated at a value of \$250,000 or more—

16 “(A) the Secretary may provide to the entity
17 the recommendations of the Secretary regarding
18 such change;

19 “(B) during the 30-day period beginning on the
20 date on which the entity furnishes to the Secretary
21 information regarding such change, the Secretary
22 may issue the final decision regarding such change;
23 and

24 “(C) if the Secretary does not issue a final deci-
25 sion under subparagraph (B), during the 30-day pe-

1 riod following the period described in such para-
2 graph, the entity shall issue a final decision regard-
3 ing such a change no later than 90 days from when
4 the entity furnished information regarding such a
5 change to the Secretary.

6 “(i) The Secretary shall ensure that each employee
7 of the Department with responsibilities relating to the con-
8 struction or alteration of medical facilities, including such
9 construction or alteration carried out pursuant to con-
10 tracts or agreements, undergoes a program of ongoing
11 professional training and development. Such program
12 shall be designed to ensure that employees maintain ade-
13 quate expertise relating to industry standards and best
14 practices for the acquisition of design and construction
15 services. The Secretary may provide the program under
16 this subsection through a contract or agreement with a
17 non-Federal entity or with a non-Department Federal en-
18 tity.”.

19 (b) LIMITATION ON PLANNING AND DESIGN FOR
20 SUPER CONSTRUCTION PROJECTS.—

21 (1) IN GENERAL.—Section 8104(a) of title 38,
22 United States Code, is amended—

23 (A) by redesignating paragraph (3) as
24 paragraph (4);

1 (B) by inserting after paragraph (2) the
2 following new paragraph (3):

3 “(3) The Secretary may not obligate or expend funds
4 for advance planning or design for any super construction
5 project, until the date that is 60 days after the date on
6 which the Secretary submits to the Committee on Vet-
7 erans’ Affairs and the Committee on Appropriations of the
8 Senate and the Committee on Veterans’ Affairs and the
9 Committee on Appropriations of the House of Representa-
10 tives notice of such obligation or expenditure.”; and

11 (C) in paragraph (4), as redesignated by
12 paragraph (1) of this subsection, by adding at
13 the end the following new subparagraph:

14 “(C) The term ‘super construction project’
15 means a project for the construction, alteration, or
16 acquisition of a medical facility involving a total ex-
17 penditure of more than \$100,000,000, but such term
18 does not include an acquisition by exchange.”.

19 (2) APPLICABILITY.—The amendments made
20 by paragraph (1) shall take effect on the date of the
21 enactment of this Act and shall apply with respect
22 to a construction project that is initiated on or after
23 that date.

24 (c) CONGRESSIONAL APPROVAL OF CERTAIN
25 PROJECTS.—

1 (1) PROJECTS THAT EXCEED SPECIFIED
2 AMOUNT.—Subsection (c) of section 8104 of title 38,
3 United States Code, is amended to read as follows:

4 “(c)(1) The Secretary may not obligate funds for a
5 major medical facility project or a super construction
6 project approved by a law described in subsection (a)(2)
7 in an amount that would cause the total amount obligated
8 for that project to exceed the amount specified in the law
9 for that project (or would add to total obligations exceed-
10 ing such specified amount) by more than 10 percent unless
11 the Committee on Veterans’ Affairs and the Committee
12 on Appropriations of the Senate and the Committee on
13 Veterans’ Affairs and the Committee on Appropriations
14 of the House of Representatives each approve in writing
15 the obligation of those funds.

16 “(2) The Secretary shall—

17 “(A) enter into a contract with an appropriate
18 non-department Federal entity with the ability to
19 conduct forensic audits on medical facility projects
20 for the conduct of an external forensic audit of the
21 expenditures relating to any major medical facility
22 or super construction project for which the total ex-
23 penditures exceed the amount specified in the law
24 for the project by more than 25 percent; and

1 “(B) enter into a contract with an appropriate
2 non-department Federal entity with the ability to
3 conduct forensic audits on medical facility projects
4 for the conduct of an external audit of the medical
5 center construction project in Aurora, Colorado.”.

6 (2) USE OF EXTRA AMOUNTS.—Subsection (d)
7 of such section is amended—

8 (A) in paragraph (2)(B), in the matter
9 preceding clause (i), by striking “Whenever”
10 and inserting “Before”; and

11 (B) by adding at the end the following new
12 paragraph:

13 “(3) The Secretary may not obligate any funds de-
14 scribed in paragraph (1) or amounts described in para-
15 graph (2) before the date that is 30 days after the notifi-
16 cation submitted under paragraph (1) or paragraph
17 (2)(B), as the case may be, unless the Committee on Vet-
18 erans’ Affairs and the Committee on Appropriations of the
19 Senate and the Committee on Veterans’ Affairs and the
20 Committee on Appropriations of the House of Representa-
21 tives each approve in writing the obligation of those funds
22 or amounts.”.

23 (3) NOTIFICATION REQUIREMENTS.—

24 (A) COMMITTEES REQUIRED.—Subsection

25 (d)(1) of such section is amended by striking

“each committee” and inserting “the Committee on Veterans’ Affairs and the Committee on Appropriations of the Senate and the Committee on Veterans’ Affairs and the Committee on Appropriations of the House of Representatives”.

(B) USE OF AMOUNTS FROM BID SAVINGS.—Subsection (d)(2)(B) of such section is amended by adding at the end the following new clause:

“(iv) With respect to the major construction project that is the source of the bid savings—

“(I) the amounts already obligated or available in the project reserve for such project;

“(II) the percentage of such project that has been completed; and

“(III) the amount of such bid savings that is already obligated or otherwise being used for a purpose other than such project.”.

(d) QUARTERLY REPORT ON SUPER CONSTRUCTION PROJECTS.—

(1) IN GENERAL.—At the end of subchapter I of chapter 81 of title 38, United States Code, add the following new section:

1 **“§ 8120. Quarterly report on super construction**
 2 **projects**

3 “(a) QUARTERLY REPORTS REQUIRED.—Not later
 4 than 30 days after the last day of each fiscal quarter the
 5 Secretary shall submit to the Committees on Veterans’ Af-
 6 fairs of the Senate and House of Representatives on the
 7 super construction projects carried out by the Secretary
 8 during such quarter. Each such report shall include, for
 9 each such project—

10 “(1) the budgetary and scheduling status of the
 11 project, as of the last day of the quarter covered by
 12 the report; and

13 “(2) the actual cost and schedule variances of
 14 the project, as of such day, compared to the planned
 15 cost and schedules for the project.

16 “(b) SUPER CONSTRUCTION PROJECT DEFINED.—In
 17 this section, the term ‘super construction project’ has the
 18 meaning given such term in section 8104(a)(4)(C) of this
 19 title.”.

20 (2) CLERICAL AMENDMENT.—The table of sec-
 21 tions at the beginning of the chapter is amended by
 22 adding at the end of the items relating to such sub-
 23 chapter the following new item:

“8120. Quarterly report on super construction projects.”.

1 (e) ACCELERATED MASTER PLANNING FOR EACH
2 MEDICAL FACILITY OF THE DEPARTMENT OF VETERANS
3 AFFAIRS.—

4 (1) EXISTING FACILITIES.—Not later than De-
5 cember 31, 2016, the Secretary of Veterans Affairs
6 shall complete a master plan described in paragraph
7 (3) for each medical facility of the Department of
8 Veterans Affairs.

9 (2) NEW FACILITIES.—For each medical facility
10 of the Department for which construction is com-
11 pleted after the date of the enactment of this Act,
12 the Secretary shall complete a master plan described
13 in paragraph (3) for the facility by not later than
14 the earlier of the following dates:

15 (A) The date on which activation is com-
16 pleted.

17 (B) The date of the formal dedication of
18 the facility.

19 (3) MASTER PLAN DESCRIBED.—A master plan
20 described in this paragraph is, with respect to a
21 medical facility of the Department, a plan to inform
22 investment decisions and funding requests over a 10-
23 year period for construction projects at such medical
24 facility—

1 (A) to meet the health care needs of a
2 changing veteran population through a com-
3 bination of health care from the Department
4 and other community resources; and

5 (B) to maximize the best use of the land
6 and structures comprising such medical facility.

7 **SEC. 3. ASSISTANT INSPECTOR GENERAL FOR CONSTRUC-**
8 **TION.**

9 (a) IN GENERAL.—Chapter 3 of title 38, United
10 States Code, is amended by inserting after section 312 the
11 following new section:

12 **“§ 312A. Assistant Inspector General for Construction**

13 “(a) IN GENERAL.—There is in the Office of Inspec-
14 tor General an Assistant Inspector General for Construc-
15 tion. The Assistant Inspector General for Construction is
16 responsible for conducting, supervising, and coordinating
17 audits, evaluations, and investigations of the planning, de-
18 sign, contracting, execution, and construction of facilities
19 and infrastructure of the Department, including major
20 and minor construction projects and leases.

21 “(b) QUALIFICATIONS.—Each individual appointed
22 as Assistant Inspector General for Construction shall be
23 an individual who has expertise in construction and facili-
24 ties management.

1 “(c) REPORTS.—(1) Not later than 60 days after the
2 appointment of an individual as the Assistant Inspector
3 General for Construction, and every calendar quarter
4 thereafter, the Assistant Inspector General for Construc-
5 tion shall submit to the Committees on Veterans’ Affairs
6 of the Senate and House of Representatives a report sum-
7 marizing the activities of the Assistant Inspector General
8 for Construction during the 120-day period ending on the
9 date of such report.

10 “(2) In addition to the report required in paragraph
11 (1), and the requirements contained in section 5 of the
12 Inspector General Act of 1978 (5 U.S.C. App.), the Assist-
13 ant Inspector General for Construction shall promptly pro-
14 vide to the Committees on Veterans’ Affairs of the Senate
15 and House of Representatives the findings of any inves-
16 tigation undertaken by the Assistant Inspector General for
17 Construction, and shall notify the Committees promptly
18 if the Assistant Inspector General for Construction identi-
19 fies any serious or flagrant problem or deficiency relating
20 to the administration or operation of any construction pro-
21 gram of the Department, if, during the course of any in-
22 vestigation, the Assistant Inspector General for Construc-
23 tion determines that Congress should take immediate ac-
24 tion.

1 “(3) Nothing in this subsection shall be construed to
2 authorize the public disclosure of information that is—

3 “(A) specifically prohibited from disclosure by
4 any other provision of law;

5 “(B) specifically required by Executive Order to
6 be protected from disclosure in the interest of na-
7 tional defense or national security or in the conduct
8 of foreign affairs; or

9 “(C) a part of an ongoing criminal investiga-
10 tion.”.

11 (b) CLERICAL AMENDMENT.—The table of sections
12 at the beginning of such chapter is amended by inserting
13 after the item relating to section 312 the following new
14 item:

“312A. Assistant Inspector General for Construction.”.

Passed the House of Representatives February 9,
2016.

Attest:

KAREN L. HAAS,
Clerk.