

[§ 2676. Renumbered § 2664]

[§ 2677. Repealed. Pub. L. 110–181, div. B, title XXVIII, § 2822(b)(1), Jan. 28, 2008, 122 Stat. 544]

Section, added Pub. L. 85–861, §1(51), Sept. 2, 1958, 72 Stat. 1460; amended Pub. L. 87–554, title VI, §607, July 27, 1962, 76 Stat. 242; Pub. L. 92–145, title VII, §707(4), Oct. 27, 1971, 85 Stat. 412; Pub. L. 94–273, §6(3), Apr. 21, 1976, 90 Stat. 377; Pub. L. 97–214, §10(a)(5)(A), (B), July 12, 1982, 96 Stat. 175; Pub. L. 97–375, title I, §104(b), Dec. 21, 1982, 96 Stat. 1819; Pub. L. 98–407, title VIII, §803, Aug. 28, 1984, 98 Stat. 1519; Pub. L. 102–190, div. B, title XXVIII, §2861, Dec. 5, 1991, 105 Stat. 1559; Pub. L. 103–35, title II, §201(c)(9), May 31, 1993, 107 Stat. 98; Pub. L. 107–314, div. A, title X, §1062(a)(12), Dec. 2, 2002, 116 Stat. 2650, related to options on property required for military construction projects.

§ 2678. Feral horses and burros: removal from military installations

When feral horses or burros are found on an installation under the jurisdiction of the Secretary of a military department, the Secretary may use helicopters and motorized equipment for their removal.

(Added Pub. L. 101–510, div. A, title XIV, §1481(h)(1), Nov. 5, 1990, 104 Stat. 1708.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 101–165, title IX, §9030, Nov. 21, 1989, 103 Stat. 1135, which was set out as a note under section 2241 of this title, prior to repeal by Pub. L. 101–510, §1481(h)(3).

A prior section 2678, added Pub. L. 85–861, §1(51), Sept. 2, 1958, 72 Stat. 1460, related to acquisition of mortgaged housing units, prior to repeal by Pub. L. 97–214, §§7(1), 12(a), July 12, 1982, 96 Stat. 173, 176, 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.

§ 2679. Installation-support services: intergovernmental support agreements

(a) IN GENERAL.—(1) Notwithstanding any other provision of law governing the award of Federal Government contracts for goods and services, the Secretary concerned may enter into an intergovernmental support agreement, on a sole source basis, with a State, local, or tribal government to provide, receive, or share installation-support services if the Secretary determines that the agreement will serve the best interests of the department by enhancing mission effectiveness or creating efficiencies or economies of scale, including by reducing costs.

(2) An intergovernmental support agreement under paragraph (1)—

(A) may be for a term not to exceed ten years; and

(B) may use, for installation-support services provided by a State, local, or tribal government, wage grades normally paid by that State, local, or tribal government.

(3) An intergovernmental support agreement under paragraph (1) may only be used when the Secretary concerned or the State, local, or tribal government, as the case may be, providing the installation-support services already provides such services for its own use.

(4) Any contract for the provision of installation-support services awarded by the Federal Government or a State, local, or tribal government pursuant to an intergovernmental support agreement provided in subsection (a) shall be awarded on a competitive basis.

(b) EFFECT ON FIRST RESPONDER ARRANGEMENTS.—The authority provided by this section and limitations on the use of that authority are not intended to revoke, preclude, or otherwise interfere with existing or proposed mutual-aid agreements relating to police or fire protection services or other similar first responder agreements or arrangements.

(c) AVAILABILITY OF FUNDS.—Funds available to the Secretary concerned for operation and maintenance may be used to pay for such installation-support services. The costs of agreements under this section for any fiscal year may be paid using annual appropriations made available for that year. Funds received by the Secretary as reimbursement for providing installation-support services pursuant to such an agreement shall be credited to the appropriation or account charged with providing installation support.

(d) EFFECT ON OMB CIRCULAR A-76.—The Secretary concerned shall ensure that intergovernmental support agreements authorized by this section are not used to circumvent the requirements of Office of Management and Budget Circular A-76 regarding public-private competitions.

(e) PILOT PROGRAM FOR USE OF COST SAVINGS REALIZED.—(1) Each Secretary concerned shall conduct a pilot program under which the Secretary will make available to the commander of each military installation for which cost savings are realized as a result of an intergovernmental support agreement entered into under this section an amount equal to not less than 25 percent of the amount of such cost savings for that military installation for a fiscal year.

(2) Amounts made available to an installation commander under paragraph (1) shall be used solely to address sustainment restoration and modernization requirements that have been approved by the major subordinate command or equivalent component.

(3) With respect to each military installation for which amounts are made available to the installation commander under paragraph (1), the Secretary concerned shall certify, not less frequently than annually for each fiscal year of the pilot program, to the congressional defense committees the following:

(A) The name of the installation and the amount of the cost savings achieved at the installation.

(B) The source and type of intergovernmental support agreement that achieved the cost savings.

(C) The amount of the cost savings made available to the installation commander under paragraph (1).

(D) The sustainment restoration and modernization purposes for which the amount made available under paragraph (1) were used.

(4) The authority to conduct the pilot program shall expire September 30, 2025.

(f) DEFINITIONS.—In this section:

(1) The term “installation-support services” means those services, supplies, resources, and

support typically provided by a local government for its own needs and without regard to whether such services, supplies, resources, and support are provided to its residents generally, except that the term does not include security guard or fire-fighting functions.

(2) The term “local government” includes a county, parish, municipality, city, town, township, local public authority, school district, special district, and any agency or instrumentality of a local government.

(3) The term “State” includes the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, American Samoa, Guam, and the United States Virgin Islands, and any agency or instrumentality of a State.

(4) The term “intergovernmental support agreement” means a legal instrument reflecting a relationship between the Secretary concerned and a State, local, or tribal government that contains such terms and conditions as the Secretary concerned considers appropriate for the purposes of this section and necessary to protect the interests of the United States.

(Added Pub. L. 112-239, div. A, title III, §331(a), Jan. 2, 2013, 126 Stat. 1696, §2336; renumbered §2679 and amended Pub. L. 113-291, div. A, title III, §351(a), (b), Dec. 19, 2014, 128 Stat. 3346; Pub. L. 114-92, div. A, title X, §1081(a)(9), (b)(1), Nov. 25, 2015, 129 Stat. 1001; Pub. L. 115-91, div. B, title XXVIII, §2813, Dec. 12, 2017, 131 Stat. 1849; Pub. L. 115-232, div. A, title X, §1081(a)(26), Aug. 13, 2018, 132 Stat. 1985; Pub. L. 116-283, div. B, title XXVIII, §2861(a), Jan. 1, 2021, 134 Stat. 4356; Pub. L. 118-159, div. B, title XXVIII, §2845, Dec. 23, 2024, 138 Stat. 2264.)

Editorial Notes

PRIOR PROVISIONS

A prior section 2679, added Pub. L. 87-651, title I, §112(c), Sept. 7, 1962, 76 Stat. 511; amended Pub. L. 101-189, div. A, title XVI, §1621(a)(9), Nov. 29, 1989, 103 Stat. 1603; Pub. L. 103-337, div. A, title X, §1070(e)(9), Oct. 5, 1994, 108 Stat. 2859, related to use of space and equipment by representatives of veterans' organizations, prior to repeal by Pub. L. 108-375, div. B, title XXVIII, §2821(c)(2), Oct. 28, 2004, 118 Stat. 2129.

AMENDMENTS

2024—Subsec. (a). Pub. L. 118-159 substituted “State, local, or tribal government” for “State or local government” wherever appearing.

Subsec. (f)(4). Pub. L. 118-159 substituted “State, local, or tribal government” for “State or local government”.

2021—Subsecs. (e), (f). Pub. L. 116-283 added subsec. (e) and redesignated former subsec. (e) as (f).

2018—Subsec. (a)(1). Pub. L. 115-232 substituted “Federal Government” for “Federal government”.

2017—Subsec. (a)(2)(A). Pub. L. 115-91 substituted “ten years” for “five years”.

2015—Subsec. (a)(1). Pub. L. 114-92, §1081(a)(9), struck out “with” before “, on a sole source”.

Subsec. (a)(4). Pub. L. 114-92, §1081(b)(1), amended directory language of Pub. L. 113-291, §351(b)(1)(C). See 2014 Amendment note below.

2014—Pub. L. 113-291, §351(a), renumbered section 2336 of this title as this section and substituted “Installation-support services: intergovernmental support agreement” for “Intergovernmental support agreements with State and local governments” in section catchline.

Subsec. (a)(1). Pub. L. 113-291, §351(b)(1)(A), substituted “Notwithstanding any other provision of law governing the award of Federal government contracts for goods and services, the Secretary concerned” for “The Secretary concerned” and “, on a sole source basis, with a State or local” for “a State or local”.

Subsec. (a)(2). Pub. L. 113-291, §351(b)(1)(B), substituted “An” for “Notwithstanding any other provision of law, an” in introductory provisions, redesignated subpars. (B) and (C) as (A) and (B), respectively, and struck out former subpar. (A) which read as follows: “may be entered into on a sole-source basis;”.

Subsec. (a)(4). Pub. L. 113-291, §351(b)(1)(C), as amended by Pub. L. 114-92, §1081(b)(1), added par. (4).

Subsec. (e)(4). Pub. L. 113-291, §351(b)(2), added par. (4).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-92, div. A, title X, §1081(b), Nov. 25, 2015, 129 Stat. 1001, provided in part that the amendment made by section 1081(b)(1) is effective as of Dec. 19, 2014, and as if included in Pub. L. 113-291 as enacted.

REVIEW OF AGREEMENTS WITH NON-DEPARTMENT ENTITIES WITH RESPECT TO PREVENTION AND MITIGATION OF SPILLS OF AQUEOUS FILM-FORMING FOAM

Pub. L. 117-81, div. A, title III, §346, Dec. 27, 2021, 135 Stat. 1647, provided that:

“(a) REVIEW REQUIRED.—Not later than 180 days of [sic] after the date of the enactment of this Act [Dec. 27, 2021], the Secretary of Defense shall complete a review of mutual support agreements entered into with non-Department of Defense entities (including State and local entities) that involve fire suppression activities in support of missions of the Department.

“(b) MATTERS.—The review under subsection (a) shall assess, with respect to the agreements specified in such subsection, the following:

“(1) The preventative maintenance guidelines specified in such agreements for fire trucks and fire suppression systems, to mitigate the risk of equipment failure that may result in a spill of aqueous film-forming foam (in this section referred to as ‘AFFF’).

“(2) Any requirements specified in such agreements for the use of personal protective equipment by personnel when conducting a material transfer or maintenance activity pursuant to the agreement that may result in a spill of AFFF, or when conducting remediation activities for such a spill, including requirements for side-shield safety glasses, latex gloves, and respiratory protection equipment.

“(3) The methods by which the Secretary, or the non-Department entity with which the Secretary has entered into the agreement, ensures compliance with guidance specified in the agreement with respect to the use of such personal protective equipment.

“(c) GUIDANCE.—Not later than 90 days after the date on which the Secretary completes the review under subsection (a), the Secretary shall issue guidance (based on the results of such review) on requirements to include under the agreements specified in such subsection, to ensure the prevention and mitigation of spills of AFFF. Such guidance shall include, at a minimum, best practices and recommended requirements to ensure the following:

“(1) The supervision by personnel trained in responding to spills of AFFF of each material transfer or maintenance activity carried out pursuant to such an agreement that may result in such a spill.

“(2) The use of containment berms and the covering of storm drains and catch basins by personnel performing maintenance activities pursuant to such an agreement in the vicinity of such drains or basins.

“(3) The storage of materials for the cleanup and containment of AFFF in close proximity to fire suppression systems in buildings of the Department and the presence of such materials during any transfer or activity specified in paragraph (1).

“(d) BRIEFING.—Not later than 30 days after the date on which the Secretary issues the guidance under subsection (c), the Secretary shall provide to the congressional defense committees [Committee on Armed Services and Committee on Appropriations of the Senate and House of Representatives] a briefing that summarizes the results of the review conducted under subsection (a) and the guidance issued under subsection (c).”

NOTIFICATION OF CERTAIN INTERGOVERNMENTAL
SUPPORT AGREEMENTS

Pub. L. 117–81, div. A, title VIII, § 876, Dec. 27, 2021, 135 Stat. 1865, provided that:

“(a) NOTIFICATION REQUIRED.—During fiscal years 2022 and 2023, not less than 60 days before entering into an intergovernmental support agreement under section 2679 of title 10, United States Code, that is an exception to the requirements of chapter 85 of title 41, United States Code, the Secretary concerned shall submit, in writing, to the congressional defense committees [Committee on Armed Services and Committee on Appropriations of the Senate and House of Representatives] a report including the following relating to such agreement:

“(1) The circumstances that resulted in the need to enter into an intergovernmental support agreement that included such exception.

“(2) The anticipated benefits of entering into such agreement that included such exception.

“(3) The anticipated impact on persons covered under such chapter 85 because of such exception.

“(4) The extent to which such agreement complies with applicable policies, directives, or other guidance of the Department of Defense.

“(b) RECOMMENDATIONS.—

“(1) IN GENERAL.—The Secretary of Defense shall submit to the congressional defense committees, along with the budget request materials for fiscal year 2023, specific recommendations for modifications to the legislative text of subsection (a)(1) of section 2679 of title 10, United States Code, along with a rationale for any such modifications, to identify specific provisions of Federal contracting law appropriate for waiver or exemption to ensure effective use of intergovernmental support agreements under such section.

“(2) BUDGET REQUEST MATERIALS DEFINED.—In this subsection, the term ‘budget request materials’ means the materials submitted to Congress by the President under section 1105(a) of title 31, United States Code.

“(c) BRIEFING REQUIRED.—Not later than 6 months after the date of enactment of this Act [Dec. 27, 2021] the Secretary of Defense shall provide to the congressional defense committees a briefing on activities taken to carry out the requirements of this section.

“(d) POLICY REQUIRED.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall issue guidance to clarify the use of the authority under section 2679 of title 10, United States Code, including with respect to—

“(1) the application of other requirements of acquisition law and policy; and

“(2) chapter 85 of title 41, United States Code.

“(e) SECRETARY CONCERNED DEFINED.—In this section, the term ‘Secretary concerned’ means—

“(1) the Secretary of the Army, with respect to matters concerning the Army;

“(2) the Secretary of the Navy, with respect to matters concerning the Navy and the Marine Corps; and

“(3) the Secretary of the Air Force, with respect to matters concerning the Air Force and the Space Force.”

PROMULGATION OF GUIDANCE

Pub. L. 116–283, div. B, title XXVIII, § 2861(b), Jan. 1, 2021, 134 Stat. 4357, provided that: “Not later than 180 days after the date of the enactment of this Act [Jan.

1, 2021], the Secretary of Defense shall promulgate guidance for the development of the pilot program required by subsection (e) of section 2679 of title 10, United States Code, as added by subsection (a).”

§ 2680. Minimum capital investment for facilities sustainment, restoration, and modernization for military departments

(a) MINIMUM INVESTMENT.—Beginning in fiscal year 2027, and each fiscal year thereafter, each Secretary of a military department shall—

(1) calculate (in accordance with subsection (b)) the cumulative plant replacement value of the total inventory of facilities on each military installation under the jurisdiction of the Secretary concerned; and

(2) invest in the budget for facilities sustainment, restoration, and modernization of that military department, a total amount equal to not less than the percentage specified in subsection (c) of the cumulative plant replacement value described in paragraph (1).

(b) EXCLUSION.—In making any calculation pursuant to paragraph (1) of subsection (a), each Secretary of a military department shall exclude any facility under the jurisdiction of such Secretary that is scheduled for demolition during the two-year period beginning after the date of such calculation.

(c) PERCENTAGE SPECIFIED.—The percentage of the specified in this subsection is—

(1) for fiscal year 2027, 1.75 percent;

(2) for fiscal year 2028, 2.5 percent;

(3) for fiscal year 2029, 3.25 percent; and

(4) for fiscal year 2030 and each subsequent fiscal year, 4 percent.

(d) CERTIFICATION.—As part of the annual budget submission of the President under section 1105(a) of title 31, each Secretary of each military department shall include—

(1) a certification to the congressional defense committees that the military department is in compliance with this section; and

(2) a list of facilities under the jurisdiction of that Secretary, disaggregated by military installation and location, that are scheduled for demolition during the two-year period beginning after the date of the submission of such budget, which shall include cost and schedule estimates.

(e) PLANT REPLACEMENT VALUE DEFINED.—In this section, the term ‘plant replacement value’ means, with respect to a facility, the cost to replace such facility using construction costs (including labor and materials) and standards (including methodologies and codes) in effect as of the date such cost is calculated.

(Added Pub. L. 118–159, div. B, title XXVIII, § 2841(a), Dec. 23, 2024, 138 Stat. 2262.)

Editorial Notes

PRIOR PROVISIONS

A prior section 2680, added Pub. L. 102–190, div. B, title XXVIII, § 2863(a)(1), Dec. 5, 1991, 105 Stat. 1560; amended Pub. L. 103–160, div. B, title XXVIII, § 2807(a), Nov. 30, 1993, 107 Stat. 1887; Pub. L. 104–106, div. B, title XXVIII, § 2820(a), (b), Feb. 10, 1996, 110 Stat. 556; Pub. L. 106–65, div. A, title X, § 1067(1), div. B, title XXVIII, § 2811, Oct. 5, 1999, 113 Stat. 774, 851; Pub. L. 107–314, div.