

Subsec. (d)(1). Pub. L. 109–163, § 2822(a)(2)(A)(i), (b)(1)(A), inserted “or entities” after “eligible entity” and substituted “shall provide” for “may provide” in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 109–163, § 2822(a)(2)(A)(ii), inserted “or entities” after “the entity”.

Subsec. (d)(1)(B). Pub. L. 109–163, § 2822(b)(1)(B), added subpar. (B) and struck out former subpar. (B) which read as follows: “the sharing by the United States and the entity of the acquisition costs.”

Subsec. (d)(3). Pub. L. 109–364 added subpar. (B), redesignated former subpars. (B) and (C) as (C) and (D), respectively, and in subpar. (C) substituted “under subparagraph (A), either through the contribution of funds or excess real property, or both,” for “in the sharing of acquisition costs of real property, or an interest in real property, under paragraph (1)(B)”.

Pub. L. 109–163, § 2822(b)(3), added par. (3). Former par. (3) redesignated (4).

Pub. L. 109–163, § 2822(a)(2)(B), inserted “or entities” after “the entity”.

Subsec. (d)(4) to (6). Pub. L. 109–163, § 2822(b)(2), redesignated pars. (3) to (5) as (4) to (6), respectively.

Subsecs. (g) to (i). Pub. L. 109–163, § 2822(c), added subsec. (g) and redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116–283, div. A, title III, § 312(b)(3), Jan. 1, 2021, 134 Stat. 3513, provided that: “The amendments made by paragraphs (1) and (2) [amending this section] shall apply to any agreement entered into under section 2684a of title 10, United States Code, on or after December 2, 2002.”

Pub. L. 116–283, div. A, title X, § 1081(d), Jan. 1, 2021, 134 Stat. 3873, provided that the amendment made by section 1081(d)(12) of Pub. L. 116–283 to section 2827(b)(1) of Pub. L. 115–232, which amended this section, is effective as of Aug. 13, 2018, and as if included in Pub. L. 115–232.

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–232, div. B, title XXVIII, § 2827(b)(2), Aug. 13, 2018, 132 Stat. 2270, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect as of December 2, 2002.”

TERMINATION OF 2013 AMENDMENT

Pub. L. 113–66, div. A, title III, § 312(b), Dec. 26, 2013, 127 Stat. 729, which provided that section 312 of Pub. L. 113–66, which amended this section, and subsec. (h) of this section would expire on Oct. 1, 2019, subject to a provision continuing any agreements existing before that date, was repealed by Pub. L. 115–91, div. A, title III, § 317(f), Dec. 12, 2017, 131 Stat. 1352. Another section 317(f) of Pub. L. 115–91 was formerly set out in a note below, prior to being transferred to chapter 159 of this title and redesignated as section 2693(g) by Pub. L. 118–31, div. A, title III, § 311(a), (b)(5), Dec. 22, 2023, 137 Stat. 213, 214.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (g) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

GUIDANCE ON ENCROACHMENT THAT AFFECTS COVERED SITES

Pub. L. 118–31, div. B, title XXVIII, § 2887, Dec. 22, 2023, 137 Stat. 784, provided that:

“(a) GUIDANCE REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 22, 2023], each Secretary of a military department shall issue guidance to establish—

“(1) a process to identify encroachment with respect to a covered site;

“(2) a method to mitigate such encroachment; and
“(3) a procedure to certify that such encroachment does not directly result in a national security risk to the covered site.

“(b) CONSIDERATIONS.—In developing the guidance required by this section, each Secretary of a military department shall consider the following:

“(1) The process by which a commander or head of a covered site identifies and reports encroachment with respect to such covered site.

“(2) Methods to track data relating to processes, methods, and procedures described in subsection (a).

“(3) Coordination processes to track and mitigate encroachment—

“(A) within each military department; and

“(B) between the military departments and the Assistant Secretaries of Defense for Sustainment and Industrial Base Policy.

“(c) FOREIGN INVESTMENT ENCROACHMENT.—Such guidance shall include a requirement that if a Secretary of a military department determines that encroachment described in subsection (a) involves or may involve foreign investment, such Secretary shall—

“(1) report information about encroachment relating to foreign investment to the Assistant Secretary of Defense for Industrial Base Policy; and

“(2) coordinate with the Assistant Secretary of Defense for Industrial Base Policy on efforts to mitigate such encroachment or potential encroachment.

“(d) REPORT.—Not later than 180 days after the date on which the guidance required by subsection (a) is issued, the Assistant Secretary of Defense for Sustainment, in coordination with the Secretaries of the military departments, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the guidance required by this section, including—

“(1) the extent to which such guidance has been implemented within the Department of Defense;

“(2) a description of methods to update any lists of covered sites; and

“(3) an assessment of the procedure described in subsection (a)(3).

“(e) DEFINITIONS.—In this section:

“(1) The term ‘covered site’ means a military installation or another facility or property of the United States Government.

“(2) The term ‘encroachment’ means an activity conducted within close proximity to a covered site that—

“(A) may pose a national security risk to a covered site;

“(B) may affect the operational mission of a covered site; or

“(C) is incompatible with an installation master plan of a covered site.

“(3) The term ‘military department’ has the meaning given such term in section 101 of title 10, United States Code.

“(4) The term ‘military installation’ has the meaning given such term in section 2801 of title 10, United States Code.”

SENTINEL LANDSCAPES PARTNERSHIP

Pub. L. 115–91, div. A, title III, § 317(a)–(f), Dec. 12, 2017, 131 Stat. 1351, 1352, as amended by Pub. L. 117–81, div. A, title III, § 317(a), Dec. 27, 2021, 135 Stat. 1631, which authorized the establishment of the Sentinel Landscapes Partnership, was transferred to chapter 159 of this title and redesignated as section 2693 by Pub. L. 118–31, div. A, title III, § 311(a), Dec. 22, 2023, 137 Stat. 213. Another section 317(f) of Pub. L. 115–91 repealed section 312(b) of Pub. L. 113–66, see Termination of 2013 Amendment note above.

§ 2685. Adjustment of or surcharge on selling prices in commissary stores to provide funds for construction and improvement of commissary store facilities

(a) ADJUSTMENT OR SURCHARGE AUTHORIZED.—Notwithstanding any other provision of law, the

Secretary of Defense may, for the purposes of this section, provide for an adjustment of, or surcharge on, sales prices of goods and services sold in commissary store facilities.

(b) **USE FOR CONSTRUCTION, REPAIR, IMPROVEMENT, AND MAINTENANCE.**—(1) The Secretary of Defense may use the proceeds from the adjustments or surcharges authorized by subsection (a) only—

(A) to acquire (including acquisition by lease), construct, convert, expand, improve, repair, maintain, and equip the physical infrastructure of commissary stores and central product processing facilities of the defense commissary system; and

(B) to cover environmental evaluation and construction costs related to activities described in paragraph (1), including costs for surveys, administration, overhead, planning, and design.

(2) In paragraph (1), the term “physical infrastructure” includes real property, utilities, and equipment (installed and free standing and including computer equipment), necessary to provide a complete and usable commissary store or central product processing facility.

(c) **ADVANCE OBLIGATION.**—The Secretary of Defense, with the approval of the Director of the Office of Management and Budget, may obligate anticipated proceeds from the adjustments or surcharges authorized by subsection (a) for any use specified in subsection (b) or (d), without regard to fiscal year limitations, if the Secretary determines that such obligation is necessary to carry out any use of such adjustments or surcharges specified in subsection (b) or (d).

(d) **COOPERATION WITH NONAPPROPRIATED FUND INSTRUMENTALITIES.**—(1) The Secretary of Defense may authorize a nonappropriated fund instrumentality of the United States to enter into a contract for construction of a shopping mall or similar facility for a commissary store and one or more nonappropriated fund instrumentality activities. The Secretary may use the proceeds of adjustments or surcharges authorized by subsection (a) to reimburse the nonappropriated fund instrumentality for the portion of the cost of the contract that is attributable to construction of the commissary store or to pay the contractor directly for that portion of such cost.

(2) In paragraph (1), the term “construction”, with respect to a facility, includes acquisition, conversion, expansion, installation, or other improvement of the facility.

(e) **OTHER SOURCES OF FUNDS FOR CONSTRUCTION AND IMPROVEMENTS.**—Revenues received by the Secretary of Defense from the following sources or activities of commissary store facilities shall be available for the purposes set forth in subsections (b), (c), and (d):

- (1) Sale of recyclable materials.
- (2) Sale of excess and surplus property.
- (3) License fees.
- (4) Royalties.
- (5) Fees paid by sources of products in order to obtain favorable display of the products for resale, known as business related management fees.

(Added Pub. L. 93-552, title VI, §611, Dec. 27, 1974, 88 Stat. 1765; amended Pub. L. 95-82, title VI,

§614, Aug. 1, 1977, 91 Stat. 380; Pub. L. 97-321, title VIII, §804, Oct. 15, 1982, 96 Stat. 1572; Pub. L. 103-337, div. B, title XXVIII, §2851, Oct. 5, 1994, 108 Stat. 3072; Pub. L. 105-85, div. A, title III, §374, Nov. 18, 1997, 111 Stat. 1707; Pub. L. 106-398, §1 [[div. A], title III, §333(a), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-60.)

Editorial Notes

AMENDMENTS

2000—Subsec. (a). Pub. L. 106-398, §1 [[div. A], title III, §333(b)(1)], substituted “Secretary of Defense” for “Secretary of a military department, under regulations established by him and approved by the Secretary of Defense.”.

Subsec. (b). Pub. L. 106-398, §1 [[div. A], title III, §333(a)], amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: “The Secretary of a military department, under regulations established by him and approved by the Secretary of Defense, may use the proceeds from the adjustments or surcharges authorized by subsection (a) to acquire, construct, convert, expand, install, or otherwise improve commissary store facilities at defense installations and for related environmental evaluation and construction costs, including surveys, administration, overhead, planning, and design.”

Subsec. (c). Pub. L. 106-398, §1 [[div. A], title III, §333(b)(2)], substituted “Secretary of Defense, with the approval of” for “Secretary of a military department, with the approval of the Secretary of Defense and” and “Secretary determines” for “Secretary of the military department determines”.

Subsec. (d)(1). Pub. L. 106-398, §1 [[div. A], title III, §333(b)(3)], substituted “Secretary of Defense” for “Secretary of a military department”.

1997—Subsecs. (a) to (d). Pub. L. 105-85, §374(b), inserted subsec. headings.

Subsec. (e). Pub. L. 105-85, §374(a), added subsec. (e). 1994—Subsec. (c). Pub. L. 103-337, §2851(b), inserted “or (d)” after “subsection (b)” in two places.

Subsec. (d). Pub. L. 103-337, §2851(a), added subsec. (d). 1982—Subsec. (c). Pub. L. 97-321 added subsec. (c).

1977—Subsec. (b). Pub. L. 95-82 struck out “within the United States” after “defense installations”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, §1 [[div. A], title III, §333(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-60, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2001.”

§ 2686. Utilities and services: sale; expansion and extension of systems and facilities

(a) Under such regulations and for such periods and at such prices as he may prescribe, the Secretary concerned or his designee may sell or contract to sell to purchasers within or in the immediate vicinity of an activity of the Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard, as the case may be, any of the following utilities and related services, if it is determined that they are not available from another local source and that the sale is in the interest of national defense or in the public interest:

- (1) Electric power.
- (2) Steam.
- (3) Compressed air.
- (4) Water.
- (5) Sewage and garbage disposal.
- (6) Natural, manufactured, or mixed gas.