

military construction project or military family housing project for which, as of the end of the most recent fiscal year, the estimated completion date is more than 1 year later than the completion date proposed at the time the contract for the project was awarded.

(Added Pub. L. 97-214, §2(a), July 12, 1982, 96 Stat. 163; amended Pub. L. 109-163, div. B, title XXVIII, §2803(a), (c), Jan. 6, 2006, 119 Stat. 3505, 3506; Pub. L. 111-383, div. B, title XXVIII, §2801, Jan. 7, 2011, 124 Stat. 4458; Pub. L. 115-91, div. B, title XXVIII, §2822, Dec. 12, 2017, 131 Stat. 1855; Pub. L. 117-81, div. B, title XXVIII, §2801(a), Dec. 27, 2021, 135 Stat. 2184; Pub. L. 117-263, div. B, title XXVIII, §2806(a), Dec. 23, 2022, 136 Stat. 2995.)

Editorial Notes

AMENDMENTS

2022—Subsecs. (d), (e). Pub. L. 117-263 added subsec. (d) and redesignated former subsec. (d) as (e).

2021—Subsec. (c)(1)(E). Pub. L. 117-81, §2801(a)(2), added subpar. (E). Former subpar. (E) redesignated (F).

Subsec. (c)(1)(F). Pub. L. 117-81, §2801(a)(1), (3), redesignated subpar. (E) as (F) and inserted “, military department Facilities Sustainment, Restoration, and Modernization project,” after “construction project”.

2017—Subsec. (d). Pub. L. 115-91 added subsec. (d).

2011—Subsec. (c)(1). Pub. L. 111-383, §2801(c)(1), substituted “that will permit a person” for “that, when activated by a person authorized under paragraph (3), will permit the person”.

Subsec. (c)(2)(F) to (H). Pub. L. 111-383, §2801(a), redesignated subpars. (G) and (H) as (F) and (G), respectively, and struck out former subpar. (F) which read as follows: “The estimated final cost of the project and, if the estimated final cost of the project exceeds the amount appropriated for the project and funds have been provided from another source to meet the increased cost, the source of the funds and the amount provided.”

Subsec. (c)(3), (4). Pub. L. 111-383, §2801(b), (c)(2), redesignated par. (4) as (3), substituted “on the Internet site required by such paragraph” for “to the persons referred to in paragraph (3)” and struck out “to such persons” before “in a timely manner”, and struck out former par. (3) which read as follows: “Access to the Internet site required by paragraph (1) shall be restricted to the following persons:

“(A) Members of the congressional defense committees and their staff.

“(B) Staff of the congressional defense committees.”

2006—Subsecs. (a), (b). Pub. L. 109-163, §2803(c), inserted headings.

Subsec. (c). Pub. L. 109-163, §2803(a), added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117-263, div. B, title XXVIII, §2806(c), Dec. 23, 2022, 136 Stat. 2995, provided that: “This section [amending this section and section 3221 of this title] and the amendments made by this section shall apply to contracts entered into on or after the date of the enactment of this Act [Dec. 23, 2022].”

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97-214, set out as a note under section 2801 of this title.

APPLICATION OF AMENDMENT BY PUB. L. 117-81

Pub. L. 117-81, div. B, title XXVIII, §2801(b), Dec. 27, 2021, 135 Stat. 2184, provided that: “Subparagraph (E) of

section 2851(c)(1) of title 10, United States Code, as added by subsection (a)(2), and subparagraph (F) of such section, as amended by subsection (a)(3), shall apply with respect to a military department Facilities Sustainment, Restoration, and Modernization project described in such subparagraphs for which an award of a contract or delivery order for the project is made on or after June 1, 2022.”

IMPLEMENTATION OF INTERNET SITE

Pub. L. 109-163, div. B, title XXVIII, §2803(b), Jan. 6, 2006, 119 Stat. 3506, provided that: “The Internet site required by subsection (c) of section 2851 of title 10, United States Code, as added by subsection (a), shall be available to the persons referred to in paragraph (3) of such subsection not later than July 15, 2006.”

IDENTIFICATION OF REQUIREMENTS TO REDUCE BACKLOG IN MAINTENANCE AND REPAIR OF DEFENSE FACILITIES

Pub. L. 106-398, §1 [[div. A], title III, §374], Oct. 30, 2000, 114 Stat. 1654, 1654A-81, which required the Secretary of Defense to submit to Congress, not later than March 15, 2001, a report identifying a list of requirements to reduce the backlog in maintenance and repair needs of facilities and infrastructure under the jurisdiction of the Department of Defense or a military department, which report was to be updated annually, was repealed by Pub. L. 112-81, div. A, title X, §1062(i)(1), Dec. 31, 2011, 125 Stat. 1585.

§ 2851a. Supervision of military housing by Chief Housing Officer

(a) IN GENERAL.—The Assistant Secretary of Defense for Energy, Installations, and Environment shall serve as the Chief Housing Officer, who shall oversee family housing and military unaccompanied housing under the jurisdiction of the Department of Defense or acquired or constructed under subchapter IV of this chapter (in this section referred to as “covered housing units”).

(b) PRINCIPAL DUTIES.—(1) The Chief Housing Officer shall oversee all aspects of the provision of covered housing units, including the following:

(A) Creation and standardization of policies and processes regarding covered housing units.

(B) Oversight of the administration of any Department of Defense-wide policies regarding covered housing units, to include, in coordination with the Secretaries of the military departments, the housing documents developed pursuant to section 2890 of this title entitled Military Housing Privatization Initiative Tenant Bill of Rights and Military Housing Privatization Initiative Tenant Responsibilities.

(2) The duties specified in paragraph (1) may not be further delegated.

(Added Pub. L. 116-92, div. B, title XXX, §3012(a), Dec. 20, 2019, 133 Stat. 1921, §2890a; renumbered §2851a and amended Pub. L. 116-283, div. B, title XXVIII, §2811(a), Jan. 1, 2021, 134 Stat. 4323; Pub. L. 117-263, div. B, title XXVIII, §2807, Dec. 23, 2022, 136 Stat. 2995.)

Editorial Notes

AMENDMENTS

2022—Subsec. (a). Pub. L. 117-263 amended subsec. (a) generally. Prior to amendment, text read as follows:

“(1) The Secretary of Defense shall designate, from among officials of the Department of Defense who are appointed by the President with the advice and consent

of the Senate, a Chief Housing Officer who shall oversee family housing and military unaccompanied housing under the jurisdiction of the Department of Defense or acquired or constructed under subchapter IV of this chapter (in this section referred to as ‘covered housing units’).

“(2) The official of the Department of Defense designated as Chief Housing Officer may be assigned duties in addition to the duties as Chief Housing Officer under subsection (b).”

2021—Pub. L. 116-283, §2811(a)(3), renumbered section 2890a of this title as this section.

Pub. L. 116-283, §2811(a)(2), inserted “Supervision of military housing by” before “Chief” in section catchline.

Subsec. (a)(1). Pub. L. 116-283, §2811(a)(1)(A), substituted “family housing and military unaccompanied housing under the jurisdiction of the Department of Defense or acquired or constructed under subchapter IV of this chapter (in this section referred to as ‘covered housing units’)” for “housing units”.

Subsec. (b)(1). Pub. L. 116-283, §2811(a)(1)(B)(ii), inserted “covered” before “housing units” in subpars. (A) and (B).

Pub. L. 116-283, §2811(a)(1)(B)(i), substituted “covered housing units” for “housing under subchapter IV and this subchapter” in introductory provisions.

Statutory Notes and Related Subsidiaries

NOTIFICATION OF DESIGNATION

Pub. L. 116-92, div. B, title XXX, §3012(b), Dec. 20, 2019, 133 Stat. 1921, provided that not later than 60 days after Dec. 20, 2019, the Secretary of Defense was to notify the Committees on Armed Services and Appropriations of the Senate and the House of Representatives of the official of the Department of Defense designated as Chief Housing Officer under this section. As amended by Pub. L. 117-263, subsec. (a) of this section provides that the Assistant Secretary of Defense for Energy, Installations, and Environment shall serve as the Chief Housing Officer.

§ 2852. Military construction projects: waiver of certain restrictions

(a) The Secretary of Defense and the Secretaries of the military departments may carry out authorized military construction projects and authorized military family housing projects without regard to subsections (a) and (b) of section 3324 of title 31.

(b) Authority to carry out a military construction project or a military family housing project may be exercised on land not owned by the United States—

(1) before title to the land on which the project is to be carried out is approved under section 3111 of title 40; and

(2) even though the land will be held in other than a fee simple interest in a case in which the Secretary of the military department concerned determines that the interest to be acquired in the land is sufficient for the purposes of the project.

(c) In the case of a military construction project or a military family housing project, the contract amount thresholds specified in subchapter III of chapter 31 of title 40 (commonly referred to as the Miller Act) shall be applied by substituting “\$150,000” for “\$100,000” for purposes of determining when a performance bond and payment bond are required under section 3131 of such title and when alternatives to payment bonds as payment protections for suppliers

of labor and materials are required under section 3132 of such title.

(Added Pub. L. 97-214, §2(a), July 12, 1982, 96 Stat. 164; amended Pub. L. 97-295, §1(35), Oct. 12, 1982, 96 Stat. 1296; Pub. L. 97-321, title VIII, §805(a)(1), Oct. 15, 1982, 96 Stat. 1573; Pub. L. 99-145, title XIII, §1303(a)(19), Nov. 8, 1985, 99 Stat. 739; Pub. L. 107-217, §3(b)(20), Aug. 21, 2002, 116 Stat. 1297; Pub. L. 112-81, div. B, title XXVIII, §2803, Dec. 31, 2011, 125 Stat. 1685.)

HISTORICAL AND REVISION NOTES

In 10:2852(a), the title 31 citation is substituted on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted title 31.

Editorial Notes

AMENDMENTS

2011—Subsec. (c). Pub. L. 112-81 added subsec. (c).

2002—Subsec. (b)(1). Pub. L. 107-217 substituted “section 3111 of title 40” for “section 355 of the Revised Statutes (40 U.S.C. 255)”.

1985—Subsec. (a). Pub. L. 99-145 substituted “subsections (a) and (b) of section 3324” for “section 3324(a) and (b)”.

1982—Subsec. (a). Pub. L. 97-295 substituted “section 3324(a) and (b) of title 31” for “section 3648 of the Revised Statutes (31 U.S.C. 529)”.

Subsec. (b). Pub. L. 97-321 substituted “may be exercised on land not owned by the United States” for “on land not owned by the United States may be exercised” in introductory text, redesignated former cl. (1) as par. (1), added par. (2), and struck out former cl. (2) which read as follows: “even though the land is held temporarily”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97-214, set out as a note under section 2801 of this title.

§ 2853. Authorized cost and scope of work variations

(a) COST VARIATIONS AUTHORIZED; LIMITATION.—Except as provided in subsection (c), (d), or (e), the cost authorized for a military construction project or for the construction, improvement, and acquisition of a military family housing project may be increased or decreased by not more than 25 percent of the total authorized cost of the project or 200 percent of the minor construction project ceiling specified in section 2805(a) of this title, whichever is less, if the Secretary concerned determines that such revised cost is required for the sole purpose of meeting unusual variations in cost and that such variations in cost could not have reasonably been anticipated at the time the project was authorized by Congress.

(b) SCOPE OF WORK VARIATIONS AUTHORIZED; LIMITATION.—(1) Except as provided in subsection (c), the scope of work for a military construction project or for the construction, improvement, and acquisition of a military family housing project may be reduced by not more than 25 percent from the amount specified for that project, construction, improvement, or acquisition in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or