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the Ronald Reagan National Defense Authorization Act for Fiscal Year 2005)

TITLE 10. ARMED FORCES
SUBTITLE A. GENERAL MILITARY LAW
PART IV. SERVICE, SUPPLY, AND PROCUREMENT
CHAPTER 169. MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING
**SUBCHAPTER IV. ALTERNATIVE AUTHORITY FOR ACQUISITION AND
IMPROVEMENT OF MILITARY HOUSING**

§ 2871. Definitions

In this subchapter [10 USCS § § 2871 et seq.]:

(1) The term "ancillary supporting facilities" means facilities related to military housing units, including facilities to provide or support elementary or secondary education, child care centers, day care centers, tot lots, community centers, housing offices, dining facilities, unit offices, and other similar facilities for the support of military housing.

(2) [Deleted]

(3) The term "construction" means the construction of military housing units and ancillary supporting facilities or the improvement or rehabilitation of existing units or ancillary supporting facilities.

(4) The term "contract" includes any contract, lease, or other agreement entered into under the authority of this subchapter [10 USCS § § 2871 et seq.].

(5) The term "eligible entity" means any private person, corporation, firm, partnership, company, State or local government, or housing authority of a State or local government.

(6) The term "Fund" means the Department of Defense Family Housing Improvement Fund or the Department of Defense Military Unaccompanied Housing Improvement Fund established under section 2883(a) of this title.

(7) The term "military unaccompanied housing" means military housing intended to be occupied by members of the armed forces serving a tour of duty unaccompanied by dependents and transient housing intended to be occupied by members of the armed forces on temporary duty.

(8) The term "United States" includes the Commonwealth of Puerto Rico.

HISTORY: (Added Feb. 10, 1996, P.L. 104-106, Div B, Title XXVIII, Subtitle A, § 2801(a)(1), 110 Stat. 544; Oct. 17, 1998, P.L. 105-261, Div B, Title XXVIII, Subtitle A, § 2803, 112 Stat. 2202; Oct. 5, 1999, P.L. 106-65, Div B, Title XXVIII, Subtitle A, § 2803(a), 113 Stat. 848.)

(As amended Dec. 2, 2002, P.L. 107-314, Div B, Title XXVIII, Subtitle A, § 2803(b), 116 Stat. 2705; Nov. 24, 2003, P.L. 108-136, Div A, Title X, Subtitle E, § 1043(c)(6), 117 Stat. 1612.)

§ 2872. General authority

In addition to any other authority provided under this chapter [10 USCS § § 2801 et seq.] for the acquisition or construction of military family housing or military unaccompanied housing, the

Secretary concerned may exercise any authority or any combination of authorities provided under this subchapter [10 USCS § § 2871 et seq.] in order to provide for the acquisition or construction by eligible entities of the following:

- (1) Family housing units on or near military installations within the United States and its territories and possessions.
- (2) Military unaccompanied housing units on or near such military installations.

HISTORY: (Added Feb. 10, 1996, P.L. 104-106, Div B, Title XXVIII, Subtitle A, § 2801(a)(1), 110 Stat. 545; Oct. 5, 1999, P.L. 106-65, Div B, Title XXVIII, Subtitle A, § 2803(b), 113 Stat. 849.)

§ 2872a. Utilities and services

(a) Authority to furnish. The Secretary concerned may furnish utilities and services referred to in subsection (b) in connection with any military housing acquired or constructed pursuant to the exercise of any authority or combination of authorities under this subchapter if the military housing is located on a military installation.

(b) Covered utilities and services. The utilities and services that may be furnished under subsection (a) are the following:

- (1) Electric power.
- (2) Steam.
- (3) Compressed air.
- (4) Water.
- (5) Sewage and garbage disposal.
- (6) Natural gas.
- (7) Pest control.
- (8) Snow and ice removal.
- (9) Mechanical refrigeration.
- (10) Telecommunications service.
- (11) Firefighting and fire protection services.
- (12) Police protection services.

(c) Reimbursement.

(1) The Secretary concerned shall be reimbursed for any utilities or services furnished under subsection (a).

(2) The amount of any cash payment received under paragraph (1) shall be credited to the appropriation or working capital account from which the cost of furnishing the utilities or services concerned was paid. Amounts so credited to an appropriation or account shall be merged with funds in such appropriation or account, and shall be available to the same extent, and subject to the same terms and conditions, as such funds.

HISTORY: (Added Oct. 30, 2000, P.L. 106-398, § 1, 114 Stat. 1654.)

(As amended Dec. 2, 2002, P.L. 107-314, Div B, Title XXVIII, Subtitle A, § 2802(a), 116 Stat. 2703.)

§ 2873. Direct loans and loan guarantees

(a) Direct loans.

(1) Subject to subsection (c), the Secretary concerned may make direct loans to an eligible entity in order to provide funds to the eligible entity for the acquisition or construction of housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

(2) The Secretary concerned shall establish such terms and conditions with respect to loans made under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the period and frequency for repayment of such loans and the obligations of the obligors on such loans upon default.

(b) Loan guarantees.

(1) Subject to subsection (c), the Secretary concerned may guarantee a loan made to an eligible entity if the proceeds of the loan are to be used by the eligible entity to acquire, or construct housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

(2) The amount of a guarantee on a loan that may be provided under paragraph (1) may not exceed the amount equal to the lesser of--

(A) the amount equal to 80 percent of the value of the project; or

(B) the amount of the outstanding principal of the loan.

(3) The Secretary concerned shall establish such terms and conditions with respect to guarantees of loans under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the rights and obligations of obligors of such loans and the rights and obligations of the United States with respect to such guarantees.

(c) Limitation on direct loan and guarantee authority. Direct loans and loan guarantees may be made under this section only to the extent that appropriations of budget authority to cover their cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (*2 U.S.C. 661a(5)*)) are made in advance, or authority is otherwise provided in appropriation Acts. If such appropriation or other authority is provided, there may be established a financing account (as defined in section 502(7) of such Act (*2 U.S.C. 661a(7)*)), which shall be available for the disbursement of direct loans or payment of claims for payment on loan guarantees under this section and for all other cash flows to and from the Government as a result of direct loans and guarantees made under this section.

HISTORY: (Added Feb. 10, 1996, P.L. 104-106, Div B, Title XXVIII, Subtitle A, § 2801(a)(1), 110 Stat. 545; Oct. 5, 1999, P.L. 106-65, Div B, Title XXVIII, Subtitle A, § 2803(c), 113 Stat. 849.)

§ 2874. Leasing of housing

(a) Lease authorized. The Secretary concerned may enter into contracts for the lease of housing units that the Secretary determines are suitable for use as military family housing or military unaccompanied housing.

(b) Use of leased units. The Secretary concerned shall utilize housing units leased under this section as military family housing or military unaccompanied housing, as appropriate.

(c) Lease terms. A contract under this section may be for any period that the Secretary concerned determines appropriate and may provide for the owner of the leased property to operate and maintain the property.

HISTORY: (Added Feb. 10, 1996, P.L. 104-106, Div B, Title XXVIII, Subtitle A, § 2801(a)(1), 110 Stat. 546.)

(As amended Dec. 2, 2002, P.L. 107-314, Div B, Title XXVIII, Subtitle A, § 2802(b)(1), (2), 116 Stat. 2703.)

§ 2875. Investments

(a) Investments authorized. The Secretary concerned may make investments in an eligible entity carrying out projects for the acquisition or construction of housing units suitable for use as military family housing or as military unaccompanied housing.

(b) Forms of Investment. An investment under this section may take the form of an acquisition of a limited partnership interest by the United States, a purchase of stock or other equity instruments by the United States, a purchase of bonds or other debt instruments by the United States, or any combination of such forms of investment.

(c) Limitation on value of investment.

(1) The cash amount of an investment under this section in an eligible entity may not exceed an amount equal to $33\frac{1}{3}$ percent of the capital cost (as determined by the Secretary concerned) of the project or projects that the eligible entity proposes to carry out under this section with the investment.

(2) If the Secretary concerned conveys land or facilities to an eligible entity as all or part of an investment in the eligible entity under this section, the total value of the investment by the Secretary under this section may not exceed an amount equal to 45 percent of the capital cost (as determined by the Secretary) of the project or projects that the eligible entity proposes to carry out under this section with the investment.

(3) In this subsection, the term "capital cost", with respect to a project for the acquisition or construction of housing, means the total amount of the costs included in the basis of the housing for Federal income tax purposes.

(d) Collateral incentive agreements. The Secretary concerned shall enter into collateral incentive agreements with eligible entities in which the Secretary makes an investment under this section to ensure that a suitable preference will be afforded members of the armed forces and their dependents

in the lease or purchase, as the case may be, of a reasonable number of the housing units covered by the investment.

(e) Congressional notification required. Amounts in the Department of Defense Family Housing Improvement Fund or the Department of Defense Military Unaccompanied Housing Improvement Fund may be used to make a cash investment under this section in an eligible entity only after the end of the 30-day period beginning on the date the Secretary of Defense submits written notice of, and justification for, the investment to the appropriate committees of Congress or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notice and justification is provided in an electronic medium pursuant to section 480 of this title.

HISTORY: (Added Feb. 10, 1996, P.L. 104-106, Div B, Title XXVIII, Subtitle A, § 2801(a)(1), 110 Stat. 546; Nov. 18, 1997, P.L. 105-85, Div B, Title XXVIII, Subtitle A, § 2805, 111 Stat. 1991; Oct. 5, 1999, P.L. 106-65, Div B, Title XXVIII, Subtitle A, § 2803(d), (h)(1), 113 Stat. 849.)

(As amended Nov. 24, 2003, P.L. 108-136, Div A, Title X, Subtitle D, § 1031(a)(50), 117 Stat. 1602.)

§ 2876. Rental guarantees

The Secretary concerned may enter into agreements with eligible entities that acquire or construct military family housing units or military unaccompanied housing units under this subchapter [*10 USCS § § 2871 et seq.*] in order to assure--

- (1) the occupancy of such units at levels specified in the agreements; or
- (2) rental income derived from rental of such units at levels specified in the agreements.

HISTORY: (Added Feb. 10, 1996, P.L. 104-106, Div B, Title XXVIII, Subtitle A, § 2801(a)(1), 110 Stat. 546; Oct. 5, 1999, P.L. 106-65, Div B, Title XXVIII, Subtitle A, § 2803(e), 113 Stat. 849.)

§ 2877. Differential lease payments

Pursuant to an agreement entered into by the Secretary concerned and a lessor of military family housing or military unaccompanied housing to members of the armed forces, the Secretary may pay the lessor an amount in addition to the rental payments for the housing made by the members as the Secretary determines appropriate to encourage the lessor to make the housing available to members of the armed forces as military family housing or as military unaccompanied housing.

HISTORY: (Added Feb. 10, 1996, P.L. 104-106, Div B, Title XXVIII, Subtitle A, § 2801(a)(1), 110 Stat. 547; Oct. 5, 1999, P.L. 106-65, Div B, Title XXVIII, Subtitle A, § 2803(f), 113 Stat. 849.)

§ 2878. Conveyance or lease of existing property and facilities

(a) Conveyance or lease authorized. The Secretary concerned may convey or lease property or facilities (including ancillary supporting facilities) to eligible entities for purposes of using the proceeds of such conveyance or lease to carry out activities under this subchapter [*10 USCS* § § 2871 et seq.].

(b) Inapplicability to property at installation approved for closure. The authority of this section does not apply to property or facilities located on or near a military installation approved for closure under a base closure law.

(c) Terms and conditions.

(1) The conveyance or lease of property or facilities under this section shall be for such consideration and upon such terms and conditions as the Secretary concerned considers appropriate for the purposes of this subchapter and to protect the interests of the United States.

(2) As part or all of the consideration for a conveyance or lease under this section, the purchaser or lessor (as the case may be) shall enter into an agreement with the Secretary to ensure that a suitable preference will be afforded members of the armed forces and their dependents in the lease or sublease of a reasonable number of the housing units covered by the conveyance or lease, as the case may be, or in the lease of other suitable housing units made available by the purchaser or lessee.

(d) Inapplicability of certain property management laws. The conveyance or lease of property or facilities under this section shall not be subject to the following provisions of law:

(1) Section 2667 of this title.

(2) Subtitle I of title 40 [*40 USCS* § § 101 et seq.] and title III of the Federal Property and Administrative Services Act of 1949 (*41 U.S.C. 251* et seq.).

(3) Section 1302 of title 40.

(4) Section 501 of the McKinney-Vento Homeless Assistance Act (*42 U.S.C. 11411*).

HISTORY: (Added Feb. 10, 1996, P.L. 104-106, Div B, Title XXVIII, Subtitle A, § 2801(a)(1), 110 Stat. 547; Nov. 18, 1997, P.L. 105-85, Div A, Title X, Subtitle G, § 1073(a)(60), 111 Stat. 1903; Oct. 5, 1999, P.L. 106-65, Div B, Title XXVIII, Subtitle A, § 2803(g), 113 Stat. 849; Dec. 28, 2001, P.L. 107-107, Div A, Title X, Subtitle E, § 1048(d)(1), 115 Stat. 1227; Aug. 21, 2002, P.L. 107-217, 3(b)(23), 116 Stat. 1297.)

§ 2880. Unit size and type

(a) Conformity with similar housing units in locale. The Secretary concerned shall ensure that the room patterns and floor areas of military family housing units and military unaccompanied housing units acquired or constructed under this subchapter [*10 USCS* § § 2871 et seq.] are generally comparable to the room patterns and floor areas of similar housing units in the locality concerned.

(b) Inapplicability of limitations on space by pay grade.

(1) Section 2826 of this title shall not apply to military family housing units acquired or constructed under this subchapter [*10 USCS* § § 2871 et seq.].

(2) The regulations prescribed under section 2856 of this title shall not apply to any military unaccompanied housing unit acquired or constructed under this subchapter [10 USCS § 2871 et seq.].

HISTORY: (Added Feb. 10, 1996, P.L. 104-106, Div B, Title XXVIII, Subtitle A, § 2801(a)(1), 110 Stat. 548.)

(As amended Nov. 24, 2003, P.L. 108-136, Div B, Title XXVIII, Subtitle A, § 2806, 117 Stat. 1722.)

§ 2881. Ancillary supporting facilities

(a) Authority to acquire or construct. Any project for the acquisition or construction of military family housing units or military unaccompanied housing units under this subchapter [10 USCS § 2871 et seq.] may include the acquisition or construction of ancillary supporting facilities for the housing units concerned.

(b) Restriction. A project referred to in subsection (a) may not include the acquisition or construction of an ancillary supporting facility if, as determined by the Secretary concerned, the facility is to be used for providing merchandise or services in direct competition with--

- (1) the Army and Air Force Exchange Service;
- (2) the Navy Exchange Service Command;
- (3) a Marine Corps exchange;
- (4) the Defense Commissary Agency; or
- (5) any nonappropriated fund activity of the Department of Defense for the morale, welfare, and recreation of members of the armed forces.

HISTORY: (Added Feb. 10, 1996, P.L. 104-106, Div B, Title XXVIII, Subtitle A, § 2801(a)(1), 110 Stat. 548; Oct. 5, 1999, P.L. 106-65, Div B, Title XXVIII, Subtitle A, § 2804, 113 Stat. 849.)

§ 2881a. Pilot projects for acquisition or construction of military unaccompanied housing

(a) Pilot projects authorized. The Secretary of the Navy may carry out not more than three pilot projects under the authority of this section or another provision of this subchapter to use the private sector for the acquisition or construction of military unaccompanied housing in the United States, including any territory or possession of the United States.

(b) Treatment of housing; assignment of members. The Secretary of the Navy may assign members of the armed forces without dependents to housing units acquired or constructed under the pilot projects, and such housing units shall be considered as quarters of the United States or a housing facility under the jurisdiction of the Secretary for purposes of section 403 of title 37.

(c) Basic allowance for housing.

(1) The Secretary of Defense may prescribe and, under section 403(n) of title 37, pay for members of the armed forces without dependents in privatized housing acquired or constructed under the

pilot projects higher rates of partial basic allowance for housing than the rates authorized under paragraph (2) of such section.

(2) The partial basic allowance for housing paid for a member at a higher rate under this subsection may be paid directly to the private sector source of the housing to whom the member is obligated to pay rent or other charge for residing in such housing if the private sector source credits the amount so paid against the amount owed by the member for the rent or other charge.

(d) Funding.

(1) The Secretary of the Navy shall use the Department of Defense Military Unaccompanied Housing Improvement Fund to carry out activities under the pilot projects.

(2) Subject to 90 days prior notification to the appropriate committees of Congress, such additional amounts as the Secretary of Defense considers necessary may be transferred to the Department of Defense Military Unaccompanied Housing Improvement Fund from amounts appropriated for construction of military unaccompanied housing in military construction accounts. The amounts so transferred shall be merged with and be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund.

(e) Reports.

(1) The Secretary of the Navy shall transmit to the appropriate committees of Congress a report describing--

(A) each contract for the acquisition of military unaccompanied housing that the Secretary proposes to solicit under the pilot projects;

(B) each conveyance or lease proposed under section 2878 of this title in furtherance of the pilot projects; and

(C) the proposed partial basic allowance for housing rates for each contract as they vary by grade of the member and how they compare to basic allowance for housing rates for other contracts written under the authority of the pilot programs.

(2) The report shall describe the proposed contract, conveyance, or lease and the intended method of participation of the United States in the contract, conveyance, or lease and provide a justification of such method of participation. The report shall be submitted not later than 90 days before the date on which the Secretary issues the contract solicitation or offers the conveyance or lease.

(f) Expiration. Notwithstanding section 2885 of this title, the authority of the Secretary of the Navy to enter into a contract under the pilot programs shall expire September 30, 2007.

HISTORY: (Added Dec. 2, 2002, P.L. 107-314, Div B, Title XXVIII, Subtitle A, § 2803(a)(1), 116 Stat. 2703.)

§ 2882. Assignment of members of the armed forces to housing units

(a) In general. The Secretary concerned may assign members of the armed forces to housing units acquired or constructed under this subchapter [*10 USCS § § 2871 et seq.*].

(b) Effect of certain assignments on entitlement to housing allowances.

(1) Except as provided in paragraph (2), housing referred to in subsection (a) shall be considered as quarters of the United States or a housing facility under the jurisdiction of a uniformed service for purposes of section 403 of title 37.

(2) A member of the armed forces who is assigned in accordance with subsection (a) to a housing unit not owned or leased by the United States shall be entitled to a basic allowance for housing under section 403 of title 37.

(c) Lease payments through pay allotments. The Secretary concerned may require members of the armed forces who lease housing in housing units acquired or constructed under this subchapter to make lease payments for such housing pursuant to allotments of the pay of such members under section 701 of title 37.

HISTORY: (Added Feb. 10, 1996, P.L. 104-106, Div B, Title XXVIII, Subtitle A, § 2801(a)(1), 110 Stat. 548; Nov. 18, 1997, P.L. 105-85, Div A, Title VI, Subtitle A, § 603(d)(2)(C), 111 Stat. 1783.)

§ 2883. Department of Defense Housing Funds

(a) Establishment. There are hereby established on the books of the Treasury the following accounts:

- (1) The Department of Defense Family Housing Improvement Fund.
- (2) The Department of Defense Military Unaccompanied Housing Improvement Fund.

(b) Commingling of Funds prohibited.

- (1) The Secretary of Defense shall administer each Fund separately.
- (2) Amounts in the Department of Defense Family Housing Improvement Fund may be used only to carry out activities under this subchapter with respect to military family housing.
- (3) Amounts in the Department of Defense Military Unaccompanied Housing Improvement Fund may be used only to carry out activities under this subchapter with respect to military unaccompanied housing.

(c) Credits to Funds.

(1) There shall be credited to the Department of Defense Family Housing Improvement Fund the following:

- (A) Amounts authorized for and appropriated to that Fund.
- (B) Subject to subsection (f), any amounts that the Secretary of Defense transfers, in such amounts as provided in appropriation Acts, to that Fund from amounts authorized and appropriated to the Department of Defense for the acquisition or construction of military family housing.
- (C) Proceeds from the conveyance or lease of property or facilities under section 2878 of this title for the purpose of carrying out activities under this subchapter [*10 USCS § § 2871 et seq.*] with respect to military family housing.
- (D) Income derived from any activities under this subchapter [*10 USCS § § 2871 et seq.*] with respect to military family housing, including interest on loans made under section 2873 of this title, income and gains realized from investments under section 2875 of this title, and any return of capital invested as part of such investments.

(E) Any amounts that the Secretary of the Navy transfers to that Fund pursuant to section 2814(i)(3) of this title, subject to the restrictions on the use of the transferred amounts specified in that section.

(F) Any amounts that the Secretary concerned transfers to that Fund pursuant to section 2869 of this title.

(2) There shall be credited to the Department of Defense Military Unaccompanied Housing Improvement Fund the following:

(A) Amounts authorized for and appropriated to that Fund.

(B) Subject to subsection (f), any amounts that the Secretary of Defense transfers, in such amounts as provided in appropriation Acts, to that Fund from amounts authorized and appropriated to the Department of Defense for the acquisition or construction of military unaccompanied housing.

(C) Proceeds from the conveyance or lease of property or facilities under section 2878 of this title for the purpose of carrying out activities under this subchapter [*10 USCS § § 2871 et seq.*] with respect to military unaccompanied housing.

(D) Income derived from any activities under this subchapter [*10 USCS § § 2871 et seq.*] with respect to military unaccompanied housing, including interest on loans made under section 2873 of this title, income and gains realized from investments under section 2875 of this title, and any return of capital invested as part of such investments.

(E) Any amounts that the Secretary of the Navy transfers to that Fund pursuant to section 2814(i)(3) of this title, subject to the restrictions on the use of the transferred amounts specified in that section.

(F) Any amounts that the Secretary concerned transfers to that Fund pursuant to section 2869 of this title.

(d) Use of amounts in Funds.

(1) In such amounts as provided in appropriation Acts and except as provided in subsection (e), the Secretary of Defense may use amounts in the Department of Defense Family Housing Improvement Fund to carry out activities under this subchapter [*10 USCS § § 2871 et seq.*] with respect to military family housing, including activities required in connection with the planning, execution, and administration of contracts entered into under the authority of this subchapter [*10 USCS § § 2871 et seq.*]. The Secretary may also use for expenses of activities required in connection with the planning, execution, and administration of such contracts funds that are otherwise available to the Department of Defense for such types of expenses.

(2) In such amounts as provided in appropriation Acts and except as provided in subsection (e), the Secretary of Defense may use amounts in the Department of Defense Military Unaccompanied Housing Improvement Fund to carry out activities under this subchapter [*10 USCS § § 2871 et seq.*] with respect to military unaccompanied housing, including activities required in connection with the planning, execution, and administration of contracts entered into under the authority of this subchapter [*10 USCS § § 2871 et seq.*]. The Secretary may also use for expenses of activities required in connection with the planning, execution, and administration of such contracts funds that are otherwise available to the Department of Defense for such types of expenses.

(3) Amounts made available under this subsection shall remain available until expended. The Secretary of Defense may transfer amounts made available under this subsection to the Secretaries of the military departments to permit such Secretaries to carry out the activities for which such amounts may be used.

(e) Limitation on obligations. The Secretary may not incur an obligation under a contract or other agreement entered into under this subchapter [10 USCS § § 2871 et seq.] in excess of the unobligated balance, at the time the contract is entered into, of the Fund required to be used to satisfy the obligation.

(f) Notification required for transfers. A transfer of appropriated amounts to a Fund under paragraph (1)(B) or (2)(B) of subsection (c) may be made only after the end of the 30-day period beginning on the date the Secretary of Defense submits written notice of, and justification for, the transfer to the appropriate committees of Congress or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notice and justification is provided in an electronic medium pursuant to section 480 of this title.

HISTORY: (Added Feb. 10, 1996, P.L. 104-106, Div B, Title XXVIII, Subtitle A, § 2801(a)(1), 110 Stat. 548; Sept. 23, 1996, P.L. 104-201, Div B, Title XXVIII, Subtitle A, § 2804, 110 Stat. 2788; Oct. 5, 1999, P.L. 106-65, Div B, Title XXVIII, Subtitle A, § 2802(b), 113 Stat. 848.)
(As amended Nov. 24, 2003, P.L. 108-136, Div A, Title X, Subtitle D, § 1031(a)(51), Div B, Title XXVIII, Subtitle A, § 2805(c), 117 Stat. 1603, 1721.)

§ 2883a. Funds for housing allowances of members of the armed forces assigned to certain military family housing units

(a) Authority to transfer funds to cover housing allowances. During the fiscal year in which a contract is awarded for the acquisition or construction of military family housing units under this subchapter that are not to be owned by the United States, the Secretary of Defense may transfer the amount determined under subsection (b) with respect to such housing from appropriations available for support of military housing for the armed force concerned for that fiscal year to appropriations available for pay and allowances of military personnel of that same armed force for that same fiscal year.

(b) Amount transferred. The total amount authorized to be transferred under subsection (a) in connection with a contract under this subchapter may not exceed an amount equal to any additional amounts payable during the fiscal year in which the contract is awarded to members of the armed forces assigned to the acquired or constructed housing units as basic allowance for housing under section 403 of title 37 that would not otherwise have been payable to such members if not for assignment to such housing units.

(c) Transfers subject to appropriations. The transfer of funds under the authority of subsection (a) is limited to such amounts as may be provided in advance in appropriations Acts.

HISTORY: (Added Dec. 28, 2001, P.L. 107-107, Div B, Title XXVIII, Subtitle A, § 2804(a), 115 Stat. 1305.)

§ 2884. Reports

(a) Project reports.

(1) The Secretary of Defense shall transmit to the appropriate committees of Congress a report describing--

(A) each contract for the acquisition or construction of family housing units or unaccompanied housing units that the Secretary proposes to solicit under this subchapter [*10 USCS § § 2871 et seq.*]; and

(B) each conveyance or lease proposed under section 2878 of this title.

(2) For each proposed contract, conveyance, or lease described in paragraph (1), the report required by such paragraph shall include the following:

(A) A description of the contract, conveyance, or lease, including a summary of the terms of the contract, conveyance, or lease.

(B) A description of the authorities to be utilized in entering into the contract, conveyance, or lease and the intended method of participation of the United States in the contract, conveyance, or lease, including a justification of the intended method of participation.

(C) A statement of the scored cost of the contract, conveyance, or lease, as determined by the Office of Management and Budget.

(D) A statement of the United States funds required for the contract, conveyance, or lease and a description of the source of such funds.

(E) An economic assessment of the life cycle costs of the contract, conveyance, or lease, including an estimate of the amount of United States funds that would be paid over the life of the contract, conveyance, or lease from amounts derived from payments of government allowances, including the basic allowance for housing under section 403 of title 37, if the housing affected by the project were fully occupied by military personnel over the life of the contract, conveyance, or lease.

(3) (A) In the case of a contract described in paragraph (1) proposed to be entered into with a private party, the report shall specify whether the contract will or may include a guarantee (including the making of mortgage or rental payments) by the Secretary to the private party in the event of--

(i) the closure or realignment of the installation for which housing will be provided under the contract;

(ii) a reduction in force of units stationed at such installation; or

(iii) the extended deployment of units stationed at such installation.

(B) If the contract will or may include such a guarantee, the report shall also--

(i) describe the nature of the guarantee; and

(ii) assess the extent and likelihood, if any, of the liability of the United States with respect to the guarantee.

(4) The report shall be submitted not later than 30 days before the date on which the Secretary issues the contract solicitation or offers the conveyance or lease.

(b) Annual reports. The Secretary of Defense shall include each year in the materials that the Secretary submits to Congress in support of the budget submitted by the President pursuant to section 1105 of title 31 the following:

(1) A report on the expenditures and receipts during the preceding fiscal year covering the Funds established under section 2883 of this title.

(2) A methodology for evaluating the extent and effectiveness of the use of the authorities under this subchapter [*10 USCS § § 2871 et seq.*] during such preceding fiscal year, and such recommendations as the Secretary considers necessary for improving the extent and effectiveness of the use of such authorities in the future.

(3) A review of activities of the Secretary under this subchapter [*10 USCS § § 2871 et seq.*] during such preceding fiscal year, shown for military family housing, military unaccompanied housing, dual military family housing and military unaccompanied housing, and ancillary supporting facilities.

(4) If a contract for the acquisition or construction of military family housing, military unaccompanied housing, or dual military family housing and military unaccompanied housing entered into during the preceding fiscal year did not include the acquisition or construction of the types of ancillary supporting facilities specifically referred to in section 2871(1) of this title, a explanation of the reasons why such ancillary supporting facilities were not included.

(5) A report setting forth, by armed force—(A) an estimate of the amounts of basic allowance for housing under section 403 of title 37 that will be paid, during the current fiscal year and the fiscal year for which the budget is submitted, to members of the armed forces living in housing provided under the authorities in this subchapter; and

(B) the number of units of military family housing and military unaccompanied housing upon which the estimate under subparagraph (A) for the current fiscal year and the next fiscal year is based.

(6) A description of the Secretary's plans for housing privatization activities under this subchapter: (A) during the fiscal year for which the budget is submitted; and (B) during the period covered by the then-current future-years defense plan under section 221 of this title.

HISTORY: (Added Feb. 10, 1996, P.L. 104-106, Div B, Title XXVIII, Subtitle A, § 2801(a)(1), 110 Stat. 550.)

(As amended Nov. 24, 2003, P.L. 108-136, Div B, Title XXVIII, Subtitle A, § 2807, 117 Stat. 1722.)