§ 2853. Authorized cost and scope of work variations

(a) Except as provided in subsection (c) or (d), 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 amount appropriated for such project or 200 percent of the minor construction project ceiling specified in section 2805 (a), 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 approved originally by Congress.

(b) (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 acquisition.

(2) The scope of work for a military construction project or for the construction, improvement, and acquisition of a military family housing project may not be increased above 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 acquisition.

(c) The limitation on cost variations in subsection (a) or the limitation on scope reduction in subsection (b)(1) does not apply if the variation in cost or reduction in the scope of work is approved by the Secretary concerned and—

(1) in the case of a cost increase or a reduction in the scope of work—

(A) the Secretary concerned notifies the appropriate committees of Congress in writing of the cost increase or reduction in scope and the reasons therefor, including a description of the funds proposed to be used to finance any increased costs; and

(B) a period of 21 days has elapsed after the date on which the notification is received by the committees or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title; or

(2) in the case of a cost decrease, the Secretary concerned notifies the appropriate committees of Congress in writing not later than 14 days after the date funds are obligated in connection with the military construction project or military family housing project.

(d) The limitation on cost variations in subsection (a) does not apply to the following:

(1) The settlement of a contractor claim under a contract.

(2) The costs associated with the required remediation of an environmental hazard in connection with a military construction project or military family housing project, such as asbestos removal, radon abatement, lead-based paint removal or abatement, or any other legally required environmental hazard remediation, if the required remediation could not have reasonably been anticipated at the time the project was approved originally by Congress.

Amendments

2011—Subsec. (a). Pub. L. 112–81 substituted “section 2805 (a)” for “section 2805 (a)(1)”.

2009—Subsec. (b). Pub. L. 111–84, § 2803(1), designated existing provisions as par. (1), substituted “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 acquisition.” for “may be reduced by not more than 25 percent from the amount approved for that project, construction, improvement, or acquisition by Congress.”, and added par. (2).


Subsec. (a). Pub. L. 109–163, § 2804(a)(1), substituted “may be increased or decreased by not more than 25 percent” for “may be increased by not more than 25 percent” and “if the Secretary concerned determines that such revised cost is required” for “if the Secretary concerned determines that such an increase in cost is required.”.

Subsec. (c). Pub. L. 109–364 substituted “if the variation in cost or reduction in scope of work is approved by the Secretary concerned and—” for “if—” in introductory provisions, added pars. (1) and (2), and struck out former pars. (1) to (3) which read as follows:

“(1) the variation in cost or reduction in scope is approved by the Secretary concerned;

“(2) the Secretary concerned notifies the appropriate committees of Congress in writing of the variation or reduction and the reasons therefor, including a description of the funds proposed to be used to finance any increased costs; and

“(3) a period of 21 days has elapsed after the date on which the notification is received by the committees or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.”

Pub. L. 109–163, § 2804(a)(2), (b), substituted “limitation on cost variations” for “limitation on cost increase” in introductory provisions, “the variation” for “the increase” in pars. (1) and (2), and inserted “, including a description of the funds proposed to be used to finance any increased costs” after “the reasons therefor” in par. (2).


2004—Subsec. (c)(3). Pub. L. 108–375 inserted before period at end “or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title’’.

2001—Subsec. (d). Pub. L. 107–107 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows:

“The limitation on cost increases in subsection (a) does not apply to the settlement of a contractor claim under a contract.”

1996—Subsec. (d). Pub. L. 104–106 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows:

“The limitation on cost increases in subsection (a) does not apply to a within-scope modification to a contract or to the settlement of a contractor claim under a contract if the increase in cost is approved by the Secretary concerned, and the Secretary concerned promptly submits written notification of the facts relating to the proposed increase in cost to the appropriate committees of Congress.”

1989—Pub. L. 101–189 amended section generally, substituting subssecs. (a) to (d) for former subssecs. (a) to (f).

1987—Subsec. (a)(1). Pub. L. 100–180, § 2312, substituted “Except as provided in paragraph (2), the total cost authorized for military construction projects at an installation (including each project the cost of which is included in such total authorized cost and is less than the minor project ceiling) may be increased by not more than 25 percent of the total amount appropriated for such projects” for “Except as provided in paragraph (2), the cost authorized for a military construction project (other than a project for which the approved amount is less than the minor project ceiling as defined in subsection (f))) may be increased by not more than 25 percent of the amount appropriated for the project”.

Pub. L. 100–26, § 7(f)(2)(A), substituted “the minor project ceiling (as defined in subsection (f))” for “the amount specified by law as the maximum amount for a minor military construction project”.

Pub. L. 100–26, § 7(f)(2)(B), substituted “the minor project ceiling” for “the amount specified by law as the maximum amount for a minor military construction project”.

Subsec. (a)(2). Pub. L. 100–26, § 7(f)(2)(B), substituted “the minor project ceiling” for “the amount specified by law as the maximum amount for a minor military construction project” in two places.

Subsec. (b). Pub. L. 100–26, § 7(f)(2)(B), (C), substituted “the minor project ceiling” for “the amount specified by law as the maximum amount for a minor military construction project” and “the amount of such ceiling” for “such maximum amount” in two places.


Subsec. (e). Pub. L. 100–26, § 7(f)(2)(B), substituted “the minor project ceiling” for “the amount specified by law as the maximum amount for a minor military construction project”.


1984—Subsec. (e). Pub. L. 98–407 inserted “is more than the amount specified by law as the maximum amount for a minor military construction project and”.

**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.