

would occur during the term of the contract as the result of the availability of generic equivalents increasing during the term of the contract.

(b)(1) A multiyear contract authorized by this section shall contain—

(A) a provision that the obligation of the United States under the contract during any fiscal year which is included in the contract period and is subsequent to the fiscal year during which the contract is entered into is contingent on the availability of sufficient appropriations (as determined by the Secretary pursuant to paragraph (2)(A) of this subsection) if, at the time the contract is entered into, appropriations are not available to cover the total estimated payments that will be required during the full term of the contract; and

(B) notwithstanding section 1502(a) of title 31, a provision for the payment of reasonable cancellation charges to compensate the contractor for nonrecurring, unrecovered costs, if any, if the performance is cancelled pursuant to the provision required by subparagraph (A) of this paragraph.

(2)(A) If, during a fiscal year after the fiscal year during which a multiyear contract is entered into under this section, the Secretary determines that, in light of other funding needs involved in the operation of Department programs, the amount of funds appropriated for such subsequent fiscal year is not sufficient for such contract, the Secretary shall cancel such contract pursuant to the provisions required by paragraph (1)(A) of this subsection.

(B) Cancellation charges under a multiyear contract shall be paid from the appropriated funds which were originally available for performance of the contract or the payment of cancellation costs unless such funds are not available in an amount sufficient to pay the entire amount of the cancellation charges payable under the contract. In a case in which such funds are not available in such amount, funds available for the procurement of supplies and services for use for the same purposes as the supplies or services procured through such contract shall be used to the extent necessary to pay such cost.

(c) Nothing in this section shall be construed so as to restrict the Secretary's exercise of the right to terminate for convenience a contract under any other provision of law which authorizes multiyear contracting.

(d) The Secretary shall prescribe regulations for the implementation of this section.

(e) For the purposes of this section:

(1) The term "appropriations" has the meaning given that term in section 1511 of title 31.

(2) The term "multiyear contract" means a contract which by its terms is to remain in effect for a period which extends beyond the end of the fiscal year during which the contract is entered into but not beyond the end of the fourth fiscal year following such fiscal year. Such term does not include a contract for construction or for a lease of real property.

(3) The term "nonrecurring, unrecovered costs" means those costs reasonably incurred

by the contractor in performing a multiyear contract which (as determined under regulations prescribed under subsection (d) of this section) are generally incurred on a one-time basis.

(Added Pub. L. 100-322, title IV, § 404(a), May 20, 1988, 102 Stat. 545; amended Pub. L. 101-237, title VI, § 601(a), (b)(1), Dec. 18, 1989, 103 Stat. 2094; Pub. L. 102-83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places in introductory provisions.

Subsec. (a)(2)(B). Pub. L. 102-83, § 4(a)(3), (4), substituted "Department" for "Veterans' Administration".

Subsec. (b)(1)(A). Pub. L. 102-83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

Subsec. (b)(2)(A). Pub. L. 102-83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places.

Pub. L. 102-83, § 4(a)(3), (4), substituted "Department" for "Veterans' Administration".

Subsec. (c). Pub. L. 102-83, § 4(b)(1), (2)(E), substituted "Secretary's" for "Administrator's".

Subsec. (d). Pub. L. 102-83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

1989—Pub. L. 101-237, § 601(b)(1), struck out "for certain medical items" after "Multiyear procurement" in section catchline.

Subsec. (a). Pub. L. 101-237, § 601(a)(1), struck out "for use in Veterans' Administration health-care facilities" after "supplies or services".

Subsec. (b)(2)(A). Pub. L. 101-237, § 601(a)(2), struck out "health-care" before "programs, the amount".

Subsec. (e)(2) to (4). Pub. L. 101-237, § 601(a)(3), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which read as follows: "The term 'cancel' or 'cancellation' refers to the termination of a contract by the Administrator as required under paragraph (2)(B)(i) of this subsection."

§ 115. Acquisition of real property

For the purposes of sections 314, 315, 316, and 2406 of this title and subchapter I of chapter 81 of this title, the Secretary may acquire and use real property—

(1) before title to the property is approved under section 3111 of title 40; and

(2) even though the property will be held in other than a fee simple interest in a case in which the Secretary determines that the interest to be acquired is sufficient for the purposes of the intended use.

(Added Pub. L. 102-86, title IV, § 402(a), Aug. 14, 1991, 105 Stat. 422; amended Pub. L. 102-83, § 5(c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103-446, title XII, § 1201(d)(1), Nov. 2, 1994, 108 Stat. 4684; Pub. L. 107-217, § 3(j)(1), Aug. 21, 2002, 116 Stat. 1300.)

AMENDMENTS

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

1994—Pub. L. 103-446 substituted "sections 314, 315, 316," for "sections 230" in introductory provisions.

1991—Pub. L. 102-83 substituted "2406" for "1006" in introductory provisions.

§ 116. Reports to Congress: cost information

Whenever the Secretary submits to Congress, or any committee of Congress, a report that is

required by law or by a joint explanatory statement of a committee of conference of the Congress, the Secretary shall include with the report—

- (1) a statement of the cost of preparing the report; and
- (2) a brief explanation of the methodology used in preparing that cost statement.

(Added Pub. L. 106-419, title IV, § 403(d)(1)(A), Nov. 1, 2000, 114 Stat. 1864.)

EFFECTIVE DATE

Pub. L. 106-419, title IV, § 403(d)(2), Nov. 1, 2000, 114 Stat. 1864, provided that: "Section 116 of title 38, United States Code, as added by paragraph (1) of this subsection, shall apply with respect to any report submitted by the Secretary of Veterans Affairs after the end of the 90-day period beginning on the date of the enactment of this Act [Nov. 1, 2000]."

CHAPTER 3—DEPARTMENT OF VETERANS AFFAIRS

Sec.	
301.	Department.
302.	Seal.
303.	Secretary of Veterans Affairs.
304.	Deputy Secretary of Veterans Affairs.
305.	Under Secretary for Health.
306.	Under Secretary for Benefits.
307.	Under Secretary for Memorial Affairs.
308.	Assistant Secretaries; Deputy Assistant Secretaries.
309.	Chief Financial Officer.
310.	Chief Information Officer.
311.	General Counsel.
312.	Inspector General.
313.	Availability of appropriations.
314.	Central Office.
315.	Regional offices.
316.	Colocation of regional offices and medical centers.
317.	Center for Minority Veterans.
318.	Center for Women Veterans.
319.	Office of Employment Discrimination Complaint Adjudication.

PRIOR PROVISIONS

Prior chapter 3, consisted of sections 201 to 203, 210 to 224, 230, 231, 233 to 236, and 240 to 246, prior to repeal by Pub. L. 102-83, § 2(a), Aug. 6, 1991, 105 Stat. 378.

Section 201, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1114, established Veterans' Administration as an independent agency in executive branch of Government. See section 301 of this title.

Section 202, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1114, related to seal of Veterans' Administration and authentication of records of Veterans' Administration. See section 302 of this title.

Section 203, added Pub. L. 94-424, § 2(a), Sept. 28, 1976, 90 Stat. 1332; amended Pub. L. 97-258, § 2(j), Sept. 13, 1982, 96 Stat. 1062; Pub. L. 98-160, title VII, § 702(1), Nov. 21, 1983, 97 Stat. 1009, related to availability of appropriations. See section 313 of this title.

Section 210, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1114; Pub. L. 88-426, title III, § 305(15), Aug. 14, 1964, 78 Stat. 424; Pub. L. 89-361, § 1(a), (b), Mar. 7, 1966, 80 Stat. 29; Pub. L. 89-785, title III, § 301, Nov. 7, 1966, 80 Stat. 1376; Pub. L. 92-328, title II, § 201, June 30, 1972, 86 Stat. 396; Pub. L. 95-202, title III, § 301, Nov. 23, 1977, 91 Stat. 1440; Pub. L. 96-22, title V, § 502(a), June 13, 1979, 93 Stat. 64; Pub. L. 97-66, title VI, § 601(a)(1), Oct. 17, 1981, 95 Stat. 1033; Pub. L. 97-452, § 2(e)(1), Jan. 12, 1983, 96 Stat. 2478; Pub. L. 99-166, title IV, § 403(a), Dec. 3, 1985, 99 Stat. 957; Pub. L. 99-576, title V, § 501, title VII, § 701(9), Oct. 28, 1986, 100 Stat. 3285, 3291; Pub. L. 100-527, § 15(a), Oct. 5, 1988, 102 Stat. 2644; Pub. L. 102-40, title III, § 303, May 7, 1991, 105 Stat. 208, related to appointment and general

authority of Administrator and Deputy Administrator. See sections 303, 304, 501, 503, 510, and 711 of this title.

Section 211, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1115; Pub. L. 89-214, § 1(b), Sept. 29, 1965, 79 Stat. 886; Pub. L. 89-358, § 4(h), Mar. 3, 1966, 80 Stat. 24; Pub. L. 91-376, § 8(a), Aug. 12, 1970, 84 Stat. 790; Pub. L. 100-687, div. A, title I, § 101(a), Nov. 18, 1988, 102 Stat. 4105, related to decisions of Administrator and opinions of Attorney General. See sections 505 and 511 of this title.

Section 212, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1115; Pub. L. 89-361, § 2, Mar. 7, 1966, 80 Stat. 30; Pub. L. 99-576, title VII, § 701(10), Oct. 28, 1986, 100 Stat. 3291, related to delegation of authority and assignment of duties. See section 512 of this title.

Section 213, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1115; Pub. L. 89-785, title III, § 302, Nov. 7, 1966, 80 Stat. 1376; Pub. L. 91-24, § 2(c), June 11, 1969, 83 Stat. 33; Pub. L. 99-576, title VII, § 701(11), Oct. 28, 1986, 100 Stat. 3291, related to contracts and acceptance of personal services. See section 513 of this title.

Section 214, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1115, required an annual report to Congress by Administrator. See section 529 of this title.

Section 215, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1115; Pub. L. 99-576, title VII, § 701(10), Oct. 28, 1986, 100 Stat. 3291, related to publication of laws relating to veterans. See section 525 of this title.

Section 216, added Pub. L. 100-322, title I, § 132(a), May 20, 1988, 102 Stat. 506; amended Pub. L. 102-40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239, related to assistance to certain rehabilitation activities. See section 521 of this title.

Another prior section 216, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1116; Pub. L. 87-572, Aug. 6, 1962, 76 Stat. 307; Pub. L. 88-433, § 1(a)-(c), Aug. 14, 1964, 78 Stat. 441, 442; Pub. L. 89-705, § 1, Nov. 2, 1966, 80 Stat. 1099, which directed Administrator to conduct research in field of prosthetic appliances, prosthesis, orthopedic appliances, and sensory devices, was repealed by Pub. L. 94-581, title II, § 205(c)(1), Oct. 21, 1976, 90 Stat. 2859. See section 7303 of this title.

Section 217, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1116; Pub. L. 99-576, title VII, § 701(10), Oct. 28, 1986, 100 Stat. 3291, related to studies of rehabilitation of disabled persons. See section 522 of this title.

Section 218, added Pub. L. 93-43, § 4(a), June 18, 1973, 87 Stat. 79; amended Pub. L. 98-528, title I, § 101(a)(1), Oct. 19, 1984, 98 Stat. 2686; Pub. L. 99-576, title II, § 211, Oct. 28, 1986, 100 Stat. 3257, related to security and law enforcement on property under jurisdiction of Veterans' Administration. See section 901 et seq. of this title.

Section 219, added Pub. L. 93-508, title II, § 213(a), Dec. 3, 1974, 88 Stat. 1586; amended Pub. L. 99-576, title VII, § 701(12), Oct. 28, 1986, 100 Stat. 3291, related to evaluation of programs and collection of data. See section 527 of this title.

Section 220, added Pub. L. 93-508, title II, § 213(a), Dec. 3, 1974, 88 Stat. 1587; amended Pub. L. 96-466, title VII, § 701(a), (b)(1), Oct. 17, 1980, 94 Stat. 2215; Pub. L. 98-528, title I, § 106(a), (b)(1), Oct. 19, 1984, 98 Stat. 2690, related to coordination and promotion of other programs affecting veterans and their dependents. See section 523 of this title.

Section 221, added Pub. L. 97-37, § 2(a), Aug. 14, 1981, 95 Stat. 935, established Advisory Committee on Former Prisoners of War. See section 541 of this title.

Section 222, added Pub. L. 98-160, title III, § 301(a), Nov. 21, 1983, 97 Stat. 1003, established Advisory Committee on Women Veterans. See section 542 of this title.

Section 223, added Pub. L. 100-687, div. A, title I, § 102(a)(1), Nov. 18, 1988, 102 Stat. 4106, related to rule-making procedures and judicial review. See sections 501 and 502 of this title.

Section 224, added Pub. L. 100-322, title II, § 203(b)(1), May 20, 1988, 102 Stat. 509, § 223; renumbered § 224, Pub. L. 101-94, title III, § 302(d)(1), Aug. 16, 1989, 103 Stat. 628, related to administrative settlement of tort claims. See section 515 of this title.