then the contract may be awarded without including the reimbursement provision required by subsection (a).

(d) DEFINITIONS.—In this section:

(1) The term ''hazardous waste'' has the meaning given that term by section 1004(5) of the Solid Waste Disposal Act (42 U.S.C. 6903(5)), except that such term also includes polychlorinated biphenyls.

(2) The term ''remedial action'' has the meaning given that term by section 101(24) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(24)).

(3) The term ''corrective action'' has the meaning given that term under section 3004(u) of the Solid Waste Disposal Act (42 U.S.C. 6924(u)).

(4) The term ''polychlorinated biphenyls'' has the meaning given that term under section 6(e) of the Toxic Substances Control Act (15 U.S.C. 2605(e)).

(e) EFFECT ON LIABILITY.—Nothing in this section shall affect the liability of the Federal Government under any Federal or State law or under common law.

(Added Pub. L. 102–190, div. A, title III, § 331(a)(1), Dec. 5, 1991, 105 Stat. 1339; amended Pub. L. 102–484, div. A, title III, § 321, title X, § 1052(36), Oct. 23, 1992, 106 Stat. 2365, 2501; Pub. L. 103–160, div. A, title X, § 1004, Nov. 30, 1993, 107 Stat. 1748.)

REFERENCES IN TEXT

The Solid Waste Disposal Act, referred to in subsec. (c)(2), is title II of Pub. L. 89–272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94–580, § 2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§ 6901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 42 and Tables.

AMENDMENTS

1993—Subsec. (b)(1). Pub. L. 103–160 substituted ''fiscal years 1992 through 1996'' for ''fiscal years 1992 and 1993''.

1992—Subsec. (b)(1). Pub. L. 102–484, § 1052(36)(A), substituted ''each contract'' for ''all contracts'' and ''any subcontract under any such contract'' for ''all subcontracts under such contracts''.

Pub. L. 102–484, § 321, substituted ''fiscal years 1992 and 1993'' for ''fiscal year 1992''.

Subsec. (d). Pub. L. 102–484, § 1052(36)(B), substituted ''In'' for ''For purposes of'' in introductory provisions.

EFFECTIVE DATE

Section 331(b) of Pub. L. 102–190 provided that: ''Section 2708 of title 10, United States Code, shall apply with respect to contracts entered into after the expiration of the 60-day period beginning on the date of the enactment of this Act [Dec. 5, 1991].''

§ 2709. Investment control process for environmental technologies

(a) INVESTMENT CONTROL PROCESS.—The Secretary of Defense shall ensure that the technology planning process developed to implement section 2501 of this title and section 270(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2469) provides for an investment control process for the selection, prioritization, management, and evaluation of environmental technologies by the Department of Defense, the military departments, and the Defense Agencies.

(b) PLANNING AND EVALUATION.—The environmental technology investment control process required by subsection (a) shall provide, at a minimum, for the following:

(1) The active participation by end-users of environmental technology, including the officials responsible for the environmental security programs of the Department of Defense and the military departments, in the selection and prioritization of environmental technologies.

(2) The development of measurable performance goals and objectives for the management and development of environmental technologies and specific mechanisms for assuring the achievement of the goals and objectives.

(3) Annual performance reviews to determine whether the goals and objectives have been achieved and to take appropriate action in the event that they are not achieved.

(Added Pub. L. 106–65, div. A, title III, § 323(b)(1), Oct. 5, 1999, 113 Stat. 562.)

REFERENCES IN TEXT

Section 270(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2469), referred to in subsec. (a), is set out as a note under section 2501 of this title.

PURPOSES OF SECTION 323 OF PUB. L. 106–65

Pub. L. 106–65, div. A, title III, § 323(a), Oct. 5, 1999, 113 Stat. 562, provided that: ''The purposes of this section [enacting this section, amending section 2706 of this title, and enacting provisions set out as a note under section 2706 of this title] are—

''(1) to hold the Department of Defense and the military departments accountable for achieving performance-based results in the management of environmental technology by providing a connection between program direction and the achievement of specific performance-based results;

''(2) to assure the identification of end-user requirements for environmental technology within the military departments;

''(3) to assure results, quality of effort, and appropriate levels of service and support for end-users of environmental technology within the military departments; and

''(4) to promote improvement in the performance of environmental technologies by establishing objectives for environmental technology programs, measuring performance against such objectives, and making public reports on the progress made in such performance.''

§ 2710. Inventory of unexploded ordnance, discarded military munitions, and munitions constituents at defense sites (other than operational ranges)

(a) INVENTORY REQUIRED.—(1) The Secretary of Defense shall develop and maintain an inventory of defense sites that are known or suspected to contain unexploded ordnance, discarded military munitions, or munitions constituents.

(2) The information in the inventory for each defense site shall include, at a minimum, the following:

(A) A unique identifier for the defense site.

(B) An appropriate record showing the location, boundaries, and extent of the defense

site, including identification of the State and political subdivisions of the State, including the county, where applicable, in which the defense site is located and any Tribal lands encompassed by the defense site.

(C) Known persons and entities, other than a military department, with any current ownership interest or control of lands encompassed by the defense site.

(D) Any restrictions or other land use controls currently in place at the defense site that might affect the potential for public and environmental exposure to the unexploded ordnance, discarded military munitions, or munitions constituents.

(b) SITE PRIORITIZATION.—(1) The Secretary shall develop, in consultation with representatives of the States and Indian Tribes, a proposed protocol for assigning to each defense site a relative priority for response activities related to unexploded ordnance, discarded military munitions, and munitions constituents based on the overall conditions at the defense site. After public notice and comment on the proposed protocol, the Secretary shall issue a final protocol and shall apply the protocol to defense sites listed on the inventory. The level of response priority assigned the site shall be included with the information required by subsection (a)(2).

(2) In assigning the response priority for a defense site on the inventory, the Secretary shall primarily consider factors relating to safety and environmental hazard potential, such as the following:

(A) Whether there are known, versus suspected, unexploded ordnance, discarded military munitions, or munitions constituents on all or any portion of the defense site and the types of unexploded ordnance, discarded military munitions, or munitions constituents present or suspected to be present.

(B) Whether public access to the defense site is controlled, and the effectiveness of these controls.

(C) The potential for direct human contact with unexploded ordnance, discarded military munitions, or munitions constituents at the defense site and evidence of people entering the site.

(D) Whether a response action has been or is being undertaken at the defense site under the Formerly Used Defense Sites program or other program.

(E) The planned or mandated dates for transfer of the defense site from military control.

(F) The extent of any documented incidents involving unexploded ordnance, discarded military munitions, or munitions constituents at or from the defense site, including incidents involving explosions, discoveries, injuries, reports, and investigations.

(G) The potential for drinking water contamination or the release of munitions constituents into the air.

(H) The potential for destruction of sensitive ecosystems and damage to natural resources.

(3) The priority assigned to a defense site included on the inventory shall not impair, alter, or diminish any applicable Federal or State authority to establish requirements for the investigation of, and response to, environmental problems at the defense site.

(c) UPDATES AND AVAILABILITY.—(1) The Secretary shall annually update the inventory and site prioritization list to reflect new information that becomes available. The inventory shall be available in published and electronic form.

(2) The Secretary shall work with communities adjacent to a defense site to provide information concerning conditions at the site and response activities. At a minimum, the Secretary shall provide the site inventory information and site prioritization list to appropriate Federal, State, tribal, and local officials, and, to the extent the Secretary considers appropriate, to civil defense or emergency management agencies and the public.

(d) EXCEPTIONS.—This section does not apply to the following:

(1) Any locations outside the United States.

(2) The presence of military munitions resulting from combat operations.

(3) Operating storage and manufacturing facilities.

(4) Operational ranges.

(e) DEFINITIONS.—In this section:

(1) The term ''defense site'' applies to locations that are or were owned by, leased to, or otherwise possessed or used by the Department of Defense. The term does not include any operational range, operating storage or manufacturing facility, or facility that is used for or was permitted for the treatment or disposal of military munitions.

(2) The term ''discarded military munitions'' means military munitions that have been abandoned without proper disposal or removed from storage in a military magazine or other storage area for the purpose of disposal. The term does not include unexploded ordnance, military munitions that are being held for future use or planned disposal, or military munitions that have been properly disposed of, consistent with applicable environmental laws and regulations.

(3) The term ''munitions constituents'' means any materials originating from unexploded ordnance, discarded military munitions, or other military munitions, including explosive and nonexplosive materials, and emission, degradation, or breakdown elements of such ordnance or munitions.

(4) The term ''possessions'' includes Johnston Atoll, Kingman Reef, Midway Island, Nassau Island, Palmyra Island, and Wake Island.

(5) The term ''Secretary'' means the Secretary of Defense.

(6) The term ''State'' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions.

(7) The term ''United States'', in a geographic sense, means the States, territories, and possessions and associated navigable waters, contiguous zones, and ocean waters of which the natural resources are under the exclusive management authority of the United States.

(Added Pub. L. 107–107, div. A, title III, §311(a)(1), Dec. 28, 2001, 115 Stat. 1048; amended

Pub. L. 108–136, div. A, title X, § 1042(b), Nov. 24, 2003, 117 Stat. 1610; Pub. L. 111–84, div. A, title III, § 318(a), Oct. 28, 2009, 123 Stat. 2250.)

AMENDMENTS

2009—Subsec. (a)(2)(B). Pub. L. 111–84 inserted ‘‘, including the county, where applicable,’’ after ‘‘political subdivisions of the State’’.

2003—Subsec. (e). Pub. L. 108–136 redesignated pars. (4), (6), (7), (8), and (10) as (3) to (7), respectively, and struck out former pars. (3), (5), and (9) which defined terms ‘‘military munitions’’, ‘‘operational range’’, and ‘‘unexploded ordnance’’, respectively.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EXPEDITED USE OF APPROPRIATE TECHNOLOGY RELATED TO UNEXPLODED ORDNANCE DETECTION

Pub. L. 110–417, [div. A], title III, § 314, Oct. 14, 2008, 122 Stat. 4410, as amended by Pub. L. 111–84, div. A, title X, § 1073(c)(1), Oct. 28, 2009, 123 Stat. 2474, provided that:

‘‘(a) EXPEDITED USE OF APPROPRIATE TECHNOLOGIES.—The Secretary of Defense shall expedite the use of appropriate unexploded ordnance detection instrument technology developed through research funded by the Department of Defense or developed by entities other than the Department of Defense.

‘‘(b) REPORT.—Not later than October 1, 2009, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report describing and evaluating the following:

‘‘(1) The amounts allocated for research, development, test, and evaluation for unexploded ordnance detection technologies.

‘‘(2) The amounts allocated for transition of new unexploded ordnance detection technologies.

‘‘(3) Activities undertaken by the Department to transition such technologies and train operators on emerging detection instrument technologies.

‘‘(4) Any impediments to the transition of new unexploded ordnance detection instrument technologies to regular operation in remediation programs.

‘‘(5) The transfer of such technologies to private sector entities involved in the detection of unexploded ordnance.

‘‘(6) Activities undertaken by the Department to raise public awareness regarding unexploded ordnance.

‘‘(c) UNEXPLODED ORDNANCE DEFINED.—In this section, the term ‘unexploded ordnance’ has the meaning given such term in section 101(e)(5) of title 10, United States Code.’’

[Pub. L. 111–84, div. A, title X, § 1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(1) to section 314 of Pub. L. 110–417, set out above, is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 therein as enacted.]

RESPONSE PLAN FOR REMEDIATION OF UNEXPLODED ORDNANCE, DISCARDED MILITARY MUNITIONS, AND MUNITIONS CONSTITUENTS

Pub. L. 109–364, div. A, title III, § 313(a)–(d), Oct. 17, 2006, 120 Stat. 2138, 2139, provided that:

‘‘(a) PERFORMANCE GOALS FOR REMEDIATION.—The Secretary of Defense shall set the following remediation goals with regard to unexploded ordnance, discarded military munitions, and munitions constituents:

‘‘(1) To complete, by not later than September 30, 2007, preliminary assessments of unexploded ordnance, discarded military munitions, and munitions constituents at all active installations and formerly used defense sites (other than operational ranges).

‘‘(2) To complete, by not later than September 30, 2010, site inspections of unexploded ordnance, discarded military munitions, and munitions constituents at all active installations and formerly used defense sites (other than operational ranges).

‘‘(3) To achieve, by not later than September 30, 2009, a remedy in place or response complete for unexploded ordnance, discarded military munitions, and munitions constituents at all military installations closed or realigned as part of a round of defense base closure and realignment occurring prior to the 2005 round.

‘‘(4) To achieve, by a date certain established by the Secretary of Defense, a remedy in place or response complete for unexploded ordnance, discarded military munitions, and munitions constituents at all active installations and formerly used defense sites (other than operational ranges) and all military installations realigned or closed under the 2005 round of defense base closure and realignment.

‘‘(b) RESPONSE PLAN REQUIRED.—

‘‘(1) IN GENERAL.—Not later than March 1, 2007, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a comprehensive plan for addressing the remediation of unexploded ordnance, discarded military munitions, and munitions constituents at current and former defense sites (other than operational ranges).

‘‘(2) CONTENT.—The plan required by paragraph (1) shall include—

‘‘(A) a schedule, including interim goals, for achieving the goals described in paragraphs (1) through (3) of subsection (a), based upon the Munitions Response Site Prioritization Protocol established by the Department of Defense;

‘‘(B) such interim goals as the Secretary determines feasible for efficiently achieving the goal required under paragraph (4) of such subsection; and

‘‘(C) an estimate of the funding required to achieve the goals established pursuant to such subsection and the interim goals established pursuant to subparagraphs (A) and (B).

‘‘(3) UPDATES.—Not later than March 15 of 2008, 2009, and 2010, the Secretary shall submit to the congressional defense committees an update of the plan required under paragraph (1). The Secretary may include the update in the report on environmental restoration activities that is submitted to Congress under section 2706(a) of title 10, United States Code, in the year in which that update is required and may include in the update any adjustment to the remediation goals established under subsection (a) that the Secretary determines necessary to respond to unforeseen circumstances.

‘‘(c) REPORT ON REUSE STANDARDS AND PRINCIPLES.—Not later than March 1, 2007, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the status of the efforts of the Department of Defense to achieve agreement with relevant regulatory agencies on appropriate reuse standards or principles, including—

‘‘(1) a description of any standards or principles that have been agreed upon; and

‘‘(2) a discussion of any issues that remain in disagreement, including the impact that any such disagreement is likely to have on the ability of the Department of Defense to carry out the response plan required by subsection (b).

‘‘(d) DEFINITIONS.—In this section:

‘‘(1) The terms ‘unexploded ordnance’ and ‘operational range’ have the meanings given such terms in section 101(e) of title 10, United States Code.

''(2) The terms 'discarded military munitions', 'munitions constituents', and 'defense site' have the meanings given such terms in section 2710(e) of such title.''

RESEARCH ON EFFECTS OF OCEAN DISPOSAL OF MUNITIONS

Pub. L. 109–364, div. A, title III, §314, Oct. 17, 2006, 120 Stat. 2139, provided that:

''(a) IDENTIFICATION OF DISPOSAL SITES.—

''(1) HISTORICAL REVIEW.—The Secretary of Defense shall conduct a historical review of available records to determine the number, size, and probable locations of sites where the Armed Forces disposed of military munitions in coastal waters. The historical review shall, to the extent possible, identify the types of munitions at individual sites.

''(2) COOPERATION.—The Secretary shall request the assistance of the Coast Guard, the National Oceanic and Atmospheric Administration, and other relevant Federal agencies in conducting the review required by this subsection.

''(3) INTERIM REPORTS.—The Secretary shall periodically, but no less often than annually, release any new information obtained during the historical review conducted under paragraph (1). The Secretary may withhold from public release the exact nature and locations of munitions the potential unauthorized retrieval of which could pose a significant threat to the national defense or public safety.

''(4) INCLUSION OF INFORMATION IN ANNUAL REPORT ON ENVIRONMENTAL RESTORATION ACTIVITIES.—The Secretary shall include the information obtained pursuant to the review conducted under paragraph (1) in the annual report on environmental restoration activities submitted to Congress under section 2706 of title 10, United States Code.

''(5) FINAL REPORT.—The Secretary shall complete the historical review required under paragraph (1) and submit a final report on the findings of such review in the annual report on environmental restoration activities submitted to Congress for fiscal year 2009.

''(b) IDENTIFICATION OF NAVIGATIONAL AND SAFETY HAZARDS.—

''(1) IDENTIFICATION OF HAZARDS.—The Secretary of Defense shall provide available information to the Secretary of Commerce to assist the National Oceanic and Atmospheric Administration in preparing nautical charts and other navigational materials for coastal waters that identify known or potential hazards posed by disposed military munitions to private activities, including commercial shipping and fishing operations.

''(2) CONTINUATION OF INFORMATION ACTIVITIES.—The Secretary of Defense shall continue activities to inform potentially affected users of the ocean environment, particularly fishing operations, of the possible hazards from contact with disposed military munitions and the proper methods to mitigate such hazards.

''(c) RESEARCH.—

''(1) IN GENERAL.—The Secretary of Defense shall continue to conduct research on the effects on the ocean environment and those who use it of military munitions disposed of in coastal waters.

''(2) SCOPE.—Research under paragraph (1) shall include—

''(A) the sampling and analysis of ocean waters and sea beds at or adjacent to military munitions disposal sites selected pursuant to paragraph (3) to determine whether the disposed military munitions have caused or are causing contamination of such waters or sea beds;

''(B) investigation into the long-term effects of seawater exposure on disposed military munitions, particularly effects on chemical munitions;

''(C) investigation into the impacts any such contamination may have on the ocean environment and those who use it, including public health risks;

''(D) investigation into the feasibility of removing or otherwise remediating the military munitions; and

''(E) the development of effective safety measures for dealing with such military munitions.

''(3) RESEARCH CRITERIA.—In conducting the research required by this subsection, the Secretary shall ensure that the sampling, analysis, and investigations are conducted at representative sites, taking into account factors such as depth, water temperature, nature of the military munitions present, and relative proximity to onshore populations. In conducting such research, the Secretary shall select at least two representative sites each in the areas of the Atlantic coast, the Pacific coast (including Alaska), and the Hawaiian Islands.

''(4) AUTHORITY TO MAKE GRANTS AND ENTER INTO COOPERATIVE AGREEMENTS.—In conducting research under this subsection, the Secretary may make grants to, and enter into cooperative agreements with, qualified research entities.

''(d) MONITORING.—If the historical review required by subsection (a) or the research required by subsection (c) indicates that contamination is being released into the ocean waters from disposed military munitions at a particular site or that the site poses a significant public health or safety risk, the Secretary of Defense shall institute appropriate monitoring mechanisms at that site and report to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on any additional measures that may be necessary to address the release or risk, as applicable.

''(e) DEFINITIONS.—In this section:

''(1) The term 'coastal waters' means that part of the ocean extending from the coast line of the United States to the outer boundary of the outer Continental Shelf.

''(2) The term 'coast line' has the meaning given that term in section 2(c) of the Submerged Lands Act (43 U.S.C. 1301(c)).

''(3) The term 'military munitions' has the meaning given that term in section 101(e) of title 10, United States Code.

''(4) The term 'outer Continental Shelf' has the meaning given that term in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).''

INITIAL INVENTORY

Pub. L. 107–107, div. A, title III, §311(b), Dec. 28, 2001, 115 Stat. 1051, provided that: ''The requirements of section 2710 of title 10, United States Code, as added by subsection (a), shall be implemented as follows:

''(1) The initial inventory required by subsection (a) of such section shall be completed not later than May 31, 2003.

''(2) The proposed prioritization protocol required by subsection (b) of such section shall be available for public comment not later than November 30, 2002.''

CHAPTER 161—PROPERTY RECORDS AND REPORT OF THEFT OR LOSS OF CERTAIN PROPERTY

Sec.
2721. Property records: maintenance on quantitative and monetary basis.
2722. Theft or loss of ammunition, destructive devices, and explosives: report to Secretary of the Treasury.
2723. Notice to congressional committees of certain security and counterintelligence failures within defense programs.

AMENDMENTS

1999—Pub. L. 106–65, div. A, title X, §1042(b), Oct. 5, 1999, 113 Stat. 760, added item 2723.

1991—Pub. L. 102–190, div. A, title X, §1061(a)(17)(B), Dec. 5, 1991, 105 Stat. 1473, substituted ''Property