

TITLE 10. ARMED FORCES
SUBTITLE E. RESERVE COMPONENTS
PART V. SERVICE, SUPPLY, AND PROCUREMENT
CHAPTER 1803. FACILITIES FOR RESERVE COMPONENTS

10 USCS § 18240

§ 18240. Acquisition of facilities by exchange

(a) Exchange authority. In addition to the acquisition authority provided by section 18233 of this title [10 USCS § 18233], the Secretary of Defense may authorize the Secretary of a military department to acquire a facility, or addition to an existing facility, needed to satisfy military requirements for a reserve component by carrying out an exchange of an existing facility under the control of that Secretary through an agreement with an Executive agency (as defined in section 105 of title 5 [5 USCS § 105]), the United States Postal Service, or a State, local government, local authority, or private entity. The acquisition of a facility or an addition to an existing facility under this section may include the acquisition of utilities, equipment, and furnishings for the facility.

(b) Facilities eligible for exchange. Only a facility of a reserve component that is not excess property (as defined in section 102(3) of title 40) may be exchanged using the authority provided by this section.

(c) Equal value exchange. In any exchange carried out using the authority provided by this section, the value of the replacement facility or addition to an existing facility, including any utilities, equipment, and furnishings, to be acquired by the United States shall be at least equal to the fair market value of the facility conveyed by the United States under the agreement. If the values are unequal, the values may not be equalized by any payment of cash consideration by either party to the agreement.

(d) Requirements for replacement facilities. The Secretary of a military department may not accept a replacement facility, or addition to an existing facility, to be acquired by the United States in an exchange carried out using the authority provided by this section until that Secretary determines that the facility or addition--

- (1) is complete and usable, fully functional, and ready for occupancy;
- (2) satisfies all operational requirements; and
- (3) meets all applicable Federal, State, and local requirements relating to health, safety, fire, and the environment.

(e) Consultation requirements. The Secretary of a military department authorized to enter into an agreement under subsection (a) to convey an existing facility under the control of that Secretary by exchange shall consult with representatives of other reserve components to evaluate--

- (1) the value of using the facility to meet the military requirements of another reserve component, instead of conveying the facility under this section; and
- (2) the feasibility of using the conveyance of the facility to acquire a facility, or an addition to an existing facility, that would be jointly used by more than one reserve component or unit.

(f) Advance notice of proposed exchange.

(1) When a decision is made to enter into an agreement under subsection (a) to exchange a facility using the authority provided by this section, the Secretary of the military department authorized to enter into the agreement shall submit to the congressional defense committees a report on the proposed agreement. The report shall include the following:

(A) A description of the agreement, including the terms and conditions of the agreement, the parties to be involved in the agreement, the origin of the proposal that led to the agreement, the intended use of the facility to be conveyed by the United States under the agreement, and any costs to be incurred by the United States to make the exchange under the agreement.

(B) A description of the facility to be conveyed by the United States under the agreement, including the current condition and fair market value of the facility, and a description of the method by which the fair market value of the facility was determined.

(C) Information on the facility, or addition to an existing facility, to be acquired by the United States under the agreement and the intended use of the facility or addition, which shall meet requirements for information provided to Congress for military construction projects to obtain a similar facility or addition to an existing facility.

(D) A certification that the Secretary complied with the consultation requirements under subsection (e).

(E) A certification that the conveyance of the facility under the agreement is in the best interests of the United States and that the Secretary used competitive procedures to the maximum extent practicable to protect the interests of the United States.

(2) The agreement described in a report prepared under paragraph (1) may be entered into, and the exchange covered by the agreement made, only after the end of the 30-day period beginning on the date the report is received by the congressional defense committees or, if earlier, the end of the 21-day period beginning on the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this *title* [10 USCS § 480].

(3) Section 2662 of this *title* [10 USCS § 2662] shall not apply to an exchange carried out using the authority provided by this section.

(g) Relation to other military construction requirements. The acquisition of a facility, or an addition to an existing facility, using the authority provided by this section shall not be treated as a military construction project for which an authorization is required by section 2802 of this *title* [10 USCS § 2802].

HISTORY:

(Added Oct. 30, 2004, P.L. 108-375, Div B, Title XXVIII, Subtitle A, § 2809(a)(1), 118 Stat. 2125; Jan. 6, 2006, P.L. 109-163, Div B, Title XXVIII, Subtitle A, § 2808(a), 119 Stat. 3508; Jan. 28, 2008, P.L. 110-181, Div B, Title XXVIII, Subtitle A, § 2807, 122 Stat. 541.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Amendments:

2006. Act Jan. 6, 2006, in subsec. (a), added the sentence beginning "The acquisition . . ."; and, in subsec. (c), inserted "including any utilities, equipment, and furnishings, to be".

2008. Act Jan. 28, 2008, in subsec. (a), substituted "with an Executive agency (as defined in section 105 of title 5), the United States Postal Service, or a State" for "with a State".