

114<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3106

---

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10, 2016

Received; read twice and referred to the Committee on Veterans' Affairs

---

## AN ACT

To amend title 38, United States Code, to make certain improvements in the administration of Department medical facility construction projects.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Construction Reform  
3 Act of 2016”.

4 **SEC. 2. DEPARTMENT OF VETERANS AFFAIRS CONSTRU-**  
5 **CTION REFORMS.**

6 (a) APPLICATION OF INDUSTRY STANDARDS; ASSIST-  
7 ANCE.—Section 8103 of title 38, United States Code, is  
8 amended by adding at the end the following new sub-  
9 sections:

10 “(f) To the maximum extent practicable, the Sec-  
11 retary shall use industry standards, standard designs, and  
12 best practices in carrying out the construction of medical  
13 facilities.

14 “(g)(1) The Secretary shall provide to a non-Depart-  
15 ment Federal entity with which the Secretary has entered  
16 into an agreement under subsection (e)—

17 “(A) design, planning, and construction assist-  
18 ance before the entity issues a request for proposals  
19 for the design or construction of the super construc-  
20 tion project covered by the agreement;

21 “(B) any documents or information needed for  
22 the entity to carry out the responsibilities of the en-  
23 tity with respect to the super construction project;  
24 and

1           “(C) upon the request of the entity, any other  
2 assistance that the entity determines necessary to  
3 carry out such responsibilities.

4           “(2) Any assistance provided under paragraph (1)  
5 shall be provided to the non-Department Federal entity  
6 on a non-reimbursable basis.

7           “(h)(1) With respect to a proposed change to a con-  
8 tract entered into by a non-Department Federal entity  
9 with which the Secretary has entered into an agreement  
10 under subsection (e) that is estimated at a value of less  
11 than \$250,000, the non-Department Federal entity shall  
12 issue a final decision regarding such change not later than  
13 30 days after the date on which the change is proposed.

14           “(2) With respect to a proposed change to such a con-  
15 tract that is estimated at a value of \$250,000 or more—

16           “(A) the Secretary may provide to the entity  
17 the recommendations of the Secretary regarding  
18 such change;

19           “(B) during the 30-day period beginning on the  
20 date on which the entity furnishes to the Secretary  
21 information regarding such change, the Secretary  
22 may issue the final decision regarding such change;  
23 and

24           “(C) if the Secretary does not issue a final deci-  
25 sion under subparagraph (B), during the 30-day pe-

1       riod following the period described in such para-  
2       graph, the entity shall issue a final decision regard-  
3       ing such a change no later than 90 days from when  
4       the entity furnished information regarding such a  
5       change to the Secretary.

6       “(i) The Secretary shall ensure that each employee  
7       of the Department with responsibilities relating to the con-  
8       struction or alteration of medical facilities, including such  
9       construction or alteration carried out pursuant to con-  
10      tracts or agreements, undergoes a program of ongoing  
11      professional training and development. Such program  
12      shall be designed to ensure that employees maintain ade-  
13      quate expertise relating to industry standards and best  
14      practices for the acquisition of design and construction  
15      services. The Secretary may provide the program under  
16      this subsection through a contract or agreement with a  
17      non-Federal entity or with a non-Department Federal en-  
18      tity.”.

19       (b) LIMITATION ON PLANNING AND DESIGN FOR  
20      SUPER CONSTRUCTION PROJECTS.—

21               (1) IN GENERAL.—Section 8104(a) of title 38,  
22      United States Code, is amended—

23                       (A) by redesignating paragraph (3) as  
24                       paragraph (4);

1 (B) by inserting after paragraph (2) the  
2 following new paragraph (3):

3 “(3) The Secretary may not obligate or expend funds  
4 for advance planning or design for any super construction  
5 project, until the date that is 60 days after the date on  
6 which the Secretary submits to the Committee on Vet-  
7 erans’ Affairs and the Committee on Appropriations of the  
8 Senate and the Committee on Veterans’ Affairs and the  
9 Committee on Appropriations of the House of Representa-  
10 tives notice of such obligation or expenditure.”; and

11 (C) in paragraph (4), as redesignated by  
12 paragraph (1) of this subsection, by adding at  
13 the end the following new subparagraph:

14 “(C) The term ‘super construction project’  
15 means a project for the construction, alteration, or  
16 acquisition of a medical facility involving a total ex-  
17 penditure of more than \$100,000,000, but such term  
18 does not include an acquisition by exchange.”.

19 (2) APPLICABILITY.—The amendments made  
20 by paragraph (1) shall take effect on the date of the  
21 enactment of this Act and shall apply with respect  
22 to a construction project that is initiated on or after  
23 that date.

24 (c) CONGRESSIONAL APPROVAL OF CERTAIN  
25 PROJECTS.—

1           (1) PROJECTS THAT EXCEED SPECIFIED  
2           AMOUNT.—Subsection (c) of section 8104 of title 38,  
3           United States Code, is amended to read as follows:

4           “(c)(1) The Secretary may not obligate funds for a  
5           major medical facility project or a super construction  
6           project approved by a law described in subsection (a)(2)  
7           in an amount that would cause the total amount obligated  
8           for that project to exceed the amount specified in the law  
9           for that project (or would add to total obligations exceed-  
10          ing such specified amount) by more than 10 percent unless  
11          the Committee on Veterans’ Affairs and the Committee  
12          on Appropriations of the Senate and the Committee on  
13          Veterans’ Affairs and the Committee on Appropriations  
14          of the House of Representatives each approve in writing  
15          the obligation of those funds.

16          “(2) The Secretary shall—

17                 “(A) enter into a contract with an appropriate  
18                 non-department Federal entity with the ability to  
19                 conduct forensic audits on medical facility projects  
20                 for the conduct of an external forensic audit of the  
21                 expenditures relating to any major medical facility  
22                 or super construction project for which the total ex-  
23                 penditures exceed the amount specified in the law  
24                 for the project by more than 25 percent; and

1           “(B) enter into a contract with an appropriate  
2 non-department Federal entity with the ability to  
3 conduct forensic audits on medical facility projects  
4 for the conduct of an external audit of the medical  
5 center construction project in Aurora, Colorado.”.

6           (2) USE OF EXTRA AMOUNTS.—Subsection (d)  
7 of such section is amended—

8                   (A) in paragraph (2)(B), in the matter  
9 preceding clause (i), by striking “Whenever”  
10 and inserting “Before”; and

11                   (B) by adding at the end the following new  
12 paragraph:

13           “(3) The Secretary may not obligate any funds de-  
14 scribed in paragraph (1) or amounts described in para-  
15 graph (2) before the date that is 30 days after the notifi-  
16 cation submitted under paragraph (1) or paragraph  
17 (2)(B), as the case may be, unless the Committee on Vet-  
18 erans’ Affairs and the Committee on Appropriations of the  
19 Senate and the Committee on Veterans’ Affairs and the  
20 Committee on Appropriations of the House of Representa-  
21 tives each approve in writing the obligation of those funds  
22 or amounts.”.

23           (3) NOTIFICATION REQUIREMENTS.—

24                   (A) COMMITTEES REQUIRED.—Subsection

25                   (d)(1) of such section is amended by striking

1 “each committee” and inserting “the Com-  
2 mittee on Veterans’ Affairs and the Committee  
3 on Appropriations of the Senate and the Com-  
4 mittee on Veterans’ Affairs and the Committee  
5 on Appropriations of the House of Representa-  
6 tives”.

7 (B) USE OF AMOUNTS FROM BID SAV-  
8 INGS.—Subsection (d)(2)(B) of such section is  
9 amended by adding at the end the following  
10 new clause:

11 “(iv) With respect to the major construction  
12 project that is the source of the bid savings—

13 “(I) the amounts already obligated or  
14 available in the project reserve for such project;

15 “(II) the percentage of such project that  
16 has been completed; and

17 “(III) the amount of such bid savings that  
18 is already obligated or otherwise being used for  
19 a purpose other than such project.”.

20 (d) QUARTERLY REPORT ON SUPER CONSTRUCTION  
21 PROJECTS.—

22 (1) IN GENERAL.—At the end of subchapter I  
23 of chapter 81 of title 38, United States Code, add  
24 the following new section:



1 **“§ 8120. Quarterly report on super construction**  
2 **projects**

3 “(a) QUARTERLY REPORTS REQUIRED.—Not later  
4 than 30 days after the last day of each fiscal quarter the  
5 Secretary shall submit to the Committees on Veterans’ Af-  
6 fairs of the Senate and House of Representatives on the  
7 super construction projects carried out by the Secretary  
8 during such quarter. Each such report shall include, for  
9 each such project—

10 “(1) the budgetary and scheduling status of the  
11 project, as of the last day of the quarter covered by  
12 the report; and

13 “(2) the actual cost and schedule variances of  
14 the project, as of such day, compared to the planned  
15 cost and schedules for the project.

16 “(b) SUPER CONSTRUCTION PROJECT DEFINED.—In  
17 this section, the term ‘super construction project’ has the  
18 meaning given such term in section 8104(a)(4)(C) of this  
19 title.”.

20 (2) CLERICAL AMENDMENT.—The table of sec-  
21 tions at the beginning of the chapter is amended by  
22 adding at the end of the items relating to such sub-  
23 chapter the following new item:

“8120. Quarterly report on super construction projects.”.

1 (e) ACCELERATED MASTER PLANNING FOR EACH  
2 MEDICAL FACILITY OF THE DEPARTMENT OF VETERANS  
3 AFFAIRS.—

4 (1) EXISTING FACILITIES.—Not later than De-  
5 cember 31, 2016, the Secretary of Veterans Affairs  
6 shall complete a master plan described in paragraph  
7 (3) for each medical facility of the Department of  
8 Veterans Affairs.

9 (2) NEW FACILITIES.—For each medical facility  
10 of the Department for which construction is com-  
11 pleted after the date of the enactment of this Act,  
12 the Secretary shall complete a master plan described  
13 in paragraph (3) for the facility by not later than  
14 the earlier of the following dates:

15 (A) The date on which activation is com-  
16 pleted.

17 (B) The date of the formal dedication of  
18 the facility.

19 (3) MASTER PLAN DESCRIBED.—A master plan  
20 described in this paragraph is, with respect to a  
21 medical facility of the Department, a plan to inform  
22 investment decisions and funding requests over a 10-  
23 year period for construction projects at such medical  
24 facility—

1 (A) to meet the health care needs of a  
2 changing veteran population through a com-  
3 bination of health care from the Department  
4 and other community resources; and

5 (B) to maximize the best use of the land  
6 and structures comprising such medical facility.

7 **SEC. 3. ASSISTANT INSPECTOR GENERAL FOR CONSTRUC-**  
8 **TION.**

9 (a) IN GENERAL.—Chapter 3 of title 38, United  
10 States Code, is amended by inserting after section 312 the  
11 following new section:

12 **“§ 312A. Assistant Inspector General for Construction**

13 “(a) IN GENERAL.—There is in the Office of Inspec-  
14 tor General an Assistant Inspector General for Construc-  
15 tion. The Assistant Inspector General for Construction is  
16 responsible for conducting, supervising, and coordinating  
17 audits, evaluations, and investigations of the planning, de-  
18 sign, contracting, execution, and construction of facilities  
19 and infrastructure of the Department, including major  
20 and minor construction projects and leases.

21 “(b) QUALIFICATIONS.—Each individual appointed  
22 as Assistant Inspector General for Construction shall be  
23 an individual who has expertise in construction and facili-  
24 ties management.

1           “(c) REPORTS.—(1) Not later than 60 days after the  
2 appointment of an individual as the Assistant Inspector  
3 General for Construction, and every calendar quarter  
4 thereafter, the Assistant Inspector General for Construc-  
5 tion shall submit to the Committees on Veterans’ Affairs  
6 of the Senate and House of Representatives a report sum-  
7 marizing the activities of the Assistant Inspector General  
8 for Construction during the 120-day period ending on the  
9 date of such report.

10           “(2) In addition to the report required in paragraph  
11 (1), and the requirements contained in section 5 of the  
12 Inspector General Act of 1978 (5 U.S.C. App.), the Assist-  
13 ant Inspector General for Construction shall promptly pro-  
14 vide to the Committees on Veterans’ Affairs of the Senate  
15 and House of Representatives the findings of any inves-  
16 tigation undertaken by the Assistant Inspector General for  
17 Construction, and shall notify the Committees promptly  
18 if the Assistant Inspector General for Construction identi-  
19 fies any serious or flagrant problem or deficiency relating  
20 to the administration or operation of any construction pro-  
21 gram of the Department, if, during the course of any in-  
22 vestigation, the Assistant Inspector General for Construc-  
23 tion determines that Congress should take immediate ac-  
24 tion.

1       “(3) Nothing in this subsection shall be construed to  
2 authorize the public disclosure of information that is—

3           “(A) specifically prohibited from disclosure by  
4 any other provision of law;

5           “(B) specifically required by Executive Order to  
6 be protected from disclosure in the interest of na-  
7 tional defense or national security or in the conduct  
8 of foreign affairs; or

9           “(C) a part of an ongoing criminal investiga-  
10 tion.”.

11       (b) CLERICAL AMENDMENT.—The table of sections  
12 at the beginning of such chapter is amended by inserting  
13 after the item relating to section 312 the following new  
14 item:

“312A. Assistant Inspector General for Construction.”.

Passed the House of Representatives February 9,  
2016.

Attest:

KAREN L. HAAS,

*Clerk.*