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**MILITARY CONSTRUCTION  
APPROPRIATIONS ACT, 2001**

**PUBLIC LAW 106-246**

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**MILITARY CONSTRUCTION APPROPRIATIONS, 2001**

114 STAT.

PUBLIC LAW 106-246—JULY 13, 2000

**Public Law 106-246  
106th Congress****An Act**July 13, 2000  
[H.R. 4425]

Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2001, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Military  
Construction  
Appropriations  
Act, 2001.

**DIVISION A—FISCAL YEAR 2001 MILITARY CONSTRUCTION  
APPROPRIATIONS**

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated for military construction, family housing, and base realignment and closure functions administered by the Department of Defense, for the fiscal year ending September 30, 2001, and for other purposes, namely:

**MILITARY CONSTRUCTION, ARMY**

\$909,245,000

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, \$909,245,000, to remain available until September 30, 2005: *Provided*, That of this amount, not to exceed \$109,306,000 shall be available for study, planning, design, architect and engineer services, and host nation support, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

**MILITARY CONSTRUCTION, NAVY**

928,273,000

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, \$928,273,000, to remain available until September 30, 2005: *Provided*, That of this amount, not to exceed \$73,335,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense

<sup>1</sup>\*NOTE.—DIVISION B—Fiscal Year 2000 Supplemental Appropriations is shown separately.

## PUBLIC LAW 106-246—JULY 13, 2000

114 STAT.

determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

## MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, \$870,208,000, to remain available until September 30, 2005: *Provided*, That of this amount, not to exceed \$74,628,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

## MILITARY CONSTRUCTION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, \$814,647,000, to remain available until September 30, 2005: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed \$77,505,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

[*Total, Active components, \$3,522,373,000.*]

## MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$281,717,000, to remain available until September 30, 2005.

## MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$203,829,000, to remain available until September 30, 2005.

114 STAT.

PUBLIC LAW 106-246—JULY 13, 2000

## MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$108,738,000, to remain available until September 30, 2005.

\$108,738,000

## MILITARY CONSTRUCTION, NAVAL RESERVE

(INCLUDING RESCISSIONS)

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$64,473,000, to remain available until September 30, 2005: *Provided further*, That the funds appropriated for "Military Construction, Naval Reserve" under Public Law 105-45, \$2,400,000 is hereby rescinded.

64,473,000

-2,400,000  
(rescission)

[Net total, \$62,073,000.]

## MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$36,591,000, to remain available until September 30, 2005.

36,591,000

[Net total, Reserve components, \$692,948,000.]

[Net total, Military construction, \$4,215,321,000.]

## NORTH ATLANTIC TREATY ORGANIZATION

## SECURITY INVESTMENT PROGRAM

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in Military Construction Authorization Acts and section 2806 of title 10, United States Code, \$172,000,000, to remain available until expended.

172,000,000

## FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, \$235,956,000, to remain available until September 30, 2005; for Operation and Maintenance, and for debt payment, \$951,793,000; in all \$1,187,749,000.

1,187,749,000

## FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition,

## PUBLIC LAW 106-246—JULY 13, 2000

114 STAT.

expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, \$418,155,000, to remain available until September 30, 2005; for Operation and Maintenance, and for debt payment, \$881,567,000; in all \$1,299,722,000.

\$1,299,722,000

## FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, \$251,982,000, to remain available until September 30, 2005; for Operation and Maintenance, and for debt payment, \$820,879,000; in all \$1,072,861,000.

1,072,861,000

## FAMILY HOUSING, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration, and for operation and maintenance, leasing, and minor construction, as authorized by law, for Operation and Maintenance, \$44,886,000.

44,886,000

[Total, Family housing, \$3,605,218,000.]

## BASE REALIGNMENT AND CLOSURE ACCOUNT, PART IV

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101-510), \$1,024,369,000, to remain available until expended: *Provided*, That not more than \$865,318,000 of the funds appropriated herein shall be available solely for environmental restoration, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

1,024,369,000

## GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in Military Construction Appropriations Acts shall be expended for payments under a cost-plus-a-fixed-fee contract for construction, where cost estimates exceed \$25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in Military Construction Appropriations Acts shall be used for purchase of land or land easements in excess of 100 percent of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except: (1) where there is a determination of value by a Federal court; (2) purchases negotiated by the Attorney General or his designee; (3) where the estimated value is less than \$25,000; or (4) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in Military Construction Appropriations Acts shall be used to: (1) acquire land; (2) provide for site preparation; or (3) install utilities for any family housing, except housing for which funds have been made available in annual Military Construction Appropriations Acts.

SEC. 107. None of the funds appropriated in Military Construction Appropriations Acts for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in Military Construction Appropriations Acts may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds appropriated in Military Construction Appropriations Acts may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 111. None of the funds appropriated in Military Construction Appropriations Acts may be obligated for architect and engineer contracts estimated by the Government to exceed \$500,000 for projects to be accomplished in Japan, in any NATO member country, or in countries bordering the Arabian Gulf, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds appropriated in Military Construction Appropriations Acts for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Gulf, may be used to award any contract estimated by the Government to exceed \$1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 percent: *Provided further*, That this section shall not apply to contract awards for military construction on Kwajalein Atoll for which the lowest responsive and responsible bid is submitted by a Marshallese contractor.

## PUBLIC LAW 106-246—JULY 13, 2000

114 STAT.

SEC. 113. The Secretary of Defense is to inform the appropriate committees of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed \$100,000.

Notification.

SEC. 114. Not more than 20 percent of the appropriations in Military Construction Appropriations Acts which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year.

## (TRANSFER OF FUNDS)

SEC. 115. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 117. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project: (1) are obligated from funds available for military construction projects; and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

10 USC 2860  
note.

## (TRANSFER OF FUNDS)

SEC. 118. During the 5-year period after appropriations available to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation "Foreign Currency Fluctuations, Construction, Defense" to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred.

10 USC 2860  
note.

SEC. 119. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with an annual report by February 15, containing details of the specific actions proposed to be taken by the Department of Defense during the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization, Japan, Korea, and United States allies bordering the Arabian Gulf to assume a greater share of the common defense burden of such nations and the United States.

Reports.  
Deadline.

## (TRANSFER OF FUNDS)

SEC. 120. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991, to be merged with, and to be available for the same purposes and the same time period as that account.

SEC. 121. (a) No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the "Buy American Act").

(b) No funds made available under this Act shall be made available to any person or entity who has been convicted of violating the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the "Buy American Act").

SEC. 122. (a) In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

Notice.

(b) In providing financial assistance under this Act, the Secretary of the Treasury shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

## (TRANSFER OF FUNDS)

SEC. 123. Subject to 30 days prior notification to the Committees on Appropriations, such additional amounts as may be determined by the Secretary of Defense may be transferred to the Department of Defense Family Housing Improvement Fund from amounts appropriated for construction in "Family Housing" accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: *Provided*, That appropriations made available to the Fund shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169, title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing and supporting facilities.

SEC. 124. None of the funds appropriated or made available by this Act may be obligated for Partnership for Peace Programs in the New Independent States of the former Soviet Union.

Deadline.  
Notice.

SEC. 125. (a) Not later than 60 days before issuing any solicitation for a contract with the private sector for military family housing the Secretary of the military department concerned shall submit to the congressional defense committees the notice described in subsection (b).

(b)(1) A notice referred to in subsection (a) is a notice of any guarantee (including the making of mortgage or rental payments)

## PUBLIC LAW 106-246—JULY 13, 2000

114 STAT.

proposed to be made by the Secretary to the private party under the contract involved in the event of—

(A) the closure or realignment of the installation for which housing is provided under the contract;

(B) a reduction in force of units stationed at such installation; or

(C) the extended deployment overseas of units stationed at such installation.

(2) Each notice under this subsection shall specify the nature of the guarantee involved and assess the extent and likelihood, if any, of the liability of the Federal Government with respect to the guarantee.

(c) In this section, the term “congressional defense committees” means the following:

(1) The Committee on Armed Services and the Military Construction Subcommittee, Committee on Appropriations of the Senate.

(2) The Committee on Armed Services and the Military Construction Subcommittee, Committee on Appropriations of the House of Representatives.

## (TRANSFER OF FUNDS)

SEC. 126. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, amounts may be transferred from the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991, to the fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to pay for expenses associated with the Homeowners Assistance Program. Any amounts transferred shall be merged with and be available for the same purposes and for the same time period as the fund to which transferred.

SEC. 127. Notwithstanding this or any other provision of law, funds appropriated in Military Construction Appropriations Acts for operations and maintenance of family housing shall be the exclusive source of funds for repair and maintenance of all family housing units, including flag and general officer quarters: *Provided*, That not more than \$25,000 per unit may be spent annually for the maintenance and repair of any general or flag officer quarters without 30 days advance prior notification of the appropriate committees of Congress: *Provided further*, That the Under Secretary of Defense (Comptroller) is to report annually to the Committees on Appropriations all operations and maintenance expenditures for each individual flag and general officer quarters for the prior fiscal year.

10 USC 2821  
note.

Reports.

SEC. 128. The Army, Navy, Marine Corps, and Air Force are directed to submit to the appropriate committees of the Congress by July 1, 2001, a Family Housing Master Plan demonstrating how they plan to meet the year 2010 housing goals with traditional construction, operation and maintenance support, as well as privatization initiative proposals. Each plan shall include projected life cycle costs for family housing construction, basic allowance for housing, operation and maintenance, other associated costs, and a time line for housing completions each year.

Deadline.

114 STAT.

PUBLIC LAW 106-246—JULY 13, 2000

## (RESCISSION OF FUNDS)

SEC. 129. Of the funds provided in previous Military Construction Appropriations Acts, \$100,000,000 is hereby rescinded as of the date of the enactment of this Act.

-\$100,000,000  
(*rescission*)

## (TRANSFER OF FUNDS)

SEC. 130. During fiscal year 2001, in addition to any other transfer authority available to the Department of Defense, funds appropriated in the Military Construction Appropriations Act, 2000 (Public Law 106-52; 113 Stat. 259) under the heading "Military Construction, Naval Reserve" and still unobligated may be transferred to the account for "Military Construction, Navy". Amounts transferred under this section shall be merged with, and be available for the same period as, the amounts in the account to which transferred and shall be available to construct, under the authority of section 2805 of title 10, United States Code, an elevated water storage tank at the Naval Support Activity Midsouth, Millington, Tennessee.

SEC. 131. (a) The Secretary of the Army may accept funds from the Federal Highway Administration, or the Commonwealth of Kentucky, and credit them to the appropriate Department of the Army accounts for the purpose of funding all costs associated with the realignment, requested by the Commonwealth of Kentucky, of the military construction project involving a rail connector located at Fort Campbell, Kentucky, authorized in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2763).

(b) The Secretary may use the funds accepted for the realignment, in addition to funds authorized and appropriated for the rail connector project, notwithstanding the amount authorized in section 2101(a) of Public Law 104-201. The funds accepted shall remain available until expended.

(c) The costs associated with the realignment of the rail connector project include but are not limited to redesign costs, additional construction costs, additional costs due to construction delays related to the realignment, and additional real estate costs.

Effective date.

(d) The authority provided in this section shall be effective upon the date of the enactment of this Act.

## (RESCISSION OF FUNDS)

SEC. 132. Of the funds available to the Secretary of Defense in the "Foreign Currency Fluctuations, Construction, Defense" account, \$83,000,000 is hereby rescinded.

-\$83,000,000  
(*rescission*)

## (TRANSFER OF FUNDS)

SEC. 133. Section 131 of the Military Construction Appropriations Act, 1988 (Public Law 100-202), is amended—

101 Stat.  
1329-319.

(1) by striking subsection (c)(1), and inserting the following:

"(c)(1) The Secretary shall use amounts paid to the Secretary under subsection (b) for the acquisition of suitable sites for military family housing; or, the acquisition, construction, or revitalization of military family housing in the San Diego region, either through conventional military construction or through use of any of the alternative authorities contained in subchapter IV, chapter 169 of title 10, United States Code."

(2) by adding after subsection (c)(2) the following new subparagraph:

“(3) Any funds received by the Secretary under subsection (b) and not deposited into the general fund of the Treasury under subsection (c)(2) may be transferred into the Department of Defense Family Housing Improvement Fund in accordance with section 2883 in subchapter IV, chapter 169 of title 10, United States Code.”.

SEC. 134. Section 412(c) of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (112 Stat. 160) is amended by inserting before the period at the end of the sentence the following: “, and up to \$170,000,000 for dredging and foundation activities for construction”: *Provided*, That this section becomes effective immediately upon enactment of this Act.

Effective date.

SEC. 135. Notwithstanding any other provision of law, the Secretary of the Navy is authorized to use funds received pursuant to section 2601 of title 10, United States Code, for the construction, improvement, repair, and maintenance of the historic residences located at Marine Corps Barracks, 8th and I Streets, Washington, D.C.: *Provided*, That the Secretary notifies the appropriate committees of Congress 30 days in advance of the intended use of such funds: *Provided further*, That this section becomes effective immediately upon enactment of this Act.

Notification.

Effective date.

BROOKS AIR FORCE BASE DEVELOPMENT DEMONSTRATION PROJECT

SEC. 136. (a) PURPOSE.—The purpose of this section is to evaluate and demonstrate methods for more efficient operation of military installations through improved capital asset management and greater reliance on the public or private sector for less-costly base support services, where available. The section supersedes, and shall be used in lieu of the authority provided in, section 8168 of the Department of Defense Appropriations Act, 2000 (Public Law 106-79; 113 Stat. 1277).

(b) AUTHORITY.—(1) Subject to paragraph (4), the Secretary of the Air Force may carry out at Brooks Air Force Base, Texas, a demonstration project to be known as the “Base Efficiency Project” to improve mission effectiveness and reduce the cost of providing quality installation support at Brooks Air Force Base.

(2) The Secretary may carry out the Project in consultation with the Community to the extent the Secretary determines such consultation is necessary and appropriate.

(3) The authority provided in this section is in addition to any other authority vested in or delegated to the Secretary, and the Secretary may exercise any authority or combination of authorities provided under this section or elsewhere to carry out the purposes of the Project.

(4) The Secretary may not exercise any authority under this section until after the end of the 30-day period beginning on the date the Secretary submits to the appropriate committees of the Congress a master plan for the development of the Base.

(c) EFFICIENT PRACTICES.—(1) The Secretary may convert services at or for the benefit of the Base from accomplishment by military personnel or by Department civilian employees (appropriated fund or non-appropriated fund), to services performed by contract or provided as consideration for the lease, sale, or other conveyance or transfer of property.

(2) Notwithstanding section 2462 of title 10, United States Code, a contract for services may be awarded based on “best value”

if the Secretary determines that the award will advance the purposes of a joint activity conducted under the project and is in the best interest of the Department.

(3) Notwithstanding that such services are generally funded by local and State taxes and provided without specific charge to the public at large, the Secretary may contract for public services at or for the benefit of the Base in exchange for such consideration, if any, the Secretary determines to be appropriate.

(4)(A) The Secretary may conduct joint activities with the Community, the State, and any private parties or entities on or for the benefit of the Base.

(B) Payments or reimbursements received from participants for their share of direct and indirect costs of joint activities, including the costs of providing, operating, and maintaining facilities, shall be in an amount and type determined to be adequate and appropriate by the Secretary.

(C) Such payments or reimbursements received by the Department shall be deposited into the Project Fund.

(d) LEASE AUTHORITY.—(1) The Secretary may lease real or personal property located on the Base and not required at other Air Force installations to any lessee upon such terms and conditions as the Secretary considers appropriate and in the interest of the United States, if the Secretary determines that the lease would facilitate the purposes of the Project.

(2) Consideration for a lease under this subsection shall be determined in accordance with subsection (g).

(3) A lease under this subsection—

(A) may be for such period as the Secretary determines is necessary to accomplish the goals of the Project; and

(B) may give the lessee the first right to purchase the property at fair market value if the lease is terminated to allow the United States to sell the property under any other provision of law.

(4)(A) The interest of a lessee of property leased under this subsection may be taxed by the State or the Community.

(B) A lease under this subsection shall provide that, if and to the extent that the leased property is later made taxable by State governments or local governments under Federal law, the lease shall be renegotiated.

(5) The Department may furnish a lessee with utilities, custodial services, and other base operation, maintenance, or support services performed by Department civilian or contract employees, in exchange for such consideration, payment, or reimbursement as the Secretary determines appropriate.

(6) All amounts received from leases under this subsection shall be deposited into the Project Fund.

(7) A lease under this subsection shall not be subject to the following provisions of law:

(A) Section 2667 of title 10, United States Code, other than subsection (b)(1) of that section.

(B) Section 321 of the Act of June 30, 1932 (40 U.S.C. 303b).

(C) The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(e) PROPERTY DISPOSAL.—(1) The Secretary may sell or otherwise convey or transfer real and personal property located at the Base to the Community or to another public or private party during

the Project, upon such terms and conditions as the Secretary considers appropriate for purposes of the Project.

(2) Consideration for a sale or other conveyance or transfer of property under this subsection shall be determined in accordance with subsection (g).

(3) The sale or other conveyance or transfer of property under this subsection shall not be subject to the following provisions of law:

(A) Section 2693 of title 10, United States Code.

(B) The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(4) Cash payments received as consideration for the sale or other conveyance or transfer of property under this subsection shall be deposited into the Project Fund.

(f) LEASEBACK OF PROPERTY LEASED OR DISPOSED.—(1) The Secretary may lease, sell, or otherwise convey or transfer real property at the Base under subsections (b) and (e), as applicable, which will be retained for use by the Department or by another military department or other Federal agency, if the lessee, purchaser, or other grantee or transferee of the property agrees to enter into a leaseback to the Department in connection with the lease, sale, or other conveyance or transfer of one or more portions or all of the property leased, sold, or otherwise conveyed or transferred, as applicable.

(2) A leaseback of real property under this subsection shall be an operating lease for no more than 20 years unless the Secretary of the Air Force determines that a longer term is appropriate.

(3)(A) Consideration, if any, for real property leased under a leaseback entered into under this subsection shall be in such form and amount as the Secretary considers appropriate.

(B) The Secretary may use funds in the Project Fund or other funds appropriated or otherwise available to the Department for use at the Base for payment of any such cash rent.

(4) Notwithstanding any other provision of law, the Department or other military department or other Federal agency using the real property leased under a leaseback entered into under this subsection may construct and erect facilities on or otherwise improve the leased property using funds appropriated or otherwise available to the Department or other military department or other Federal agency for such purpose.

(g) CONSIDERATION.—(1) The Secretary shall determine the nature, value, and adequacy of consideration required or offered in exchange for a lease, sale, or other conveyance or transfer of real or personal property or for other actions taken under the Project.

(2) Consideration may be in cash or in-kind or any combination thereof. In-kind consideration may include the following:

(A) Real property.

(B) Personal property.

(C) Goods or services, including operation, maintenance, protection, repair, or restoration (including environmental restoration) of any property or facilities (including non-appropriated fund facilities).

(D) Base operating support services.

(E) Improvement of Department facilities.

(F) Provision of facilities, including office, storage, or other usable space, for use by the Department on or off the Base.

## (G) Public services.

(3) Consideration may not be for less than the fair market value.

(h) PROJECT FUND.—(1) There is established on the books of the Treasury a fund to be known as the “Base Efficiency Project Fund” into which all cash rents, proceeds, payments, reimbursements, and other amounts from leases, sales, or other conveyances or transfers, joint activities, and all other actions taken under the Project shall be deposited. Subject to paragraph (2), amounts deposited into the Project Fund shall be available without fiscal year limitation.

(2) To the extent provided in advance in appropriations Acts, amounts in the Project Fund shall be available to the Secretary for use at the base only for operation, base operating support services, maintenance, repair, or improvement of Department facilities, payment of consideration for acquisitions of interests in real property (including payment of rentals for leasebacks), and environmental protection or restoration. The use of such amounts may be in addition to or in combination with other amounts appropriated for these purposes.

Procedures.

(3) Subject to generally prescribed financial management regulations, the Secretary shall establish the structure of the Project Fund and such administrative policies and procedures as the Secretary considers necessary to account for and control deposits into and disbursements from the Project Fund effectively.

(i) FEDERAL AGENCIES.—(1)(A) Any Federal agency, its contractors, or its grantees shall pay rent, in cash or services, for the use of facilities or property at the Base, in an amount and type determined to be adequate by the Secretary.

(B) Such rent shall generally be the fair market rental of the property provided, but in any case shall be sufficient to compensate the Base for the direct and overhead costs incurred by the Base due to the presence of the tenant agency on the Base.

(2) Transfers of real or personal property at the Base to other Federal agencies shall be at fair market value consideration. Such consideration may be paid in cash, by appropriation transfer, or in property, goods, or services.

(3) Amounts received from other Federal agencies, their contractors, or grantees, including any amounts paid by appropriation transfer, shall be deposited in the Project Fund.

Applicability.

(j) REPORTS TO CONGRESS.—(1) Section 2662 of title 10, United States Code, shall apply to transactions at the Base during the Project.

(k) LIMITATION.—None of the authorities in this section shall create any legal rights in any person or entity except rights embodied in leases, deeds, or contracts.

(l) EXPIRATION OF AUTHORITY.—The authority to enter into a lease, deed, permit, license, contract, or other agreement under this section shall expire on June 1, 2005.

(m) DEFINITIONS.—In this section:

(1) The term “Project” means the Base Efficiency Project authorized by this section.

(2) The term “Base” means Brooks Air Force Base, Texas.

(3) The term “Community” means the City of San Antonio, Texas.

(4) The term “Department” means the Department of the Air Force.

## PUBLIC LAW 106-246—JULY 13, 2000

114 STAT.

(5) The term “facility” means a building, structure, or other improvement to real property (except a military family housing unit as that term is used in subchapter IV of chapter 169 of title 10, United States Code).

(6) The term “joint activity” means an activity conducted on or for the benefit of the Base by the Department, jointly with the Community, the State, or any private entity, or any combination thereof.

(7) The term “Project Fund” means the Base Efficiency Project Fund established by subsection (h).

(8) The term “public services” means public services (except public schools, fire protection, and police protection) that are funded by local and State taxes and provided without specific charge to the public at large.

(9) The term “Secretary” means the Secretary of the Air Force or the Secretary’s designee, who shall be a civilian official of the Department appointed by the President with the advice and consent of the Senate.

(10) The term “State” means the State of Texas.

(n) EFFECTIVE DATE.—This section becomes effective immediately upon enactment of this Act.

SEC. 137. Of the funds made available in the Military Construction Appropriations Act, 1999 (Public Law 105-237) under the heading “Military Construction, Defense-Wide” for planning and design, not less than \$1,000,000 shall be available for the design of an elementary school for the Central Kitsap School District to meet the educational needs of military dependents at the Naval Submarine Base, Bangor, Washington: *Provided*, That this section becomes effective immediately upon enactment of this Act.

Effective date.

SEC. 138. The total amount of appropriated funds that may be expended for the military construction project at the Military Academy at West Point, New York, to construct and renovate the Cadet Physical Development Center shall not exceed \$77,500,000, regardless of the fiscal year for which the funds were or are appropriated: *Provided*, That this section becomes effective immediately upon enactment of this Act.

Effective date.

SEC. 139. (a) Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on construction, security and operation of Forward Operating Locations (FOL) in Manta, Ecuador, Aruba, Curacao, and El Salvador.

Deadline.  
Reports.

(b) The report required by subsection (a) shall address the following: (1) a schedule for making each Forward Operating Location (FOL) fully operational, including cost estimates, time line of contracting and construction with completion dates, a description of the potential capabilities for each proposed location and an explanation of how the FOL architecture fits into the overall counter-drug strategy; (2) a plan that identifies the operating requirements at FOL for the United States Coast Guard, United States Customs Service, Drug Enforcement Administration, Intelligence community and the Department of Defense and how these requirements will be addressed; (3) a security plan to ensure that FOL facilities and personnel working at these sites are safeguarded from outside threats; and (4) a safety plan to ensure operations conducted at FOLs are in accordance with standard operating procedures.

This division may be cited as the “Military Construction Appropriations Act, 2001”.

[*Net total, General provisions, – \$183,000,000.*]

Approved July 13, 2000.

LEGISLATIVE HISTORY—H.R. 4425 (S. 2521):

HOUSE REPORTS: Nos. 106-614 (Comm. on Appropriations) and 106-710 (Comm. of Conference).

SENATE REPORTS: No. 106-290 accompanying S. 2521 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 146 (2000):

May 16, considered and passed House.

May 18, considered and passed Senate, amended, in lieu of S. 2521.

June 29, House agreed to conference report.

June 30, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 36 (2000):

July 13, Presidential statement.

[In thousands of dollars]

Net grand total, Military Construction Appropriations Act, 2001 .....	\$8,833,908
Appropriations .....	(9,019,308)
Rescissions .....	(- 185,400)
Consisting of:	
Department of Defense (net) .....	8,833,908

NOTE.—Refer to Tables 4 and 5 for totals by Agency.