

Public Law 97-106
97th Congress

An Act

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1982, and for other purposes.

Dec. 23, 1981
[H.R. 4241]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1982, for military construction functions administered by the Department of Defense, and for other purposes, namely:

Military
Construction
Appropriation
Act, 1982.

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, and facilities for the Army as currently authorized in military public works or military construction Acts, and in sections 2673, 2674, and 2675 of title 10, United States Code, and for construction and operation of facilities in support of the functions of the Commander-in-Chief, \$943,701,000, to remain available until September 30, 1986: *Provided*, That of this amount, not to exceed \$139,700,000 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: *And provided further*, That \$1,000,000 of the funds available for planning and design shall be available only for the design of a headquarters facility for the U.S. Army Forces Command at Fort McPherson, Georgia.

Notification to
congressional
committees.

MILITARY CONSTRUCTION, NAVY

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, and facilities for the Navy as currently authorized in military public works or military construction Acts, and in sections 2673, 2674, and 2675 of title 10, United States Code, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, \$1,451,393,000, to remain available until September 30, 1986: *Provided*, That of this amount, not to exceed \$88,100,000 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.

Notification to
congressional
committees.

MILITARY CONSTRUCTION, AIR FORCE

Notification to congressional committees.

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, and facilities for the Air Force as currently authorized in military public works or military construction Acts, and in sections 2673, 2674, and 2675 of title 10, United States Code, \$1,545,751,000, to remain available until September 30, 1986: *Provided*, That of this amount, not to exceed \$91,100,000 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: *Provided further*, That \$500,000 of the funds available for planning and design shall be available only to design facilities at Goodfellow Air Force Base, Texas.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

Notification to congressional committees.

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, and facilities for activities and agencies of the Department of Defense (other than the military departments), as currently authorized in military public works or military construction Acts, and in sections 2673, 2674, and 2675 of title 10, United States Code, \$306,490,000, to remain available until September 30, 1986; and, in addition, not to exceed \$20,000,000 to be derived by transfer from the appropriation "Research, development, test, and evaluation, Defense Agencies" as determined by the Secretary of Defense: *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 as he may designate: *Provided further*, That of the amount appropriated, not to exceed \$28,000,000 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.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

For the United States share of the cost of multilateral programs for the acquisition or construction of military facilities and installations (including international military headquarters) for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts, \$345,000,000, to remain available until expended.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

10 USC 2231
et seq.

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard as authorized by chapter 133 of title 10, United States Code, as amended, and the Reserve Forces Facilities Acts, \$67,658,000, to remain available until September 30, 1986.

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 133 of title 10, United States Code, as amended, and the Reserve Forces Facilities Acts, \$105,140,000, to remain available until September 30, 1986.

10 USC 2231
et seq.

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 133 of title 10, United States Code, as amended, and the Reserve Forces Facilities Acts, \$64,703,000, to remain available until September 30, 1986.

MILITARY CONSTRUCTION, NAVAL RESERVE

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 133 of title 10, United States Code, as amended, and the Reserve Forces Facilities Acts, \$36,000,000, to remain available until September 30, 1986.

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 133 of title 10, United States Code, as amended, and the Reserve Forces Facilities Acts, \$37,400,000, to remain available until September 30, 1986.

MILITARY CONSTRUCTION, RESERVE COMPONENTS GENERALLY

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Reserve components of the Armed Forces, \$470,000, to be allocated by the Secretary of Defense for the Army Reserve, and to remain available until September 30, 1985.

FAMILY HOUSING, DEFENSE

For expenses of family housing for the Army, Navy, Marine Corps, Air Force, and Defense agencies, for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation, maintenance, and debt payment, including leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$2,282,442,000, to be obligated and expended in the Family Housing Management Account established pursuant to section 501(a) of Public Law 87-554, in not to exceed the following amounts:

42 USC 1594a-1.

for Construction: \$280,235,000;

for Debt payment: \$148,111,000;

for Operation, maintenance: \$1,854,096,000:

Provided, That the amounts provided under this head for construction, and for debt payment, shall remain available until September 30, 1986: *Provided further*, That funds previously appropriated under

this head in fiscal year 1980 for debt payment in the amount of \$1,992,000 for the Department of Defense shall be transferred and merged in the Family Housing Management Account with, and be available for the same period as, the funds appropriated in this Act for debt service for such departments and agencies, and such funds may be obligated and expended for such purposes.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

42 USC 3374. For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), \$2,000,000.

GENERAL PROVISIONS

Prior appropriations. SEC. 101. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such department by the authorizations enacted into law during the first session of the Ninety-seventh Congress.

Contracts. SEC. 102. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, 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.

Construction costs. SEC. 103. None of the funds appropriated in this Act shall be expended for additional costs involved in expediting construction unless the Secretary of Defense certifies such costs to be necessary to protect the national interest and establishes a reasonable completion date for each project, taking into consideration the urgency of the requirement, the type and location of the project, the climatic and seasonal conditions affecting the construction, and the application of economical construction practices.

Service facilities. SEC. 104. None of the funds appropriated in this Act shall be used for the construction, replacement, or reactivation of any bakery, laundry, or drycleaning facility in the United States, its territories, or possessions, as to which the Secretary of Defense does not certify, in writing, giving his reasons therefor, that the services to be furnished by such facilities are not obtainable from commercial sources at reasonable rates.

Motor vehicles. 31 USC 638f. SEC. 105. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

Access roads, construction. 31 USC 700b. SEC. 106. 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.

New bases. SEC. 107. 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.

Land purchases or easements. SEC. 108. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except: (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than

\$25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 109. None of the funds appropriated in this Act may be used to make payments under contracts for any project in a foreign country unless the Secretary of Defense or his designee, after consultation with the Secretary of the Treasury or his designee, certifies to the Congress that the use, by purchase from the Treasury, of currencies of such country acquired pursuant to law is not feasible for the purpose, stating the reason therefor.

SEC. 110. None of the funds appropriated in this Act 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 appropriation Acts.

SEC. 111. None of the funds appropriated in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committee on Appropriations.

SEC. 112. None of the funds appropriated or otherwise made available under this Act shall be obligated or expended in connection with any base realignment or closure activity, until all terms, conditions and requirements of the National Environmental Policy Act have been complied with, with respect to each such activity.

SEC. 113. No part of the funds appropriated in this Act 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. 114. None of the funds available to the Department of Defense for military construction during the current fiscal year may be obligated for projects under the authority of section 402 of the Military Construction Authorization Act, 1981, or similar provisions in prior-year military construction authorization Acts until twenty-one days have passed after the Secretary of Defense has notified the Committees on Appropriations of the Senate and the House of Representatives of the purpose and estimated cost of construction for which these funds are to be used under such authorities.

SEC. 115. No part of the funds appropriated in this Act for dredging in the Indian Ocean may be used for the performance of the work by foreign contractors: *Provided*, That the low responsive bid of a United States contractor does not exceed the lowest responsive bid of a foreign contractor by greater than 20 per centum.

SEC. 116. During the current fiscal year none of the funds available to the Department of Defense for military construction or family housing shall be available to furnish or install solar energy systems in new facilities (including family housing) unless such systems can be shown to be cost effective using the sum of all capital and operating expenses associated with the energy system of the building involved over the expected life of such system or during a period of twenty-five years, whichever is shorter, and using marginal fuel costs as determined by the Secretary of Defense and at a discount rate of 7 per centum per year.

SEC. 117. No part of the funds appropriated in this Act may be obligated for design of any site-specific facilities for the MX missile system until all terms, conditions, and requirements of the National Environmental Policy Act (42 U.S.C. 4332) are met.

SEC. 118. 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.

Foreign projects.

Family housing.

Notification to
Committee on
Appropriations.Base
realignment
or closure
activities.42 USC 4321
note.
Steel
procurement.Notification to
congressional
committees.

94 Stat. 1760.

Indian Ocean
dredging.Solar energy
systems,
installation.MX missile
facilities,
design.Foreign real
property
taxes.

Illegal alien employment.

SEC. 119. No part of the funds appropriated in this Act may be used to pay the compensation of an officer of the Government of the United States or to reimburse a contractor for the employment of a person for work in the continental United States by any such person if such person is an alien who has not been lawfully admitted to the United States.

Consulting service contracts.

SEC. 120. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 121. 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.

SEC. 122. It is the sense of the Congress that the administration should call on the pertinent member nations of the North Atlantic Treaty Organization and on Japan to meet or exceed their pledges for at least a 3 per centum real increase in defense spending in furtherance of increased unity, equitable sharing of our common defense burden, and international stability.

Short title.

This Act may be cited as the "Military Construction Appropriation Act, 1982".

Approved December 23, 1981.

LEGISLATIVE HISTORY—H.R. 4241:

HOUSE REPORTS: No. 97-193 (Comm. on Appropriations) and No. 97-400 (Comm. of Conference).

SENATE REPORT No. 97-271 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 127 (1981):

Sept. 16, considered and passed House.

Dec. 4, considered and passed Senate, amended.

Dec. 15, House and Senate agreed to conference report.