

Public Law 103-307
103d Congress

An Act

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

Aug. 23, 1994
[H.R. 4453]

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, 1995, for military construction functions administered by the Department of Defense, and for other purposes, namely:

Military
Construction
Appropriations
Act, 1995.

MILITARY CONSTRUCTION, ARMY

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, \$550,476,000, to remain available until September 30, 1999: *Provided*, That of this amount, not to exceed \$66,126,000 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, NAVY

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, \$385,110,000, to remain available until September 30, 1999: *Provided*, That of this amount, not to exceed \$43,380,000 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, 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, \$516,813,000, to remain available until September 30, 1999: *Provided*, That of this amount, not to exceed \$49,386,000 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, \$504,118,000, to remain available until September 30, 1999: *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 \$51,960,000 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, 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 133 of title 10, United States Code, and military construction authorization Acts, \$188,062,000, to remain available until September 30, 1999.

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, and military construction authorization Acts, \$249,056,000, to remain available until September 30, 1999.

MILITARY CONSTRUCTION, ARMY RESERVE

(TRANSFER OF FUNDS)

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, and military construction authorization Acts, \$57,370,000, to remain available until September 30, 1999: *Provided*, That of the funds appropriated for "Military Construction, Army Reserve, 1992/1996", \$1,500,000 shall be transferred to "Military Construction, Army National Guard, 1992/1996" for the same purposes as the appropriation to which transferred.

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, and military construction authorization Acts, \$22,748,000, to remain available until September 30, 1999.

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, and military construction authorization Acts, \$57,066,000, to remain available until September 30, 1999.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs 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 Acts and section 2806 of title 10, United States Code, \$119,000,000, to remain available until expended.

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, \$170,002,000, to remain available until September 30, 1999; for Operation and maintenance, and for debt payment, \$1,013,708,000; in all \$1,183,710,000.

FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, prin-

principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, \$267,465,000, to remain available until September 30, 1999; for Operation and maintenance, and for debt payment, \$937,599,000; in all \$1,205,064,000.

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, \$277,444,000, to remain available until September 30, 1999; for Operation and maintenance, and for debt payment, \$824,845,000 of which not more than \$14,200,000 may be obligated for the acquisition of family housing units at Comiso AB, Italy; in all \$1,102,289,000.

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, as follows: for Construction, \$350,000, to remain available for obligation until September 30, 1999; for Operation and maintenance, \$29,031,000; in all \$29,381,000.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART I

For deposit into 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), \$87,600,000, to remain available for obligation until September 30, 1995: *Provided*, That none of these funds may be obligated for base realignment and closure activities under Public Law 100-526 which would cause the Department's \$1,800,000,000 cost estimate for military construction and family housing related to the Base Realignment and Closure Program to be exceeded: *Provided further*, That not less than \$66,800,000 of the funds appropriated herein shall be available solely for environmental restoration.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART II

(INCLUDING TRANSFER OF FUNDS)

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), \$265,700,000, to remain available until expended: *Provided*, That not less than \$138,700,000 of the funds appropriated herein shall be available solely for environmental restoration: *Provided further*, That, in addition, not to exceed \$133,000,000 may be transferred from "Homeowners Assistance Fund, Defense" to "Base Realignment and Closure Account, Part II", to be merged with, and to be available for the same purposes and the same time period as that account.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART III

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), \$2,322,858,000, to remain available until expended: *Provided*, That not less than \$302,700,000 of the funds appropriated herein shall be available solely for environmental restoration.

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 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.

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 per centum of the value as determined by the Army 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. 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 or in any NATO member country, 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 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 per centum.

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

(TRANSFER OF FUNDS)

SEC. 114. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account, shall be transferred to the appropriations for Family Housing, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 115. Not more than 20 per centum of the appropriations in Military Construction Appropriations Acts which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 116. 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. 117. 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. 118. 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.

(TRANSFER OF FUNDS)

SEC. 119. During the five-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. 120. 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 and Japan and Korea to assume a greater share of the common defense burden of such nations and the United States.

Reports.

(TRANSFER OF FUNDS)

SEC. 121. 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. 122. The second paragraph under the heading, "Family Housing, Navy and Marine Corps" in title XI of Public Law 102-368, is amended by inserting "and the August 8, 1993 earthquake in Guam" immediately after "Typhoon Omar".

106 Stat. 1151.

SEC. 123. (a) Of the budgetary resources available to the Department of Defense for military construction and family housing accounts during fiscal year 1995, \$10,421,000 are permanently canceled.

(b) The Secretary of Defense shall allocate the amount of budgetary resources canceled among the Department's military construction and family housing accounts available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or

services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2).

SEC. 124. COMPLIANCE WITH BUY AMERICAN ACT.

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").

SEC. 125. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) **PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.**—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.

(b) **NOTICE TO RECIPIENTS OF ASSISTANCE.**—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.

SEC. 126. PROHIBITION OF CONTRACTS.

If it has been finally determined by a court or Federal agency that any person intentionally affixed a fraudulent label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that was not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in section 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 127. LAND CONVEYANCE, NAVAL RESERVE CENTER, SEATTLE, WASHINGTON.

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Navy may convey to the City of Seattle, Washington (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, together with improvements thereon, consisting of approximately 5.09 acres, the location of the Naval Reserve Center, Seattle, Washington.

(b) **CONSIDERATION.**—(1) As consideration for the conveyance under subsection (a), the City shall pay to the United States an amount equal to the fair market value (as determined by the Secretary) of the portion of the real property to be conveyed under subsection (a) that is described in paragraph (2).

(2) Paragraph (1) applies to the portion of the parcel of real property referred to in subsection (a) that consists of approximately 3.67 acres and was acquired by the United States from a party other than the City.

(c) **CONDITION.**—The conveyance authorized by subsection (a) shall be subject to the condition that the City accept the real property in its condition at the time of conveyance.

(d) **REQUIREMENTS RELATING TO CONVEYANCE.**—(1) The Secretary may not make the conveyance authorized by subsection (a) until the commencement of the use by the Navy of a Naval

Reserve Center that is a suitable replacement for the Naval Reserve Center located on the property to be conveyed.

(2) The Secretary may not commence construction of a facility to be the replacement facility under paragraph (1) for the Naval Reserve Center until the Secretary completes an environmental impact statement with respect to the construction and operation of the facility to be the replacement facility.

(e) **PAYMENT FOR COMMERCIAL USE.**—If at any time after the conveyance under this section the City ceases utilizing the real property conveyed under subsection (a) for public purposes, and uses such real property instead for commercial purposes, the City shall pay to the United States an amount equal to the excess, if any, of—

(1) an amount equal to the fair market value (as determined by the Secretary) of the real property referred to in subsection (b)(2), and any improvements thereon, at the time the City ceases utilizing the real property for public purposes, over

(2) the amount determined by the Secretary under subsection (b)(1).

(f) **USE OF PROCEEDS.**—Proceeds from the sale shall be deposited in the Treasury of the United States.

(g) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(h) **ADDITIONAL TERMS AND CONDITIONS.**—(1) The Navy may scope more than one site.

(2) The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 128. LAND TRANSFER, WOODBRIDGE RESEARCH FACILITY, VIRGINIA.

(a) **REQUIREMENT OF TRANSFER.**—Notwithstanding any other provision of law, the Secretary of the Army shall transfer, without reimbursement, to the Department of the Interior, a parcel of real estate consisting of approximately 580 acres and comprising the Army Research Laboratory Woodbridge Facility, Virginia, together with any improvements thereon.

(b) **USE OF TRANSFERRED PROPERTY.**—The Secretary of the Interior shall use appropriate parts of this real property for (1) incorporation into the Mason Neck Wildlife Refuge and (2) work with the local government and the Woodbridge Reuse Committee to plan any additional usage of the property, including an environmental education center: *Provided*, That the Secretary of the Interior provide appropriate public access to the property.

This Act may be cited as the "Military Construction Appropriations Act, 1995".

Approved August 23, 1994.

LEGISLATIVE HISTORY—H.R. 4453:

HOUSE REPORTS: Nos. 103-516 (Comm. on Appropriations) and 103-624 (Comm. of Conference).

SENATE REPORTS: No. 103-312 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 140 (1994):

May 24, considered and passed House.

July 15, considered and passed Senate, amended.

Aug. 1, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments, and disagreed to another.

Aug. 10, Senate agreed to conference report; concurred in certain House amendments, and receded from another.