Public Law 99-173
99th Congress

An Act

Dec. 10, 1985
[H.R. 3327]

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1986, and for other purposes.

Military Construction Appropriations Act, 1986.

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, 1986, for military construction functions administered by the Department of Defense, and for other purposes, namely:

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, and for construction and operation of facilities in support of the functions of the Commander-in-Chief, $1,602,982,000, to remain available until September 30, 1990: *Provided,* That of this amount, not to exceed $133,000,000 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.

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, $1,705,370,000 of which $39,700,000 shall be available for the Berthing Pier and Bulkhead at the Naval Station, New York, to remain available until September 30, 1990: *Provided,* That of this amount, not to exceed $138,660,000 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 of this amount, $8,250,000 shall be available for land acquisition at China Lake, California.

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,

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$1,663,225,000, to remain available until September 30, 1990: *Provided,* That of this amount, not to exceed $134,000,000 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.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

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, $181,375,000, to remain available until September 30, 1990: *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, 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 $27,500,000, 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 and section 2806 of title 10, United States Code, $10,000,000, to remain available until expended.

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, $102,205,000, to remain available until September 30, 1990.

10 USC 2231 *et seq.*

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, $121,250,000, to remain available until September 30, 1990.

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, and military construction authorization Acts, $61,346,000, to remain available until September 30, 1990.

10 USC 2231 *et seq.*

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, $41,800,000, to remain available until September 30, 1990.

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, $63,030,000, to remain available until September 30, 1990.

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, $262,018,000; for Operation and maintenance, $1,167,069,000; for debt payment, $16,077,000; in all $1,445,164,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1990.

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, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $139,808,000; for Operation and maintenance, $524,270,000; for debt payment, $17,302,000; in all $681,380,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1990.

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, $182,300,000; for Operation and maintenance, $650,161,000; for debt payment, $15,305,000; in all $847,766,000:

Provided, That the amount provided for construction shall remain available until September 30, 1990.

FAMILY HOUSING, DEFENSE AGENCIES

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, $1,610,000; for Operation and maintenance, $14,957,000; in all $16,567,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1990.

GENERAL PROVISIONS

Prohibition. Contracts.

SEC. 101. 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.

Motor vehicles.

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

Highways. Defense and national security.

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.

Prohibition.

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.

Prohibition.

SEC. 105. 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.

Prohibition. Housing.

SEC. 106. 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.

Prohibition.

SEC. 107. 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 Committees on Appropriations.

Prohibition. Steel.

SEC. 108. 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.

Prohibition.

SEC. 109. 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 and responsible bid of a United States contractor does not exceed the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

Prohibition. Taxes.

SEC. 110. 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.

Prohibition. Government organization and employees. Aliens.

SEC. 111. 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.

Contracts. Public availability.

SEC. 112. 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.

Prohibition. Hawaii.

SEC. 113. None of the funds appropriated in this Act may be obligated or expended in any way for the express purpose of the sale, lease, or rental of any portion of land currently identified as Fort DeRussy, Honolulu, Hawaii.

Prohibition.

SEC. 114. None of the funds in this Act may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

Prohibition. Japan.

SEC. 115. None of the funds appropriated in this Act for F-16 beddown projects at Misawa, Japan, may be obligated or expended unless there has been notification to the Committees on Appropriations that the approved Government of Japan budget for fiscal year 1986 includes projects associated with the F-16 beddown as an additive over the level of funding provided in Japanese fiscal year 1985 for the facilities improvement program.

Prohibition. Contracts.

SEC. 116. None of the funds appropriated in this Act may be obligated for architect and engineer contracts estimated by the Government to exceed $1,000,000 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.

Prohibition. Contracts.

SEC. 117. None of the funds appropriated in this Act for military construction in the United States territories and possessions in the Pacific and on Kwajalein Island 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. 118. The Secretary of Defense is to inform the Committees on Appropriations and Committees on Armed Services 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.

(TRANSFER OF FUNDS)

SEC. 119. 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 during fiscal year 1986, shall be transferred to the appropriations for Family Housing provided in this Act, 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. Housing.

SEC. 120. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year. Prohibition.

(TRANSFER OF FUNDS)

SEC. 121. (a) 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-ninth Congress.

(b) IN GENERAL.—10 U.S.C. 2860 is amended to read as follows: *Ante*, p. 991.

"§ 2860. Availability of appropriations

"Funds appropriated to a military department or defense agency for a fiscal year for military construction or military family housing purposes may remain available beyond such fiscal year to the extent provided in the appropriation Acts.".

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall apply to funds appropriated after the date of the enactment of Public Law 99-103. 10 USC 2860 note. *Ante*, p. 471.

SEC. 122. The Secretary of the Army acting through the Chief of Engineers of the United States Army Corps of Engineers is hereby directed to assign a military design, construction, and support mission to the Little Rock district and to designate the Little Rock district as a full service district which includes responsibilities for planning, engineering, construction operations and real estate for both civil and military missions: *Provided*, That finance and accounting shall also be included as a function of the full service district if evidence shows that it would result in more efficiency and economy.

SEC. 123. Notwithstanding any other provision of law, the Secretary of the Army shall convey, without reimbursement, to the United States Modern Pentathalon Association, a nonprofit association organized under the laws of the State of Texas, all equipment owned by the United States and currently used by the United States Modern Pentathalon Team for training and competition.

SEC. 124. (a) None of the funds appropriated in this Act may be available for any country if the President determines that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances cultivated or produced or processed illicitly, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States personnel or their dependents, or from being smuggled into the United States. Prohibition. President of U.S. Drugs and drug abuse. Report. Defense and national security.

Such prohibition shall continue in force until the President determines and reports to the Congress in writing that—

(1) the government of such country has prepared and committed itself to a plan presented to the Secretary of State that would eliminate the cause or basis for the application to such country of the prohibition contained in the first sentence; and

(2) the government of such country has taken appropriate law enforcement measures to implement the plan presented to the Secretary of State.

(b) The provisions of subsection (a) shall not apply in the case of any country with respect to which the President determines that the application of the provisions of such subsection would be inconsistent with the national security interests of the United States.

SEC. 125. Of the total amount of budget authority provided for fiscal year 1986 by this Act that would otherwise be available for consulting services, management and professional services, and special studies and analyses, 10 per centum of the amount intended for such purposes in the President's budget for 1986, as amended, for any agency, department or entity subject to apportionment by the Executive shall be placed in reserve and not made available for obligation or expenditure: Provided, That this section shall not apply to any agency, department or entity whose budget request for 1986 for the purposes stated above did not amount to $5,000,000.

Georgia.

50 USC app. 1622c.

SEC. 126. (a) Notwithstanding section 13(g) of the Surplus Property Act of 1944 (50 App. U.S.C. 1622(g)) and section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622(c)), the Secretary of Transportation, if requested, shall, as to the property described in subsection (c), in order to facilitate an exchange of land negotiated between the State of Georgia and the County of Glynn, Georgia, grant a release to the County of Glynn, Georgia, from all of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated July 1, 1975, under which the United States conveyed certain property to the County of Glynn, Georgia, for airport purposes. This provision does not apply to the portion of the property, conveyed by that deed, that is not specified in subsection (c). This provision is subject to the conditions in subsection (b).

(b)(1) The County of Glynn finds that the property obtained in exchange for the property described in subsection (c) is equivalent in value to the property described in subsection (c).

(2) Revenue derived from the land obtained by the County of Glynn in exchange for the property described in subsection (c) must be used for the development, improvement, operation, or maintenance of a public airport.

(3) The property described in subsection (c) shall be used by the State of Georgia in a manner compatible with airport purposes.

(4) Approval of the Secretary of Transportation must be obtained prior to any subsequent transfer by the State of Georgia of the property described in subsection (c). Such approval shall be given only if the Secretary finds that the property will continue to be used in a manner compatible with airport purposes.

(c) Subsection (a) applies to the following described area known as the "Glynco Jetport Tract":

"GLYNCO JETPORT TRACT

"To locate the Point of Beginning, proceed from the intersection of the eastern right-of-way of Canal Road with the northern right-of-

way of the Glynco Parkway, north 16 degrees 31 minutes 05 seconds east along the eastern right-of-way of Canal Road for a distance of 342.33 feet to a concrete monument which is the Point of Beginning; thence, continue north 16 degrees 31 minutes 05 seconds east along the eastern right-of-way of Canal Road for a distance of 1160.25 feet to a concrete monument; thence, proceed south 73 degrees 28 minutes 55 seconds east for a distance of 514.8 feet to a concrete monument located on the western right-of-way of the Brunswick-Altamaha Canal; thence, proceed south 12 degrees 31 minutes 00 seconds west along the western right-of-way of the said canal for a distance of 910.66 feet to a concrete monument located on the northern right-of-way of the Glynco Parkway; thence, proceed south 65 degrees 01 minutes 04 seconds west along the northern right-of-way of the Glynco Parkway for a distance of 219.54 feet to a concrete monument which a point of curvature; thence continue along the said right-of-way for a distance of 31.0 minutes along the arc of a curve having a delta angle of 13 degrees 00 minutes, a Tangent of 334.95 feet, and a radius of 2939.79 feet to a concrete monument; thence, proceed north 85 degrees 53 minutes 24 seconds west for a distance of 398.00 feet to a concrete monument located on the eastern right-of-way of Canal Road and is the Point of Beginning.".

Alabama.

(d) Notwithstanding section 13(g) of the Surplus Property Act of 1944 (50 App. U.S.C. 1622(g)) and Sec. 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622(c)), the Secretary of Transportation, if requested, shall, as to the property described in subsection (f), in order to facilitate the lease of land negotiated between the City of Gadsden and the State of Alabama National Guard Commission, grant a release to the City of Gadsden, from all of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated September 2, 1947, under which the United States conveyed certain property to the City of Gadsden, Alabama, for airport purposes. This provision does not apply to the portion of the property, conveyed by that deed, that is not specified in subsection (f). This provision is subject to the conditions of subsection (e).

50 USC app. 1622c.

Alabama.

(e)(1) The rent for the property described in subsection (f) shall be one dollar ($1.00) per year during both the initial term and the optional renewal term provided for herein to be paid by the State of Alabama National Guard Commission to the City of Gadsden.

(2) The City of Gadsden agrees that said lease would be in the best interest of the people of Gadsden.

(3) The property described in subsection (f) shall be used by the State of Alabama National Guard Commission for development of National Guard facilities in a manner compatible with airport purposes.

(4) Approval of the Secretary of Transportation must be obtained prior to any subsequent lease by the State of Alabama of the property described in subsection (f). Such approval shall be given only if the Secretary finds that the property will continue to be used in a manner compatible with airport purposes.

Alabama.

(f) Subsection (d) applies to the following described area:

Parcel 1. Commence at the northeast corner of the southeast quarter of the southeast quarter of section 23, township 12 south, range 5 east, in Etowah County, Alabama; thence south along the east line of said section a distance of 247.00 feet to the point of beginning; thence deflect 89 degrees 36 minutes left and run a distance of 72.77 feet to a point; thence deflect 23 degrees 43 minutes 30 seconds left and run a distance of 54.93 feet to a point; thence

deflect 23 degrees 43 minutes 30 seconds left and run a distance of 725.00 feet to a point; thence deflect 90 degrees 00 minutes left and run a distance of 350.00 feet to a point, thence deflect 90 degrees 00 minutes left and run a distance of 662.24 feet to a point; thence deflect 47 degrees 27 minutes right and run a distance of 661.81 feet to a point; thence deflect 90 degrees 00 minutes left and run a distance of 300.00 feet to a point; thence deflect 90 degrees 00 minutes left and run a distance of 749.65 feet to the point of beginning. Being a portion of the southeast quarter of the southeast quarter and the northeast quarter of the southeast quarter in section 23, township 12 south, range 5 east, and a portion of the northwest quarter of the southwest quarter and the southwest quarter of the southwest quarter of section 24, township 12 south, range 5 east, in Etowah County, Alabama. Save and except a 20.00 foot easement for sanitary sewer across said property.

Parcel 2. Commence at the northeast corner of the southeast quarter of the southeast quarter of section 23, township 12 south, range 5 east, in Etowah County, Alabama; thence south along the east line of said section a distance of 347.00 feet to a point; thence deflect 90 degrees 24 minutes right and run a distance of 750.00 feet to a point; thence deflect 90 degrees 00 minutes left and run a distance of 500.00 feet to the point of beginning; thence deflect 90 degrees 00 minutes left and run a distance of 440.21 feet to a point on the westerly right of way line of Airport Road a distance of 220.00 feet more or less to a point on the northerly right of way line of Southern Natural Gas Company pipe line; thence run in a southwesterly direction along the northerly right of way line of said Southern Natural Gas Company a distance of 459.40 feet to a point; thence deflect 122 degrees 12 minutes right and run a distance of 462.60 feet to the point of beginning. Being a portion of the southeast quarter of the southeast quarter, section 23, township 12 south, range 5 east in Etowah County, Alabama.

Ante, p. 724.

SEC. 127. Section 1209(a) of the Department of Defense Authorization Act, 1986 (Public Law 99-145), is amended by striking out "30 days after the date Congress receives the report required by subsection (b), but no later than", in the material preceding clause (1).

SEC. 128. Notwithstanding any other provision of law, funds appropriated by this Act for the United States contribution to the North Atlantic Treaty Organization Infrastructure program may not be obligated or expended at a rate exceeding the rate of recoupment during fiscal year 1986 of $30,000,000 of prefinanced United States contributions to this account.

"This Act may be cited as the "Military Construction Appropriations Act, 1986".

Approved December 10, 1985.

LEGISLATIVE HISTORY—H.R. 3327:

HOUSE REPORT No. 99-275 (Comm. on Appropriations).
SENATE REPORT No. 99-168 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 131 (1985):
Oct. 17, considered and passed House.
Nov. 7, considered and passed Senate, amended.
Nov. 20, House agreed to conference report; receded and concurred in certain Senate amendments with amendments and disagreed to Senate amendment No. 27.
Nov. 21, Senate agreed to conference report; concurred in House amendments and receded from Senate amendment No. 27.