

107TH CONGRESS
1ST SESSION

H. R. 2904

AN ACT

Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

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

1 That the following sums are appropriated, out of any
2 money in the Treasury not otherwise appropriated for
3 military construction, family housing, and base realign-
4 ment and closure functions administered by the Depart-
5 ment of Defense, for the fiscal year ending September 30,
6 2002, and for other purposes, namely:

7 MILITARY CONSTRUCTION, ARMY

8 (INCLUDING RESCISSION)

9 For acquisition, construction, installation, and equip-
10 ment of temporary or permanent public works, military
11 installations, facilities, and real property for the Army as
12 currently authorized by law, including personnel in the
13 Army Corps of Engineers and other personal services nec-
14 essary for the purposes of this appropriation, and for con-
15 struction and operation of facilities in support of the func-
16 tions of the Commander in Chief, \$1,739,334,000, to re-
17 main available until September 30, 2006: *Provided*, That
18 of this amount, not to exceed \$163,141,000 shall be avail-
19 able for study, planning, design, architect and engineer
20 services, and host nation support, as authorized by law,
21 unless the Secretary of Defense determines that additional
22 obligations are necessary for such purposes and notifies
23 the Committees on Appropriations of both Houses of Con-
24 gress of his determination and the reasons therefor: *Pro-*
25 *vided further*, That of the funds appropriated for “Military

1 Construction, Army” under Public Law 106–52,
2 \$36,400,000 is hereby rescinded.

3 MILITARY CONSTRUCTION, NAVY

4 (INCLUDING RESCISSION)

5 For acquisition, construction, installation, and equip-
6 ment of temporary or permanent public works, naval in-
7 stallations, facilities, and real property for the Navy as
8 currently authorized by law, including personnel in the
9 Naval Facilities Engineering Command and other per-
10 sonal services necessary for the purposes of this appropria-
11 tion, \$1,154,248,000, to remain available until September
12 30, 2006: *Provided*, That of this amount, not to exceed
13 \$30,972,000 shall be available for study, planning, design,
14 architect and engineer services, as authorized by law, un-
15 less the Secretary of Defense determines that additional
16 obligations are necessary for such purposes and notifies
17 the Committees on Appropriations of both Houses of Con-
18 gress of his determination and the reasons therefor: *Pro-*
19 *vided further*, That of the funds appropriated for “Military
20 Construction, Navy” under division A of Public Law 106–
21 246, \$19,588,000 is hereby rescinded.

22 MILITARY CONSTRUCTION, AIR FORCE

23 For acquisition, construction, installation, and equip-
24 ment of temporary or permanent public works, military
25 installations, facilities, and real property for the Air Force

1 as currently authorized by law, \$1,185,220,000, to remain
2 available until September 30, 2006: *Provided*, That of this
3 amount, not to exceed \$83,000,000 shall be available for
4 study, planning, design, architect and engineer services,
5 as authorized by law, unless the Secretary of Defense de-
6 termines that additional obligations are necessary for such
7 purposes and notifies the Committees on Appropriations
8 of both Houses of Congress of his determination and the
9 reasons therefor.

10 MILITARY CONSTRUCTION, DEFENSE-WIDE

11 (INCLUDING TRANSFER AND RESCISSION OF FUNDS)

12 For acquisition, construction, installation, and equip-
13 ment of temporary or permanent public works, installa-
14 tions, facilities, and real property for activities and agen-
15 cies of the Department of Defense (other than the military
16 departments), as currently authorized by law,
17 \$863,058,000, to remain available until September 30,
18 2006: *Provided*, That such amounts of this appropriation
19 as may be determined by the Secretary of Defense may
20 be transferred to such appropriations of the Department
21 of Defense available for military construction or family
22 housing as he may designate, to be merged with and to
23 be available for the same purposes, and for the same time
24 period, as the appropriation or fund to which transferred:
25 *Provided further*, That of the amount appropriated, not

1 to exceed \$74,496,000 shall be available for study, plan-
2 ning, design, architect and engineer services, as authorized
3 by law, unless the Secretary of Defense determines that
4 additional obligations are necessary for such purposes and
5 notifies the Committees on Appropriations of both Houses
6 of Congress of his determination and the reasons therefor:
7 *Provided further*, That of the funds appropriated for “Mili-
8 tary Construction, Defense-wide” under division B, title
9 III, chapter 3 of Public Law 106–246, \$10,250,000 is
10 hereby rescinded.

11 MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

12 For construction, acquisition, expansion, rehabilita-
13 tion, and conversion of facilities for the training and ad-
14 ministration of the Army National Guard, and contribu-
15 tions therefor, as authorized by chapter 1803 of title 10,
16 United States Code, and Military Construction Authoriza-
17 tion Acts, \$313,348,000, to remain available until Sep-
18 tember 30, 2006.

19 MILITARY CONSTRUCTION, AIR NATIONAL GUARD

20 For construction, acquisition, expansion, rehabilita-
21 tion, and conversion of facilities for the training and ad-
22 ministration of the Air National Guard, and contributions
23 therefor, as authorized by chapter 1803 of title 10, United
24 States Code, and Military Construction Authorization

1 Acts, \$198,803,000, to remain available until September
2 30, 2006.

3 MILITARY CONSTRUCTION, ARMY RESERVE

4 For construction, acquisition, expansion, rehabilita-
5 tion, and conversion of facilities for the training and ad-
6 ministration of the Army Reserve as authorized by chapter
7 1803 of title 10, United States Code, and Military Con-
8 struction Authorization Acts, \$167,769,000, to remain
9 available until September 30, 2006.

10 MILITARY CONSTRUCTION, NAVAL RESERVE

11 (INCLUDING RESCISSION)

12 For construction, acquisition, expansion, rehabilita-
13 tion, and conversion of facilities for the training and ad-
14 ministration of the reserve components of the Navy and
15 Marine Corps as authorized by chapter 1803 of title 10,
16 United States Code, and Military Construction Authoriza-
17 tion Acts, \$62,351,000, to remain available until Sep-
18 tember 30, 2006: *Provided further*, That of the funds ap-
19 propriated for “Military Construction, Naval Reserve”
20 under division A of Public Law 106–246, \$925,000 is
21 hereby rescinded.

22 MILITARY CONSTRUCTION, AIR FORCE RESERVE

23 For construction, acquisition, expansion, rehabilita-
24 tion, and conversion of facilities for the training and ad-
25 ministration of the Air Force Reserve as authorized by

1 chapter 1803 of title 10, United States Code, and Military
2 Construction Authorization Acts, \$81,882,000, to remain
3 available until September 30, 2006.

4 NORTH ATLANTIC TREATY ORGANIZATION
5 SECURITY INVESTMENT PROGRAM

6 For the United States share of the cost of the North
7 Atlantic Treaty Organization Security Investment Pro-
8 gram for the acquisition and construction of military fa-
9 cilities and installations (including international military
10 headquarters) and for related expenses for the collective
11 defense of the North Atlantic Treaty Area as authorized
12 in Military Construction Authorization Acts and section
13 2806 of title 10, United States Code, \$162,600,000, to
14 remain available until expended.

15 FAMILY HOUSING CONSTRUCTION, ARMY

16 For expenses of family housing for the Army for con-
17 struction, including acquisition, replacement, addition, ex-
18 pansion, extension and alteration, as authorized by law,
19 \$294,042,000, to remain available until September 30,
20 2006.

21 FAMILY HOUSING OPERATION AND MAINTENANCE,
22 ARMY

23 For expenses of family housing for the Army for op-
24 eration and maintenance, including debt payment, leasing,

1 minor construction, principal and interest charges, and in-
2 surance premiums, as authorized by law, \$1,096,431,000.

3 FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE
4 CORPS

5 For expenses of family housing for the Navy and Ma-
6 rine Corps for construction, including acquisition, replace-
7 ment, addition, expansion, extension and alteration, as au-
8 thorized by law, \$334,780,000, to remain available until
9 September 30, 2006.

10 FAMILY HOUSING OPERATION AND MAINTENANCE,
11 NAVY AND MARINE CORPS

12 For expenses of family housing for the Navy and Ma-
13 rine Corps for operation and maintenance, including debt
14 payment, leasing, minor construction, principal and inter-
15 est charges, and insurance premiums, as authorized by
16 law, \$910,095,000.

17 FAMILY HOUSING CONSTRUCTION, AIR FORCE

18 For expenses of family housing for the Air Force for
19 construction, including acquisition, replacement, addition,
20 expansion, extension and alteration, as authorized by law,
21 \$536,237,000, to remain available until September 30,
22 2006.

1 FAMILY HOUSING OPERATION AND MAINTENANCE, AIR
2 FORCE

3 For expenses of family housing for the Air Force for
4 operation and maintenance, including debt payment, leas-
5 ing, minor construction, principal and interest charges,
6 and insurance premiums, as authorized by law,
7 \$858,121,000.

8 FAMILY HOUSING, DEFENSE-WIDE

9 For expenses of family housing for the activities and
10 agencies of the Department of Defense (other than the
11 military departments) for construction, including acquisi-
12 tion, replacement, addition, expansion, extension and al-
13 teration, and for operation and maintenance, leasing, and
14 minor construction, as authorized by law, as follows: for
15 construction, \$250,000 to remain available until Sep-
16 tember 30, 2006; for Operation and Maintenance,
17 \$43,762,000; in all \$44,012,000.

18 DEPARTMENT OF DEFENSE FAMILY HOUSING

19 IMPROVEMENT FUND

20 For the Department of Defense Family Housing Im-
21 provement Fund, \$2,000,000, to remain available until ex-
22 pended, for family housing initiatives undertaken pursu-
23 ant to section 2883 of title 10, United States Code, pro-
24 viding alternative means of acquiring and improving mili-
25 tary family housing, and supporting facilities.

1 HOMEOWNERS ASSISTANCE FUND, DEFENSE

2 For the Homeowners Assistance Fund established by
3 Section 1013 of the Demonstration Cities and Metropoli-
4 tan Development Act of 1966, as amended (42 U.S.C.
5 3374) \$10,119,000, to remain available until expended.

6 BASE REALIGNMENT AND CLOSURE ACCOUNT

7 For deposit into the Department of Defense Base
8 Closure Account 1990 established by section 2906(a)(1)
9 of the Department of Defense Authorization Act, 1991
10 (Public Law 101–510), \$552,713,000, to remain available
11 until expended: *Provided*, That not more than
12 \$511,670,000 of the funds appropriated herein shall be
13 available solely for environmental restoration, unless the
14 Secretary of Defense determines that additional obliga-
15 tions are necessary for such purposes and notifies the
16 Committees on Appropriations of both Houses of Congress
17 of his determination and the reasons therefor.

18 GENERAL PROVISIONS

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

1 SEC. 102. Funds appropriated to the Department of
2 Defense for construction shall be available for hire of pas-
3 senger motor vehicles.

4 SEC. 103. Funds appropriated to the Department of
5 Defense for construction may be used for advances to the
6 Federal Highway Administration, Department of Trans-
7 portation, for the construction of access roads as author-
8 ized by section 210 of title 23, United States Code, when
9 projects authorized therein are certified as important to
10 the national defense by the Secretary of Defense.

11 SEC. 104. None of the funds appropriated in this Act
12 may be used to begin construction of new bases inside the
13 continental United States for which specific appropria-
14 tions have not been made.

15 SEC. 105. No part of the funds provided in Military
16 Construction Appropriations Acts shall be used for pur-
17 chase of land or land easements in excess of 100 percent
18 of the value as determined by the Army Corps of Engi-
19 neers or the Naval Facilities Engineering Command, ex-
20 cept: (1) where there is a determination of value by a Fed-
21 eral court; (2) purchases negotiated by the Attorney Gen-
22 eral or his designee; (3) where the estimated value is less
23 than \$25,000; or (4) as otherwise determined by the Sec-
24 retary of Defense to be in the public interest.

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

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

12 SEC. 108. No part of the funds appropriated in Mili-
13 tary Construction Appropriations Acts may be used for
14 the procurement of steel for any construction project or
15 activity for which American steel producers, fabricators,
16 and manufacturers have been denied the opportunity to
17 compete for such steel procurement.

18 SEC. 109. None of the funds available to the Depart-
19 ment of Defense for military construction or family hous-
20 ing during the current fiscal year may be used to pay real
21 property taxes in any foreign nation.

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

1 SEC. 111. None of the funds appropriated in Military
2 Construction Appropriations Acts may be obligated for ar-
3 chitect and engineer contracts estimated by the Govern-
4 ment to exceed \$500,000 for projects to be accomplished
5 in Japan, in any NATO member country, or in countries
6 bordering the Arabian Gulf, unless such contracts are
7 awarded to United States firms or United States firms
8 in joint venture with host nation firms.

9 SEC. 112. None of the funds appropriated in Military
10 Construction Appropriations Acts for military construc-
11 tion in the United States territories and possessions in the
12 Pacific and on Kwajalein Atoll, or in countries bordering
13 the Arabian Gulf, may be used to award any contract esti-
14 mated by the Government to exceed \$1,000,000 to a for-
15 eign contractor: *Provided*, That this section shall not be
16 applicable to contract awards for which the lowest respon-
17 sive and responsible bid of a United States contractor ex-
18 ceeds the lowest responsive and responsible bid of a for-
19 eign contractor by greater than 20 percent: *Provided fur-*
20 *ther*, That this section shall not apply to contract awards
21 for military construction on Kwajalein Atoll for which the
22 lowest responsive and responsible bid is submitted by a
23 Marshallese contractor.

24 SEC. 113. The Secretary of Defense is to inform the
25 appropriate committees of Congress, including the Com-

1 mittees on Appropriations, of the plans and scope of any
2 proposed military exercise involving United States per-
3 sonnel 30 days prior to its occurring, if amounts expended
4 for construction, either temporary or permanent, are an-
5 ticipated to exceed \$100,000.

6 SEC. 114. Not more than 20 percent of the appro-
7 priations in Military Construction Appropriations Acts
8 which are limited for obligation during the current fiscal
9 year shall be obligated during the last 2 months of the
10 fiscal year.

11 (TRANSFER OF FUNDS)

12 SEC. 115. Funds appropriated to the Department of
13 Defense for construction in prior years shall be available
14 for construction authorized for each such military depart-
15 ment by the authorizations enacted into law during the
16 current session of Congress.

17 SEC. 116. For military construction or family housing
18 projects that are being completed with funds otherwise ex-
19 pired or lapsed for obligation, expired or lapsed funds may
20 be used to pay the cost of associated supervision, inspec-
21 tion, overhead, engineering and design on those projects
22 and on subsequent claims, if any.

23 SEC. 117. Notwithstanding any other provision of
24 law, any funds appropriated to a military department or
25 defense agency for the construction of military projects

1 may be obligated for a military construction project or
2 contract, or for any portion of such a project or contract,
3 at any time before the end of the fourth fiscal year after
4 the fiscal year for which funds for such project were ap-
5 propriated if the funds obligated for such project: (1) are
6 obligated from funds available for military construction
7 projects; and (2) do not exceed the amount appropriated
8 for such project, plus any amount by which the cost of
9 such project is increased pursuant to law.

10 (TRANSFER OF FUNDS)

11 SEC. 118. During the 5-year period after appropria-
12 tions available to the Department of Defense for military
13 construction and family housing operation and mainte-
14 nance and construction have expired for obligation, upon
15 a determination that such appropriations will not be nec-
16 essary for the liquidation of obligations or for making au-
17 thorized adjustments to such appropriations for obliga-
18 tions incurred during the period of availability of such ap-
19 propriations, unobligated balances of such appropriations
20 may be transferred into the appropriation "Foreign Cur-
21 rency Fluctuations, Construction, Defense" to be merged
22 with and to be available for the same time period and for
23 the same purposes as the appropriation to which trans-
24 ferred.

1 SEC. 119. The Secretary of Defense is to provide the
2 Committees on Appropriations of the Senate and the
3 House of Representatives with an annual report by Feb-
4 ruary 15, containing details of the specific actions pro-
5 posed to be taken by the Department of Defense during
6 the current fiscal year to encourage other member nations
7 of the North Atlantic Treaty Organization, Japan, Korea,
8 and United States allies bordering the Arabian Gulf to as-
9 sume a greater share of the common defense burden of
10 such nations and the United States.

11 (TRANSFER OF FUNDS)

12 SEC. 120. During the current fiscal year, in addition
13 to any other transfer authority available to the Depart-
14 ment of Defense, proceeds deposited to the Department
15 of Defense Base Closure Account established by section
16 207(a)(1) of the Defense Authorization Amendments and
17 Base Closure and Realignment Act (Public Law 100–526)
18 pursuant to section 207(a)(2)(C) of such Act, may be
19 transferred to the account established by section
20 2906(a)(1) of the Department of Defense Authorization
21 Act, 1991, to be merged with, and to be available for the
22 same purposes and the same time period as that account.

23 SEC. 121. (a) No funds appropriated pursuant to this
24 Act may be expended by an entity unless the entity agrees
25 that in expending the assistance the entity will comply

1 with sections 2 through 4 of the Act of March 3, 1933
2 (41 U.S.C. 10a–10c, popularly known as the “Buy Amer-
3 ican Act”).

4 (b) No funds made available under this Act shall be
5 made available to any person or entity who has been con-
6 victed of violating the Act of March 3, 1933 (41 U.S.C.
7 10a–10c, popularly known as the “Buy American Act”).

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

14 (b) In providing financial assistance under this Act,
15 the Secretary of the Treasury shall provide to each recipi-
16 ent of the assistance a notice describing the statement
17 made in subsection (a) by the Congress.

18 (TRANSFER OF FUNDS)

19 SEC. 123. Subject to 30 days prior notification to the
20 Committees on Appropriations, such additional amounts
21 as may be determined by the Secretary of Defense may
22 be transferred to the Department of Defense Family
23 Housing Improvement Fund from amounts appropriated
24 for construction in “Family Housing” accounts, to be
25 merged with and to be available for the same purposes

1 and for the same period of time as amounts appropriated
2 directly to the Fund: *Provided*, That appropriations made
3 available to the Fund shall be available to cover the costs,
4 as defined in section 502(5) of the Congressional Budget
5 Act of 1974, of direct loans or loan guarantees issued by
6 the Department of Defense pursuant to the provisions of
7 subchapter IV of chapter 169, title 10, United States
8 Code, pertaining to alternative means of acquiring and im-
9 proving military family housing and supporting facilities.

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

14 SEC. 125. (a) Not later than 60 days before issuing
15 any solicitation for a contract with the private sector for
16 military family housing the Secretary of the military de-
17 partment concerned shall submit to the congressional de-
18 fense committees the notice described in subsection (b).

19 (b)(1) A notice referred to in subsection (a) is a no-
20 tice of any guarantee (including the making of mortgage
21 or rental payments) proposed to be made by the Secretary
22 to the private party under the contract involved in the
23 event of—

1 (A) the closure or realignment of the installa-
2 tion for which housing is provided under the con-
3 tract;

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

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

8 (2) Each notice under this subsection shall specify
9 the nature of the guarantee involved and assess the extent
10 and likelihood, if any, of the liability of the Federal Gov-
11 ernment with respect to the guarantee.

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

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

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

20 (TRANSFER OF FUNDS)

21 SEC. 126. During the current fiscal year, in addition
22 to any other transfer authority available to the Depart-
23 ment of Defense, amounts may be transferred from the
24 account established by section 2906(a)(1) of the Depart-
25 ment of Defense Authorization Act, 1991, to the fund es-

1 tablished by section 1013(d) of the Demonstration Cities
2 and Metropolitan Development Act of 1966 (42 U.S.C.
3 3374) to pay for expenses associated with the Home-
4 owners Assistance Program. Any amounts transferred
5 shall be merged with and be available for the same pur-
6 poses and for the same time period as the fund to which
7 transferred.

8 SEC. 127. Notwithstanding this or any other provi-
9 sion of law, funds appropriated in Military Construction
10 Appropriations Acts for operations and maintenance of
11 family housing shall be the exclusive source of funds for
12 repair and maintenance of all family housing units, includ-
13 ing flag and general officer quarters: *Provided*, That not
14 more than \$25,000 per unit may be spent annually for
15 the maintenance and repair of any general or flag officer
16 quarters without 30 days advance prior notification of the
17 appropriate committees of Congress: *Provided further*,
18 That the Under Secretary of Defense (Comptroller) is to
19 report annually to the Committees on Appropriations all
20 operations and maintenance expenditures, and all uses of
21 funds pursuant to 10 U.S.C. 2601, for each individual flag
22 and general officer quarters for the prior fiscal year: *Pro-*
23 *vided further*, That nothing herein precludes the Secretary
24 concerned from using funds pursuant to 10 U.S.C. 2601
25 or similar authority.

1 SEC. 128. The Army, Navy, Marine Corps, and Air
2 Force are directed to submit to the appropriate commit-
3 tees of the Congress by July 1, 2002, a Family Housing
4 Master Plan demonstrating how they plan to meet the
5 year 2010 housing goals with traditional construction, op-
6 eration and maintenance support, as well as privatization
7 initiative proposals. Each plan shall include projected life
8 cycle costs for family housing construction, basic allow-
9 ance for housing, operation and maintenance, other associ-
10 ated costs, and a time line for housing completions each
11 year.

12 (TRANSFER OF FUNDS)

13 SEC. 129. Of the funds made available in this Act,
14 \$4,000,000 appropriated under the heading "Military
15 Construction, Air Force" and \$4,000,000 appropriated
16 under the heading "Military Construction, Defense-wide"
17 shall be available to complete a military construction
18 project for which funds were appropriated in Public Law
19 107-20 under the heading, "Military Construction, Air
20 Force".

1 This Act may be cited as the “Military Construction
2 Appropriations Act, 2002”.

 Passed the House of Representatives September 21,
2001.

Attest:

Clerk.

107TH CONGRESS
1ST SESSION

H. R. 2904

AN ACT

Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.