

January 8, 2020

FY2020 Military Construction Appropriations: An Overview of P.L. 116-94 (Division F)

On December 20, 2019, President Donald Trump signed the Further Consolidated Appropriations Act, 2020 (H.R. 1865; P.L. 116-94)—a package of multiple appropriations acts known as a *minibus*—which included the Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2020 (Division F).

Division F of P.L. 116-94 provides \$18.2 billion in discretionary budget authority for Department of Defense (DOD) military construction (MILCON) and family housing programs, an increase of \$5.4 billion (42%) from the FY2019 enacted level, and \$2.9 billion (14%) less than the President’s budget request. See **Table 1** and, for a historical funding perspective, **Figure 1**.

The total includes the following:

- \$11.3 billion in DOD funding for MILCON and family housing programs in Title I as part of the department’s regular, or *base*, budget—i.e., the portion of the budget generally used to man, train, and equip the force;
- \$644.5 million in DOD funding designated for Overseas Contingency Operations/Global War on Terrorism (OCO/GWOT) in Title IV. Most of this funding (\$544.7 million) is for MILCON projects related to the European Deterrence Initiative (EDI), an effort DOD began in

2014 to support NATO allies in Central and Eastern Europe after the Russian military intervention in Ukraine; and

- \$6.2 billion in DOD funding designated as emergency requirements in Title V for natural disaster relief. This funding is for MILCON projects intended to replace or rebuild infrastructure damaged by Hurricanes Florence and Michael, flooding and earthquakes.

Border Barrier Funding Issues

The act did not include any of the \$7.2 billion in U.S. Army MILCON emergency funding requested by the Trump Administration to build barriers along the U.S. border with Mexico. The Administration requested \$3.6 billion to build new border barriers in FY2020 and \$3.6 billion to replenish, or *backfill*, funding reallocated for such purposes in FY2019. The act also did not include language from the House version of the bill (Division D of H.R. 3055) that would have prohibited the Administration’s use of FY2020 or prior-year MILCON funding to design, construct, or carry out projects along the border. In a June 18, 2019, Statement of Administration Policy, the White House Office of Management and Budget (OMB) referenced the House language as potential grounds for a presidential veto.

Table 1. FY2020 Military Construction and Family Housing Appropriations

(in billions of dollars)

Appropriation Title	FY2019 Enacted	FY2020 Request	House-reported (H.R. 2745 ^a)	Senate-reported (see table notes)	P.L. 116-94 (Division F)
Military Construction (Title I)	8.7	9.9	9.1	n/a	9.9
Family Housing (Title I)	1.6	1.3	1.5	n/a	1.5
Subtotal	10.3	11.2	10.5	n/a	11.3
OCO/GWOT (Title IV)	0.9	9.8 ^b	0.9	n/a	0.6
Natural Disaster Relief (Title V)	1.6 ⁰	0.0 ^b	2.3	n/a	6.2
Total	12.8	21.1	13.8	n/a	18.2

Sources: Table prepared by CRS based on the Joint Explanatory Statement (JES) accompanying P.L. 116-94 and H.Rept. 116-63, the House Appropriations Committee report accompanying H.R. 2745, which was incorporated into H.R. 3055.

Notes: Figures rounded to the nearest tenth. Totals may not sum due to rounding. The Senate Appropriations Committee did not report a version of the Military Construction, Veterans Affairs, and Related Agencies Appropriations Bill, 2020.

a. Figures in this column are based on the Comparative Statement of New Budget Authority in H.Rept. 116-63.

b. Amount reflects figure in JES accompanying P.L. 116-94. Title IV included \$644.5 million for OCO military construction projects and \$9.2 billion for emergency military construction projects. In DOD budget documentation, the Administration requested \$9.2 billion in emergency funding to build border barriers, backfill funding reallocated in FY2019 to build border barriers, and rebuild facilities damaged by Hurricanes Florence and Michael.

Amount reflects military construction funding in Additional Supplemental Appropriations for Disaster Relief Act, 2019 (P.L. 116-20).

Funding Highlights

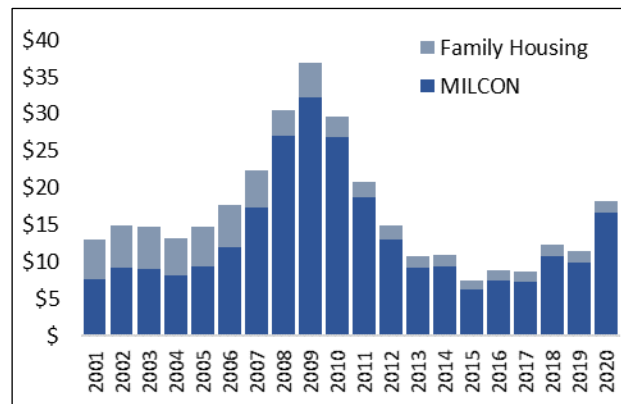
Selected Funding Increases. In addition to the emergency funding for natural disaster relief, Division F of P.L. 116-94 provided a total of \$1.8 billion more than the Administration requested for certain projects and programs, including the following:

- \$1.0 billion—none of which was requested by DOD—for MILCON projects identified in the services’ FY2020 unfunded priority lists to Congress (see Section 124);
- \$140.8 million—none of which was requested by DOD—for Family Housing Support and Management Costs to increase the services’ ability to provide oversight, management, and personnel to track current and future issues that may affect military family housing. These funds were also identified in the services’ FY2020 unfunded priority lists to Congress (Section 131);
- \$398.5 million—\$120.0 million more than requested—for the Department of Defense Base Closure Account, which finances environmental restoration and mitigation activities, property management, disposal, and caretaker costs incurred at closed or realigned installations (i.e., Base Realignment and Closure, or BRAC, sites). Half of the increase is for the cleanup of certain per- and polyfluoroalkyl substances (PFAS)—fluorinated compounds that have been used as an ingredient in fire suppressants at U.S. military installations;
- \$232.6 million—\$82.6 million more than requested—for unfunded requirements of the Energy Resilience and Conservation Investment Program (ERCIP), intended to fund projects that improve energy resilience (the ability to recover from anticipated and unanticipated energy disruptions), contribute to mission assurance, save energy, and reduce DOD’s energy costs; and
- \$75.0 million—none of which was requested—for improving military installation resilience (Section 130).

Selected Funding Decreases. In addition to not including the border barrier funding, the act provided a total of \$1.7 billion less than the Administration requested for certain projects and programs, including the following:

- No funding—\$211.0 million less than requested—for worldwide unspecified Army major construction;
- No funding—\$130.4 million less than requested—for Kinnick High School at a Navy base in Yokosuka, Japan;
- \$120.0 million—\$115.0 million less than requested—for an Air Force weapons storage and maintenance facility at Malmstrom Air Force Base, Montana;
- \$64.1 million—\$100.0 million less than requested—for a Navy Bachelor Enlisted Quarters that would provide housing to U.S. Marines (rank E1-E5) at Naval Base Guam in Joint Region Marianas, Guam; and
- No funding—\$88.5 million less than requested in OCO funding—for an Army high-value detention facility at Guantanamo Bay Naval Station in Guantanamo Bay, Cuba.

Figure 1. Military Construction and Family Housing Appropriations, FY2001–FY2020
(in billions of FY2020 dollars)



Source: Department of Defense, *National Defense Budget Estimates for FY2020*, Table 6-8: DOD Budget Authority by Public Law Title (FY 1948 to FY 2024); JES accompanying P.L. 116-94.

Notes: FY2001 through FY2019 figures from DOD Table 6-8; FY2020 figures from the JES accompanying P.L. 116-94. MILCON is military construction and includes OCO/GWOT and emergency funding.

Military Housing and Tenant Rights

The Joint Explanatory Statement accompanying the bill in the December 17, 2019, *Congressional Record* cited H.Rept. 116-63, which directs DOD to “provide a report [to Congress] no later than 60 days after enactment ... and then every quarter, regarding the status of ... tenant contracts, leases with private housing providers, and overall implementation measures ... taken to improve quality of housing” for servicemembers. The report also directs DOD and the services to establish and maintain procedures for tenant reporting of safety and health threats in military family housing managed by private contractors. These military housing oversight requirements stem from multiple reports and congressional testimonies of negligence by privatized military housing providers.

CRS Products

CRS Report R44710, *Military Construction: Authorities, Process, and Frequently Asked Questions*, by G. James Herrera

CRS Report R45937, *Military Funding for Southwest Border Barriers*, by Christopher T. Mann

CRS Report R45986, *Federal Role in Responding to Potential Risks of Per- and Polyfluoroalkyl Substances (PFAS)*, coordinated by David M. Bearden

Other Resources

Office of Management and Budget, *Statement of Administration Policy: H.R. 3055*, June 18, 2019

Brendan W. McGarry, Analyst in U.S. Defense Budget
G. James Herrera, Analyst in U.S. Defense Readiness and Infrastructure

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