

**Rits, Michael, Lt. Col., AF/ILEHM**

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**From:** Franklin, Binks, Mr, AF/ILEIP  
**Sent:** Thursday, September 07, 2000 10:07 AM  
**To:** Furlong, Robert; Huizenga, Brian; Rits, Michael; Thomas, Dwayne; Woolfrey, Patricia  
**Subject:** FW: Legislative Language on Privatization

-----Original Message-----

**From:** Dowling, Maria, Lt Col, AF/ILEHO  
**Sent:** Wednesday, September 06, 2000 4:41 PM  
**To:** Smith, Emmitt, Col, AF/ILEH  
**Cc:** Sartori, Peter, Maj, AF/ILEHI; Franklin, Binks, Mr, AF/ILEIP; Zander, Steven, Lt Col, AF/ILEHI; Gallagher, Bryan, Lt Col, AF/ILEHO  
**Subject:** FW: Legislative Language on Privatization

Sir - Don Peskie confirmed with Hap Taylor that we have to give prior congressional notification only when increasing the amount of funds in the new privatization PE. However, if we decrease funds by more than 10% in the new PE, we will have to give after-the-fact notification (as is the case with our other O&M accounts). V/R Lt Col Dowling

Maria J. Dowling, Lt Col, USAF, R. A.  
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-----Original Message-----

**From:** Dowling, Maria, Lt Col, AF/ILEHO  
**Sent:** Monday, August 28, 2000 4:27 PM  
**To:** Peskie, Donald E., CIV, SAF/FMBIC  
**Subject:** Legislative Language on Privatization

Don - Referencing our conversation last week regarding privatization, I had inquired whether there were any restrictions on movement of funds either into or out of the new privatization PE (not yet established). You said we would have to give "congressional notification" to move funds both into and out of the account. I have since looked through the actual language (Senate Report 106-290, MILCON Approp. Bill 2001) which states: "Family Housing O&M will be the sole source of funds to develop, evaluate and oversee privatization deals and pay consultants; however, these funds will be separately identified and justified as a sub-element of the Family Housing Operation account similar to management. Further, this sub-element is considered a congressional interest item and may not be INCREASED from the amount enacted without prior approval of the congressional appropriations committees." Since the language only says "increased", if we have excess funds at the end of FY01 can we move them to P-722 to cover DMAR requirements without congressional notification? Obviously, we do not want to put any funds at "risk" of being pulled from the MFH account.

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10/16/01

MAKING APPROPRIATIONS FOR MILITARY CONSTRUCTION, FAMILY HOUSING, AND BASE REALIGNMENT AND CLOSURE FOR THE DEPARTMENT OF DEFENSE FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2001, AND FOR OTHER PURPOSES

JUNE 29, 2000.—Ordered to be printed

Mr. HOBSON, from the committee on conference,  
submitted the following

CONFERENCE REPORT

[To accompany H.R. 4425]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4425) "making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2001, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

*DIVISION A—FISCAL YEAR 2001 MILITARY CONSTRUCTION APPROPRIATIONS*

*That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated for military construction, family housing, and base realignment and closure functions administered by the Department of Defense, for the fiscal year ending September 30, 2001, 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, including personnel in the Army Corps of Engineers and other per-*

## FAMILY HOUSING, DEFENSE-WIDE

The conference agreement appropriates \$44,886,000 for Construction, Family Housing, Defense-wide, as proposed by the House and Senate.

## DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND

The conference agreement provides no appropriation for the Department of Defense Family Housing Improvement Fund, as proposed by the House and Senate. Transfer authority is provided for the execution of any qualifying project under privatization authority, which resides in the Fund.

*Contractor Support for Family Housing Privatization.*—The conferees are concerned about the Army spending excessive amounts on contractor support to evaluate and develop family housing privatization proposals. Therefore, the Deputy Under Secretary of Defense (Installations) is to review quarterly, and report to the appropriate Committees of Congress, the expenses of each component to ensure excessive amounts are not being spent on contractor support.

In the future, amounts appropriated into the Family Housing Improvement Fund will be the sole source of funds to finance the operation of the former Housing Revitalization Support Office. ~~It is the conferees' intent that Family Housing funds will be the sole source of funds to develop, evaluate, and oversee privatization deals.~~ The conferees direct the Under Secretary of Defense (Comptroller) to determine if these funds are best appropriated out of ~~Family Housing Operation and Maintenance~~ or Family Housing Planning and Design and to provide consistency among the Services in the fiscal year 2002 budget submission. In addition, these funds will be ~~separately identified and justified~~ as a sub-element account. This sub-element is considered a congressional interest item and ~~may not be increased~~ from the amount enacted ~~without the prior approval~~ of the Committees on Appropriations.

*Reporting Requirements.*—The conferees are concerned that the 21-day period of review prior to entering a privatization contract is too limited, and is extending this review period to a 45-day period. The Service Secretary concerned may not enter into any contract until after the end of the 45-day period beginning on the date the Secretary concerned submits written notice of the nature and terms of the contract to the appropriate committees of Congress.

To clarify existing reporting requirements, this 45-day notification requirement applies to any project, regardless of whether it is financed entirely by transfer of funds into the Family Housing Improvement Fund, or it is fully financed within funds available in the Family Housing Improvement Fund, or it is funded by combining transferred funds with funds available in the Family Housing Improvement Fund.

In addition, no transfer of appropriated funds into the account may take place until after the end of the 45-day period beginning on the date the Secretary of Defense submits written notice and justification for the transfer to the appropriate committees of Congress. The House and Senate Appropriations Committees expect to receive prior notification of all such transfers of funds.

? 727 use of funds

The Department is to continue its quarterly reports on the status of privatization projects.

#### BASE REALIGNMENT AND CLOSURE ACCOUNT, PART IV

The conference agreement appropriates \$1,024,369,000 for the Base Realignment and Closure Account, Part IV, instead of \$1,174,369,000 as proposed by the House and Senate.

*Unliquidated Obligations.*—The conferees recommend a reduction of \$150,000,000 to the Base Realignment and Closure Account, Part IV. This reduction is based on slow budget execution and large amounts of unliquidated obligations. At the time the fiscal year 2001 budget estimate was being developed, the Department had \$1,600,000,000 in reported unliquidated obligations in the Base Realignment and Closure account. Of this amount, \$115,000,000 was appropriated prior to fiscal year 1995. The majority of the unliquidated funds resulted from environmental cleanup activities that were carried out more slowly than planned or determined not to be necessary.

*California—Fort Ord: Thermochemical Conversion.*—The conferees are concerned about the environmental challenges associated with the base closure re-use issues at Fort Ord in California and the disposal of asbestos, PCB, impregnated asbestos, lead-based paint and other hazardous construction material. The conferees are aware of a cost-competitive environmentally safe process that offers great potential for addressing the unique problems at Fort Ord. This thermochemical conversion process, which changes asbestos and other construction material to a non-hazardous mineral, has been demonstrated by the Department of Energy, validated by the Navy at the Puget Sound Naval Shipyard in Washington and approved by the Environmental Protection Agency. Accordingly, the conferees direct the Department of the Army to develop and operate a thermochemical conversion pilot plant at Fort Ord for remediation of hazardous material generated by the activities of the Fort Ord Re-use Authority.

*Construction Projects: Administrative Provision.*—The conferees agree that any transfer of funds which exceeds reprogramming thresholds for any construction project financed by any Base Realignment and Closure Account shall be subject to a 21-day notification to the Committees, and shall not be subject to reprogramming procedure.

#### GENERAL PROVISIONS

The conference agreement includes general provisions that were not amended by either the House or Senate in their versions of the bill.

The conference agreement includes a provision, Section 121, as proposed by the House, which prohibits the expenditure of funds except in compliance with the Buy American Act. The Senate bill contained no similar provision.

The conference agreement includes a provision, Section 122, as proposed by the House, which states the Sense of the Congress that recipients of equipment or products authorized to be purchased with financial assistance provided in this Division are to be notified