



Military Construction, Veterans Affairs, and Related Agencies: FY2011 Appropriations

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Summary

The Military Construction, Veterans Affairs, and Related Agencies appropriations bill provides funding for the planning, design, construction, alteration, and improvement of facilities used by active and reserve military components worldwide. It capitalizes military family housing and the U.S. share of the NATO Security Investment Program, and finances the implementation of installation closures and realignments. It underwrites veterans benefit and health care programs administered by the Department of Veterans Affairs, provides for the creation and maintenance of U.S. cemeteries and battlefield monuments within the United States and abroad, and supports the U.S. Court of Appeals for Veterans Claims, Armed Forces Retirement Homes, and Arlington National Cemetery. The bill also funds construction supporting military operations overseas (known as Overseas Contingency Operations, or OCO), a function previously carried out through emergency supplemental appropriations, and advance appropriations for veterans medical services.

President Barack Obama submitted his request to Congress for Fiscal Year (FY) 2011 appropriations on February 1, 2010. For the appropriations accounts included in this bill, his request totaled \$191.7 billion in new budget authority, divided into four major categories: Title I (military construction and family housing) at \$18.7 billion; Title II (veterans affairs) at \$171.4 billion; Title III (related agencies) at \$283.8 million; and Title IV (a new category of funding for construction in support of active military operations overseas) at \$1.3 billion. All told, the request comprised \$20.0 billion in Department of Defense (DOD), \$171.4 billion in veterans affairs, and \$283.8 million in other agency funding. Of the total, \$76.0 billion (39.6%) would be discretionary appropriations, with the remainder considered mandatory.

Simultaneously, the President requested an emergency supplemental appropriation for FY2010 that contained \$521.4 million for Army and Air Force construction in Afghanistan.

The military construction funding amounts requested by the President and recommended by the House and Senate Committees on Appropriations have fallen off as building for the 2005 Defense Base Closure and Realignment (BRAC) round has nearly reached completion. Funding support for military family housing construction has also declined as the military departments (Army, Navy, and Air Force) continue their efforts to privatize formerly government-owned accommodations.

In the area of non-medical benefits, the largest dollar increases in funding for the VA between FY2010 and FY2011 in the Administration request, the House Appropriations Committee recommendation (H.R. 5822) and the Senate Appropriations Committee recommendation (S. 3615) are for disability compensation and pension benefits, and readjustment benefits, where the largest component is for education benefits.

The appropriations subcommittees in both chambers reported their versions of the bill (S. 3615) on July 14, 2010. The Senate introduced S. 3615 and placed it on the Legislative Calendar (Calendar No. 469) on July 19. The House introduced H.R. 5822 on July 22, took it up on July 28, and passed it with amendments. The Senate received H.R. 5822 on July 29 and placed it on the Legislative Calendar under General Orders (Calendar No. 494). On September 29, the Senate revived H.R. 3081, a bill that had lain dormant since July 13, 2009, amended it to form a Continuing Appropriations Act that expires not later than December 3, 2010, and passed the measure. The House followed suit early on September 30.

Contents

Status of Legislation.....	1
Continuing Appropriations	1
Appropriation	2
National Defense Authorization.....	3
Title I: Department of Defense	4
Military Construction	4
Key Budget Issues	5
Planning Future Construction: the Quadrennial Defense Review	5
Base Realignment and Closure (BRAC): the Cost of Implementation	6
Overseas Installations: the Guam Redeployment	7
Incremental vs. Phased Construction Funding	8
Other Issues	8
Title II: Department of Veterans Affairs.....	10
Agency Overview	10
Key Budget Issues	10
Title III: Related Agencies.....	15
American Battle Monuments Commission.....	15
U.S. Court of Appeals for Veterans Claims	15
Department of Defense: Civil (Army Cemeterial Expenses)	15
Armed Forces Retirement Home (AFRH)	15
Title IV: Overseas Contingency Operations	16
Temporary Contingency Construction Authority.....	16
Permanent Construction Authorities	17
The Use of CCA for Construction	17
Creation of Title IV	18

Figures

Figure 1. New Budget Authority Estimates, BRAC 2005 Implementation.....	7
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Tables

Table 1. Status of FY2011 Military Construction, Veterans Affairs, and Related Agencies Appropriations Act.....	1
Table 2. Status of FY2011 National Defense Authorization Act	1
Table 3. Department of Veterans Affairs Appropriations, FY2004-FY2010	10
Table 4. Appropriations: Department of Veterans Affairs, FY2010-FY2012	12
Table 5. Mandatory and Discretionary Appropriations: Department of Veterans Affairs, FY2009-FY2011	13
Table 6. Appropriations: Related Agencies, FY2010-FY2011	16

Table A-1. Appropriations: Title I Military Construction Appropriations Accounts, FY2010-FY2011	19
Table A-2. Appropriations: Title IV OCO Military Construction Appropriations Accounts, FY2010-FY2011	21

Appendixes

Appendix A. DOD Military Construction Accounts	19
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Contacts

Author Contact Information	24
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Status of Legislation

Table 1. Status of FY2011 Military Construction, Veterans Affairs, and Related Agencies Appropriations Act
(H.R. 5822, S. 3615)

Committee Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conference Report Approval		Public Law
House	Senate						House	Senate	
07/14/10	07/14/10	H.Rept. 111-559	07/28/10	S.Rept. 111-226	—	—	—	—	—

Source: CRS Legislative Information Service (LIS).

Table 2. Status of FY2011 National Defense Authorization Act
(H.R. 5136, S. 3454)

Committee Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conference Report Approval		Public Law
House	Senate						House	Senate	
04/25/10	06/03/10	H.Rept. 111-491	05/28/10	S.Rept. 111-201	—	—	—	—	—

Source: CRS Legislative Information Service (LIS).

Continuing Appropriations

Because no regular military construction/veterans affairs appropriations were enacted before the end of FY2010, Congress sought to pass legislation to continue funding for operations into FY2011. The vehicle chosen was an appropriations bill that had made its way partially through the legislative process during the first session of the 111th Congress.

H.R. 3081, the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2010, had been passed by the House on July 9, 2009. The Senate received the bill on July 13, but it had lain dormant on the chamber's Legislative Calendar (General Orders, Calendar No. 107) ever since.¹ On September 24, 2010, the Majority Leader, Sen. Harry Reid (NV) moved to consider the bill and sent to the desk a cloture motion (*Congressional Record* S7454). The Senate invoked cloture on the motion to proceed by Yea-Nay vote (84-14, Record Vote No. 243, *CR* S7585) on September 28. On September 29, the Senate amended the bill, renamed it as the Continuing Appropriations Act, 2011, and passed it by Yea-Nay vote (69-30, Record Vote No. 247). The House took up the appropriate rule (H.Res. 1682) late that same evening, passed the

¹ These appropriations were enacted as part of the Consolidated Appropriations Act, 2010 (H.R. 3288, P.L. 111-117), enacted on December 16, 2009.

rule, and moved to accept the Senate amendments. The House agreed to the amendments early on September 30 by recorded vote (228-194, Roll No. 564), making funds available through December 3, 2010.

The measure appropriated funds, according to Sec. 101, in

such amounts as may be necessary, at a rate for operations as provided in the applicable appropriations Acts for fiscal year 2010 and under the authority and conditions provided in such Acts, for continuing projects or activities ... that are not otherwise specifically provided for in this Act, that were conducted in fiscal year 2010, and for which appropriations, funds, or other authority were made available

Nevertheless, Sec. 104 of the bill added

Except as otherwise provided ..., no appropriation of funds made available or authority granted ... shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 2010.

The impact this will have on military construction projects requested by the President for FY2011 appears to depend on whether an individual project is a standard military construction project or a construction required to implement a recommendation of the 2005 Defense Base Closure and Realignment (BRAC) Commission. Standard military construction projects are both individually appropriated for in the various military construction accounts and individually authorized in the annual National Defense Authorization Act, and the necessary authorization legislation has not yet been enacted for FY2011.² Therefore, standard construction projects for which no appropriation of funds or authority was available in 2010 may not be initiated under the Continuing Appropriations Act. Nevertheless, funding for BRAC 2005 implementation is appropriated at the account, not the project, level, and both authority and appropriations funds for that activity were available during FY2010.³

Sec. 135 of the bill reduced the amounts available to the BRAC 2005 from the rate available for FY2010 (where \$7.95 billion had been appropriated) to an annual rate of operations of \$2.35 billion, the amount requested for FY2011 by the President and recommended by both appropriations committees.

Appropriation

President Barack Obama submitted a detailed appropriations request for Fiscal Year (FY) 2011 on February 1, 2010. In it, he requested \$18.7 billion in new budget authority for regular military construction and military family housing construction and operation, plus an additional \$1.3 billion for construction in support of ongoing military contingency operations overseas, primarily in Afghanistan. The committees on appropriations subsequently recommended to their respective

² In addition to the constitutional requirement for appropriations to be enacted before the federal agencies may obligate funding, 10 USC § 114 requires the Department of Defense to be specifically authorized to expend appropriated funds.

³ For a broader discussion of continuing appropriations, see CRS Report RL30343, *Continuing Resolutions: Latest Action and Brief Overview of Recent Practices*, by (name redacted), and U.S. General Accounting Office, *Principles of Federal Appropriations Law*, Third Edition, Vol. II, GAO-06-382SP, January 2004, pp. 8-1 to 8-38. (name redacted), Legislative Attorney, Congressional Research Service, contributed to this section.

chambers that Congress appropriate funds equal to the president's request, though each committee's allocation of funds among the various subaccounts differed in detail.

Senator Tim Johnson (South Dakota), chair of the Senate Committee on Appropriations Subcommittee on Military Construction, Veterans Affairs, and Related Agencies, introduced an original measure, S. 3615 (S.Rept. 111-226), to the Senate on July 19, 2010, where it was placed on the Senate Legislative Calendar under General Orders (Calendar No. 469).

Representative Chet Edwards (TX/17), chair of the House Committee on Appropriations Subcommittee on Military Construction, Veterans Affairs, and Related Agencies, reported an original measure, H.R. 5822 (H.Rept. 111-559), to the House on July 22, 2010. The bill was placed on the Union Calendar (Calendar No. 320). The House Committee on Rules met on July 27 to draft a rule for the consideration of H.R. 5822. The Rules Committee adopted a structured rule (H.Res. 1559) the same day, submitting H.Rept. 111-570.⁴ The House passed the rule on July 28 and took up the bill, considering a total of 14 amendments. Of these, eleven were adopted before passing the amended bill on the Yeas and Nays (411-62, CR H6228-H6235, Roll No. 482).

Detailed, appropriations account-level data on the appropriations bills, including enacted amounts for prior years, are displayed in **Table 4** (Department of Veterans Affairs), **Table 6** (Related Agencies), and **Table A-1** (Military Construction and Family Housing) and **Table A-2** (Overseas Contingency Operations Military Construction).⁵

National Defense Authorization

Representative Ike Skelton (MO/04) introduced H.R. 5136, the National Defense Authorization Act for 2011, on April 26, 2010, when it was referred to the House Committee on Armed Services (HASC).⁶ The committee referred parts of the bill, including the authorization request for the FY2011 military construction appropriation, to its various subcommittees on May 11 and reported the bill (H.Rept. 111-491) on May 21.⁷ The House took up the bill on May 27, adopted several amendments, and passed an amended version on recorded vote (Roll No. 336) on May 28, 2010. The bill was received in the Senate on June 9 and placed on the Legislative Calendar under General Orders (No. 423). On June 24, the Senate, at the other chamber's request (H.Res. 1467), returned the papers to the House by Unanimous Consent. H.R. 5136 was again received in the Senate on June 28 and placed on the Legislative Calendar under General Orders (No. 447).

The Senate's version of the defense authorization bill, S. 3454, was introduced to that chamber by the chair of the Senate Committee on Armed Services (SASC), Senator Carl Levin (MI), as an original measure on June 4, 2010 (S.Rept. 111-201). The measure was placed on the Legislative Calendar under General Orders (No. 414).

⁴ The rule permitted one hour of general debate and waived points of order against consideration of and provisions in the bill under certain clauses of Rule XXI (Restrictions on Certain Bills). It made in order only those amendments printed in the Rules Committee report, which would be introduced in order by a Member designated therein. It limited debate on the amendments and provided for them to then be considered for adoption en gros.

⁵ An overview of the status of all FY2011 appropriations bills is available through the CRS website at <http://www.crs.gov/Pages/appover.aspx>.

⁶ A much more comprehensive and detailed report on the National Defense Authorization Act can be found in CRS Report R41254, *Defense: FY2011 Authorization and Appropriations*, coordinated by (name redacted).

⁷ A supplemental report, H.Rept. 111-491, Part II, was filed on May 26, 2010.

Table 1 and **Table 2** track the progress of the appropriations and authorization acts, respectively.

The remainder of this report is organized in parallel with the appropriations bills.

Title I: Department of Defense

Military Construction

The military construction appropriations account includes a number of appropriations subaccounts:

- *Military Construction* accounts provide funds for new construction, construction improvements, planning and design, and host nation support of active and reserve military forces and DOD agencies.
- The *North Atlantic Treaty Organization Security Investment Program* (NSIP) is the U.S. contribution to a common fund in which all NATO members participate to defray the costs of construction (airfields, fuel pipelines, military headquarters, etc.) needed to support major NATO commands.
- *Family housing* accounts fund new construction, construction improvements, federal government costs for family housing privatization, maintenance and repair, furnishings, management, services, utilities, and other expenses incurred in providing suitable accommodation for military personnel and their families where needed.
- The *DOD Housing Improvement Fund* is the vehicle by which DOD provides the seed money, both directly appropriated and transferred from other accounts, needed to initiate public-private arrangements for the privatization of military housing.
- The *Homeowners Assistance Fund* aids federal personnel stationed at or near an installation scheduled for closure or realignment who are unable to sell their homes by allowing the Secretary of Defense to subsidize the sale or to purchase homes outright.⁸
- The *Chemical Demilitarization Construction, Defense-Wide*, account provides for the design and construction of disposal facilities required for the destruction of chemical weapons stockpiles, as required under international treaty.
- The *Base Realignment and Closure Account 1990* funds the remaining environmental remediation requirements (including the disposal of unexploded ordnance) arising from the first four base realignment and closure (BRAC) rounds (1988, 1991, 1993, and 1995).

⁸ The ARRA for 2009 (the Stimulus Bill) permanently expanded eligibility for the Homeowner Assistance Program to some classes of wounded and injured DOD and Coast Guard personnel or their surviving spouses and temporarily authorized eligibility to some other federal personnel. A discussion of this expansion can be found in CRS Report RL34558, *Military Construction, Veterans Affairs, and Related Agencies: FY2009 Appropriations*, by (name redacted), (name redacted), and (name redacted).

- The *Base Realignment and Closure Account 2005* provides funding for the military construction, relocation, and environmental requirements of the implementation of both the 2005 BRAC round and the DOD Integrated Global Presence and Basing Strategy/Global Defense Posture Realignment (military construction only).

Funding of the various accounts included under Title I (Department of Defense) and Title IV (Overseas Contingency Construction) is listed in **Appendix A** to this report.

Key Budget Issues

Planning Future Construction: the Quadrennial Defense Review

Congressional committees with jurisdiction over military construction appropriations and appropriation authorizations require the Secretary of Defense to justify in detail the construction projects requested for the upcoming fiscal year. In addition, in order to anticipate upcoming construction requirements, Congress requires the Secretary to regularly project its future budget plans and to review its national defense strategy. One important document in that planning process is the statutorily mandated Quadrennial Defense Review (QDR).

Since the dissolution of the Soviet Union, Congress has required DOD to periodically reassess its strategic objectives and potential military threats to national defense.⁹ The Department published its fourth such exercise, the 2010 QDR, in February 2010.¹⁰

In recent QDRs, DOD expressed its intention to reevaluate its “global footprint,” the network of permanent garrisons stationed on foreign soil, with an eye toward concentrating a greater percentage of troops on U.S. territory, ready to deploy to temporary sites overseas where and as needed. In the 2010 QDR, DOD appeared to reevaluate its position, stating its intention to extend “a global defense posture composed of joint, ready forces forward-stationed and rotationally deployed to prevail across all domains, prepositioned equipment and overseas facilities, and international agreements.”¹¹

The Senate appropriations committee noted that DOD had initiated several QDR-inspired reviews of its basing policies and encouraged the Department to focus its installations planning on U.S. European Command (USEUCOM) and Pacific Command (USPACOM), the geographic commands with the most extensive basing establishments. While awaiting results of the DOD reviews, the committee recommended deferring \$464.6 million of the FY2011 presidential request for military construction in Djibouti, Germany, Guam, Honduras, Japan, and the Republic of Korea.¹² The House committee also noted basing uncertainties in the 2010 QDR, including

⁹ 10 U.S.C. § 118, Quadrennial Defense Review.

¹⁰ Office of the Secretary of Defense, *Quadrennial Defense Review Report*, Washington, DC, February 2010 (hereafter, *Quadrennial Defense Review*), <http://www.defense.gov/qdr/>. For a thorough discussion of the 2010 QDR, see CRS Report R41250, *Quadrennial Defense Review 2010: Overview and Implications for National Security Planning*, by (name redacted).

¹¹ *Quadrennial Defense Review*, p. 15.

¹² U.S. Congress, Senate Committee on Appropriations, Subcommittee on Military Construction and Veterans Affairs, and Related Agencies, *Military Construction, Veterans Affairs, and Related Agencies Appropriations Bill, 2011*, report to accompany S. 3615, 111th Cong., 2nd sess., July 19, 2010, S.Rept. 111-226 (Washington: GPO, 2010), p. 9.

references to the need for U.S. military forces to have “access to networks of bases and supporting infrastructures that are more resilient than today’s in the face of attacks by a variety of means,”¹³ and the “normalization” of duty tours in locations such as the Republic of Korea.¹⁴ The House committee directed DOD to include a report with its FY2012 budget submission detailing how it intends to fund the construction needed to implement a revised overseas basing plan.¹⁵

Base Realignment and Closure (BRAC): the Cost of Implementation

In the detailed documentation submitted by DOD to accompany the President’s FY2011 appropriations request, DOD estimated that its one-time implementation costs for BRAC 2005 will total \$34.5 billion.¹⁶

These cost estimates have increased over time as the military departments and DOD have developed plans to carry out the various required BRAC actions. In requesting military construction funds for FY2007, the first submission after the list of BRAC recommendations was created, DOD estimated the total one-time implementation cost to implement the 2005 BRAC round (the realignment and closure of a number of military installations on United States territory) and to redeploy approximately 70,000 troops and their families from overseas garrisons to bases within the United States at \$17.9 billion. Between the submission of the FY2007 request in February 2006 and the FY2008 request the next year, DOD estimates had matured considerably, causing the estimate of one-time implementation cost to rise to more than \$30.7 billion. The same estimate made by DOD in February 2008 for the FY2009 appropriations request rose again, to \$32.0 billion. DOD’s FY2010 estimate for one-time implementation costs over the FY2006-2011 period reached \$34.2 billion.

FY2011 is the final year of BRAC 2005 implementation, which by statute must be complete by September 15, 2011, and the estimate for total new budget authority required to complete the process has now been set by DOD at \$34.5 billion. The President has requested \$2.4 billion as the final implementation installment. Both House and Senate committees have recommended full funding of the President’s request.

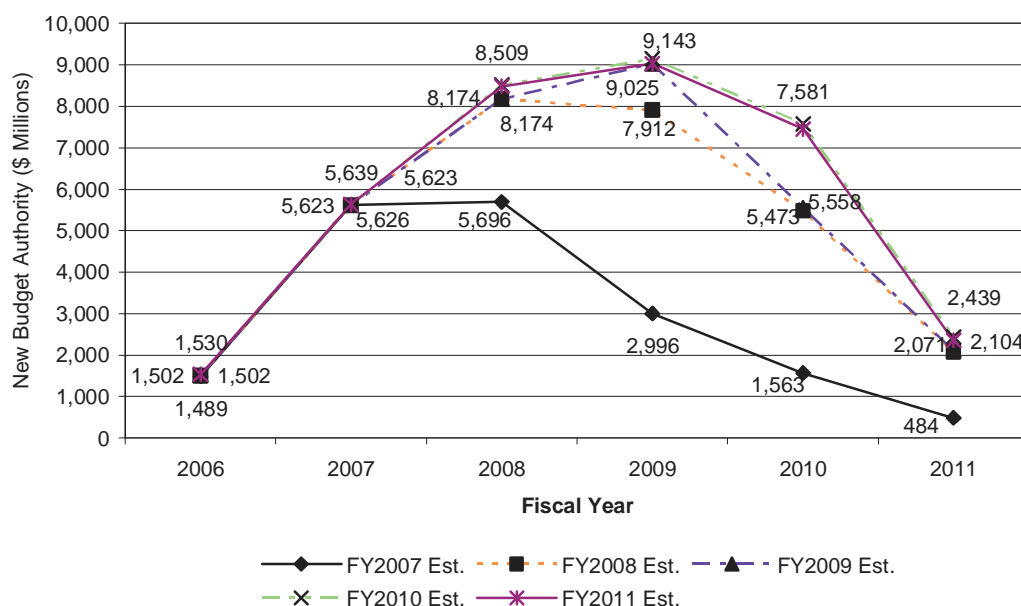
Figure 1 displays the progression of DOD cost estimates.

¹³ *Quadrennial Defense Review*, p. 33.

¹⁴ Duty in many locations, such as the Republic of Korea, has long been classified as a short-term “hardship” assignment where service members are not authorized to have family members accompany them. In “normalizing” such duty, DOD would incur a requirement to provide more extensive family housing and supporting infrastructure in order to sustain families and lengthened tours.

¹⁵ U.S. Congress, House Committee on Appropriations, Subcommittee on Military Construction, Veterans Affairs, and Related Agencies, *Military Construction, Veterans Affairs, and Related Agencies Appropriations Bill, 2011*, report to accompany H.R. 5822, 111th Cong., 2nd sess., July 22, 2010, H.Rept. 111-559 (Washington: GPO, 2010), p. 17.

¹⁶ One-time implementation costs for BRAC include the construction of necessary facilities, environmental remediation of surplus military property, the operation and maintenance of property associated with BRAC, and the transfer of military and DOD civilian employees to new duty stations.

Figure I. New Budget Authority Estimates, BRAC 2005 Implementation

Source: DOD Budget Justification Documents for FY2007-FY2011.

Overseas Installations: the Guam Redeployment

The President has requested \$426.9 million for construction to support the relocation of approximately 8,000 Marines and an estimated 10,000 members of their families from installations in the Prefecture of Okinawa to the U.S. Territory of Guam and an additional \$139.3 million for construction associated with the forward deployment of other military units. Relocation funding is to be shared between the governments of Japan and the United States. Associated with the Guam relocation is the construction of a replacement facility on Okinawa for the Marine Corps air station at Futenma and a redeployment of units to Camp Schwab, Okinawa.¹⁷

In its report to the House, the Committee on Appropriations wrote of its concerns over the ability of DOD to fully utilize this amount, citing an inadequate Navy Draft Environmental Impact Statement on the proposed construction, lack of apparent progress in upgrading civil infrastructure “outside the fence line” (such as roads, sewage treatment, water supplies, etc.), and the uncertain impact of the 2010 QDR’s concept of installation “resiliency” on future construction planning.¹⁸ The Senate committee also pointed out the absence of a definite DOD global basing strategy, citing the Guam and the Okinawa relocations as cases in point. The Senate committee drew attention to the “cost and magnitude of the construction program, the potential

¹⁷ MCAS Futenma is located approximately five miles from Naha, the capital of Okinawa Prefecture, in south-central Okinawa. Camp Schwab is located in northeastern Okinawa. The construction of the Futenma Replacement Facility is expected before the end of 2010.

¹⁸ As discussed in the section above on the 2010 QDR, DOD has expressed a desire to make use of worldwide “networks of bases and supporting infrastructures that are more resilient than today’s,” but has not elaborated on what it seeks in creating “resiliency.”

environmental impact on Guam, and the timeline to complete the realignment.”¹⁹ In the end, of the \$566.2 million requested by the President for construction on Guam, the House committee recommended appropriating \$393.2 million, and the Senate committee recommended \$246.0 million.²⁰

Incremental vs. Phased Construction Funding

Major construction projects often require several years to complete. In their planning and execution, military departments and defense agencies have developed the practice of requesting authorization and appropriations in discrete phases, each of which is considered to be independent of another.

A “military construction project” is defined in statute to include “all ... work ... necessary to produce a complete and usable facility or a complete and usable improvement to an existing facility.”²¹ Thus, as each phase of construction is presented as its own project, each must result in a facility that can be placed in service.

Each approach presents certain advantages and distinct disadvantages. Phased construction considers each portion of a major construction project to be a discrete undertaking, fully funded and presenting a usable edifice at its conclusion. Under phased funding, DOD and Congress are committed to even large-scale construction for only a limited period and either body could, at the end of a phase, halt continued construction. Incremental funding would break large projects into two legislative tracks – a single authorization for the entire construction and repeated appropriations to carry the construction through to completion. By authorizing a project through the incremental funding mechanism, Congress could commit itself, and potentially future congresses, to its support for a number of years.

Phased funding could lead to inefficient construction in certain large projects because each phase must be planned and executed as if it was discrete. Incremental funding may commit subsequent congresses to the support of an already authorized construction project.

Other Issues

Piñon Canyon, CO, Maneuver Training Area (PCMTA)

During the 1980s, the Department of the Army acquired approximately 250,000 acres near Ft. Carson, CO, for use as a troop maneuvering area. Half of the land was purchased via open sale, with the remainder bought through the use of condemnation proceedings.²²

¹⁹ U.S. Congress, Senate Committee on Appropriations, Subcommittee on Military Construction and Veterans Affairs, and Related Agencies, *Military Construction and Veterans Affairs, and Related Agencies Appropriations Bill, 2011*, report to accompany S. 2615, 111th Cong., 2nd sess., July 19, 2010, S.Rept. 111-226 (Washington: GPO, 2010), p. 10.

²⁰ A detailed discussion of recent issues in the planned deployment of additional U.S. military forces to Guam can be found in CRS Report RS22570, *Guam: U.S. Defense Deployments*, by (name redacted).

²¹ 10 U.S.C. 2801(b).

²² A more lengthy discussion of the issues surrounding the Piñon Canyon Maneuver Training Site can be found on pp. 22-3 of CRS Report RL34558, *Military Construction, Veterans Affairs, and Related Agencies: FY2009 Appropriations*, by (name redacted), (name redacted), and (name redacted).

When the Department announced that the number of soldiers stationed at Ft. Carson would increase substantially, it initiated an effort to add an additional 450,000 acres to the PCMTA. Local land owners expressed concern that public condemnation might again be invoked to acquire the new land.

An amendment to the bill appropriating military construction funds for FY2008 (P.L. 110-161) forbade the use of those funds for the Piñon Canyon expansion. Identical language appeared in the military construction appropriations acts for FY2009 and FY2010. This restriction is continued in Section 126 of the Administrative Provisions in Title I of H.R. 5822, the House version of the appropriations bill, but is not reflected in its companion bill, S. 3615.

School Construction

A number of military installations will gain a significant number of military and civilian personnel during the next several years due to force shifts associated with base realignments, military end strength increases, and the redeployment of military units from overseas to domestic garrisons. Most school-age children of military personnel attend public schools operated by local school agencies.

Federal property is exempt from the local taxation that normally supports school systems, and an important federal support for school attendance takes the form of Impact Aid Program payments to local school districts.²³ Nevertheless, impact aid is retroactive, depending on an annual census of military family school children. This has presented a challenge for jurisdictions to prepare for a large influx of students as military units move to nearby installations.

Sec. 2815 of H.R. 5136, the House version of the National Defense Authorization Act for FY2011, may offer an alternative path for DOD assistance in helping local jurisdictions cope with expanded installation populations. The proposed language would amend 10 U.S.C. 2391, the statute under which DOD offers economic adjustment and diversification assistance to communities impacted by installation closure or realignment under BRAC. The amendment states

If the proposed or actual establishment or expansion of a military installation would otherwise qualify a State or local government for assistance under this paragraph and is the result of base realignment and closure activities authorized by the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), the Secretary may make grants, conclude cooperative agreements, and supplement funds available under Federal programs administered by agencies other than the Department of Defense in order to assist the State or local government with development of the public infrastructure (including construction) required by the proposed or actual establishment or expansion.²⁴

²³ The Impact Aid Program is established in Title VIII of the Elementary and Secondary Education Act of 1965 (ESEA).

²⁴ H.R. 5822, Sec. 2815.

Title II: Department of Veterans Affairs

Table 3. Department of Veterans Affairs Appropriations, FY2004-FY2010
(budget authority in billions of \$)

	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010
VA	61.84	65.84	71.46	79.55	88.11	95.95	109.61

Source: Amounts shown are from reports of the Appropriations Committees accompanying the appropriations bills for the years noted above.

Agency Overview

The Department of Veterans Affairs (VA) administers directly, or in conjunction with other federal agencies, programs that provide benefits and other services to veterans and their spouses, dependents and beneficiaries. The VA has three primary organizations to provide these benefits: the Veterans Benefits Administration (VBA), the Veterans Health Administration (VHA), and the National Cemetery Administration (NCA). Benefits available to veterans include service-connected disability compensation; a pension for low-income veterans who are elderly or have a nonservice-connected disability; vocational rehabilitation for disabled veterans; medical care; life insurance; home loan guarantees; burial benefits; and educational and training benefits to help in the transition of active servicemembers to civilian life. As shown in **Table 3**, VA appropriations for benefits and services has increased from \$61.84 billion in FY2004 to \$109.61 billion in FY2010.

Key Budget Issues

The FY2011 budget submitted by the Administration called for funding the VA at a level of \$120.79 billion for FY2011 (see **Table 4**). This is an increase of \$11.18 billion, or 10.2%, over the FY2010 appropriation.

The largest dollar increases in funding for the VA between FY2010 and FY2011 in the Administration request, the House Appropriations Committee recommendation (H.R. 5822) and the Senate Appropriations Committee recommendation (S. 3615) are for disability compensation and pension benefits, and readjustment benefits, where the largest component is for education benefits.

As shown in **Table 4**, the Administration request, H.R. 5822 and S. 3615 would provide \$53.49 billion in disability compensation and pension benefits, an increase of \$6.10 billion or 12.9% more than the FY2010 appropriation. The Administration request, H.R. 5822, and S. 3615 would also provide \$10.44 billion in readjustment benefits, an increase of \$1.21 billion or 13.1% more than the FY2010 appropriation.

The Administration request is for \$120.79 billion in FY2011 funding for the VA, and \$50.61 billion in advance FY2012 funding for VA medical care. H.R. 5822 provides total funding for the VA of \$120.81 billion for FY2011 (of which \$48.18 was advance funding), and advance funding for FY2012 of \$50.61 billion. H.R. 5822 provides higher funding overall for general departmental

administration including increases in operating expenses, the Office of the Inspector General, and construction, and a decrease for information technology compared to the Administration request.

S. 3615 would provide, as shown in **Table 4**, \$120.84 billion in FY2011 funding for the VA (of which \$48.18 was advance funding), and \$50.61 billion in advance FY2012 funding for VA medical care. Unlike the Administration request and H.R. 5822, S. 3615 would provide additional funding, beyond the prior advance funding for FY2011, for medical services and medical facilities. S. 3615 would also provide higher funding overall for general departmental administration, with increases in operating expenses, the Office of the Inspector General, and construction, and a decrease for information technology compared to the Administration request.

As shown in **Table 5**, there is an almost equal split between mandatory and discretionary funding for the VA. In the FY2010 appropriation, mandatory funding was only slightly higher than discretionary funding. The Administration request, H.R. 5822, and S. 3615 for FY2011 would provide discretionary funding that is less than mandatory funding. For FY2012, all of the advance funding provided by H.R. 5822 and S. 3615 is discretionary funding.

Table 4.Appropriations: Department of Veterans Affairs, FY2010-FY2012

(budget authority in billions of \$)

	FY2010 Enacted		Administration Request		H.R. 5822		S. 3615	
Program	FY2010	FY2011 Advance	FY2011	FY2012 Advance	FY2011	FY2012 Advance	FY2011	FY2012 Advance
Compensation and pensions	47.396		53.492		53.492		53.492	
Readjustment benefits	9.232		10.440		10.440		10.440	
Insurance and indemnities	0.049		0.063		0.063		0.063	
Housing programs (net, indefinite) ^a	-0.109		-0.145		-0.145		-0.145	
Housing programs administration	0.165		0.164		0.164		0.164	
Total, Veterans Benefits Administration (VBA)	56.734		64.014		64.014		64.014	
National Cemetery Administration	0.250		0.251		0.259		0.251	
Medical Services	34.708		0.000		0.000		0.100	
Advance appropriations		37.136	37.136	39.650	37.136	39.650	37.136	39.650
Medical support and compliance	4.930		0.000		0.000		0.000	
Advance appropriations		5.307		5.535		5.535		5.535
Medical facilities	4.859		0.000		0.000		0.020	
Advance appropriations		5.740		5.426		5.426		5.426
Medical and prosthetic research	0.581		0.590		0.590		0.590	
Medical Care Collection Fund ^b								
(Offsetting receipts)	-2.954		-3.393		-3.393		-3.393	
(Appropriations - indefinite)	2.954		3.393		3.393		3.393	
Total, Veterans Health Administration (VHA)	45.078		48.773		48.773		48.893	
Total, VHA advance appropriations		48.183	48.183	50.611	48.183	50.611	48.183	50.611
Total, VHA non-advance appropriations	45.078		0.590		0.590		0.710	
Available to VHA (includes collections)	48.032		52.166		52.166		52.286	

	FY2010 Enacted		Administration Request		H.R. 5822		S. 3615	
Program	FY2010	FY2011 Advance	FY2011	FY2012 Advance	FY2011	FY2012 Advance	FY2011	FY2012 Advance
General operating expenses	Error! Reference source not found.	2.087	2.588		2.615		2.612	
Information technology		3.307	3.307		3.222		3.147	
Inspector General		0.109	0.109		0.115		0.112	
Construction, major projects		1.194	1.151		1.176		1.198	
Construction, minor projects		0.703	0.468		0.508		0.486	
Grants for state extended care facilities		0.100	0.085		0.085		0.085	
Grants for state veterans cemeteries		0.046	0.046		0.046		0.046	
Total, Departmental Administration		7.546	7.754		7.767		7.685	
Total, Department of Veterans Affairs	109.608		120.792		120.813		120.843	
Total, VA advance appropriations		48.183	48.183	50.611	48.183	50.611	48.183	50.611
Total, VA non-advance appropriations	109.608		72.609		72.630		72.660	

Source: Table prepared by the Congressional Research Service (CRS) based on reports of the House and Senate Appropriations Committees.

- This negative budget authority is the result of combining the loan subsidy payments estimated to be needed with the offsetting receipts expected to be collected.
- Medical Care Collection Fund (MCCF) receipts are restored to the VHA as an indefinite budget authority equal to the revenue collected.

**Table 5. Mandatory and Discretionary Appropriations:
Department of Veterans Affairs, FY2009-FY2011**
(budget authority in billions of \$)

	FY2010 Enacted		Request		H.R. 5822		S. 3615	
	FY2010	FY2011 Advance	FY2011	FY2012 Advance	FY2011	FY2012 Advance	FY2011	FY012 Advance

Mandatory

	FY2010 Enacted		Request		H.R. 5822		S. 3615	
	FY2010	FY2011 Advance	FY2011	FY2012 Advance	FY2011	FY2012 Advance	FY2011	FY2012 Advance
Benefits (VBA)	56.568		63.849		63.849		63.849	
<i>Discretionary</i>								
Medical (VHA)	45.078		48.773		48.773		48.893	
Advance appropriations		48.183		50.611		50.611		50.611
National Cemetery Administration (NCA)	0.250		0.251		0.259		0.251	
Departmental administration	7.546		7.754		7.767		7.685	
Housing administration (VBA)	0.166		0.165		0.165		0.165	
<i>Total, discretionary</i>	53.039		56.943		56.964		56.994	
<i>Discretionary, advance appropriations</i>		48.183		50.611		50.611		50.611
Total, Department of Veterans Affairs	109.608		120.792		120.813		120.843	
Total, VA advance appropriations		48.183		50.611		50.611		50.611
<i>Percentages of Total</i>								
Mandatory	51.6%		52.9%		52.8%		52.8%	
Discretionary	48.4%	100.0%	47.1%	100.0%	47.2%	100.0%	47.2%	100.0%

Source: Table prepared by the Congressional Research Service (CRS) based on reports of the House and Senate Appropriations Committees.

Title III: Related Agencies

American Battle Monuments Commission

The American Battle Monuments Commission (ABMC) is responsible for the maintenance and construction of U.S. monuments and memorials commemorating the achievements in battle of U.S. armed forces since the nation's entry into World War I; the erection of monuments and markers by U.S. citizens and organizations in foreign countries; and the design, construction, and maintenance of permanent cemeteries and memorials in foreign countries. The Commission maintains 24 cemeteries and 25 memorials in either foreign countries or on U.S. soil.

U.S. Court of Appeals for Veterans Claims

The U.S. Court of Appeals for Veterans Claims was established by the Veterans' Administration Adjudication Procedure and Judicial Review Act of 1988 (P.L. 100-687). The Court is an independent judicial tribunal with exclusive jurisdiction to review decisions of the Board of Veterans' Appeals. It has the authority to decide all relevant questions of law; interpret constitutional, statutory, and regulatory provisions; and determine the meaning or applicability of the terms of an action by the VA. It is authorized to compel action by the VA. It is authorized to hold unconstitutional or otherwise unlawful and set aside decisions, findings, conclusions, rules and regulations issued or adopted by the VA or the Board of Veterans' Appeals.

The Court currently occupies leased facilities near Judiciary Square in the District of Columbia and is searching for a permanent location as the current lease expires in September 2010. The Administration request and H.R. 5822 provide \$62 million in funds for a transfer to the General Services Administration related to construction of a new courthouse. S. 3615 provides \$25 million, as the first funding increment, for the construction of a new courthouse.

Department of Defense: Civil (Army Cemeterial Expenses)

The Secretary of the Army is responsible for the administration, operation and maintenance of Arlington National Cemetery and the Soldiers' and Airmen's Home National Cemetery. In addition to its principal function as a national cemetery, Arlington is the site of approximately 3,100 non-funeral ceremonies each year and has approximately 4,000,000 visitors annually.

H.R. 5822 and S. 3615 provide additional funding and reporting requirements, in light of the recent reports of mismanagement at Arlington National Cemetery.

Armed Forces Retirement Home (AFRH)

The Armed Forces Retirement Home Trust Fund provides funds to operate and maintain the Armed Forces Retirement Home in Washington, DC (also known as the United States Soldiers' and Airmen's Home) and the Armed Forces Retirement Home in Gulfport, Mississippi (originally located in Philadelphia, PA, and known as the United States Naval Home). These two facilities provide long-term housing and medical care for approximately 1,600 needy veterans. The Gulfport campus, encompassing a 19-story living accommodation and medical facility tower, was

severely damaged by Hurricane Katrina at the end of August, 2005, and is not currently in use. Residents of the facility were transferred to the Washington, DC, location immediately after the storm. A Memorandum of Understanding (MOU) was signed between the AFRH and the General Services Administration (GSA) for the rebuilding of the Gulfport facility, with a targeted completion date in 2010. The facility is scheduled to be completed this summer, with residents being able to return in October 2010.

The appropriation for the AFRH facilities is from the Armed Forces Retirement Home Trust Fund. The trust fund is maintained through gifts, bequests, and a \$0.50 per month assessment on the pay of active duty enlisted military personnel and warrant officers.

Table 6 shows the FY2010 enacted appropriations, and the Administration request, the House Appropriations Committee recommendations (H.R. 5822) and the Senate Appropriations Committee (S. 3615) funding for FY2011 for each of the related agencies.

Table 6. Appropriations: Related Agencies, FY2010-FY2011

(budget authority in thousands of \$)

	Enacted	Administration Request	H.R. 5822	S. 3615
	FY2010	FY2011	FY2011	FY2011
<i>American Battle Monuments Commission (ABMC)</i>				
Salaries and expenses	62.675	64.200	65.667	67.200
Foreign currency fluctuations account	17.100	20.200	20.200	20.200
<i>Total, ABMC</i>	<i>79.775</i>	<i>84.400</i>	<i>85.867</i>	<i>87.400</i>
<i>U.S. Court of Appeals for Veterans Claims</i>				
Salaries and expenses	27.115	90.147	90.147	53.297
<i>Army Cemeterial Expenses</i>				
Salaries and expenses	39.850	38.100	39.600	43.100
<i>Armed Forces Retirement Home (AFRH)</i>				
Operation and maintenance	62.000	69.200	69.200	69.200
Capital program	72.000	2.000	2.000	2.000
<i>Total, AFRH</i>	<i>134.000</i>	<i>71.200</i>	<i>71.200</i>	<i>71.200</i>
Total, All Related Agencies	280.740	283.847	286.814	254.997

Source: Table prepared by the Congressional Research Service (CRS) based on reports of the House and Senate Appropriations Committees.

Title IV: Overseas Contingency Operations

Temporary Contingency Construction Authority

Construction of facilities in a fast-changing theater of war has presented DOD with an extraordinarily complicated problem. In the normal appropriations and authorization process,

plans for construction projects are drafted a year or more in advance of the date construction is to begin. Experience on the ground in both Iraq and Afghanistan has shown that even the best of plans is likely to become outdated by the time the necessary legislation is passed and enacted.

Since FY2004, in order to provide timely assistance to commanders in the field, Congress has used the annual National Defense Authorization Act to grant DOD a temporary authorization, “Contingency Construction Authority” (CCA), to permit the use of a limited amount of already appropriated operations and maintenance (O&M) funds from the defense appropriation for construction. Reviewed and reauthorized every year since, the geographic areas where the CCA may be employed, the purposes to which the funds may be put, and the ceiling imposed on the amount available have varied.

Under its current authority, DOD may use up to \$200 million of O&M appropriations in U.S. Central Command (USCENTCOM), including those portions of U.S. Africa Command (USAFRICOM) once part of USCENTCOM, for construction. If the Secretary of Defense certifies the need, he may use up to an additional \$300 million for construction within Afghanistan.²⁵

Permanent Construction Authorities

The Secretary of Defense has long held authority to initiate military construction projects without waiting for specific authorization and appropriation. 10 U.S.C. §2804 permits the Secretary to begin construction using already appropriated funds if he “determines that deferral of the project for inclusion in the next Military Construction Authorization Act would be inconsistent with national security or national interest” and notifies Congress of his action within a specified period. This section of Title 10 is titled “Contingency Construction,” but is permanent and distinct from the temporary authority mentioned above and should not be confused with it. 10 U.S.C. §2805 (“Unspecified Minor Construction”) permits the Secretary to make very limited use of O&M funds for small construction projects. 10 U.S.C. §2808 allows the Secretary to initiate construction projects not otherwise authorized, using funds appropriated for military construction, after a declaration of war or of national emergency requiring the employment of armed forces.²⁶

The Use of CCA for Construction

In H.Rept. 111-559, the House committee noted that the use of the temporary CCA has given commanders in the field added flexibility to address urgent construction requirements and that almost \$1.4 billion in O&M funding has been obligated under it to date. The committee also noted the O&M appropriations account is part of the defense appropriation, not the military construction appropriation, and its oversight lies with a subcommittee not responsible for defense construction. The committee also pointed out that O&M funds are appropriated for other uses,

²⁵ A more detailed discussion of expenditures on the CCA and military construction in Afghanistan is included in CRS Report R41232, *FY2010 Supplemental for Wars, Disaster Assistance, Haiti Relief, and Other Programs*, coordinated by (name redacted).

²⁶ The temporary CCA is sometimes referred to as “Sec. 2808 authority” because it was originally created as Sec. 2808 of the National Defense Authorization Act for FY2004. It is not the same as the permanent 10 U.S.C. §2808 construction authority.

such as meeting operational requirements of armed forces in the field and, to the extent they are expended on construction, they are unavailable for those ends to which they were intended.²⁷

Creation of Title IV

Before FY2010, construction projects in an active military area of operations would have been requested in one or more requests for emergency supplemental appropriations. FY2010 marked the first year that all such construction was included in the regular annual appropriation request as the Obama Administration migrated planned war-related construction costs away from emergency supplemental appropriations into the regular appropriations process. FY2011 marks the first year that a “Title IV: Overseas Contingency Operations” has been included in this appropriations bill and appears to be a vehicle through which Congress may address concerns for both flexibility and oversight.

The House committee recommended that all military construction funding for Overseas Contingency Operations (OCO) be considered emergency appropriations.²⁸ The Senate committee amended the list of projects for which it recommended funding to reflect changes requested by DOD since its original FY2011 request and increased the amount dedicated to unspecified minor construction in order to enhance commanders’ ability to meet emerging needs. The committee also moved all construction requested for Afghanistan, whether included in regular military construction or in OCO submissions, into Title IV.

Funding levels for the various appropriations accounts in Title IV are presented in **Table A-2** in **Appendix A**.

²⁷ H.Rept. 111-559, pp. 62-63.

²⁸ Ibid., pp. 63-64.

Appendix A. DOD Military Construction Accounts

Table A-1. Appropriations: Title I Military Construction Appropriations Accounts, FY2010-FY2011

(budget authority in thousands of \$)

Account	FY2010 Enacted	FY2011 Request	FY2011 House Committee	FY2011 Senate Committee	FY2011 Conference
<i>Military Construction, Army</i>	3,719,419	4,078,798	4,051,512	3,797,521	—
<i>Military Construction, Navy and Marine Corps</i>	3,769,003	3,879,104	3,587,376	3,667,922	—
<i>Military Construction, Air Force</i>	1,450,426	1,311,385	1,276,385	1,378,688	—
Rescissions	-37,500	—	—	—	—
Total	1,412,926	1,311,385	1,276,385	1,378,688	—
<i>Military Construction, Defense-wide</i>	3,093,679	3,118,062	2,999,612	3,241,601	—
Rescissions	-151,160	—	—	—	—
Total	2,942,519	3,118,062	2,999,612	3,241,601	—
Total, Active components	11,843,867	12,387,349	11,914,885	12,085,732	—
<i>Military Construction, Army National Guard</i>	582,056	873,664	1,020,228	980,072	—
<i>Military Construction, Air National Guard</i>	371,226	176,986	292,386	337,454	—
<i>Military Construction, Army Reserve</i>	431,566	318,175	358,325	347,916	—
<i>Military Construction, Navy Reserve</i>	125,874	61,557	91,557	61,557	—
<i>Military Construction, Air Force Reserve</i>	112,269	7,832	48,182	12,832	—
Total, Reserve components	1,622,991	1,438,214	1,810,678	1,739,831	—
Total, Military Construction	13,466,858	13,825,563	13,725,563	13,825,563	—
(Appropriations)	(13,655,518)	(13,825,563)	(13,725,563)	(13,825,563)	—
(Rescissions)	(-188,660)	—	—	—	—
NATO Security Investment Program	197,414	258,884	258,884	258,884	—
Family Housing Construction, Army	273,236	92,369	92,369	92,369	—
Family Housing Ops and Debt, Army	523,418	518,140	518,140	518,140	—
Family Housing	146,569	186,444	186,444	186,444	—

Account	FY2010 Enacted	FY2011 Request	FY2011 House Committee	FY2011 Senate Committee	FY2011 Conference
Construction, Navy and Marine Corps					
Family Housing Ops and Debt, Navy and Marine Corps	368,540	366,346	366,346	366,346	—
Family Housing Construction, Air Force	66,101	78,025	78,025	78,025	—
Family Housing Ops and Debt, Air Force	502,936	513,792	513,792	513,792	—
Family Housing Construction, Defense-wide	2,859	—	—	—	—
Family Housing Ops and Debt, Defense-wide	49,214	50,464	50,464	50,464	—
DOD Family Housing Improvement Fund	2,600	1,096	1,096	1,096	—
Homeowners Assistance Fund	323,225	16,515	16,515	16,515	—
Total, Family Housing	2,258,698	1,823,191	1,823,191	1,823,191	—
(Appropriations)	(2,258,698)	(1,823,191)	(1,823,191)	(1,823,191)	—
(Rescissions)	—	—	—	—	—
Chemical Demilitarization Construction, Defense-wide	151,541	124,971	124,971	124,971	—
BRAC, 1990	496,768	360,474	460,474	360,474	—
BRAC, 2005	7,455,498	2,354,285	2,354,285	2,354,285	—
Total, BRAC	7,952,266	2,714,759	2,814,759	2,714,759	—
General Reductions (Sec. 129)					
Military Construction, Army	-230,000	—	—	—	—
Military Construction, Navy and Marine Corps	-235,000	—	—	—	—
Military Construction, Air Force	-64,091	—	—	—	—
<i>Total</i>	-529,091	—	—	—	—
General Rescissions (Sec. 130)					
Military Construction, Army	-33,000	—	—	—	—
Military Construction, Navy and Marine Corps	-51,468	—	—	—	—

Account	FY2010 Enacted	FY2011 Request	FY2011 House Committee	FY2011 Senate Committee	FY2011 Conference
Military Construction, Air Force	-93,268	—	—	—	—
Military Construction, Army National Guard	-33,000	—	—	—	—
Military Construction, Air National Guard	-7,000	—	—	—	—
<i>Total</i>	-217,736	—	—	—	—
Grand Total, Title I MilCon & FH	23,279,950	18,747,368	18,747,368	18,747,368	—
(Appropriations)	(23,686,346)	(18,747,368)	(18,747,368)	(18,747,368)	—
(Rescissions)	(-406,396)	—	—	—	—

Sources: H.Rept. 111-559, S.Rept. 111-226.

**Table A-2. Appropriations: Title IV OCO Military Construction Appropriations
Accounts, FY2010-FY2011**

(budget authority in thousands of \$)

Account	FY2010 Enacted	FY2011 Request	FY2011 House Committee	FY2011 Senate Committee	FY2011 Conference
Military Construction, Army	924,484	929,996	—	1,045,676	—
Military Construction, Army (Emergency)	—	—	929,996	—	—
Military Construction, Air Force	474,500	280,506	—	164,826	—
Military Construction, Air Force (Emergency)	—	—	280,504	—	—
Military Construction, Defense-wide	—	46,500	—	46,500	—
Military Construction, Defense-wide (Emergency)	—	—	46,500	—	—
Grand Total, Title IV MilCon	1,398,984	1,257,002	1,257,000	1,257,000	—

Sources: H.Rept. 111-559, S.Rept. 111-226.

Additional Resources

Budget

CRS Report RL30002, *A Defense Budget Primer*, by (name redacted) and (name redacted).

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CRS Report R41250, *Quadrennial Defense Review 2010: Overview and Implications for National Security Planning*, by (name redacted).

CRS Report R40156, *War in Afghanistan: Strategy, Military Operations, and Issues for Congress*, by (name redacted) and (name redacted).

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CRS Report R41343, *Veterans Medical Care: FY2011 Appropriations*, by (name redacted)

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CRS Report RL34627, *Veterans' Benefits: The Vocational Rehabilitation and Employment Program*, by (name redacted) and (name redacted).

CRS Report RL33993, *Veterans' Health Care Issues*, by (name redacted).

Selected Websites

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<http://appropriations.house.gov/>

Senate Committee on Appropriations
<http://appropriations.senate.gov/>

House Committee on Armed Services
<http://www.house.gov/hasc/>

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<http://www.brac.gov>

Government Accountability Office
<http://www.gao.gov/>

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