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July 21, 2004

**Policy Brief...H.R. 4837 – FY 2005 Military Construction Appropriations**

**BY THE NUMBERS:**

*Budget Authority in Millions of Dollars*

	<b>FY '04 Enacted</b>	<b>FY '05 Request</b>	<b>FY '05 Cmte Bill</b>
Appropriations	9,316	9,554	11,208
Emergency Appropriations	525	0	0
<b>Grand Total</b>	<b>9,841</b>	<b>9,554</b>	<b>11,208</b>

**Excluding Supplemental Spending, the Committee bill is:**

- \$1.9 billion or 20.3% above last year;
- \$1.7 billion or 17.3% above the President's request.

**H.R. 4837 is \$1.205 billion ABOVE the 302(b) allocation for the Military Construction Appropriations Subcommittee. As a result, the bill does NOT comply with the FY05 budget resolution (S. Con. Res. 95).**

**The rule providing for H.R. 4837's consideration waives the applicable 302(f) point of order set forth in the Budget Act. However, the rule does ensure that a Member can strike the specific section of the bill causing the bill to exceed its allocation (see MHPI discussion below) by raising a point of order that the section legislates on an appropriations bill.**

**Excluding the MHPI Provision and Supplemental Spending, the Committee bill is:**

- \$687 million or 7.4% above last year;
- \$449 million or 4.7% above the President's request.

**LANGUAGE OF NOTE:**

Military Housing Privatization Initiative (MHPI): In the 1990s, the Department of Defense was given the authority to negotiate with private developers to construct and refurbish family housing on military installations. The MHPI gives the Department a number of methods for enticing the private sector, including the ability to convey land, guarantee loans, and guarantee minimum levels of occupancy. However, a cap was set at \$850 million (for military family housing) on the total budget authority for entering into such contracts. The Department estimates that it will reach that cap during FY05.

Section 129 of H.R. 4837 increases the MHPI cap by \$500 million to \$1.35 billion and directs that “this section shall not be subject to scoring” for purposes of the Budget Act. This directed scorekeeping provision is an effort to avoid CBO’s estimate that increasing the cap will cost \$1.205 billion. **Note:** There is a scoring dispute between OMB and CBO. CBO argues that as the Department retains control over the privatized housing, it is liable for all costs, and therefore each project should be scored as a purchase. OMB only scores a portion of each contract.

While being generally supportive of the MHPI, some conservatives have expressed significant concern that increasing this statutory cap was not prioritized to fit within the overall spending levels set forth in the budget. In addition, some conservatives have questioned the appropriateness of attaching this provision to the Military Construction appropriations bill. For instance, the House-passed FY05 Defense Authorization bill (H.R. 4200) includes a repeal of the cap, and although its Senate companion does not contain similar language, the issue is being resolved in conference committee. If attached to H.R. 4200, any cost associated with expanding the MHPI would be allocated against the Armed Services spending allocation. And finally, some conservatives have consistently raised strong objections to direct scorekeeping provisions used to evade spending limits.

**Sam Johnson Fitness Center:** The bill designates the fitness center at the Homestead Air Reserve Base (FL) as the Sam Johnson Fitness Center.

**Family Housing Funding:** The bill provides \$4.2 billion for family housing construction, an increase of \$332 million over last year’s enacted level and \$19.8 million below the President’s request. According to the committee report, this decrease below the President’s request is intended to come from the operations and maintenance accounts and, in particular, the portion used to renovate and repair the housing of Generals and Flag Officers. Citing a GAO investigation, the Committee expressed concern “that 45 percent of cost increases for Marine Corps major renovation projects that exceeded budgets by 10 percent were ‘customer driven,’ or demanded by officers residing in those quarters.”

## FUNDING SUMMARIES:

*Dollars in Thousands*

	FY 2004 Enacted*	FY 2005 Request	FY 2005 Cmte	Cmte Vs. FY 2004	Cmte Vs. Request	% Over FY 2004	% Over Request
Military Construction, Army	1,264,624	1,771,285	1,862,854	598,230	91,569	47.30%	5.17%
Military Construction, Navy	1,192,836	1,060,455	1,081,042	-111,794	20,587	-9.37%	1.94%
Military Construction, Air Force	1,044,751	663,964	797,865	-246,886	133,901	-23.63%	20.17%
Military Construction, Defense-Wide	581,347	709,337	718,837	137,490	9,500	23.65%	1.34%
Military Construction, Reserve Components	730,481	619,936	833,834	103,353	213,898	14.15%	34.50%
NATO Security Investment	161,300	165,800	165,800	4,500	0	2.79%	0.00%
Family Housing, Total	3,820,100	4,171,596	4,151,766	331,666	-19,830	8.68%	-0.48%
Base Realignment & Closure	370,427	246,116	246,116	-124,311	0	-33.56%	0.00%
*Including rescissions but excluding supplemental appropriations							

**Committee Action:** The Appropriations Committee reported the bill on July 15, 2004.

**Constitutional Authority:** The Appropriations Committee, in House Report 108-214, cites constitutional authority in Article I, Section 8, Clause 17 (congressional power to “exercise exclusive Legislation in all Cases whatsoever, over such District...”) and Article I, Section 9, Clause 7 (“No money shall be drawn from the Treasury but in consequence of Appropriations made by law.”).

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