

# CRS Report for Congress

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## **Appropriations for FY2004: Military Construction**

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Appropriations are one part of a complex federal budget process that includes budget resolutions, appropriations (regular, supplemental, and continuing) bills, rescissions, and budget reconciliation bills. The process begins with the President's budget request and is bound by the rules of the House and Senate, the Congressional Budget and Impoundment Control Act of 1974 (as amended), the Budget Enforcement Act of 1990, and current program authorizations.

This report is a guide to one of the 13 regular appropriations bills that Congress considers each year. It is designed to supplement the information provided by the House and Senate Defense Appropriations Subcommittees. It summarizes the current legislative status of the bill, its scope, major issues, funding levels, and related legislative activity. The report lists the key CRS staff relevant to the issues covered and related CRS products.

This report is updated as soon as possible after major legislative developments, especially following legislative action in the committees and on the floor of the House and Senate.

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# Appropriations for FY2004: Military Construction

## Summary

The military construction (MilCon) appropriations bill provides funding for (1) military construction projects in the United States and overseas; (2) military family housing operations and construction; (3) U.S. contributions to the NATO Security Investment Program; and (4) the bulk of base realignment and closure (BRAC) costs.

The President forwarded his fiscal year (FY) 2004 budget request to the Congress on February 3, 2003. The original military construction request of \$9.0 billion was later increased to \$9.2 billion due to reprogramming from the defense appropriations bill (H.R. 2658) and an Administration request related to foreign currency fluctuations as calculated by the Congressional Budget Office.

On June 17, 2003, the House Appropriations Committee reported a bill (H.R. 2559) that recommends \$9.2 billion in military construction appropriations. This is \$41 million below the President's revised request and \$1.5 billion below the FY2003 appropriation. The House passed the bill on June 26. The Senate Appropriations Committee marked up an original version of the bill (S. 1357) and reported it to the Senate on June 26. On July 10, the Senate began consideration of H.R. 2559, substituting the text of S. 1357, and passed the amended bill on July 11. Further action awaits the meeting of the conference committee.

Authorization of military construction is included within the defense authorization bill. The House passed its version of the bill (H.R. 1588) on May 22. The Senate substituted the text of S. 1050 for that of H.R. 1588 and passed the amended bill on June 4, 2003. The conference committee began meeting on July 22. As of the writing of this report, conference action has not concluded. For a comprehensive report on defense authorization legislation, see CRS Report RL31805, *Authorization and Appropriations for FY2004: Defense*, by Amy Belasco and Stephen Daggett.

In late September, the President submitted to Congress an emergency supplemental appropriations request for FY2004 that included \$412 million in funding specific to military construction. It also provided unlimited authority to transfer unspecified additional funds from the Iraqi Freedom Fund (\$1.99 billion) to military construction and up to \$500 million from other Department of Defense funds into a contingency construction account.

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# Appropriations for FY2004: Military Construction

## Most Recent Developments

The House Appropriations Committee introduced its Military Construction Appropriations Bill for Fiscal Year (FY) 2004 (H.R. 2559, H.Rept. 108-173) on June 23, 2003. The House considered and passed the bill on June 26, 2003.

The Senate Appropriations Committee introduced its companion bill (S. 1357, S.Rept. 108-82) on June 26. On July 10, the Senate amended H.R. 2559 by striking the text and substituting that of S. 1357. The Senate passed the amended bill on July 11 (91-0) and requested a conference with the House. On September 16, the House disagreed with the Senate amendment (motion to do so was carried without objection) and appointed conferees.

In late September, the President submitted an emergency supplemental appropriations request.

Conference action on the National Defense Authorization Act for Fiscal Year 2004 (H.R. 1588) began on July 22 and has not yet concluded. The House voted to instruct its conferees on September 10 (406-0).

## Background

### Content of Annual Military Construction Appropriations and Defense Authorization Bills

The Department of Defense (DOD) manages the world's largest dedicated infrastructure, covering more than 40,000 square miles of land and a physical plant worth more than \$500 billion. The military construction appropriations bill provides a large part of the funding to enhance and maintain this infrastructure. The bill funds construction projects and some of the facility sustainment, restoration and modernization of the active Army, Navy and Marine Corps, Air Force, and their reserve components;<sup>1</sup> additional defense-wide construction; U.S. contributions to the

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<sup>1</sup> Facility sustainment, restoration, and modernization (SRM) includes the repair and maintenance of buildings, structures, warehouses, roadways, runways, aprons, railway tracks, utility plants, and their associated distribution systems, plus minor construction (cost not to exceed \$500 thousand) to create new facilities or expand, alter, or convert existing (continued...)

NATO Security Investment Program (formerly known as the NATO Infrastructure Program);<sup>2</sup> and military family housing operations and construction. The bill also provides funding for the Base Realignment and Closure (BRAC) account, which finances most base realignment and closure costs, including construction of new facilities for transferred personnel and functions and environmental cleanup at closing sites.<sup>3</sup>

The military construction appropriations bill is one of several annual pieces of legislation that provide funding for national defense. Other major appropriation legislation includes the defense appropriations bill, which provides funds for all non-construction military activities of the Department of Defense and constitutes more than 90% of national security-related spending, and the energy and water development appropriations bill, which provides funding for atomic energy defense activities of the Department of Energy and for civil projects carried out by the U.S. Army Corps of Engineers. Two other appropriations bills, VA-HUD-Independent Agencies and Commerce-Justice-State, also include small amounts for national defense.<sup>4</sup>

No funds may be expended by any agency of the federal government before they are appropriated.<sup>5</sup> In addition, for nearly half a century Congress has forbidden the Department of Defense to obligate funds for any project or program until specific authorization is granted.<sup>6</sup> This explains why, for defense funds, both authorization and appropriations bills are required. Two separate defense appropriations bills are written annually, a “Military Construction Appropriations Act” dedicated to military construction, and a “National Defense Appropriations Act” covering all other defense appropriations.<sup>7</sup> Normally only one “National Defense Authorization Act” is passed

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<sup>1</sup> (...continued)

facilities. A large part of the funding dedicated to the SRM function is requested not as part of the military construction appropriation, but rather as part of the Operations and Maintenance account within the annual defense appropriation.

<sup>2</sup> The NATO Security Investment program is the U.S. contribution to Alliance funds for the construction of facilities and the procurement of equipment essential to the wartime support of operational forces in the common defense of the NATO area. Facilities funded by this program include airfields, naval bases, signal and telecom installations, pipelines, war headquarters, as well as early warning radar and missile installations. The U.S. contributes approximately 25% of the total annual NSIP assessment, with the rest coming from the other members of the North Atlantic Alliance.

<sup>3</sup> Virtually all costs associated with the latest completed BRAC round (that of FY1995) have been funded. The bulk of current BRAC appropriations (before the next round commences in FY2005) will be dedicated to environmental remediation of closed military installations.

<sup>4</sup> See CRS Report RL31005, *Appropriations and Authorization for FY2002: Defense*, by Amy Belasco, Mary Tyszkiewicz, and Stephen Daggett, for details on the defense authorization and appropriation process.

<sup>5</sup> Article I, Section 9, Clause 7 of the U.S. Constitution.

<sup>6</sup> See 10 USC 114.

<sup>7</sup> The relevant subcommittees of the House and Senate Appropriations Committees are (continued...)



each year to authorize both of these appropriations.<sup>8</sup> Therefore, major debates over defense policy and funding issues, including military construction, can be associated with any of these bills. Because issues in the defense authorization and appropriations bills intertwine, this report includes salient parts of the authorization bill in its discussion of the military construction appropriation process.

The separate military construction appropriations bill dates to the late 1950s. Traditionally, military construction was funded through annual defense or supplemental appropriations bills. However, the Korean War prompted a surge of military construction, followed by a steady increase in military construction appropriations. Given the strong and enduring security threat posed by the Soviet Union, a relatively high level of spending on military infrastructure appeared likely to continue. The appropriations committees established military construction subcommittees and created a separate military construction bill. The first stand-alone military construction bill was written for FY1959 (P.L. 85-852).

Military construction appropriations are not the sole source of funds available to defense agencies for facility investment. The defense appropriations bill funds so-called minor construction and property maintenance within its operations and maintenance accounts. In addition, construction and maintenance of Morale, Welfare, and Recreation-related facilities are partially funded through proceeds of commissaries, recreation user fees, and other non-appropriated income.

Several special accounts are included within the military construction appropriation. Among these are the Homeowners Assistance Fund (Defense),<sup>9</sup> and

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<sup>7</sup> (...continued)

Military Construction (for the military construction appropriation) and Defense (for the national defense appropriation).

<sup>8</sup> The Subcommittee on Readiness in the House Armed Services Committee and the Subcommittee on Readiness and Management Support in the Senate Armed Services Committee draft legislation to authorize military construction appropriations.

<sup>9</sup> The Homeowners Assistance Fund (Defense) was established by the Demonstration Cities and Metropolitan Development Act of 1966 (42 USC 3374). It authorizes the Secretary of Defense to acquire the title to, or to reimburse for certain losses upon the sale of, one- and two-family homes owned by federal employees located at or near military installations ordered closed in whole or in part.

the Department of Defense Family Housing Improvement Fund,<sup>10</sup> both of which perform functions ancillary to the direct building of military infrastructure.

Most funds appropriated by Congress each year must be obligated in that fiscal year. Military construction appropriations, though, are an exception. Because of the long-term nature of construction projects, these funds can generally be obligated for up to five fiscal years.

Consideration of the military construction budget begins when the President's budget is delivered to Congress each year, usually in early February. This year, the President submitted his FY2004 budget request to the Congress on February 3, 2003.

## Bill Status

**Table 1** shows the key legislative steps necessary for the enactment of the FY2004 military construction appropriations. It will be updated as the appropriation process moves forward.

**Table 1. Status of Military Construction Appropriations, FY2004**

| Committee Markup |          | House Report    | House Passage    | Senate Report  | Senate Passage  | Conf. Report | Conference Report Approval |        | Public Law |
|------------------|----------|-----------------|------------------|----------------|-----------------|--------------|----------------------------|--------|------------|
| House            | Senate   |                 |                  |                |                 |              | House                      | Senate |            |
| 06/17/03         | 06/26/03 | H.Rept. 108-173 | 06/26/03 (428-0) | S.Rept. 108-82 | 07/11/03 (91-0) | --           | --                         | --     | --         |

**Notes:** Dashes indicate no action yet taken.

## Appropriations Action

**House Appropriations Action.** Following a series of hearings by the House Subcommittee on Military Appropriations, the full Committee marked up its bill on June 17. H.R. 2559 (H.Rept. 108-173) was introduced to the House on June 23, 2003, and placed on the Union Calendar (Calendar No. 88). The House considered

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<sup>10</sup> 10 USC 2883 (Department of Defense Housing Funds) is part of subchapter IV (Alternative Authority for Acquisition and Improvement of Military Housing) of the basic law governing the armed forces. It establishes two independent funds: the Department of Defense Family Housing Improvement Fund and the Department of Defense Military Unaccompanied Housing Improvement Fund (unaccompanied members of the military are either unmarried or are married but separated geographically from their families). The funds are sustained by direct appropriation, fund transfers made by the Secretary of Defense or the Secretary of the Navy from other accounts, proceeds from certain title conveyances or the lease of federal military family housing property, or other financial activity associated with either military family or unaccompanied housing. These funds may be used for the planning, construction, or improvement of military housing as provided for under this particular subchapter of Title 10.

the bill under the provisions of a Special Rule (H.Res. 298) on June 26, 2003 (*Congressional Record*, H5979-5990). The measure passed by the Yeas and Nays: 428-0 (Roll no. 325).

The bill was received in the Senate the same day and placed on the Legislative Calendar under General Orders (Calendar No. 177).

**Senate Appropriations Action.** The Senate Committee on Appropriations Subcommittee on Military Construction held hearings on its bill during March and April of 2003. The full Committee reported legislation (S. 1357, S.Rept. 108-82) to the Senate on June 26. The bill was placed on the Legislative Calendar under General Orders (Calendar No. 176).

On July 10, the Senate began consideration of H.R. 2559, striking all after the enacting clause and substituting the text of S. 1357. The Senate passed the bill on July 11 (91-0), insisted on its amendment, and requested a conference with the House.

**Conference Action.** On September 16, 2003, the House disagreed with the Senate amendment, agreed to a conference, and appointed conferees (*Congressional Record*, H8228).

## Changes in Funding Request During the Legislative Process

The President's original budget submission for military construction totaled \$9,036,721,000.

This was amended upward by the House Appropriations Committee to \$9,237,096,000 because of transfers from the defense appropriations bill<sup>11</sup> to the military construction appropriations bill and calculations performed by the Congressional Budget Office (CBO) pursuant to an Administration request for a general provision of funding related to the "Foreign Currency Fluctuations, Construction, Defense" account. The funding transfers included \$25,500,000 for the purpose of constructing a Special Operations Forces facility and \$119,815,000 for chemical demilitarization construction. The CBO calculation resulted in a re-appropriation of \$55 million.

The Senate Appropriations Committee similarly amended the President's budget submission, including the transfer of funds for the Special Operations Forces facility and the CBO calculation. It did not include the transfer of chemical demilitarization construction funds from the defense appropriations bill, as had been done in the

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<sup>11</sup> Rep. Jerry Lewis introduced the Defense Appropriations Bill (H.R. 2658, H.Rept. 108-187) to the House on July 2, 2003, when it was placed on the Union Calendar (Calendar No. 96).

House version of the bill.<sup>12</sup> Therefore, the Senate version of the budget submission is quoted as \$9,117,281,000.<sup>13</sup>

## Fiscal Year 2004 Emergency Supplemental Appropriations Request

On September 21, 2003, the President forwarded to Congress his request for an emergency, non-offset supplemental appropriations for FY2004.

The Department of Defense requested \$65.6 billion of the overall supplemental appropriations. Its stated purpose is to support three ongoing military operations: Operation Iraqi Freedom (\$51.5 million), Operation Enduring Freedom (\$10.5 million), and Operation Noble Eagle (\$2.2 million). Also, \$1.4 million was identified as supporting coalition forces.

Of this total, \$412.5 million is designated for domestic and overseas construction supporting Operation Iraqi Freedom and Operation Enduring Freedom. About \$119.9 million is to be committed to the Army, and \$292.6 million is destined for the Air Force. The anticipated use of these funds is laid out in **Table 2**. Not included under military construction is funding for beddown facilities for approximately 25,000 soldiers. Consisting of trailers and containers equipped with housing and shower facilities, these accommodations are to be drawn from the Army Operation and Maintenance (\$21.2 billion total) and Other Procurement (\$930.7 million) supplemental appropriations requests.

The request also includes authorization to transfer significant funding into construction from other accounts.

**Iraqi Freedom Fund.** The Operations and Maintenance section requests \$1.99 billion for an Iraqi Freedom Fund (IFF). The IFF is a transfer account, or an account that is not dedicated to any specific purpose. Rather, it can be considered a “holding pot” for funds that may be transferred to other accounts at the discretion of the Secretary of Defense. The request justifies the creation of a transfer account by noting “the unpredictable scope, duration, and intensity” of ongoing military operations in Iraq and Afghanistan.

According to the language of the request, authority to transfer the funds in the IFF is to be granted to the Secretary of Defense and is in addition to any other existing transfer authority. Funds may be transferred from the IFF to military personnel, operation and maintenance, Overseas Humanitarian, Disaster Assistance

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<sup>12</sup> Presidential budget submissions for the demilitarization of chemical munitions had usually been divided between the defense and military construction appropriations because both construction and operations are involved in the process. For FY2004, the Department of Defense folded both components into the much larger defense appropriations request, apparently to be able to shift funds into and out of construction without having to request transfer authority from the Congress.

<sup>13</sup> FY2004 request amounts shown in the tables of this report are taken from the House version of the President’s budget submission.

and Civic Aid, procurement, military construction, Defense Health Program, and working capital appropriations accounts. Any funds deemed to be in excess after transfer to a regular appropriations account may be returned to the IFF for subsequent retransfer. The request specifies that the Secretary of Defense will notify the congressional defense committees not less than five (5) days in advance of any transfer and will summarize the details of IFF transfers not later than 30 days after the end of each fiscal quarter.

**Contingency Construction.** Under Chapter 8 (General Provisions), the Secretary of Defense asks for the authority to transfer up to \$500 million of the supplemental appropriations into a contingency construction account.

Contingency construction, as established by 10 USC 2804, permits the Secretary of Defense (or the Secretaries of the Army, Navy, or Air Force) to carry out any military construction project not otherwise authorized if the Secretary determines that its deferral to the next Military Construction Appropriations Act would be inconsistent with national security or the national interest.

Existing law specifies that when the Secretary decides that contingency construction is appropriate, he must report this to the appropriate congressional committees. The report must explain why the project is necessary (its justification) and why it must be a contingency (instead of a regular) construction project. It must also include an estimate of the project's cost. Section 2804 also bars the Secretary from carrying out the project until after the end of a 21-day period that begins on the date his notification is received by the committees.

The Supplemental Appropriations request would permit the transfer of DOD funds into the contingency construction account seven (7) days after notification is sent to the appropriate congressional committees by the Secretary of Defense. As specified in the recommended language, this notification is to certify "that the transfer is necessary to respond to, or protect against, acts or threatened acts of terrorism or to support Department of Defense operations in Iraq, and [specify] the amounts and purposes of the transfer, including a list of proposed projects and their estimated costs."

The recommended language further specifies that, notwithstanding the 21-day waiting period required under Title 10, the Secretary of Defense "shall notify the appropriate committees of Congress no later than 15 days after the obligation of the funds for the project, specifying the estimated cost of the project" and including the standard DOD Form 1391 (Military Construction Program).<sup>14</sup> This will eliminate the requirement to explain the need for a contingency, vice regular, construction project.

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<sup>14</sup> A Form 1391 is prepared for each regular construction project requested by the Department of Defense and included in the detailed justification materials submitted annually to Congress. It names, numbers, and describes the project, gives its location, lists the estimated costs of its components, explains the requirement, reports the current situation, and assesses the impact if the project is not approved.

Normally, military construction is carried out only on a military installation, which is defined as real property (land, building, or structure) under the operational control of the Secretary of a military department or the Secretary of Defense. For the purposes of this contingency construction account, the recommended language expands this definition to also include “any building, structure, or other improvement to real property to be used by the Armed Forces, regardless of whether such use is anticipated to be temporary or of longer duration.”

**Table 2. Fiscal Year 2004 Supplemental Appropriations Military Construction Projects**

| Project                                       | Location                                 | Account   | Amount<br>(\$ millions) | Notes  |
|---|--|-----------|-------------------------|--|
| Construction in Iraq                          | Various                                  | Army      | 115.9                   | This is the single Army military construction supplemental request (save for funds needed for planning and design). Justification remarks indicate that this will be used to improve living conditions at various base camps in Iraq, including the construction of Morale, Welfare, and Recreation facilities, power plants and power distribution systems, a postal distribution facility, and water and wastewater treatment facilities. Expected additional construction includes helicopter pads, taxiways, and improved entry control points at Baghdad International Airport, a sensitive compartmented information facility (to safeguard classified information), a Joint Operations Center, and a training facility. When discrete projects have been identified and planned, additional information will be provided by the Department. |
| Airfield Runway Repair                        | Bagram, Afghanistan                      | Air Force | 48.0                    | The debris created by the crumbling of the existing runway endangers the engines of close air support aircraft based at the airfield. This will repair the existing surface and expand it to enable operation by additional aircraft.  |
| Airfreight Terminal                           | Dover Air Force Base, Delaware           | Air Force | 56.0                    | The existing terminal was damaged by heavy snowfall during President's Day weekend in February 2003. These repairs will enable Dover to resume operations at 100 percent capacity.   |
| AEF FOL Communications Remote Switch Facility | Diego Garcia                             | Air Force | 3.5                     | This will be a new communications site on the Indian Ocean island of Diego Garcia.   |
| Munitions Maintenance, Storage, and Wash Pad  | Camp Darby, Italy                        | Air Force | 5.0                     | Camp Darby is a war reserve material maintenance and staging site. This will improve the munitions maintenance facility located there.   |
| AWC Ramp and Fuel Hydrant Systems             | Al Dhafra Air Base, United Arab Emirates | Air Force | 47.0                    | Al Dhafra is the location of an Air Force Air Warfare Center. This project will construct an aircraft parking ramp with six refueling points and fuel storage.   |

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| Project                        | Location                                       | Account   | Amount<br>(\$ millions) | Notes   |
|--------------------------------|--|-----------|-------------------------|---|
| Airlift Ramp                   | Balad Air Base,<br>Iraq                        | Air Force | 18.0                    | This new aircraft parking ramp will be used for the consolidation of air-shipped cargo and for the parking of fighter aircraft moved from Baghdad International Airport.  |
| Airlift Aprons                 | Confidential<br>Location                       | Air Force | 17.5                    | Two aircraft parking aprons are to be constructed at an unidentified Host Nation airfield. These will accommodate 12 C-130 and 2 C-5 aircraft and will lessen the disruption to normal airfield operations caused by U.S. activity.   |
| Expand Tactical/Strategic Ramp | Al Udeid Air Base,<br>Qatar                    | Air Force | 20.0                    | Al Udeid has been selected as the theater airlift hub. This expansion will accommodate the additional C-130, C-17, and C-5 traffic that this designation has created.   |
| Refueler Ramp                  | Al Udeid Air Base,<br>Qatar                    | Air Force | 40.0                    | Base closures elsewhere have caused KC-10 and KC-135 tankers to be moved to Al Udeid. This ramp will create space for tanker parking and will include a hydrant system to refill them.  |
| Temporary Cantonment Area      | Al Dhafra Air Base,<br>United Arab<br>Emirates | Air Force | 15.3                    | U.S. personnel at this location have been accommodated in temporary facilities since 1996. These facilities are no longer considered suitable. The UAE will complete a permanent cantonment site at the air base in early 2007. This construction will house U.S. personnel until the permanent facilities are completed. |
| Planning and Design            |  | Army      | 4.0                     |   |
| Planning and Design            |  | Air Force | 22.3                    |   |
| <b>Total</b>                   |  |           | <b>412.5</b>            |   |

Source: Department of Defense



## Key Policy Issues

Several issues regarding military construction have gained visibility during the legislative deliberations of the current session of Congress. Among these are overall funding levels, realignment of overseas bases, base realignment and closure (BRAC), and perchlorate ground water contamination remediation.

**Overall Funding Levels.** The FY2004 budget submitted by the President on February 3, 2003, as subsequently amended, requested \$9.24 billion in new budget authority, an amount \$1.46 billion below the 2003 enactment. The Emergency Supplemental Appropriations request submitted in late September would increase the total request by \$412 million and would authorize the transfer of unspecified additional funds as they are needed.

**Realignment of Overseas Bases.** The Department of Defense has initiated efforts in Germany and in the Republic of Korea to reduce the number and shift the locations of its permanent installations. Known in Europe as Efficient Basing-East and in Korea as the Land Partnership Plan, they are part of a worldwide DOD effort to transform itself into a lighter and more agile military establishment.

As part of this endeavor, the Secretary of Defense has tasked his combatant commanders to review military construction projects in order that they might support changing military objectives overseas. These commanders are required to submit a basing plan that enhances their abilities to project power, to support operations, and to conduct activities based upon the Secretary's views of a military structure transformed to meet the challenges of the 21st century. Based on the DOD study of overseas basic requirements, the Administration in its amendment asked for the deletion of 16 construction projects totaling \$269 million that had been requested for Germany and Turkey in its original FY2004 submission.

This DOD study is not yet complete, however, and the House Appropriations Committee, in its report, expressed concerns that current and projected military construction at overseas sites may not reflect a well-considered strategy. The committee, noting that DOD has announced the retrenchment of some garrisons in the Republic of Korea, recommended rescinding \$107 million from prior year appropriations at sites slated to be closed and re-appropriating them to installations expected to remain in service.

The Senate Appropriations Committee strongly supported the DOD effort to reevaluate its overseas basing requirements, though both appropriations committees noted that a DOD overseas basing master plan, due on April 1, 2002, had not yet been submitted. The Senate committee recognized that the DOD study of rebasing had not progressed beyond its embryonic stage. In observing public statements indicating that DOD would likely reduce the number of troops stationed in Germany and would reconfigure its installations in Korea, it did not find much of the new construction in Europe and Korea that had been requested in the May 1, 2003, budget amendment.

The Senate Committee recommended that an eight-member Commission on the Review of the Overseas Military Facility Structure of the United States be formed to assess whether current overseas basing is adequate and assess the feasibility of various new configurations. Appointed by congressional leadership, the Commission would provide an independent view of overseas basing requirements and would submit its report, including findings, conclusions, recommendations for legislation and administrative action, and a proposed overseas basing strategy, to the President and Congress by August 30, 2004. The Committee also directed the Department of Defense to submit master plans for changing the military infrastructure requirements within each overseas regional command and report annually, through FY2008, on the plans' implementation.

Notwithstanding congressional direction, the press has reported that the Department of Defense and the military services have begun taking action to realign force levels and the basing "footprint" at overseas locations.

On July 23, the *Pacific Stars and Stripes*, a newspaper written for military members stationed throughout the Pacific area, announced that U.S. and Japanese officials had entered into an agreement to return to Japanese control more than 700 acres of land near Yokosuka used by the American military.<sup>15</sup> In return, the Japanese government agreed to build 800 new residential housing units near the main Yokosuka naval base.

In Europe, the press has reported that the U.S. European Command is considering the closure of many of the military installations in Germany and the return to the United States of many of the combat units now stationed there. New, more austere, bases could be constructed to house lighter, smaller combat units sent more to train than to garrison. Countries where these "bare-bones" bases might be located include Poland, Bulgaria, Romania, Algeria, and Morocco.<sup>16</sup> A more recent report in the press indicated that two of the Army divisions currently engaged in operations in Iraq, the First Armored and the First Infantry Divisions, currently based in Wiesbaden and Würzburg, Germany, could be permanently redeployed to the United States when they are relieved of their present assignments.<sup>17</sup>

In the Republic of Korea during early June 2003, officials announced that U.S. forces there would be realigned, with elements of the Second Infantry Division currently based near the Demilitarized Zone between the Republic of Korea and the Democratic Peoples Republic of Korea moving south, and the garrison at the

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<sup>15</sup> According to the report, all of the Fukaya Communications Site, Tomioka Storage Area and Negishi Dependent Housing Area and most of the Kamiseya Communications Station will be returned at a future date not yet determined. See Joseph Giordano, "Japan Pledges To Build 800 Residential Units Near Yokosuka," *Pacific Stars and Stripes*, July 23, 2003.

<sup>16</sup> See Brian Whitmore, "US Looks East To Set Up New Europe Bases," *Boston Globe*, July 12, 2003, p. 1.

<sup>17</sup> See Amy Svitak and Vince Crawley, "Germany-Based Divisions May Move Stateside," *Army Times*, August 4, 2003, p. 14.

Yongsan Garrison in the capital city of Seoul beginning its relocation “as soon as possible.”<sup>18</sup>

**Base Realignment and Closure (BRAC).** Four BRAC rounds have been completed since the first in 1989. A fifth round, expected to affect as many installations as the previous four rounds combined, is scheduled to take effect in FY2005.

Under statutory language included in the National Defense Authorization Act for FY2002, the Secretary of Defense is required to publish by December 31, 2003, an initial list of the criteria he will use to recommend base closure and realignment actions. The Secretary’s force structure plan, a comprehensive base inventory, and certification that the BRAC round is needed are to be included with the presidential submission of his FY2005 budget in early February 2004. Congress will have the opportunity to disapprove the Secretary’s selection criteria during early 2004. The final presidential list of BRAC actions is due to the Congress on November 7, 2005.<sup>19</sup>

**The Efficient Facilities Initiative (EFI).** Some press reports have referred to the FY2005 BRAC round as the “Efficient Facilities Initiative.” This substitution is inaccurate and has led to some confusion. In fact, BRAC and Efficient Facilities Initiative are defined in statute and refer to two different processes.

The original Efficient Facilities Initiative (EFI) was a new approach to reducing and managing DOD real property holdings and was intended to substitute for a repeat BRAC round. The EFI was intended to encompass all military installations, both domestic and overseas, and would have instituted a different method of administering many of the surviving bases.

The EFI was publicly announced by the Department of Defense on August 2, 2001, and the Department’s General Counsel submitted proposed legislation to Congress on August 3. It included three major actions: the potential realignment and closure of U.S. military installations overseas; the potential realignment and closure of installations within the United States during FY2003; and the permanent authorization of the Brooks Air Force Base Development Demonstration Project, expanded to include all military services. The language as proposed was not adopted by Congress.

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<sup>18</sup> See Howard W. French, “Official Says U.S. Will Reposition Its Troops In South Korea.” *New York Times*, June 3, 2003, Jeremy Kirk and Franklin Fisher, “Army: No Timetable For S. Korea Move,” *Pacific Stars and Stripes*, June 10, 2003, and Seo Soo-min, “ROK, US Agree on Fast-Track Force Realignment,” *Korea Times*, June 30, 2003. The U.S. ambassador to the Republic of Korea has since cautioned that the redeployment of troops from their current location in Seoul to their new positions will be slow, awaiting the funding of necessary construction by the host nation and by the Congress. See Sim Sung-tae, “Envoy: Redeploying Troops Takes Time,” *Korea Herald*, July 8, 2003.

<sup>19</sup> For a comprehensive review of the BRAC process, see CRS Report RL30440, *Military Base Closures: Estimates of Costs and Savings*, by David E. Lockwood, and CRS Report RL30051, *Military Base Closures: Agreement on a 2005 Round*, by David E. Lockwood.

Instead, Congress incorporated some aspects of the EFI into the National Defense Authorization Act for FY2002.<sup>20</sup> Because military bases on foreign territory are established by agreement between governments, no legislation was needed to begin the process of overseas bases. Congress ignored that portion of the EFI. Instead of approving the Secretary's suggested process for review of domestic bases and establishment of a permanent Department-wide Brooks-like base management system, Congress created the FY2005 BRAC round in Title XXX of the Act and authorized DOD to carry out a "Pilot Efficient Facilities Initiative" for a maximum of four years at up to two military installations of each military department (Army, Navy, and Air Force). These pilot initiatives were to be modeled on the Brooks Air Force Base Development Demonstration Project in San Antonio, Texas.

### **The Brooks Air Force Base Development Demonstration Project.**

The Brooks Air Force Base Development Demonstration Project (also known as the "Base Efficiency Project" or the "Brooks City-Base Project") is a partnership between the Secretary of the Air Force and the City of San Antonio, Texas, and represents an alternative to traditional base closings or realignments.

Usually, military reservations are federal land jurisdictionally independent of the surrounding communities and governed by the base commander. Congress authorized the Secretary to "convert any military or civil service appropriated or non-appropriated fund activity at Brooks Air Force Base, Texas, into a contracted activity or an exchange of services compensated for by the lease, sale, conveyance, or transfer of real or private property."<sup>21</sup> This empowered the Secretary to transfer title, in exchange for appropriate compensation, of the whole of federal real property at Brooks to the city and to lease back for military use those parts that directly support the base's military mission.<sup>22</sup> The base is then no longer federal property. The cost of maintaining and operating the facility's physical plant, including fire and police protection, upkeep, and the like, is effectively transferred along with ownership from the Department of Defense to the local community. Funds generated from the lease or sale of property, reimbursements, and so on, is placed in a special Project Fund, which the Secretary of the Air Force may employ for operations, leaseback, maintenance and repair of Department facilities, and other uses.<sup>23</sup>

This has taken place at Brooks, and one aim of the EFI was to make the same management tools available permanently to all service secretaries for use where they considered appropriate. But Congress granted this authority only as a pilot project of limited scope and duration. To date, the Department of Defense has not selected candidate sites.

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<sup>20</sup> S. 1438 (P.L. 107-107). H.Rept. 107-333 is the bill's conference report.

<sup>21</sup> Defense Appropriation Act for FY2000 (P.L. 106-79) and Military Construction Appropriations Act for FY2001 (P.L. 106-246).

<sup>22</sup> This is often referred to as "sell and lease back."

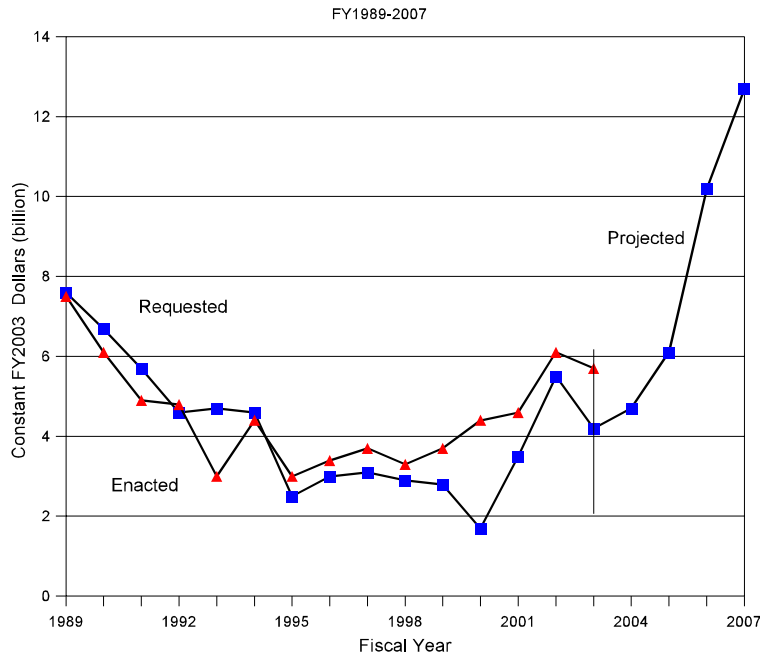
<sup>23</sup> More information on the Brooks City-Base Project is available online at [<http://www.ci.sat.tx.us/edd/brooks/>].

**Perchlorate Groundwater Contamination Remediation.** The Senate Appropriations Committee included language in its report requiring the Department of Defense to report not later than March 30, 2004, on the activities of the Interagency Perchlorate Steering Committee of the Department of Defense. The Steering Committee was established in January 1998 to facilitate the flow of information between defense agencies on technological issues related to perchlorate contamination of drinking water supplies and irrigation water supplies.

The report of the House Appropriations Committee on the defense appropriations bill (H.R. 2658, H.Rept. 108-187) also addressed perchlorate groundwater contamination. That Committee directed the Department of Defense to conduct a joint study with the Environmental Protection Agency on perchlorate contamination of water supplies in southern California, Arizona, and Nevada. This report would be completed within 180 days of the enactment of the defense appropriations bill and would recommend national groundwater contamination standards, indicate the military and defense industry contamination sources, and outline mitigation steps for which the federal government would be responsible.

## Major Funding Trends

Between FY1985 and FY1998, funding devoted to military construction declined steadily as DOD and Congress struggled with a changing strategic environment, a shrinking military force, and the uncertainties associated with several rounds of base realignments and closures. Appropriations began to rise with FY1998 as Congress sought to replace outdated facilities and improve the quality of life for military personnel at home and in the workplace. Administration requests for military construction funding (not including BRAC and family housing) continued to decline until FY2000, but have risen for FY2001 and FY2002. The request for FY2004 rises above the level requested for FY2003, and DOD projects that its annual construction requests will approximately triple between FY2003 and FY2007 (see **Figure 1**).

**Figure 1. Military Construction Funding**

**Note:** Does not include BRAC or Family Housing funding

**Source:** Department of Defense, *Financial Summary Tables*, successive years

Prior to FY1994, Congress considered Administration requests to exceed real construction requirements, typically appropriating less new budget authority than requested. This pattern reversed with the FY1995 budget. Every year since then, Congress has added to Administration requests, countering what Members have termed “inadequate” funding for military construction.

**Table 2** breaks down the FY2004 request by appropriations account and compares it to FY2003 levels. **Table 3** shows congressional action on current military construction appropriations by account. **Table 4** compares Administration military construction requests and enactments for Guard and Reserve projects from FY1994-FY2004.

## Legislation

### Military Construction Appropriations

**H.R. 2559 (Knollenberg).** Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes. H.R. 2559 was reported out of committee on June 17, 2003, and introduced to the House on June 23. The bill passed the House on June 26, 2003 (428-0), and was sent to the Senate.

The Senate began consideration of H.R. 2559 on July 10, amending it by striking all text after the enacting clause and substituting the text of S. 1357. On July 11, the Senate passed the bill (91-0), insisted upon its amendment, and requested a

conference with the House. The House disagreed to the Senate amendment on a motion passed without objection on September 16. The House then requested a conference and appointed conferees.

**S. 1357 (Hutchinson).** An original bill making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes. S. 1357 was reported as an original measure on June 26, 2003. The Senate began consideration of H.R. 2559 on July 10, amending it by striking all text after the enacting clause and substituting the text of S. 1357. All subsequent action is listed under H.R. 2559.

## Defense Authorization

**H.R. 1588 (Hunter, by request).**<sup>24</sup> To authorize appropriations for FY2004 for military activities of the Department of Defense, and for military construction, to prescribe military personnel strengths for FY2004, and for other purposes. Introduced on April 23, 2003, and referred to the Committee on Armed Services, it was further referred to the Subcommittees on Projection Forces, Total Force, Readiness, Tactical Air and Land Forces, Terrorism, Unconventional Threats and Capabilities, and Strategic Forces. The subcommittees completed markup and returned the bill to the full committee on May 9. The Subcommittee on Readiness, which exercises jurisdiction over the military construction portion of the authorization bill, recommended increasing the requested funding for construction and adopted (16-5) an amendment sponsored by Representative Gene Taylor (Miss.-04) that would repeal the FY2005 round of base realignments and closures. The measure was passed out by voice vote. The bill was reported out on May 16, 2003 (H.Rept. 108-106), and placed on the Union Calendar (Calendar No. 53). The committee filed a supplemental report (H.Rept 108-106, Part II) on May 21. Brought to the floor on May 21, 2003, subject to a rule (H.Res.245). H.R. 1588 was debated, amended, and passed by recorded vote (361-68, Roll no. 221) on May 21 and 22.

The bill was received in the Senate on June 2, 2003, and on June 4 was laid before the Senate by unanimous consent. The Senate struck all after the Enacting Clause and substituted the language of S. 1050. The bill passed with an amendment by voice vote the same day (*Congressional Record*, S7297-7364). The Senate then insisted on its amendment and appointed conferees. The Senate sent a message to the House informing it of its action on June 5, 2003.

Conferees met for the first time on July 22. The House voted on September 10 to instruct its conferees regarding Sections 606 and 619 of the Senate amendment (relating to the rates of pay for the family separation allowance and imminent danger pay) (406-0, Roll No. 500, *Congressional Record*, H8167, *et seq.*). On September 17, the House debated whether to instruct its conferees on Subtitle F of Title VI of the Senate amendment (relating to naturalization and family protection for military

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<sup>24</sup> S. 2225 corresponds to the Administration's budget request and was introduced by request. H.R. 4546 and S. 2514 are the defense authorization bills from the House and Senate Armed Services Committees respectively.

members) (*Congressional Record*, H8366-H8369). The vote on whether to accept the motion occurred on September 23 (298-118, 18 not voting, Roll No. 511, *Congressional Record*, H8466).



**Table 2. Military Construction Appropriations by Account:  
FY2003-FY2004**

(new budget authority in thousands of dollars)

| Account  | FY2003<br>Enacted | FY2004<br>Request | FY2004<br>Enacted |
|--|-------------------|-------------------|-------------------|
| MilCon, Army   | 1,636,334         | 1,536,010         | )                 |
| MilCon, Navy   | 1,351,888         | 1,132,858         | )                 |
| MilCon, Air Force                                    | 1,201,266         | 830,671           | )                 |
| MilCon, Defense-wide                                 | 866,669           | 814,116           | )                 |
| <b>Total: Active Components</b>                      | <b>5,056,157</b>  | <b>4,313,655</b>  | )                 |
| MilCon, Army National Guard                          | 241,377           | 168,298           | )                 |
| MilCon, Air National Guard                           | 203,813           | 60,430            | )                 |
| MilCon, Army Reserve                                 | 100,554           | 68,478            | )                 |
| MilCon, Navy Reserve                                 | 74,921            | 28,032            | )                 |
| MilCon, Air Force Reserve                            | 85,826            | 44,312            | )                 |
| <b>Total: Reserve Components</b>                     | <b>706,491</b>    | <b>369,550</b>    |                   |
| <b>Total: Military Construction</b>                  | <b>5,762,648</b>  | <b>4,683,205</b>  |                   |
| <b>NATO Security Investment Program</b>              | <b>167,200</b>    | <b>169,300</b>    | )                 |
| Family Housing Const., Army                          | 275,436           | 356,891           | )                 |
| Family Housing Operation & Debt, Army                | 1,106,007         | 1,043,026         | )                 |
| Family Housing Const., Navy & Marine Corps           | 373,816           | 184,193           | )                 |
| Family Housing Operation & Debt, Navy & Marine Corps | 861,788           | 852,778           | )                 |
| Family Housing Const., AF                            | 676,042           | 637,718           | )                 |
| Family Housing Operation & Debt, AF                  | 864,850           | 834,468           | )                 |
| Family Housing Const., Def-wide                      | 5,480             | 350               | )                 |
| Family Housing Operation & Debt, Def-wide            | 42,395            | 49,440            | )                 |
| DOD Family Housing Improvement Fund                  | 2,000             | 300               | )                 |
| <b>Total: Family Housing</b>                         | <b>4,207,814</b>  | <b>3,959,164</b>  | )                 |
| <b>Total: BRAC Acct.</b>                             | <b>561,138</b>    | <b>370,427</b>    | )                 |
| <b>General Provision (CBO est.)</b>                  |                   | <b>55,000</b>     |                   |
| <b>GRAND TOTAL</b>                                   | <b>10,698,800</b> | <b>9,237,096</b>  | )                 |

**Source:** Data for FY2003 Enacted and FY2004 Request from H.Rept. 108-173.

**Note:** Order of presentation of some accounts has been changed from previous edition of this report.

**Table 3. Military Construction FY2004 Appropriations by Account; Congressional Action**  
(in thousands of dollars)

| Account   | FY2004 Request*  | House Bill       | Senate Bill      | Enacted |
|---|------------------|------------------|------------------|---------|
| MilCon, Army                                    | 1,536,010        | 1,350,045        | 1,071,540        | )       |
| MilCon, Navy                                    | 1,132,858        | 1,171,755        | 1,156,337        | )       |
| MilCon, Air Force                               | 830,671          | 896,136          | 1,056,377        | )       |
| MilCon, Defense-wide                            | 814,116          | 780,933          | 679,887          | )       |
| <b>Total: Active Components</b>                 | <b>4,313,655</b> | <b>4,198,869</b> | <b>3,964,141</b> | )       |
| MilCon, Army Nat'l. Guard                       | 168,298          | 208,033          | 304,085          | )       |
| MilCon, Air National Guard                      | 60,430           | 77,105           | 221,013          | )       |
| MilCon, Army Reserve                            | 68,478           | 84,569           | 73,979           | )       |
| MilCon, Naval Reserve                           | 28,032           | 38,992           | 34,742           | )       |
| MilCon, Air Force Reserve                       | 44,312           | 56,212           | 57,426           | )       |
| <b>Total: Reserve Components</b>                | <b>369,550</b>   | <b>464,911</b>   | <b>691,245</b>   | )       |
| <b>Total: Military Construction</b>             | <b>4,683,205</b> | <b>4,663,780</b> | <b>4,655,386</b> | )       |
| <b>NATO Security Investment Program</b>         | <b>169,300</b>   | <b>169,300</b>   | <b>169,300</b>   | )       |
| Family Housing Const., Army                     | 356,891          | 356,891          | 356,891          | )       |
| Family Housing Ops & Maint, Army                | 1,043,026        | 1,043,026        | 1,043,026        | )       |
| Family Housing Const., Navy & Marine Corps      | 184,193          | 180,608          | 180,608          | )       |
| Family Housing Ops & Maint, Navy & Marine Corps | 852,778          | 852,778          | 852,778          | )       |
| Family Housing Const., Air Force                | 637,718          | 628,026          | 628,026          | )       |
| Family Housing Ops & Maint, Air Force           | 834,468          | 826,074          | 834,468          | )       |
| Family Housing Const, Defense-wide              | 350              | 350              | 350              | )       |
| Family Housing Ops & Maint, Defense-wide        | 49,440           | 49,440           | 49,440           | )       |
| DOD Family Housing Improvement Fund             | 300              | 300              | 300              | )       |
| <b>Total: Family Housing</b>                    | <b>3,959,164</b> | <b>3,937,493</b> | <b>3,945,887</b> | )       |
| <b>BRAC Acct.</b>                               | <b>370,427</b>   | <b>370,427</b>   | <b>370,427</b>   | )       |
| General Provision (CBO est.)                    | 55,000           | 55,000           | 55,000           | )       |
| <b>GRAND TOTAL</b>                              | <b>9,237,096</b> | <b>9,196,000</b> | <b>9,196,000</b> | )       |

Sources: H.Rept. 108-173., S.Rept. 108-82.

Note: Order of presentation of some accounts has been changed from previous edition of this report.

\* Data taken from H.Rept. 108-173.

**Table 4. Congressional Additions to Annual DOD Budget Requests for National Guard and Reserve Military Construction, FY1994-FY2004**

(current year dollars in thousands)

| Fiscal Year   | Army National Guard | Air National Guard | Army Reserve | Naval Reserve | Air Force Reserve | Total   | Total Change from Request |
|---------------|---------------------|--------------------|--------------|---------------|-------------------|---------|---------------------------|
| 1994 Req.     | 50,865              | 142,353            | 82,233       | 20,591        | 55,727            | 351,769 | –                         |
| 1994 Enacted  | 302,719             | 247,491            | 102,040      | 25,029        | 74,486            | 751,765 | +399,996                  |
| 1995 Req.     | 9,929               | 122,770            | 7,910        | 2,355         | 28,190            | 171,154 | –                         |
| 1995 Enacted  | 187,500             | 248,591            | 57,193       | 22,748        | 56,958            | 572,990 | +401,836                  |
| 1996 Req.     | 18,480              | 85,647             | 42,963       | 7,920         | 27,002            | 182,012 | –                         |
| 1996 Enacted  | 137,110             | 171,272            | 72,728       | 19,055        | 36,482            | 436,647 | +254,635                  |
| 1997 Req.     | 7,600               | 75,394             | 48,459       | 10,983        | 51,655            | 194,091 | –                         |
| 1997 Enacted  | 78,086              | 189,855            | 55,543       | 37,579        | 52,805            | 413,868 | +219,777                  |
| 1998 Req.     | 45,098              | 60,225             | 39,112       | 13,921        | 14,530            | 172,886 | –                         |
| 1998 Enacted  | 102,499             | 190,444            | 55,453       | 26,659        | 15,030            | 390,085 | +217,199                  |
| 1999 Req.     | 47,675              | 34,761             | 71,287       | 15,271        | 10,535            | 179,529 | –                         |
| 1999 Enacted  | 144,903             | 185,701            | 102,119      | 31,621        | 34,371            | 498,715 | +319,186                  |
| 2000 Req.     | 57,402              | 73,300             | 77,626       | 14,953        | 27,320            | 250,601 | –                         |
| 2000 Enacted  | 236,228             | 262,360            | 110,764      | 28,310        | 64,071            | 701,733 | +451,132                  |
| 2001 Req.     | 59,130              | 50,179             | 81,713       | 16,103        | 14,851            | 221,976 | –                         |
| 2001 Enacted  | 285,587             | 203,381            | 108,499      | 61,931        | 36,510            | 695,908 | +473,932                  |
| 2002 Req.     | 267,389             | 149,072            | 111,404      | 33,641        | 53,732            | 615,238 | –                         |
| 2002 Enacted  | 400,994             | 250,530            | 165,136      | 51,676        | 74,013            | 942,349 | +327,112                  |
| 2003 Req.*    | 101,595             | 62,406             | 58,779       | 58,671        | 37,976            | 319,427 | –                         |
| 2003 Enacted* | 241,377             | 203,813            | 100,554      | 74,921        | 85,826            | 706,491 | +387,064                  |
| 2004 Req.     | 168,298             | 60,430             | 68,478       | 28,032        | 44,312            | 369,550 |                           |
| 2004 Enacted  | –                   | –                  | –            | –             | –                 |         |                           |

Source: Department of Defense, *Financial Summary Tables*, successive years, H.Rept. 108-173.

## For Additional Information

### CRS Products

CRS Report RL31310. *Appropriations for FY2003: Military Construction*, by Daniel Else.

CRS Report RL31805. *Authorization and Appropriations for FY2004: Defense*, by Amy Belasco and Stephen Daggett.

CRS Report RL31349. *Defense Budget for FY2003: Data Summary*, by Amy Belasco and Stephen Daggett.

CRS Report RL31187. *Combating Terrorism: 2001 Congressional Debate on Emergency Supplemental Allocations*, by Amy Belasco and Larry Q. Nowels,

CRS Report RL31305. *Appropriations and Authorization for FY2003: Defense*, coordinated by Amy Belasco and Stephen Daggett.

CRS Report RL30002. *A Defense Budget Primer*, by Mary T. Tyszkiewicz and Stephen Daggett.

CRS Report RL30440. *Military Base Closures: Estimates of Costs and Savings*, by David E. Lockwood.

CRS Report RL30051. *Military Base Closures: Agreement on a 2005 Round*, by David E. Lockwood.

### Selected World Wide Web Sites

#### Legislative Branch Sites

House Committee on Appropriations  
[<http://www.house.gov/appropriations/>]

Senate Committee on Appropriations  
[<http://www.senate.gov/~appropriations/>]

CRS Appropriations Products Guide  
[<http://www.crs.gov/products/appropriations/apppage.shtml>]

Congressional Budget Office  
[<http://www.cbo.gov/>]

General Accounting Office  
[<http://www.gao.gov/>]

**U.S. Department of Defense Sites**

U.S. Department of Defense, Office of the Under Secretary of Defense (Comptroller),  
FY2004 Budget Materials

[<http://www.dod.mil/comptroller/defbudget/fy2004/index.html>]

U.S. Department of Defense, Installations & Environment Home Page

[<http://www.acq.osd.mil/ie/>]

**White House Sites**

Executive Office of the President, Office of Management and Budget, Budget  
Materials

[<http://www.whitehouse.gov/omb/budget/fy2004/>]

Office of Management & Budget

[<http://www.whitehouse.gov/omb/>]