

114TH CONGRESS }
1st Session

HOUSE OF REPRESENTATIVES

{ REPORT
114-102

NATIONAL DEFENSE AUTHORIZATION ACT
FOR FISCAL YEAR 2016

R E P O R T

OF THE

COMMITTEE ON ARMED SERVICES
HOUSE OF REPRESENTATIVES

ON

H.R. 1735

together with

DISSENTING VIEWS

[Including cost estimate of the Congressional Budget Office]



MAY 5, 2015.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

needs to sustain and recapitalize to keep them in the condition and configuration to support the Department's missions. The committee also notes that the Department has not fully funded sustainment to meet its estimated needs, which can lead to deterioration of the facility, limited use and performance of the facility, and can impact mission and readiness of the installation. Further, the committee notes that deferred maintenance and repair of facilities leads to a need for more recapitalization funding in the future to restore and replace facilities that become deteriorated and outdated faster than expected.

On March 3, 2015, the Acting Assistant Secretary Of Defense for Energy, Installations, and Environment testified before the Subcommittee on Readiness that the military departments are accepting risk in not sustaining, restoring, and modernizing facilities. In an effort to better track and limit risk, in fiscal years 2013–14, the Acting Assistant Secretary of Defense for Energy, Installations, and Environment issued two memoranda establishing a sustainment and recapitalization policy, directing the military components to complete certain actions, such as funding sustainment to at least 90 percent of the Facility Sustainment Model estimate, standardizing gathering of facility condition data, and developing mitigation plans for facilities that are in failing condition to help improve the condition of the facilities in coming years.

As such, the committee directs the Comptroller General of the United States to review the Department of Defense's plans and actions and to provide a report to the congressional defense committees by March 14, 2016, that addresses the state of the Department's facility sustainment and recapitalization programs. At a minimum, the report should address the following:

(1) To what extent has the Department of Defense made progress in meeting its policy goals for sustainment and recapitalization of its facilities as outlined in the two Department memoranda?

(2) What is known about the condition of facilities and the trend in conditions since fiscal year 2011?

(3) To what extent have the military departments addressed deferred facility sustainment needs and what is known about the impact of deferred sustainment on facility condition and mission readiness?

(4) What is known about the effect of facilities sustainment and recapitalization policy and funding since fiscal year 2011 on the quality of life of personnel and readiness of the installation?

Impact of Wind Energy Developments on Military Installations

The committee notes that the Department of Defense has negotiated mitigation efforts with proposed wind energy developments in proximity to military installations, training ranges, and low-level training routes. The committee is aware that some of these mitigations were negotiated prior to the completion of scientific studies to determine the effects of the wind energy structures and rotating blades on military aircraft's main and terrain-following radars. Without the results of these studies, the committee is concerned that the Department of Defense may not have the information necessary to determine the actual impact of mitigation efforts or the extent of risk to military missions.

Therefore, the committee directs the Secretary of Defense, to provide a report to the congressional defense committees not later than October 1, 2015, on the science, standards, assumptions, and criteria by which the Department assesses the risks to military missions posed by wind energy developments in proximity to military installations or training ranges. The report shall also include the proposed parameters and distances from military training routes and ranges that are considered an acceptable risk, and a review of the success of mitigation measures included in past agreements with wind energy developments, including the cost of mitigation measures. Finally, the report shall include an analysis of feedback from local military installation commanders of the impact or effectiveness of proposed mitigation measures.

Improvement of Design-Build Selection Process

The committee continues to remain interested in the Department of Defense's use and implementation of the two-phase design-build selection procedures. The committee notes that Section 2305a, title 10, United States Code, was modified in the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015, limiting the number of offerors specified in a solicitation to five for contract values that exceed \$4,000,000, but not requiring the use of a two-phase selection procedures for these procurements. The committee continues to be concerned about how these changes have affected the industry and the Department's ability to award construction projects.

As such, the committee requests the Secretary of Defense to provide a briefing to the House Committee on Armed Services by February 1, 2016, that addresses how the Department has implemented the modifications to the law enacted last year, any feedback the Department has received from industry, and any challenges to the implementation of the statute. Further, the briefing should include the list of instances in which the agency awarded a design-build contract pursuant to this section that had more than five finalists for phase-two request for proposals during fiscal year 2015, and the list of design-build requests for proposals that used a one-step process.

Intergovernmental Support Agreements

The committee notes that section 331 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112-239) authorized the Department of Defense to enter into intergovernmental support agreements with State or local governments for the procurement of installation support services. Section 351 of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113-291) provided additional clarification to the authorities for military installations to enter into intergovernmental support agreements with State or local governments. The committee supports the use of intergovernmental support agreements between the Department of Defense and State and local governments, and believes that such agreements provide an opportunity to streamline costs, realize efficiencies, and enhance the quality of services to the Department of Defense. The committee notes that the authority to enter into