

**FY 2000**

**NATIONAL DEFENSE AUTHORIZATION ACT - PL 106-65**

**SEC. 3123. Limits On Construction Projects.**

(a) IN GENERAL- (1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by section 3101, 3102, or 3103, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of--

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken if--

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the actions and the circumstances making such action necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(b) EXCEPTION- Subsection (a) shall not apply to any construction project which has a current estimated cost of less than \$5,000,000.

**SEC. 3176. Pilot Program for Project Management Oversight Regarding DOE Construction Projects --**

(a) REQUIREMENT- (1) The Secretary of Energy shall carry out a pilot program on use of project management oversight (PMO) services for Department of Energy construction projects.

(2) The purpose of the pilot program is to provide a basis for determining whether or not the use of competitively procured, external project management oversight services on construction projects would permit the Department to control excessive costs and schedule delays associated with Department construction projects having large capital costs.

(b) PROJECTS COVERED BY PROGRAM- (1) Subject to paragraph (2), the Secretary shall carry out the pilot program at construction projects selected by the Secretary. The projects shall include one or more construction projects authorized pursuant to section 3101 and one construction project authorized pursuant to section 3102.

(2) The Secretary shall select projects that have capital construction costs anticipated to be not less than \$25,000,000.

(c) SERVICES UNDER PROGRAM- The project management oversight services utilized under the pilot program shall include the following services:

(1) Monitoring the overall progress of a project.

- (2) Determining whether or not a project is on schedule.
  - (3) Determining whether or not a project is within budget.
  - (4) Determining whether or not a project conforms with plans and specifications approved by the Department.
  - (5) Determining whether or not a project is being carried out efficiently and effectively.
  - (6) Any other management oversight services that the Secretary considers appropriate for purposes of the pilot program.
- (d) PROCUREMENT OF SERVICES UNDER PROGRAM- Any services procured under the pilot program shall be acquired--
- (1) on a competitive basis; and
  - (2) from among commercial entities that--
    - (A) do not currently manage or operate facilities at a location where the pilot program is being conducted; and
    - (B) have an expertise in the management of large construction projects.
- (e) REPORT- Not later than February 1, 2000, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on pilot program. The report shall include the Secretary's assessment of the feasibility and desirability of utilizing project management oversight services for Department of Energy construction projects.

**Pilot program for project management oversight regarding Department of Energy construction projects (sec. 3176)**

The committee recommends a provision that would direct the Secretary of Energy to initiate a project management oversight (PMO) pilot effort in at least one defense programs and one environmental management construction project with a total estimated cost of at least \$25.0 million. The PMO pilot projects would assess the effectiveness of using PMO service providers to help control cost and schedule overruns at large Department of Energy (DOE) construction projects. Such services would include monitoring the project's progress in order to determine if the project is on time, within budget, in conformance with the approved plans and specifications, and being implemented efficiently and effectively. The Secretary would be required to submit a report to the defense committees of Congress on the effectiveness of the pilots not later than September 1, 2000. The Secretary would be required to procure such services on a competitive basis from among those commercial firms who have expertise in managing large construction projects, but who do not currently manage or operate a facility where a pilot would be conducted.

The committee remains concerned that DOE has failed to take appropriate action to control costs in large construction projects at its facilities. The committee notes a finding by the General Accounting Office that, as of April 15, 1999, all fiscal year 1999 new construction starts in the Office of Defense Programs are behind schedule by at least five months. The committee further notes that most large commercial construction projects enlist PMO-type services to act on behalf of the project owners by overseeing day-to-day matters. The committee believes that the DOE, as 'owner' of many large and complex construction projects, could greatly benefit from PMO services.

## **ENERGY AND WATER APPROPRIATIONS - Senate Report 106-58**

**Office of Field Management** -- Consistent with the recommendation of the Commission on Maintaining United States Nuclear Weapons Expertise to establish direct reporting chains for the Department's sites, laboratories, and facilities, the Committee recommendation eliminates funding for the Office of Field Management.

## **ENERGY AND WATER APPROPRIATIONS - House Report 106-253**

**Spallation Neutron Source** -- The recommendation provides \$67,900,000, including \$17,900,000, the same amount as the budget request, for underlying research and development needed to confirm design for this unique machine and \$50,000,000 for construction, a reduction of \$146,100,000 from the amount requested. The Committee has again recommended a reduction in the funding level for this project based on several unfavorable reviews of the management of this project including reviews by the Department of Energy (DOE), the General Accounting Office (GAO), and the comprehensive independent review commissioned by the Committee (EG&G). In testimony to the Committee, the Department stated that: 'The only reason for the change in the total project cost is the change in the fiscal year 1999 budget for the project from \$157 million to \$130 million.' Each of the reports cited problems including, for example, the need to reorganize the project office, the need for better lines of responsibility through the lab structure, and the need for project managers with project manager experience. Each of these are significant issues that must be addressed before construction commences. None of these are attributable to the Congress's recognition that this project was not ready for full funding last year. It is unfortunate that the Department chose to first blame Congress when cost estimates were increased.

Despite these problems, the Committee is encouraged that the Department is re-evaluating the costs and proposals submitted by the proposed participating laboratories. The Department has already announced that this project is now on track and that its new management team and project management structure have eliminated all of the problems and concerns of the reports cited above. The Committee has grown accustomed to the Department immediately solving all problems with the issuance of a press release; however, the Committee is holding onto its confetti.

The Committee will continue to closely follow the progress of this project and urges the Department to follow through on its stated commitment to put the goals and interests of this taxpayer-funded project above the goals and interests of the individual labs that ultimately participate in this project. Consistent with the authorization bill recently passed by the House Committee on Science, the Department is prohibited from obligating funds provided in this Act until the following are provided to the committees of jurisdiction, namely the Committee on Science of the House, the Committee on Energy and Natural Resources of the Senate, and the Committees on Appropriations of the House and the Senate:

- (1) Certification that senior project management positions for the project have been filled by qualified individuals;

- (2) Cost baseline and project milestones for each major construction and technical system activity, consistent with the overall cost and schedule submitted with the Department's fiscal year 2000 budget, that have been reviewed and certified by an independent entity, outside the Department and having no financial interest in the project, as the most cost-effective way to complete the project;
- (3) Binding legal agreements that specify the duties and obligations of each laboratory of the Department in carrying out the project;
- (4) A revised project management structure that integrates the staff of the collaborating laboratories working on the project under a single project director, who shall have direct supervisory responsibility over the duties and obligations described in subparagraph (3) above,
- (5) Official delegation by the Secretary of primary authority with respect to the project to the project director;
- (6) Certification from the Comptroller General that the total taxes and fees in any manner or form paid by the Federal government on the SNS and the property, activities, and income of the Department relating to the SNS to the State of Tennessee or its counties, municipalities, or any other subdivision thereof, does not exceed the aggregate taxes and fees for which the Federal government would be liable if the project were located in any other State that contains a national laboratory of the Department; and
- (7) Annual reports on the SNS project, included as part of the Department's annual budget submission, including a description of the achievement of milestones, a comparison of actual costs to and any changes in estimated project costs or schedule.

## **ENERGY AND WATER APPROPRIATIONS - House Report 106-253**

**Improving Project Management in DOE --** A report released by the National Research Council on July 1, 1999, 'Improving Project Management in the Department of Energy,' questions the credibility of the Department's procedures to develop designs and cost estimates and to manage projects and outlines several reasons for this deficiency. The report was thorough and includes many recommendations to begin to correct the deficiencies in the Department's project management system. The Committee is well aware there are broad and systemic problems in the Department and encourages the Department to use this report as an outline to address these fundamental problems in project management. **There are no quick fixes. The Committee expects the Department to continue to work with the National Research Council to address each of the recommendations in the report. The National Research Council should review and assess the Department's efforts to improve its project management and report to the Committee semi-annually on the steps to be taken and the progress being made to strengthen project management in the Department.**

At the request of the Committee, the Department has had external, independent project assessments prepared for many of its current construction projects. These assessments have identified several problems with individual projects and have led to the re-scoping

of several of them. The Department is to work with the National Research Council to formalize a process to ensure that the recommendations for each of the external independent reviews are implemented.

**External Independent Assessments of Construction Projects --** None of the funds provided for fiscal year 2000 new construction projects may be obligated until an external, independent assessment of the baseline cost and schedule has been performed and provided to the House and Senate Committees on Appropriations for review and approval.

#### **ENERGY AND WATER APPROPRIATIONS - Conference Report 106-336**

**External Independent Assessments of Construction Projects --** The conferees agree that none of the funds provided for fiscal year 2000 construction projects may be obligated until an external, independent assessment of the baseline cost and schedule has been performed and provided to the House and Senate Committees on Appropriations for review. The Department is also directed to improve the corrective action plans prepared in response to these external reviews. The quality of the corrective action plans received by the Committees on Appropriations has been marginal at best.

**Departmental Administration --** The conference agreement appropriates \$206,365,000 for Departmental Administration instead of \$193,769,000 as proposed by the House and \$219,415,000 as proposed by the Senate. Funding of \$10,000,000 is to be transferred to this account from Other Defense Activities. Revenues of \$106,887,000, \$10,000,000 less than the budget request, are estimated to be received in fiscal year 2000, resulting in a net appropriation of \$99,478,000.

The conference agreement provides \$26,000,000 for the Chief Financial Officer, an increase over the budget request of \$23,792,000. These additional funds are to support the new engineering and construction division.

The conference agreement provides \$1,000,000 as proposed by the House for severance payments for the office of field management.

#### **NATIONAL DEFENSE AUTHORIZATION ACT FOR FY 00**

##### **SEC. 3123. Limits On Construction Projects --**

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- (A) the amount authorized for the project; or
- (B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken if--

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the actions and the circumstances making such action necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(b) EXCEPTION- Subsection (a) shall not apply to any construction project which has a current estimated cost of less than \$5,000,000.

### **SEC. 3175. Pilot Program for Project Management Oversight Regarding DOE Construction Projects --**

(a) REQUIREMENT- (1) The Secretary of Energy shall carry out a pilot program on use of project management oversight services (in this section referred to as 'PMO services') for construction projects of the Department of Energy.

(2) The purpose of the pilot program shall be to provide a basis for determining whether or not the use of competitively procured, external PMO services for those construction projects would permit the Department to control excessive costs and schedule delays associated with those construction projects that have large capital costs.

(b) PROJECTS COVERED BY PROGRAM- (1) Subject to paragraph (2), the Secretary shall carry out the pilot program at construction projects selected by the Secretary. The projects shall include one or more construction projects authorized pursuant to section 3101 and one construction project authorized pursuant to section 3102.

(2) Each project selected by the Secretary shall be a project having capital construction costs anticipated to be not less than \$25,000,000.

(c) SERVICES UNDER PROGRAM- The PMO services used under the pilot program shall include the following services:

(1) Monitoring the overall progress of a project.

(2) Determining whether or not a project is on schedule.

(3) Determining whether or not a project is within budget.

(4) Determining whether or not a project conforms with plans and specifications approved by the Department.

(5) Determining whether or not a project is being carried out efficiently and effectively.

(6) Any other management oversight services that the Secretary considers appropriate for purposes of the pilot program.

(d) PROCUREMENT OF SERVICES UNDER PROGRAM- Any PMO services procured under the pilot program shall be acquired--

(1) on a competitive basis; and

(2) from among commercial entities that--

(A) do not currently manage or operate facilities at a location where the pilot program is being conducted; and

(B) have an expertise in the management of large construction projects.

(e) REPORT- Not later than February 1, 2000, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot program. The report shall include the assessment of the Secretary as to the feasibility and desirability of using PMO services for construction projects of the Department.