

108th Congress, 2nd Session: No. 9

August 23, 2004

INFORMED BUDGETEER: MILITARY FAMILY HOUSING

On July 21-22, 2004, the House debated three pieces of legislation dealing with housing for military families. First, the House debated the rule on the Military Construction appropriations bill (H.R. 4837), which did not protect a certain provision (increasing DoD's cap for entering into new commitments under the Military Housing Privatization Initiative -- MHPI) from a point of order. Then the House debated a stand-alone bill (H.R. 4879) that would increase the cap by \$0.5 billion beginning October 1, 2004. Finally, the House debated the MilCon appropriations bill itself. House Budget Committee Chairman Nussle raised a point of order (authorizing legislation on an appropriations bill) against the provision in H.R. 4837 that would increase the cap, the point of order was sustained by the chair, and the provision was struck from the bill. While most involved in the debate strove to prove who cared more about military families, they also shared a near-universal reliance on an incorrect understanding of the facts and scoring involved with the issue, some of which are drawn from the debate as follows.

Myth: "The Department of Defense will reach this cap in November." "[I]t leaves a gap between November 2004 and October 2005 during which DoD would be unable to sign any privatization contracts that would count against the cap."

FACT: In DoD's most recent MHPI status report, about 28 projects had been delayed by an average of three months relative to what DoD projected just five months ago. Eight projects were delayed enough to fall into a subsequent year. So while DoD is likely to reach the \$850 million cap some time later in 2005, it will not be as early as November 2004. If it turns out an increase in the cap is not enacted for 2005, the "gap" would not be a year, but closer to half a year.

Myth: [This scoring leaves] 50,000 families. . .out in the cold."

FACT: The 50,000-families figure is also a bit of hyperbole. In December 2003, DoD gave members a list claiming it would privatize 50,000 units in 2005. By last month DoD's planning list was down to 24,000 units. Some of these units can be started before DoD reaches the cap. The renovations on the balance of the housing units that may be delayed if the cap is not increased immediately would still stretch over several years, and some projects take as long as ten years to complete development. In any event -- no military family will be homeless or "out in the cold." While a day or two into the debate some members started using the 24,000 figure instead of the 50,000 figure, the press continues to use the higher figure, and even the 24,000 figure overstates the number of families that would experience, at most, a few-month delay before moving from the housing they have at the time into brand new quarters.

Myth: According to one side of the debate in the House, the failure of the Military Construction appropriations bill to increase the cap in 2005 is a "crisis" and a "catastrophe."

FACT: The defense authorization bill for 2005 reported by the House Armed Services Committee and passed by the House did not see fit to increase the cap until 2006. Apparently, no one thought the situation was either enough of a crisis to justify an increase in the cap in 2005 or was not a large enough catastrophe to warrant making a choice and finding a way to pay for an increase in the cap in that bill in 2005. During the debate on the MilCon bill, members also stated that the cap should be increased because DoD and the White House requested it. But even though DoD had wanted the cap increased in 2004, it did not send its letter again requesting this legislative change in the 2005 bill until after the Armed Services Committees had already sent their views and estimates letters to the Budget Committees. And, despite being aware of DoD's intermittent interest in increasing the cap, neither of the Armed Services Committees bothered to ask for an allocation (to cover the cost of an increasing cap) in their February views and estimates letter to the Budget Committees for the 2005 budget resolution. So the budget resolution did not reflect such a cost.

Myth: "Those. . .[House] Committee on the Budget members. . .failed to work with the Committee on Armed Services to solve the problem for fiscal year 2005 in the Committee on Armed Services bill."

FACT: On May 8, 2003, House Budget Committee Chairman Nussle wrote a letter to the House Armed Services Committee to provide a one-year pass from CBO scoring for consideration of an increase in the military family housing cap in the 2004 defense authorization bill. The Chairman promised to score such a provision "reported to the House during fiscal year 2004. . .as if it did not give rise to direct spending," contingent on the understanding that future increases shall be treated as direct spending. But the Armed Services Committee failed to take advantage of this favorable scoring opportunity and did not address the cap in the conference report. For 2005, the House Budget Committee is simply following through on its commitment. Although the House insisted on a 2005 budget resolution that essentially had PAYGO for spending only, the House Armed Services Committee is unwilling to offset the cost of increasing the cap in 2005 by reducing spending elsewhere.

Myth: "CBO has decided that this provision should be scored. Its rationale for doing so is a little strange and thoroughly unconvincing. The crucial point is this: If the developer cannot service the debt on a project, the Federal Government is not on the hook. . .There is no backing of any kind for the developer's private debt."

"[T]his is a good program. . .and it is not costing the taxpayers money. We are using the payments to work with the private sector. . .this is not mandatory. . .If the military does not need the housing, then the private sector will take the project over and operate it. That is why I am wondering why this big scoring rule when, in fact, we are not putting real money into this, we are just giving a guarantee, and that way we get the housing done and it is much more effective than military construction."

FACT: While these defenders of OMB's scoring approach contradict each other ("There is no [federal] backing" vs. "we are just giving a guarantee"), they are both in error when they conclude that OMB is being more faithful than CBO to the scoring principles that both the executive and legislative branches of the federal government are supposed to have been using since 1990. CBO's recent cost estimate of H.R. 4879 (<http://www.cbo.gov/ftpdocs/56xx/doc5696/hr4879.pdf>) outlines how MHPI projects, which fulfill the federal government's responsibility to provide housing for service members and their families, are still essentially governmental projects.

CBO reminds us that a "primary purpose of the federal budget is to measure the amount of resources the government draws from the economy. . .[so] the budget should be inclusive, measuring all governmental activities, not just liabilities." In short, CBO treats MHPI projects (which fulfill a governmental responsibility) as governmental activities because (1) "the government exercises substantial control over the project," and (2) "the government is the dominant or only source of project income."

DoD maintains control over the projects by becoming the controlling partner in the special-purpose entity that is uniquely created for each project, retaining control over the property that DoD conveys to the developer, controlling project cash flows and revenues and receiving the residual income from the project, specifying the amount of rent that it is charged, approving terms of the rental agreements, restricting access to the housing, specifying and prioritizing eligible renters, and controlling the project construction plans, annual operating budgets, and future maintenance and renovation requirements.

Because both DoD and the developer envision that each project will be almost fully occupied by military families (to meet the DoD's responsibility to provide such housing), DoD will consume most or all of the useful economic life of the project. The government provides essentially all of the project income by contributing land and housing to the developer at no cost, providing cash grants and direct loans, requiring military tenants to pay through paycheck allotment (or monthly lump-sum payment for the whole project), and reserving the project for military families so that project income comes from military personnel pay.

OMB, on the other hand, does not view the project as a whole and instead “focuses only on certain elements of the transaction,” ignoring the value of in-kind contributions to the project and the long-term agreements between DoD and the contractor.

Myth: “CBO only changed its notion of how these scorings should be done in this year, midstream.”

FACT: When CBO did its cost estimate of the provision in the 1996 defense authorization bill that created the MHPI program, it did not know how the executive branch would use its new authority, but CBO cautioned that “obligations. . . should reflect the full amount of the financial commitments of government resources that would be spent over a long period of time.” Since enactment of that bill, CBO has observed how OMB and DoD have actually implemented the authority. And starting as early as the defense authorization bill for FY 2000, as subsequent defense authorization bills have sought to extend or expand the program, CBO has stated the following in its cost estimates: While it must follow OMB’s recording of historical actuals, CBO has believed that OMB’s accounting for MHPI is incorrect and at odds with government-wide accounting standards. CBO has warned every year that, after consulting with the two budget committees, it “may score future legislation [increasing the cap] as direct spending.” After that consultation, CBO did exactly as promised in a cost estimate last year for the House version of the 2004 defense authorization bill. CBO’s estimate this year for the House version of the 2005 defense authorization bill simply repeated the up-front scoring approach that it has warned about for years and that it followed through on last year.

Myth: “The current state of military housing is a disgrace. It is often old and dilapidated.” “Currently, we are behind in providing housing for our military families. If we increased our military construction budget by \$1 billion a year for 20 years, we would catch up. Obviously, we cannot afford to increase our military construction budget by \$1 billion a year for 20 years to do that catchup.”

FACT: Dissatisfaction both with the aging condition of military housing and with DoD’s inability to provide a sound basis for determining future housing needs goes back decades (<http://www.gao.gov/new.items/d02624.pdf>). While some remaining old military housing certainly could use improvement, it is not because the federal government lacks the power to tax, to prioritize spending, and to borrow money more cheaply than anyone else in the country. The federal government can afford to do whatever it decides to do. If it is not funding some activity, it must be because it has decided the activity is not enough of a priority to tax for it, borrow for it, or reduce spending on some other activity for it. If DoD and Congress wanted to emphasize the living quarters of service members over other concerns, they could have resolved the problem by now, but the accumulated decisions over the years reveal a bias against giving the highest priority to military families and their housing concerns. Even though the start of MHPI in 1996 removed (for the executive branch) the constraint of having to request military construction funds up-front in the budget, DoD’s renovation process has remained slow.

Myth: “Under this program, quality homes for our troops and their families are constructed more affordably and more quickly. It is estimated that the government saves 10 to 15 percent over the life of the project, and military families receive improved homes in one-tenth of the time it will have taken using old methods of family housing construction.”

FACT: Notice the “it is estimated” construction – who is estimating the 10-15 percent? DoD is the “who” that is estimating, and the comparison is against what DoD calls a “should-cost” basis. DoD claims that housing “privatization” saves 15% compared to what it thinks should be spent to construct, operate, and maintain its family housing. But MHPI doesn’t save money compared to what DoD actually spends on housing, because faced with budgetary tradeoffs,

DoD continues to allocate its resources to things other than family housing. Relative to what DoD actually spends on housing, not what it thinks it should spend, housing privatization costs more over the term of the project.

Ask yourself: How can it be that builders will construct military family housing faster only if it is paid for under a complicated financing scheme, but will automatically build housing units more slowly if DoD pays them up front with cold, hard cash appropriated by Congress? It’s not that the privatization approach is inherently faster, it’s that DoD has determined it is not important enough to request, and the Congress has not appropriated, funds to improve families’ housing. CBO’s recent paper (outlining its rationale for its scoring approach) observed: “DoD’s principal justification for the privatization of housing is that the approach will enable the department to meet its goals for the quantity and quality of on-base housing more quickly than it could using military construction” because DoD does not ask for nor expect to receive sufficient military construction appropriations in the near term. But with privatization over the long run, appropriations for housing allowances will be higher than they otherwise would be because the private sector’s cost of financing the projects is higher than the federal government’s (<http://www.cbo.gov/showdoc.cfm?index=4035>).

Myth: “OMB likes this provision [that would extend the program], and they say that it is not going to cost any more money.” “MHPI is an extremely cost-effective measure because contractors pay the up-front costs and recover their investment through rental payment.” The program is a “success.”

FACT: Of course OMB likes this program because it has been able to hide the cost of a federal government responsibility without recognizing in the budget the fact that the government enters into long-term commitments to meet that responsibility. In 1996, it was a political call that allowed OMB to say it would not “cost any more money,” and subsequent OMBs have not revisited that decision. By comparison, OMB opposes expanding the privatizing use of Energy Savings Performance Contracts for tanks and jet engines, but has not revisited a decision in the mid-1990s to approve them for windows and heating/AC in federal buildings. So OMB’s scoring across privatization initiatives has not been consistent.

Further, OMB’s endorsement of the MHPI program is unsupported by the Program Assessment Rating Tool (PART) that is supposed to measure the performance and results of a program and connect that to budget decisions. OMB’s PART analysis rates the MHPI program as only “Moderately Effective.” But this rating is based on answers that are supposed to provide data in response to questions, all of which results in circular reasoning. For example, PART asks whether “the program is optimally designed to address the. . . problem” of providing the necessity of adequate housing to service members as part of their compensation package. In this case, the answer provided is that “[q]uality housing can be provided efficiently by the private sector.”

That answer is an assertion without any data. More “efficiently” or “optimally” means providing the same result with fewer resources than the alternatives, which in the past has been direct military construction with appropriated funds. But no such comparison is mustered. (Note that the private sector provides all military housing, whether direct construction or not, since the federal government does not hire employees to do such construction.) PART mysteriously arrives at a “Moderately Effective” rating simply by asking whether the program seeks to provide housing to service members and answering that the backlog of service members waiting for privatized housing is being reduced. GAO reports that DoD does not even provide congressional “decision makers” with the number of privatized units that have been renovated or newly constructed (<http://www.gao.gov/new.items/d04111.pdf>). Not exactly convincing proof of “success” that one can confidently connect to a budget decision.