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# Privatized Military Housing: Costs and Budgetary Issues for Congress

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July 25, 2024

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## Privatized Military Housing: Costs and Budgetary Issues for Congress

Privatized military housing programs have become an area of legislative interest for the 118<sup>th</sup> Congress. Some Members have advocated for expanding the existing program to provide more privatized housing for servicemembers without dependents (also known as unaccompanied housing, barracks, or dormitories). These expansion proposals have raised questions about costs and budget scoring rules associated with existing and, potentially, future privatized housing programs.

The privatized military housing program dates back to the mid-1990s, when the Department of Defense (DOD) reported that most of its government-owned domestic family housing inventory was inadequate and in need of repair or complete replacement. DOD estimated at that time that it would cost about \$20 billion in appropriated funds and would take up to 40 years to build adequate military family housing using existing authorities for new construction or renovation. In response, Congress, in the National Defense Authorization Act for Fiscal Year 1996 (NDAA; P.L. 104-106), established new authorities for a privatized military housing program, known as the Military Housing Privatization Initiative (MHPI). The MHPI provides an alternative approach to the traditional military construction (MILCON) process that builds government-owned and -operated housing facilities. Using MHPI authorities, DOD makes loans, conveys and leases military properties, provides funding, and carries out other activities designed to incentivize private-sector developers and property management companies to finance, own, operate, and maintain family housing units.

During the past 20 years, DOD has privatized nearly all of the family housing facilities in the United States. For housing that supports service members without dependents, privatized housing accounts for less than 2% of DOD's housing facilities; the remaining 98% of unaccompanied housing is owned and operated by the government.

The advent of privatized housing programs has resulted in a new set of costs, benefits, risks, and oversight issues associated with military housing. DOD's long-term legal agreements with private housing entities have reshaped annual spending for military construction and family housing accounts, military personnel accounts (for Basic Allowance for Housing, or BAH), parts of the general Operation and Maintenance accounts, and certain mandatory spending related to government loans. Some advocates assert that the MHPI program is a cost-effective way to provide military housing. The Congressional Budget Office (CBO) has asserted that the MHPI approach is ultimately more expensive than traditional military construction and management program, due in part to the long-term or indirect costs incurred by the government. After more than two decades of operating privatized housing programs, DOD has documented some of the long-term costs and budgetary effects associated with the MHPI programs. Cumulative DOD contributions to MHPI to date total at least \$28.0 billion.

Budget scoring rules that Congress and the executive branch apply to MHPI programs have evolved since the MHPI program's inception in 1996. Budget scoring is a process that Congress and the executive branch use to estimate the change in government spending that may result from proposed or enacted legislation. In the early years of the MHPI program, some of the Office of Management and Budget's accounting practices for MHPI projects were at odds with government-wide standards, and initial cost estimates from the CBO may not have fully accounted for the costs of government commitments that the MHPI programs ultimately entailed. As a result, DOD was able to initiate new MHPI construction and renovation projects while recording only a portion of the projects' cost in the budget. In the intervening years, certain accounting practices and budget scoring policies related to the MHPI have changed. For potential future MHPI projects, Congress and DOD may have to record a greater portion of the projects' costs in the budget. In other words, proposals for additional MHPI projects in the future may appear in the annual budget process to cost more than similar projects appeared to cost in the early years of the MHPI program.

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## Introduction

Privatized military housing programs have become an area of legislative interest for the 118<sup>th</sup> Congress. Some Members have advocated for expanding the existing program to provide more privatized housing for servicemembers without dependents (also known as unaccompanied housing, barracks, or dormitories).<sup>1</sup> These expansion proposals have raised questions about costs and budget scoring rules associated with existing and, potentially, future privatized housing programs.

This report outlines the various costs associated with the existing Department of Defense (DOD) privatized housing program, known as the Military Housing Privatization Initiative, or MHPI, which primarily provides family housing for servicemembers who have dependents. The MHPI involves both upfront costs and commits DOD to certain long-term expenditures. The MHPI program involves complex financial and legal agreements that can create risks and uncertainties regarding the impact on future government expenditures from various DOD accounts.

One method that the legislative and executive branch use for evaluating upfront and potential future costs is through the budget scoring process, sometimes also known as scorekeeping.<sup>2</sup> Broadly speaking, budget scoring involves developing and recording consistent measures for the budgetary effects—changes in federal spending, revenues, and deficits—of proposed and enacted legislation.<sup>3</sup> As a practical matter, budget scoring determines the amount of appropriations that DOD is required to obtain and record during the budget year that new a MHPI project is initiated. Changes to budget scoring rules can change the perception of the costs associated with MHPI programs and, under current statutes, can also trigger certain parliamentary and budgetary requirements. This report aims to outline how budget scoring rules associated with MHPI programs have evolved and may impact proposals for new MHPI programs.

This report is focused on the costs and budgetary treatment of privatized military housing. It does not examine in detail the quality of housing provided by the MHPI program and the impact of reform efforts associated with the Military Tenant Bill of Rights as enacted in the FY2020 NDAA (P.L. 116-92) and codified in Title 10 of the United States Code, Section 2890. Issues related to the quality of MHPI housing and the related congressional reform efforts can be found in other CRS products and elsewhere.

## Background

Prior to the 1990s, DOD provided military housing via one of two approaches. One option was for DOD to use appropriated funds and the military construction process to build and renovate on-base housing facilities, which DOD in turn maintained as government-owned and operated

<sup>1</sup> Svetlana Shkolnikova, “Military needs more public-private partnerships to improve housing, lawmakers say,” *Stars and Stripes*, February 7, 2024. <https://www.stripes.com/theaters/us/2024-02-07/military-housing-barracks-lawmakers-poor-conditions-12931548.html>. Also see U.S. Congress, House Committee on Armed Services, Subcommittee on Readiness, *Military Barracks and Poor Living Conditions*, 118<sup>th</sup> Cong., 2<sup>nd</sup> sess., February 7, 2024. Also see House Armed Services Committee, “Bipartisan HASC Delegation Visits Hampton Roads,” press release, June 26, 2024, <https://armedservices.house.gov/news/press-releases/bipartisan-hasc-delegation-visits-hampton-roads>.

<sup>2</sup> For additional background information on budget scoring, see CRS Report R46233, *Dynamic Scoring in the Congressional Budget Process*; and CRS Report R47705, *Congressional Rules Pertaining to Changes in Mandatory Program Spending in Appropriations Bills (CHIMPs)*.

<sup>3</sup> CBO, *CBO Explains Budgetary Scorekeeping Guidelines*, January 2021, <https://www.cbo.gov/system/files/2021-01/56507-Scorekeeping.pdf>.

facilities.<sup>4</sup> The second option allowed DOD to use appropriated funds from military personnel accounts to provide servicemembers with a cash housing stipend to rent or buy a home in the private-sector real estate market near their military base.<sup>5</sup> In 1996, Congress established a third option, the MHPI, as an alternative approach to traditional housing programs. The MHPI was based on new authorities established by the National Defense Authorization Act for Fiscal Year 1996 (NDAA; P.L. 104-106), which amended Title 10 of the *United States Code*.<sup>6</sup> The law authorized various types of public-private partnerships for the construction or renovation and long-term operation of military housing. The law came at a time when some DOD officials were expressing concern that inadequate and poor-quality family housing posed a risk to military readiness by hurting quality of life and contributing to servicemembers' decisions to leave the military.<sup>7</sup> In the mid-1990s, DOD had designated approximately 180,000 houses—or nearly two-thirds of its domestic family housing inventory—as inadequate, in need of repair, or in need of complete replacement.<sup>8</sup> DOD estimated that it would cost about \$20 billion in appropriated funds and would take more than 30 years to improve military family housing through traditional military construction (MILCON) programs.<sup>9</sup>

Using MHPI authorities, DOD has entered into long-term agreements, typically involving 50-year leases, with private-sector developers and property management companies.<sup>10</sup> Under these agreements, DOD leases military property on military installations to private-sector partners or public-private entities that commit to finance, build, renovate, own, operate, and maintain military housing units.<sup>11</sup> To support these privatized housing activities, Congress has authorized DOD to provide cash equity investments, make loans, provide land (through long-term ground leases), and carry out other activities.<sup>12</sup> For a brief description of selected MHPI authorities, see the shaded text box below.

<sup>4</sup> For more information on MILCON, see CRS Report R44710, *Military Construction: Authorities and Processes*, by Andrew Tilghman.

<sup>5</sup> *Ibid.*

<sup>6</sup> P.L. 104-106, §§2801-2802. These and related provisions are codified as amended at 10 U.S.C. §§2871-2894a.

<sup>7</sup> U.S. Government Accountability Office (GAO), *Military Housing Privatization: DOD Faces New Challenges Due to Significant Growth at Some Installations and Recent Turmoil in the Financial Markets*, May 2009, p. 1, <https://www.gao.gov/assets/gao-09-352.pdf>. Also see, for example, DOD, “DoD Housing Pro Describes Privatization Evolution,” press release, January 26, 2015, <https://www.defense.gov/News/News-Stories/Article/Article/603983/dod-housing-pro-describes-privatization-evolution/>.

<sup>8</sup> *Ibid.* Also see, for example, Statement by John B. Goodman, Deputy Under Secretary of Defense (Industrial Affairs and Installations), before the House Appropriations Committee Subcommittee on Military Construction, March 12, 1998, [https://www.acq.osd.mil/eie/Downloads/Housing/Testimony/ct98\\_reportandgoodman.pdf](https://www.acq.osd.mil/eie/Downloads/Housing/Testimony/ct98_reportandgoodman.pdf).

<sup>9</sup> *Ibid.* and GAO, *Military Housing Privatization: DOD Should Take Steps to Improve Monitoring, Risk Assessment and Performance*, GAO-18-218, March 18, 2018, p. 1, <https://www.gao.gov/assets/700/690858.pdf>. The DOD Office of the Inspector General has cited similar estimates in multiple reports. See, for example: U.S. Department of Defense (DOD), Office of the Inspector General, *DOD Family Housing Requirements Determination*, Report No. 98-006, October 8, 1997, p. i, <https://media.defense.gov/1997/Oct/08/2001715490/-1/-1/1/98-006.pdf>; and DOD, Office of the Inspector General, *Accounting and Financial Reporting for the Military Housing Privatization Initiative*, Report No. DODIG-2019-056, February 19, 2019, p. 1, <https://media.defense.gov/2019/Feb/15/2002090085/-1/-1/1/DODIG-2019-056.PDF>.

<sup>10</sup> U.S. Government Accountability Office (GAO), *Military Housing Privatization: DOD Faces New Challenges Due to Significant Growth at Some Installations and Recent Turmoil in the Financial Markets*, May 2009, p. 2, <https://www.gao.gov/assets/gao-09-352.pdf>.

<sup>11</sup> For more information, see DOD, *Agency Financial Report, FY2023*, pp. 22, [https://comptroller.defense.gov/Portals/45/Documents/afr/fy2023/DoD\\_FY23\\_Agency\\_Financial\\_Report.pdf](https://comptroller.defense.gov/Portals/45/Documents/afr/fy2023/DoD_FY23_Agency_Financial_Report.pdf).

<sup>12</sup> For more information, see DOD, *Agency Financial Report, FY2023*, pp. 22, 118-119, 135, 152, 154-158, 160-161, 175, 212, 221, and, in particular, 223, [https://comptroller.defense.gov/Portals/45/Documents/afr/fy2023/DoD\\_FY23\\_Agency\\_Financial\\_Report.pdf](https://comptroller.defense.gov/Portals/45/Documents/afr/fy2023/DoD_FY23_Agency_Financial_Report.pdf).

### Selected DOD Military Housing Privatization Initiative (MHPI) Authorities

In 1996, Congress granted DOD authorities to initiate the Military Housing Privatization Initiative (MHPI). The authorities are contained in Title 10, Chapter 169, Subchapter IV, of the *United States Code* and include the following sections, among others.

- **§2873: Direct loans and loan guarantees.** The Secretary of a military department may make direct loans or loan guarantees to a privatized housing company for the acquisition or construction of housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.
- **§2874: Leasing of housing.** The Secretary of a military department may enter into contracts for the lease of housing units that the Secretary determines are suitable for use as military family housing or military unaccompanied housing.
- **§2875: Investments.** The Secretary of a military department may make investments in an eligible entity carrying out projects for the acquisition or construction of housing units suitable for use as military family housing or as military unaccompanied housing. The cash amount of a DOD investment may not exceed one-third of the capital cost of the project.
- **§2876: Rental guarantees.** The Secretary of a military department may enter into agreements with housing companies to ensure the occupancy of certain housing units at specified levels, or to ensure that rental income derived from rental of such units is sustained at specified levels.
- **§2877: Differential lease payments.** The Secretary of a military department may pay the lessor an amount in addition to the rental payments for the housing made by the servicemembers to encourage the lessor to make the housing available to members of the Armed Forces as military family housing or as military unaccompanied housing.
- **§2878: Conveyance or lease of existing property and facilities.** The Secretary of a military department may convey or lease DOD property or facilities to eligible entities for purposes of using the proceeds to carry out activities in support of the privatized housing programs.

Statute designates the Assistant Secretary of Defense for Energy, Installations, and Environment as the Chief Housing Officer, who oversees MHPI at the Department level.<sup>13</sup> The military departments (i.e., the Departments of the Army, Navy, and Air Force) have responsibility to administer privatized housing projects, including conducting financial management and monitoring their portfolio of projects.<sup>14</sup>

Statute requires the military departments to provide Congress with annual reports detailing the scope of MHPI programs, their locations, the statutory authorities used to create them, and other information.<sup>15</sup>

<sup>13</sup> 10 U.S.C. §2851a; and GAO, *Military Housing: DOD Can Further Strengthen Oversight of its Privatized Housing Program*, p. 6, <https://www.gao.gov/products/gao-23-105377>.

<sup>14</sup> 10 U.S.C. §2851a; and GAO, *Military Housing: DOD Can Further Strengthen Oversight of its Privatized Housing Program*, p. 7, <https://www.gao.gov/products/gao-23-105377>.

<sup>15</sup> Reporting requirements are outlined in 10 U.S.C. §2884. DOD typically submits these reports as part of the annual budget requests justification documents. For the Army budget justification document, see Department of the Army, *FY2024 Budget Estimates, Military Housing Privatization Initiative, FH-6 Exhibit*, March 2023, p. 294, <https://www.asafm.army.mil/Portals/72/Documents/BudgetMaterial/2024/Base%20Budget/Military%20Construction/Regular%20Army%20Military%20Construction%20Army,%20Army%20Family%20Housing%20and%20Homeowner%20Assistance.pdf#page=294>. For the Navy budget justification document, see Department of the Navy, *Exhibit FH-6 Military Housing Privatization Initiative (MHPI) - Family Housing Privatization, Exhibit FH-6*, March 2023, p. 490, [https://www.secnav.navy.mil/fmc/fmb/Documents/24pres/MCON\\_Book.pdf#page=490](https://www.secnav.navy.mil/fmc/fmb/Documents/24pres/MCON_Book.pdf#page=490). For the Air Force budget justification document, Department of the Air Force, *Family Housing Privatization Comparison Exhibit (FH-6)*, March 2023, p. 387, <https://www.saffm.hq.af.mil/LinkClick.aspx?fileticket=8x62jjw60Hg%3d&portalid=84#page=387>.

## MHPI Family Housing Programs

In 1996, DOD began exercising the new MHPI authorities and entering into business agreements or contracts with private-sector developers and property management companies, hereafter referred to as *MHPI companies*. Those companies then assumed primary responsibility for constructing, renovating, and operating military family housing on military installations in the United States.<sup>16</sup> Under the agreements, the military departments and MHPI companies established separate and distinct legal entities in the form of a limited liability company (LLC), partnership, or other special-purpose entity (SPE) for *each MHPI project*.<sup>17</sup> In some agreements, DOD is an investor in or member of the military housing SPE, making the project a public-private venture.<sup>18</sup>

The military departments typically have issued 50-year ground leases granting the housing SPE control over certain military property, including any existing military housing stock on the sites.<sup>19</sup> For the duration of the long-term agreements, the MHPI company commits to operate and maintain the housing facilities in exchange for revenue that includes housing allowance payments that DOD provides on behalf of the servicemembers who are tenants living in the MHPI housing.<sup>20</sup> Under the agreements, military servicemembers get priority access to MHPI housing facilities.<sup>21</sup>

Initially, the military departments provided contributions to the housing SPEs in the form of property, government direct loans, loan guarantees, or cash equity investments.<sup>22</sup> Ongoing

<sup>16</sup> GAO, *Military Housing Privatization: DOD Faces New Challenges Due to Significant Growth at Some Installations and Recent Turmoil in the Financial Markets*, May 2009, pp. 1-3. <https://www.gao.gov/assets/gao-09-352.pdf>.

<sup>17</sup> Congressional Budget Office (CBO), *Congressional Budget Office Cost Estimate, H.R. 4879, Military Housing Improvement Act of 2004*, July 30, 2004, p. 2-3, <https://www.cbo.gov/sites/default/files/108th-congress-2003-2004/costestimate/hr48790.pdf>.

<sup>18</sup> 10 U.S.C. §2875 limits DOD cash investments to no more than 33 1/3% of the capital cost of the project, and the total value of the investment cannot exceed 45% of the capital cost. Also see DOD Office of the Under Secretary of Defense Comptroller, *Accounting and Reporting of Equity Investments in Military Privatized Housing Projects*, (FPM21-05), March 18, 2021, [https://comptroller.defense.gov/Portals/45/documents/fmr/archive/04arch/VOL\\_04\\_CH\\_07\\_20210318\\_MHPIReporting.pdf](https://comptroller.defense.gov/Portals/45/documents/fmr/archive/04arch/VOL_04_CH_07_20210318_MHPIReporting.pdf); and CBO, *Congressional Budget Office Cost Estimate, H.R. 4879, Military Housing Improvement Act of 2004*, July 30, 2004, p. 3, <https://www.cbo.gov/sites/default/files/108th-congress-2003-2004/costestimate/hr48790.pdf>.

<sup>19</sup> GAO, *Preliminary Observations on DOD's Oversight of the Condition of Privatized Military Housing*, GAO-20-280T, December 3, 2019, pp. 2-3, <https://www.gao.gov/assets/gao-20-280t.pdf>.

<sup>20</sup> Servicemembers signing a lease for MHPI housing usually choose to make lease payments in the form of an "allotment," which authorizes DOD to provide the servicemembers Basic Allowance for Housing (BAH) payment directly to the MHPI entity. See DOD Financial Management Regulation (FMR), DOD 7000.14-R, Volume 7A, Chapter 43, section 4-1, [https://comptroller.defense.gov/Portals/45/documents/fmr/current/07a/07a\\_43.pdf#page=5](https://comptroller.defense.gov/Portals/45/documents/fmr/current/07a/07a_43.pdf#page=5). Servicemembers are not required to live in MHPI housing and military families are generally allowed to opt to use their housing allowance to rent or buy a home outside of their military installation. For more information, see U.S. Congress, Senate Committee on Armed Services, Subcommittee on Readiness and Management Support, *Military Housing Privatization Initiative*, Statement of Robert H. McMahon, Assistant Secretary of Defense (Sustainment), 115<sup>th</sup> Cong., 2<sup>nd</sup> sess., February 13, 2019, p. 2, [https://www.armed-services.senate.gov/imo/media/doc/McMahon\\_02-13-19.pdf](https://www.armed-services.senate.gov/imo/media/doc/McMahon_02-13-19.pdf).

<sup>21</sup> DOD Inspector General, *DOD Needs to Improve Screening and Access Controls for General Public Tenants Leasing Housing on Military Installations*, April 1, 2016, p. 1, <https://media.defense.gov/2016/Sep/22/2001774203/-1/-1/1/DODIG-2016-072.pdf>.

<sup>22</sup> The Army and Navy have more commonly utilized 10 U.S.C. §2875 ("Investments" or equity contributions in nongovernmental entities) and 10 U.S.C. §2878 ("Conveyance or Lease of Existing Property and Facilities"), among other statutes, while the Air Force has more commonly exercised authorities under 10 U.S.C. §2873 ("Government Direct Loans and Loan Guarantees"), among others. For the Army data, see Army budget justification documents, see Department of the Army, *FY2025 Budget Estimates, Military Housing Privatization Initiative, FH-6 Exhibit*, March 2024, p. 123, at (continued...)



contributions include housing allowance payments and direct payments. In turn, MHPI companies obtained private-sector financing, either through bank loans or by issuing bonds, to help fund capital improvements (e.g., constructing new military housing facilities or renovating existing homes on the property leased from DOD).<sup>23</sup> In certain instances, the military departments have provided additional funding to support MHPI entities that encounter financial difficulties, in the form of additional property, cash, and loans.<sup>24</sup>

By the end of FY2022, the military departments were engaged in 78 housing agreements with 14 MHPI companies covering approximately 203,000 housing units and amounting to approximately 99% of domestic military family housing.<sup>25</sup> As of August 2023, about 165,000 servicemembers resided in privatized family housing in the United States.<sup>26</sup> For military families at locations overseas, DOD provides government-owned and -operated family housing facilities.

## MHPI Unaccompanied Housing Programs

DOD remains the principal owner and operator of housing for servicemembers living without dependents on military installations. Most of those facilities, known as unaccompanied housing, barracks, or dormitories, were developed under the traditional military construction program. DOD's use of MHPI authorities for unaccompanied housing remains limited. As of September 2023, MHPI entities operated seven unaccompanied housing projects, which house about 5,000

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<https://www.asafm.army.mil/Portals/72/Documents/BudgetMaterial/2025/Base%20Budget/Military%20Construction/Regular%20Army%20Military%20Construction%20Army.%20Army%20Family%20Housing%20and%20Homeowners%20Assistance.pdf#page=369>. For the Navy and Marine Corps budget justification document, see Department of the Navy, *Exhibit FH-6 Military Housing Privatization Initiative (MHPI) - Family Housing Privatization, Exhibit FH-6*, March 2024, p. 127 and 135, at

[https://www.secnnav.navy.mil/fmc/fmb/Documents/25pres/MCON\\_Book.pdf#page=347](https://www.secnnav.navy.mil/fmc/fmb/Documents/25pres/MCON_Book.pdf#page=347). For the Air Force budget justification document, Department of the Air Force, *Family Housing Privatization Comparison Exhibit (FH-6)*, March 2024, p. 406, at

<https://www.saffm.hq.af.mil/Portals/84/documents/FY25/FY25%20Air%20Force%20Military%20Construction.pdf?ver=oHeNnqRVKQHGMDA0-QBnmw%3d%3d#page=406>.

<sup>23</sup> GAO, *Military Housing Privatization: DOD Should Take Steps to Improve Monitoring, Risk Assessment and Performance*, pp. 6-7, <https://www.gao.gov/products/gao-18-218>.

<sup>24</sup> See for example, Army and Air Force appropriations for Family Housing, Construction, accounts for FY2024. Senate, *Congressional Record*, daily edition, vol. 170, part 39 (March 5, 2024), p. S1265. <https://www.congress.gov/118/crec/2024/03/05/170/39/CREC-2024-03-05.pdf#page=214>.

<sup>25</sup> DOD budget documents show the Army reported 86,558 total units in current inventory; the Navy reported 38,773, the Marine Corps reported 23,243, and the Air Force reported 54,546. For the Army budget justification documents, see Department of the Army, *FY2025 Budget Estimates, Military Housing Privatization Initiative, FH-6 Exhibit*, March 2024, p. 124, at

<https://www.asafm.army.mil/Portals/72/Documents/BudgetMaterial/2025/Base%20Budget/Military%20Construction/Regular%20Army%20Military%20Construction%20Army.%20Army%20Family%20Housing%20and%20Homeowners%20Assistance.pdf#page=370>. For the Navy budget justification document, see Department of the Navy, *Exhibit FH-6 Military Housing Privatization Initiative (MHPI) - Family Housing Privatization, Exhibit FH-6*, March 2024, p. 136,

[https://www.secnnav.navy.mil/fmc/fmb/Documents/25pres/MCON\\_Book.pdf#page=356](https://www.secnnav.navy.mil/fmc/fmb/Documents/25pres/MCON_Book.pdf#page=356). For the Air Force budget justification document, Department of the Air Force, *Family Housing Privatization Comparison Exhibit (FH-6)*, March 2024, p. 410,

<https://www.saffm.hq.af.mil/Portals/84/documents/FY25/FY25%20Air%20Force%20Military%20Construction.pdf?ver=oHeNnqRVKQHGMDA0-QBnmw%3d%3d#page=410>. Also see GAO, *Military Housing: DOD Can Further Strengthen Oversight of Its Privatized Housing Program*, GAO-23-105377, April 20, 2023, p. 21, <https://www.gao.gov/assets/gao-23-105377.pdf>.

<sup>26</sup> Total number of units is higher than total residents due to vacancies at certain facilities. MHPI vacancy rates at various MHPI projects fluctuate over time and vary by location. Housing data provided to CRS by DOD Office of Legislative Affairs, August 28, 2023, on file with author.

servicemembers—less than 2% of servicemembers without dependents.<sup>27</sup> The Navy initiated two privatized unaccompanied housing projects under a temporary authority provided under Title 10, Section 2881a, of the *U.S. Code*, which expired in 2009.<sup>28</sup>

During the past two years, amid publication of several reports citing poor conditions in government-owned and -operated unaccompanied housing, DOD has been considering additional privatized unaccompanied housing programs.<sup>29</sup> Certain Members of Congress have expressed support for the idea.<sup>30</sup> In April 2024, the House Armed Services Committee’s Quality of Life Panel issued a report that recommended that the FY2025 NDAA explore expanded authorities to facilitate new projects for privatized unaccompanied housing.<sup>31</sup> Other Members have criticized the MHPI program and expressed skepticism about additional privatization programs.<sup>32</sup>

Options for the development of privatized unaccompanied housing may be limited in part because of statutory restrictions that render certain junior enlisted servicemembers ineligible to receive a Basic Allowance for Housing (BAH), which typically provides the monthly revenue to support MHPI projects.<sup>33</sup>

In 2022, the House Armed Services Committee directed the Secretary of Defense to provide a report on the “feasibility of privatizing unaccompanied housing to include barracks and

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<sup>27</sup> The Navy maintains privatized housing projects for unaccompanied personnel at two locations: Norfolk, Virginia; and San Diego, California. The Army maintains privatized housing projects for unaccompanied personnel at five locations: Fort Irwin, California; Fort Drum, New York; Fort Liberty, North Carolina; Fort Stewart, Georgia; and Fort Meade, Maryland. See GAO, *Military Barracks: Poor Living Conditions Undermine Quality of Life and Readiness*, GAO-23-105797, September 2023, p. 7, <https://www.gao.gov/products/gao-23-105797>. The Army has initiated a sixth project in Miami, Florida; see U.S. Army, “Army to begin new privatized housing project in Miami area,” press release, August 1, 2023, [https://www.army.mil/article/268784/army\\_to\\_begin\\_new\\_privatized\\_housing\\_project\\_in\\_miami\\_area](https://www.army.mil/article/268784/army_to_begin_new_privatized_housing_project_in_miami_area). Housing population data provided to CRS by DOD Office of Legislative Affairs, August 28, 2023, on file with author.

<sup>28</sup> See 10 U.S.C. §2881a, which authorized the Navy to enter into contracts that involve paying privatized housing entities a BAH on behalf of certain junior sailors in excess of the amount authorized for those sailors under 37 U.S.C. §403. The authority to enter into such contracts expired in 2009, but the Navy is authorized to continue operating the MHPI projects initiated under that authority, according to information provided by DOD officials in a briefing for CRS, Oct. 31, 2023.

<sup>29</sup> GAO, *Military Barracks: Poor Living Conditions Undermine Quality of Life and Readiness* (GAO-23-105797), September 2023, pp. 49-50, <https://www.gao.gov/products/gao-23-105797>. Also see Steve Beynon, “Army Eyes Privatized Barracks as It Struggles to Find a Solution to Poor Living Conditions for Soldiers,” *Military.com*, February 1, 2024, <https://www.military.com/daily-news/2024/02/01/can-privatization-fix-armys-squalid-barracks-service-hopes-so-now-theres-no-other-plan.html>.

<sup>30</sup> Svetlana Shkolnikova, “Military needs more public-private partnerships to improve housing, lawmakers say,” *Stars and Stripes*, February 7, 2024, <https://www.stripes.com/theaters/us/2024-02-07/military-housing-barracks-lawmakers-poor-conditions-12931548.html>. Also see U.S. Congress, House Committee on Armed Services, Subcommittee on Readiness, *Military Barracks and Poor Living Conditions*, 118<sup>th</sup> Cong., 2<sup>nd</sup> sess., February 7, 2024. Also see House Armed Services Committee, “Bipartisan HASC Delegation Visits Hampton Roads,” press release, June 26, 2024, <https://armedservices.house.gov/news/press-releases/bipartisan-hasc-delegation-visits-hampton-roads>.

<sup>31</sup> The report stated “Throughout the course of the Panel, there was significant interest in privatizing unaccompanied housing.” House Armed Service Committee, *Quality of Life Panel report*, April 8, 2024, p. 25, <https://armedservices.house.gov/news/press-releases/quality-life-panel-releases-bipartisan-report>.

<sup>32</sup> See, for example, U.S. Congress, House Appropriations Committee, Subcommittee on Military Construction, Veterans Affairs and Related Agencies, *Hearing on the Fiscal Year 2025 Air Force and Space Force Military Construction and Family Housing Budget Request*, 118<sup>th</sup> Cong., 2<sup>nd</sup> sess., April 17, 2024.

<sup>33</sup> Statutory restrictions on BAH are contained in 37 U.S.C. §403(f)(2). For additional information, see the Unaccompanied Housing portion of the Issues for Congress section on page 24 of this report.

dormitories within the United States.<sup>34</sup> As of June 2024, DOD had not yet provided the report to the committee.<sup>35</sup>

## MHPI Funding

Funding for MHPI to date has included tens of billions of dollars in contributions from both DOD and private-sector companies, according to DOD's FY2023 *Agency Financial Report (Appendix A)*.<sup>36</sup>

DOD's cumulative contributions to MHPI up to the end of FY2023 totaled at least \$28.0 billion, including \$14.0 billion in initial contributions (i.e., \$7.9 billion in real property conveyed; \$4.1 billion in direct cash; and \$2.0 billion in direct loans); and at least \$14.0 billion in ongoing contributions (i.e., \$8.9 billion in basic allowance for housing for FY2022 and FY2021; \$4.2 billion in property, cash, bonds, and loans; \$958.9 million in direct payments; and \$16.5 million in differential lease payments), according to the report.<sup>37</sup>

For private-sector companies, cumulative contributions to MHPI projects up to the end of FY2023 totaled \$28.2 billion, including \$19.5 billion in initial contributions (i.e., \$18.7 billion in bonds and direct loans; \$638.5 million in direct cash; and \$121.3 million in real property contributions); and \$8.7 billion in on-going contributions (i.e., \$8.6 billion in bonds and loans; \$59.6 million in direct cash; and \$51.7 million in real property and land), according to the FY2023 report.<sup>38</sup> The Military Housing Association, a trade group representing MHPI companies, has reported \$32 billion in total private funding and development for the initiative.<sup>39</sup>

For FY2025, the DOD annual budget request and related documents indicate DOD intends to spend about \$5.4 billion to support MHPI programs (**Table 1**).

## Components of MHPI Funding

Congress appropriates funding that supports MHPI programs through several line items in the annual Military Construction and Veterans Affairs and Related Agencies Appropriation Act (MILCON-VA) and the Defense Appropriations Act. Some of the DOD contributions to MHPI are provided by Congress as *discretionary* funding;<sup>40</sup> and certain other department contributions or transactions are treated as *mandatory* funding (either as payments or receipts).<sup>41</sup> In general,

<sup>34</sup> House Armed Services Committee report (H.Rept. 117-397), Part 1, p. 377, to accompany the committee-reported version of the National Defense Authorization Act for Fiscal Year 2023 (H.R. 7900).

<sup>35</sup> Information provided to CRS by House Armed Services Committee staff.

<sup>36</sup> DOD, *Agency Financial Report, FY2023*, p. 223, Table 25, [https://comptroller.defense.gov/Portals/45/Documents/afr/fy2023/DoD\\_FY23\\_Agency\\_Financial\\_Report.pdf](https://comptroller.defense.gov/Portals/45/Documents/afr/fy2023/DoD_FY23_Agency_Financial_Report.pdf).

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*

<sup>39</sup> For more information, see Military Housing Association, "History of the Military Housing Privatization Initiative," <https://www.militaryhousingassociation.org/about/about-mhpi/>.

<sup>40</sup> See MHPI Funding section of this report. For example, Congress provided \$6.4 million for the Department of Defense Family Housing Improvement Fund in the Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2023 (Division J of P.L. 117-328; 136 Stat. 4942); and in the Department of Defense Appropriations Act, 2023 (Division C of P.L. 117-328), Congress provided appropriations for Basic Allowance for Housing, a portion of which supports MHPI programs.

<sup>41</sup> Information about mandatory spending is provided in the section below. Also see, for example, the Department of Defense Family Housing Improvement Fund and the Family Housing Improvement Fund, Downward Re-estimates of Subsidies in the White House Office of Management and Budget (OMB), *Budget of the U.S. Government, Fiscal Year* (continued...)

discretionary funding is provided in appropriations acts; while mandatory funding is controlled by other laws.<sup>42</sup>

The funding authorizations that support the MHPI program include:

- Basic Allowance for Housing (BAH)
- Family Housing Construction
- Family Housing Operation & Maintenance
- Operation & Maintenance
- Housing Improvement Funds
- Mandatory spending

These six funding elements and how each supports the MHPI programs are examined in some detail below.

### **Basic Allowance for Housing**

Congress appropriates funding annually through the Defense Appropriations Act's military personnel accounts in the form of housing allowances, known as Basic Allowance for Housing (BAH).<sup>43</sup> DOD provides tax-free BAH payments to servicemembers who are not assigned to government housing. Those servicemembers may use their BAH to rent or buy a home on the private-sector housing markets surrounding military installations. In locations where privatized housing is available, servicemembers may opt to use their BAH to live in privatized military housing facilities.<sup>44</sup> In the case of military tenants who choose to live in privatized housing, those servicemembers agree to authorize DOD to pay their monthly BAH directly to the MHPI entities. MHPI projects use this monthly revenue to pay for routine operations, debt payments, the long-term sustainment, restoration and modernization of MHPI housing, and, potentially, profit for the MHPI company managing the project.<sup>45</sup> The military services estimated payments to MHPI entities in the form of BAH to be about \$4.9 billion for FY2025.<sup>46</sup>

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2024, Supplemental Materials, Public Budget Database (budget authority spreadsheet), Account Name "Department of Defense Family Housing Improvement Fund," BEA Category: Mandatory, available at [https://www.whitehouse.gov/wp-content/uploads/2023/03/budauth\\_fy2024.xlsx](https://www.whitehouse.gov/wp-content/uploads/2023/03/budauth_fy2024.xlsx). See also DOD, Office of the Under Secretary of Defense Comptroller, Defense Budget Materials – FY2024, Military Construction, Family Housing, and Base Realignment and Closure Program (C-1) spreadsheet, FY2022 tab, Account Title Department of Defense Family Housing Improvement Fund, Construction Project Title: Reestimate on Direct Loan Subsidy, at <https://comptroller.defense.gov/Portals/45/Documents/defbudget/FY2024/c1.xlsx>.

<sup>42</sup> For more information on these two types of funding, see CRS Report R46240, *Introduction to the Federal Budget Process*, by James V. Saturno.

<sup>43</sup> For FY2025, DOD requested \$27.2 billion for housing allowances for military servicemembers. See DOD Under Secretary of Defense Comptroller, Defense Budget Materials FY2025, Military Personnel Programs (M-1), at <https://comptroller.defense.gov/Budget-Materials/Budget2025/>.

<sup>44</sup> BAH is determined based on three factors: a servicemember's rank, the location of their duty assignment, and whether or not they have dependents. Laws governing BAH payments are contained in 10 U.S.C. §403. DOD notes that the amount of BAH paid to MHPI entities can vary from year to year due to factors that include uncertainties associated with the number of members residing in MHPI housing year over year, the paygrade of members residing in MHPI housing, and the annual changes in the BAH rates. See DOD, Agency Financial Report, FY2023, p. 224, at [https://comptroller.defense.gov/Portals/45/Documents/afr/fy2023/DoD\\_FY23\\_Agency\\_Financial\\_Report.pdf](https://comptroller.defense.gov/Portals/45/Documents/afr/fy2023/DoD_FY23_Agency_Financial_Report.pdf).

<sup>45</sup> GAO, *DOD Should Take Steps to Improve Monitoring, Reporting, and Risk Assessment*, GAO-18-218, March 13, 2018, p. 8, <https://www.gao.gov/assets/700/690858.pdf>.

<sup>46</sup> CRS analysis based on data contained in FY2025 budget justification documents. See Department of the Army , (continued...)

## Family Housing Construction

Congress appropriates funding annually through the MILCON-VA Act for military family housing construction. DOD uses portions of this funding to build and renovate government-owned and -operated family housing at overseas locations. Family housing construction accounts may also include line items that provide funding to MHPI entities that may be having financial difficulties. These line items can take the form of additional DOD equity investments in certain MHPI projects or DOD budgetary authority to support loan restructuring.<sup>47</sup> For example, in the FY2024 MILCON-VA Appropriations Act, Congress appropriated \$50 million for the Army for an MHPI equity investment in the privatized housing project at Fort Eisenhower (formerly known as Fort Gordon) in Georgia and, additionally, \$50 million for the Army for an MHPI equity investment in the privatized housing project at Fort Leonard Wood in Missouri.<sup>48</sup> The act also provided the Air Force's Family Housing Construction account with about \$220 million for loan restructurings for three MHPI projects located at Maxwell Air Force Base in Alabama, Hickam Air Force Base in Hawaii, and at Keesler Air Force Base in Mississippi.<sup>49</sup>

## Family Housing Operation & Maintenance

Congress appropriates funding annually through the MILCON-VA Act for military family housing operation and maintenance. Typically these accounts include components—also known individually as a “sub activity title”—categorized as “Privatization Support.”<sup>50</sup> Congress appropriated for the three military departments about \$198.3 million for this purpose for FY2024.<sup>51</sup> According to the services' budget justification documents, this funding is used to fund personnel who support the management of privatized housing programs, residents' advocates, and services that include environmental assessments or financial consulting services.<sup>52</sup>

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*Fiscal Year (FY) 2025 President's Budget Submission, Family Housing, Justification Data Submitted to Congress*, March 2024, p. 120 [PDF p. 366], <https://www.asafm.army.mil/Portals/72/Documents/BudgetMaterial/2025/Base%20Budget/Military%20Construction/Regular%20Army%20Military%20Construction%20Army,%20Army%20Family%20Housing%20and%20Homeowner%20Assistance.pdf>. Department of the Air Force, *Military Construction Program, Fiscal Year 2025 Budget Estimates*, February 2024, p. 403, <https://www.saffm.hq.af.mil/Portals/84/documents/FY25/FY25%20Air%20Force%20Military%20Construction.pdf?ver=oHeNqRVKQHGMDA0-QBnmw%3d%3d#page=403>. And Department of the Navy, *Fiscal Year 2025 Budget Estimates, Military Construction Active Force (MCON) and Family Housing*, March 2024, pp. p. 126, p. 134, [https://www.secnav.navy.mil/fmc/fmb/Documents/25pres/MCON\\_Book.pdf](https://www.secnav.navy.mil/fmc/fmb/Documents/25pres/MCON_Book.pdf).

<sup>47</sup> Senate, *Congressional Record*, daily edition, vol. 170, part 39 (March 5, 2024), p. S1265. <https://www.congress.gov/118/crec/2024/03/05/170/39/CREC-2024-03-05.pdf#page=214>.

<sup>48</sup> Senate, *Congressional Record*, daily edition, vol. 170, part 39 (March 5, 2024), p. S1264. <https://www.congress.gov/118/crec/2024/03/05/170/39/CREC-2024-03-05.pdf#page=213>.

<sup>49</sup> Senate, *Congressional Record*, daily edition, vol. 170, part 39 (March 5, 2024), p. S1265. <https://www.congress.gov/118/crec/2024/03/05/170/39/CREC-2024-03-05.pdf#page=214>.

<sup>50</sup> See, for example, U.S. Army, *Department of the Army Fiscal Year (FY) 2025 President's Budget Submission: Army Family Housing*, March 2024, p. 63, <https://www.asafm.army.mil/Portals/72/Documents/BudgetMaterial/2025/Base%20Budget/Military%20Construction/Regular%20Army%20Military%20Construction%20Army,%20Army%20Family%20Housing%20and%20Homeowner%20Assistance.pdf#page=309>.

<sup>51</sup> See (P.L. 118-47 ) Available in the Senate *Congressional Record*, daily edition, vol. 170, part 39 (March 5, 2024), p. S1265. <https://www.congress.gov/118/crec/2024/03/05/170/39/CREC-2024-03-05.pdf#page=214>.

<sup>52</sup> For example, see Department of the Air Force, *Military Construction Program, Fiscal Year 2025 Budget Estimates*, February 2024, p. 403, <https://www.saffm.hq.af.mil/Portals/84/documents/FY25/FY25%20Air%20Force%20Military%20Construction.pdf?ver=oHeNqRVKQHGMDA0-QBnmw%3d%3d#page=403>.

## Housing Improvement Funds

Congress appropriates funding annually through the MILCON-VA Act for two accounts that were created by statute at the inception of the MHPI program in 1996, the DOD Family Housing Improvement Fund (FHIF) and the DOD Military Unaccompanied Housing Improvement Fund (MUHIF).<sup>53</sup> Direct appropriations are one of several ways the FHIF and MUHIF can receive funding.<sup>54</sup> Funding appropriated to these accounts provides administrative support for MHPI programs, which can include a range of activities associated with MHPI programs and specific oversight requirements related to government loans as prescribed under the Federal Credit Reform Act of 1990.<sup>55</sup> For FY2024, Congress appropriated \$6.6 million for the FHIF and \$496,000 for the UHIF.<sup>56</sup>

## Operation and Maintenance

Congress appropriates funding annually through the Defense Appropriations Act's general Operation and Maintenance accounts to support direct payments to MHPI entities. Starting with the NDAA for FY2018, Congress has authorized direct payments to certain MHPI entities to support operation and maintenance needs beyond those covered by servicemembers' BAH payments.<sup>57</sup> Direct payments authorized for certain MHPI companies may equal up to 5% of total BAH payments paid to MHPI projects.<sup>58</sup> Statute directs DOD to use portions of the funding to support "underfunded MHPI housing projects" and "for the purposes of future sustainment, recapitalization, and financial sustainability of the projects."<sup>59</sup>

Under current law, the direct payments are authorized to continue indefinitely.<sup>60</sup> CRS was unable to identify any reference to these payments in DOD budget documentation; a DOD official said these direct payments are drawn from the services' general Operation & Maintenance accounts.<sup>61</sup>

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<sup>53</sup> 10 U.S.C. §2883.

<sup>54</sup> The two housing improvement funds were established in P.L. 104-106 § 2801 and codified at 10 U.S.C. §2883. The law authorizes the funds to receive money from sources that include: Direct congressional appropriations; congressionally approved transfers from military construction accounts; proceeds from property conveyances; proceeds from property or facility leases; and income from DOD equity investments in MHPI projects.

<sup>55</sup> For budget justification language, see for example Department of Defense, *Fiscal Year (FY) 2025 Budget Estimates, Family Housing*, March 2024, pp. FH-27, [https://comptroller.defense.gov/Portals/45/Documents/defbudget/FY2025/budget\\_justification/pdfs/04\\_Family\\_Housing/PB\\_25\\_DW\\_FH\\_FHIF.pdf](https://comptroller.defense.gov/Portals/45/Documents/defbudget/FY2025/budget_justification/pdfs/04_Family_Housing/PB_25_DW_FH_FHIF.pdf).

<sup>56</sup> P.L. 118-42, <https://www.congress.gov/118/crec/2024/03/05/170/39/CREC-2024-03-05.pdf#page=215>.

<sup>57</sup> Section 603 of 2018 NDAA (P.L. 115-91).

<sup>58</sup> Direct payments are based on BAH payments and the extent to which BAH policy provides payments that are less than 100 percent of estimated housing costs. Current BAH policy provides for a monthly BAH payment equal to about 95 percent of estimated housing costs, so the difference under current policy is 5 percent of estimated housing costs. For direct payments to MHPI entities, the law directs the Secretaries of the military departments to pay MHPI entities an amount equal to half the difference between BAH and 100 percent of total estimated housing costs. The law also authorizes the Secretaries of the military departments to pay MHPI entities an additional 50 percent of the difference between BAH and 100 percent of total estimated housing costs for MHPI projects that the Secretary determines are "underfunded." See Section 606 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (P.L. 115-232) as amended (also contained in 10 U.S.C. §2871 note). For additional information, see CRS Report R47728, *Military Housing*, by Andrew Tilghman.

<sup>59</sup> See Title 10 U.S.C. Section 2871, Statutory Notes and Related Subsidiaries, Military Housing Privatization Initiative.

<sup>60</sup> See Section 606 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (P.L. 115-232; 10 U.S.C. §2871 note).

<sup>61</sup> The military departments draw funding for direct payments from the budget Sub-Activity Group, or SAG, for base operations; information provided to CRS via email communication with a DOD official, April 29, 2024, on file with author.



From FY2018 through FY2023, DOD paid a cumulative \$ 958.9 million in direct payments to MHPI entities.<sup>62</sup>

Congress authorized the direct payments at a time when DOD was reducing BAH rates for servicemembers from a rate intended to cover 100% of the estimated local housing costs for servicemembers to a rate intended to cover about 95% of estimated local housing costs.<sup>63</sup> The reduction in BAH rates in turn had a negative impact on the monthly revenue for MHPI projects and raised concerns among some Members about the long-term financial health and sustainability of DOD's MHPI programs.<sup>64</sup> In response to those concerns, Congress authorized additional direct payments from DOD to the MHPI companies to offset the reduction in service-wide BAH rates.<sup>65</sup> One DOD document described these payments as “effectively ‘making the partner whole.’”<sup>66</sup>

### Mandatory spending related to MHPI loans

Evaluating and budgeting for the cost of a government loan can be challenging because the government's ultimate cost of a loan is unknown at the time a loan is provided to a borrower. For the federal government, special budgetary treatment for certain types of loans allows federal agencies to issue a dollar amount of loans that is larger than the related appropriations the agency may receive for those loans.<sup>67</sup> MHPI programs that involve direct government loans or loan guarantees can, in certain situations, trigger mandatory spending, also known as direct spending, which is a type of federal spending that is not usually a part of the annual appropriations process.<sup>68</sup> Mandatory spending can be required to support MHPI projects that involve government direct loans or government loan guarantees in the event that a borrower defaults on or is unable to repay the loan, or the government assesses that the risk associated with that loan has increased.<sup>69</sup> For example, if a military department determines that an MHPI entity is unable to repay a government loan, that military department can seek to “restructure” the loan and the funding to

<sup>62</sup> DOD, *Agency Financial Report, FY2023*, p. 223, Table 25, at [https://comptroller.defense.gov/Portals/45/Documents/afr/fy2023/DoD\\_FY23\\_Agency\\_Financial\\_Report.pdf](https://comptroller.defense.gov/Portals/45/Documents/afr/fy2023/DoD_FY23_Agency_Financial_Report.pdf).

<sup>63</sup> For additional background information on BAH changes and the authorization of direct payments to MHPI companies, see Appendix A of CRS Report R47728, *Military Housing*, by Andrew Tilghman. For statutory authority to make the change in rates, see Section 603 of P.L. 114-92.

<sup>64</sup> The Senate Report accompanying a bill for the NDAA for FY2017 (S.Rept. 114-255) included a provision directing GAO to review the effect of changes in BAH on long-term project sustainability for privatized military housing projects. See GAO, *Military Housing Privatization: DOD Should Take Steps to Improve Monitoring, Reporting, and Risk Assessment*, March 2018, <https://www.gao.gov/assets/700/690858.pdf>.

<sup>65</sup> See Section 606 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (P.L. 115-232; 10U.S.C. §2871 note). For additional information, see CRS Report R47728, *Military Housing*, by Andrew Tilghman.

<sup>66</sup> DOD, *The Thirteenth Quadrennial Review of Military Compensation*, December 2020, pp. B-8, [https://militarypay.defense.gov/Portals/3/QRMC-Vol\\_3\\_final\\_web.pdf](https://militarypay.defense.gov/Portals/3/QRMC-Vol_3_final_web.pdf).

<sup>67</sup> These budgetary rules are related to the Federal Credit Reform Act 1990. In some instances, the amount of budgetary authority needed to extend direct government loans is a fraction of the amount of the loan. For example, across the federal government in fiscal year 2021, \$7 billion in appropriations supported roughly \$236 billion in direct loans. GAO, *Transparency Needed for Evaluation of Potential Federal Involvement in Projects Seeking Loans*, GAO-22-105280, July 2022, p. Highlights page, <https://www.gao.gov/assets/gao-22-105280.pdf>. Also see CRS Report R44193, *Federal Credit Programs: Comparing Fair Value and the Federal Credit Reform Act (FCRA)*, by Raj Gnanarajah.

<sup>68</sup> *Federal Budget: Government-Wide Inventory of Accounts with Mandatory Spending, Fiscal Years 2001–2021*, GAO-23-105674, July 12, 2023, p. Fast Facts, <https://www.gao.gov/products/gao-23-105674>.

<sup>69</sup> The Air Force Agency Financial Statement for FY2023 states that a troubled loan or a loan at risk of imminent default can be restructured and the cost of certain restructures is borne by the Treasury through permanent indefinite authority. Department of the Air Force, *Agency Financial Report, Fiscal Year 2023*, p. 144, [https://www.saffm.hq.af.mil/Portals/84/documents/financial\\_statements/FY%202023%20Department%20of%20the%20Air%20Force%20Agency%20Financial%20Report.pdf?ver=gqm3dSR5GyqP3qca5lK4cQ%3d%3d](https://www.saffm.hq.af.mil/Portals/84/documents/financial_statements/FY%202023%20Department%20of%20the%20Air%20Force%20Agency%20Financial%20Report.pdf?ver=gqm3dSR5GyqP3qca5lK4cQ%3d%3d).

cover the government's loss may be provided through mandatory spending.<sup>70</sup> Permanent budget authority for this purpose is provided under the Federal Credit Reform Act of 1990 (FCRA).<sup>71</sup>

The Air Force has been the primary provider of MHPI-related government loans and government loan guarantees (the Army and the Navy have not widely used the authority to make loans under Section 2873 of Title 10 U.S.C.).<sup>72</sup> The military departments are required to make disclosures about at-risk loans. In November 2023, the Air Force reported that it is “planning to perform Government Direct Loan (GDL) modifications and/or make a government equity investment for various [MHPI] projects.” According to the Department of the Air Force Agency Financial Statement, the Air Force has identified five MHPI projects with shortfalls in their accounts for providing long-term sustainment; the shortfalls for the five projects collectively total \$260 million.<sup>73</sup>

The majority of the principal balance of DOD's MHPI-related loans remains outstanding. For direct loans, DOD has extended loans with a total initial balance of \$1.99 billion, of which a balance of \$1.76 billion remains outstanding.<sup>74</sup> Regarding loan guarantees, DOD guaranteed loans with a total initial balance of \$1.07 billion, of which a balance of \$869 remains outstanding.<sup>75</sup>

## FY2025 Requests

In March 2024, DOD submitted its annual budget request to Congress; it included various elements of support for MHPI projects totaling about \$5.41 billion (**Table 1**). The budget request included Family Housing Construction funding for three MHPI projects totaling \$194 million. They included:

<sup>70</sup> The Air Force Agency Financial Statement for FY2023 states that a troubled loan or a loan at risk of imminent default can be restructured and the cost certain restructures is borne by the Treasury through permanent indefinite authority. Department of the Air Force, *Agency Financial Report, Fiscal Year 2023*, p. 144, [https://www.saffm.hq.af.mil/Portals/84/documents/financial\\_statements/FY%202023%20Department%20of%20the%20Air%20Force%20Agency%20Financial%20Report.pdf?ver=gqm3dSR5GyqP3qca5IK4cQ%3d%3d](https://www.saffm.hq.af.mil/Portals/84/documents/financial_statements/FY%202023%20Department%20of%20the%20Air%20Force%20Agency%20Financial%20Report.pdf?ver=gqm3dSR5GyqP3qca5IK4cQ%3d%3d).

<sup>71</sup> FCRA grants agencies permanent indefinite authority to cover credit costs that exceed expected costs. See CBO, *Administrative Costs of Federal Credit Programs*, December 2023, p. 6, <https://www.cbo.gov/publication/59815#>.

<sup>72</sup> Each of DOD's 78 MHPI projects is structured differently; the Department of the Air Force opted to exercise the authority to provide government loans (10 USC §2873) for most of its MHPI programs, while the Army and Navy opted to use primarily cash equity investments. Details of specific authorities used for each project are provided in DOD budget justification documents. See Department of the Army, *FY2024 Budget Estimates, Military Housing Privatization Initiative, FH-6 Exhibit*, March 2023, pp. 108-109 [PDF p. 295-296], <https://www.asafm.army.mil/Portals/72/Documents/BudgetMaterial/2024/Base%20Budget/Military%20Construction/Regular%20Army%20Military%20Construction%20Army,%20Army%20Family%20Housing%20and%20Homeowner%20Assistance.pdf#page=295>. For the Navy budget justification document, see Department of the Navy, *Exhibit FH-6 Military Housing Privatization Initiative (MHPI) - Family Housing Privatization, Exhibit FH-6*, March 2023, PDF p. 355, [https://www.secnaw.navy.mil/fmc/fmb/Documents/24pres/MCON\\_Book.pdf#page=355](https://www.secnaw.navy.mil/fmc/fmb/Documents/24pres/MCON_Book.pdf#page=355). For the Air Force budget justification document, Department of the Air Force, *Family Housing Privatization Comparison Exhibit (FH-6)*, March 2023, PDF p. 392, <https://www.saffm.hq.af.mil/LinkClick.aspx?fileticket=8x62jjw60Hg%3d&portalid=84#page=406>.

<sup>73</sup> Department of the Air Force, *Agency Financial Report, Fiscal Year 2023*, p. 89, [https://www.saffm.hq.af.mil/Portals/84/documents/financial\\_statements/FY%202023%20Department%20of%20the%20Air%20Force%20Agency%20Financial%20Report.pdf?ver=gqm3dSR5GyqP3qca5IK4cQ%3d%3d](https://www.saffm.hq.af.mil/Portals/84/documents/financial_statements/FY%202023%20Department%20of%20the%20Air%20Force%20Agency%20Financial%20Report.pdf?ver=gqm3dSR5GyqP3qca5IK4cQ%3d%3d).

<sup>74</sup> Office of Management and Budget, *Credit Supplement: Budget of the U.S. Government, Fiscal Year 2025*, Table 7, pp. 46, [https://www.whitehouse.gov/wp-content/uploads/2024/03/cr\\_supp\\_fy2025.pdf](https://www.whitehouse.gov/wp-content/uploads/2024/03/cr_supp_fy2025.pdf).

<sup>75</sup> Office of Management and Budget, *Credit Supplement: Budget of the U.S. Government, Fiscal Year 2025*, Table 8, pp. 71, [https://www.whitehouse.gov/wp-content/uploads/2023/03/cr\\_supp\\_fy2024.pdf](https://www.whitehouse.gov/wp-content/uploads/2023/03/cr_supp_fy2024.pdf).



- **Fort Eisenhower.** The Army requested \$50 million to build new town homes for soldiers and their families at Fort Eisenhower (formerly known as Fort Gordon) in Georgia.<sup>76</sup> These replacement homes are slated for completion in FY2026. In its budget justification, the Army stated: “failure to provide the equity investment will result in no improvement to the housing inventory at Fort Eisenhower potentially resulting in suboptimized operation project performance and continued tenant dissatisfaction with the housing inventory.”
- **Joint Base Elmendorf-Richardson.** The Air Force requested \$120 million to support the family housing facilities at Joint Base Elmendorf-Richardson in Alaska. Specifically, the Air Force said the funding is intended to “ensure adequate funding available for sustainment needs (e.g., roofing, Heating, Ventilation and Cooling (HVAC) units, repairs, etc.) and reinvestment needs (e.g. unit replacements, whole-house renovations).”<sup>77</sup> For the MHPI project at Joint Base Elmendorf-Richardson, the Air Force projects a \$31 million shortfall over the next 10 years for sustainment funding and “there is forecasted to be a \$376 million shortfall of the projected funds required for mid-term reinvestment at the project.” The Air Force budget request attributed the shortfalls to “lower basic allowance for housing growth and higher sustainment and reinvestment costs due to inflation impacts and current market conditions.” The Air Force reported that failure to provide this funding could “increase life/health/safety issues at project units.”
- **Joint Base San Antonio-Lackland.** The Air Force requested \$24 million to support family housing at Joint Base San Antonio-Lackland in Texas.<sup>78</sup> Specifically, the Air Force stated the funding is intended to “ensure adequate funding available for sustainment needs (e.g., roofing, Heating, Ventilation and Cooling (HVAC) units, repairs, etc.) and reinvestment needs (e.g., whole-house renovations).” At Joint Base San Antonio-Lackland, the Air Force projected a \$24 million shortfall over the next 10 years for sustaining funding and said “there is forecasted to be a \$23 million shortfall of the projected funds required for mid-term reinvestment at the project.” The Air Force budget request attributed the shortfalls to “lower occupancy, higher operating costs, and higher sustainment and reinvestment costs due to inflation impacts and current market conditions.”

<sup>76</sup> Department of the Army, *Fiscal Year (FY) 2025 President’s Budget Submission, Family Housing, Justification Data Submitted to Congress*, March 2025, p. 51, <https://www.asafm.army.mil/Portals/72/Documents/BudgetMaterial/2025/Base%20Budget/Military%20Construction/Regular%20Army%20Military%20Construction%20Army,%20Army%20Family%20Housing%20and%20Homeowner%20Assistance.pdf>.

<sup>77</sup> Department of the Air Force, *Military Construction Program, Fiscal Year (FY) 2025 Budget Estimates*, February 2024, pp. 358-359, <https://www.saffm.hq.af.mil/Portals/84/documents/FY25/FY25%20Air%20Force%20Military%20Construction.pdf?ver=oHeNnqRVKQHGMDA0-QBnmw%3d%3d#page=359>.

<sup>78</sup> Department of the Air Force, *Military Construction Program, Fiscal Year (FY) 2025 Budget Estimates*, February 2024, p. 360-361, <https://www.saffm.hq.af.mil/Portals/84/documents/FY25/FY25%20Air%20Force%20Military%20Construction.pdf?ver=oHeNnqRVKQHGMDA0-QBnmw%3d%3d#page=361>.

**Table I. Selected FY2025 Budget Request Amounts Associated with MHPI Programs**  
(Figures in thousands)

Account	Account Title	Budget Activity Title	Budget Line Item <sup>a</sup>	FY2025 Budget Request
Military Personnel	Military Personnel, Army	Pay and Allowances	Basic Allowance for Housing	\$1,817,000 <sup>b</sup>
Military Personnel	Military Personnel, Navy	Pay and Allowances	Basic Allowance for Housing	\$1,962,476 <sup>c</sup>
Military Personnel	Military Personnel, Air Force	Pay and Allowances	Basic Allowance for Housing	\$1,146,841 <sup>d</sup>
Military Construction and Family Housing	Family Housing Construction, Army	Construction Improvements	Fort Eisenhower MHPI Equity Investment	\$50,000
Military Construction and Family Housing	Family Housing Construction, Air Force	Construction Improvements	MHPI Restructure - Lackland	\$24,000
Military Construction and Family Housing	Family Housing Construction, Air Force	Construction Improvements	MHPI Restructure - JBER Phase III	\$120,000
Military Construction and Family Housing	Army, Family Housing, O&M	Housing Privatization Support	Military Housing Privatization Initiative	\$69,579
Military Construction and Family Housing	Navy and Marine Corps, Family Housing, O&M	Housing Privatization Support	Housing Privatization Support	\$60,283
Military Construction and Family Housing	Air Force, Family Housing, O&M	Housing Privatization support	Housing Privatization	\$32,508
Military Construction and Family Housing	DOD Family Housing Improvement Fund	Administrative Expenses	Administrative Expenses - FHIF	\$8,195
Military Construction and Family Housing	Military Unaccompanied Housing Improvement Fund	Administrative Expenses	Administrative Expenses - UHIF	\$497
Operation and Maintenance	O&M, Army	Operating Forces	Base Operations Support <sup>e</sup>	\$45,425 <sup>f</sup>
Operation and Maintenance	O&M, Navy	Operating Forces	Base Operating Support <sup>e</sup>	\$31,939 <sup>f</sup>
Operation and Maintenance	O&M, Marine Corps	Operating Forces	Base Operating Support <sup>e</sup>	\$17,122 <sup>f</sup>
Operation and Maintenance	O&M, Air Force	Air Operations	Base Support <sup>e</sup>	\$28,67 <sup>f</sup>
<b>Total</b>				<b>\$5,414,537<sup>f</sup></b>

**Source:** Unless otherwise indicated, budget data are drawn from DOD, Office of the Under Secretary of Defense Comptroller, Defense Budget Materials – FY2025, Military Construction, Family Housing, and Base Realignment and Closure Program (C-1) spreadsheet, <https://comptroller.defense.gov/Budget-Materials/Budget2025/>.

**Notes:** BAH data provided in the table reflect military department estimates on the amount of BAH to be paid to MHPI companies on behalf of servicemembers living in privatized housing in FY2025. While traditional DOD budget documentation and appropriations legislation do not distinguish between BAH that is paid to MHPI companies and BAH that is paid directly to servicemembers who live in homes off base, the military departments provide the data in this table in their budget justification documents to meet reporting requirements stipulated in 10 USC 2884(b)(2). Specific source references are found below.

- a. Under the column labeled “Budget Line Item,” CRS is providing the lowest level account available in DOD’s public budget request documentation, i.e., the most detailed level of budget information. The names of lower-level budget categories vary across DOD accounts. For Military Construction and Family Housing accounts (C-1), the category is referred to as “Construction Project Title.” In Military Personnel accounts (M-1), the similar category is “Budget Sub Activity Title,” or BSA. In the Operation and Maintenance accounts (O-1), the line-item level account is known as the Budget Sub-Activity Group, or SAG.
- b. Source: Department of the Army, Fiscal Year (FY) 2025 President’s Budget Submission, Family Housing, Justification Data Submitted to Congress, March 2024, p. 120.  
<https://www.asafm.army.mil/Portals/72/Documents/BudgetMaterial/2025/Base%20Budget/Military%20Construction/Regular%20Army%20Military%20Construction%20Army,%20Army%20Family%20Housing%20and%20Homeowners%20Assistance.pdf#page=366>.
- c. Source: Department of the Navy, Fiscal Year 2025 Budget Estimates, Military Construction Active Force (MCON) and Family Housing, March 2024, pp. p. 123. [for Navy and Marine Corps breakout, see p. 126, 134], [https://www.secnav.navy.mil/fmc/fmb/Documents/25pres/MCON\\_Book.pdf#page=343](https://www.secnav.navy.mil/fmc/fmb/Documents/25pres/MCON_Book.pdf#page=343).
- d. Source: Department of the Air Force, Military Construction Program, Fiscal Year 2025 Budget Estimates, February 2024, p. 403,  
<https://www.saffm.hq.af.mil/Portals/84/documents/FY25/FY25%20Air%20Force%20Military%20Construction.pdf?ver=0HeNnqRVKQHGMDA0-QBnmw%3d%3d#page=403>.
- e. Information identifying the Budget Sub-Activity Group, or SAG, associated with direct payments to MHPI entities was provided to CRS on April 29, 2024, by officials with the Office of the Assistant Secretary of Defense (Sustainment) and the Office of the Assistant Secretary of Defense (Energy, Installations & Environment). On file with author.
- f. Direct payment figures from O&M accounts listed in this table are estimates based on a CRS analysis of budget documents cited in notes b, c, d, and e above and 10 U.S.C. §2871, which directs DOD to pay MHPI entities an amount equal to 2.5% of DOD’s estimated BAH payments to MHPI entities. Figures reflect estimates of statutory minimums; actual amount of spending may be higher depending on the military department secretaries’ discretionary use of provision (a)(2) in statutory notes under the section titled “Military Housing Privatization Initiative.”

## DOD Audits

The DOD Inspector General (IG) has identified problems with DOD’s accounting related to MHPI activities. These accounting problems could make it more difficult for Congress to discern the program’s true costs.

In November 2023, the DOD IG identified the MHPI program and related accounting as a source of “significant deficiencies,” that “increased the risk that balances and related notes reporting MHPI information in the Agency-Wide Financial Statements may be misstated.”<sup>79</sup> Specifically, the IG, through its audit procedures, identified that DOD did not:<sup>80</sup>

- “record accurate profit and loss amounts allocated to the DOD as changes to Other Investments;”
- “establish a standard operating procedure to annually record profits and losses allocated to the DOD in the Other Investments account;”

<sup>79</sup> DOD, *Agency Financial Report*, 2023, pp. 118-119, [https://comptroller.defense.gov/Portals/45/Documents/afr/fy2023/DoD\\_FY23\\_Agency\\_Financial\\_Report.pdf](https://comptroller.defense.gov/Portals/45/Documents/afr/fy2023/DoD_FY23_Agency_Financial_Report.pdf).

<sup>80</sup> *Ibid.*

- follow reporting procedures related to “recognition of real property conveyed to MHPI partnerships where DOD Components received a legal claim to the real property as changes to Other Investments;”
- “measure and recognize the land leased to MHPI partnerships;” and
- “report complete and accurate MHPI information within the Agency-Wide Financial Statements notes in accordance with” federal accounting standards.

An earlier DOD IG report, from February 2019, also identified accounting errors. The February 2019 report concluded that DOD personnel did not properly account for and summarize certain MHPI transactions in DOD financial systems; improper accounting items included recording \$4.2 billion in accounting adjustments without the required supporting documentation.<sup>81</sup> The 2019 IG report also found that DOD’s “FY2017 financial statements did not fairly present the \$117.5 million in increased subsidy costs related to the restructured MHPI projects.”<sup>82</sup>

## Budget Scoring

This section of the report discusses the process of budget scoring, sometimes also known as scorekeeping, and its effect on the MHPI programs.<sup>83</sup>

Budget scoring involves developing and recording consistent measures for the budgetary effects—changes in federal spending, revenues, and deficits—of proposed and enacted legislation.<sup>84</sup> Budget scoring measures compliance of proposed or enacted legislation with federal laws that are intended to limit federal spending and government deficits.<sup>85</sup> Budget scores can impact the enforcement of statutory spending limits (also called “budget caps”) and the process known as “sequestration.”<sup>86</sup> Budget scoring can affect both the process for developing DOD’s annual budget request and the legislative process for enacting annual defense authorization and appropriations. The budget scoring process has developed over time and is governed by law, precedent, and rules.<sup>87</sup> Throughout the annual budget process, entities within both the executive and legislative branches conduct various scoring-related activities.<sup>88</sup> These include the House and

<sup>81</sup> DOD Office of the Inspector General, *Accounting and Financial Reporting for the Military Housing Privatization Initiative*, February 12, 2019, p. i (Highlights), <https://media.defense.gov/2019/Feb/15/2002090085/-1/-1/1/DODIG-2019-056.PDF>.

<sup>82</sup> *Ibid.*, p. 22.

<sup>83</sup> For additional background information on budget scoring, see CRS Report R46233, *Dynamic Scoring in the Congressional Budget Process*; and CRS Report R47705, *Congressional Rules Pertaining to Changes in Mandatory Program Spending in Appropriations Bills (CHIMPs)*.

<sup>84</sup> CBO, *CBO Explains Budgetary Scorekeeping Guidelines*, January 2021, <https://www.cbo.gov/system/files/2021-01/56507-Scorekeeping.pdf>.

<sup>85</sup> Federal laws for which budget scoring is used to measure compliance include the Congressional Budget Act of 1974 (CBA), as amended; the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA), as amended; and the Statutory Pay-As-You-Go Act of 2010. See Office of Management and Budget, *Circular No. A-11, Preparation, Submission, and Execution of the Budget*, Appendix A—Scorekeeping Guidelines, August 2023, <https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf#page=823>.

<sup>86</sup> OMB, Circular No. A-11, *Preparation, Submission, and Execution of the Budget*, August 2023, Section 21, pp. 2-4, at <https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf>.

<sup>87</sup> CBO, *CBO Explains Budgetary Scorekeeping Guidelines*, January 2021, <https://www.cbo.gov/system/files/2021-01/56507-Scorekeeping.pdf>.

<sup>88</sup> OMB, Circular No. A-11, *Preparation, Submission, and Execution of the Budget*, August 2023, Section 21, pp. 1-2, at <https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf>.

Senate Budget Committees, the CBO, and OMB (collectively known as the "scorekeepers").<sup>89</sup> Some roles and responsibilities of the scorekeepers are outlined below.

Both Congress and the executive branch have made changes to the interpretation and implementation of budget scoring rules related to DOD's MHPI programs since the program's inception in 1996. As a result of these changes, which are discussed in detail below, the initiation of new MHPI programs may require higher levels of DOD appropriated funding than those funding levels recorded during the MHPI programs early years. Similarly, such changes to the interpretation and implementation of budget scoring rules may create certain procedural challenges to MHPI related legislation that were not an issue when the MHPI program was initially authorized and funded. Due to the unique circumstances of the MHPI programs and related budget scoring rules, this section of the report provides detailed background information about the budget scoring process and its impact on past and potentially future MHPI programs.

## CBO budget scoring

The House and Senate Budget Committees have authority to determine the budgetary impact of proposed legislation.<sup>90</sup> In this capacity, the budget committees generally rely on cost estimates provided by CBO.<sup>91</sup> During the legislative process, CBO is required by statute to score legislation.<sup>92</sup> Budget scoring published by CBO enables Congress to be informed about the potential budgetary implications of its actions.<sup>93</sup> CBO publishes the results of its budget scoring—known as cost estimates—of proposed legislation in part to advise “congressional committees on compliance with congressional budget enforcement procedures.”<sup>94</sup>

Scoring attributes budgetary effects to the legislation that causes them and can trigger certain parliamentary rules or statutory requirements. For example, proposed legislation that includes an increase in mandatory spending or decrease in revenues may be subject to a point of order—a procedural move that can block a bill—unless such costs are offset by other provisions that decrease direct spending or increase revenues by a corresponding amount.<sup>95</sup>

<sup>89</sup> Federal laws for which budget scoring is used to measure compliance include the Congressional Budget Act of 1974 (CBA), as amended; the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA), as amended; and the Statutory Pay-As-You-Go Act of 2010. See Office of Management and Budget, *Circular No. A-11, Preparation, Submission, and Execution of the Budget*, Appendix A -- Scorekeeping Guidelines, August 2023, <https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf#page=823>.

<sup>90</sup> CBO, *CBO Explains Budgetary Scorekeeping Guidelines*, January 2021, <https://www.cbo.gov/system/files/2021-01/56507-Scorekeeping.pdf>.

<sup>91</sup> Ibid.

<sup>92</sup> OMB, Circular No. A-11, *Preparation, Submission, and Execution of the Budget*, August 2023, Section 21, pp. 1, at <https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf>. Also see 10 U.S.C. §639.

<sup>93</sup> For additional information about budget scoring, see CRS Report R46240, *Introduction to the Federal Budget Process*, by James V. Saturno.

<sup>94</sup> OMB, Circular No. A-11, *Preparation, Submission, and Execution of the Budget*, August 2023, Section 21, pp. 1-2, at <https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf>. For example, if CBO determines that certain legislation will affect mandatory spending—as opposed to discretionary spending—the legislation is subject to House and Senate points of order (parliamentary objections that legislation violates a certain rule) as well as to procedures specified in the Statutory Pay-As-You-Go (PAYGO) Act of 2010 (P.L. 111-139). If CBO determines that a provision affects discretionary spending, it may affect caps on spending that were set in the Budget Control Act of 2011 (P.L. 112-25), enforceable through a process of across-the-board reductions called sequestration. See Congressional Budget Office, *Frequently Asked Questions about CBO Cost Estimates*, <https://www.cbo.gov/about/products/ce-faq>.

<sup>95</sup> If CBO determines that certain legislation will affect mandatory spending—as opposed to discretionary spending—the legislation is subject to House and Senate points of order (parliamentary objections that legislation violates a certain rule) as well as to procedures specified in the Statutory Pay-As-You-Go (PAYGO) Act of 2010 (P.L. 111-139). If CBO determines that a provision affects discretionary spending, it may affect caps on spending that were set in the Budget Control Act of 2011 (P.L. 112-25), enforceable through a process of across-the-board reductions called sequestration. See Congressional Budget Office, *Frequently Asked Questions about CBO Cost Estimates*, <https://www.cbo.gov/about/products/ce-faq>.

CBO uses the term “cost estimates” in this specific context to refer to CBO’s formal evaluations of proposed and enacted legislation regarding the impact on federal outlays and revenues. CBO cost estimates can, but need not, be used to enforce budgetary rules or targets.<sup>96</sup>

## OMB budget scoring

The President uses OMB estimates to conduct budget scoring activities that determine the costs of budget-related legislation, such as the president’s annual budget request.<sup>97</sup> Agencies are required to submit certain types of unique, nonroutine financing proposals to OMB for review of the scoring impact.<sup>98</sup> OMB works with agencies including DOD “to determine the effect of proposals on budget authority, collections, and outlays based on the Administration’s economic and technical assumptions.”<sup>99</sup>

Because MHPI projects involve budgetary commitments of the federal government, OMB scores each project at its inception to determine the amount of budgetary authority that DOD needs to record for that particular project.<sup>100</sup> OMB scores may affect how much money an agency is required to include for a particular project in its annual budget. GAO has noted that a high budgetary score may make certain proposed privatization projects “financially unattractive to DOD.”<sup>101</sup>

OMB scores the estimated costs of the annual appropriations bills and publishes “PAYGO scorecards” that include estimates of how enacted legislation will likely affect mandatory spending or governmental receipts.<sup>102</sup> A sequestration—defined as the automatic spending cuts that can occur through the withdrawal of funding for certain (but not all) government

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rule) as well as to procedures specified in the Statutory Pay-As-You-Go (PAYGO) Act of 2010, which can require a committee of jurisdiction to identify “offsets” to reduce the impact on overall spending. If CBO determines that a provision affects discretionary spending, it may affect caps on spending that were set in the Fiscal Responsibility Act of 2023 (FRA; P.L. 118-5), enforceable through a process of across-the-board reductions called sequestration. See CBO, *Frequently Asked Questions about CBO Cost Estimates*, <https://www.cbo.gov/about/products/ce-faq>.

<sup>96</sup> Within DOD, the term “cost estimates” may be used to refer to a different process. Internally, DOD entities, including the department’s office of Cost Assessment and Program Evaluation (CAPE), may develop estimates for projected costs related to certain programs (e.g., aircraft, weapons systems). DOD uses these estimates internally to support the planning, programming, budgeting, acquisition, and requirements generation processes. While these internal DOD estimates may influence the amount of funding DOD requests for certain programs, they are—unlike CBO cost estimates—not directly related to the legislative process, and they are not used to enforce budgetary rules or targets.

<sup>97</sup> OMB, Circular No. A-11, *Preparation, Submission, and Execution of the Budget*, August 2023, Section 21, Page 7 of Section 10, at <https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf#page=47>.

<sup>98</sup> OMB, Circular No. A-11, *Preparation, Submission, and Execution of the Budget*, August 2023, Page 6 of Section 31, <https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf#page=124>.

<sup>99</sup> OMB, Circular No. A-11, *Preparation, Submission, and Execution of the Budget*, August 2023, Section 21, Page 1 of Section 21, at <https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf#page=99>.

<sup>100</sup> GAO, *Military Housing Privatization: DOD Should Take Steps to Improve Monitoring, Risk Assessment and Performance*, GAO-18-218, March 18, 2018, p. 7, <https://www.gao.gov/assets/700/690858.pdf>.

<sup>101</sup> GAO, *Military Housing: Management Improvements Needed as Pace of Privatization Quickens*, June 2002, p. 31, <https://www.gao.gov/assets/gao-02-624.pdf>.

<sup>102</sup> OMB, Circular No. A-11, *Preparation, Submission, and Execution of the Budget*, August 2023, Section 21, p. 2, at <https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf>.

programs<sup>103</sup>—is triggered at the end of a legislative session if OMB's PAYGO scorecards show a debit in the budget year.<sup>104</sup>

## Directed Scoring

Institutionally, CBO is under the jurisdiction of the budget committees,<sup>105</sup> so the budget committees may decide to direct CBO to conduct an estimate using certain assumptions or spending levels—this has been referred to as “directed scoring.”<sup>106</sup> In other instances, the executive branch, through OMB, may submit a formal request to the budget committees for support in a particular scoring rule that is preferred by the Administration.<sup>107</sup> Legislation can include directed scoring provisions.<sup>108</sup> CBO may note in its published cost estimates whether the method of estimating deviates from standard practice as a result of directed scoring.<sup>109</sup>

## MHPI Budget Scoring<sup>110</sup>

When Congress first added MHPI authorities to Title 10 in the FY1996 NDAA, CBO reviewed the legislation and was uncertain how DOD might use the broad authorities that the new law provided. CBO did not identify any budgetary impact beyond the stated authorizations of appropriations in the bill, which included \$22 million for the Family Housing Improvement Fund to fund DOD's initiation of the MHPI programs.<sup>111</sup>

In the late 1990s, as DOD began to exercise the new authorities, implementation of the MHPI program was slowed due to disagreement between DOD and OMB on how to score projects that

<sup>103</sup> CBO, *Sequestration*, <https://www.cbo.gov/topics/budget/sequestration>.

<sup>104</sup> OMB, Circular No. A-11, *Preparation, Submission, and Execution of the Budget*, August 2023, Section 21, p. 2, at <https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf>.

<sup>105</sup> Congressional Budget Act, as amended, ( P.L. 93-344), Section 202(a).

<sup>106</sup> For example, some Members of Congress proposed the use of directed scoring in 2009 when Congress was considering a healthcare reform bill. Alexander Bolton, “Dems Brace for CBO Score,” *The Hill*, June 11, 2009, <https://thehill.com/homenews/senate/17625-dems-brace-for-cbo-score/>.

<sup>107</sup> For example, in 2004, then-OMB director Joshua Bolten wrote a letter to the chairman of the House Committee on the Budget, Representative Jim Nussle, explaining the Bush Administration's preference for scoring of DOD's TRICARE accrual payments. Bolten stated that the change was intended to avoid causing “the deficit to increase by more than \$60 billion through 2010 or require enactment of offsetting reductions of the same magnitude in defense and non-defense spending.” See Letter from Joshua Bolten, Director of the Office of Management and Budget, to Representative Jim Nussle, Chairman of House Committee on the Budget, December 9, 2004, on file with the authors.

<sup>108</sup> For example, see the legislative language regarding the baseline used for the Temporary Assistance for Needy Families Program, in the Health Benefits for Minors Act of 2017 (P.L. 115-31, Division M, Title I, §102). <https://uscode.house.gov/statviewer.htm?volume=131&page=803>.

<sup>109</sup> For example, in a January 2024 cost estimate for Senate Amendment 1381 to H.R. 2872, the Further Additional Continuing Appropriations and Other Extensions Act, 2024, CBO noted that “For purposes of estimating appropriation legislation for 2024, the House and Senate Committees on the Budget have directed that appropriations provided to three power marketing administrations for purchase power and wheeling (PPW) be considered fully offset by receipts collected to recover expenses related to PPW. Without that direction, CBO's estimate of those collections would be \$96 million less than the annualized amount of funding for PPW expenses under division A.” CBO, CBO, *Cost Estimate*, Senate Amendment 1381 to H.R. 2872, the Further Additional Continuing Appropriations and Other Extensions Act, 2024, January 17, 2024, p. 3, [https://www.cbo.gov/system/files/2024-01/SA1381\\_to\\_HR2872\\_CR3.pdf#page=3](https://www.cbo.gov/system/files/2024-01/SA1381_to_HR2872_CR3.pdf#page=3).

<sup>110</sup> This section provides a summary of scoring issues related to MHPI programs; for a more detailed analysis, see Appendix 2.

<sup>111</sup> Letter from June O'Neal, Director, Congressional Budget Office, to Representative Floyd Spence, Chairman, Committee on National Security, May 30, 1995, p. 14.



used various MHPI authorities.<sup>112</sup> In 1997, DOD and OMB agreed that OMB would score only the government's direct contribution to an MHPI project, and would not include other funds expended by the MHPI entities as government participation or activity.<sup>113</sup> This allowed the MHPI entities to borrow and spend money without requiring additional DOD budget authority.

In 2002, CBO published a report asserting that OMB accounting rules as outlined in the 1997 agreement "were at odds with government-wide standards and that the budget scores were too low."<sup>114</sup> CBO stated in a later report, "DOD was obligating the government for significantly more than it was recording" as discretionary spending in annual defense budgets.<sup>115</sup>

In 2004, CBO issued a defense budget cost estimate that included a detailed explanation of its differences with OMB regarding the scoring rules for the MHPI.<sup>116</sup> According to CBO, "public-private ventures entered into by DOD and its private-sector partners should be treated as governmental for budget purposes." In effect, CBO was indicating that it intended to score the provision as direct spending. Scoring it this way would, in turn, trigger the statutory requirements noted above.<sup>117</sup>

In 2005, OMB issued a memorandum that changed its scoring rules to better align with CBO's view.<sup>118</sup> The memorandum stated that the new OMB rules would take effect as of September 30, 2010.<sup>119</sup> DOD opposed the decision based on concerns that the newer scoring rules would make it more difficult for existing projects to borrow money.<sup>120</sup> In 2010, OMB granted an exemption

<sup>112</sup> GAO, *Military Housing: Continued Concerns in Implementing the Privatization Initiative*, March 2000, p. 26, <https://www.gao.gov/assets/nsiad-00-71.pdf>.

<sup>113</sup> GAO, *Military Housing Privatization: DOD Should Take Steps to Improve Monitoring, Risk Assessment and Performance*, pp. 28-29.

<sup>114</sup> GAO, *Military Housing: Management Improvements Needed as Pace of Privatization Quickens*, June 2002, p. 31, <https://www.gao.gov/assets/gao-02-624.pdf>.

<sup>115</sup> CBO, *Congressional Budget Office Cost Estimate, H.R. 1588, National Defense Authorization Act for Fiscal Year 2004*, May 16, 2003, p. 25. <https://www.cbo.gov/sites/default/files/108th-congress-2003-2004/costestimate/hr158800.pdf#page=25>.

<sup>116</sup> CBO, *Congressional Budget Office Cost Estimate, H.R. 4879, Military Housing Improvement Act of 2004*, July 30, 2004, p. 3, <https://www.cbo.gov/sites/default/files/108th-congress-2003-2004/costestimate/hr48790.pdf>.

<sup>117</sup> As noted in footnote 84, "Pay-as-you go" rules specify that legislation that would increase direct spending or decrease revenues over certain time periods is subject to a point of order unless such costs are offset by other provisions in the legislation that decrease direct spending or increase revenues by a corresponding amount. For the Armed Services Committees, identifying offsets for direct spending is difficult because the NDAA provides defense budget authorization but does not provide the actual defense appropriations, which come under the jurisdiction of the Appropriations Committees. "Consequently, reductions to the amounts authorized in the NDAA for discretionary appropriations cannot be used to offset increases in direct spending proposed in other parts of the bill for the purposes of enforcing the Congressional budget resolution or pay-as-you-go procedures. For example, reducing the number of warships or fighter aircraft authorized for purchase by the NDAA would not result in savings that could be used to offset direct spending proposed in the bill, because the funding source of those weapons would be a subsequent appropriation act, not the NDAA." See CBO, Statement of Sarah Jennings, "Direct Spending and Defense Programs," p. 2, 5, March 23, 2010, at <https://apps.dtic.mil/sti/trecms/pdf/AD1134642.pdf>.

<sup>118</sup> GAO, *Military Housing Privatization: DOD Should Take Steps to Improve Monitoring, Risk Assessment and Performance*, pp. 28-29, <https://www.gao.gov/assets/700/690858.pdf>.

<sup>119</sup> GAO, *Military Housing Privatization: DOD Should Take Steps to Improve Monitoring, Risk Assessment and Performance*, pp. 28-29, <https://www.gao.gov/assets/700/690858.pdf>. Also see Matthew C. Godfrey et al., *Privatizing Military Family Housing: A History of the U.S. Army's Residential Communities Initiative, 1995-2010*, Prepared for the Office of the Assistant Secretary of the Army, Installations, Energy & Environment, p. 245, <https://usace.contentdm.oclc.org/digital/api/collection/p16021coll4/id/232/download>.

<sup>120</sup> Matthew C. Godfrey et al., *Privatizing Military Family Housing: A History of the U.S. Army's Residential Communities Initiative, 1995-2010*, Prepared for the Office of the Assistant Secretary of the Army, Installations, Energy & Environment, p. 245, <https://usace.contentdm.oclc.org/digital/api/collection/p16021coll4/id/232/download>.



for previously existing projects, and said that “existing projects with the co-owned LLC management structure may continue to use private financing without the borrowing being scored for expansion and recapitalization of existing housing projects.”<sup>121</sup>

By the time the new OMB scoring rules for MHPI projects took effect, DOD had initiated MHPI projects that renovated or replaced most of the inadequate military family housing stocks in the United States.<sup>122</sup>

Today, OMB and CBO generally agree on the methodology for budget scoring and cost estimates for MHPI projects.<sup>123</sup> For scoring future MHPI proposals, OMB intends to evaluate the individual proposals on a case-by-case basis.<sup>124</sup>

As a result of the changes to budget scoring described above, a proposal—from Congress or DOD—to initiate new MHPI projects may require DOD to obtain a level of budget authority that is higher than the level of budget authority that was recorded to execute similar MHPI projects in the program’s earlier years.

## Issues for Congress

In providing annual appropriations and exercising oversight over DOD, Congress has historically chosen among three options for providing military housing:

1. appropriating funds for military construction accounts for construction or renovation of traditional government-owned and -operated housing facilities;
2. appropriating funds for military construction accounts and military personnel accounts to initiate and sustain privatized housing facilities under the MHPI; and
3. appropriating funds through Basic Allowance for Housing military personnel accounts for servicemembers to receive a BAH and obtain housing off base in the private-sector market near military installations.<sup>125</sup>

The costs associated with military housing are one factor among many Congress may consider when making decisions about appropriations and oversight of the types of housing that DOD provides for servicemembers. Other considerations may include the quality of the housing and its impact on servicemembers’ quality of life; the impact of housing configurations on good order and discipline; the speed and flexibility with which DOD can obtain or divest housing infrastructure to meet changing demand over time; and the issue of expertise, i.e., the extent to which DOD and the military services may prefer to retain the institutional capability to manage housing facilities or, alternatively, to privatize some or all of those capabilities and refocus limited DOD resources on more traditional military missions.<sup>126</sup> A detailed analysis of all of these issues

<sup>121</sup> Ibid. p. 246.

<sup>122</sup> This observation was noted by an OMB official in an interview with CRS in November 2023. It was also reportedly noted in a 2010 letter from OMB to Under Secretary of Defense Dorothy Robyn, which stated, “In light of ... the fact that the goal of eliminating inadequate U.S. housing has almost been reached, there is no longer a compelling reason for the special scoring of LLCs.” See Matthew C. Godfrey et al., *Privatizing Military Family Housing: A History of the U.S. Army’s Residential Communities Initiative, 1995-2010*, Prepared for the Office of the Assistant Secretary of the Army, Installations, Energy & Environment, p. 246, <https://usace.contentdm.oclc.org/digital/api/collection/p16021coll4/id/232/download>.

<sup>123</sup> This observation was noted by an OMB official in an interview with CRS in November 2023.

<sup>124</sup> Information provided by an OMB official in an interview with CRS in November 2023.

<sup>125</sup> For more about the mix of military housing, see CRS Report R47728, *Military Housing*, by Andrew Tilghman.

<sup>126</sup> “DOD has defined Fourth Estate organizations as DOD organizations, other than the military services, that have (continued...)”

is beyond the scope of this report, which is focused on the costs and budgetary issues of the MHPI programs.<sup>127</sup> Congress addressed some issues related to the quality of MHPI housing and its impact on servicemembers' quality of life in the FY2020 NDAA, which included a series of legislative reform efforts collectively known as the "Tenant Bill of Rights." A summary of those legislative efforts is outlined in the text box below.

#### **FY2020 MHPI Reforms and the Tenant Bill of Rights**

In the MHPI program's early years, many military officials and families lauded the program as a success following investment in new construction and renovations.

In 2019, Congress heard complaints from some military families about substandard housing and issues such as black mold, rodents, insect infestations, lead paint, damaged plumbing, and ineffective HVAC units. Concerns among some Members of Congress about DOD's oversight of the private housing companies prompted Congress to enact a series of reforms and new requirements. Some of the complaints from MHPI tenants that drew public attention in news reports and in congressional testimony have involved mold.

The Department of Justice investigated some MHPI companies for allegations of misconduct.

Congress's effort to legislate reforms for the MHPI program included the "Tenant Bill of Rights" included in Section 3011 of the FY2020 NDAA. MHPI reform continued in the FY2021 NDAA; between both laws Congress imposed more than 30 new requirements on the MHPI companies. The new laws were designed to impose new oversight requirements on the MHPI companies, to increase assistance available to residents of privatized housing, and to ensure DOD has adequate personnel to conduct oversight of the condition of private housing units.

Full implementation of the specific requirements in the Tenant Bill of Rights was slowed by DOD's lack of authority to make unilateral changes to existing, legally binding business agreements with MHPI companies. Instead, DOD officials have asked each company to voluntarily incorporate the FY2020 NDAA provisions into existing legal agreements.

In April 2023, the GAO identified several unresolved concerns about the MHPI programs, including:

- the need for a more formal dispute resolution process that allows tenants to lodge formal complaints about the condition of their housing,
- the need for the military departments to develop clear and consistent inspection standards,
- the failure of certain MHPI projects to comply with elements of the FY2020 Tenant Bill of Rights, and
- the need for additional guidance regarding the role of tenant advocates.

For additional information about MHPI reforms stemming from the FY2020 NDAA, see CRS Report R47728, *Military Housing*, by Andrew Tilghman

Evaluating the costs of privatized military housing and comparing the costs of alternative approaches for providing military housing is complex and can include numerous variables. Some of the many cost considerations associated with the MHPI are outlined below.

## **Long-term Financial Effects**

Congress may seek to determine the long-term financial impacts of the MHPI program on defense spending and costs related to military housing.

The long-term cost of the MHPI programs, and the life-cycle costs analysis for comparing MHPI to traditional MILCON projects, have been debated since the program's early years.<sup>128</sup> Congress

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DOD manpower resources. These organizations include the Office of the Secretary of Defense, the Joint Staff, the defense agencies, DOD field activities, the Joint Staff, and the Combatant Commands." GAO, *Defense Management: DOD Needs to Address Inefficiencies and Implement Reform Across Defense Agencies and DOD Field Activities*, GAO-18-592, September 2018, p. 25, <https://www.gao.gov/assets/d18592.pdf#page=29>.

<sup>127</sup> Analysis of some of these military housing issues is contained in CRS Report R47728, *Military Housing*, by Andrew Tilghman.

<sup>128</sup> GAO, *Privatization Off to a Slow Start and Continued Management Attention Needed*, July 1998, p. 6, <https://www.gao.gov/assets/nsiad-98-178.pdf#page=8>.

may consider whether or not to evaluate the MHPI program's financial performance or to seek some form of longitudinal cost analysis based on the MHPI's nearly three decades of operational existence. At the time the MHPI was enacted in FY1996, DOD estimated that it would cost about \$20 billion in appropriated funds and would take up to 40 years to eliminate poor quality military family housing through the traditional military construction program. MHPI advocates in DOD and in Congress asserted that the MHPI program could eliminate poor quality housing more quickly or more cost effectively than the traditional MILCON program.<sup>129</sup> Some advocates claim that the MHPI program has been a cost-effective way to provide military housing.<sup>130</sup> DOD policy states that "market efficiencies and market quality standards reduce overall long-term costs to the Government."<sup>131</sup> However, some budget analysts at CBO have maintain that the MHPI approach is "ultimately more expensive" than the traditional military construction program.<sup>132</sup>

If undertaken, such an evaluation could consider the alternative effects on federal spending associated with military construction, housing allowances, and other DOD accounts. Such an evaluation could compare the actual costs associated with the MHPI program since 1996 with estimates on costs that would have been incurred using the traditional military construction funding and authorities. Congress could consider commissioning a comprehensive review of the program from entities that include DOD (For example, the office of Cost Assessment and Program Evaluation), GAO, a federally funded research and development center (FFRDC), and/or an independent, nongovernmental research organization.

### MHPI impact on BAH costs

Congress may consider the impact of MHPI programs on reshaping housing-related spending across certain DOD accounts, in particular the impact on BAH spending from military personnel accounts. CBO has reported an increase in certain housing costs during the past 20 years, driven in part by transition from government-operated family housing to MHPI family housing (**Figure 1**).<sup>133</sup> On one hand, the MHPI programs have decreased spending for family housing construction accounts because some family housing construction costs were transferred from the government to MHPI entities. At the same time, MHPI programs have increased BAH costs because military tenants living in MHPI housing draw a BAH (while tenants in government-owned and operated housing do not). A CBO report noted that "the number of service members collecting housing

<sup>129</sup> GAO, *Privatization Off to a Slow Start and Continued Management Attention Needed*, July 1998, p. 6, <https://www.gao.gov/assets/nsiad-98-178.pdf#page=8>.

<sup>130</sup> The Military Housing Association asserts that the MHPI programs have "saved taxpayers billions of dollars by leveraging \$4 billion in government funding into more than \$32 billion in total private funding and development for a portfolio of over 200,000 homes." See Military Housing Association website, About Us page, <https://www.militaryhousingassociation.org/about/about-mhpi/>.

For another example, the Navy's FY2023 Agency Financial Report stated that: "By using the expertise and tools afforded to private companies Navy military housing improvements occurred more expeditiously and efficiently than the traditional military construction process would allow." See Department of the Navy, *Fiscal Year 2023 Agency Financial Report*, p. 138, [https://www.secnav.navy.mil/fmc/FR/FY\\_2023\\_DON\\_Agency%20Financial\\_Report\\_FINAL\\_11.15.2023.pdf](https://www.secnav.navy.mil/fmc/FR/FY_2023_DON_Agency%20Financial_Report_FINAL_11.15.2023.pdf).

<sup>131</sup> DOD, *DoD Manual on Housing Management, Incorporating Change 2, August 31, 2018*, Appendix 1 to Enclosure 3, August 31, 2018, p. 31, <https://www.acq.osd.mil/eie/Downloads/Housing/App%20H%20-%20DoD%20Housing%20Manual%20-Oct%202010.pdf>.

<sup>132</sup> CBO, *Congressional Budget Office Cost Estimate, H.R. 4879, Military Housing Improvement Act of 2004*, July 30, 2004, p. 2, <https://www.cbo.gov/sites/default/files/108th-congress-2003-2004/costestimate/hr48790.pdf>.

<sup>133</sup> CBO, *How the Military's Basic Allowance for Housing Compares with Civilian Housing Costs*, March 2024, pp. 8-9, at <https://www.cbo.gov/system/files/2024-03/59570-Military-Housing.pdf>.

allowances will rise as existing units are privatized and new units are built.”<sup>134</sup> The share of servicemembers who receive BAH has grown from about one-half of active-duty servicemembers in 2000 to two-thirds in 2019.<sup>135</sup> The CBO report observed that “BAH increased significantly more than the family-housing budget account shrank” and that the increase in the number of servicemembers drawing BAH “is directly related to the privatization of military housing complexes.”<sup>136</sup> Another factor affecting the number of servicemembers drawing BAH was the total size, or end strength, of the active-duty force, which increased in the years after 2001, reached a relative peak in 2010 and has declined in the years since then.<sup>137</sup>

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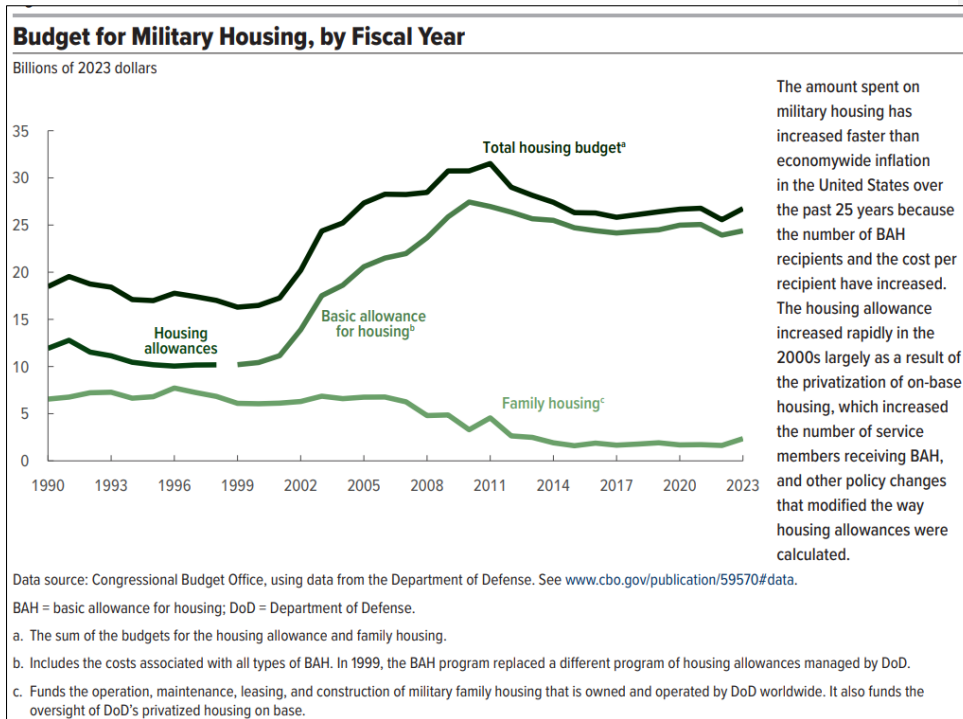
<sup>134</sup> CBO, *The Budgetary Treatment of Leases and Public/Private Ventures*, February 2003, p. 30, <https://www.cbo.gov/sites/default/files/108th-congress-2003-2004/reports/02-03-leasesreport.pdf#page=44>.

<sup>135</sup> CBO, *How the Military’s Basic Allowance for Housing Compares with Civilian Housing Costs*, March 2024, pp. 7-8, <https://www.cbo.gov/system/files/2024-03/59570-Military-Housing.pdf>.

<sup>136</sup> CBO noted that the transition to the MHPI program has accounted for “roughly one-third of the overall growth in spending on BAH over that period. Other factors, although smaller in scope, also contributed to more service members receiving BAH.” See CBO, *How the Military’s Basic Allowance for Housing Compares with Civilian Housing Costs*, March 2024, pp. 8-9, <https://www.cbo.gov/system/files/2024-03/59570-Military-Housing.pdf>.

<sup>137</sup> DOD, Office of the Undersecretary of Defense, Personnel and Readiness, *Population Representation in the Military Services: Fiscal Year 2011 Summary Report*, 2011, p. 4, [https://prhome.defense.gov/Portals/52/Documents/MRA\\_Docs/MPP/AP/poprep/2011/summary.pdf](https://prhome.defense.gov/Portals/52/Documents/MRA_Docs/MPP/AP/poprep/2011/summary.pdf).

Figure 1. CBO Estimate of DOD Housing Costs



Source: CBO, *How the Military's Basic Allowance for Housing Compares with Civilian Housing Costs*, March 2024, pp. 8-9, at <https://www.cbo.gov/system/files/2024-03/59570-Military-Housing.pdf>.

### Future Life-Cycle Cost Comparisons

Congress may consider whether or not to evaluate DOD's policy that requires a life-cycle cost comparison as a part of the DOD's internal MHPI project approval process. DOD policy requires consideration of two specific alternatives: the proposed privatization project and a MILCON project to construct a project of identical size and scope. Under this policy, cost factors that DOD is required to consider for the MILCON option includes "Construction, Renovation, Demolition, and/or Design" and "Capital Repair and Replacement and Out-year Revitalization."<sup>138</sup> The policy does not appear to require consideration of these cost factors for evaluating the privatization options, despite DOD budget requests for FY2024 and FY2025 that included appropriations intended for such activities under the Family Housing Construction accounts for the Army and Air Force.<sup>139</sup> Additionally, the policy for life-cycle comparisons does not include any specific reference to the direct payments that Congress authorized DOD to make to MHPI entities since

<sup>138</sup> DOD, *DoD Manual on Housing Management, Incorporating Change 2, August 31, 2018*, Appendix 1 to Enclosure 3, August 31, 2018, p. 40, <https://www.acq.osd.mil/eie/Downloads/Housing/App%20H%20-%20DoD%20Housing%20Manual%20-Oct%202010.pdf>.

<sup>139</sup> *Ibid.*

2018.<sup>140</sup> Congress may consider requesting information to determine whether the life-cycle cost comparison policy fully incorporates the program's needs as reflected in the FY2024 and FY2025 budget requests.

## Direct Payments

In 2019, Congress provided indefinite authority for DOD to provide direct payments to MHPI companies. Congress has amended the language of that provision several times and made adjustments to the formula for calculating the payments.<sup>141</sup> If the intent of providing those funds was to support the financial health of the MHPI programs, Congress may consider whether or not to periodically reassess the level or type of funding authorized to ensure funding levels align with the MHPI program's level of needs. Congress has used such funding to incentivize MHPI companies to comply with certain oversight measures.<sup>142</sup> Congress may seek to evaluate the effectiveness of such funding for this purpose and consider whether or not to expand the use of this funding as an incentive to efficiently operating entities.

## Unaccompanied Housing

Reports about poor conditions in unaccompanied military housing<sup>143</sup> have focused some Members' attention on the particular subset of military housing issues impacting servicemembers without dependents, which often includes the most junior enlisted members of the force.<sup>144</sup> DOD officials and some Members have proposed or expressed support for the option of addressing poor quality unaccompanied housing by expanding the MHPI program to renovate or rebuild some of DOD's government-owned and operated unaccompanied housing facilities.<sup>145</sup> Alternatively, other Members have questioned the performance of existing privatized housing programs and expressed support for additional investment and oversight for the existing government-owned-and-operated housing facilities.<sup>146</sup>

<sup>140</sup> See DOD, *DoD Manual on Housing Management*, p. 40. For information about direct payments, see Section 606 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (P.L. 115-232) as amended; also contained in 10 U.S.C. §2871 note. For additional information, see CRS Report R47728, *Military Housing*, by Andrew Tilghman.

<sup>141</sup> Appendix B, CRS Report R47728, *Military Housing*, by Andrew Tilghman.

<sup>142</sup> For example, see FY2024 NDAA (P.L. 118-31) Section 2822(c) which prohibits DOD from providing these direct payments "unless the Assistant Secretary of Defense for Energy, Installations, and Environment determines the lessor is in compliance with the Military Housing Privatization Initiative Tenant Bill of Rights developed under section 2890 of title 10, United States Code."

<sup>143</sup> See GAO, *Military Barracks: Poor Living Conditions Undermine Quality of Life and Readiness*, GAO-23-105797, September 2023, p. 7, <https://www.gao.gov/products/gao-23-105797>.

<sup>144</sup> See U.S. Congress, House Committee on Armed Services, Subcommittee on Readiness, *Military Barracks and Poor Living Conditions*, 118th Cong., 2nd sess., February 7, 2024.

<sup>145</sup> In the House Armed Services Subcommittee on Readiness hearing noted above, four DOD officials responsible for overseeing military installations and housing issues expressed support for expanding privatized housing programs for unaccompanied servicemembers. Also see Svetlana Shkolnikova, "Military needs more public-private partnerships to improve housing, lawmakers say," *Stars and Stripes*, February 7, 2024, <https://www.stripes.com/theaters/us/2024-02-07/military-housing-barracks-lawmakers-poor-conditions-12931548.html>. Also see U.S. Congress, House Committee on Armed Services, Subcommittee on Readiness, *Military Barracks and Poor Living Conditions*, 118th Cong., 2nd sess., February 7, 2024. Also see House Armed Services Committee, "Bipartisan HASC Delegation Visits Hampton Roads," press release, June 26, 2024, <https://armedservices.house.gov/news/press-releases/bipartisan-hasc-delegation-visits-hampton-roads>.

<sup>146</sup> See, for example, U.S. Congress, House Appropriations Committee, Subcommittee on Military Construction, (continued...)

In assessing the option of addressing the poor condition of unaccompanied housing facilities by initiating new privatized housing projects for unaccompanied servicemembers, Congress may consider the costs and effectiveness of new privatized housing compared to other options, such as increasing funding for and/or improving the management and oversight of government-owned housing. Congress may also consider the option of increasing housing allowances for servicemembers to obtain housing in the private rental market. Congress could seek estimates for how expanding MHPI programs could impact future military spending (e.g., DOD budget requirements for BAH via military personnel accounts, and military construction accounts, among others). Congress may look to past experience with the MHPI's family housing programs and the limited number of MHPI projects that provide unaccompanied housing in the Army and Navy.

Congress may also consider how privatization projects for unaccompanied housing might raise issues that differ from DOD's experience with privatized family housing programs. For example, DOD's ability to provide MHPI projects with a reliable funding stream in the form of monthly BAH payments on behalf of junior enlisted servicemembers may be constrained by current statute. Nearly all servicemembers in the United States with dependents are statutorily authorized to receive BAH. However, certain servicemembers without dependents in paygrades below E-6 are not authorized to receive BAH.<sup>147</sup> Congress may consider whether or not to amend provisions that limit BAH payments to junior servicemembers by enacting a law that reduces or eliminates those limits. Alternatively, Congress may also consider whether or not to provide similar authority to that temporarily provided in 2002, which authorized the Navy to provide sailors with a higher-than-otherwise-authorized "partial BAH."<sup>148</sup> A Senate-reported draft of a NDAA for FY2025 includes a provisions that would authorized expanded eligibility for BAH for unaccompanied servicemembers and would authorize higher rates of partial BAH for unaccompanied servicemembers.<sup>149</sup>

Congress may also consider certain non-budgetary issues that may be affected by a transition to more privatized housing for unaccompanied servicemembers; for example, how additional privatized housing for unaccompanied servicemembers may impact DOD's traditional "unit integrity" policies.<sup>150</sup> Unit integrity policies encourage or require the assignment of servicemembers from a certain unit to a housing facility shared by others in that unit. Similarly, Congress may consider the extent to which privatized housing arrangements can make it more challenging for military commanders to exercise authority in the interest of servicemembers (e.g., unannounced health and welfare inspections).<sup>151</sup>

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Veterans Affairs and Related Agencies, *Hearing on the Fiscal Year 2025 Navy and Marine Corps Military Construction Budget Request*, 118th Cong., 2nd sess., April 11, 2024.

letter from Rep. Mike Levin, Member of Congress, et al. to Lloyd Austin III, Secretary of Defense, October 13, 2023, [https://levin.house.gov/imo/media/doc/rep\\_levin\\_letter\\_to\\_dod\\_on\\_barrack\\_conditions.pdf](https://levin.house.gov/imo/media/doc/rep_levin_letter_to_dod_on_barrack_conditions.pdf).

<sup>147</sup> 37 U.S.C. §403(f)(2).

<sup>148</sup> 10 U.S.C. §2881a expired in 2009. It allowed the Navy to pay higher rates of partial basic allowance for housing than the rates authorized under section 403(o) of Title 37.

<sup>149</sup> Senate Armed Services Committee, Executive Summary of the FY2025 NDAA, June 2024, p. 14, at [https://www.armed-services.senate.gov/imo/media/doc/fy25\\_ndaa\\_executive\\_summary.pdf](https://www.armed-services.senate.gov/imo/media/doc/fy25_ndaa_executive_summary.pdf).

<sup>150</sup> According to the Army, "Unit integrity is important to ensure good order and discipline and health and welfare of the servicemember. Room assignments will be managed at the company/battery/detachment level, whenever possible, or at the next higher echelon with available space." See *Army Barracks Management Program Handbook*, A guide to property management and operations of Army barracks, January 9, 2018, p. 11, [https://home.army.mil/imcom/application/files/2715/1639/0097/ABMP\\_Handbook\\_Final\\_9\\_January\\_2018.pdf](https://home.army.mil/imcom/application/files/2715/1639/0097/ABMP_Handbook_Final_9_January_2018.pdf).

<sup>151</sup> GAO, *Military Housing: Information on the Privatization of Unaccompanied Personnel*, GAO-14-313, March 2014, (continued...)



In assessing the costs associated with the option of addressing the poor condition of current unaccompanied housing facilities by renovating or rebuilding housing using the traditional military construction program, Congress may consider requesting from DOD an estimate on the total time and costs associated with the long-term needs for barracks improvement projects across the department. Congress may also consider measures to address concerns about the funding and execution of long-term sustainment for government-owned barracks. DOD has in some instances underfunded FSRM funding for maintaining barracks;<sup>152</sup> Congress may evaluate the effectiveness of ongoing efforts to ameliorate that pattern of underfunding FSRM for barracks.<sup>153</sup>

In assessing the costs associated with the option of addressing the poor condition of current unaccompanied housing facilities by authorizing more unaccompanied servicemembers to receive BAH to live off base, Congress may consider the impact of this policy approach on future DOD budget requirements for BAH via military personnel accounts. Congress may consider the extent to which this policy approach might result in excess infrastructure if the existing on-base barracks go unused. Congress may also consider factors that do not directly impact costs, such as the potential impact such a policy may have on morale or esprit de corps in the on-base military community. Congress may seek input from DOD and local military communities about other potential impacts of a policy that results in more single servicemembers living off base in civilian communities surrounding military installations.

In making long-term decisions about investment in housing at specific locations, Congress may consider the status of the existing private sector housing supply in the area near a military installation and whether that housing is sufficient to meet the military's current or future housing needs. In locations where the surrounding community has an excess of civilian housing supply and/or a low cost of housing, Congress may find it cost-effective to pursue policies that rely on BAH and shift servicemembers into the private-sector housing market off base. On the other hand, in locations where the surrounding community has a shortage in civilian housing supply or a high cost for housing, Congress may find it cost-effective to pursue policies that rely more on options involving government-owned and -operated facilities or MHPI projects. Congress may seek to target certain policies or appropriations to locations where DOD has documented limitations to the private-sector housing market in that location. To obtain information about individual installations or locations, Congress may consider DOD's Housing Requirements and Market Analysis (HRMA) reports for individual installations, which DOD is statutorily required to conduct every five years.<sup>154</sup> Congress may also consider consulting housing-related research regarding individual locations, funded through the Office of Local Defense Community Cooperation.<sup>155</sup>

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p. 11, <https://www.gao.gov/assets/gao-14-313.pdf>. Also see LMI, Unaccompanied Personnel Housing for Junior Enlisted Members, May 2010, section 5-2, <https://www.acq.osd.mil/eie/Downloads/Housing/UPH%20Report.pdf>.

<sup>152</sup> GAO, *Defense Infrastructure: DOD Should Better Manage Risks Posed by Deferred Facility Maintenance*, GAO-22-104481, January 2022, p. 23, <https://www.gao.gov/assets/gao-22-104481.pdf#page=28>.

<sup>153</sup> Section 2814 of the FY2022 NDAA (P.L. 117-81) requires the Secretaries of the military departments to direct annual FSRM funding for improvements to military unaccompanied housing facilities in an amount equal to 5% of the estimated replacement cost of the total inventory of unaccompanied housing under the jurisdiction of the department's secretary. The requirement expires at the end of FY 2026.

<sup>154</sup> P.L. 117-263 §2821 and 10 U.S.C. §2837.

<sup>155</sup> CRS Report R47629, *Department of Defense Community Support Programs*, by Andrew Tilghman and Adam G. Levin.



## Budget Scoring

An expansion of MHPI programs to include additional use of privatized unaccompanied housing would likely be subject to budget scoring by either the executive or legislative branch (or both). Budget scoring could impact the amount of budget authority that DOD would need to include in its annual budget during the budget year cycle when a new MHPI contract is signed.

Congress may consider the effects that certain policies and statutes related to cost estimates and budget scoring may have on the management of current MHPI program and any proposed expansion of MHPI programs.<sup>156</sup> If CBO makes a cost estimate determination that a new MHPI proposal involves direct spending, legislative enactment of such a proposal becomes more challenging.<sup>157</sup> Some analysts have pointed to changes in budget scoring rules (as applied to MHPI programs) in the 2010s as a contributing factor in the problems related to the condition of MHPI family housing that were identified during the following decade.<sup>158</sup> Congress may consider the current budget scoring rules to determine whether the current approach is fully and accurately informing Members about the long-term costs and effects of legislation related to MHPI projects.

Congress may consider changing the current budget scoring rules regarding MHPI programs. The House and Senate Budget Committees have jurisdiction over CBO and may direct CBO to conduct an estimate using specific assumptions or deviations from standard practice, generally referred to as “directed scoring.”<sup>159</sup> CBO cost estimates sometimes note when the method of estimating deviates from standard practice by request of Congress. Examples of directed scoring in recent months are included below.

- In a November 2023 cost estimate for H.R. 6363, Further Continuing Appropriations and Other Extensions Act, 2024, CBO noted, “at the direction of the House Committee on the Budget, CBO has excluded the cost of amending the Dairy Base Production History Adjustment in section 102 from the costs attributable to this legislation. CBO estimates that the cost of enacting that provision would total \$105 million over the 2024-2033 period.”<sup>160</sup>
- In a January 2024 cost estimate for Senate Amendment 1381 to H.R. 2872, the Further Additional Continuing Appropriations and Other Extensions Act, 2024, CBO noted that “For purposes of estimating appropriation legislation for 2024, the House and Senate Committees on the Budget have directed that

<sup>156</sup> As noted earlier, if CBO determines that certain legislation will affect mandatory spending—as opposed to discretionary spending—the legislation is subject to House and Senate points of order (parliamentary objections that legislation violates a certain rule) as well as to procedures specified in the Statutory Pay-As-You-Go (PAYGO) Act of 2010 (P.L. 111-139). If CBO determines that a provision affects discretionary spending, it may affect caps on spending that were set in the Budget Control Act of 2011 (P.L. 112-25), enforceable through a process of across-the-board reductions called sequestration. See Congressional Budget Office, *Frequently Asked Questions about CBO Cost Estimates*, <https://www.cbo.gov/about/products/ce-faq>.

<sup>157</sup> Legislation that affects direct spending, also known as mandatory spending, is subject to House and Senate points of order (parliamentary objections that legislation violates a certain rule) as well as to procedures specified in the Statutory Pay-As-You-Go (PAYGO) Act of 2010. See Congressional Budget Office, *Frequently Asked Questions about CBO Cost Estimates*, <https://www.cbo.gov/about/products/ce-faq>.

<sup>158</sup> For example, see Sandy Apgar and Mark Cancian, *The Pentagon Shouldn't Be a Landlord*, Wall Street Journal, April 3, 2019, at [https://www.wsj.com/articles/the-pentagon-shouldnt-be-a-landlord-11554332700?mod=article\\_inline](https://www.wsj.com/articles/the-pentagon-shouldnt-be-a-landlord-11554332700?mod=article_inline). The authors contend that the changes to budget scoring “hampered the normal process of refinancing and restructuring private construction projects.”

<sup>159</sup> Congressional Budget Act, as amended (P.L. 93-344), Section 202(a).

<sup>160</sup> Congressional Budget Office, *Cost Estimate for H.R. 6363, Further Continuing Appropriations and Other Extensions Act, 2024*, November 30, 2023, [https://www.cbo.gov/system/files/2023-11/hr6363\\_DivA-and-DivB.pdf](https://www.cbo.gov/system/files/2023-11/hr6363_DivA-and-DivB.pdf).

appropriations provided to three power marketing administrations for purchase power and wheeling (PPW) be considered fully offset by receipts collected to recover expenses related to PPW. Without that direction, CBO's estimate of those collections would be \$96 million less than the annualized amount of funding for PPW expenses under division A."<sup>161</sup>

Congress may consider whether or not to request input from DOD, OMB, GAO and/or nongovernment analysts regarding the effect that changing budget scoring rules might have on military housing options, costs, quality, and long-term government spending levels.

## Future Policy Constraints

The MHPI program may impose some constraints on DOD and Congress related to potential future implementation of certain policy options or proposals related to military housing and BAH. Changing BAH rates can impact the revenue for MHPI programs because MHPI contracts peg DOD payments to MHPI entities to the rate of current BAH. Therefore, reducing BAH rates in turn reduces the monthly revenue for MHPI projects and may put the financial health of MHPI programs at risk; this potential second-order effect of reducing BAH rates may make Congress reluctant to make such change to the rates. For example, in the 2020 Quadrennial Review of Military Compensation (QRMC), DOD examined a potential structural change to the military compensation system by implementing a "salary system" that would, among other things, eliminate BAH as a separate component of military pay. Such a change, the QRMC noted, "would require the Services to renegotiate how the MHPI partners are compensated" and "the demand for on base housing ... could fall dramatically."<sup>162</sup>

Another example of how the MHPI program may constrain policy options is a CBO proposal to reduce DOD spending by reducing BAH to 80% of average housing costs.<sup>163</sup> CBO's proposal would likely require servicemembers to cover their remaining housing costs using their own money. CBO identified the proposal as a way to reduce overall defense spending and notes that such a change could reduce the DOD discretionary budget by about \$14.8 billion between 2023 and 2032.<sup>164</sup> In assessing a proposal like this, Congress could consider, among numerous other factors, the impact that such a change would have on the MHPI program, the financial health of MHPI entities and the condition of MHPI housing.

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<sup>161</sup> Congressional Budget Office, Cost Estimate for Senate Amendment 1381 to H.R. 2872, the Further Additional Continuing Appropriations and Other Extensions Act, 2024, January 2023, <https://www.cbo.gov/publication/59893>.

<sup>162</sup> The 13<sup>th</sup> Quadrennial Review of Military Compensation, published in 2020, noted that: "Much of military spending for on-base family housing has been transferred elsewhere in the budget because of the privatization initiative." DOD, *The Thirteenth Quadrennial Review of Military Compensation*, December 2020, p. 61, [https://militarypay.defense.gov/Portals/3/QRMC-Vol\\_3\\_final\\_web.pdf](https://militarypay.defense.gov/Portals/3/QRMC-Vol_3_final_web.pdf).

<sup>163</sup> Congressional Budget Office, *Options for Reducing the Deficit, 2023 to 2032*, Volume II: Smaller Reductions, December 2022, p. 34, <https://www.cbo.gov/system/files/2022-12/58163-budget-options-small-effects.pdf>. For information about how DOD calculates average housing costs for setting BAH rates, see CRS Report R47728, *Military Housing*, by Andrew Tilghman.

<sup>164</sup> Congressional Budget Office, *Options for Reducing the Deficit, 2023 to 2032*, Volume II: Smaller Reductions, December 2022, p. 34, <https://www.cbo.gov/system/files/2022-12/58163-budget-options-small-effects.pdf>.

## Appendix A. Cumulative Spending

**Figure A-1. Military Housing Privatization Initiative (MHPI)  
Cumulative Contributions as of September 30, 2023**

As of September 30 (dollar in millions)	2023	2022	Estimated Amount to be Received Over Expected Life***	Estimated Amount to be Paid Over Expected Life***
<b>DoD Initial Contributions to the MHPI Programs (FHIF)*</b>				
Direct cash contributions (See Note 5 - Other Investments)	\$ 4,126.6	\$ 4,126.2	\$ -	4,283.0
Real property contributions to the MHPI project LLCs & LPs (value of Real Property Assets (RPA) conveyed, per OMB Scoring Documents) (see Note 5, Other Investments)	7,912.8	7,901.6	-	8,077.2
Bonds	-	-	-	-
Direct loans disbursed	1,970.7	1,831.9	-	1,970.0
<b>DoD On-Going Contributions to the DoD MHPI Partnerships</b>				
DoD direct payments**	958.9	835.2	-	Unknown
Basic Allowance for Housing (BAH) under §403 of Title 37 to members living in privatized housing for FY2022 and FY2021	8,881.1	6,737.4	-	Unknown
Differential lease payments	16.5	16.5	-	16.5
Property, cash, bonds, and loans	4,186.0	-	-	4,323.1
<b>Private Partner Initial Contributions to the MHPI Partnerships</b>				
Direct cash contributions	638.5	624.2	-	673.0
Real property contributions to the LLCs and LPs	121.3	1.5	-	121.3
Bonds and direct loans contributed	18,715.6	18,825.0	-	18,715.6
<b>Private Partner On-Going Contributions to the MHPI Partnerships</b>				
Direct cash contributions	59.6	-	-	59.6
Bonds/Loans contributed	8,575.5	8,701.3	-	8,575.5
Real property and land contributions	51.7	51.7	-	51.7

**Source:** DOD, Agency Financial Report, FY2023, p. 223, Table 25, [https://comptroller.defense.gov/Portals/45/Documents/afr/fy2023/DoD\\_FY23\\_Agency\\_Financial\\_Report.pdf](https://comptroller.defense.gov/Portals/45/Documents/afr/fy2023/DoD_FY23_Agency_Financial_Report.pdf)

**Notes:** \*\*\* DoD direct payments to the MHPI entities, as required by P.L. 115-232 § 606, as amended. If the Military Member uses MHPI, the associated BAH amount is considered to be an indirect third-party payment from Military Departments.

## Appendix B. Selected OMB and CBO Scoring Documents Related to MHPI

CRS has identified the following documents, or references to such documents, which provide historical context to how OMB and CBO approached determining cost estimates for the MHPI.

### CBO Cost Estimate for 1996 NDAA

In 1995, CBO provided congressional defense committees with cost estimates for various provisions to establish MHPI authorities in proposed versions of the National Defense Authorization Act for Fiscal Year 1996 (FY1996 NDAA; H.R. 1530; S. 1026).<sup>165</sup> The enacted version of the FY1996 NDAA (P.L. 104-106) established the MHPI authorities.<sup>166</sup> At the time, CBO was uncertain how DOD might use the broad authorities that the new law provided, and noted, “some of the options available for use of the DOD Housing Improvement Fund involve up-front commitments of government resources that would be spent over a long period of time.”<sup>167</sup> The cost estimate stated that “CBO does not estimate any budgetary impact beyond the stated authorizations of appropriations in the bill,” referring to the authorization for a subsequent appropriation for FY1996 of \$22 million for the Family Housing Improvement Fund to initiate the MHPI program.<sup>168</sup> CBO’s estimate included a caveat that explained guidelines for how MHPI projects should be accounted for in the federal budget:

According to standard principles of federal accounting, obligations of the [DOD Family Housing Improvement Fund] should reflect the full amount of the financial liability incurred when the government makes such a commitment. In the case of a long-term lease or rental guarantee, for example, obligations should equal the total amount of lease or rental payments over the life of the contract and appropriations to cover the full amount of such obligations should be available before entering into the lease or guarantee. Some commitments could take the form of lease-purchases, which would require the recording of both obligations and outlays up front. For a direct loan or loan guarantee, obligations should equal the estimated present value of federal transactions with the public, excluding receipts from other federal budget accounts that depend on the availability of future appropriations. If obligations were not recorded accurately, outlays could be substantially higher than this estimate assumes.<sup>169</sup>

Following enactment of the MHPI authorities, DOD exercised the MHPI authorities to initiate a series of contract and business agreements with private housing companies. DOD and the MHPI companies created new public-private partnerships and special purpose entities (SPEs) to manage MHPI projects at bases nationwide. Over time, documentation of the details and execution of those agreements provided CBO with additional information for budget analysis. Subsequent CBO cost estimates that incorporated that additional information are noted below.

<sup>165</sup> Letter from June O’Neal, Director, Congressional Budget Office, to Representative Floyd Spence, Chairman, Committee on National Security, May 30, 1995; and Letter from June O’Neal, Director, Congressional Budget Office, to Senator Strom Thurmond, Chairman, Committee on Armed Services, July 26, 1995, on file with the authors.

<sup>166</sup> P.L. 104-106, §§2801-2802. These and related provisions are codified as amended at 10 U.S.C. §§2871-2894a.

<sup>167</sup> Letter from June O’Neal, Director, Congressional Budget Office, to Representative Floyd Spence, Chairman, Committee on National Security, May 30, 1995, p. 14.

<sup>168</sup> Letter from June O’Neal, Director, Congressional Budget Office, to Representative Floyd Spence, Chairman, Committee on National Security, May 30, 1995, p. 14.

<sup>169</sup> Letter from June O’Neal, Director, Congressional Budget Office, to Representative Floyd Spence, Chairman, Committee on National Security, May 30, 1995, p. 14.

## 1997 OMB “Raines” Memo

Initially, in the late 1990s, implementation of the MHPI program slowed as DOD and OMB disagreed about how to score projects that used various MHPI authorities.<sup>170</sup> After some discussion, DOD and OMB reached a written agreement detailing scoring guidelines for the initial 20 projects and adopted the agreed approach in June 1997.<sup>171</sup> The June 1997 OMB memorandum—also known as “the Raines memo,” as it was issued by then-OMB Director Franklin Raines—established that OMB would score only the government’s direct contribution to a project, and would not include private funds expended for the projects (private-sector funds borrowed to support the projects) as government participation or activity.<sup>172</sup>

In one example of these scoring rules in practice, the Air Force initiated one of the earliest MHPI projects at Lackland Air Force Base, Texas, in 1998.<sup>173</sup> GAO estimated that it would have cost \$50 million to construct the housing facilities under the traditional military construction program, but the negotiated terms of the Raines memo permitted the Air Force to sign the contract with the MHPI company for an initial \$6.2 million obligation.<sup>174</sup> According to an official Army history of privatized housing programs, the 1997 OMB scoring guidance was a factor enabling the privatization program to proceed.<sup>175</sup>

In 2002, CBO published a report asserting that OMB scoring rules as outlined in the 1997 agreement differed from government standards.<sup>176</sup> The same year, GAO provided a report to Congress noting the disagreement between OMB and CBO regarding the budget scoring rules for MHPI projects:<sup>177</sup>

As part of its fiscal year 2001 budget review, the Congressional Budget Office assessed the budget scoring amounts for the first four privatization projects. It reported that the methods used by the Office of Management and Budget to determine the projects’ budget score amounts (estimated obligations) were at odds with government-wide standards and that the budget scores were too low. Officials at the Office of Management and Budget disagreed.<sup>178</sup>

<sup>170</sup> GAO, *Military Housing: Continued Concerns in Implementing the Privatization Initiative*, March 2000, p. 26, <https://www.gao.gov/assets/nsiad-00-71.pdf>.

<sup>171</sup> *Ibid.*

<sup>172</sup> GAO, *Military Housing Privatization: DOD Should Take Steps to Improve Monitoring, Risk Assessment and Performance*, pp. 28-29.

<sup>173</sup> Air Force Civil Engineer Center, “Air Force celebrates 15 years of housing privatization,” press release, September 29, 2013, <https://www.afcec.af.mil/News/Article-Display/Article/871669/air-force-celebrates-15-years-of-housing-privatization/>.

<sup>174</sup> GAO, *Military Housing: Management Improvements Needed as Pace of Privatization Quickens*, June 2002, pp. 12-13, <https://www.gao.gov/assets/gao-02-624.pdf>.

<sup>175</sup> Matthew C. Godfrey et al., *Privatizing Military Family Housing: A History of the U.S. Army’s Residential Communities Initiative, 1995–2010*, Prepared for the Office of the Assistant Secretary of the Army, Installations, Energy & Environment, p. 41, <https://usace.contentdm.oclc.org/digital/api/collection/p16021coll4/id/232/download>.

<sup>176</sup> CBO, *Congressional Budget Office Cost Estimate: H.R. 3947 Federal Property Asset Management Reform Act of 2002*, May 16, 2002, p. 5, <https://www.cbo.gov/sites/default/files/107th-congress-2001-2002/costestimate/hr39470.pdf>.

<sup>177</sup> GAO, *Military Housing: Management Improvements Needed as Pace of Privatization Quickens*, June 2002, p. 31, <https://www.gao.gov/assets/gao-02-624.pdf>.

<sup>178</sup> *Ibid.*

## 2004 CBO Estimate

CBO issued a cost estimate on July 30, 2004, explaining its disagreement with OMB regarding the scoring rules for the MHPI.<sup>179</sup> In 2004, the House passed the Military Housing Improvement Act of 2004 (H.R. 4879), which would have increased by \$500 million the statutory limit on the amount DOD was authorized to invest in projects to acquire or renovate military family housing using the MHPI. When conducting its routine scoring of legislation, CBO projected that the provision that increased DOD spending limit by \$500 million would ultimately cost the government more than \$4 billion after including both the funding to be directly invested by DOD (in this case \$500 million) and also additional funding that would likely be spent by a public-private MHPI entity, which CBO also technically viewed as government spending, or new direct spending, due to the government's level of control over and financial support for the projects.<sup>180</sup> According to CBO, "public-private ventures entered into by DOD and its private-sector partners should be treated as governmental for budget purposes because the federal government exercises substantial control over the housing projects and because the government is the dominate or only source of income for those projects."<sup>181</sup>

A central disagreement between CBO and OMB was whether DOD should be required to request and obtain congressional authorization and appropriation for only the amount of money that DOD invests in the public-private partnership entity, or whether DOD should be required to request and obtain authorization and appropriation for the entire amount expended by the public-private entity. CBO took the position that the OMB method of calculation included only the projects' initial investment costs, not the full amount of spending that would result from the agreement:

CBO believes most MHPI projects are governmental activities ... financed by a private-sector intermediary who acts as an instrument of the government. In CBO's view, most ventures that borrow funds to construct or refurbish military family housing should be treated as governmental and their investments should be recorded up front, as borrowing authority—a form of budget authority. Amounts expended by these intermediaries, SPEs, or public-private ventures should be recorded in the budget as outlays at the time they occur.<sup>182</sup>

CBO reported in its 2004 cost estimate that DOD had been able to acquire housing facilities valued at \$6 billion while recording the use of only \$580 million in budget authority in the Family Housing Improvement Fund.<sup>183</sup> The document stated, "DOD has been able to improve or replace housing faster than it would have been able to do using the traditional appropriations process; however, this success is primarily due to the favorable budgetary treatment afforded to DOD's use of these alternative authorities by the [OMB]."<sup>184</sup> While the upfront costs for initiating MHPI projects was lower than development under traditional MILCON, the MHPI programs come with a long-term cost. For example, since DOD does not own the privatized housing facilities, the military departments spend billions of dollars each year on housing allowance payments provided to the MHPI entities.

Another source of disagreement on scoring methodology between CBO and OMB was whether the agreements with the MHPI companies were effectively guaranteeing occupancy of

<sup>179</sup> CBO, *Congressional Budget Office Cost Estimate, H.R. 4879, Military Housing Improvement Act of 2004*, July 30, 2004, p. 3, <https://www.cbo.gov/sites/default/files/108th-congress-2003-2004/costestimate/hr48790.pdf>.

<sup>180</sup> *Ibid.*, p. 2 and p. 6.

<sup>181</sup> *Ibid.*, p. 3.

<sup>182</sup> *Ibid.*, p. 4.

<sup>183</sup> *Ibid.*, p. 3.

<sup>184</sup> *Ibid.*

servicemembers. OMB officials determined that the contracts did not include rental guarantees because servicemembers were not required to live in MHPI housing and the agreements contained provisions for civilians to rent on-base housing if military families did not provide full occupancy, known as “tenant waterfall” policies.<sup>185</sup> On the other hand, some CBO officials said that for some projects on military bases, DOD was providing an implicit occupancy guarantee:

... both offices agreed that if DOD guarantees occupancy, then the cumulative value of the rents to be paid on the housing over the contract term must be included in the scored amount. This would significantly increase the amount of appropriated funds needed to secure a privatization contract, and, as a result, many proposed projects would no longer be financially attractive for DOD. However, the offices disagree on whether DOD is, in fact, guaranteeing occupancy.<sup>186</sup>

Another scoring factor at issue involved the cost of land and property conveyance that DOD contributed to certain public-private ventures. GAO reported, for example, that “DOD made conveyances of housing and land that were not included in the scored amounts of seven of the first 10 [MHPI] projects.... For five of the projects, DOD also leased land to developers at no cost over the contract terms but did not estimate the value of the leases.”<sup>187</sup> The value of the assets contributed by the government serve as collateral for the SPE borrowing. GAO added: “our point is only to note that the value of many DOD contributions to privatization projects is not apparent from a review of the normal financial tools used to assess the program. Also, DOD’s valuation of some contributions is subject to question.”<sup>188</sup>

CBO also asserted that the MHPI program, when compared to the traditional military construction program, incurs additional expenses through its use of private loans for construction and renovations. CBO noted that SPEs borrowed money from private-sector financial markets, which inherently charge higher rates than U.S. Treasury securities, such as bonds, which may fund government construction projects. According to CBO, “Using the alternative authorities for acquiring or improving military housing ... the department also acquires housing in a more complicated—and ultimately more expensive—manner.”<sup>189</sup> CBO also noted:

In other words, the SPE acts as an intermediary by borrowing money—in place of the U.S. Treasury—to finance a governmental activity. The value of the assets contributed by the government serve as collateral for the borrowing, and the future rent payments from military personnel who will occupy the housing provide a reliable source of income for

<sup>185</sup> GAO, *Military Housing: Management Improvements Needed as Pace of Privatization Quickens*, June 2002, p. 32, <https://www.gao.gov/assets/gao-02-624.pdf>. Also see Department of Defense Inspector General, *DOD Needs to Improve Screening and Access Controls for General Public Tenants Leasing Housing on Military Installations*, April 1, 2016, p. 1, <https://media.defense.gov/2016/Sep/22/2001774203/-1/-1/1/DODIG-2016-072.pdf>.

<sup>186</sup> GAO, *Military Housing: Management Improvements Needed as Pace of Privatization Quickens*, June 2002, p. 32, <https://www.gao.gov/assets/gao-02-624.pdf>.

<sup>187</sup> *Ibid.*, pp. 17-18.

<sup>188</sup> GAO cited a Navy example of a questionable valuation: “the Navy estimated that the value of its conveyance of 244 housing units and 30 acres of land was \$300,000 in the Kingsville project. Navy officials stated that the estimate only included the value of the land, because the conveyed housing was old, dilapidated, and not up to current codes. Yet, the developer has recently begun placing newspaper advertisements offering the housing for rent starting at \$600 monthly for each unit.”

<sup>189</sup> CBO stated, “the SPE acts as an intermediary by borrowing money—in place of the U.S. Treasury—to finance a governmental activity. The value of the assets contributed by the government serve as collateral for the borrowing, and the future rent payments from military personnel who will occupy the housing provide a reliable source of income for debt service. But because the SPE faces higher interest rates than the U.S. Treasury, this form of financing is more expensive than direct federal funding.” For more information, see CBO, *Congressional Budget Office Cost Estimate, H.R. 4879, Military Housing Improvement Act of 2004*, July 30, 2004, pp. 2-3, <https://www.cbo.gov/sites/default/files/108th-congress-2003-2004/costestimate/hr48790.pdf>.



debt service. But because the SPE faces higher interest rates than the U.S. Treasury, this form of financing is more expensive than direct federal funding.<sup>190</sup>

## 2005 OMB Memorandum

In 2005, OMB issued a memorandum that signaled a change in its scoring rules for MHPI. The memorandum said that, as of September 30, 2010, new privatized military housing projects and expansions to existing projects using the limited liability or corporation approach are subject to traditional scoring rules, which require construction or renovation projects proposing the use of a co-owned limited liability corporation to be scored as government activity.<sup>191</sup>

DOD opposed the decision based on concerns that the newer scoring rules would make it more difficult to restructure existing projects by providing additional loans to the MHPI projects.<sup>192</sup> In 2010, OMB determined, “Existing projects with the co-owned LLC management structure may continue to use private financing without the borrowing being scored for expansion and recapitalization of existing housing projects.”<sup>193</sup> By the time the new OMB scoring rules for MHPI projects took effect at the end of FY2010, DOD had essentially achieved its initial goal of renovating or replacing inadequate military family housing stocks in the United States.<sup>194</sup> For scoring of future MHPI proposals, OMB intends to evaluate the individual proposals on a case-by-case basis.<sup>195</sup>

## Selected MHPI Scoring Developments Since 2010

While there have been no public reports of changes to the rules and policies for budget scoring related to MHPI projects since the 2010 policy change described above, the issue of budget scoring related to MHPI programs has arisen on several occasions.

### *Effects of BAH Rate Reductions on MHPI*

In 2017, some Members of Congress raised concerns about the long-term financial health of MHPI projects.<sup>196</sup> The concerns came at a time when DOD was decreasing Basic Allowance for

<sup>190</sup> CBO, *Congressional Budget Office Cost Estimate, H.R. 4879, Military Housing Improvement Act of 2004*, July 30, 2004, p. 3, <https://www.cbo.gov/sites/default/files/108th-congress-2003-2004/costestimate/hr48790.pdf>.

<sup>191</sup> GAO, *Military Housing Privatization: DOD Should Take Steps to Improve Monitoring, Risk Assessment and Performance*, pp. 28-29, <https://www.gao.gov/assets/700/690858.pdf>. Also see Matthew C. Godfrey et al., *Privatizing Military Family Housing: A History of the U.S. Army's Residential Communities Initiative, 1995-2010*, Prepared for the Office of the Assistant Secretary of the Army, Installations, Energy & Environment, p. 245, <https://usace.contentdm.oclc.org/digital/api/collection/p16021coll4/id/232/download>.

<sup>192</sup> Ibid.

<sup>193</sup> Ibid. p. 246.

<sup>194</sup> This observation was noted by an OMB official in an interview with CRS in November 2023. It was also reportedly noted in a letter in 2010 from OMB to Under Secretary of Defense Dorothy Robyn, which stated, “In light of ... the fact that the goal of eliminating inadequate U.S. housing has almost been reached, there is no longer a compelling reason for the special scoring of LLCs.” See Matthew C. Godfrey et al., *Privatizing Military Family Housing: A History of the U.S. Army's Residential Communities Initiative, 1995-2010*, Prepared for the Office of the Assistant Secretary of the Army, Installations, Energy & Environment, p. 246, <https://usace.contentdm.oclc.org/digital/api/collection/p16021coll4/id/232/download>.

<sup>195</sup> Information provided by an OMB official in an interview with CRS in November 2023.

<sup>196</sup> The Senate Armed Services Committee report (S.Rept. 114-255) to accompany the committee-reported version of the National Defense Authorization Act for Fiscal Year 2017 (S. 2943) included a provision directing the Comptroller General to conduct an audit of each MHPI project to assess its solvency and the effect of BAH changes on long-term project sustainability.



Housing (BAH) rates by about 5% over a period between 2015 and 2019.<sup>197</sup> pThe Senate Report (S.Rept. 114-255) accompanying a bill for the FY2017 NDAA included a provision directing the GAO to review privatized military housing projects and the effect of recent changes in BAH on long-term project sustainability. The subsequent 2018 GAO report stated military departments remained concerned about the 2010 policy change related to budget scoring and how it may threaten the long-term viability of the MPHI program, in particular:<sup>198</sup>

Military department officials also noted potential challenges with the way that the Office of Management and Budget will be scoring future projects.... When the privatized housing initiative began, developers sought private borrowing, knowing that only the government funding would be scored because a 1997 Office of Management and Budget memorandum established that private funds for the projects would not be scored as government participation or activity. However, according to a 2005 Office of Management and Budget memorandum, as of September 30, 2010, new privatized housing projects and expansions to existing projects using the limited liability or corporation approach are subject to traditional scoring rules. These rules require projects proposing the use of a purely private entity to be scored as a private activity, and projects proposing the use of a co-owned limited liability corporation to be scored as government activity. Some military department and developer officials have expressed concern with the uncertainties surrounding future scoring. Specifically, military department officials and developers are concerned that the reversion to traditional scoring will affect any plans for obtaining mid-term loans and any potential expansions or other changes to existing projects. Office of Management and Budget officials stated that any future federal government contributions to privatized housing projects in the form of direct loans or loan guarantees will be fully scored at the value of the loan or loan guarantee.

### ***MHPI Company Testimony***

In March 2020, Richard Taylor, president of Facility Operations, Renovations and Construction at Balfour Beatty Communities, an MHPI company, testified before the House Committee on Appropriations, Subcommittee on Military Construction, Veterans Affairs, and Related Agencies, about the issue of budget scoring:

At the inception of the MHPI program and through 2015, the Military Departments were able to enter into these transactions without requiring the Department to fully score the private-sector debt that was raised either through bond or private investments, preventing negative impacts on the Services' annual operating budgets. These [current] OMB scoring provisions ... greatly restrict the housing companies' ability to leverage new or additional private sector debt. ... Reinstating the original scoring methodology for the MHPI would provide the housing companies and the DOD with the greater flexibility needed to optimize and expand these privatized partnerships, thereby accelerating the funding and execution of renovations and improvements to existing homes and infrastructure.<sup>199</sup>

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<sup>197</sup> For more information, see CRS Report R47728, *Military Housing*, by Andrew Tilghman, p. 16. Beginning in 2015, DOD began reducing BAH payments relative to the Defense Travel Management Office's annual calculations of market rate rents and utilities; prior to 2015, DOD provided servicemembers with a BAH that was calculated to cover 100 percent of estimated local housing costs; in the years following 2015, the policy changed to provide servicemember with a BAH equal to about 95 percent of estimated housing costs.

<sup>198</sup> *Ibid.*, pp. 28-29.

<sup>199</sup> Testimony of Richard Taylor, in U.S. Congress, House Committee on Appropriations, Subcommittee on Military Construction, Veterans Affairs, and Related Agencies, *Military Privatized Housing*, hearings, 116<sup>th</sup> Cong., 2<sup>nd</sup> sess., March 3, 2020, at <https://www.congress.gov/116/meeting/house/110611/witnesses/HHRG-116-AP18-Wstate-TaylorM-20200303.pdf>.

### ***CBO Score for Proposed Military Housing Privatization Expansion***

In 2022, a provision in the House Armed Services Committee-passed version of the National Defense Authorization Act for Fiscal Year 2023 (H.R. 7900) would have directed the Navy and Air Force to privatize transient military lodging facilities within the United States.<sup>200</sup> When CBO provided a cost estimate on the provision, CBO's view on scoring private investments appeared to be consistent with its 2004 report about the MHPI program. CBO reported in 2022 that the costs of investments made to improve certain privatized facilities would be deemed direct spending, and estimated that the provision would result in more than \$5 billion in direct spending over 10-year period.<sup>201</sup> The enacted version of the legislation did not include the House provision.<sup>202</sup> Conferees directed the Secretaries of the Navy and the Air Force to brief the congressional defense committees no later than December 1, 2023, as to the cost avoidance that could be anticipated if a lodging privatization effort were adopted, any barriers to implementing, and any impact to traveling servicemembers.<sup>203</sup>

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<sup>200</sup> See Section 2814 of H.R. 7900. Transient Housing is housing provided to servicemembers who are on a temporary duty assignment at a location other than their home station.

<sup>201</sup> Letter from Phillip L. Swagel, Congressional Budget Office, Director, to Representative Adam Smith, Chairman of the Armed Services Committee, June 30, 2022, [https://www.cbo.gov/system/files/2022-06/hr7900directspendingletter\\_2.pdf](https://www.cbo.gov/system/files/2022-06/hr7900directspendingletter_2.pdf).

<sup>202</sup> Explanatory statement accompanying P.L. 117-263 in U.S. Congress, House Committee on Armed Services, *James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Legislative Text and Joint Explanatory Statement to Accompany H.R. 7776*, P.L. 117-263, Book 2 of 2, committee print, 118<sup>th</sup> Congress, 1<sup>st</sup> sess., January 2023, 50-665, pp. 2141-2142.

<sup>203</sup> Ibid.