



January 2017

# DEFENSE INFRASTRUCTURE

## DOD Needs Clearer Guidance on Notifying Congress of Privately Financed Construction Projects

Accessible Version

This report was revised on January 30, 2017, to correct p. 23 (Objective, Scope and Methodology). Corrects formatting errors in table of offices visited or contacted.

# GAO Highlights

Highlights of [GAO-17-76](#), a report to congressional committees

## Why GAO Did This Study

In addition to construction projects funded with military construction appropriations, DOD has projects funded by other sources, such as revenue-generating activities and private financing. The National Defense Authorization Act for Fiscal Year 2016 included a provision that GAO report on DOD's commissary surcharge, nonappropriated fund, and privately financed major construction program.

GAO evaluated the extent to which DOD implemented policies and procedures for timely notification to Congress of major construction projects conducted through this program. GAO reviewed annual reports to Congress on such projects; analyzed policies from DOD and its relevant components; interviewed cognizant officials; and reviewed other relevant documentation.

## What GAO Recommends

GAO is making three recommendations, including that DOD revise its policy on congressional notification of privately financed major construction projects to clarify which types of projects should be reported, identify a lead organization to develop DOD-wide policy for gifts of major construction, and develop clear policy on congressional notification of gifts of major construction. DOD concurred with the first of these recommendations and did not concur with the second and third. GAO continues to believe that DOD should take these actions because the military departments have not been providing consistent and complete information on gifts of major construction to Congress.

View [GAO-17-76](#). For more information, contact Brian J. Lepore at (202) 512-4523 or [leporeb@gao.gov](mailto:leporeb@gao.gov)

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## DEFENSE INFRASTRUCTURE

### DOD Needs Clearer Guidance on Notifying Congress of Privately Financed Construction Projects

## What GAO Found

The Department of Defense (DOD) has issued Instruction 7700.18, which outlines the congressional reporting requirements for all commissary surcharge and nonappropriated fund projects—those funded by revenue-generating military activities such as commissaries, exchanges, and some recreational facilities—as well as privately financed projects. The Instruction requires that major projects of these types be reported to Congress before being placed under contract. While DOD and its relevant components have generally followed the reporting guidance for major commissary surcharge and nonappropriated fund construction projects (those with a construction cost of greater than \$750,000), they have not consistently done so for privately financed projects, including gifts of major construction. Specifically, GAO found the following:

- **Commissary surcharge construction.** DOD and the Defense Commissary Agency had established policies and procedures to notify Congress of this type of project. All such projects included in the fiscal years 2015 and 2016 annual reports were reported to Congress prior to contracts being awarded.
- **Nonappropriated fund construction.** DOD and the military departments had established policies and procedures to notify Congress of this type of project. All such projects included in the fiscal years 2015 and 2016 annual reports were reported to Congress prior to contracts being awarded.
- **Privately financed construction.** DOD does not report all privately financed construction projects through the annual reporting process outlined in DOD Instruction 7700.18. GAO identified several project types that may fit the definition of privately financed construction but are not reported through this process. Projects of these types are instead subject to other statutory requirements, policies, or arrangements for congressional notification, but DOD's Instruction does not note that they are to be excluded from this process. Unless DOD has a policy that defines which projects should be reported through this process, Congress will not have clear and consistent information about the scope of these construction projects.
- **Gifts of construction.** DOD and the military departments do not report all gifts of major construction—a type of privately financed project—and are inconsistent in their approaches to identifying which gifts to report. DOD officials said their practice has been to omit from this reporting process major construction gifts for which DOD would have used military construction appropriated funds if it had funded the project itself. Furthermore, the military departments' policies and practices on reporting gifts differ from each other, and some gifts were not reported at all or were reported after contracts had been awarded or through separate processes. These differences can be attributed to unclear guidance and to the fact that DOD has not identified a lead organization to develop a department-wide policy for gifts of major construction. Without clear guidance and a DOD-wide policy on congressional reporting of major construction gifts, the military departments may continue their inconsistent reporting and Congress may lack complete and consistent information on these gifts of construction projects.

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### Abbreviation

DOD            Department of Defense

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January 19, 2017

Chairman Ranking Member Committee on Armed Services United States Senate

Chairman Ranking Member Committee on Armed Services House of Representatives

In addition to construction projects funded with military construction appropriations, the Department of Defense (DOD) has construction projects obtained from other sources, including funds from revenue-generating activities such as sales of goods and services, as well as through private financing. Examples of such projects include new facilities, additions, and renovations for military commissaries, exchanges, recreational facilities such as golf courses, recreational lodging, and fast food restaurants. Because these projects are not authorized and funded through the regular appropriations process for military construction, other procedures are used to inform Congress of these projects. Specifically, DOD has issued an Instruction requiring that Congress be notified of major commissary surcharge, nonappropriated fund, and privately financed construction projects before contracts are awarded for their construction.<sup>1</sup> Such notification can allow Congress to exercise oversight over the projects themselves and the associated implications for future maintenance costs of the facilities—including, in some cases, maintenance using appropriated funds.

The National Defense Authorization Act for Fiscal Year 2016 included a provision that we report on DOD’s commissary surcharge, nonappropriated fund, and privately financed major construction program.<sup>2</sup> We provided an interim briefing to the congressional

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<sup>1</sup>Commissary surcharge funds are obtained from the 5 percent surcharge on the cost of goods sold at military commissaries. Nonappropriated funds are obtained through activities such as the sale of goods at military exchanges, revenue-generated morale, welfare, and recreation activities such as recreation centers; food, beverage, and entertainment programs; and recreational lodging. Private financing may be obtained through public-private ventures, donations, and commercial borrowing. All of these funding types may be used for major construction projects, as we discuss further in this report. See DOD Instruction 7700.18, *Commissary Surcharge, Nonappropriated Fund (NAF), and Privately Financed Construction Reporting Procedures* (Dec. 15, 2004). (Hereinafter DOD Instruction 7700.18).

<sup>2</sup>National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, § 652 (2015).

committees in May 2016 to initially address this provision. The Senate Armed Services Committee report accompanying a bill for the act stated that the committee was aware that DOD had completed certain privately financed major construction projects (those with a construction cost of greater than \$750,000) without prior notification to the congressional committees.<sup>3</sup> This report provides our final results in response to the 2016 National Defense Authorization Act provision and evaluates the extent to which DOD has implemented policies and procedures for timely notification (i.e., prior to a contract being awarded) to Congress of major construction projects conducted through this program.

To address this objective, we analyzed policies and guidance from DOD, the Army, the Navy, the Marine Corps, the Air Force, and the Defense Commissary Agency related to the review and approval of commissary surcharge, nonappropriated fund, and privately financed construction projects. We reviewed DOD's fiscal years 2015 and 2016 annual reports notifying Congress of such projects; information on contract award status for 70 major projects—all those reported for the first time in the fiscal years 2015 and 2016 annual reports to Congress—to determine when the construction contracts were awarded;<sup>4</sup> and additional review and approval documentation to identify the procedures followed in approving a nongeneralizable sample of these projects.<sup>5</sup> We also interviewed officials in the Office of the Secretary of Defense, the Army, the Navy, the Marine Corps, the Air Force, and the Defense Commissary Agency, to identify the review and approval procedures for such projects. Finally, we compared DOD, military service, and Defense Commissary Agency policies and procedures and determined the extent to which these policies and procedures were consistent with federal internal control

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<sup>3</sup>S. Rep. No. 114-49, at 145 (2015).

<sup>4</sup>These 70 projects included 14 public-private venture projects reported for the first time in the fiscal years 2015 and 2016 reports to Congress with an estimated cost avoidance (the amount the DOD component expects to save by executing the project as a public-private venture relative to what it would have cost if it had fully funded the project itself) greater than \$750,000. DOD does not list these as major projects in its reports to Congress, but we included them because their estimated value to DOD exceeded the \$750,000 threshold for major projects.

<sup>5</sup>We selected this sample by identifying one project of each type—commissary; exchange; morale, welfare, and recreation; lodging; and privately financed, both gift and non-gift—in the most recent year in which a project was reported, for each component that had a project of that type in the annual reports to Congress for fiscal years 2012 through 2016. This resulted in a sample of 19 projects out of a total of 212 possible projects. Further details of our selection process are found in appendix I.

standards on the use of quality information to achieve agency objectives such as internal and external reporting.<sup>6</sup> Further details on our scope and methodology are found in appendix I.

We conducted this performance audit from February 2016 to January 2017 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## Background

DOD Instruction 7700.18, *Commissary Surcharge, Nonappropriated Fund (NAF), and Privately Financed Construction Reporting Procedures*, states that it is DOD policy that commissary surcharge, nonappropriated fund, and privately financed construction programs shall be developed to enhance the comfort, pleasure, contentment, and mental and physical wellbeing of authorized DOD personnel and their families.<sup>7</sup> The Instruction states that it does not apply to construction projects that are authorized and funded by the annual military construction authorization and appropriations acts to support the DOD components, but it does not list any other exclusions. The Instruction defines a major construction project as one with a construction cost that exceeds \$750,000 and states that major projects using these funding types must be approved by the Under Secretary of Defense for Personnel and Readiness and reported to Congress before being placed under contract. The three types of funding are defined as follows:

- *Commissary surcharge.* Commissary surcharge funds originate from a 5 percent surcharge on the sales prices of goods and services sold in

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<sup>6</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept 2014). These standards came into effect in October 2016. For part of the period covered by our review, the prior standards were in effect. See GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: Nov 1999). However, because our review focused on DOD's current policies and procedures for congressional notification of commissary surcharge, nonappropriated fund, and privately financed major construction reporting, we compared these policies and procedures with the internal control standards currently in effect.

<sup>7</sup>DOD Instruction 7700.18.

military commissaries.<sup>8</sup> These funds can be used for various specified purposes, including the construction of commissaries.<sup>9</sup> DOD commissaries are managed by the Defense Commissary Agency.

- *Nonappropriated fund.* Nonappropriated funds are obtained from sources other than congressional appropriations and commissary surcharge funds, primarily from the sale of goods and services to DOD military and civilian personnel and their family members. Such revenue-generating activities include exchange operations; morale, welfare, and recreation activities (e.g., golf courses, bowling alleys); and certain categories of revenue-generating lodging.<sup>10</sup> All four military services have nonappropriated fund activities and use these funds for construction, among other things. While Navy and Marine Corps exchange projects are managed individually by each respective service, Army and Air Force exchange construction projects are managed by the Army and Air Force Exchange Service, a joint organization that manages Army and Air Force exchanges.
- *Privately financed.* DOD Instruction 7700.18 defines privately financed projects as those with funds provided by a non-federal government entity and notes that these may include projects funded through such mechanisms as donations, public-private ventures, private funds, and commercial borrowing.<sup>11</sup> All four military services have privately financed construction projects. However, under the gift acceptance policies of the military departments, gifts of major construction can be accepted only by the three military departments. Gifts of major construction are often contracted for by the entity making the gift, rather than by the receiving military service, and the new facility or modification to an existing facility becomes DOD property upon project completion.

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<sup>8</sup>Commissary stores sell reduced price groceries and household goods to military personnel, retirees, and their families. 10 U.S.C. § 2481(b). Commissaries are required to charge a 5 percent surcharge on the sales price of all merchandise sold in, at, or by commissary stores. 10 U.S.C. § 2484(d).

<sup>9</sup>10 U.S.C. §2484(h).

<sup>10</sup>Exchanges are retail stores located on military installations and operated by the military services.

<sup>11</sup>Public-private ventures are agreements between a DOD nonappropriated fund instrumentality—a DOD organizational and fiscal entity supported in whole or in part by nonappropriated funds—and a non-federal entity, whereby the non-federal entity provides goods, services, or facilities to authorized morale, welfare, and recreation or exchange customers.

In fiscal years 2015 and 2016, DOD reported a total of 70 major construction projects through the annual reporting process under DOD Instruction 7700.18.<sup>12</sup> These included 2 commissary surcharge projects, 51 nonappropriated fund projects, and 17 privately financed projects.

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## DOD Implemented Policies for Timely Notification of Commissary Surcharge and Nonappropriated Fund Construction Projects but Was Not Consistent In Reporting Privately Financed Projects, Including Gifts

DOD consistently implemented policies and procedures for timely notification of commissary surcharge and nonappropriated fund major construction projects to Congress. However, DOD and the military departments did not report all privately financed projects through the annual reporting process, as outlined in Instruction 7700.18. Instead, DOD reported several privately financed project types through other established arrangements. Moreover, DOD and the military departments did not report all privately financed gifts of major construction projects to Congress through the DOD Instruction 7700.18 process and were not consistent in their approach to reporting these gifts.

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## DOD and Its Components Consistently Implemented Policies and Procedures for Timely Notification to Congress of Commissary Surcharge and Nonappropriated Fund Projects

DOD and its relevant components—the military departments and the Defense Commissary Agency—established and consistently implemented policies and procedures to notify the congressional armed services committees of major construction projects funded with commissary surcharge and nonappropriated funds before awarding contracts for these projects. We found that, in accordance with these policies and practices, all of the major commissary surcharge and nonappropriated fund construction projects included in the fiscal years 2015 and 2016 annual

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<sup>12</sup>As noted previously, the 70 projects included 14 public-private ventures reported in the fiscal years 2015 and 2016 reports to Congress.

reports were reported to Congress before the contracts were awarded. Appendix II lists each of these projects, the status of their contract awards, and the dates they were reported to Congress.

DOD Instruction 7700.18 requires that commissary surcharge and nonappropriated fund major construction projects not be placed under contract unless first approved by the Under Secretary of Defense for Personnel and Readiness and reported to the Congress.<sup>13</sup> Within the Office of the Under Secretary of Defense for Personnel and Readiness, the Office of Military Community and Family Policy collects information from the military departments and the Defense Commissary Agency and compiles an annual report to notify Congress of commissary surcharge, nonappropriated fund, and privately financed construction; this report is transmitted, typically in late summer, to the Senate and House Armed Services Committees, with information on the relevant construction projects.<sup>14</sup> The committees typically respond to DOD by the end of the calendar year, at which point the Under Secretary of Defense for Personnel and Readiness approves the program, giving the military departments and Defense Commissary Agency the approval to proceed with contract awards.

Based on our review of DOD documentation on project review and approval procedures, we found that prior to forwarding project information to the Office of the Under Secretary of Defense for Personnel and Readiness, the relevant DOD components generally followed project review and approval procedures, including a recommendation from the installation and the regional or major command on whether to proceed with the project, a project validation assessment, a review by the service or Defense Commissary Agency headquarters as well as a senior-level board review, and approval by a service assistant secretary or the Defense Commissary Agency.

The military departments, to include the Army and Air Force Exchange Service, and the Defense Commissary Agency each issued policies implementing the requirement that the Under Secretary of Defense for Personnel and Readiness approve each major commissary surcharge

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<sup>13</sup>DOD Instruction 7700.18.

<sup>14</sup>Projects may also be submitted for review and approval out of cycle, but DOD policy states that out-of-cycle reporting shall be avoided except in case of emergencies or extenuating circumstances.

and nonappropriated fund project before a contract is awarded—or referencing the DOD policy that established that requirement.<sup>15</sup> Our review of these policies, as well as documentation on the review and approval process for a sample of projects, showed that the components all established and followed procedures to fulfill these policy requirements. Our review of documentation for 11 of the 53 major commissary and nonappropriated fund projects reported to Congress in the fiscal years 2015 and 2016 annual reports found that the DOD components involved with these projects had generally taken key steps as part of the review process—such as conducting board reviews and project validation assessments—prior to forwarding the projects to the Office of the Under Secretary of Defense for Personnel and Readiness, which in turn provided notice of the projects to Congress before contracts were awarded for them.<sup>16</sup>

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## DOD Did Not Report All Privately Financed Projects to Congress through Its Annual Process

DOD and the military departments did not report all of their privately financed projects—those in which the funding is provided by a non-federal entity—through the annual reporting process required by

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<sup>15</sup>Key service and Defense Commissary Agency policies related to commissary surcharge, nonappropriated fund, and privately financed construction include, but are not limited to: Army Regulation 415-15, *Army Military Construction and Nonappropriated-Funded Construction Program Development and Execution* (June 12, 2006); Army Regulation 215-1, *Military Morale, Welfare, and Recreation Programs and Nonappropriated Fund Instrumentalities* (Sep. 24, 2010); Army Regulation 420-1, *Army Facilities Management* (Aug. 24, 2012); Department of the Navy, Office of the Chief of Naval Operations, OPNAV Instruction 11010.20H CH-1, *Navy Facilities Projects* (June 24, 2015); Marine Corps Order P1700.27B, *Marine Corps Community Services Policy Manual* (March 9, 2007); Air Force Instruction 32-1022, *Planning and Programming Nonappropriated Fund Facility Construction Projects* (Dec 30, 2015, incorporating change 1, March 25, 2016); Air Force Instruction 34-205, *Services Nonappropriated Fund Facility Projects* (July 5, 2011, incorporating change 1, August 7, 2013); Army Regulation 215-8/Air Force Instruction 34-211(I), *Army and Air Force Exchange Service Operations* (Oct. 5, 2012); DOD Directive 5105.55, *Defense Commissary Agency (DECA)* (March 12, 2008); DOD Instruction 1330.17, *DOD Commissary Program* (June 18, 2014); and DeCAD 20-9, *Facilities Sustainment and Construction Program* (April 30, 1999).

<sup>16</sup>Of our sample of 19 commissary surcharge, nonappropriated fund, and privately financed projects of a possible 212 reported in fiscal years 2012 through 2016, 11 of these were commissary surcharge and nonappropriated fund projects. Because these commissary surcharge and nonappropriated fund projects were all reported in fiscal years 2015 and 2016, they are compared to a possible 53 projects reported in fiscal years 2015 and 2016, rather than all 212 projects reported in fiscal years 2012 through 2016.

Instruction 7700.18. Instead, DOD reports several privately-financed project types through other established arrangements.

As noted previously, DOD Instruction 7700.18 requires that Congress be notified of major privately financed construction projects, and that the projects receive approval from the Under Secretary of Defense for Personnel and Readiness, before contracts are awarded. The definition of privately financed construction in DOD Instruction 7700.18 includes all projects with funding provided by a non-federal entity.

We found that all public-private venture projects (a category of privately financed project in which there is an agreement between a DOD nonappropriated fund instrumentality and a non-federal entity whereby the non-federal entity provides goods, services, or facilities similar to those provided by military morale, welfare, and recreation or exchange operations) included in the annual reports to Congress for fiscal years 2015 and 2016 were reported before contracts were awarded for them.<sup>17</sup> Inclusion of these public-private venture projects in the reporting process for commissary surcharge, nonappropriated fund, and privately financed construction is directly addressed in DOD Instruction 7700.18. Appendix II lists each of these projects, the status of their contract awards, and the dates they were reported to Congress.

However, DOD's annual reports did not include several other types of projects that may fit the definition of privately financed construction according to DOD Instruction 7700.18. These projects are subject to other statutory requirements, policies, or arrangements for congressional notification, but these exceptions are not noted in DOD Instruction 7700.18. These exceptions include

- *Privatized housing.* Since 1996, the military services have had the authority to contract with private businesses to construct and manage housing facilities available to servicemembers.<sup>18</sup> Privatized housing projects are reported to Congress under 10 U.S.C. § 2884 and not under the commissary surcharge, nonappropriated fund, and privately

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<sup>17</sup>A DOD nonappropriated fund instrumentality is a DOD organizational and fiscal entity supported in whole or in part by nonappropriated funds.

<sup>18</sup>This authority was established in the National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, §§ 2801-2841 (1996), codified as amended at 10 U.S.C. §§ 2871-2885. See DOD Manual 4165.63-M, *DOD Housing Management*, Oct. 28, 2010.

financed major construction program.<sup>19</sup> However, this exception to the reporting of privately financed construction projects through DOD Instruction 7700.18 is not noted in the DOD Instruction.

- *Fisher Houses.* In September 2008 the Under Secretary of Defense for Personnel and Readiness issued a memo exempting gifts from the Fisher House Foundation of Fisher Houses and Fisher Suites from the reporting process under DOD Instruction 7700.18.<sup>20</sup> However, DOD Instruction 7700.18 has not been updated to note this exception. The memo also states that installation commanders are responsible for notifying members of Congress through their district offices of new Fisher House or Fisher Suite facilities.
- *National Intrepid Center of Excellence satellite centers.* After consulting with congressional staff on the issue, the office of Military Community and Family Policy does not report gifts of National Intrepid Center of Excellence satellite centers from the Intrepid Fallen Hero's Fund—a sister organization to the Fisher House Foundation—through the reporting process under DOD Instruction 7700.18.<sup>21</sup> However, DOD Instruction 7700.18 has not been updated to note this exception, nor is it discussed in a policy memo, as is the Fisher House exception noted above.

Although these project types follow other reporting procedures outlined in policy or statute or use notification practices developed in consultation with congressional stakeholders, the current definition of privately financed in DOD Instruction 7700.18 makes no distinction between those project types that should be reported through the DOD Instruction

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<sup>19</sup>Section 2884 of Title 10 of the U.S. Code states that the Secretary of Defense shall transmit to the appropriate congressional committees a report describing each contract for the acquisition or construction of family housing units or unaccompanied housing units under the statutory authorities provided for privatized housing.

<sup>20</sup>Fisher Houses and Fisher Suites provide housing for families of patients receiving medical care at major military medical centers. The Secretary of a military department is authorized to accept money, property, and services donated for the support of a Fisher House under 10 U.S.C. § 2493. From 1998 until December 2011, the military departments were required under section 2493 to submit annual reports to Congress describing the operation of Fisher Houses associated with their healthcare facilities and the amount in the non-appropriated fund associated with the department's Fisher Houses as well as all gifts, fees and interest credited to the fund. Pub. L. No. 112-81. § 1061(17)(2011).

<sup>21</sup>The National Intrepid Center of Excellence is a DOD organization that provides diagnosis and treatment of traumatic brain injury and psychological health conditions. The Intrepid Fallen Heroes Fund has donated certain satellite facilities to the National Intrepid Center of Excellence at installations that have or are in proximity to Fisher House facilities.

7700.18 process and those that should not. Officials in the Office of Military Community and Family Policy stated that the definition of privately financed is overly broad relative to the types of projects that they intend to be included in the annual reporting on commissary surcharge, nonappropriated fund, and privately financed construction. They also stated that their intention is for privately financed projects that are similar to nonappropriated fund projects to be included in the annual reporting process, whereas privately financed projects that would otherwise have been funded with appropriated funds, such as most privatized housing projects, should not be included in the DOD Instruction 7700.18 reporting process.

*Standards for Internal Control in the Federal Government* states that management should use quality information—of which reliable internal and external reporting is one category—to achieve the entity’s objectives.<sup>22</sup> Specifically, management should consider the expectations of both internal and external users, receive quality information about the entity’s operational processes that flows up the reporting lines, and externally communicate the necessary quality information to achieve objectives.

Because DOD Instruction 7700.18 does not define privately financed projects in a way that reflects the department’s practices or the intention of the involved DOD officials, DOD lacks a policy that clearly defines which types of privately financed projects should be reported through this process that requires advance congressional notification. Further, Congress cannot be assured that it has clear and consistent information about the scope of projects reported in the annual report on commissary surcharge, nonappropriated fund, and privately financed construction, since some of these privately financed projects are not being reported through this process. This lack of clear and consistent information may hinder Congress’s ability to carry out its oversight responsibilities.

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<sup>22</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept 2014).

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## DOD and the Military Departments Did Not Report All Gifts of Major Construction to Congress and Were Inconsistent in Their Approaches to Identifying Gifts to Be Reported

DOD and the military departments did not report all gifts of major construction—a type of privately financed project—to Congress and were not consistent in their approach to identifying and reporting gifts of major construction. DOD Instruction 7700.18 states that construction projects funded by donations are subject to Under Secretary of Defense for Personnel and Readiness review and must be reported to Congress. However, Office of Military Community and Family Policy officials stated that their longstanding practice has been to omit from the DOD Instruction 7700.18 reporting process gifts of major construction that would have been funded with military construction appropriations had they been paid for with the military's own funds. We found that each of the military departments' policies and practices on reporting gifts of major construction to Congress differed. The military departments also interpreted existing statutes differently as to the extent they required congressional notification of gifts of major construction. As a result, some gifts of major construction have been reported to Congress under DOD Instruction 7700.18 after contracts were awarded for them, some have been reported to Congress through separate processes, and some have not been reported at all.<sup>23</sup>

Specifically, for fiscal year 2015, DOD reported three gifts of major construction to Congress through the DOD Instruction 7700.18 reporting process. These were all Army projects—a \$2.2 million gift of houses for the head coaches of the athletic teams at the U.S. Military Academy at West Point, New York, from the West Point Association of Graduates, and gifts of general officer quarters and paved roads—together valued at \$2.5 million—at Redstone Arsenal, Alabama, from the City of Huntsville, Alabama. All three gifts were reported to Congress in July 2014 in the fiscal year 2015 annual report on commissary surcharge,

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<sup>23</sup>DOD's policy on gifts is contained in DOD, *Financial Management Regulation*, Vol. 12, Chapter 30, "Operation and Use of General Gift Funds" (April 2009). Among other things, this regulation requires quarterly reporting of gifts to the Defense Finance and Accounting Service, which in turn prepares a report to the Office of the Under Secretary of Defense (Comptroller) Deputy Chief Financial Officer. However, the regulation does not discuss reporting to Congress.

nonappropriated fund, and privately financed construction projects. However, for each of these projects, contracts had been awarded before they were reported to Congress, and thus reporting was not timely as defined by DOD Instruction 7700.18. For example, the contract for the West Point project was awarded in April 2013, the Redstone Arsenal general officer quarters contract was awarded in June 2014, and the contract for the paved roads was awarded in April 2014; each of these contracts was awarded prior to the July 2014 submission to Congress of the fiscal year 2015 report.

Officials in the Army's Office of the Administrative Assistant to the Secretary of the Army and the Army General Counsel—the offices involved in major gift acceptance—told us that at the time these gifts were accepted, they were not aware of the reporting requirements in DOD Instruction 7700.18. The Army's Office of the Assistant Chief of Staff for Installation Management sent out guidance for complying with DOD Instruction 7700.18 in a December 2012 memorandum—about three months before the Army accepted the West Point gift and about five months before it accepted the Redstone Arsenal gifts—in which it stated that donations of real property were subject to congressional notification and approval by the Office of the Under Secretary of Defense for Personnel and Readiness before construction could start. However, neither the Administrative Assistant to the Secretary of the Army nor the Army General Counsel was included on the distribution list for the December 2012 memorandum. In addition, as we will discuss, the Army's policy on gift acceptance did not account for such congressional notification.

Military department policies and practices on reporting gifts of major construction vary in the extent that they require reporting to Congress.<sup>24</sup>

- *The Army.* The Army's policy on gift acceptance notes that gifts of construction require additional notification before construction can be

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<sup>24</sup>We reported in 2009 on inconsistent military service reporting of gifts. See GAO, *Financial Management: DOD Needs to Clarify Its General Gift Fund Policies to Provide for Effective Oversight*, [GAO-09-486R](#) (Washington, D.C.: May 27, 2009). In that report, we recommended that DOD (1) revise its general gift fund policy to assign responsibility for consolidating service gift reports into one report to the Under Secretary of Defense (Comptroller); (2) revise its general gift fund policy to assign responsibility for standardizing the format of its internal gift reporting; and (3) direct the secretaries of the military departments to maintain documentation that nonmonetary gifts were transferred to property records. DOD implemented each of these recommendations.

executed, but it does not specify how and when to provide notification beyond the Army, or to whom, instead stating that such offers must be forwarded to the Army gift program coordinator for review before being accepted.<sup>25</sup> Army officials involved with gift acceptance stated that, following the untimely congressional notification of the West Point and Redstone Arsenal gifts noted previously, and after consulting with the DOD Office of General Counsel, they adopted a method to decide how and when to provide notification, although this method is not outlined in Army policy. Army General Counsel officials told us that they analyze each “in-kind” gift of major construction—those in which a non-federal entity contracts for the construction and gives the completed construction to the military—to determine whether, had the Army used its own funds, it would have used appropriated or nonappropriated funds. If it would have used nonappropriated funds, the Army reports the project through the DOD Instruction 7700.18 annual reporting process. If it would have used appropriated funds, it does not report the gift through that process, although it gives notice of the project to Congress under a separate process—specifically, by sending a letter notifying Congress of the project and waiting 15 days before the contract is awarded.<sup>26</sup> According to these officials, this notification process is based on consultation with the DOD Office of General Counsel and the Office of the Under Secretary of Defense for Personnel and Readiness and is consistent with Section 2802 of Title 10 of the U.S. Code.<sup>27</sup> These officials stated that they do not interpret the statute to require congressional notification for “in-kind” gifts of major construction, because these projects are not carried out by a military department, but they have agreed to make such notifications as a matter of

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<sup>25</sup>Army Regulation 1-100, *The Army Gift Program*, July 27, 2015.

<sup>26</sup>Army General Counsel and Office of the Administrative Assistant to the Secretary of the Army officials added that had they employed this process today, they would not have reported the West Point and Redstone Arsenal gifts under the DOD Instruction 7700.18 reporting process and instead would have used the alternate process for notifying Congress.

<sup>27</sup>Section 2802 of Title 10 of the U.S. Code states that the Secretary of Defense and the secretaries of the military departments may carry out such military construction projects as are authorized by law. If the construction project is carried out pursuant to a provision of law other than a military construction authorization act, the Secretary shall comply with the congressional notification requirement contained in the provision of law under which the construction project is to be carried out. In the absence of such a congressional notification requirement, the Secretary shall submit to the congressional defense committees a report describing the construction project at least 15 days before beginning the construction project.

courtesy. For example, in fiscal year 2015 the Army accepted a gift from the Army Heritage Center Foundation of a \$2.25 million expansion of the Army's Heritage and Education Center's Visitor and Education Center building at Carlisle Barracks, Pennsylvania and sent a letter notifying Congress of the planned construction.

- *The Navy.* Navy officials involved with gift acceptance—those in the Office of the Assistant Secretary of the Navy for Energy, Installations, and Environment; Deputy Under Secretary of the Navy for Management; Associate General Counsel (Ethics); and Assistant for Administration—told us that they do not report gifts of major construction to Congress. The Navy's instruction on gift acceptance does not specify whether Congress should be notified of gifts of major construction, instead saying that offers that require acceptance by the Secretary of the Navy—which include gifts of real property—must be forwarded to the Assistant for Administration, Under Secretary of the Navy, for processing before acceptance.<sup>28</sup> Specifically, these officials said that they do not believe there is a statutory requirement for such notice and that they were not familiar with the reporting requirements in DOD Instruction 7700.18 until we asked them about the policy. Examples of recent gifts of major construction to the Navy that were not reported to Congress include the fiscal year 2016 gifts from the State of Connecticut of encroachment mitigation and microgrid design projects at Naval Submarine Base New London, Connecticut, valued at \$2.3 million, and from Operation Support Military Golf, Inc.,<sup>29</sup> of \$1 million in real property improvements to Windy Harbor Golf Club at Naval Station Mayport, Florida.<sup>30</sup>
- *The Air Force.* The Air Force's instruction on nonappropriated fund construction projects outlines its method of deciding how and when gifts of major construction should be reported based on whether the gift is community oriented or mission oriented.<sup>31</sup> The Air Force gift

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<sup>28</sup>SECNAV Instruction 4001.2J, *Acceptance of Gifts* (Aug 12, 2009).

<sup>29</sup>Operation Support Military Golf, Inc., is a tax-exempt 501(c)3 non-profit organization whose mission is to enhance the armed forces' morale, welfare, and recreation by improving their golf courses and associated facilities in the United States and overseas.

<sup>30</sup>According to DOD, the Navy does not formally accept gifts until construction is complete. Therefore, the Navy expects to include the Operation Support Military Golf gift in a future annual commissary surcharge, nonappropriated fund, and privately financed construction report to Congress—after construction is completed.

<sup>31</sup>Air Force Instruction 32-1022, *Planning and Programming Nonappropriated Fund Facility Construction Projects* (Dec. 30, 2015, incorporating change March 25, 2016).

acceptance policy also references the need to report gifts of major construction through the DOD Instruction 7700.18 reporting process, although the Air Force does not report all gifts of major construction through this method.<sup>32</sup> Air Force officials told us that, in accordance with their policies, they analyze each gift of major construction to determine whether the gift is community oriented or mission oriented. If the former, they report the gift through the DOD Instruction 7700.18 annual reporting process. If the latter, they do not, but in either case they report the gift to Congress under Section 2662 of Title 10 of the U.S. Code.<sup>33</sup> Recent gifts of major construction to the Air Force have included a fiscal year 2014 upgrade to a building electrical system, an addition to the building, and a new signal tower and related antenna at Hanscom Air Force Base, Massachusetts, together valued at \$2.9 million and provided by the Massachusetts Development Finance Agency. Congress was notified of these gifts in June, 2014, under Section 2662 of Title 10 of the U.S. Code.

Officials in the Office of Military Community and Family Policy said that their intention is for gifts of major construction to be reported through the DOD Instruction 7700.18 process when they would otherwise have been funded with nonappropriated funds and will be maintained with such funds. Conversely, they said that gifts of major construction that would otherwise have been funded with appropriated funds and will be maintained with appropriated funds should be covered under some other policy. However, they noted that DOD Instruction 7700.18 does not currently reflect such a distinction. They also said they were not aware of any DOD policy that outlines a congressional notification process for gifts that would otherwise have been funded with appropriated funds and stated that there is still a need to provide guidance on those projects that would otherwise be constructed with appropriated funds.

*Standards for Internal Control in the Federal Government* states that management should use quality information to achieve the entity's objectives—of which reliable internal and external reporting is one category.<sup>34</sup> Specifically, management should communicate quality information down and across reporting lines to enable personnel to

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<sup>32</sup>Air Force Instruction 51-601, *Gifts to the Department of the Air Force* (Nov 26, 2003).

<sup>33</sup>Section 2662 of Title 10 of the U.S. Code states that DOD and military departments may not acquire fee title to any real property, if the estimated price is above \$750,000 without submitting a report to the congressional armed services committees.

<sup>34</sup>[GAO-14-704G](#).

perform key roles in achieving objectives. In addition, management should consider the expectations of both internal and external users, receive quality information about the entity's operational processes that flows up the reporting lines, and externally communicate the necessary quality information to achieve objectives. The military departments are inconsistent in the extent and manner in which they notify Congress of gifts of major construction, because there is no DOD-level policy that clearly defines how such gifts are to be reported.

Although DOD Instruction 7700.18 states that construction projects funded by donations are subject to reporting to Congress, Military Community and Family Policy officials stated that their longstanding practice has been to exclude gifts of construction that would otherwise have been funded with appropriated funds from the reporting process under the Instruction. A March 2015 opinion from DOD's Office of the General Counsel confirmed this practice with the determination that only donations for privately financed projects that are normally built with nonappropriated or commissary surcharge funds must be reported under the Instruction. All other donations for privately financed projects (those normally built with appropriated funds, such as the Hanscom Field projects, which appear mission oriented), the Office of the General Counsel determined, are not to be reported under the procedures outlined in DOD Instruction 7700.18.

Officials in the Office of Military Community and Family Policy also stated that there is no clear DOD-wide policy on congressional reporting for gifts of major construction that covers all such gifts and stated that responsibility for a policy covering such gifts that would otherwise have been funded with appropriated funds would lie outside the purview of the Under Secretary of Defense for Personnel and Readiness. These officials added that there is currently no clear office of primary responsibility for such a policy. *Standards for Internal Control in the Federal Government* also states that to achieve an entity's objectives, management should assign responsibility and delegate authority to key roles throughout the entity.<sup>35</sup> Without identifying an office of primary responsibility to carry out the development of a department-wide policy, DOD has limited assurance that such a policy will be developed and consistently implemented across the department.

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<sup>35</sup>[GAO-14-704G](#).

Without clarifying DOD Instruction 7700.18 to clearly identify the types of gifts of major construction (such as gifts that would otherwise have been funded with nonappropriated funds) that should be reported through its annual reporting process and establishing guidance for reporting gifts of major construction that fall outside of the DOD Instruction 7700.18 annual reporting process to Congress, DOD and the military departments may continue their inconsistent reporting practices and Congress may lack a clear picture of the major construction projects donated to the military. Further, without advance knowledge of the major construction gifts accepted by the military departments, Congress may not be able to exercise effective oversight over the departments' acceptance of gifts of major construction and the effect they may have on future maintenance funding requirements, including maintenance funded through direct appropriations.

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## Conclusions

Congress is able to conduct oversight over the military construction that goes through the authorization and appropriations process, in which it approves funding for both construction and maintenance. However, commissary surcharge, nonappropriated fund, and privately financed construction projects fall outside of this process, and therefore other policies and procedures must be used if Congress is to remain aware of and conduct oversight over such projects. DOD's policy on congressional notification for these project types—DOD Instruction 7700.18—requires that Congress be notified before contracts are awarded for these major construction projects. However, not all privately financed projects are included in the Instruction 7700.18 reports to Congress, and although many of these—such as privatized housing—have clearly defined statutory reporting requirements, others do not, and the definition of privately financed construction projects in DOD Instruction 7700.18 does not identify these significant exceptions. This in turn can lead to confusion among DOD officials involved in such reporting and among congressional stakeholders who receive these reports. Furthermore, most gifts of major construction we identified were not reported to Congress through this process, and some were not reported to Congress at all. The military departments differed significantly in how they interpreted existing statutes to require—or not require—congressional notification for gifts of major construction. In the absence of complete and consistent departmental notification, Congress does not have a clear picture of the number and types of major construction gifts that are accepted by the departments of the Army, Navy, and Air Force. DOD currently lacks a policy covering

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congressional notification of gifts of major construction that are not reported through the DOD Instruction 7700.18 process. Without developing such a policy, DOD may not be providing Congress with the information it needs to conduct oversight over such projects.

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## Recommendations for Executive Action

In order to help ensure that DOD and the military departments are providing timely and consistent information on privately financed construction projects to Congress under DOD Instruction 7700.18, we recommend that the Secretary of Defense direct the Under Secretary of Defense for Personnel and Readiness—in collaboration with any other relevant DOD stakeholders—to identify the categories of privately financed construction projects, including gifts of major construction, that should be reported through the process outlined in DOD Instruction 7700.18; revise DOD Instruction 7700.18 and any other related policies, as appropriate, to clarify which project types are to be included in and excluded from this reporting process; and require that the military departments update their relevant policies to incorporate the revised policy.

In order to ensure that Congress receives all desired information on all gifts of major construction in a timely manner, we recommend that the Secretary of Defense—in collaboration with any other relevant DOD stakeholders—take the following two actions:

- Identify the lead organization(s) within DOD that will be responsible for developing DOD-wide policy for reporting gifts of major construction that are not reported through the process outlined in DOD Instruction 7700.18, as appropriate.
- Establish DOD-wide policy, as appropriate, on congressional notification of gifts of major construction to cover all such gifts that are not to be reported to Congress through the process outlined in DOD Instruction 7700.18, and require that the military departments update their gift acceptance policies—and any other relevant policies—to incorporate procedures to support DOD’s notification requirements.

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## Agency Comments and Our Evaluation

We provided a draft of this report to DOD for review and comment. In its written comments, reproduced in appendix III and summarized below,

DOD concurred with one recommendation and did not concur with two recommendations. DOD also provided technical comments, which we incorporated as appropriate.

DOD concurred with our first recommendation to, among other things, revise DOD policies to clarify the types of privately financed major construction, including gifts of major construction, to be reported through the DOD Instruction 7700.18 congressional reporting process. DOD stated that it will make the clarifications in the next revision of the Instruction and require the military departments to update their relevant policies, as necessary.

DOD did not concur with our second recommendation, to identify a lead organization responsible for developing DOD-wide policy on reporting gifts of major construction not covered by the DOD Instruction 7700.18 process. DOD stated that it already has an official—the Under Secretary of Defense for Acquisition, Technology, and Logistics—that is responsible for developing policies related to gifts of real property, including major construction. However, DOD has not assigned responsibility for developing DOD-wide policy on reporting gifts of major construction not covered by the Instruction 7700.18 process, as we recommended. We continue to believe such a policy is necessary, as we discuss below. DOD also did not concur with our third recommendation, to establish DOD-wide policy for congressional notification of such gifts. DOD stated that Congress has provided a statutory framework for the department to accept gifts, including gifts of construction, without stipulating any reporting requirements. However, as our report shows, the military departments have been accepting gifts of major construction and reporting some of them to Congress while not reporting others. If DOD does not take action to clarify its policy on reporting such gifts, Congress is likely to continue receiving inconsistent and incomplete information, and to lack an explanation of the scope of the information it is receiving. This in turn may impair Congressional oversight over such projects and their potential effects on future maintenance funding requirements since some projects will not be brought to Congress' attention. We therefore continue to believe that DOD should establish DOD-wide policy for notification of such gifts.

We are sending copies of this report to the appropriate congressional committees; the Secretary of Defense; the Secretaries of the Army, Navy, and Air Force, and the Commandant of the Marine Corps; and the Under Secretary of Defense for Personnel and Readiness. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

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If you or your staff have any questions about this report, please contact me at (202) 512-4523 or [leporeb@gao.gov](mailto:leporeb@gao.gov). GAO staff who made key contributions to this report are listed in appendix IV.

A handwritten signature in black ink, appearing to read "Brian Lepore". The signature is written in a cursive, flowing style.

Brian J. Lepore Director Defense Capabilities and Management

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# Appendix I: Objective, Scope, and Methodology

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To examine the extent to which DOD established and followed policies and procedures for timely notification of commissary surcharge, nonappropriated fund, and privately financed major construction projects to the congressional armed services committees, we analyzed policies and guidance from DOD, the Army, the Navy, the Marine Corps, the Air Force, and the Defense Commissary Agency related to the review and approval of commissary surcharge, nonappropriated fund, and privately financed construction projects.<sup>1</sup> Specifically, we reviewed DOD policies on commissary surcharge, nonappropriated fund, and privately financed construction; establishment, management, and control of nonappropriated funds; commissaries; armed service exchanges; lodging; morale, welfare, and recreation programs; public-private ventures; and military construction, among others. We also reviewed military service policies on nonappropriated funds; morale, welfare, and recreation programs; nonappropriated fund construction program development and execution; and gift acceptance, among others. In particular, we examined these policies to determine the extent to which they provided for advance congressional notification of commissary surcharge, nonappropriated fund, and privately financed major construction projects. We also interviewed officials in the Office of the Secretary of Defense, the Army, the Navy, the Marine Corps, the Air Force, and the Defense Commissary Agency, to identify the review and approval procedures for such projects.

To identify the procedures used to implement DOD and service policies, we selected a nongeneralizable sample of major projects and obtained and analyzed documents demonstrating the review and approval procedures for these projects. To select the projects in our sample, we identified one project of each type—commissary; exchange; morale, welfare, and recreation; lodging; and privately financed—both gift and non-gift—for each component that had a project of that type in the annual reports to Congress for fiscal years 2012 through 2016. For each project type/component, we chose a project in the most recent year in which a project was reported. In cases where there were multiple projects of each type/component in the most recent year available, we selected projects that would provide variation among a variety of factors, such as project description and location, and favored projects in the continental United States over projects outside the continental United States in order to facilitate our ability to obtain documents within our time frame. When

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<sup>1</sup>For the purposes of this review, we define “timely” to mean notification to Congress of planned major construction projects before contracts for construction are awarded, as required by DOD’s instruction.

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these factors were equal, we chose the project with the higher construction cost. This resulted in a sample of 19 projects out of a total of 212 projects reported for the first time to Congress in the fiscal years 2012 through 2016 reports. We then obtained documents demonstrating the process steps used to review and approve these projects, in order to determine which steps had been taken for each project type.

In order to determine the extent to which DOD gave the required notice to Congress before awarding contracts for recent commissary surcharge, nonappropriated fund, and privately financed construction projects, we obtained information on contract award dates for 70 projects—all such major projects reported to Congress for the first time in the fiscal years 2015 and 2016 annual reports. We then compared the contract award dates with the dates the annual programs were reported to Congress. To do so, we reviewed fiscal years 2015 and 2016 annual reports from DOD to notify Congress of such projects, contracts for major projects to determine when the construction contracts were awarded, and additional review and approval documentation to identify the procedures followed in approving select projects.

Finally, we compared DOD, military service, and Defense Commissary Agency policies and procedures and the extent to which the components had followed them with federal internal control standards on the use of quality information to achieve agency objectives such as internal and external reporting.<sup>2</sup>

We visited or contacted the following offices during our review. Unless otherwise specified, these organizations are located in or near Washington, D.C.:

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## Office of the Secretary of Defense

- Office of Military Community and Family Policy

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<sup>2</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept 2014). These standards came into effect in October 2016. For part of the period covered by our review, the prior standards were in effect. See GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: Nov 1999). However, because our review focused on DOD's current policies and procedures for congressional notification of commissary surcharge, nonappropriated fund, and privately financed major construction reporting, we compared these policies and procedures with the internal control standards currently in effect.

- Under Secretary of Defense (Comptroller)
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## Army

- Office of the Assistant Secretary of the Army, Manpower and Reserve Affairs
  - Installation Management Command, Fort Sam Houston, Texas
  - Office of the Administrative Assistant to the Secretary of the Army
  - Office of the Assistant Chief of Staff for Installation Management
  - Office of the Deputy Assistant Secretary of the Army for Installations, Housing, and Partnerships
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## Navy

- Office of the Assistant Secretary of the Navy, Energy, Installations, and Environment
  - Department of the Navy, Assistant for Administration
  - Deputy Chief of Naval Operations (Fleet Readiness and Logistics), Shore Readiness Division (N46)
  - Commander, Navy Installations Command
  - Office of the Deputy Under Secretary of the Navy for Management
  - Department of the Navy, Office of the General Counsel
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## Marine Corps

- Marine Corps Community Services, Quantico, Virginia
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## Air Force

- Office of the Secretary of the Air Force for Installations, Environment, and Energy
- Air Staff, Manpower, Personnel, and Services (AF/A1)
- Air Staff, Office of Logistics, Engineering, and Force Protection (AF/A4)
- Air Force, Civil Engineer Center, Joint Base San Antonio-Lackland, Texas

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## Other DOD Organizations

- Army and Air Force Exchange Service, Dallas, Texas
- Defense Commissary Agency, Fort Lee, Virginia

We conducted this performance audit from February 2016 to January 2017 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

# Appendix II: Major commissary surcharge, nonappropriated fund, and privately financed construction projects in fiscal years 2015 and 2016 annual reports to Congress

The following tables show the major commissary surcharge, nonappropriated fund, and privately financed construction projects that are listed in annual reports to Congress for fiscal years 2015 and 2016 as well as the status of the contract award for each project at the time of our review. Table 1 shows that these fiscal years included 2 commissary surcharge projects; 17 exchange projects; 27 morale, welfare and recreation projects; and 7 lodging projects, totaling an estimated \$300.2 million in construction costs. Congress was notified of all of these projects prior to contract award.

**Table 1. Commissary Surcharge and Nonappropriated Fund Construction Projects for Fiscal Years 2015-2016**

Project Type	Lead Component	Location	Description	Estimated Construction Cost (in millions of dollars)	When reported to Congress	Contract Status/ award date
Surcharge/ Commissary	DECA	Fort Jackson, SC	Addition/alteration commissary	\$8.3	July 2014	September 2015
Surcharge/ Commissary	DECA	Sagami General Depot, Japan	Renovations and additions at Kanto Plain Central Distribution Center	15.9	July 2014	Cancelled
Exchange	USN	Joint Base Pearl Harbor-Hickam HI	Car care center replacement	12.3	Aug 2015	Not yet awarded
Exchange	USN	Naval Air Station, Joint Reserve Base, New Orleans, LA	Gas station	1.2	Aug 2015	Not yet awarded
Exchange	USN	Naval Station Newport, RI	Main exchange expansion/ renovation	5.3	Aug 2015	Not yet awarded
Exchange	USN	Naval Base San Diego, CA	Mini-mart/gas station	9.1	July 2014	Not yet awarded
Exchange	USN	Naval Air Station, Lemoore, CA	Gas station	1.9	July 2014	Not yet awarded
Exchange	USN	Naval Air Station Norfolk, VA	Mini-mart/gas station	5.3	July 2014	Not yet awarded
Exchange	USMC	Marine Corps Base Camp Pendleton, CA	Las Flores services mall	1.5	Aug 2015	Not yet awarded
Exchange	USMC	Marine Corps Base Camp Pendleton, CA	Stuart Mesa Marine Mart	2.5	Aug 2015	Not yet awarded
Exchange	USMC	Marine Corps Air Station, Iwakuni, Japan	Northside Marine Mart	4.2	Aug 2015	Not yet awarded
Exchange	USMC	Marine Corps Air Station, Yuma, AZ	Marine Mart	4.1	July 2014	Not yet awarded

**Appendix II: Major commissary surcharge,  
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2016 annual reports to Congress**

<b>Project Type</b>	<b>Lead Component</b>	<b>Location</b>	<b>Description</b>	<b>Estimated Construction Cost (in millions of dollars)</b>	<b>When reported to Congress</b>	<b>Contract Status/ award date</b>
Exchange	USMC	Marine Corps Base Quantico, VA	Marine Mart	5.5	July 2014	Awarded December 2015
Exchange	AAFES	Fort Gordon, GA	Exchange Branch	1.7	Aug 2015	Not yet awarded
Exchange	AAFES	Fort Bragg, NC	Exchange Branch	6.7	Aug 2015	Not yet awarded
Exchange	AAFES	Fort Benning, GA	Exchange Mart	4.2	July 2014	Awarded May 2015
Exchange	AAFES	Fort Hood, TX	NC Dual Food (fast food facility)	3.0	July 2014	Not yet awarded
Exchange	AAFES	Kadena Air Base, Japan	Construct Exchange Complex	14.4	July 2014	Awarded December 2015
Exchange	AAFES	Guam National Guard, Barrigada Complex, Barrigada Guam	Construct Express	3.9	July 2014	Awarded July 2015
MWR	USN	Naval Support Activity Mid-South, TN	Family Recreation Center	7.4	Aug 2015	Not awarded yet
MWR	USN	Naval Support Activity, Hampton Roads, VA	Golf Maintenance Facility	2.4	Aug 2015	Not yet awarded
MWR	USN	Naval Air Facility, Atsugi, Japan	Recreation Mall	12.5	Aug 2015	Not yet awarded
MWR	USN	Naval Air Facility, Atsugi, Japan	Golf course irrigation	4.0	Aug 2015	Not yet awarded
MWR	USN	Naval Support Activity, Annapolis, MD	Cottages	5.5	July 2014	Not yet awarded
MWR	USA	Fort Rucker, AL	Lodge and banquet facility	6.6	Aug 2015	Not yet awarded
MWR	USA	Fort Irwin, CA	RV Park Expansion	6.3	Aug 2015	Not yet awarded
MWR	USA	Fort Polk, LA	Car wash	1.8	Aug 2015	Not yet awarded
MWR	USA	Fort Leonard Wood, MO	Recreational cabins	1.2	Aug 2015	Not yet awarded
MWR	USA	Fort Bragg, NC	Outdoor recreation center	3.2	Aug 2015	Not yet awarded
MWR	USA	Fort Belvoir, VA	Recreational cabins	4.2	Aug 2015	Not yet awarded

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<b>Project Type</b>	<b>Lead Component</b>	<b>Location</b>	<b>Description</b>	<b>Estimated Construction Cost (in millions of dollars)</b>	<b>When reported to Congress</b>	<b>Contract Status/ award date</b>
MWR	USA	Fort McCoy, WI	Cabins at Pineview Campground	1.7	Aug 2015	Not yet awarded
MWR	USA	U.S. Army Garrison Wiesbaden, Germany	Outdoor recreation center	8.5	Aug 2015	Not yet awarded
MWR	USA	Camp Zama, Japan	Golf course lighting	2.4	Aug 2015	Not yet awarded
MWR	USA	Fort Buchanan, Puerto Rico	Golf course clubhouse renovation	2.2	Aug 2015	Not yet awarded
MWR	USMC	Marine Corps Air Station, Yuma, AZ	Car wash	2.0	Aug 2015	Not yet awarded
MWR	USMC	Marine Corps Base, HI	Klipper recreational villa	8.1	July 2014	Not yet awarded
MWR	USMC	Marine Corps Recruit Depot, Parris Island, SC	Golf clubhouse	4.1	July 2014	Awarded Oct. 2015
MWR	USMC	Marine Corps Base, Camp Butler, Japan	Consolidated club addition	4.1	July 2014	Not yet awarded
MWR	USAF	Joint Base McGuire-Dix-Lakehurst, NJ	Youth center annex	7.0	Aug 2015	Not yet awarded
MWR	USAF	Nellis Air Force Base, NV	Addition/alteration family camp	5.4	Aug 2015	Not yet awarded
MWR	USAF	Hill Air Force Base, UT	Golf clubhouse	6.3	Aug 2015	Not yet awarded
MWR	USAF	Patrick Air Force Base, FL	Addition/alteration family camp	3.2	July 2014	Awarded June 2016
MWR	USAF	MacDill Air Force Base, FL	Outdoor recreation facility	2.6	July 2014	Not yet awarded
MWR	USAF	Joint Base McGuire-Dix-Lakehurst, NJ	Repair auto hobby shop	2.8	July 2014	Not yet awarded
MWR	USAF	Shaw Air Force Base, SC	Addition/alteration family camp	1.0	July 2014	Not yet awarded
MWR	USAF	Kadena Air Base, Japan	Construct outdoor recreation equipment rental center	4.6	July 2014	Not yet awarded
Lodging	USN	Naval Support Activity Monterey, CA	Navy Lodge addition	1.6	Aug 2015	Not yet awarded
Lodging	USN	Naval Air Station Jacksonville, FL	Navy Gateway Inns and Suites central lodging facility	19.4	Aug 2015	Not yet awarded

**Appendix II: Major commissary surcharge,  
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<b>Project Type</b>	<b>Lead Component</b>	<b>Location</b>	<b>Description</b>	<b>Estimated Construction Cost (in millions of dollars)</b>	<b>When reported to Congress</b>	<b>Contract Status/ award date</b>
Lodging	USMC	Marine Corps Air Station, Yuma, AZ	Temporary lodging facility	1.9	Aug 2015	Not yet awarded
Lodging	USMC	Marine Corps Base Camp Butler, Japan	Temporary lodging facility	13.8	July 2014	Not yet awarded
Lodging	USAF	Vandenberg Air Force Base, CA	Temporary lodging facility	3.3	Aug 2015	Not yet awarded
Lodging	USAF	Goodfellow Air Force Base, TX	Temporary lodging facility	4.0	Aug 2015	Not yet awarded
Lodging	USAF	Ramstein Air Base, Germany	Temporary lodging facility	24.7	Aug 2015	Not yet awarded

Legend:

AAFES=Army and Air Force Exchange Service

DECA=Defense Commissary Agency

MWR=Morale, Welfare and Recreation

USA=U.S. Army

USN=U.S. Navy

USMC=U.S. Marine Corps

USAF=U.S. Air Force

Source: GAO analysis of DOD documentation. | GAO-17-76

Table 2 shows the major privately financed projects included for the first time in the annual reports to Congress for fiscal year 2015 and 2016. These included 14 public-private venture projects and 3 gifts, totaling \$128.2 million in estimated value to the government. For public-private ventures, DOD calculates this value as cost avoided by working with a private partner. For the gifts, this value is the estimated construction cost.

**Table 2. Public Private Venture Projects and gifts for Fiscal Years 2015-2016**

<b>Project Type</b>	<b>Lead Component</b>	<b>Location</b>	<b>Description</b>	<b>Estimated Cost Avoidance or construction cost (in millions of dollars)</b>	<b>When reported to Congress</b>	<b>Contract Status</b>
Public Private Venture	USA	Fort Carson, CO	Car wash #2	\$1.3	Aug 2015	Canceled
Public Private Venture	USA	Fort Carson, CO	Pet kennel	2.6	Aug 2015	Canceled
Public Private Venture	USN	Naval Air Station Pensacola, FL	Quick service restaurant	1.8	Aug 2015	Not yet awarded
Public Private Venture	USA	Fort Riley, KS	Freedom Crossing Entertainment Center	25.0	Aug 2015	Not yet awarded

**Appendix II: Major commissary surcharge,  
nonappropriated fund, and privately financed  
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2016 annual reports to Congress**

<b>Project Type</b>	<b>Lead Component</b>	<b>Location</b>	<b>Description</b>	<b>Estimated Cost Avoidance or construction cost (in millions of dollars)</b>	<b>When reported to Congress</b>	<b>Contract Status</b>
Public Private Venture	USA	Fort Campbell, KY	Freedom Crossing Entertainment Center	25.0	Aug 2015	Not yet awarded
Public Private Venture	USN	Naval Construction Battalion Center Gulfport, MS	Car wash	0.8	Aug 2015	Not yet awarded
Public Private Venture	USN	Naval Construction Battalion Center Gulfport, MS	Quick Service Restaurant	1.8	Aug 2015	Not yet awarded
Public Private Venture	USN	Naval Station Norfolk, VA	Mall quick service restaurant	2.5	Aug 2015	Not yet awarded
Public Private Venture	USA	Fort Lewis, WA	Freedom Crossing Entertainment Complex	38.0	Aug 2015	Not yet awarded
Public Private Venture	USA	Fort Carson, CO	Car wash	1.3	July 2014	Cancelled
Public Private Venture	USA	Fort Carson, CO	Pet kennel	1.8	July 2014	Cancelled
Public Private Venture	USA	Fort Bragg, NC	Entertainment Complex	18.5	July 2014	Not yet awarded
Public Private Venture	USMC	Marine Corps Base Camp LeJeune, NC	Fast food restaurant	1.8	July 2014	Cancelled
Public Private Venture	USMC	Marine Corps Recruit Depot Parris Island, SC	Fast food restaurant	1.5	July 2014	Cancelled
Gift	USA	Redstone Arsenal, AL	General/Flag Officer homes	1.2	July 2014	Awarded June 2014
Gift	USA	Redstone Arsenal, AL	Paved roads	1.3	July 2014	Awarded April 2014
Gift	USA	U.S. Military Academy, West Point, NY	Coaches housing	\$2.2	July 2014	Awarded April 2013

Legend:

USA=U.S. Army

USN=U.S. Navy

USMC=U.S. Marine Corps

Source: GAO analysis of DOD documentation. | GAO-17-76

Note: Cost avoidance is the amount the DOD component expects to save by executing the project as a public-private venture relative to what it would have cost if it had fully funded the project itself.

# Appendix III: Comments from the Department of Defense



OFFICE OF THE UNDER SECRETARY OF DEFENSE  
4000 DEFENSE PENTAGON  
WASHINGTON, D.C. 20301-4000

JAN 6 2017

Mr. Brian Lepore  
Director, Defense Capabilities Management  
U.S. Government Accountability Office  
441 G Street, NW  
Washington, DC 20548

Dear Mr. Lepore:

Enclosed is the Department of Defense (DoD) response to the Government Accountability Office (GAO) Draft Report, GAO-17-76, "DEFENSE INFRASTRUCTURE: DoD Needs Clearer Guidance on Notifying Congress of Privately Financed Construction Projects," dated November 2, 2016 (GAO Code 100624). The Department concurs in the report's first recommendation, which falls under the purview of the Office of the Under Secretary of Defense for Personnel and Readiness. The second and third recommendations, with which the Department non-concurs, fall under the purview of the Under Secretary of Defense for Acquisition, Technology and Logistics. The Department has also provided a number of technical comments for GAO's consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Levine".

Peter Levine  
Performing the Duties of the Under Secretary of  
Defense for Personnel and Readiness

Enclosure:  
As stated

GAO DRAFT REPORT DATED NOVEMBER 2, 2016  
GAO-17-76 (GAO CODE 100624)

“DEFENSE INFRASTRUCTURE: DOD NEEDS CLEARER GUIDANCE ON  
NOTIFYING CONGRESS OF PRIVATELY FINANCED CONSTRUCTION  
PROJECTS”

DEPARTMENT OF DEFENSE COMMENTS  
TO THE GAO RECOMMENDATIONS

**RECOMMENDATION 1:** In order to help ensure that DoD and the military departments are providing timely and consistent information on privately financed construction projects to Congress under DoD Instruction 7700.18, GAO recommends that the Secretary of Defense direct the Under Secretary of Defense for Personnel and Readiness—in collaboration with any other relevant DoD stakeholders—to identify the categories of privately financed construction projects, including gifts of major construction, that should be reported through the process outlined in DoD Instruction 7700.18; revise DoD Instruction 7700.18 and any other related policies, as appropriate, to clarify which project types are to be included in and excluded from this reporting process; and require that the military departments update their relevant policies to incorporate the revised policy.

**DoD RESPONSE:** Concur. The Department will clarify the categories of privately financed construction projects that should be reported through the process outlined in DoD Instruction (DoDI) 7700.18 in the next revision of the Instruction and require the military departments to update their relevant policies, as necessary.

**RECOMMENDATION 2:** In order to ensure that Congress receives all desired information on all gifts of major construction in a timely manner, GAO recommends that the Secretary of Defense—in collaboration with any other relevant DoD stakeholders—identify the lead organization(s) within DoD that will be responsible for developing DoD-wide policy for reporting gifts of major construction that are not reported through the process outlined in DoD Instruction 7700.18, as appropriate.

**DoD RESPONSE:** Non-Concur. The Department already has an official responsible for developing policies and procedures relating to gifts of real property, including major construction – the Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)). That said, absent Congress requesting more information on gifts of major construction than it receives pursuant to DoDI 7700.18 (whether through a committee report or a statutory provision), the Department does not concur that it should designate a lead organization for the purpose of developing policy on providing a notification Congress has not requested.

**RECOMMENDATION 3:** In order to ensure that Congress receives all desired information on all gifts of major construction in a timely manner, GAO recommends that the Secretary of Defense—in collaboration with any other relevant DOD stakeholders—establish DoD-wide policy, as appropriate, on congressional notification of gifts of major construction to cover all such gifts that are not to be reported to Congress through the process outlined in DoD Instruction 7700.18; and require that the military departments update their gift acceptance policies, and any other relevant policies, to incorporate procedures to support DoD’s notification requirements.

**DoD RESPONSE:** Non-Concur. Congress has provided a statutory framework for the Department to accept gifts, including gifts of construction, without stipulating any reporting requirements (see section 2601 of title 10, United States Code). While the Department stands ready to respond to congressional requests for information, absent Congress actually requesting that information (whether through a committee report or a statutory provision), the Department does not agree that it should devote scarce resources to otherwise unnecessary reporting requirements.

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# Appendix IV: GAO Contact and Staff Acknowledgments

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## GAO Contact

Brian J. Lepore, (202) 512-4523 or [leporeb@gao.gov](mailto:leporeb@gao.gov)

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## Staff Acknowledgments

In addition to the contact named above, Gina Hoffman (Assistant Director), Simon Hirschfeld, Jesse Jordan, Linda Keefer, Ronald La Due Lake, Joanne Landesman, Erik Wilkins-McKee, Shelley Rao, Monica Savoy, and Sabrina Streagle, made key contributions to this report.

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# Appendix V: Accessible Data

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## Agency Comment Letter

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Text of Appendix III: Comments from the Department of Defense

Page 1

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Director, Defense Capabilities Management

U.S. Government Accountability Office

441 G Street, NW

Washington, DC 20548

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Peter Levine

Performing the Duties of the Under Secretary of Defense for Personnel and Readiness

Enclosure: As stated

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Page 2

DEPARTMENT OF DEFENSE COMMENTS TO THE GAO  
RECOMMENDATIONS

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**DoD RESPONSE: Concur.**

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Page 3

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**DoD RESPONSE: Non-Concur.**

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