

★ CHAPTER 11

★ PRIVATIZATION OF DEFENSE UTILITY SYSTEMS

★1101 GENERAL

★ This chapter prescribes financial management policies and procedures for the implementation of statutory provisions of Title 10, United States Code (U.S.C.), section 2688, “Utility Systems: Conveyance Authority.” Section 2688 permits the conveyance of a utility system, or part of a utility system, under the jurisdiction of the Secretary of Defense to a municipal, private, regional, district, or cooperative utility company, or other entity (this authority does not apply to utility projects constructed or operated by the Army Corps of Engineers under its civil works authority). A utility system is any system used for the: (1) generation and supply of electric power, steam, hot water, or chilled water; (2) supply of natural gas; (3) treatment or supply of water; (4) collection or treatment of wastewater; or (5) for the transmission of telecommunications.

★1102 CONSIDERATION FOR CONVEYANCE OF UTILITY SYSTEMS

★ 110201. Overview. Under the law, consideration for a conveyance shall be equal to the fair market value (as determined by the Military Department Secretary) of the right, title or interest conveyed. Such consideration may take the form of a reduction in charges for future utility services or a lump sum payment. No other consideration or payment options are permitted.

★ 110202. Reduction in Charges. A reduction in charges for future utility services is acceptable consideration when the services are provided by the utility or entity obtaining the utility and the reduction in charges is provided to the military installation at which the utility system is located at the time of conveyance. In such circumstances, a reduction in charges for utility services is an exchange of dissimilar assets that does not result in a credit to an appropriation. The consideration (reduction) in such an exchange shall be considered an Other Asset (Account 1990). Corresponding asset disposal gains and losses shall be recognized as described and illustrated in [Chapter 17](#) of [Volume 4](#) of this Regulation. The recorded asset shall be charged to Operating Expenses/Program Costs (Account 6100) over the life of the contract for utility services. The following subparagraphs apply when the sale of a utility system, or part of a utility system, is in the form of a lump sum payment.

★ 110203. Lump Sum Payment. The proceeds from the sale of a utility system, or part of a utility system, that are in the form of a lump sum payment shall be considered to be a “reimbursement,” as defined in [Chapter 15, Volume 3](#) of this Regulation.

A. Provisions of 10 U.S.C., section 2688, provide that any lump sum cash payment received as consideration for the sale of a utility system shall be credited to an appropriation available for:

1. The procurement of the same utility services as are provided by the utility system conveyed;
2. Carrying out energy savings or water conservation projects (as discussed in [Chapter 12](#) of this volume); or
3. Improvements to other utility systems.

B. A lump sum payment should be credited to the appropriation used to fund the types of base operating support costs described above at the location of the privatized utility system. In most cases, this will be an Operations and Maintenance appropriation. The Office of the Deputy Comptroller (Program/Budget) (ODC(P/B)) approval is required for the use of any other appropriation type, as described in paragraph 110302, below.

C. The amount credited to an appropriation shall be merged with the funds in the appropriation to which credited and shall be available for obligation in the same period, for the same purpose and subject to the same conditions and limitations as the appropriation to which it is credited. There is no provision in 10 U.S.C. 2688 for extending the availability of such funds beyond the normal expiration date of the appropriation.

D. The conveyance of a utility for a lump sum payment results in budgetary and proprietary accounting entries by the entity responsible for collection as follows:

1. Receipt of a lump sum payment is an earned reimbursement that is recorded in the budgetary accounts, as described and illustrated in paragraph 150204 [of Chapter 15, Volume 3](#) of this Regulation.

2. Receipt of a lump sum payment for the conveyance of a utility is recorded in the proprietary accounts as a gain or loss on disposition of assets, as described and illustrated in [Chapter 17, Volume 4](#) of this Regulation.

★1103 POLICY AND PROCEDURES

★ 110301. Same Utility Service Procurements. Before utility conveyance proceeds may be used for the procurement of the same utility services as those provided by the utility system conveyed, the organization receiving the funds shall submit the proposed distribution of funds to the Assistant Secretary of the Military Department (Financial Management and Comptroller) (ASMD(FM&C)) for approval. The ASMD(FM&C) shall notify the Defense Finance and Accounting Service (DFAS) of approved distributions.

★ 110302. Savings and Conservation Projects and Improvements.

A. Receiving Organization. Before utility conveyance proceeds may be used for carrying out energy savings or water conservation projects or improvements to other utility systems, the receiving organization shall:

1. Prepare and submit to the ASMD(FM&C), for each major construction, minor construction, emergency construction, or Federal Energy Management Program project, the budget estimate data required by [Chapter 6, Volume 2B](#) of this Regulation. This data should be submitted using DD Form 1391, “FY__ Military Construction Project Data.”

2. Ensure that the required approval and funding authorization are received before the disbursement of funds.

3. Prepare the paperwork necessary for the disbursement of funds.

4. Ensure that any amount credited to an appropriation from a conveyance under 10 U.S.C., section 2688, is administered in accordance with the financial policy and guidance in [Chapter 15, Volume 3](#) of this Regulation.

B. The ASMD(FM&C). Before approving a receiving organization’s request to carry out energy savings or water conservation projects or improvements to other utility systems, the ASMD(FM&C) shall:

1. Review the receiving organization’s proposal submitted under subparagraph A.1., above, and forward it to the ODC(P/B), Directorate for Military Construction, for final approval.

2. Ensure that required ODC(P/B) approval and funding authorization are received before the disbursement of funds is approved.

3. Provide funds control and reporting information to the DFAS.

4. Notify the receiving organization of the final decision and provide the funding authorization document.

C. The ODC(P/B), Directorate for Military Construction.

1. Before approving an ASMD(FM&C) request to carry out energy savings or water conservation projects or improvements to other utility systems, the ODC(P/B) shall:

a. Review the receiving organization’s proposal submitted under subparagraph B.1., above.

b. Prepare and submit any necessary Apportionment and Reapportionment Schedule (SF 132) (e.g., urgent unforeseen projects not already included in the Military Construction program) to the Office of Management and Budget (OMB) for approval.

c. Notify the ASMD(FM&C) of the final decision and OMB approval, and provide the funding authorization document.

2. Provide funds control and reporting information to the Washington Headquarters Service (for Department-level appropriation accounting).

★ 110303. The DFAS. The Director, DFAS, shall account for and report on amounts credited to appropriations resulting from a conveyance under 10 U.S.C., section 2688, and on any related fixed asset transactions.