

**VOLUME 12, CHAPTER 11: “PRIVATIZATION OF DEFENSE UTILITY SYSTEMS”**

**SUMMARY OF MAJOR CHANGES**

All changes are denoted by **blue font**.

Substantive revisions are denoted by an \* symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue and underlined font**.

The previous version dated August 2009 is archived.

<b>PARAGRAPH</b>	<b>EXPLANATION OF CHANGE/REVISION</b>	<b>PURPOSE</b>
All	Updated hyperlink to 10 U.S.C. 2688	Update

Table of Contents

VOLUME 12, CHAPTER 11: “PRIVATIZATION OF DEFENSE UTILITY SYSTEMS” ..... 1

1101 GENERAL ..... 3

    110101 Purpose ..... 3

    110102 Background..... 3

1102 CONSIDERATION FOR CONVEYANCE OF UTILITY SYSTEMS ..... 3

    110201 Overview ..... 3

    110202 Reduction in Charges..... 4

    110203 Lump Sum Payment ..... 4

1103 POLICY AND PROCEDURES..... 5

    110301 Same Utility Service Procurements ..... 5

    110302 Savings and Conservation Projects and Improvements..... 5

    110303 The DFAS..... 6

## CHAPTER 11

**PRIVATIZATION OF DEFENSE UTILITY SYSTEMS**

## 1101 GENERAL

## 110101 Purpose

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 ([10 U.S.C. 2688](#)), "Utility Systems: Conveyance Authority." Section 2688 permits the Secretary of a Military Department to convey (i.e., transfer or pass title to) a utility system, or part of a utility system, under the Secretary's jurisdiction 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 defined as 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) transmission of telecommunications. The term "utility system" also includes the following: (A) equipment, fixtures, structures, and other improvements utilized in connection with a utility system as defined and (B) real property, easements, and rights-of-way associated with a utility system as defined.

## 110102 Background

The financial management policies in this chapter correspond with the Department of Defense ([DoD Instruction 4170.11](#), *Installation Energy Management*). The Instruction specifies that utilities privatization "is the preferred method for modernizing and recapitalizing DoD utility systems." To this end, the Instruction provides: "Except where the Secretary of the Military Department has certified that the systems are exempt due to security reasons or privatization is uneconomical, the Military Services shall privatize those types of utility systems at every Active and Reserve Component installation, within the United States and overseas, that is not designated for closure under a base closure law."

## 1102 CONSIDERATION FOR CONVEYANCE OF UTILITY SYSTEMS

## 110201 Overview

[Subsection 2688\(c\)\(1\) of 10 U.S.C.](#) provides that the Secretary of a Military Department concerned may require as consideration for a conveyance an amount equal to the fair market value (as determined by the 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. Subsection 2688 does not itself constitute authority for the Secretary of a Military Department to convey a utility system without any consideration or cause to be inapplicable to authorities that govern disposal of DoD real property and personal property. The financial implications of conveying a utility system for less than fair market value should be addressed in the economic analyses required by [subsection 2688\(a\)](#). The value of the utility system

transferred to a utility at less than fair market value may constitute taxable income to the utility and may impact utility rates.

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 is considered an Other Asset (Account 1990), and the recorded asset is reduced by charges to Operating Expenses/Program Costs (Account 6100) over the life of the contract for utility services. Corresponding asset disposal losses must be recognized as described in Volume 4, Chapter 17.

110203      Lump Sum Payment

A. Provisions of [\(10 U.S.C. 2688\)](#) provide that any lump sum cash payment received as consideration for the sale of a utility system shall be credited, at the election of the Secretary concerned, to an appropriation of the Military Department 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); or
3. Improvements to other utility systems.

B. A lump sum payment must be credited to the appropriation used to fund the types of base operating support costs described in subparagraph 110203.A at the location of the privatized utility system. In most cases, this will be an Operations and Maintenance appropriation. Approval of the Office of the Under Secretary of Defense (Comptroller) Program/Budget (OUSD(C)(P/B)) is required for the use of any other appropriation type, as described in paragraph 110302.

C. The amount credited to an appropriation shall be merged with the funds in that appropriation and shall be available for obligation in the same period, for the same purposes, and subject to the same conditions and limitations as that appropriation. 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 recorded in the budgetary accounts as an earned reimbursement, as described in Volume 3, Chapter 15, paragraph 150204.

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 in Volume 4, Chapter 17.

## 1103 POLICY AND PROCEDURES

### 110301 Same Utility Service Procurements

Before utility conveyance proceeds may be used to procure the same utility services as those provided by the utility system conveyed, the organization receiving the funds must 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) must notify the supporting Defense Finance and Accounting Service (DFAS) site of approved funds 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 **must**:

1. Prepare and submit to ASMD(FM&C) – for each major construction, minor construction, emergency construction, or Federal Energy Management Program project - the budget estimate data required by Volume 2B, Chapter 6, subparagraph 060301.B, using [Defense Department Form 1391](#), “FY\_\_ Military Construction Project Data.”

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

3. Prepare the paperwork necessary for the disbursement of funds **in** accordance with Volume 5, Chapter 11.

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

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, ASMD(FM&C) **must**:

1. Review the receiving organization’s proposal submitted under subparagraph 110302.A.1., and forward it to OUSD(C)(P/B), Directorate for Military Construction, for final approval.

2. Ensure required OUSD(C)(P/B) approval and funding authorization are received before the disbursement of funds is approved.
3. Provide funds control and reporting information to the supporting DFAS site.
4. Notify the receiving organization of the final decision and provide the funding authorization document.

C. The OUSD(C)(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, OUSD(C)(P/B) must:
  - a. Review the receiving organization's proposal submitted under subparagraph 110302.A.1.
  - b. Prepare and submit any necessary Apportionment and Reapportionment Schedule (Standard Form 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 ASMD(FM&C) of the final decision and OMB approval, and provide the funding authorization document.
2. Provide funds control and reporting information to Washington Headquarters Service (for Department-level appropriation accounting).

110303      The DFAS

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