

**UNITED STATES OF AMERICA**

*Congress of the United States*

**SUBPOENA  
000001**

**To** Gordon England  
Acting Deputy Secretary of Defense  
Department of Defense  
Washington, DC 20301

**Greetings:**

*Pursuant to lawful authority, YOU ARE HEREBY COMMANDED to produce to the COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS of the Senate of the United States, by June 13, 2005, at 12:00 o'clock p.m., at its Committee Office, 340 Dirksen Senate Office Building, Washington, D.C., 20510, all materials as set forth in Schedule A, attached hereto and made a part hereof.*

*Hereof fail not, as you will answer your default under the pains and penalties in such cases made and provided.*

*To Staff Representative of the Committee on Homeland Security and Governmental Affairs, or a representative of the United States Marshals Service, to serve and return.*

*Given under my hand, by authority vested in me by the Committee, on this 7<sup>th</sup> day of June, 2005.*

*Susan M. Collins* Chairman  
Senate Committee on Homeland Security and Governmental Affairs

*[Signature]* Ranking Member  
Senate Committee on Homeland Security and Governmental Affairs

\_\_\_\_\_, 2005

*I made service of the within subpoena by*

\_\_\_\_\_ |

\_\_\_\_\_ |

\_\_\_\_\_ *to the within-named*

\_\_\_\_\_ |

\_\_\_\_\_ |

*at* \_\_\_\_\_ |

\_\_\_\_\_ |

\_\_\_\_\_ |

*at* \_\_\_\_\_ *o'clock* \_\_\_\_\_ *m., on the* \_\_\_\_\_

*day of* \_\_\_\_\_ *2005.*

*Signed* \_\_\_\_\_

The Honorable Gordon England  
Acting Deputy Secretary of Defense  
Department of Defense  
Washington, D.C. 20301

Schedule A

Except as already provided to Congress pursuant to Section 2903(c)(4) of the BRAC Act, please provide the following information as that term is defined in the "Definitions" section below (including, for example, electronic mail, working papers, and handwritten notes):

1. All information related to (i) criteria or factors discussed, used, or considered by DoD during the 2005 BRAC round other than those criteria and factors specifically authorized by the BRAC Act, or (ii) the discussion, use, or consideration of criteria and factors by DoD in a manner not authorized by the BRAC Act.
2. All information related to (i) whether or how to include or weight specific criteria or factors, including any elements or variables thereof, during the 2005 BRAC round, (ii) any change in how the criteria and factors specifically authorized by the BRAC Act were considered or weighted by DoD in the 2005 BRAC round, (iii) any change in what elements and variables comprised the criteria and factors specifically authorized by the BRAC Act, or (iv) any change in how such elements and variables were considered and weighted. This request includes but is not limited to the criteria and factors, and elements and variables thereof, that comprised "military value" and "environmental impact."
3. To the extent not already produced in response to the preceding paragraphs of this Schedule, all information discussed, used or considered by DoD to prepare the recommendations or preliminary thereto, including but not limited to (i) all information related to communications, discussions, analyses, and reviews within DoD and between DoD and other entities during the preparation of the recommendations and related to the 2005 BRAC round and (ii) all data provided to DoD by any person or entity related to the 2005 BRAC round, including any preliminary data submissions.
4. All information related to DoD's process of complying with the requirement of Section 2903(c)(4) of the BRAC Act to disclose to Congress "all information used by the Secretary to prepare the recommendations" for the 2005 BRAC round, including but not limited to all information related to DoD's consideration of, and planning and arrangements for, the declassification of such information.
5. All information related to decisions for, discussions concerning, or considerations of redacting, deleting, or altering in any way the information disclosed by DoD pursuant to Section 2903(c)(4) of the BRAC Act, whether for purposes of declassification or any other purpose.
6. Information sufficient to identify all officials, employees, contractors, and consultants of the United States Government, regardless of whether paid or unpaid, who played any role in matters related to the 2005 BRAC round including their names, titles, place of employment, and to the extent applicable, the specific issues or military installations to which their work related, or in lieu thereof a list sufficient to identify such individuals including their names, titles, place of employment, and to the extent applicable, the specific issues or military installations to which their work related.

Instructions:

- a. The information requested includes all such information that is in the custody, control or possession of DoD, or within the right of custody, control or possession of DoD, its officers, agents, employees, or representatives, regardless of whether DoD created such information.
- b. The information requested includes information related to DoD's discussions, consultations, correspondence, and communications with other entities, whether such entities are part of the United States Government or not.
- c. DoD is under a continuing obligation to promptly provide additional information responsive to this subpoena.
- d. All information produced in response to this subpoena shall be produced in a form that renders such information susceptible of copying, shall include all attachments, and shall not be redacted.
- e. Information produced in response to this subpoena shall be produced together with copies of file labels, dividers or identifying markers with which such information was associated when this subpoena was served or shall otherwise be identified and dated.
- f. It shall not be a basis for refusal to produce information that any other person or entity also possesses non-identical or identical copies of the same document.
- g. If any of the subpoenaed information is available in machine-readable form, state the form in which it is available and provide sufficient detail to allow the information to be copied to a readable format. If the information requested is stored in a computer, indicate whether you have an existing program that will print the records in a readable form.
- h. If the subpoena cannot be complied with in full, it shall be complied with to the extent possible, with an explanation of why full compliance is not possible.
- i. In the event that any information is withheld on the basis of privilege, provide with the responses to this subpoena the following concerning any such information: (i) the date of the information, its author, his or her occupation, title and employer, all recipients, the occupation, title and employer of each recipient, (ii) the subject matter of the information, (iii) the privilege claimed and a brief explanation of the basis of the claim of privilege, (iv) the type of information, and (v) the relationship of the author and recipient(s) to each other.
- j. If any information responsive to this subpoena was, but no longer is, in DoD's possession, custody, or control, identify the information (stating its date, author, subject and recipients) and explain the circumstances by which it ceased to be in DoD's possession, custody, or control.
- k. For all information produced, indicate the paragraph of Schedule A to which it is responsive.

Definitions:

- a. The term "information" shall mean any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: documents; electronic mail ("email"); working papers; records; notes, including but not limited to handwritten notes; agreements; papers; memoranda; reports; studies; reviews; analyses; summaries; agendas; presentations; minutes; transcripts; graphs; diagrams; photographs; charts; tabulations; presentations; letters; notices; confirmations; telegrams; faxes; telexes; receipts; appraisals; interoffice and intra-office communications;

contracts; cables; notations or logs of any type of conversation, telephone call, meeting, or other communication; bulletins; printed matter; computer printouts; teletype; invoices; audio cards or worksheets; computer stored and generated documents; computer databases; computer disks and formats; machine readable electronic files or records maintained on a computer; diaries; questionnaires and responses; data, including but not limited to data sheets and data calls; spreadsheets; bills; accounts; estimates; projections; comparisons; messages; correspondence; and similar material. Information bearing any notation not a part of the original text is to be considered a separate piece of information. A draft or nonidentical copy is considered a separate piece of information within the meaning of the term "information."

- b. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
- c. The term "related to" shall be construed broadly and shall include information that is in any way: about, discussing, concerning, affecting, referencing, or reflecting the particular topic as specified in the document request.
- d. The terms "Department of Defense" and "DoD" shall refer to all elements, components, programs, personnel, contractors, and consultants, regardless of whether paid or unpaid, of the United States Department of Defense, including but not limited to the Military Departments and the Joint Cross-Service Groups.
- e. The term "BRAC Act" shall refer to the Defense Base Closure and Realignment Act of 1990, P. L. No. 101-510 (1990), as amended.
- f. The term "2005 BRAC round" shall refer to the base closure and realignment round authorized by the National Defense Authorization Act of 2002, P. L. No. 107-107 (2001), including but not limited to all matters considered, discussed, or reviewed in any way by DoD related to this round.
- g. The term "recommendations" shall refer to the recommendations of the Secretary of Defense released on May 13, 2005, for the closure or realignment of military installations in the 2005 BRAC round.