

Hague, David, CIV, WSO-BRAC

From: Hague, David, CIV, WSO-BRAC
Sent: Wednesday, June 15, 2005 5:35 PM
To: 'Philip Coyle'
Cc: Battaglia, Charles, CIV, WSO-BRAC; Cowhig, Dan, CIV, WSO-BRAC
Subject: RESPONSE TO YOUR QUESTION

Commissioner Coyle,

You have posed in the email below the question: "Is the Commission required under law to disapprove a DoD BRAC recommendation if the Commission finds that the action cannot be completed in six years?" Your question has been forwarded by the R&A staff to the DoD Clearing House and we are awaiting a reply. Meanwhile here is my take on the issue you raise.

The six-year implementation requirement stems from section 2904(a)(5) of the 1990 BRAC law, P.L. 101-510, as amended by P.L. 107-107, which states as follows:

". . . the Secretary shall complete all such closures and realignments no later than the end of the six-year period beginning on the date on which the President transmits the report pursuant to section 2903(e) containing the recommendations for such closures or realignments."

The only basis on which the Commission may change a SecDef recommendation that a base be closed or realigned is by a finding that he substantially deviated from the final selection criteria or force structure plan in making his recommendation.

I am not aware of any change to a DoD recommendation by a past BRAC Commission based on a finding that a closure could not be completed within six years, nor do I think such a finding is possible due to the broad definition of closure. Even if the Commission made such a finding, I do not believe that it alone would rise to the level of substantial deviation.

According to the DoD definition, closure of an installation is complete when "all missions of the installation have ceased or have been relocated, personnel positions (military, civilian and contractor) have either been eliminated or relocated, except for personnel required for caretaking, conducting any ongoing environmental cleanup, and disposal of the base, or personnel remaining in authorized enclaves." Property disposal and environmental cleanup actions are allowed to continue after closure and beyond the statutory, six-year period.

While the question is not site-specific, it is useful to address it in the context of Umatilla Chemical Depot in Oregon, where the issue arose. The commanding officer at Umatilla opined during a BRAC site visit that he would not be able to complete the incineration of all of the chemical weapons at Umatilla within six years. DoD, on the other hand, in its justification for closing the depot, asserts: "There is no additional chemical demilitarization workload slated to go to Umatilla Chemical Depot. The projected date for completion of its existing workload is 2nd Quarter of 2011. There is no further use for Umatilla Chemical Depot."

Whether DoD's assertions are factually correct or not (the presumption is that they are correct), there is no question but that the depot can be closed in six years. Extra shifts or contract workers might be required, chemicals might be moved to another facility, or other measures might be taken to ensure the depot is closed within the allotted time.

Another approach to a facility like Umatilla could be a finding of substantial deviation from Criteria 1, that is, the facility represents a unique "current and future mission capability" that should be retained until it is no longer needed. If the Commissioners conclude that the facts do not clearly show that the capability will be surplus by 2011, the projected date of closure, it should not be closed through the 2005 BRAC process.

Thanks for raising this issue. It is one of many we will need to address. I will let you know what response we receive from the DoD Clearing House.

David

-----Original Message-----

From: Philip Coyle [mailto:martha.krebs@worldnet.att.net]
Sent: Saturday, May 28, 2005 12:50 AM
To: Battaglia, Charles, CIV, WSO-BRAC; Principi, Anthony, CIV, WSO-BRAC; 'skinner@gtlaw.com'; Hague, David, CIV, WSO-BRAC; 'jbilbray@kkbr.com'; 'Martha.krebs@att.net'; 'jangehman@aol.com'; 'jvh@jimhansenassociates.com'; 'Hillttmg1@aol.com'; 'lloyd.newton@pw.utc.com'; 'bgtutner@satx.rr.com'
Cc: Cowhig, Dan, CIV, WSO-BRAC; Sarkar, Rumu, CIV, WSO-BRAC
Subject: BRAC timing, cost savings, and classified access

Dear Mr. Battaglia: The visits that Mr. Bilbray and I made to Portland IAP AGS, to McChord AFB, and to Umatilla Chemical Depot were very informative and illuminated a number of important issues.

I'll just take a moment to mention three issues that you and/or Gen. Hague may be able to clarify or want to pursue:

1. The Installation Commander and his staff at Umatilla Chemical Depot told us in no uncertain terms that they will not be able to complete the incineration of all of the chemical weapons at Umatilla within the six years required for BRAC 2005. In fact it appears that they will not meet the schedule for completing the destruction of these weapons required under the Chemical Weapons Treaty either, and will have to request another extension.

No doubt the Russians will have the same problem.

This raises the question is the Commission required under law to disapprove a DOD BRAC recommendation if the Commission finds that the action cannot be completed in six years?

2. From our visit to McChord AFB it appears that the DOD projected cost savings are highly unrealistic and that this situation may pertain at other bases where "joint basing" is being recommended. While I'm sure all the Commissioners support Jointness in principle, for the purposes of BRAC 2005, joint basing was recommended by the DOD for its supposed cost savings. The people at McChord AFB believe that an overall target - a bogey - was set for joint basing cost savings across the nation, that those "savings" were then allocated to those bases being recommended for joint basing, and that from these dollar "savings" personnel cuts required to achieve these savings were calculated and levied. The people at McChord AFB said they had not been consulted about whether or not these savings could be realistically achieved.

By contrast, the savings were NOT generated by a cooperative effort between McChord AFB and Fort Lewis, studying common base support or medical functions that might be consolidated, and deriving realistic savings from those joint actions.

While the situation is quite different at Umatilla, the cost savings projected by the DOD there also do not appear to be achievable since Umatilla has no mission that might generate cost savings. Chemical agent demil seems to always take longer and cost more than expected, not less, and Umatilla has no other mission.

If we find this to be the case at other bases recommended for closure or realignment, it could impact our views regarding the wisdom behind a number of DOD recommendations.

3. The DOD put out a letter to Senator Warner and a legislative update today - see attached - announcing that the DOD staff will make the entire digital database, including classified portions, accessible on computers in a secure reading room in Crystal City near the BRAC Commission offices. The DOD plans to have this material available by Tuesday evening, May 31st.

This raises the question can members of the military or defense contractors with proper clearances access these classified materials at the Commission reading room?

Best regards,

Phil

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