

BRAC/GC/dch
May 12, 2005

MEMORANDUM FOR THE CHAIRMAN

Via: DIRECTOR OF STAFF

Encl: (A) Chrm '95 BRAC ltr of July 8, 1995 to DepSECDEF
(B) POTUS ltr of July 13, 1995 to Chrm '95 BRAC
(C) POTUS remarks at news conference of July 13, 1995
(D) Chrm '95 BRAC ltr to POTUS of July 14, 1995
(E) POTUS undated transmittal of '95 BRAC report to Congress

1. In 1995 the BRAC Commission recommended closing maintenance depots at McClellan Air Logistics Center in California and Kelly Air Logistics Center in Texas. As an alternative to closing the facilities President Clinton proposed having private contractors take over maintenance at the sites (privatization-in-place). The President's actions were perceived by some as an affront to the BRAC process. The states and communities that were home to the installations identified as receiving bases for McClellan and Kelly functions, personnel, and equipment were especially upset.
2. The five enclosures provided by Frank Cirillo and Ed Brown, describe the events that transpired:
 - In enclosure (A), Chairman Dixon explains that the Commission "supported" privatization-in-place at McClellan AFB (a closure) and Kelly AFB (a realignment) and opines that the recommendations allows privatization-in-place.
 - In enclosure (B) the President expresses considerable unhappiness about the Commission report, but stated that he would reluctantly approve it only because of assurances that privatization-in-place would occur at McClellan and Kelly AFBs.
 - The President again chastises the Commission in the public pronouncement contained at enclosure (C) for its purported failure to adequately assess the economic impact of all of its decisions.
 - Chairman Dixon writes to the President defending the work of the Commission (enclosure (D)).
 - The President's approves the Commission report conditioned on DoD having continuing authority to implement privatization plans at McClellan and Kelly AFBs (enclosure (E)).
3. Privatization-in-place is of increasing importance in the BRAC process and is certain to be a popular option in BRAC 2005. BRAC 1993 recommendations raised the consideration of turning to the private sector. Twelve 1995 BRAC recommendations gave DoD a choice of moving workload from the BRAC site to either another DoD activity or to the private sector. Proponents of privatization-in-place argue that such public-private partnerships can meet or exceed DoD infrastructure goals, reduce costs and service disruptions, create savings, and help retain needed technical capabilities to support DoD missions.

DAVID C. HAGUE
General Counsel



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ALAN J. DIXON, CHAIRMAN

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WENDI LOUISE STEELE

July 8, 1995

The Honorable John P. White
Deputy Secretary of Defense
Department of Defense
Washington, D.C. 20301

Dear Mr. Secretary:

This is in response to your request for my views on the Defense Base Closure and Realignment Commission's recommendations concerning the disposition of the workloads at McClellan Air Force Base and Kelly Air Force Base.

Let me say that, in general, the Commission was very supportive of the concept of privatization of DoD industrial and commercial activities, as noted in Chapter 3 of the Commission's Report:

"The Commission believes reducing infrastructure by expanding privatization to other DoD industrial and commercial activities will reduce the cost of maintaining and operating a ready military force. -- Privatization of these functions would reduce operating costs, eliminate excess infrastructure, and allow uniformed personnel to focus on skills and activities directly related to their military mission.

The Commission's recommendations for the closure of McClellan Air Force Base and the realignment of Kelly Air Force Base include the following sentence:

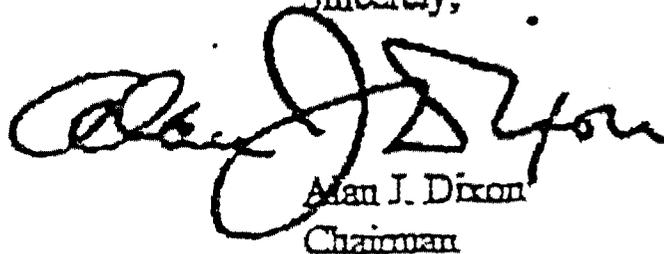
"Consolidate the [remaining] workloads to other DoD depots or to private sector commercial activities as determined by the Defense Depot Maintenance Council.

The word "remaining" is used only in the Commission's recommendation for McClellan Air Force Base because the Commission directed the movement of the common-use ground-communication electronics workload currently performed at McClellan Air Force Base to Tobyhanna Army Depot.

It is my view, and the view of the Commission's General Counsel, that the Commission's recommendation in the case of both McClellan Air Force Base and Kelly Air Force Base authorizes the transfer of any workload, other than the common-use ground-communication electronics workload, to any other DoD depot or to any private sector commercial activity, local or otherwise, including privatization in place. This recommendation also permits the Defense Department, in my view and that of the Commission's General Counsel, to carry out any activities associated with privatization, such as allowing necessary DoD personnel to remain in place to support transition activities.

I appreciate the opportunity to share my views with you on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan J. Dixon". The signature is stylized and overlaps the printed name below it.

Alan J. Dixon
Chairman

THE WHITE HOUSE

WASHINGTON

July 13, 1995

Dear Mr. Chairman:

In consultation with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, I have reviewed the recommendations of the Defense Base Closure and Realignment Commission (BRAC) submitted to me on July 1, 1995. Because of the overwhelming national security interest in reducing our base structure in line with the personnel reductions that have already taken place, I have decided, with reluctance and with the clear understanding that the Secretary of Defense can implement a privatization plan for McClellan Air Force Base (AFB), in Sacramento, California, and Kelly AFB, in San Antonio, Texas, that reduces the economic impact on these communities and avoids unacceptable disruption of Air Force readiness, to accept the Commission's recommendations. As stated in his letter of July 13, 1995 (attached), Secretary Perry recommended that I approve this course of action.

I recognize that the Commission had a difficult job to perform. I also recognize that the Commission was subject to intense political pressures from Congress and others who lobbied on behalf of communities that surround defense installations and facilities across the country.

That said, I regret that in your own words, the 1995 BRAC produced "the greatest single deviation from the recommendation of the Secretary of Defense in the history of the base closure process," including the rejection of 23 of the base closures or realignments recommended by Secretary Perry and the addition of 9 others that he had not recommended.

I do not disagree with all of your changes, but I believe that there was too much deviation from the DoD recommendations. Moreover, it appears that military readiness factors were applied inconsistently. For example, in the case of Red River Army Depot, in Texas, you rejected the DoD's recommendation that the installation be closed, citing "too much a risk in readiness" if these activities were relocated to Anniston Army Depot, Alabama. Yet in the cases of the huge air logistics centers (ALCs) at McClellan and Kelly AFBs, you disregarded the Air Force's

conclusion that closure would unacceptably disrupt Air Force readiness due to the turmoil associated with relocating these extensive and complex mission-critical activities.

In addition, I believe that the harshness of economic impact, on balance, is greater under your plan than under the DoD recommendations, for savings that were about the same as the Defense plan. Although the law requires consideration of economic impact, it does not appear that this crucial factor was adequately taken into account in some of your decisions. The Commission acknowledged but disregarded the economic impact of closing Kelly AFB, and in a number of public statements you have denied that a disproportionate impact is being inflicted on California.

In the Commission's comments on Kelly AFB, it acknowledged that closing the base would have a severe economic impact and produce a 73% increase in San Antonio Hispanic unemployment. Yet it is not clear that the reassignment of airfield operations at Kelly and certain tenant units to adjoining Lackland AFB would have adequately mitigated this impact had we not also been able to preserve jobs at the ALC through privatization.

Here are the facts on California: when the base closure rounds first began California accounted for 13 percent of the U.S. population, 15 percent of DoD military and civilian personnel and almost 20 percent of defense contract dollars. Yet in the three previous base closing rounds California suffered 52 percent of the direct jobs that were eliminated or relocated. Two of the deviations made by your Commission -- the recommendations to close McClellan and Kelly AFBs -- could, had we not clarified the options available to the Secretary of Defense, have exacerbated this previous cumulative impact and, as noted, unacceptably disrupted Air Force readiness.

The Department of Defense had carefully assessed the economic impact on communities in accordance with the established criteria for determining closure recommendations in developing its recommendations to you. Regrettably, in adding McClellan AFB, Oakland Army Base and the Fleet Industrial Supply Center, Oakland, to the closure list, the Commission's recommendations would again hit California with roughly half of all jobs eliminated or relocated in BRAC 95 -- a percentage that is both disproportionate, far in excess of that recommended by DoD and clearly unsupportable in light of new BRAC closings.

At the same time, the goal of streamlining our defense infrastructure by closing bases we no longer need is important to our national security. My Administration has pursued this goal through our support for the BRAC 1993 Commission recommendations

and our February 28, 1995, recommendations to you for a robust and balanced base closing round. We also have a commitment to treat fairly the dedicated men and women who work at these bases and the communities that have so faithfully supported our Armed Forces at these facilities.

As we reviewed your report, the Secretary of Defense advised me that if he had the clear authority to transfer work at McClellan and Kelly to the private sector -- on site or in the community -- and thereby make productive use of most of the highly skilled work force and specialized equipment in place, the operational risks and costs of the transition at these two bases would be reduced, while mitigating the adverse economic impacts on the surrounding communities.

This privatization approach is fully consistent with my Administration's initiative to reinvent government and with the recent recommendation of the Commission on Roles and Missions of the Armed Forces to establish a time-phased plan to privatize essentially all existing depot-level maintenance, including the five ALCs. This is, moreover, an approach that the Defense Department has in fact begun to implement at other facilities. For example a privatization competition is currently underway for work being performed at Newark AFB, Ohio, which was slated for closure in FY 1997 by the 1993 BRAC. I strongly support the Defense Department's pursuit of this and other suitable opportunities for privatization. Candidates identified by your Commission include the Naval Air Warfare Center in Indianapolis and the Naval Surface Warfare Center in Louisville.

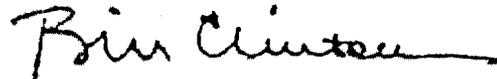
In this regard, I was pleased to learn that in a July 8, 1995, letter to Deputy Secretary of Defense White, you confirmed that the Commission's recommendations permit the Department of Defense to privatize the work loads of the McClellan and Kelly facilities in place or elsewhere in their respective communities. The ability of the Defense Department to do so mitigates the economic impact on those communities and should protect against job loss, while helping the Air Force avoid the disruption in readiness that would result from relocation, as well as preserve the important defense work forces there.

Today I have forwarded the Commission's recommendations to the Congress in accordance with Public Law 101-510, as amended, and recommended that they be approved. In my communication with the Congress, I have made clear that the Commission's agreement that the Secretary enjoys full authority and discretion to transfer workload from these two installations to the private sector, in place, locally or otherwise, is an integral part of the overall BRAC 95 package it will be considering. Moreover, should the Congress approve this package but then subsequently take action

in other legislation to restrict privatization options at McClellan or Kelly, I will regard this as a breach of Public Law 101-510 in the same manner as if the Congress were to attempt to reverse by legislation any other material direction of this or any other BRAC.

Please thank the members of the Commission for their hard work. The BRAC process is the only way that the Congress and the executive branch have found to make closure decisions with reasonable objectivity and with finality.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Clinton", with a long horizontal flourish extending to the right.

The Honorable Alan J. Dixon
Chairman
Defense Base Closure and
Realignment Commission
Suite 1425
1700 North Moore Street
Arlington, Virginia 22209

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

July 13, 1995

REMARKS BY THE PRESIDENT
FOLLOWING WELFARE REFORM MEETING

The Rose Garden

10:08 A.M. EDT

THE PRESIDENT: Good morning. I want to thank Senator Daschle, Senator Moynihan, Senator Mikulski, Senator Breaux, Senator Markin for coming. Governor Carper; Mayor Archer, a county Executive from Madison, Wisconsin; Rick Phelps and the Majority Leader of the Tennessee House of Representatives; Bill Purcell for joining members of our administration here.

We have just had a good talk about welfare reform and the growing consensus around the approach taken by the bill offered by Senators Daschle and Mikulski and Breaux on welfare reform.

The American people have made it abundantly clear that they want us to fix the welfare system. It doesn't work for the people who are stuck on it, and it doesn't work for the taxpayers.

Welfare reform furthers both of the primary objectives of our administration. If it works, it will further the American Dream of opportunity and it will further the American value of responsibility. Our goal should be to help people be successful and independent workers and to build strong families.

We ought to be able to do this. We've come a long way in this debate. There's a broad consensus, for example, on tougher child support enforcement requirements. And not so very long ago, liberals opposed work requirements; they don't anymore. Not so very long ago, conservatives opposed spending money to provide child care when people move from welfare to work. Most conservatives out in the country don't anymore.

In America, where people live with this issue, there is a great deal of consensus about what we ought to do. And we ought

problems now with this. Unless we can restore the integrity of the U.N. mission, obviously, its days will be numbered.

But let's not forget that it has accomplished a dramatic reduction in the loss of life since 1992 and the conflict has not spread. This is a serious challenge to the U.N. mission. It must either be resolved or there will have to be some changes there.

Q Mr. President, on another welfare issue that's headed for your desk, what are you going to do about this tobacco issue that is headed for your decision?

THE PRESIDENT: Well, I haven't -- let me say this -- I have not received a recommendation from the FDA. I saw the news reports today and they struck me as somewhat premature inasmuch as I have not yet received either a recommendation or, as the news reports indicated, requests for my own guidance on that yet.

But we have had some discussions and I can tell you this: My concern is apparently what the FDA's concern is, and that is the impact of cigarette smoking, particularly on our young people, and the fact that cigarette smoking seems to be going up among our young people and certainly among certain groups of them. And I think we ought to do more about that than is being done and I'm willing to do that. But I want to see exactly what their recommendation is.

Q Mr. President, how do you answer the charge that the White House has injected politics into the base closing process?

THE PRESIDENT: First of all, it is absolutely false. I intend to answer it in the letter that I write today, but since you gave me a chance to do it, I'll answer it.

Let's look at the facts here. Where is the politics? This Base Closing Commission made far more changes in the Pentagon plan than either any of the three previous base closing commissions, far more. They've been under a lot of political pressure. I understand that. I don't disagree with all the changes they made.

They acknowledge -- secondly, under the law they are supposed to take into account economic impact. Based on their report, which I have read -- and I urge all of you to read it if you haven't -- before you make any judgments about where there

was political influence, I urge all of you to read it. They took 23 bases or realignments off that the Pentagon recommended, off the list; and then put nine more on, three of which happen to be in California, with the biggest job loss by far in San Antonio at Kelly Air Force Base; rejecting the Defense Department's recommendation that instead of closing these two big Air Force depots, they take an across-the-board cut in all five of them. That's what they did.

Apparently, in all of their deliberations the only place where they took economic impact into account was at the Red Rivo Depot on the border of Texas and my home state. It is clear that -- I think they have a case there. It would have almost doubled unemployment in that community.

But let's look at the facts on this politics. This is about economics. In the report itself they acknowledge that at Kelly Air Force Base 60 percent of the employees are Hispanic; 45 percent of the Hispanics employed in the entire area work there; that it will have a devastating impact, and they were willing to shut down about 16,000 jobs, when there was another alternative that saved at least as much money, according to the Pentagon, or nearly as much, according to them.

Secondly, in California here are the facts. I have not seen these anywhere. I have not seen these anywhere. The law requires economic impact to be taken into effect -- into account. Here are the facts.

When this Base Closing Commission process started, California had 13 percent of the population, 15 percent of the people in military, 20 percent of the defense budget. In the first three base closings they sustained 52 percent of the direct job losses. We're not talking about indirect jobs, we're not talking about speculation -- 52 percent.

In this recommendation the Pentagon hit them pretty hard, recommended closing Long Beach, a big facility. This Base Closing Commission, not satisfied with that, made a decision that they had to add back a lot of other jobs. So they decided to take almost all the jobs they took out, out of one place, San Antonio, Texas, and by closing three California bases -- taking the California job loss in this round to almost 50 percent.

Now, you tell me that my concern over that economic situation when their unemployment rate is 8.5 percent, they have borne over 50 percent of the burden of the job loss, is political. My concern in San Antonio, Texas, where one decision

could virtually wipe out the Hispanic middle class is political, when there was another alternative that the Pentagon said was better for national security -- I am tired of these arguments about politics.

My political concern is the political economy of America and what happens to the people in these communities and are they being treated fairly.

Now, I do not disagree with every recommendation the Base Closing Commission made, but this is an outrage. And there has been a calculated, deliberate attempt to turn this into a political thing and to obscure the real economic impact of their recommendations in San Antonio and California, which were made solely so they could put back a lot of other things.

Now, let's not --

Q Why do you think they did that?

Q Have you accepted their recommendations?

Q What is the reason that they did that?

THE PRESIDENT: I don't know. I'm not imputing motives to them. I'm just saying it's very interesting to me that there has been almost no analysis of anything. This whole thing immediately became, well, this is a big political story about California. This is an economic story and it's a national security story. And there has been no analysis of what got put back and why, and what got taken off and why.

And I have been doing my best to deal with what is in the national interest. There are two considerations here. We have to reduce our base capacity. That's the most important thing. We have twice as much base capacity as we need, more or less, for the size of the military force we have. That is a national security interest. And that is my first and most important duty.

But, secondly, under the law, economic impact was supposed to be taken into account, and as nearly as I can determine, it wasn't anywhere -- never in these determinations, with the possible exception of the Red River Depot, based on my reading of the report.

Now, the question is, is there a way to accept these recommendations, because even though I think they're far --

they're not as good as what the Pentagon recommended and they do a lot more economic harm for very little extra security gains -- is there a way to accept them and minimize the economic loss in the areas where I think it is plainly excessive. And that is what we have been working on. That is what I've been working hard on. But I just want you to know that I deeply resent the suggestion that this is somehow a political deal.

I have not seen anything written anywhere that the state of California lost 52 percent of the jobs in the first three base closings and that this commission took them back up to nearly 50 percent in this one, even though they only have 15 percent of the soldiers and their unemployment rate is 50 percent above the national average. I haven't seen anywhere what this was likely to do to the Hispanic middle class and to the people of San Antonio, Texas, unless we can save a lot of those jobs there so that a lot of other things could be put back in 10 or 11 places around the country.

And I think that you folks need to look at the real impact of this. I am trying to do my job to reduce the capacity of the bases in the country consistent with the national interest and still be faithful to the statute requiring us to deal with the economic impact on these communities.

END

10:23 A.M. EDT



THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION
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ARLINGTON, VA 22209
703-696-0504

ALAN J. DIXON, CHAIRMAN

COMMISSIONERS:

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ADM BENJAMIN F. MONTOYA, USN (RET)
MG JOSUE ROBLES, JR., USA (RET)
WENDI LOUISE STEELE

July 14, 1995

The President
The White House
Washington, D.C. 20500

Please refer to this number
when responding 95013-4R1

Dear Mr. President:

Thank you for your letter indicating that you have decided to accept the recommendations of the 1995 Defense Base Closure and Realignment Commission and forward them to the Congress. I believe that these recommendations are in the best interests of our national security, and I hope they will be supported by the Congress.

The Commission's recommendations were arrived at fairly and openly, and will result in the prudent reduction of the Defense Department's excess infrastructure. The resulting savings will provide our military with financial resources needed to maintain readiness and support future modernization, and will assure the most efficient possible use of taxpayer dollars.

Like previous Commissions, the 1995 Commission made changes to the list of closures and realignments forwarded to us by the Secretary of Defense in those cases where we found that the Secretary deviated substantially from the force structure plan or the selection criteria. Of the 146 recommendations on Secretary Perry's original list, the Commission approved 123, or 84 percent. This is very similar to previous commissions. The 1993 Commission accepted 84 percent of the Defense Department's recommendations, and the 1991 Commission accepted 83 percent. Of the 23 DOD recommendations which the Commission rejected, 4 were rejected at the specific request of the Defense Department.

The Commission also closed or realigned 9, or 28 percent, of the 32 additional bases added by the Commission for consideration. Again, this is

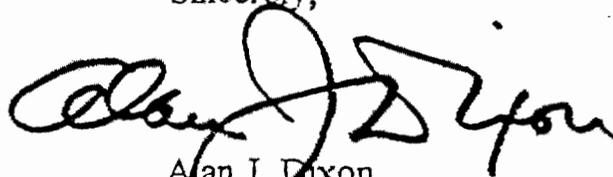
consistent with past practice. Of the 72 bases added for consideration by the 1993 Commission, that Commission closed or realigned 18, or 25 percent.

Mr. President, I want to assure you that the Commission was very cognizant of the economic impact and cumulative economic impact of all of the recommendations that we acted on. Our primary focus, however, was on military value. Of the 8 selection criteria used by the Department of Defense for the 1991, 1993 and 1995 base closure rounds, the first four deal with considerations of military value. Under the Defense Department's own guidance, these four military value criteria were given priority consideration. The economic impact criterion was important, but was not given the same priority by either the Defense Department or the Commission in deciding which bases to close or realign.

The decision to close any military installation is a very painful one. Every installation recommended for closure by this Commission has a proud history of service to our nation. At the same time, as you indicated in your remarks to the media yesterday, the Defense Department has many more bases than it needs to support our forces. I am convinced that closing bases today is the key to the future readiness and modernization of our military forces.

I appreciate the opportunity you have given me to serve the country again as Chairman of the 1995 Defense Base Closure and Realignment Commission.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan J. Dixon". The signature is fluid and cursive, with a large initial "A" and "D".

Alan J. Dixon
Chairman

TO THE CONGRESS OF THE UNITED STATES:

I transmit herewith the report containing the recommendations of the Defense Base Closure and Realignment Commission pursuant to section 2903 of Public Law 101-510, 104 Stat. 1810, as amended.

I hereby certify that I approve all the recommendations contained in the Commission's report.

In a July 8, 1995 letter to Deputy Secretary of Defense White (attached), Chairman Dixon confirmed that the Commission's recommendations permit the Department of Defense to privatize the workloads of the McClellan and Kelly facilities in place or elsewhere in their respective communities. The ability of the Defense Department to do this mitigates the economic impact on those communities, while helping the Air Force avoid the disruption in readiness that would result from relocation, as well as preserve the important defense workforces there.

As I transmit this report to Congress, I want to emphasize that the Commission's agreement that the Secretary enjoys full authority and discretion to transfer workload from these two installations to the private sector, in place, locally or otherwise, is an integral part of the report. Should Congress approve this package but then subsequently take action in other legislation to restrict privatization options at McClellan or

Kelly, I would regard that action as a breach of P.L. 101-510 in the same manner as if Congress were to attempt to reverse by legislation any other material direction of this or any other BRAC.

THE WHITE HOUSE,

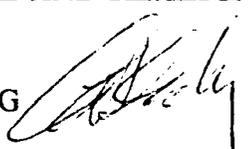
Attachment

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April 12, 1995

MEMORANDUM FOR **MS. MADELYN R. CREEDON, GENERAL COUNSEL,
DEFENSE BASE CLOSURE AND REALIGNMENT
COMMISSION**
**MR. S. ALEXANDER YELLIN, NAVY TEAM LEADER,
DEFENSE BASE CLOSURE AND REALIGNMENT
COMMISSION**

FROM: **GEORGE R. SCHLOSSBERG** 

SUBJECT: **LEGAL AUTHORITY OF DEFENSE BASE CLOSURE AND
REALIGNMENT COMMISSION TO CONSIDER PRIVATE
SECTOR SHIPYARD CAPACITY**

The Defense Base Closure and Realignment Act of 1990, as amended (the "Act"), as implemented and interpreted previously by the Secretary of Defense ("Secretary") and the Defense Base Closure and Realignment Commission ("Commission") in 1991 and 1993, provides this Commission with the authority, if not the duty, to consider, among other things, private sector shipyard capacity in its review of the Department of Defense's 1995 Base Closure Recommendations. Moreover, during the deliberations leading to the 1995 round of base closure recommendations, the Military Departments, the Joint Working Groups, and the Department of Defense used private sector capacity in fashioning their final recommendations to the Commission.

A. Statutory construction of the Act favors consideration of private capacity by the Commission in its closure and realignment recommendations.

To accomplish its statutory goals, the Act established a specific procedure for making recommendations for base closures and realignments. The Secretary is given the responsibility to develop a force structure plan and final criteria to be used in making closure recommendations, and the Commission is given the responsibility to review and make changes to the Secretary's closure recommendations if it determines that the Secretary "deviated substantially" from the force structure plan and final criteria.

KUTAK ROCK

Memorandum for Ms. Madelyn R. Creedon and Mr. S. Alexander Yellin

April 13, 1995

Page 2

Significantly, however, the statute does not delineate either the final criteria themselves, or the factors that are to be encompassed within the final criteria. Rather, the statute is silent as to any of the details of the final criteria. Similarly, the legislative history of the Act reveals that Congress made no attempt to define the final criteria with any greater precision.

Given the complexity of the issues underlying base closures and the specialized nature of the Military Departments, this lack of specific statutory detail is hardly surprising. To the contrary, by declining to set forth the final criteria or the issues to be considered thereunder, Congress followed the frequently employed practice of deliberately casting statutory language in broad terms, and then entrusting an administrative agency with great experience in the field to "fill in the gaps" in the legislation by regulation and then to apply such regulations in a manner consistent with the legislative intent. See, e.g., E.I. duPont de Nemours & Co. v. Collins, 432 U.S. 46 (1977). Ultimately, the authority is given to the Commission to send to the President a final list of recommendations according to their own analysis of the issues and selection criteria.

Under similar broadly written statutory schemes, situations frequently arose where a specific issue in controversy was not addressed directly by the Congress, either in the language of the statute itself or in the legislative history. Under general principles of statutory construction and administrative law, when Congress has not spoken to the precise question at issue, the agency's interpretation of the statute is then consulted. If the agency's interpretation is consistent with the statute's intent and is rationally supported, the agency's interpretation generally is given great deference and is usually deemed to be controlling. See, e.g., Chevron, USA, Inc. v. National Resources Defense Council, 467 U.S. 837 (1984); Sullivan v. Everhart, 494 U.S. 83 (1990); Illinois E.P.A. v. U.S. E.P.A., 947 F.2d 283 (7th Cir. 1991); Difford v. of Health and Human Services, 910 F.2d 1316 (6th Cir. 1990).

see source opinion

These principles are appropriately applied to the issue of the consideration of private capacity in base closure recommendations. The Act is broadly written, is silent on the issue of private capacity as well as on any other factor that is to be considered under the final criteria, and the Secretary is the "expert agency" charged with "filling in the gaps."

An inquiry as to whether private capacity must be considered by the Commission in making its base closure recommendations therefore must now turn to the final selection criteria themselves as adopted by the Secretary. Significantly, however, the Secretary also deliberately left the final criteria somewhat broad and general in nature. The final selection criteria to be used by the Department of Defense to make recommendations to be reviewed by the 1995

KUTAK ROCK

Memorandum for Ms. Madelyn R. Creedon and Mr. S. Alexander Yellin

April 13, 1995

Page 3

Commission are unchanged from the original selection criteria adopted for the 1991 Commission and used also in their entirety by the 1993 Commission. See 59 Fed. Reg. 63769 (1994). For the original criteria, as adopted for the 1995 round of closures, the Secretary of Defense stated that,

The inherent mission diversity of the Military Departments and Defense Agencies makes it impossible for DoD to specify detailed criteria, or objective measures or factors that could be applied to all bases within a Military Department or Defense Agency. See 56 FR 6374 (1991), appended hereto at **Tab A**.

In its adoption of the final criteria in 1991, its published 1991 policy guidance addressing those criteria, and its reaffirmation of those criteria in their entirety in 1993 and 1995, the Secretary established the "regulations" pursuant to which closure recommendations are to be made. Therefore, with respect to any particular issue not specifically addressed in the statute, such as whether private capacity must be considered under the final criteria, general principles of statutory construction as set forth in the Chevron line of cases require that the Secretary's interpretations are to apply, as long as they are consistent with the intent of the statute.

Therefore, that the express language of the final selection criteria does not explicitly mention private capacity is of little importance, because clearly the intent of the Secretary in adopting the final criteria was not to specify each and every factor that is to be considered under those criteria. To the contrary, such specificity was deliberately avoided.

However, in response to concerns voiced by commenting parties on the need for more detailed information as to how the criteria were to be applied, the Secretary published in the Federal Register a "policy guidance" that had been issued to the Military Departments and Defense Agencies on the base closure process. Id. at 6375. In that policy guidance, the Secretary explicitly specifies, in response to comments recommending that the capacity of the private sector to support or perform military missions be considered, that such availability is "already included" in Final Criteria Number One and Four. Id. at 6376.

KUTAK ROCK

Memorandum for Ms. Madelyn R. Creedon and Mr. S. Alexander Yellin

April 13, 1995

Page 4

Because the Secretary, acting as the expert agency in filling in the gaps of a general statute, has specified in a formal policy notice that consideration of private capacity is included in the final selection criteria,¹ the Commission is charged clearly with the duty to review private sector shipyard capacity during its deliberations.

However, even in the absence of this express policy guidance, private capacity still must be considered logically by the Secretary and the Commission under Criteria Number 1, in order for the agency's application of the guidelines to be consistent with the overall policies and objectives of the Act. The second clause of Criteria No. 1 ("the impact on operational readiness of the Department of Defense's total force"), by its terms, requires that the Secretary consider available private capacity when assessing the impact of a base closure on the readiness of the force, or else the goals of saving money, achieving an efficient military force, eliminating unnecessary facilities, and streamlining the defense infrastructure will not be able to be achievable.

In other words, in order for the closure process to be able to further the efficiency of the military, save money, and still meet the needs of the force, adequate private repair and maintenance facilities available in a particular area--for example, the West Coast or Southern California--must be considered. To the extent that adequate private repair and maintenance facilities are available in a particular area that can satisfy the military's need for operational readiness, the closing of a public facility in that area can be recommended for closure under this criteria. In fact, closing a public facility under such circumstances would further the legislative intent of the statute, in that military funds could instead be used more efficiently on operational activities and keeping open public repair and maintenance facilities in those areas where adequate private capacity is not already present; Criteria number 1 can therefore be satisfied through a combination of public and private facilities.

Thus, the consideration of the availability of private facilities by the Commission in the final criteria is proper, therefore making it appropriate for the Commission to consider the private capacity issue at this time. Most importantly, in a recent Supreme Court review of the Act, the Court concluded that the past actions of the Secretary and the Commission were both

¹ As stated above, the 1991 final criteria were adopted unchanged by the Secretary for use as the final selection criteria in the 1993 and 1995 closure process. See 57 Fed. Reg. 59335 (1992).

Memorandum for Ms. Madelyn R. Creedon and Mr. S. Alexander Yellin

April 13, 1995

Page 5

legitimate and proper. Dalton v. Specter 114 S. Ct. 1719 (1994), 128 L.Ed. 2d 497 (1994). Accordingly, the Commission should continue to act as it has in previous rounds and review private sector capacity during its deliberations.

B. Private capacity must be considered if the goals and policy objectives of the Act are to be achieved.

The overall purposes and objectives of the Act must be a primary consideration underlying base closure recommendations. It is a general principle of statutory construction that in interpreting statutory language, the aims, principles, and policies that underlie the statute are to provide guidance. See, e.g., Crandon v. United States, 494 U.S. 152 (1990), citing Kmart Corp. v. Cartier Inc., 486 U.S. 281(1988), and Pilot Life Insurance Co. v. Dedeaux, 481 U.S. 41, 51(1987); Aulston v. U.S., 915 F.2d 584 (10th Cir. 1990), cert. denied, 111 S.Ct. 2011(1991). With respect to the Act, its clear language and legislative history identify the purposes and goals to be achieved through the base closure process.

The purpose of the Act, as set forth in § 2901 (b), is to "provide a fair process that will result in the timely closure and realignment of military installations inside the United States." Another purpose of the Act is to save money. The legislative history of the Act provides useful background as to the purpose of the closure and realignment procedures.

The overall goal of the base closure process was succinctly stated by Congresswoman Schroeder during the floor debate on the base closure proposals of the House Armed Services Committee, as follows:

[w]e need to close bases to save money. We need to close bases as the size of the force comes down. We need to close bases because the current base structure is inefficient." 126 Cong. Rec. 7462 (daily ed. September 12, 1990).²

² Congresswoman Schroeder was one of the co-authors of the House Armed Services Committee's base closure proposals. Her debate in support of the Committee's proposal repeatedly emphasized that "the Committee proposal guarantees that bases will be closed and the taxpayers will save money." 126 Cong. Rec. 7463 (daily ed. September 12, 1990). The report of this Committee similarly "recognizes the need to close bases" because "[t]he size of the American military will likely decline by 25 percent over the next few years. Fewer troops means fewer bases will be required." H.R. Rep. No. 665, 101st Cong., 2nd Sess. 383. The Committee Report also stresses that the process for the

KUTAK ROCK

Memorandum for Ms. Madelyn R. Creedon and Mr. S. Alexander Yellin

April 13, 1995

Page 6

An examination of the legislative history of the 1988 Defense Authorization Amendments and Base Closure and Realignment Act, as amended, P.L. 100-526, 102 Stat. 2623, the predecessor to the 1990 Act and which originated a base closure procedure similar in purpose and effect to that adopted in the 1990 Act, also is instructive.³ For example, the House Armed Services Committee Report on H.R. 4481, on which much of the text of the bill that eventually was passed by Congress in 1988 was based, states that one of the issues that would have to be considered before a base could be closed or realigned is the extent and timing of potential cost savings. H.R. Rep. No. 735(I), 100th Cong., 2nd Sess. 1, 8,11,13. In this regard, the report quotes from testimony by the Secretary before the committee that stated that "savings from closing a base are significant and perpetual." *Id.* at 8. Similarly, the committee report of the Government Operations Committee on the same bill expressed its support of the "goal of effecting savings by expediting the closure of unneeded military facilities." H.R. Rep. No. 735(II), 100th Cong., 2nd Sess. 10.

closure of military installations must be based on "economy and utility" pursuant to objective criteria designed to achieve, "effectively and efficiently," the military plans of the department as reflected in a force structure plan. *Id.* at 383, 61990 U.S. Code Cong. & Ad. News 3076. The Senate Armed Services Committee also recognized that reductions in military personnel and the need for deficit reduction would trigger a significant number of base closures. S. Rep. No. 384, 101st Cong., 2nd Sess. 295.

³ This statute created a base closure process which, like the procedure adopted in the 1990 statute, established a Commission on Base Realignment and Closure. The 1988 Commission's statutory task was to transmit a report to the Secretary and the Armed Services Committees of the Senate and the House of Representatives recommending military installations for closure or realignment; expedited procedures for approval or disapproval of the Commission's recommendations by the President and Congress were also established, and closures or realignments approved pursuant to the expedited procedures would be implemented by the Secretary according to a timetable. Defense Base Authorization Amendments and Base Closure and Realignment Act, Pub. L. No. 100-526, Title II --Closure and Realignment of Military installations (codified at 10 U.S.C. 2687 note).

KUTAK ROCK

Memorandum for Ms. Madelyn R. Creedon and Mr. S. Alexander Yellin

April 13, 1995

Page 7

That the overall goals of the base closure statutes are to effect cost savings in an efficient and expeditious manner in order to implement defense budgetary cuts is echoed in this Commission's 1991 and 1993 Reports to the President. In its 1993 Recommendations, the Commission notes in its opening letter to the President that continuing budget constraints, along with changing national security requirements compel the United States to reduce and realign its military forces. See 1993 Defense Base Closure and Realignment Commission Report to the President at vi. In its introductory sections in the 1991 Report, the Commission states that because of DoD's plans to decrease the military by 25%, there is a need to eliminate unnecessary facilities so that the more limited military dollars may go to vital military needs. See 1991 Defense Base Closure and Realignment Commission Report to the President at vi.

The government cannot accomplish the goal of saving money if the Secretary makes base closure recommendations on the premise that Navy shipyards will perform virtually all of the Navy's ship repair and overhaul requirements, thereby ignoring the reality that private shipyards perform approximately 35 percent of those requirements. In fact, the Congress has acknowledged the important role the private sector plays in providing support to the Services as well as the need to maintain a commercial industrial mobilization base by providing that up to 40 percent of the funds made available in a fiscal year to a military department or a Defense Agency for depot-level maintenance and repair workload may be used to contract for that performance with the private sector. 10 U.S.C. § 2466.

Thus, the goal of achieving cost savings must include consideration of private sector capacity and capabilities. As set forth in the Government Accounting Office's March 1988 Report on Navy Maintenance, the Navy policy set forth in DoD Directive No. 4151.1 (originally adopted in 1974 and repealed in the wake of the enactment of section 2466 of title 10, United States Code), is in accord with Congress' intent to permit 40 percent of all Navy ship repair, overhaul and alteration work to go to private shipyards. GAO/NSIAD-88-109, dated March 25, 1988, Navy Maintenance, Competing Vessel Overhauls and Repairs Between Public and Private Shipyards at 18. For many years, Department of Defense Appropriation Acts directed a specified dollar amount be applied to private sector contractors that roughly equated to the then 70/30 split. Id. Because that congressional intent was well established at the time of enactment of the 1990 Base Closure Act and its predecessor 1988 Act, those Acts by necessity contemplated that the capacity of the private sector must be included for the purpose of achieving cost savings in determining which military bases to close.

KUTAK ROCK

Memorandum for Ms. Madelyn R. Creedon and Mr. S. Alexander Yellin
April 13, 1995
Page 8

- C. Prior private capacity consideration by the Commission is appropriate and proper and this practice should be continued by the Commission in their 1995 recommendations for closure and realignment.**

That the availability of private capacity is an appropriate and necessary factor to be considered in an evaluation of base closure recommendations under the final criteria is highlighted by the fact that private capacity was considered by this Commission in making its 1991 and 1993 closure and realignment recommendations.

In 1993 the Base Closure Commission wrote in its final recommendation to the President to close Mare Island Naval Shipyard, California:

When relocating a function from a closing shipyard, the Navy should determine the availability of the required capability from another DoD entity or the private sector prior to the expenditure of resources to recreate the capability at another shipyard.

See 1993 Defense Base Closure and Realignment Commission Report to the President at 1-16.

Similarly, a significant factor in the 1991 recommendations by the Commission concerning the Philadelphia Naval Shipyard was the availability of suitable private shipyard alternatives on the East Coast. For example, in evaluating options for Philadelphia, the Commission concluded that although the need for contingency capability for carrier drydocking on the East coast existed, that need could be met sufficiently through a combination of mothballing at Philadelphia and the use of the Norfolk Naval Shipyard (a public facility), and the Newport News Shipbuilding and Dry Dock Company (a private facility.)

Moreover, the use of private capacity is further underscored by the deliberations of the Military Departments and the Joint Working Groups that led to the 1995 DoD recommendations to the Commission. For example, during the March 7, 1995 Commission hearing, Secretary of the Army Togo West testified that "civilian capacity was a player" in the Army's analysis of its hospital medical capacity and its determination as to which facilities to close and realign. Secretary West stated:

It was one of the ways in which we were able to decide that we could dispense with a center here or downgrade a hospital to a clinic there.

KUTAK ROCK

Memorandum for Ms. Madelyn R. Creedon and Mr. S. Alexander Yellin

April 13, 1995

Page 9

And so, at least at the level at which I reviewed it, excess civilian capacity did not influence me so much as the certainty that with civilian capacity, we could be sure that that where we were making an adjustment there were still going to be proper medical care and treatment for those who depend on the Army. [sic] [March 7, 1995 Transcript pp. 90-91]

The Army also considered private capacity in the area of military ports in the United States. Secretary West testified further before the Commission that with regard to the Army's 1995 recommendation to close Military Ocean Terminal Bayonne, New Jersey:

...we in the Army are fairly comfortable with using commercial ports in most cases. There are greater assurances of commercial port availability on the East Coast than the West. So just as a matter of prudent planning, we elected to keep Oakland open, while we felt very comfortable that we could close Bayonne and realize the savings from that action. [See March 7, 1995 Transcript pp. 101-102]

In addition, all three Military Departments considered the availability of housing in the private sector in their 1995 evaluations of their military installations. Specifically, the Department of the Navy, in its Community Infrastructure Impact Analysis, included information on the ability of existing infrastructure in the local community, to absorb additional Navy personnel and missions. Installations were asked to assess the impact of increases in base personnel on off-base housing availability, public and private school, health care facilities and other off-base private recreational activities. See page 33 of the Department of the Navy Analyses and Recommendations (Volume IV), March 1995. The Air Force, in its installation evaluation criteria considered off-base housing affordability and its suitability in its evaluation of community infrastructure, as well as, off-base recreational and hospital facilities. See page 69 of the Department of the Air Force Analyses and Recommendations (Volume V), February 1995. Similarly, the Department of the Army used off-base housing for soldiers and families in its overall evaluation of Land Facilities as provided for by the DoD. See page 24 of the Department of the Army Analyses and Recommendation (Volume II).

Private capacity was also evaluated and considered by the Joint Cross Service Groups. In particular, during the March 7, 1995 Commission hearing on recommendations by the Army, Brigadier General Shane of the Department of the Army testified that excess civilian capacity was considered in the hospital Joint Cross Service process. In response to Commissioner

KUTAK ROCK

Memorandum for Ms. Madelyn R. Creedon and Mr. S. Alexander Yellin
April 13, 1995
Page 10

Steele's question with regard to the Army's recommended closure of Fitzsimmons Army Medical Center and the continued ability of the Services to meet the military need in the area, the General responded:

...it goes back to the question that Commissioner Robles asked in regards to excess capacity -- civilian capacity that exists. It is my understanding that the Joint Cross Servicing Group looked at that real hard and supported this recommendation from the Army, and determined that there was capacity and that there would not be a major problem with the diversion of that tri-care service throughout the area.
[March 7, 1995 Transcript pp. 95-96]

That the Commission relied upon the availability of private capacity in making closure and realignment recommendations in 1993 and 1991, and that the Military Departments and the Joint Cross Service Working Groups evaluated the capacity of the private sector when making their 1995 recommendations, is clearly dispositive as to whether private capacity may be considered by the Commission at this time as well.

D. Conclusion

One of the primary purposes of the Act is to avoid wasting money on public facilities that are excess to meeting the military's requirements. That purpose can be accomplished only if the Secretary and the Commission base their Navy shipyard closure recommendations on the Nation's entire ship repair and maintenance capability. Accordingly, we believe it is appropriate and proper for the Commission to consider private sector shipyard capacity when deciding which shipyards to recommend for closure or realignment.

Enclosure: as stated.

cc. w/ enclosure: Mr. Larry Jackson

Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.8.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the service listed.

c. The action will result in authorizing small entities to provide the service procured by the Government.

Accordingly, the following service is hereby added to the Procurement List: Commissary Shelf Stocking & Custodial, Fitzsimmons Army Medical Center, Denver, Colorado.

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

E.R. Alley, Jr.,
Deputy Executive Director.

[FR Doc. 91-3704 Filed 2-14-91; 8:45 am]

BILLING CODE 6820-33-M

Procurement List Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities to be produced and services to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 18, 1991.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.8. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped. It is proposed to add the following

commodities and services to the Procurement List:

Commodities

Case, Ear Plug

6515-01-212-9452.
(Remaining 20 percent of Government's Requirement)

Wash Kit, Personal

7360-00-139-1063

Bag, Parts

6105-LL-800-0208
6105-LL-800-0209
6105-LL-800-0210
6105-LL-800-9974
6105-LL-800-9975
(Requirements of Mare Island Naval Shipyard, CA)

Services

Janitorial/Custodial, Department of the Army, Coralville Reservoir, Coralville Lake, Iowa.

Janitorial/Custodial, Internal Revenue Service Center, 3651 South Interregional Highway 35, Austin, Texas

Sending and Oiling Picnic Tables, Deschutes National Forest, Bend Ranger District, Bend, Oregon.

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 91-3705 Filed 2-14-91; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Selection Criteria for Closing and Realigning Military Installations Inside the United States

AGENCY: Department of Defense (DoD).

ACTION: Final selection criteria.

SUMMARY: The Secretary of Defense, in accordance with section 2903(b), title XXIX, part A of the FY 1991 National Defense Authorization Act, is required to publish the proposed selection criteria to be used by the Department of Defense in making recommendations for the closure or realignment of military installations inside the United States.

EFFECTIVE DATE: February 15, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Whittaker or Ms. Patricia Walker, Base Closure and Utilization, OASD(P&L), (703) 614-5358.

SUPPLEMENTARY INFORMATION:

A. Final Selection Criteria

The final criteria to be used by the Department of Defense to make recommendations for the closure or realignment of military installations inside the United States under title

XXIX, part A of the National Defense Authorization Act for Fiscal Year 1991 as follows:

In selecting military installations for closure or realignment, the Department of Defense, giving priority consideration to military value (the first four criteria below), will consider:

Military Value

1. The current and future mission requirements and the impact on operational readiness of the Department of Defense's total force.

2. The availability and condition of land, facilities and associated airspace at both the existing and potential receiving locations.

3. The ability to accommodate contingency, mobilization, and future total force requirements at both the existing and potential receiving locations.

4. The cost and manpower implications.

Return on Investment

5. The extent and timing of potential costs and savings, including the number of years, beginning with the date of completion of the closure or realignment, for the savings to exceed the costs.

Impacts

6. The economic impact on communities.

7. The ability of both the existing and potential receiving communities' infrastructure to support forces, missions and personnel.

8. The environmental impact.

B. Analysis of Public Comments

The Department of Defense (DoD) received 169 public comments in response to the proposed DoD selection criteria for closing and realigning military installations inside the United States. The public's comments can be grouped into four topics: General, military value, costs and "payback", and impacts. The following is an analysis of these comments.

(1) General Comments

(a) A substantial number of commentors expressed concern over the proposed criteria's broad nature and similarity to the 1988 Defense Secretary's Base Realignment and Closure Commission criteria. Many of the comments noted a need for objective measures or factors for the criteria. Some commentors also suggested various standard measures or factors for

the criteria. The inherent mission diversity of the Military Departments and Defense Agencies (DoD Components) makes it impossible for DoD to specify detailed criteria, or objective measures or factors that could be applied to all bases within a Military Department or Defense Agency. We have provided the commentors' letters to each Military Department for their consideration. The similarity to the 1988 Base Closure Commission criteria is acknowledged. After reviewing the public comments we concluded that using similar criteria is appropriate.

(b) Many commentors noted that a correlation between force structure and the criteria was not present. The base closure and realignment procedures mandated by title XXX, part A, of the National Defense Authorization Act for Fiscal Year 1991 (the Act) require that the Secretary of Defense's recommendations for closure and realignment be founded on the force structure plan and the final criteria required by the Act. DoD's analytical and decision processes for applying the final criteria will be based on the force structure plan. The military value criteria provide the connection to the force structure plan.

(c) Many commentors noted the need for more detailed information on how DoD would implement the base closure procedures required by the Act. A recurrent suggestion was to group like bases into categories for analysis. In response to this comment and suggestion, and to respond to the general comments (a) and (b) above, we have issued policy guidance to the Military Departments and Defense Agencies on the base closure process. This guidance requires them to:

- Treat all bases equally: They must consider all bases equally in selecting bases for closure or realignment under the Act, without regard to whether the installation has been previously considered or proposed for closure or realignment by the Department. This policy does not apply to closures or realignments that fall below the thresholds established by the Act or to the 36 bases closed under Public Law 100-526;

- Categorize bases: They must categorize bases with like missions, capabilities and/or attributes for analysis and review, to ensure that like bases are fairly compared with each other; and

- Perform a capacity analysis: They must link force structure changes described in the force structure plan with the existing force and bases structure, to determine if a potential for closure or realignment exists. In the

event a determination is made that no excess capacity exists in a category, then there will be no need to continue the analysis of that category, unless there is a military value or other reason to continue the analysis:

- Develop and Use Objective Measures/Factors: They must develop and use objective measures or factors within categories for each criterion, whenever feasible. We recognize that it will not always be possible to develop appropriate objective measures or factors, and that measures/factors (whether they be objective or subjective) may vary for different categories of bases.

- (d) A number of commentors recommended assigning specific weights to individual criteria. It would be impossible for DoD to specify weights for each criterion that could be applied across the board to all bases, again due to the mission diversity of the Military Departments and Defense Agencies. It appears from the comments that numbering the criteria may have been mistaken as an order of precedence associated with individual criteria. We do not intend to assign an order of precedence to an individual criterion, other than to give priority to the first four.

- (e) Several commentors gave various reasons why a particular installation should be eliminated from any closure or realignment evaluation. Public Law 101-510 directs DoD to evaluate all installations equally, exclusive of those covered under Public Law 100-526 or those falling below the threshold of section 2687, title 10, U.S. Code. Public Law 100-526 implemented the recommendations of the 1988 Defense Secretary's Commission on Base Realignment and Closure. We have issued guidance to the DoD Components instructing them to consider all bases equally, this includes those previously nominated for study in the Defense Secretary's January 29, 1990, base realignment and closure announcement that are above the thresholds established in the Act. Conversely, we did not receive any requests that a particular installation be closed or realigned pursuant to section 2924 of Public Law 101-510.

- (f) A number of commentors noted a need for more management controls over data collection to ensure accuracy of data. We agree with this recommendation and have issued guidance that requires the DoD Components to develop and implement internal controls, consistent with their organizational and program structure, to ensure the accuracy of data collection and analyses being performed. This

guidance incorporates the lessons learned from the General Accounting Office's review of the 1988 Base Closure Commission's work.

- (g) After detailed consideration of all comments, we have determined that some of the criteria may have been unclear. We have revised the criteria for additional clarity.

- (h) Some of the early comments we received recommended extending the original December 31, 1990, public comment deadline. We agreed and extended the public comment period to January 24, 1991. In addition, we accepted for consideration 19 public comments received after the January 24, 1991, deadline.

(2) Military Value Comments

- (a) A majority of comments received supported DoD's decision to give priority consideration to the military value criteria. In the aggregate, military value refers to the collection of attributes that describe how well a base supports its assigned force structure and missions.

- (b) Several commentors recommended that National Guard and Reserve Component forces be included as part of DoD's base closure analysis. The Department's total force concept includes National Guard and Reserve Component forces, and these forces will be reflected in the force structure plan required by the Act for this base closure process. To clarify that point, criteria number one and three were amended.

- (c) Some commentors recommended DoD apply the military value criteria without regard to the DoD component currently operating or receiving the services of the base. The commentors noted that this would maximize utilization of Defense assets and therefore improve the national security. We agree with this comment. DoD must retain its best bases and where there is a potential to consolidate, share or exchange assets, that potential will be pursued. We also recognize that this potential does not exist among all categories of bases and that the initial determination of the military value of bases must be made by the DoD Component currently operating the base. Consequently, we have left the military value criteria general in nature and therefore applicable DoD-wide, where appropriate. We have also issued guidance to the DoD Components that encourages inter-service and multi-service asset sharing and exchange. Finally, we will institute procedures to ensure each DoD Component has the opportunity to improve the military value of its base structure through

analysis of potential exchanges of bases with other DoD Components.

(d) Some commentors recommended we include the availability of airspace in our considerations of military value. We agree and have revised criterion number two accordingly.

(e) Several commentors requested a geographic balance be maintained when considering installations for realignment or closure. DoD is required by Public Law 101-510 to evaluate all installations equally, exclusive of those covered under Public Law 100-528 or those falling below the thresholds of section 2687, title 10, U.S. Code. However, some measures of military value do have a geographic component and therefore military mission requirements can drive geographic location considerations.

(f) Some commentors recommended that the availability of trained civil service employees be considered as well as the capacity of the private sector to support or perform military missions. DoD's civil service employees are an integral part of successful accomplishment of defense missions, as are defense contractors whether they be nationally or locally based. To the extent that the availability of trained civilian or contractor work forces influences our ability to accomplish the mission, it is already included in criteria number one and four.

(g) Several commentors recommended that mobilization potential of bases be considered and that those bases required for mobilization be retained. Contingency and mobilization requirements are an important military value consideration and were already included in criterion number three. The potential to accommodate contingency and mobilization requirements is a factor at both existing and potential receiving locations, and we have amended criterion number three accordingly.

(h) One commentor recommended retaining all bases supporting operation Desert Shield/Storm and another recommended including overseas bases. DoD must balance its future base structure with the forces described in the force structure plan, and not on the current basing situation. Some forces currently supporting Operation Desert Storm are scheduled for drawdown between 1991 and 1997. DoD must adjust its base structure accordingly. Overseas bases will also be closed in the future as we drawdown DoD's overseas forces. However, Congress specifically left overseas base closures out of the base closure procedures established by the Act.

(3) Cost and "Payback" Comments

(a) Some commentors recommended calculating total federal government costs in DoD's cost and "payback" calculations. A number of such comments gave as examples of federal government costs, health care and unemployment costs. The DoD Components annually budget for health care and unemployment costs. We have instructed the DoD Components to include DoD costs for health care and unemployment, associated with closures or realignments, in the cost calculations.

(b) Several commentors noted the absence of a "payback" period and some felt that perhaps eight or ten years should be specified. We decided not to do this; we did not want to rule out making changes that were beneficial to the national security that would have longer returns on investment. The 1988 Base Closure Commission felt that a six-year "payback" unnecessarily constrained their choices. The DoD Components have been directed to calculate return on investment for each closure or realignment recommendation, to consider it in their deliberations, and to report it in their justifications. Criterion number five has been amended accordingly.

(c) Some commentors recommended including environmental clean-up costs in base closure cost and payback calculations. Some also noted that the cost of environmental clean-up at a particular base could be so great that the Department should remove the base from further closure consideration.

The DoD is required by law to address two distinctly different types of environmental costs.

The first cost involves the clean-up and disposal of environmental hazards in order to correct past practices and return the site to a safe condition. This is commonly referred to as environmental restoration. DoD has a legal obligation under the Defense Environmental Restoration Program and the Comprehensive Environmental Response, Compensation and Liability Act for environmental restoration at sites, regardless of a decision to close a base. Therefore, these costs will not be considered in DoD's cost calculations. Where installations have unique contamination problems requiring environmental restoration, these will be identified as a potential limitation on near-term community reuse of the installation.

The second cost involves ensuring existing practices are in compliance with the Clean Air, Clean Water, Resource Conservation and Recovery Act, and other environmental acts, in

order to control current and future pollution. This is commonly referred to as environmental compliance. Environmental compliance costs can potentially be avoided by ceasing the existing practice through the closure or realignment of a base. On the other hand, environmental compliance costs may be a factor in determining appropriate closure, realignment, or receiving location options. In either case, the environmental compliance costs or cost avoidances may be a factor considered in the cost and return on investment calculations. The Department has issued guidance to the DoD Components on this issue.

(d) Some commentors recommended DoD change the cost and "payback" criteria to include uniform guidelines for calculating costs and savings. We agree that costs and savings must be calculated uniformly. We have improved the Cost of Base Realignment Actions (COBRA) model used by the 1988 Base Closure Commission and have provided it to the DoD Components for calculations of costs, savings, and return on investment.

(4) Impacts Comments

(a) Many commentors were concerned about social and economic impacts on communities and how they would be factored into the decision process. We have issued instructions to the DoD Components to calculate economic impact by measuring the effects on direct and indirect employment for each recommended closure or realignment. These effects will be determined by using statistical information obtained from the Departments of Labor and Commerce. This is consistent with the methodology used by the 1988 Base Closure Commission to measure economic impact. We incorporated the General Accounting Office's suggested improvements for calculation of economic impact. DoD will also determine the direct and indirect employment impacts on receiving bases. We have amended criterion number six to reflect this decision.

(b) The meaning of criterion number seven, "the community support at the receiving locations" was not clear to several commentors. Some wondered if that meant popular support. Others recognized that this criterion referred to a community's infrastructure such as roads, water and sewer treatment plants, schools and the like. To clarify this criterion, we have completely re-written it, while also recognizing that a comparison must be made for both the existing and potential receiving communities.

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Department of the Army
Environmental Assessment;
Exoatmospheric Discrimination
Experiment (EDX) Program

AGENCY: U.S. Army Strategic Defense
Command (USASDC); DOD.

COOPERATING AGENCY: Strategy Defense
Initiative Organization, DOD U.S.
Department of the Navy, DOD.

ACTION: Notice of Availability of finding
of no significant impact.

SUMMARY: Pursuant to the Council on
Environmental Quality regulations for
implementing the procedural provisions
of the National Environmental Policy
Act (40 CFR parts 1500-1508), Army
Regulation 200-2, Chief of Naval
Operations Instruction 5090.1, and the
Department of Defense (DOD) Directive
6050.1 on Environmental Effects in the
United States of DOD actions, the
USASDC has conducted an assessment
of the potential environmental
consequences of conducting EDX
program activities for the Strategic
Defense Initiative Organization. The
Environmental Assessment considered
all potential impacts of the proposed
action alone and in conjunction with
ongoing activities. The finding of no
significant impact summarizes the
results of the evaluations of EDX
activities at the proposed installations.
The discussion focuses on those
locations where there was a potential
for significant impacts and mitigation
measures that would reduce the
potential impact to a level of no
significance. Alternatives to the EDX
launch facility were examined early in
the siting process but were eliminated
as unreasonable. A no-action alternative
was also considered. The Environmental
Assessment resulted in a finding of no
significant impact. Construction will
proceed as scheduled, however, due to
budgetary constraints, the flight program
implementation has been delayed.
When the flight schedule becomes firm,
this document will be reviewed and
revised, as necessary, in light of any
changes to the program.

DATES: Written comments are required
by March 18, 1991.

POINT OF CONTACT: Mr. D.R. Gallien,
Address: U.S. Army Strategic Defense
Command, CSSD-EN, Post Office Box
1500, Huntsville, AL 35807-3801, Fax
(205) 953-3958.

SUPPLEMENTARY INFORMATION: The
USASDC was assigned the mission of
acquiring critical mid-course data on
ballistic missile re-entry vehicles and
decoys; EDX would accomplish this
mission. The EDX program would use

the ARIES booster to launch a
suborbital sensor into space to observe
a target ballistic missile re-entry
complex during the mid-course phase of
its flight. The proposed EDX program
would involve nine flights over three
years from two different launch sites
after October 1993: The target complex
would be released from a MINUTEMAN
I missile launched from Vandenberg Air
Force Base, California and the EDX
booster and sensor payload vehicle
would be launched from the Kauai Test
Facility (KTF), located on the Pacific
Missile Range Facility (PMRF), Kauai,
Hawaii. Current launch use activities
would continue, however, public access
through these areas would be limited for
a total of less than 1 day over a three
year period.

The EDX program would include a
number of activities to be conducted at
seven different sites. These activities
are categorized as design, fabrication/
assembly/testing, construction, flight
preparation, launch/flight/data
collection, payload recovery, sensor
payload vehicle refurbishment, data
analysis, and site maintenance/
disposition. The locations and types of
EDX activities are: Vandenberg Air
Force Base, California/Western Test
Range, flight preparation, launch/flight/
data collection; Pacific Missile Range
Facility, Kauai, Hawaii, construction,
flight preparation, launch/flight/data
collection, payload recovery, sensor
payload vehicle refurbishment, site
maintenance/disposition; Sandia
National Laboratories, New Mexico,
design, fabrication/assembly/testing;
U.S. Army Kwajalein Atoll, Republic of
the Marshall Islands, flight preparation,
launch/flight/data collection; Hill Air
Force Base, Utah, fabrication/assembly/
testing; Space Dynamics Laboratory,
Utah State University, Logan, Utah,
design, fabrication/assembly/testing,
data analysis; and Boeing Aerospace
and Electronics, Kent Space Center,
Kent, Washington, design, fabrication/
assembly/testing, sensor payload
vehicle refurbishment, data analysis.

To determine the potential for
significant environmental impacts as a
result of the EDX program, the
magnitude and frequency of the tests
that would be conducted at the
proposed locations were compared to
the current activities and existing
conditions at those locations. To assess
possible impacts, each activity was
evaluated in the context of the following
environmental components: Air quality,
biological resources, cultural resources,
hazardous materials/waste,
infrastructure, land use, noise, public

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AMC DCSPER News Item



News Item Author: CASSANDRA JOHNSON/PE/HQAMC/AMC/US
News Date: 02/26/96 08:34 PM
Keywords: EMPLOYMENT LAW

Privatization

This is the first in a series of articles on Privatization, intended to introduce you to the concept. Future articles will be tied to key developments, with the purpose of keeping you informed on this subject.

One of the terms AMC employee hears frequently is "privatization". Yet, it is difficult to find literature describing or even defining the concept. AMC is a prime player in the effort to consider functions that can be privatized, and the CG has a Task Force chaired by the DCS for Resource Management studying options.

Although there is no single definition, the most comprehensive one we've seen is that of the Price-Waterhouse Transportation and Utility Finance Group:

- (1) The private development and operation of public-use infrastructure and the provision of public services that have traditionally been provided by the state.
- (2) Contracting out of services which does not usually include private sharing of financial responsibility.
- (3) The sale of state-owned enterprises to private firms with the expectation that the buyer will improve operating efficiency, invest new capital, and take full advantage of the enterprise's commercial development potential, all at a lower cost to the state.

The concept of privatization within the Federal government is not new. For years, DOD has been leasing military family housing units, contractors have fought forest fires, and the private sector has managed day care centers on federal facilities. Business entities have run ammunition plants and arsenals.

Privatization can take many forms, the most common of which are employee stock ownership programs, government owned-contractor operated facilities, contractor owned-contractor operated facilities, and facilities use agreements. However, creative initiatives in this area are being raised and considered as part of the charter for the AMC Privatization Task Force.

Privatization has been critical to our planning for the future of AMC. As a result of downsizing we have to concentrate our valuable and dwindling resources to performing our core competencies with an eye to cutting costs and improving performance by introducing competition.

One of the driving forces of Privatization is the National Performance Review (NPR). The focus of Phase Two of the NPR is cutting back to basics. This includes studying methods:

- (1) encouraging service termination: ceasing federal government involvement and looking to commercial, state or local government markets;
- (2) creating public-private partnerships: a joint investment relationship;
- (3) fostering competition: "outsourcing" or "contracting out" alternatives whereby the government remains fully responsible for the provision of all services and management decisions; and,
- (4) supporting privatization.

Another driving force for privatization is the Base Closure and Realignment process (BRAC). BRAC 1993 recommendations raised the consideration of turning to the private sector, and the 1995 BRAC round intensified the debate. The 1995 BRAC Commission contains 12 recommendations giving DOD a choice of moving workload from the BRAC site to either another DOD activity or to the private sector. Today, we are implementing the BRAC recommendations and considering the options given to us--including privatization.

The privatization concept is new, but the developments are expected to come quick.

Cassandra Johnson/AMCCC-G/DSN: 767-8050/E-mail: cjohnson@hqamc.army.mil

NAID *news*

Supporting America's Defense Communities

May 2003

House Votes to Scale Down BRAC 2005

Presidential Veto Threatened if Language Remains in Final Legislation

INSIDE

Army may extend
privatization initiatives
PAGE 3

Fort Ord forming
affordable housing plan
PAGE 6

Griffiss lands aircraft
maintenance firm
PAGE 8

The House approved two amendments to its version of the fiscal year 2004 defense authorization bill on May 22 that, if passed into law, would severely constrain the Pentagon's plan to eliminate a substantial portion of its infrastructure during the 2005 round of base closures.

The first measure, introduced by House Armed Services Chairman Duncan Hunter (R-Calif.), would require the secretary of Defense's base closure recommendations to leave sufficient capacity for a force of at least 200,000 more active-duty troops — as called for in a 1991 plan — than the military's current strength. DOD's recommendations also would need to retain enough facilities to house all forces currently based overseas.

The second provision requires the Pentagon to prepare a list of at least 50 percent of active domestic installations that would be excluded from the BRAC process. The list would include core military bases considered "absolutely essential to the national defense."

The two measures, taken together, do not rescind BRAC 2005, but they could trigger a presidential veto. After the House passed the defense authorization bill (H.R. 1588), the White House said if the bill repeals or delays BRAC, the Defense secretary would recommend that the president veto it.

"The exclusion of an arbitrary number of installations from consideration for closure or realignment would undermine a comprehensive review of the department's infrastructure. To be comprehensive, a BRAC review also should not be artificially based on force levels that are over a decade old and that do not address adequately the nation's ability to meet current and future threats," the statement said.

The Senate passed its version of the defense authorization legislation (S. 1050) May 22 without any provisions hampering the base closure process. The House and Senate versions both authorized \$401 billion in FY 2004 spending on national security, but the BRAC measures and a number of other policy differences need to be worked out by the two sides in conference committee. The dispute in 2001 between the House and Senate over a new round of base closures took more than a month to settle in conference.

DOD Authorization
Continued on page 2

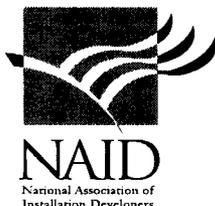
FARR INTRODUCES LEGISLATION TO RESTORE NO-COST EDC

Rep. Sam Farr (D-Calif.) introduced a bill earlier this month that would greatly assist defense communities suffering a closure or realignment in the 2005 round of BRAC.

Farr's willingness to champion the legislation is a major victory for NAID, which has been working closely with the six-term congressman's office for over a year. The bill's introduction will alert lawmakers to the importance of issues affecting defense communities and should pave the way for successful efforts in the future.

The bill, H.R. 1903, would restore the no-cost economic development conveyance (EDC), which

BRAC Bill
Continued on page 2



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ECONOMIC
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DOD Authorization

Continued from page 1

Before going to conference, however, the Senate has agreed to take up three amendments concerning BRAC during its vote to proceed to conference. The first one, by Byron Dorgan (D-N.D.), would cancel the 2005 round of base closures. At press time, we were not able to obtain copies of the other two amendments — both proposed by Armed Services Chairman John Warner (R-Va.). The vote on the Senate floor could take place as soon as the first week of June.

According to the House Armed Services Committee, the military needs to be prepared to “surge” to the levels proposed in the 1991 Base Force plan — 1.6 million active-duty personnel and 900,000 reserve personnel — in a future crisis. The Pentagon also needs to consider the possibility that it may become necessary to base the nation’s military forces entirely within the United States, the committee said.

Another provision on BRAC 2005 in the House bill would require the BRAC Commission to reach unanimous agreement if it votes to add a base to DOD’s list of recommended closures. The FY 2002 defense authorization act requires the support of only seven out of nine commissioners to approve an addition.

Another Commission

The Senate included one measure affecting base alignment, but it pertains to U.S. military facilities outside of the United States. The provision, sponsored by Sens. Dianne Feinstein (D-Calif.) and Kay Bailey Hutchison (R-Texas), establishes an eight-member congressional panel to conduct a detailed study of U.S. basing requirements overseas. The committee would function in a similar fashion as the BRAC Commission. It would not, however, be linked to an ongoing DOD effort to develop an overseas basing strategy. It also would not be directly applicable to BRAC 2005, which only applies to installations in the United States and its territories.

The panel would submit its findings to the House and Senate Armed Services Committees and Military Construction Appropriation Subcommittees by Aug. 30, 2004. The White House opposes the creation of an overseas basing commission, saying the Pentagon has accelerated its review “to adjust the global positioning of forces and supporting infrastructure.”

Another measure in the Senate bill directs DOD to provide Congress with the results of a 2001 survey of perchlorate contamination at active and closed military sites. Perchlorate, a primary ingredient in rocket fuel, has polluted drinking water supplies in 22 states including California, said Feinstein, who sponsored the provision.

DOD’s controversial campaign to relax environmental regulations it says are hindering training and readiness paid some dividends. The House passed exemptions to certain requirements of the Endangered Species Act (ESA) and the Marine Mammal Protection Act, while the Senate supported an exemption to ESA, but a less extensive one than the House passed.

More importantly for communities with either active or closed bases, neither body approved exemptions sought by DOD to the nation’s hazardous waste laws — the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). The Pentagon has said its Readiness and Range Preservation Initiative would only exempt operational ranges from compliance with some provisions of those laws. Many environmental regulators, though, believe the exemptions could apply to closed ranges as well.

Questions? To read a summary, the committee report and the text of H.R. 1588, go to www.house.gov/hasc/reports/108.html. To read the committee report and the full text of S. 1050, go to <http://thomas.loc.gov>.

BRAC Bill

Continued from page 1

had been available to all base closure communities since 1999 and rural communities since 1994. Congress essentially eliminated that ability when it authorized the 2005 round of base closures in the FY 2002 defense authorization act. The act allows the secretary of defense to obtain fair market value in most cases and allows below-cost or no-cost conveyances only in special circumstances.

“My bill will help provide assurance to the communities with closed bases that no-cost EDCs will be available to them, that the military will not have the option of ‘cherry picking’ the best properties and selling them for profit,” Farr said.

Restoration of the no-cost EDC also may benefit communities that suffered a closure in previous rounds, but that have not yet had their applications for conveyance of the property approved.

H.R. 1903 also includes a provision eliminating the Pentagon's use of "mothballing."

Farr had hoped to get the substance of H.R. 1903 inserted into the FY 2004 defense authorization bill, which also was marked up this month by the House Armed Services Committee (HASC). Staff members for Farr and Joel Hefley (R-Colo.) — chairman of HASC's Readiness Subcommittee, which has responsibility for installations and the base closure process — tried to reach agreement on the language despite Hefley's initial opposition to the provisions. Just before Hefley's subcommittee marked up its portion of the authorization bill, however, the chairman decided against including any of the base closure reforms Farr had proposed.

"I am disappointed the Armed Services Committee would not accept my language for this year's DOD bill since it did accept many other provisions relating to BRAC," Farr stated.

Hefley, however, promised Farr that he would hold a hearing this session on H.R. 1903, possibly this fall, said Rochelle Dornatt, Farr's chief of staff.

"I urge every community that has a military installation — whether or not it is closed — to contact their legislators and impress on them how important this bill is. It is essential that communities have no-cost EDCs as one of the tools in their toolbox of reuse and redevelopment plans in dealing with a BRAC action," the congressman said.

Housing Eligible

The provision in H.R. 1903 that restores the no-cost EDC also states that former military housing units are eligible for inclusion in no-cost EDCs. In general, no-cost EDCs have been made available to local redevelopment authorities (LRAs) that use the property for job creation and reinvest lease revenues and other income in the economic rejuvenation of the installation and surrounding community.

The second provision of the bill would preclude the DOD from "land banking" or mothballing a closed installation, whereby it is placed in caretaker status for potential reactivating in the future. Without the opportunity to redevelop the property of a closed base, a community will be severely handicapped in attempting to recover economically from a closure. A mothballed base also would drain money from DOD for operations and maintenance costs.

The third provision of H.R. 1903 clarifies the pre-eminent role LRAs play in the reuse process. The bill states that the LRA is "the single commu-

nity voice in all matters relating to the closure and redevelopment of former military installations, including the attendant environmental remediation decision-making process."

At press time, H.R. 1903 had no co-sponsors. Rep. Kay Granger (R-Texas) had indicated she would support the bill, but has not signed on yet.

Questions? To find contact information for your congressional representative, go to www.house.gov. To read the text of the bill, go to <http://thomas.loc.gov> and search for H.R. 1903. Contact Rochelle Dornatt in the office of Rep. Farr at 202/225-2861.

Army Privatization On Fast Track

Lodging, Municipal Services May Be Next for Partnerships

At the same time the Army is moving ahead with its initiatives to privatize family housing and utilities, agency officials are waiting in the foxhole to extend the use of public-private partnerships to three other areas — municipal services, lodging and fitness facilities.

Currently, the programs are at different stages in the planning process. The Army's installations and environment office is poised to recommend to the Army secretary that the agency begin an effort to privatize its lodging facilities, said Bill Armbruster, deputy assistant secretary for privatization and partnerships. A decision on moving forward could be made sometime in June.

Officials are considering candidate sites for contracting public works services from a local municipality, but need authorizing legislation before the Army can go ahead, Armbruster said. The office still is reviewing the feasibility of launching a privatization effort for fitness facilities, he said. The new programs emerged from the Army's Business Initiatives Council.

Earlier this month, the installations and environment office held an industry forum on its "Lodging Wellness Initiative" to assess the amount of private sector interest in forming long-term partnerships

Privatization
Continued on page 4

Privatization*Continued from page 3*

with the Army to upgrade facilities. More than 100 hospitality industry representatives attended.

"We're looking again to the private sector to help us to fix a system that has been neglected," Armbruster said. Army lodging facilities have deteriorated, lack modern amenities and contain rooms that are too small, he explained. In the continental United States and Hawaii, the Army has lodging at 98 locations, totaling 19,000 rooms.

The Army is pursuing a similar initiative with



PHOTO COURTESY OF PICERNE MILITARY HOUSING

A four-bedroom, single-family home under construction at Fort Meade, Md. The 2,200-square-foot home, one of 36 field grade officer homes being built in Neighborhood 1A, features a two-car garage.

fitness facilities. Now it is conducting a business case analysis of facilities at two bases before deciding whether to move forward.

If Congress approves authorizing legislation, the Army is considering allowing base officials at Fort Gordon, Ga., and Fort Huachuca, Ariz., to contract municipal services from their local jurisdictions, Armbruster said. Now, the installations and environment office is making certain those two sites are viable candidates.

The services covered under this initiative could include street and building maintenance, garbage collection, fire protection and others. Municipalities can provide these services more cheaply than the military because of the inherent efficiencies in providing the services on a wider scale. Another benefit of these arrangements is they extricate the Army from managing non-core functions.

In California, the Army's Presidio of Monterey contracts with the city of Monterey for water distribution system management, street and building

maintenance, pest control and fire protection, saving the Army between \$2.5 million and \$3.0 million a year, Armbruster said. Congress approved special language waiving existing restrictions to allow the partnership to go ahead.

"We believe it can be replicated," he said, "[but] not everywhere."

Increased Industry Interest

With the Army's selection of partners for three Residential Communities Initiative (RCI) projects — the Army's program to privatize family housing — in April, the agency has reached the halfway point of its goal of making awards for 27 projects by 2007. Those 14 projects represent more than half of the Army's housing inventory in the continental United States. When the program's goal is reached, more than 70,000 homes — or 80 percent of the Army's inventory — will be included in the RCI program.

The most significant change in the program since the first privatization award in 1999 involved the procurement process. The Army shifted from using a request for proposals (RFP) to a request for qualifications (RFQ) to cut the amount of time and money developers spent preparing bids. Under the two-step RFQ approach, only the most qualified competitors need to prepare detailed offers, said Don Spigelmyer, director of the RCI program.

The move has increased the amount of competition. "It's really become stiff competition. ... [The bids] are getting more and more refined," Spigelmyer said. The number of development teams competing for a particular project varies depending on its size. Large projects can attract as many as 10 offers; one attracted 15 offers.

"Certainly on most all, we get in excess of four to five," Armbruster said.

The Army introduced the housing privatization initiative to help accelerate the process of improving its aging stock of housing. Under the program, the Army enters into a 50-year deal (with a 25-year extension) with a private development team to replace or renovate housing at an installation or set of installations. Following an award, the developer and the Army collaborate on a Community Development and Management Plan (CDMP) to establish the terms of the partnership. The CDMP covers plans for development, including new construction and renovation; operations, maintenance and property management; and financing.

After those plans are completed, the Army transfers existing housing and out leases the real estate to a partnership that includes both the developer and the Army, Spigelmyer said. The partnership is typically a limited liability corporation or limited partnership. The developer is responsible for managing and maintaining the housing, surrounding public areas and road infrastructure.

"These really truly are partnerships. We are not contractors; we are the Army's partner. The Army has been very open to our way of doing business," said Bill Mulvey, spokesman for Picerne Military Housing, the developer selected in April to replace and renovate housing at Fort Polk, La.

Improved Financing Rates

Over the first 12 privatization projects, developers will provide more than \$4 billion in capital during the first four to 10 years; the Army will invest about \$224 million. The developers primarily rely on debt underwritten by the revenue stream provided by soldiers' basic allowance for housing.

Since the RCI program started, the Army and its partners have obtained better financing terms through competitive bidding, Spigelmyer said. Another way to save money, he added, will be the use of tax-exempt financing, which the Army will test at an upcoming project.

Two of the Army's April awards went to GMH Military Housing — for Walter Reed Army Medical Center, Washington, D.C., and Fort Hamilton, Brooklyn, N.Y. At Hamilton, GMH replaced Hudson Fort Hamilton, the Army's original selection as development partner.

Picerne's selection as the Army's partner for Fort Polk is the firm's third RCI project. In May 2002, Picerne was selected as the developer for family housing at Fort Bragg, N.C. In May 2001, the developer was awarded the contract for Fort Meade, Md. Picerne is a subsidiary of Warwick, R.I.-based Picerne Real Estate Group.

Mulvey said the firm finds the RCI program very attractive. "We see it as a great opportunity to solve the Army's real estate problems with our private sector expertise," he said. When the Army embarked on its privatization initiative, Picerne already was a developer of leased housing, from low-income to luxury homes.

In August, the developer expects to sign a lease for the housing property at Fort Bragg. This past January, Picerne began construction at Fort Meade; it assumed title to the property there in May 2002. The first new homes at Meade will be completed by the end of the summer. Over the next 10 years, Picerne will replace all of the existing housing at the base, over 3,000 units, Mulvey said. Seventy percent of the new units will be townhomes and the balance will be detached, single-family homes. Adding Bragg and Polk brings the total number of Army homes the firm will manage to 12,589.

Full Steam Ahead

The Army's effort to privatize electric, natural gas, water and wastewater systems at its installa-



ILLUSTRATION COURTESY OF PICERNE MILITARY HOUSING

A rendering of the townhomes for the families of junior enlisted soldiers being built at Fort Meade, Md. A total of 94 homes, at four or five per building, will be built in Neighborhood 1A.

tions also is making rapid progress. The Pentagon has set a goal for the military to privatize all eligible utilities by 2005, a target the Army intends to beat.

"We are confident we will exceed the DOD goal; hopefully [we'll finish] within the next 12 to 18 months," Armbruster said.

So far, the Army has privatized 73 systems and exempted 27 others because it wasn't economical to transfer them, or due to security reasons or lack of private sector interest. The service has a total of 351 systems that are candidates. The focus now is on utilities in the continental United States.

"We have a number ready to go. We have a very aggressive program," he noted.

Questions? Karen Baker, Army, 703/697-7592, www.rci.army.mil; or Bill Mulvey, Picerne, 703/362-0177.

Fort Ord Looks To Craft Affordable Housing Plan

The Fort Ord Reuse Authority (FORA) is soliciting the help of the local business and real estate community, housing professionals, regional agencies and residents to come up with a solution for increasing the amount of workforce housing available at the former base located on California's Monterey Bay.

FORA has formed several task forces to review a list of six strategies and 17 recommendations included in a consultant's study issued in March for increasing the supply of housing for essential workers in the region. The task forces — composed of representatives from the real estate, tourist, banking and agricultural industries; academic institutions; non-governmental organizations; and local jurisdictions — will focus on creating a housing trust and tapping the state's financial resources, said FORA Executive Officer Michael Houlemard Jr.

FORA commissioned the \$35,000 federally funded study at the request of Rep. Sam Farr (D-

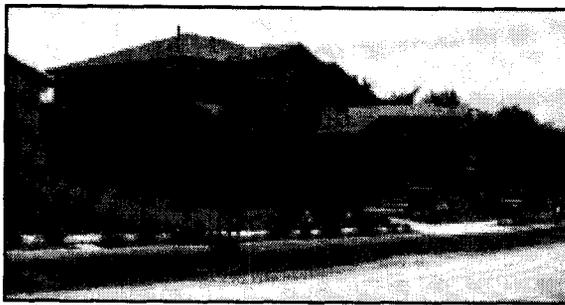


PHOTO COURTESY OF FORA

A new home built at Seaside Highlands, the first development of new, for-sale housing at the former Fort Ord. Homes in this development will be sold at market rates, \$500,000 and up.

Calif.), who has pushed the authority to increase the amount of affordable housing built at Fort Ord for the past two years. Last year, FORA and Farr reached an agreement on the issue that did not include an exact goal for affordable housing. The deal averted a threat by the congressman to block the transfer of any land on Fort Ord designated for housing.

As the shortage of available housing has driven up rents and for-sale prices in Monterey County,

residents whose incomes are considered low, moderate or above moderate have been particularly squeezed — they don't qualify for programs designed to aid the poor and they cannot afford high-income properties. This expanding workforce housing gap is a special concern to FORA, Houlemard said.

According to a 2002 survey by the National Association of Home Builders, Monterey County had "the least affordable housing" in the nation. The median housing price in the greater Monterey Peninsula area now exceeds \$500,000. A number of local jurisdictions have adopted ordinances requiring a portion of new housing to be in the low-to-moderate income range. Monterey County, which adopted a new law last month, requires 20 percent of new units to be priced at below-market levels.

The measure could result in the construction of about 1,300 affordable units at Fort Ord, Houlemard said.

While FORA's 1997 Base Reuse Plan calls for balancing economic development and the production of housing, the authority has since discovered that redeveloping the base will be significantly more costly and complex than it originally anticipated. The extra expense primarily stems from requirements to clean up ordnance and explosives, remove buildings containing asbestos and lead-based paint, preserve habitats, and make major infrastructure improvements.

"We have to find the resources to meet all the environmental and infrastructure requirements for reuse and still create larger numbers of housing units accessible to the near and long-term workforce," Houlemard said. "Our real focus must be on increasing the number of housing units for workers in middle-income jobs that can't access the average-priced home in Northern Monterey County — people such as teachers, nurses, police, fire, and other essential workers that have a very limited ability to live near where they work," he added.

Housing Trust in Works

The workforce housing task forces began meeting this month. One of the committees has been asked by the authority to design a structure for a financial housing trust and to define how land trusts can be used to sustain affordability for longer terms. The Clark Group study recommends FORA create a housing and community land trust to concentrate on producing mixed-income housing at Fort Ord,

and later, on the entire Monterey Peninsula. The trust — a nonprofit corporation — could sponsor down payment assistance, employer-assisted housing and homeowner education programs. Local jurisdictions, nonprofit groups and corporations would support the trust by providing funding, land, services or personnel, the report said.

The task force will look at the kinds of financing the trust would offer buyers and developers, how to qualify potential tenants and resale restriction agreements. Also, Houlemard said, the trust would need to be established independently of FORA because the authority will “sunset” in 2014 in accordance with the state legislation that created it.

Another task force will consider FORA’s options for generating funds for workforce housing efforts. The panel will spend a majority of its time looking at state financing mechanisms that FORA is not currently taking advantage of, such as tax increment financing and state bonds, Houlemard said. The panel also will look for ways to reduce the authority’s infrastructure costs and obtain additional supplies of water, he added.

Brownfields as an Option?

The Clark Group study recommended a number of options to attract new funding and apply existing revenue streams to workforce housing at Fort Ord. FORA could discount or eliminate developer fees on affordable housing units by trimming its projected \$89 million contingency fund for infrastructure projects. The study also proposed that the authority seek federal highway appropriations under the new surface transportation reauthorization legislation. In turn, FORA would reallocate funds designated for transportation projects to forgive developer fees on workforce housing.

The authority could redevelop brownfield sites to increase the production of affordable housing, according to the study. FORA would sell contaminated properties that could be cleaned up to resi-

dential standards at a discount to developers that specialize in brownfields, the report said.

Other options mentioned in the study include applying for state funds under a program that pays for new construction and rehabilitation of rental housing for low-income households; asking the state to include Monterey County in its High Cost Area Home Purchase Assistance Pilot Program for first-

time homebuyers; and recycling materials from buildings demolished at the base.

FORA is holding two town hall meetings this month to allow citizens, municipalities and local organizations to comment on the report’s recommendations. FORA staff will review the task forces’ work and present a set of proposals to the authority’s board of directors in July.

“A substantial amount will happen in these next couple of months. We’re hoping that some closure on the policies and approach will occur by July,” Houlemard said.

Questions? Michael Houlemard, FORA, 831/883-3672. The report on affordable housing is available at www.fora.org.



PHOTO COURTESY OF FORA

Residences in the Abrams Park neighborhood at the former Fort Ord. FORA rehabilitated almost 200 units in this neighborhood at an average cost of \$34,000 per home. Now they are being rented according to Monterey County’s standards for low- and moderate-income families to the general public and members of the military.

U.S. PLANS TO RETURN GERMAN POSTS

During fiscal years 2006-2008, U.S. Army Europe will partially close the Giessen General Depot and return its other facilities in Giessen, Friedberg, Butzbach, Wetzlar and Bad Nauheim to Germany as part of the Army’s Efficient-Basing East initiative. The closures are the result of the Army’s decision to consolidate six battalion-sized units in one training area and will allow it to station a brigade combat team on a single installation.

Many of the facilities to be shuttered are barracks and family housing areas. The closures will affect about 3,400 soldiers and some 5,000 family members.


 The logo features the word "REUSE" in a bold, sans-serif font, with a stylized graphic of three vertical bars of increasing height to its left. Below "REUSE" is the word "roundup" in a large, elegant, cursive script font.

Griffiss Lands Aircraft Maintenance Company

Rome, N.Y. — Miami-

based Commodore Aviation has agreed to locate its new North American maintenance, repair and overhaul facility at Griffiss Business and Technology Park.

Along with the move, Commodore will rename itself Empire Air Center. The new, wholly-owned subsidiary of Israel Aircraft Industries will move later this fall.

Commodore signed a 20-year lease for 374,000 square feet of space in Hangar 101, Griffiss' largest project to date. The lease includes two 10-year options and a nine-year option. The firm will occupy about three-quarters of the hangar — previously used to service B-52 bombers and KC-135 tankers — while the Air Force Research Laboratory will remain the hangar's other tenant. The company expects to employ 500 people at the former Griffiss Air Force Base by 2007.



PHOTO COURTESY OF MOHAWK VALLEY EDGE

Empire Air Center will occupy three-quarters of Hangar 101 for its North American headquarters. To accommodate larger aircraft such as the Boeing 747, Griffiss will construct a 28,000-square-foot addition to the complex.

Mohawk Valley EDGE, the regional economic development agency for Oneida and Herkimer counties, expects the presence of Empire Air Center to act as a magnet for other aviation-related businesses. The agency will recruit contractors to Empire such as avionics, airframe and electronic repair companies, as well as engine parts suppliers and other maintenance companies.

Empire will use the facility to perform B, C and D checks on narrow and widebody aircraft from both commercial and military customers. Services will include airframe painting and maintenance, electronics, hydraulics and avionics repair, upgrades and conversions.

EDGE will award about \$13 million in contracts to prepare Hangar 101 for Empire. The agency already awarded a \$5 million contract to construct an addition to the hangar and install 70-foot-high doors so it can accommodate Boeing 747 and 777 aircraft. Other needed work includes replacement of the roof; repairs to the fire suppression, lighting and power systems; office renovations; and interior and exterior painting.

Questions? Rob Duchow, EDGE, 315/338-0393, <http://griffiss.mvedge.org>.

Marketing Firm Jumps to Vint Hill

Warrenton, Va. — Infocus, one of the nation's largest marketing companies providing national associations with mailing list services, will relocate from Sterling, Va., to Vint Hill. The firm purchased Vint Hill's former 13,480-square-foot library earlier this year and will consider constructing a 20,000-square-foot building on the property. Infocus has 20 employees, but could grow to 50 employees within the next two years.

Questions? Patricia White, Vint Hill, 540/347-6965, www.vinthill.com.

Got news for Reuse Roundup? Send your press releases and announcements to Editor Dan Cohen, NAID, 734 15th St. NW, Suite 900, Washington, DC 20005; fax: 202/822-8819; e-mail: dcohen@naid.org.

Working Group on Impacts of Privatization on the BRAC Public Participation Process

**Presented to the Institute for Defense Analysis
By ICMA & CPEO
March 23rd-24th, 2000**

Observations and Recommendations

As part of a larger effort by DOD's Office of Environmental Security, ICMA and CPEO have spent the past six weeks researching the implications of privatization upon communities and especially its impacts on public participation and community involvement. We solicited input from a diverse group of private and public sector stakeholders involved in BRAC and received written and oral comments from over 50 different individuals, organizations and agencies. Based upon this feedback, ICMA and CPEO put together the following observations and recommendations. These ideas include recommendations on both the macro and micro policy levels. We found it hard to separate the larger discussion about the communities' role in privatization from the narrow issues devoted just to public participation. DOD's decisions on privatization will have a dramatic impact on both.

Section 334 of the Defense Authorization Act of 1997, the Early Transfer provision, permits the transfer of remediation management responsibility at closing military bases to non-federal entities. This legislation presents both opportunities and challenges for communities seeking to reuse closing and recently closed bases. Some community representatives see privatization or localization of cleanup management as a way to promote efficiency and tailor responses to community needs. Others see these trends as a way for the armed services to walk away from their full environmental responsibilities. It is premature to evaluate the effect of early transfers since few have been completed. However, we can draw lessons learned and make observations from those privatization and localization efforts completed or still underway.

While existing community involvement policies seem adequate to address the transfer and cleanup of properties with minor contamination or where land uses are unlikely to change, they appear to be insufficient to facilitate the safe and economically responsive reuse of complex, controversial, or severely contaminated facilities. In fact, even the best community involvement policies cannot be expected to enable the privatization and localization of bases with unexploded ordnance contamination or large plumes of organic solvents.

Based on the results of our preliminary research, ICMA and CPEO found the following major themes or recommendations:

1. Public stakeholders must be brought into the early transfer approval process earlier and more proactively.
2. The privatization and localization of cleanup must be based upon locally developed land use plans.
3. Each early transfer contract should contain provisions requiring the continuation of public participation activities associated with the military's installation restoration program.
4. A collaborative community involvement/public participation process should be designed with the assistance of public participation experts.
5. DOD should engage the stakeholders in the design of policies on privatization.

In summary, private or local government management of cleanups at closing bases may make the cleanup process more efficient, timely, or less expensive at a number of installations. If the local communities' role in the entire process is reinforced, not overlooked, transferring such management along with the early transfer of the property will likely be appropriate and will likely work best when strong community takes place.

Background on Community Involvement

Local communities participate in the cleanup and reuse planning of closing bases in two ways, (1) as cleanup advisors and, (2) as land use decision-makers and advisors.

First, public stakeholders, including local officials, advise cleanup decision-makers on strategies, standards, technologies, and priorities for cleanup. The allocation of decision-making authority varies, and the decision-makers themselves often argue over their respective roles, but they include officials from the Department of Defense and federal, state and, sometimes, tribal environmental regulators.

Various environmental statutes and regulations have long promised this community role. CERCLA authorizes Technical Assistance Grants and provides for citizen lawsuits under certain circumstances. The National Contingency Plan weighs Community Acceptance as one of its criteria.

The Federal Facilities Environmental Restoration Dialogue Committee, however, determined that these forms of public participation, while important, were not sufficient to give the public an effective role in the process. Based upon success stories with Technical Review Committees at a handful of military bases, it recommended that public stakeholders be informed and consulted early in the cleanup process, and it suggested the formation of site-specific advisory boards.

DOD's then new Environmental Security office adopted and modified those recommendations, incorporating the new form of public involvement into the President's Five-Point Plan for Revitalizing Base Closure Communities. As a result, the armed services established Restoration Advisory Boards (RABs) at most major closing bases, and later expanded the program to cover more than 300 active, former,

and closing installations.

RABs and their associated community relations programs have greatly improved communications, not only between the military and the public, but - in conjunction with the formation of BRAC Cleanup teams (BCTs) - among the statutory cleanup decision-makers. Not all RABs are alike. Some work better than others and even the best communications cannot always resolve strong differences of opinion among the cleanup parties.

Second, local governments have statutory land use planning authority over properties within their jurisdictions - with the general exception of lands expected to remain in the custody of federal and site agencies. The laws covering the disposition of property through the Base Realignment and Closure (BRAC) program clarified that local governments exert that power as a Local Reuse Authority (LRA); they enable the LRA to receive property; and they provide financial and technical support to local communities.

Local Reuse Authorities usually have their own public participation programs, ranging from traditional zoning-type hearings to regular meetings of advisory boards. These advisory groups may resemble RABs, but the actual LRA boards - City Council, Port Authority, Joint Powers Board - have decision-making authority over the land use decisions.

The Early Transfer Process

RECOMMENDATION #1: Public stakeholders must be brought into the early transfer approval process earlier and more proactively.

Where the LRA is the proposed transferee at a closing base, its representatives are inherently engaged, from the start, in negotiations over the potential transfer of cleanup responsibility. However since these discussions are typically conducted by attorneys for the military and LRA, they are usually conducted in private. Even if the transfer is likely to impact other local government bodies, those bodies are not necessarily informed of the private negotiations.

Yet, before the Governor and the Administrator of U.S. EPA - if the facility is on the National Priorities List - can approve the Early Transfer, Section 334 requires that the proposal be brought before the public for comment. The statute is vague, however, about how the public comment fits into the approval process. Still, both the EPA guidance for property on the NPL and the Defense Department policy for other properties require that the Defense Department component respond to comments before approval.

These procedures are often insufficient to meet the statute's goal of protecting human health and the environment. For example, the Army's draft Finding of Suitability for Early Transfer (FOSET) at the Sunflower Army Ammunition Plant, a proposed non-BRAC Early Transfer, contains asterisks on each environmental issue. It refers to a Consent Order, still unsigned and unavailable to the public, that is supposed to govern the cleanup. Thus, members of the public were asked to comment on a proposal that they couldn't see because it was incomplete. At the very least, the Defense

Department should clarify that all FOSET documents should be based upon public documents proposing environmental responses. Furthermore, to ensure meaningful public review of the proposal, the DOD component should apprise the RAB of the status of the negotiations long before submitting the draft FOSET. The LRA should inform its constituents as well. It should be possible to address the outlines of the proposed privatization or localization strategy without compromising confidential negotiating positions.

In the spirit of partnership for which RABs were formed, early discussion of Early Transfer will permit members of the community to offer constructive ideas. If they are brought into the process only when Section 334 says they must, all they can do is endorse or oppose the proposal. Approval under these conditions will make it difficult for the local governments and their private transferees or contractors to complete projects.

Local Land Use Planning

RECOMMENDATION #2: The privatization and localization of cleanup must be based upon locally developed land use plans.

Under federal policy, cleanup standards and strategies are to be based upon the reasonably anticipated future land use. While advisory groups, such as RABs, may expect the consideration of even more stringent forms of cleanup based upon long-term anticipated land use, at the very least the military is obligated, where practicable, to clean up to the standards required to meet the land use objectives developed in good faith by the LRA.

We have heard reports that at times DOD components have sought to weaken that promise. They want to clean up to less stringent levels based upon immediate construction plans, rather than land use categories, and to use institutional controls to prevent additional demands for cleanup should new construction be considered later. Where privatization or localization is proposed, the military reportedly has used this argument to reduce its proposed financial settlement.

While it is reasonable for LRAs to consider advice from the military on its land use planning, there is no reason for local government to give up its legal authority just to expedite property transfer. The funding of cleanup should meet community-developed future land use plans. The cleanup of federal property is more than a discretionary expense. As with privately held land, it is an obligation that was incurred when the military released hazardous substances into the environment.

Continued Community Relations

RECOMMENDATION #3: Each early transfer contract should contain provisions requiring the continuation of public participation activities associated with the military's installation restoration program.

The formation of Restoration Advisory Boards beginning in 1993 put the Defense Department in the leadership of public policy with regard to public participation in the oversight of cleanup. Many legislative proposals, across the political spectrum, for

improving hazardous waste laws have incorporated advisory groups similar to RABs. California's 1999 site mitigation law, for example, makes provision for community advisory groups.

Yet the Defense Department's current procedures for privatization or localization establish no guidelines for continuing RABs or any other community relations activity. While this might seem like a minor issue at small sites with little contamination or controversy - such as Oakland's Fleet Industrial Supply Center - it can easily undermine the goals of the Department's existing community relations policies.

Fortunately, the problem of continuity in advisory board activity and other community relations programs can easily be resolved. In negotiations between the Defense Component and the LRA or private transferee, the parties should contractually agree to continue or enhance the military's community relations plan, assign responsibility for that program, and provide sufficient funding for its support, including any technical assistance to which the RAB was entitled.

RECOMMENDATION #4: A collaborative community involvement/public participation process should be designed with the assistance of public participation experts.

Everyone seems to concur that input from all relevant stakeholders must happen early in the decision-making process, whether the decisions focus on cleanup remedies, reuse options, or even discussions about if and how to privatize the cleanup. The major question is how to go about public participation. Making decisions and then simply having public meetings for comment is the old way of engaging the public, but it often further polarizes the parties. Meaningful public participation empowers the community and allows them to have a sense of sharing in the decision-making. Such collaborative processes by design create a greater degree of ownership through joint problem solving and ultimately a more long lasting resolution. Early involvement and collaborative processes are merely guiding principles for successful/meaningful public participation. In response to our request for input, many of the stakeholders offered their suggestions on how DOD can make its BRAC cleanup and reuse decision-making more effective and successful:

- Ensure that the decision-making process is all-inclusive so that it provides for multiple levels of input by all parties affected by the cleanup and reuse plans.
- Enhance the coordination between those undertaking the cleanup (the BCT), those planning the reuse (the LRA) and the community (possibly through participation in BRAC team meetings).
- Encourage more informal contact between the parties (BCT, LRA, Community, Local Government, etc.).
- Enlist the services of public participation experts: Since public participation is not a core competency of the Department of Defense, as part of any privatization initiative DOD should consult with public policy facilitators, mediators, and others with expertise in consensus building, public participation and BRAC.
- Provide funding to LRAs, local governments, and/or community groups (similar to EPA's Brownfields ADR Pilots) for the services of a neutral facilitator to design and implement a collaborative public participation process.

RECOMMENDATION #5: DOD should engage the stakeholders in the design of policies on privatization.

Another theme evident from the feedback sent to ICMA/CPEO is that before DOD further develops and refines its privatization initiative, it should engage all of the relevant stakeholders to discuss and review possible plans and draft policies. The BRAC process is already complex and contentious. Moving forward without the input and ownership of the key stakeholders might further exacerbate existing tensions and frustrations. The IDA effort is a good beginning, but more outreach is necessary. Perhaps DOD should hold a series of regional policy dialogues to gain further input as many questions still remain.

- Who is going to be the new responsible agency/entity with private cleanups? What are its roles and responsibilities? How will it be held accountable to the public?
- Will the federal government (DOD) continue its oversight responsibility? If so, how will it ensure meaningful community involvement/participation as part of the privatization process?
- What about the role of EPA and state environmental regulators in the privatization of cleanups?
- When and where should DOD attempt privatization? Privatization of the cleanup is not going to work at every site. DOD, working collaboratively with key stakeholders, should develop general criteria to help decide whether a site is suitable for privatization. One of the major factors to consider is preliminary community support and a written plan for involving the community should DOD and the transferee proceed with privatization.

I. Background

With recent efforts to privatize the cleanup of closing military facilities under BRAC, DOD's Office of Environmental Security and Office of Active Installations charged the Institute for Defense Analysis (IDA), a not-for-profit, federally funded research and development center (FFRDC) to gather information and feedback about privatization issues and other transfer alternatives to BRAC. On Feb 2nd, 2000, IDA convened a meeting of diverse stakeholders (i.e., NGOs, private sector consultants and developers, community groups, local governments, etc.). The group shared their experiences and insights concerning existing BRAC efforts and possible strategies and impacts regarding privatization. After the meeting, IDA selected a few participants to chair different working groups. Each group was charged with delivering a report to IDA on a different aspect of the issue. CPEO and ICMA agreed to provide IDA with preliminary feedback on how privatization may affect communities and public participation. IDA will incorporate segments of these reports into a final document and deliver that final document to DOD.

Over the past six weeks, ICMA and CPEO have worked together to develop an issues paper on privatization and community involvement and stakeholder participation. The goal of this paper is to define the issues and impacts on the public participation process and to offer examples, input and recommendations to help address these issues.

II. Research Method

In undertaking this project, ICMA and CPEO used various sources and methods to research and gain input on the subject. Using experiences from within the BRAC process and from other areas (such as Brownfields), we looked for best practices that could be applied to DOD's existing public participation efforts. In order to gain wider input on this subject, ICMA and CPEO solicited the input of various parties in the BRAC process and the general public. An announcement soliciting comments was distributed by ICMA to persons involved in their Base Reuse Consortium as well as other interested parties (including other IDA working group members). Additionally, the announcement was posted on the CPEO listserv to elicit valuable public commentary. The following three questions were posed in the announcement.

- Best practices in BRAC community involvement and stakeholder involvement: What has worked well, what has not? What are the obstacles? Please provide examples of any innovative strategies.
- Beyond BRAC: Are there best practices in community involvement and stakeholder participation that can be borrowed from similar cleanup and redevelopment areas, such as Brownfields?
- Possible privatization impacts: What are your thoughts regarding the possible impacts and issues privatization may pose for community involvement and stakeholder participation? For example: Will the transfer of the cleanup from DOD improve or hinder community involvement? How can meaningful stakeholder participation be ensured? Should reuse planning (generally under the LRA) and cleanup decisions (usually made by the BCT with input from the RAB) be better coordinated? What are the advantages and impacts for community involvement? How could this be done? Are the current mechanisms for community involvement and stakeholder participation in the early transfer process working? How could they be enhanced?

Responses were received from over 25 different individuals, organizations and agencies representing a diverse range of interested parties. To assure that feedback was comprehensive and honest we notified respondents that their names would be kept confidential. Passages from their responses are integrated in the report with a generic reference to who made the comment. This was done to give context to the comments and add perspective, while continuing to protect the respondent's confidentiality. The breakdown of respondents was as follows:

- 4 Local government officials
- 7 LRA members
- 9 Community members (RAB members and others)
- 3 State regulators
- 2 Federal agency and military officials
- 1 Non governmental organization

III. Background of Current Public Participation Process for BRAC

A. Overview

Without going in too much depth, the BRAC experience with public participation is a mixture of both good and bad. Restoration Advisory Boards (RABs) form the

foundation of the current BRAC system. A RAB is a group of local community members and government representatives who provide recommendations to the BRAC Cleanup Team (BCT) about environmental issues on closing bases. The RAB acts as the focal point for the military's communication with the community. In the ideal scenario the RAB works "in partnership with the BCT on cleanup issues and related matters." The RAB is essentially the primary vehicle for involving the community in the cleanup decisions. While this process seems fairly straightforward on an organizational chart, questions have arisen in a number of communities about whether it leads to meaningful public participation in practice. Before embarking on new variations of public participation for its privatization projects, it might benefit DOD to reexamine the fundamental principles that underlie any successful public participation effort by asking the following questions:

· What is "meaningful" community involvement? Having a common definition that is understood by all participants is an extremely important preliminary step. A hypothetical survey of military personnel with some level of BRAC public participation experience would likely result in many different definitions of meaningful public participation. Some equate public participation with public hearings. Others may confuse public participation with public relations. While all three approaches involve the public to a certain degree, each serves very different goals and emphasizes different techniques and strategies. For purposes of this report, our definition is:

Successful community/stakeholder involvement is a collaborative process of shared decision-making with the public, especially with those members of the community, local governments, neighborhoods, and businesses that are affected, either directly or indirectly, by the decision to close, transfer, clean up, and reuse former military facilities.

Of course, there is no single definition that will fit every circumstance, but the concepts enunciated above provide a good starting point.

· Why is community involvement/public participation important? Again, many government officials and private developers as well, view public participation as something they MUST do! They may view public participation as a hindrance, and perhaps a necessary legal requirement that impedes an efficient or streamlined development project. However, a well-conducted, meaningful public participation process can save time, problems and money in the long run. It brings in points of view, raises issues and ideas that might not otherwise be considered and serves to educate all stakeholders about each other's perspectives. Additionally, it can help garner early community buy-in and thereby increase the validity/legitimacy of the final decision. Conducting meaningful public participation can also satisfy the governments' duty to guard and maintain the "public trust."

Public participation is generally not quick and easy. It takes time and patience. But the payoffs in the long term will ultimately result in a faster transfer and reuse of the property. Good public participation also requires consulting with or hiring public participation experts. People who are professionally trained as public policy facilitators and mediators who can help help design and implement collaborative processes. In general, the public participation efforts can and should align the interests

of all stakeholders; thereby increasing the likelihood of a successful cleanup and reuse.

B. Issues/Obstacles

At the most basic level, the reuse of a former military base is fundamentally a local land use decision. However, federal and state environmental laws and military transfer statutes and guidance closely govern both the cleanup and reuse of former bases. BRAC presents additional challenges beyond the basic land development transaction. While it varies according to the site and the personnel, the respective stakeholders generally have competing interests and goals. For example, the military often wants to get out of the facility as quickly and cheaply as possible while the LRA's focus is primarily on economic reuse and jobs. The RABs and other community groups may stress public health, environmental concerns, along with general public reuse options. Federal and state environmental regulators must adhere to their duties and legal mandates. Some local governments may try to reconcile the competing interests of economic development with citizen interests, while others may succumb to the developers promise of more jobs and property taxes. Developers are primarily interested in minimizing their risks so they can maximize the return on their investment.

As a result of these complexities, BRAC transfers can often take longer and such delay generates frustrations for many of stakeholders, including both the local community and the military. Mixing all of these interests together can seem as if it is a recipe for disaster, however, a collaborative public participation plan can help align the interests if done early in the decision making process. What follows is a discussion of particular issues and principles based on existing BRAC public participation experiences.

- Who are the stakeholders, the community, the public? There are numerous parties affected by base closures, including local government officials, state/regional entities, workers and unions, the real estate, banking and local business communities, residents/property owners, environmental groups, the education community, the homeless and others. Identifying the parties who should participate in the decision-making process is a difficult, often contentious issue that is unique for each site. DOD procedures state that the RAB should be comprised of a DOD component, Federal EPA, state representatives, and members of the local community. Further, it provides that RABs be chaired by a DOD component representative and a member of the local community. However, there are many different views on what groups/parties are important to the process, and confusion over who best represents the views of the "community". Each community has its own unique needs. It is important to incorporate the unique cultural and socio-economic aspects of the community as well.
- When should different stakeholders participate? In general, good consensus building practices support the idea that community involvement should start at the very beginning of the process. The earlier the community participates and offers its buy-in, the better for the entire process. However, for reaching consensus and moving the process along, it is important that each stakeholder participate at the point in the process when the issues/concerns of that party will be addressed. It is important that every major view on the issue be represented, whether the stakeholder is primary or

secondary.

· How should public participation/community involvement take place? How to engage the public and share decision-making power is perhaps the single greatest challenge of the current BRAC process. The goal is to create a collaborative process that aligns competing interests. However, this public engagement process is not the forte or core competency of the military. In fact, one could argue that "sharing" decision-making authority is the antithesis of the military mission.

· The "Trust Gap": A common theme heard from many of the respondents to our survey is the gap in the trust among the players in the BRAC process. There are inherent tensions within the military organizational structure and between agencies and departments at all levels of government. More importantly, there is a real trust issue between the public community and the government/military, and issues involving public information versus security issues. This kind of distrustful atmosphere can make building a good working relationship and communication lines a difficult or even impossible endeavor.

IV. Privatization Impacts

When the cleanup process is privatized and passed to another responsible entity other than the government agency/department, many issues arise which affect the community. These involve the new division of responsibilities, risks and funding, the management expertise of the cleanup entity, impacts on the public participation process, and issues involving public health and the environment.

There was a common concern among respondents about the transfer of responsibilities involving all aspects of cleanup. Therefore, we are covering a variety of concerns, which involve the public/community, while focusing on community involvement/public participation issues.

A. Consequences of transferring cleanup responsibilities

The effects of privatizing cleanup are extremely interconnected. The issues involving responsible parties and the pros and cons of various aspects of privatization, such as economic reuse, and protection of the environment and public health, are intrinsic in examining its effect on the community and the community's role in the process.

· Who is the new lead entity? One key factor is the lack of understanding or consistency over who or what the next lead entity of the cleanup (and reuse) process would be (if DOD relinquishes its control), and how that entity would be connected and accountable to the community. We heard comments (both positive and negative) about LRAs and/or developers and/or local government entities and/or state government taking over cleanup oversight responsibilities and how this would affect community involvement and other areas. However, there is no guidance or uniform understanding of who or what the next lead entity should be. This is key as many of the issues or recommendations will depend upon that entity.

For FISC Oakland where cleanup was privatized, the new entity was the Port of Oakland, a quasi-local government entity. For the Presidio, it was a public corporation

or "trust", with no defined accountability to the community. Thus, the entity can vary from site to site. With no overall structure on what the next entity should or will be it is difficult to assess the issues as they vary depending on what the new lead entity is. Discussing these concerns and examining the probable roles of developers, local government entities, and state regulators is essential in addressing privatization.

"Although a city spokesman originally insisted that the City was in charge, it emerged and was not denied that the developer was (actually) in charge"-Citizen

· Will the DOD component remain a responsible party? According to current law, the military service cannot completely shift its lead cleanup responsibility to a "private" entity. Whether transfer occurs before or after the Record of Decision (ROD) the service or federal agency is still legally "on the hook" as a responsible party.

"If the transferee agrees to undertake some or all of the cleanup, it acts as the agent of the federal agency, but the responsibility to accomplish the objectives set forth in the ROD remains with the federal agency."- EPA official

· With privatization, what are the roles of other agencies? Although the DOD component may still be a responsible party, the shifting or attempt to shift some or all of cleanup responsibilities to a new lead entity may suggest the need for an increased role for regulators or other parties who deal with similar issues in private cleanups (such as Brownfields).

"If the objective of privatization is to shift responsibility to the transferee, privatization of cleanup at BRAC bases could be seen as a mandate for a larger role for EPA and/or the State in ensuring meaningful and effective community involvement.... Were DOD to transfer lead responsibility for cleanup to a property recipient, EPA's role in conducting community involvement activities might need to be modified/expanded to be similar to EPA's role at private sites where PRPs are doing the cleanup."- EPA official

· Do local entities have the capacity to handle the issues? One concern of local government officials, LRA members and others is whether the new lead entity (possibly a local government entity) or the community itself has the expertise, knowledge and ability to fully understand and effectively manage the project. Many local governments have neither the funding nor expertise to handle the often large technical and funding issues involved with cleanup.

This concern is supported by a recent ICMA survey report on the use of land use controls on BRAC properties which found that local governments were often ill-prepared to handle the recording, funding, enforcement and monitoring responsibilities involved (see the ICMA Base Reuse Consortium Special Report on Land Use Controls on BRAC Bases).

"It may be difficult for local government to take over cleanup responsibilities because many do not have the ability to handle the issues involved."- City official

"The biggest obstacle to community involvement is the highly technical nature of the work and the 'technese' with which the cleanup agents speak."- LRA member

"The biggest obstacle is apathy and a lack of understanding/appreciation of what is going on...It is just too damn hard for people to follow all the bureaucratic activities."- LRA

· Funding of the cleanup is a major concern: Related to the previous concern is the possibility that the private or public entity that takes over the cleanup will not have the financial ability to complete the cleanup task. Or that the cleanup will be postponed while the entity (say a developer) acquires more funds (possibly from activity already underway on the property). Funding of cleanups is a critical issue for which DOD would have to ensure the availability of adequate funds for remediation by providing backup funding or through an insurance program.

"One of our greatest concerns is that DOD is turning over BRAC bases to LRA's through early transfers without providing sufficient funding to carry out cleanup." - Environmental Organization

"A fundamental principle for the city with regard to early transfer, is that we will accept no dirty property, without sufficient funds to remediate the property to a standard that will be fully protective of human health and the environment..."- City official

"...the substantial financial and other resources necessary to cleanup bases and privatize land are really not available in the private sector in most cases, particularly where the base often has negative market value."- LRA member

· Importance of information sharing: The disclosing and sharing of all information pertaining to the cleanup is vital in all cases; but it is even more essential with privatization as responsibilities are passed on and new players are brought into the process.

"If I was engaged in such an activity (early transfer), I don't think I would sleep well...the process could be improved by all parties working toward disclosing all they know about the property and sharing plans for addressing future liability and reuse."- LRA

· Does privatization ensure speed and increased efficiency in all cases, while also protecting human health and the environment? A faster and more efficient process for transferring property through coordination of cleanup and reuse are the goals of this exercise. In pursuit of the goal, allowing local entities to undertake the task could be a positive step. However, privatization is not a panacea and would most likely not be successful in all cases. Also, economic realities and funding (as mentioned above) must be duly considered when looking at privatizing cleanup. While some sites may have suitable land value and an appropriate cleanup scenario for transferring the duty to another entity, many sites may not.

"I believe the private sector is in a better position to make the case for risk based cleanup as opposed to pocketbook based cleanup."- LRA member

"Coordination of reuse and cleanup has been the central focus...for five years. It has worked better in some cases than in others, but there can be no doubt that all parties

see it as essential to the success of the program."- EPA official

"Cleanup decisions are generally risk based... DOD and the community would be hard pressed to focus on a remediation effort to facilitate redevelopment when there are real health risks not being addressed."- LRA

...It is the position of the city that they can complete the cleanup more efficiently than the Navy...the city is not subject to the whims of Congress and does not need to adopt such a bureaucratic approach towards cleanup...this (city control) would resolve the debate over which regulatory agency takes precedence (since the city is beholden to the state of California) and the city will then be able to perform cleanup and structure development concurrently, saving money...-- LRA member

"(It won't) work in NY State! ... no developer would take the risk except for property that has extremely high reuse value, like downtown Manhattan... in upstate New York, no land is worth the combined cost and risk to bring a private developer into the role of cleanup." - LRA member

(For various liability and unique disposal issues)... I am not convinced that privatization and/or early transfer would overcome the slow pace of transfer at BRAC sites nationally." - Non-profit

...since the military is not in the business of providing property to the general public, they are not very efficient at doing so... the military is mission oriented not code oriented...-- LRA member

"If there is a good economic proposition, the local communities and developers will aggressively develop it - e.g. Bergstrom AFB and Orlando NAS... however, at this time most former military installations still would not be a good bet for assumption of cleanup costs or even some fraction of this cost prior to transfer..." - LRA member

B. Effects on community involvement and the public participation process

The entire community is affected by the above concerns and issues. When the responsibilities change, the rules and nature of the process also change. Thus, it is imperative for all parties to be aware of and understand the privatization process and its impacts on their particular site and on the involvement of the community in the process.

· Ambiguity of the community's role in privatization: The community involvement portion of the BRAC process can be a contentious issue. While there are good and bad examples of community involvement programs in the current process, there is at least a guarantee that community involvement and public participation cannot be ignored. Will this still be the case if the cleanup and reuse responsibility is privatized? What guidelines will the new lead entity (whatever it may be) have to follow?

"Can someone tell us (whether) Section 334 requires an LRA or other transferee to fully comply with both CERCLA and NCP public participation and cleanup level requirements?"-Citizen

"Under current federal law and policies...DOD has the responsibility for ensuring that there is community involvement in this process. However, there are no current laws or policies that outline how community involvement will occur if responsibility is transferred to the local reuse agency." - State EPA official

"...it is not clear how the public participation provisions of CERCLA and the NCP would apply to situations at non-NPL sites. The statute does not clearly require that a ROD be finalized before the transfer; therefore, the requirement (for public participation) would not come into play until after the transfer, if at all."- State official

"...unless EPA regulated the cleanup (i.e. an NPL site), the CERCLA citizen suit provision would probably not provide a tool either because the developer wouldn't be subject to requirements under CERCLA."- State official

"...if the cleanup were performed pursuant to state law, there would be some public participation, but it would depend on (each) state's laws and practices."- State official

· Early community involvement/public participation can smooth the process: Streamlining the process through privatization and incorporating reuse plans into the cleanup plan has many advantages. However, while the goal is to speed the process, it is important to remember that time must be taken to do things right in order to save time and money later. Community involvement is one such element. Appropriate time must be spent on this component of the process in order to create a smoother track for progress. Additionally, a common theme is that it is critical to get meaningful community involvement early in all aspects of the decision-making process, instead of simply getting public comment after decisions have been made. Although this takes time, it protects against roadblocks later on and creates a more beneficial process for all involved.

"Community cooperation in privatizing the base cleanup process should begin literally 'at the beginning' with the LRA beginning to understand the environmental conditions on the base and working these conditions into the LRA base reuse plan... Cooperation on cleanup should begin very early in the process- with the community participating as a cooperating agency during the military department draft EIS process."- DOD official

"Meaningful stakeholder and community involvement can only occur where these parties are involved in the cleanup process as early as possible."- State EPA official

"...it is critical to involve the community and the regulators and potential 3rd party developers/insurers early in the process. Rather than a bilateral negotiation between the LRA and the Navy with back-end input from other stakeholders, ...these negotiations must be multilateral, with the participation of federal and state regulators and key (community) groups and individuals at an early stage..."- City official

"(The environmental studies and actions took a lot of time)...but at least now the new homeowners ...can take some comfort in the fact that their properties should be relatively safe."- Citizen

· Opinions vary on privatization effects: There is confusion over whether shifting the

responsibility of cleanup would provide more opportunity for community involvement or less. Again, the level of community involvement may vary depending on who the new lead entity is. While some feel that transferring responsibility to a more local entity would increase meaningful community involvement because local entities are more in tune with community needs, others argue that the local entity might have others interests (i.e. financial return, etc.) which may conflict with community concerns.

"Having local communities take the lead provides more opportunities for public involvement and discussion as the LRA progresses in cleanup and development of the property through required public hearings and workshops."- City Official

"My observation is that the privatization process impacts community involvement negatively... the bottom line stakes are raised for (those) parties which stand to gain development fees and/or other community benefits. This multi-reinforced money incentive has its advantages, but those advantages do not go to public participation or cautious procedure."- Citizen

"To think that an LRA will provide meaningful community input is suspect. At (our) meetings, the public is allowed three minutes to speak at the beginning of the meeting, never comment during the substantive discussions."- Citizen

"I firmly believe that local/state governments are by nature more responsive to community concerns."- State official

"I don't believe the community will go the lengths DOD does in regard to community involvement. However, this may stem from the representative nature of local government and a greater degree of trust, responsibility and accountability from local governments." - LRA member

"Since the LRA's main focus is redevelopment of the site as quickly as possible, they may feel that addressing community concerns may delay the cleanup of the site. They also may not want to be as open with presenting information that could (negatively) affect redevelopment interests." - State EPA official

"You mention being more efficient. That scares me...being more efficient is often the excuse for cutting out the public."- Citizen

· Ensuring the continuity of the community's role: As DOD is still the responsible party in the process, procedures could be enforced in privatization scenarios to ensure the public participation component is entrenched in any transfer.

"My only suggestion is to transfer the public participation process with the transfer in lead agent and have a standard, like FFERDC (the Federal Facilities Environmental Restoration Dialogue Committee), that the recipient must comply with."- DOD official

"My recommendation would be that a public participation plan be part of the application for transfer, and that (the application itself) be subject to public comment. However, only DOD (might) be able to enforce, so the utility of this procedure may

be quite limited." - State official

V. Best Practices

Part of our inquiry was to seek examples or best practices either from existing BRAC public participation experiences or from similar areas, such as brownfields and Superfund. Here are a few examples and ideas to consider.

A. BRAC Best Practices:

Openness and inclusion of parties in the decision-making process seem to be themes to many BRAC-related Best Practices.

"Reuse planning and cleanup need to be closely coordinated. It is important that the BCT works with the LRA so the final cleanup levels are protective of planned future uses of the base." - State EPA official

"At a number of bases...RAB community members (have been allowed) to attend BCT meetings to participate in the discussions leading to key cleanup decisions. This proved to be a more effective form of participation than being informed of decisions after they were made." - Environmental group

"Informal meetings between community members and regulators were helpful in building shared understanding of public needs, constraints, etc..." - Environmental group

"The LRA's redevelopment planning process provided for public hearings at each of three phases of the plan preparation, which were well publicized (and attended). Four working committees...provided additional opportunity for input. The RAB ...has been effective in educating the public on environmental issues. The BCT has been responsive to the LRA's redevelopment schedule and priorities." - Citizen

...(our) reuse committee preceded the DOD LRA model and seems to be more far-reaching and diverse...the Environmental Cleanup Subcommittee was chaired by the president of the town's "watchdog" environmental organization (helping establish instant credibility with local citizens)...and the city also worked closely with federal and state regulatory agencies...-- Reuse committee (LRA) member

B. Brownfields and Superfund Experiences

As part of our effort, ICMA & CPEO briefly looked at public participation experiences in the cleanup and reuse of primarily brownfield sites. Given the short amount of time, our research is not comprehensive, but it does offer some ideas for DOD to consider as it approaches privatization and its impacts on public participation.

Brownfields redevelopment involves many of the same stakeholders, such as the local government, community groups, property owner and/or developer, lender and environmental regulators. The primary difference is no military parties and no institutional creatures of BRAC (the LRA, BCT, BTC, etc.). The federal government's primary role is providing financial resources and technical assistance through EPA's

National Brownfields Partnership Action Agenda. State voluntary cleanup programs form the legal and regulatory framework that public and private developers must operate within. Local governments, on the other hand, play a large role in coordinating and facilitating the stakeholders and the resources. They are also the principal recipients of EPA's array of Brownfields and Showcase Community Pilot Grant programs (along with Revolving Loan and Job Training Pilots).

Against this backdrop, public participation in brownfields redevelopment happens with little regulatory guidance or statutory requirements (unlike BRAC). For example, according to the General Accounting Office, many of those state voluntary cleanup programs have weak or no statutory public participation requirements. EPA, however, does require a public participation plan for the local governments who receive Brownfields Pilot and Showcase Community grant funds (note that if the city is not a brownfields pilot, there is no formal public participation requirement). These plans do provide a framework or strategy on how local governments intend to involve the community in their brownfields pilot activities. Some of the plans also address environmental justice concerns. Last year representatives of both ICMA and CPEO helped the American Society of Testing Materials (ASTM) create its "Standard Guide to the Process of Sustainable Brownfields Redevelopment." The ASTM Brownfields Guide is a consensus document that gives both public and private stakeholders a framework for thinking about brownfields redevelopment. While it is somewhat generic, the ASTM guide rightfully places early community involvement as the linchpin of its process.

For the many cities that have successfully created brownfields programs and/or development projects, they have used a variety of public participation and community involvement strategies. Some of these strategies have been effective, while others have not. While brownfields seems to have a more positive image than BRAC, it too is a complex endeavor that requires an alignment of competing interests and ideas about cleanup and especially reuse. Through their brownfields research, ICMA and CPEO continue to evaluate the issues surrounding community participation and local government involvement and share results so that others can learn from these experiences. What follows are a few thoughts and examples about public participation and community involvement in brownfields redevelopment.

- Dallas Brownfields Forum: The City of Dallas convened a diverse group of primarily private sector stakeholders to help identify possible brownfields projects for redevelopment through the Texas Voluntary Cleanup Program. The group continues to meet regularly on a whole host of brownfields project and policy issues.
- Chicago Brownfields Forum: The City of Chicago is recognized as one of the pioneers in brownfields redevelopment. They now act as both facilitator of private projects and also as their own brownfields developer. As a way to create the initial vision for their program, Chicago (with the facilitation help of the Delta Institute, a non-profit brownfields corporation) convened a citywide collaborative stakeholder process with over 350 people to help identify issues and opportunities.
- Clearwater, Florida: ICMA and CPEO have been working with the city to create a model environmental justice strategic plan for brownfields redevelopment. The city organized a special brownfields task force and convened several community meetings to gather input about brownfields reuse to make it more sensitive to environmental justice concerns. The model plan is now out for comment.

- Isles of Trenton, New Jersey: Isles is a community development organization that involved in brownfields redevelopment. Isles also provides neighborhood level training that educate community stakeholders about brownfields development. The goal is to empower neighborhoods with knowledge about brownfields cleanup and reuse so they can more fully participate in the brownfields projects within their community.

Given the complexity of these multi-party negotiations, some communities seek the help of professional environmental and land use mediators and facilitators. EPA reserves a small amount of its ADR Program Budget for brownfields redevelopment. Currently EPA has 10 ADR pilots (approx. \$15,000 per pilot) in progress. Here are two examples of the EPA ADR Pilots:

- New Bedford, Mass: the city hired Susan Podziba (a nationally recognized land use facilitator from MIT) to design and facilitate a city-wide task force and help them prioritize brownfields sites and select two-three sites for environmental assessment and cleanup.
- Shenandoah, VA: the Institute of Environmental Negotiations at the University of Virginia is working with the town on a visioning process to determine the redevelopment plan of a former iron furnace site. They created the Big Gem Advisory Board to engage citizens and the private sector in this large-scale reuse planning effort.

Even in the context of the more complex and contentious reuse of Superfund sites, the use of environmental mediators and facilitators may help.

- Burlington, VT: Independent environmental mediators helped the PRPs, regulators, community, and the local government resolve a long standing dispute over the cleanup and reuse of the former Pine St. Superfund site.
- EPA's Superfund Redevelopment Initiative: As part of the agency's effort to adapt the lessons learned from its successful Brownfields Pilot program, EPA is now soliciting applications from local governments for grants (max. of \$100,000) to help spearhead local Superfund redevelopment project. Facilitation is an eligible service under these new grants.

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Revised BCRC Recommendation

- City opined Privatization in Place would:
 - Meet DoD infrastructure goals
 - Greatly reduce costs and service disruptions
 - Create savings and help retain needed technical capabilities to support DoD missions
- BCRC agreed & revised their recommendation to include a Privatization Option.

*“ ...Transfer workload, equipment and facilities to the private sector or local jurisdiction as appropriate if the private sector can accommodate the workload onsite; **or** relocate necessary functions ... to other naval technical activities...”*



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Base Realignment and Closure (BRAC)

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- Industry
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- News
- Reports
- Policy
- Budget
- Congress
- Links

WMD

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References

- [Department of Defense Selection Criteria for Closing and Realigning Military Installations Inside the United States](#) [Federal Register: February 12, 2004 (Volume 69, Number 29)] Military value will be the focus for the final selection criteria to be used in the 2005 round of base realignment and closures. That value represents the ability of the installation to contribute to DoD future mission capabilities and operational readiness. The final selection criteria are also based on factors such as potential costs and savings, community support and environmental considerations.

Links

- [Base Realignment and Closure](#)
- [BRAC Department of the Army](#)
- [BRAC Department of the Navy](#)
- [BRAC Department of the Air Force](#)

Other Resources

- [East Bay Conversion and Reinvestment Commission](#) (Alameda, CA)

In July 2001, the Department of Defense announced an Efficient Facilities Initiative (EFI). This consolidation was projected to save an estimated \$3.5 billion annually. EFI will enable the US military to match facilities to forces. EFI ensures the primacy of military value in making decisions on facilities and harnesses the strength and creativity of the private sector by creating partnerships with local communities. All military installations will be reviewed, and recommendations will be based on the military value of the facilities and the structure of the force. The EFI will encourage a cooperative effort between the President, the Congress, and the military and local communities to achieve the most effective and efficient base structure for America's Armed Forces. It will give local communities a significant role in determining the future use of facilities in their area by transferring closed installations to local redevelopers at no cost (provided that proceeds are reinvested) and by creating partnerships with local communities to own, operate, or maintain those installations that remain.

In mid-December 2001 House and Senate negotiators authorized a new round of military base closings, but delayed any action until 2005. While the Bush administration and the Senate had

wanted the base closing process to begin in 2003, the House had been opposed. Under the

compromise plan, the Secretary of Defense will submit a force structure plan and facility inventory, with a certification that proposed closings were justified by the force structure plan and that they would produce net savings. The closings would also consider environmental costs and community impact. Seven of the nine commission members could vote to add bases to the Pentagon's proposed closure list, but a simple majority would suffice to drop bases from the closure plan. The Bush administration has estimated that 20 percent to 25 percent of military bases are surplus, and that the Pentagon could save \$3 billion a year by eliminating surplus facilities.

In August 2002 Phil Grone, principal assistant deputy undersecretary of defense for installations and the environment, estimated the next round of base closures in 2005 could save \$6 billion a year, even if it cut only 12 percent of DoD's military infrastructure. One 1998 study suggested that 20 to 25 percent of the military's infrastructure could be considered surplus. Grone indicated that an analysis to "shed excess capacity" would be completed in 2004, before the Pentagon decided how many bases must be closed in the 2005 BRAC round.

On January 6, 2004, the Department of Defense announced that it had requested commanders of installations in the United States, territories and possessions to gather information about their installations as part of the 2005 round of BRAC. All installations are to participate in these calls, and every base and military installation in the United States are doing internal assessments of their operations, land, personnel, and facilities. While none of the questions or data associated with the questions will be released to the public prior to the department's recommendations being forwarded to the independent Defense Base Closure and Realignment Commission and with all questions and data to be publicly available once the Commission receives them.

The nine members named to serve on the 2005 BRAC Commission will be submitted by the President and congressional leaders for Senate confirmation in March, 2005. In May, 2005, the Department of Defense will submit to the BRAC Commission and the Congressional Defense Committees a list of bases that the Department has selected for closure or realignment. Communities across the nation with a military installation are gearing up for BRAC 2005.

The Base Realignment and Closure (BRAC) process had its origins in the 1960s. Understanding that the Department of Defense (DOD) had to reduce its base structure that had been created during World War II and the Korean War, President John F. Kennedy directed Secretary of Defense Robert S. McNamara to develop and implement an extensive base realignment and closure program to adjust to the realities of the 1960s. The Office of the Secretary of Defense (OSD) subsequently established the criteria to govern the selection of bases without consulting Congress or the military. Under McNamara's guidance DOD closed sixty bases early in the 1960s without Congress or other government agencies being involved.

In view of the political and economic ramifications of the closures, Congress decided that it had to be involved in the process and passed legislation in 1965 that required DOD to report any base closure programs to it. However, President Lyndon B. Johnson vetoed the bill. This permitted DOD to continue realigning and closing bases without congressional oversight throughout the rest of the 1960s.

Economic and political pressures eventually forced Congress to intervene in the process of realigning and closing bases and to end DOD's independence on the matter. On 1 August 1977 President Jimmy Carter approved Public Law 95-82. It required DOD to notify Congress when a base was a candidate for reduction or closure; to prepare studies on the strategic, environmental, and local economic consequences of such action; and to wait sixty days for a congressional response. Codified as Section 2687, Title 10, United States Code, the legislation along with the requirements of the National Environmental Policy Act (NEPA) permitted Congress to thwart any DOD proposals to initiate base realignment and closure studies unilaterally by refusing to approve them and gave it an integral role in the process.

As economic pressures mounted, the drive to realign and close military installations intensified. In 1983 the President's Private Sector Survey on Cost Control (the Grace Commission) concluded in its report that economies could be made in base structure and simultaneously recommended the creation of a nonpartisan, independent commission to study base realignment and closure. Although nothing came of this recommendation, the defense budget that had been declining since 1985 and that was predicted to continue to decrease in coming years prompted the Secretary of Defense to take decisive action.

In 1988 the Secretary of Defense recognized the requirement to close excess bases to save money and therefore chartered the Commission on Base Realignment and Closure in 1988 to recommend military bases within the United States for realignment and closure.

Congress has enacted two laws since 1988 that provide for the closure, in part or in whole, and the realignment of facilities. Since 1988, there have been four successive bipartisan Defense Base Closure and Realignment Commissions (BRAC) that recommended the closure of 125 major military facilities and 225 minor military bases and installations, and the realignment in operations and functions of 145 others. By another accounting, the four BRAC rounds achieved 97 base closings and 55 major realignments. This resulted in net savings to taxpayers of over \$16 billion through 2001, and over \$6 billion in additional savings annually.

The principal mechanism for implementing the policy in both statutes has been an independent, bipartisan commission. Two of the most pressing issues are providing assistance to local communities economically impacted by base closures and establishing a cost-effective program of environmental clean-up at bases prior to their disposition.

During the decade of the 1980's, no major military bases were closed, largely because of procedural requirements established by Congress. After several legislative efforts to break the deadlock failed, Congress introduced a new base closure procedure in P.L. 100-526, enacted October 24, 1988. The original base-closing law was designed to minimize political interference. The statute established a bipartisan commission to make recommendations to Congress and the Secretary of Defense on closures and realignments. Lawmakers had to accept or reject the commission's report in its entirety. On December 28, 1988, the commission issued its report, recommending closure of 86 installations, partial closure of 5, and realignment of 54 others. The Secretary of Defense approved its recommendation on January 5, 1989.

*original
base
closing
law*

Since the commission approach adopted by Congress was successful, new base closure legislation was introduced which also relied on the services of an independent commission. Congress refined the process in 1990 with another law (PL 101-510) that charged the Defense Department with drawing up an initial list of bases for consideration by the commission. This commission, in accordance with a statutory provision, met in 1991, 1993, and 1995. The Defense Base Closure and Realignment of 1990 (1990 Base Closure Act), Public Law 101-510 established the process by which Department of Defense (DOD) installations would be closed and/or realigned.

From 1989 to 1997, the Department of Defense reduced total active duty military end strength by 32 percent, and that figure will grow to 36 percent by 2003 as a result of the 1997 Quadrennial Defense Review [QDR]. After four base closing rounds, only 21 percent of the military installations in the continental United States have been reduced. By 1997 the Department of Defense had already reduced its overseas base structure by almost 60 percent. Before the first base closure round, there were approximately 500 domestic military bases. When all of the bases from the first four BRAC rounds are closed, there will be about 400 bases. Ninety-seven major bases have been closed in the United States. The overseas basing structure has been further reduced, ceasing operations at over 960 facilities. The Army in Europe alone has closed the equivalent of 12 United States major maneuver bases.

The 1997 QDR concluded that additional infrastructure savings were required to begin to reduce the share of the defense budget devoted to infrastructure. Retaining excess base infrastructure is unnecessary with a smaller military force, and wastes scarce defense resources that are essential to future military modernization. Base closings are an integral part of this plan. The QDR found that the Department has enough excess base structure to warrant two additional rounds of BRAC, similar in scale to 1993 and 1995. The Department estimated that two additional base closure rounds would result in savings of approximately \$2.7 billion annually.

The BRAC 1995 commission recommended that the Congress authorize another Base Closure Commission for the year 2001, giving military services time to complete the current closures in an orderly fashion. Implementing the BRAC actions in the first four rounds would result in \$23 billion in one-time implementation costs, offset by savings of \$36.5 billion, for a total net savings of \$13.5 billion between 1990 and 2001 when the implementation of the first four rounds was supposed to be concluded. DOD has not included the total cost of environmental cleanup beyond 2001 in the net savings figures. Approximately half the savings which DOD assumes will come from BRAC during the implementation are due to assumed savings in operation and maintenance costs. Much of those assumed savings are due to reductions in civilian personnel.

Under the BRAC process, the Secretary of Defense makes recommendations, a commission, nominated by the President, confirmed by the Senate. The commission, after being confirmed by the Senate, reviews these recommendations and makes their own recommendations to the President. The President then reviews the recommendation, either sends those recommendations back to the commission for additional work or forwards them, without changes, to the Congress. The recommendations of the commission go into effect unless disapproved by a joint resolution of the Congress.

In 1995 the BRAC commission recommended closing two maintenance depots - McClellan Air Logistics Center near Sacramento, CA, and Kelly Air Logistics Center in San Antonio, TX. An alternative to shutting the depots in the two politically powerful states, President Bill Clinton proposed having private contractors take over maintenance work at the sites. The 1995 BRAC Commission did not recommend or authorize 'privatization-in-place' at Kelly Air Force Base. Concern was raised about the integrity of the BRAC process in light of this attempt to privatize-in-place the work at the Air Logistics Centers at Kelly Air Force Base in Texas and McClellan Air Force Base in California. Republicans charged that Clinton could not be trusted to respect the apolitical nature of the process.

Following Clinton's action, lawmakers did not agree until 2001 to schedule another round of base closings. Before it was resolved, the dispute held up a conference agreement on the fiscal 2002 defense authorization bill (PL 107-107) and led Bush to threaten to veto the bill if it did not allow a new round in 2005.

Defense Secretary Donald H. Rumsfeld and Army Gen. Henry H. Shelton, chairman of the Joint Chiefs of Staff, told the House Armed Services Committee in July 2001 that the Pentagon maintained 25 percent more facilities than it needs, even after four rounds of base closings in the 1990s. By some accounts, the excess military bases annually cost taxpayers an estimated \$3.5 billion.

The armed services are focusing on improvement of installation operations, and the OSD are examining efficiencies that could be obtained by such actions as consolidation of functions on installations, regionalization of support, base realignments and closures, and creation of joint installations where facilities are shared by active forces, National Guard, and Reserve components of all the services. At the installation level, better understanding of what facilities (and their condition) exist on an installation permits more efficient use of the space that is available, and is a first step for any base planning. The Army and the Navy have been using procedures that permit them to lease unneeded facilities on their installations to neighboring communities or commercial organizations. In turn, the lessee provides some form of in-kind support to the installation (e.g. construction or operation of a needed facility) or payment to the government.

Transformation of the force structure and the return of forces from overseas to the United States will require full analysis of space availability at installations, and forecasts of not only what will be needed for the current force structures, but also for force structures that involve units and weapons systems still on the drawing boards. In forming the Army IMA and the Navy CNI, regional offices were established to coordinate the activities of installations within the regions and to determine where analysis indicates efficiencies of any kind can be generated by combining regional activities such as contracting, cross-leveling of assets, etc.

The increased use of National Guard and Reserve components during the Iraq War has pointed out the close links between the installation needs of the Guard and Reserve and the active force and has opened the question of how best to provide support for these units in the future.

Some have indicated that BRAC 2005 and concurrent OSD guidance could eventually lead to consolidation of or joint operation of military facilities in areas where there are numerous separate activities. These range from consolidation of contiguous facilities such as Pope Air Force Base, NC and Fort Bragg, NC, to joint control over the numerous military facilities in such areas as Tidewater Virginia. Actions resulting from BRAC can be expected to place a major burden on the services and installations to deal rapidly with the recommendations of the BRAC Commission and to develop well-substantiated, GIS-based plans in response.

BRAC 2005

- March 15: President Bush to name members of the fifth Base Realignment and Closure