

US Army Reserve Center Area Maintenance Support Facility Transfer Process Review & Framework for Developing a Plan

Introduction

The purpose of this review is see what is the required process Middletown will need to following in order to successfully complete a speedy transfer and obtain approval to redevelop the site according to the City's needs and Federal requirements.

This review contains the following discussions:

- Recent History & Site Information page 1
- Base Realignment and Closure Process page 1
- Redevelopment Plan Components page 3
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Recent History & Site information

On August 25, 2005, the Federal Base Realignment and Closure Commission (BRAC) voted to close three U.S. Army Reserve centers in Connecticut that included the U.S. Army Reserve Center Maintenance Support Facility in Middletown.

The property contains approximately 23.7 acres and contains 1 building, totaling approximately 14,352 square feet. All utilities are available on site including City water and City sewer. The property address is 499 Mile Lane and is located in the City of Middletown, Middlesex County, south side of Mile Lane in the Westfield section of the City.

Base Realignment and Closure Process

The Base realignment and closure process is governed by 32 CFR Parts 174, 175, and 176 and Public Law 101-510. See appendix for copies.

Step One- Surplus Property Designated by Department of Defense (DOD) (November 9, 2005)

During the first six months following the date of approval (November 9, 2005), property not needed by the Department of Defense or other Federal agencies are identified and a notice of surplus property available for redevelopment is published. The Middletown site meets this requirement. Also during this first six months, the local community is to designate a local

redevelopment agency to be recognized by the Department of Defense through the Office of Economic Adjustment and comprehensive redevelopment planning is allowed to begin.

Step Two- Develop an LRA (November 9, 2005 – May 9, 2006)

A Local Redevelopment Authority (LRA) is defined as “any entity (including an entity established by a State or local government recognized by the Secretary of Defense as the entity responsible for developing the redevelopment plan with respect to the installation or for directing the implementation of such plan.” The LRA will act to develop a land use plan and recommendations for the use of the property and convey this to the Military Department that acts as the delegate for the Secretary of Defense. The LRA is also required to conduct outreach to homeless-assistance providers, eligible recipients of public benefit property transfers, and stakeholders in the community, to determine their interest in surplus property.

Middletown’s LRA was adopted on April 3, 2006 and consists of the following members:

A letter informing the DOD of this was transmitted on April , 2006.

Step Three- LRA recognition (May 9, 2006)

The LRA should be formally approved by the local jurisdiction, via a Council resolution and submit a request for Middletown’s LRA to be formally recognized as the body responsible for preparing the necessary land use plan and recommendations.

Step Four- Outreach (May 9, 2006- November 9, 2006) estimate

The LRA is required to conduct outreach in the three (3) to six (6) months after being recognized by the Department of Defense.

Homeless Outreach- By law, the redevelopment planning process must include the identification of homeless needs and

must reflect a balance with local community and economic development needs. LRAs must establish links to local homeless-assistance providers. The LRA is required to provide information on surplus property within 30 days (by June 9, 2006) of the notice of surplus property and conduct outreach to all jurisdictions that comprise the LRA.

Homeless service providers interested in receiving surplus property must submit an Notice Of Interest (NOI) during the outreach period.

Other Stakeholders Outreach- Other stakeholders in the community will likely be interested in participating in the

redevelopment planning process and may express interest in acquiring property through public benefit conveyance or other methods. School districts, colleges universities, airport authorities, wildlife and conservation groups, alternative transportation organizations, historic preservation societies, business groups and entrepreneurs, and various other stakeholders may wish to participate in the planning process. The public should be informed and given an opportunity to participate at all stages of the process.

Growth Outreach- Diverse groups in the community will likely have an interest in personnel growth at existing installations.

Such groups include local and State governments, Chambers of Commerce, business leadership, the local school board, utility providers, community organizations, and the general public. Outreach to seek the involvement of these diverse groups will ensure that all interested parties have an opportunity to participate in community growth management planning. However, there is no statutory requirement for conducting such outreach.

Step Five- Plan (November 9, 2006 – August 9, 2007) estimate

After the outreach phase, the LRA is allow begin developing a land use plan and recommendations for the property. BRAC has no required components for the plan, but they should address a broad range of factors, including condition of the installation, cleanup activities, natural resource concerns, threatened and endangered species and habitat, and cultural and historical requirements, and homeless needs. Furthermore the DOD appreciates that each community approaches the planning process differently, but they require that the process be open, public and transparent.

Step Six- DOD disposal and HUD approval (August 9, 2007- October 9, 2007) estimate

The redevelopment plan prepared by the LRA needs to be approved by the local jurisdiction. Once approved, the plan should be submitted to the Department of Defense and the Department of Housing and Urban Development (HUD). DOD does not review the submitted plan, it is approved upon submission. However, HUD does review the plan and could require that it be revised in order to meet local homeless needs.

Upon the approval of HUD, DOD will undergo a disposal decision that will required that the appropriate federal agency reviewing the redevelopment plan and determine conveyance cost (fair market value) or conveyance discount (up to 100 percent of the fair market value).

Step Seven- Implementation (October 9, 2007 - September 15, 2011) estimate

All closures and realignments are to be completed by September 15, 2011.

Redevelopment Plan Components

Submission of the redevelopment plan shall include the following five components:

Component 1 - Information about homelessness in the communities within the vicinity of the specific military installation

Obtain information from the Consolidated Plan and/or other local planning documents.

Explain how this information was taken into consideration in developing the plan.

Component 2 - Notices of Interest (NOIs) - This section of the submission shall include:

- A copy of each NOI sent to the LRA by those providers that propose homeless assistance activities.

- A description of the NOIs being supported with buildings, property, and/or funding and an explanation for this support. Also to be included are explanations of why the remaining NOIs were not selected, such as adverse impact on the community, lack of financial resources or capacity, and/or inconsistency with the Consolidated Plan.

- A description of the impact that selected NOIs will have on the community in the vicinity of the installation, addressing the following questions:

- Will the selected NOIs affect the character of existing neighborhoods adjacent to the properties proposed to assist the homeless? What impact will the NOIs have on schools, social services, transportation systems, and infrastructure?

- Will the selected NOIs have the adverse effect of concentrating minorities and/or low-income persons in the vicinity of the installation?

- Will the community in the vicinity of the installation ensure that general services such as transportation, police, fire, water, sewer, and electricity are available in conjunction with the proposed homeless assistance activities?

Refer to the Redevelopment Act or the regulations for additional clarity on the NOIs.

Component 3 - Legally Binding Agreements.

Each NOI selected for homeless assistance must be finalized in legally enforceable documents, referred to as the legally binding agreements (LBAs). The LBAs are the concrete result of negotiations between the LRA and the homeless assistance provider. HUD recommends that both parties engage legal counsel to negotiate and draft LBAs. The homeless assistance project described in the LBAs may differ from the NOI submitted by the homeless assistance provider. However, the LBAs must both commit the LRA to fulfilling the homeless assistance component of the redevelopment plan and commit the homeless assistance provider to carry out the proposed activity. In the future, if either the LRA or the homeless assistance provider fails to fulfill its commitment, the other should be able to enforce the contract through legal action. Although the LBAs need not be executed when submitted to HUD, they must include all documents legally required to complete the transactions necessary to realize the

homeless uses described in the plan upon which balance is predicated. The LBAs may commit properties on or off the base, funding, services, or some combination of these.

Component 4 – Balance

The LRA shall discuss (1) how the reuse plan balances the need for economic redevelopment, other types of development, and homeless assistance in the community in the vicinity of the installation, and (2) how this plan is consistent with the Consolidated Plan and other existing housing and community development plans adopted by the jurisdictions in the communities served by the LRA.

Component 5 - Outreach

The LRA shall include the following items in this portion of the submission:

- A listing of all jurisdictions in the area served by the LRA, describing the required catchment area for outreach to homeless assistance providers.
- A copy of the newspaper advertisement placed by the LRA, including the name of the newspaper(s) and date(s) of publication.
- A listing of homeless assistance providers that the LRA has consulted during the process of preparing its application.
- A description of the outreach efforts made to homeless assistance providers in the community in the vicinity of the installation.
- A description of the workshop conducted on the installation during the outreach period.

Transfer & Costs Issues

DOD for installations approved for closure after January 1, 2005, shall see to obtain consideration in connection with any transfer of property in an amount equal to the fair market value of the property. The transfer of the property may be without consideration if the redevelopment authority agrees that the proceeds from any sale or lease of the property received by the redevelopment authority during at least the first seven years after the date of initial transfer of property shall be used to support the economic redevelopment of the property, and the City executes the agreement for transfer of the property and accepts control of the property within a reasonable time after the date of the property disposal record of decision or finding of no significant impact under the National Environmental Policy Act of 1969 (NEPA). The use of proceeds from a sale or lease to pay for or offset the costs of public investment on or related to the installation for any of the following purposes shall be considered a use to support the economic redevelopment of, or related to the installation:

- road construction
 - transportation management facilities
 - Storm and sanitary sewer construction
 - Police and fire protection facilities and other public facilities
 - Utility construction
 - Building rehabilitation
 - Historic property preservation
 - Pollution prevention equipment or facilities
 - demolition
 - disposal of hazardous materials generated by demolition
 - Landscaping, grading, and other site or public improvements
 - Planning for or the marketing of the development and reuse of the installation.
- (Public Law 101-510 Sec. 2905(b)(4)(B & C))

DOD may recoup from a redevelopment authority such portion of the proceeds from a sale or lease if the redevelopment authority does not use the proceeds to support economic redevelopment of, or related to the property. (Public Law 101-510 Sec. 2905(b)(4)(D))

Economic Development Conveyances (EDC) & Consideration for such EDC

Appropriate conditions to be considered for an Economic Development conveyance are:

- Adverse economic impact of closure or realignment on the region and potential for economic recovery through and EDC
- Extent of short- and long-term job generation
- Consistency with the entire redevelopment plan
- Financial feasibility of the development, including market analysis and need and extent of proposed infrastructure and other investments.
- Extent of state and local investment, level of risk incurred, and the LRA's ability to implement the plan.
- Current local and regional real estate market conditions.
- Incorporation of other Federal agency interests and concerns and applicability of, and conflicts with, other Federal surplus property disposal authorities.
- Relationship to the overall Military Department disposal plan for the installation.
- Economic benefit to the Federal Government, including protection and maintenance cost savings and anticipated consideration from the transfer
- Compliance with applicable Federal, state, interstate, and local laws and regulations (32 CFR Part 174.9 & 174.10)

Transfer Authority in Connection with Payment of Environmental Remediation Costs

DOD may enter into an agreement to transfer by deed real property of facilities to any entity who agrees to perform all environmental restoration, waste management, and environmental compliance activities that are required for the property or facilities under Federal and State laws. A transfer may be made only when it is certified that the costs of all the environmental clean up are equal to or greater than the fair market value of the property or if such costs are lower than fair market value than the recipient agrees to pay the difference between fair market value and such costs.

Furthermore any costs above fair market value may be reimbursable from the DOD. (Public Law 101-510 Sec. 2905(e))

Appendix

I. Council Resolutions

Resolution No. 47-06

Date

RESOLUTION

WHEREAS, the Middletown Connecticut Army Reserve Center (MCARC) was identified for closure by the Base Realignment and Closure Commission and the base is entirely within the City of Middletown, Connecticut; and

WHEREAS, to create a comprehensive redevelopment plan for the acceptance through land transfer from the U.S. Army of this base to the City of Middletown, the City needs to establish a Middletown Base Realignment and Closure Local Redevelopment Authority (MBRAC-LRA); and

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MIDDLETOWN: That a Middletown Base Realignment and Closure Local Redevelopment Authority is hereby established in order to determine the future use of the MCARC site; and

BE IT FURTHER RESOLVED: That a copy of said resolution will be sent to the appropriate authority requesting recognition of the City's MBRAC-LRA for this site; and

BE IT FURTHER RESOLVED: That the following appointments to this Authority be approved.

- Sebastian Giuliano, Mayor of the City of Middletown
- Joseph Bibisi, Deputy Mayor City of Middletown Common Council
- Thomas J. Serra, City of Middletown Common Council Majority Leader
- Dr. Michael J. Frechette, Superintendent of Schools
- Geen Thazhampallath, Aide to the Mayor
- William Warner, Director of Planning, Conservation, and Development

Submitted by: Mayor Sebastian N. Giuliano

Status: PASSED
by Common Council, City of Middletown
at its meeting held on: APRIL 3, 2006

CERTIFICATION

I, Linda Bettencourt Teti, Deputy City and Town Clerk of the City of Middletown, hereby certify that the foregoing resolution was adopted at the regular Meeting of the Common Council held on April 3, 2006.

Dated at Middletown, Connecticut this 5th of April, 2006.

ATTEST: _____
DEPUTY CITY AND TOWN CLERK

II. May 9, 2006- Federal Register Notice

[Federal Register: May 9, 2006 (Volume 71, Number 89)]

[Notices]

[Page 26930-26934]

From the Federal Register Online via GPO Access [wais.access.gpo.gov]

[DOCID:fr09my06-43]

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DEPARTMENT OF DEFENSE

Department of the Army

Surplus Properties; Notice

SUMMARY: This notice provides information regarding the properties that have been determined surplus to the United States needs in accordance with the Defense Base Closure and Realignment Act of 1990, Public Law 101-510, as amended, and the 2005 Base Closure and Realignment Commission Report, as approved, and following screening with Federal agencies and Department of Defense components.

DATES: Effective May 9, 2006.

FOR FURTHER INFORMATION CONTACT: Headquarters, Department of the Army, Assistant Chief of Staff for Installation Management, Base Realignment and Closure Division, Attn: DAIM-BD, 600 Army Pentagon, Washington DC 20310-0600, (703) 601-2418. For information regarding a specific property, a contact is provided on the list of properties below.

SUPPLEMENTARY INFORMATION: Under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, the Defense Base Closure and Realignment Act of 1990, as amended, and other public benefit conveyance authorities, this surplus property may be available for conveyance to State and local governments and other eligible entities for public benefit purposes. Notices of interest from representatives of the homeless, and other interested parties located in the vicinity of any listed surplus property should be submitted to both the recognized Local Redevelopment Authority and Army point of contact as listed above, or where no Local Redevelopment Authority has been recognized, the notice of interest shall be submitted to the Army point of contact as listed below. Local Redevelopment Authorities are in the process of being recognized. Where no Local Redevelopment Authority is listed, please contact the Army point contact below for the latest information. Notices of interest from representatives of the homeless shall include the information required by 32 CFR 176.20(c)(2)(ii). Recognized Local Redevelopment Authorities, or the Army where no Local Redevelopment Authority has been recognized, shall assist interested parties in evaluating the surplus properties for the intended use. Deadlines for notices of interest shall be 90 days from the date a corresponding notice is published in a newspaper of general circulation in the vicinity of the installation. The properties are listed by state. Additional information for any listed property may be found at

<http://www.hqda.army.mil/acsimweb/brac/braco.htm>.

Surplus Property List

Connecticut

Fairfield--1LT John S. Turner USARC, 180 High St., POC: Fairfield High Street Redevelopment Authority, First Selectman's Office, 725 Old Post Road, Fairfield, CT06824 Telephone: 203-256-3032

Middletown--Middletown USARC, 499 Mile Lane POC: Middletown Realignment and Closure Redevelopment Authority, 245 DeKoven Drive, Middletown, CT 06457 Telephone: 860-344-3401

Milford--AMSA 69, 26 Seamans Lane, POC:, POC: Milford Local Redevelopment Authority, City Hall, 110 River Street, Milford, CT 06460 Telephone: 203-783-3230

Waterbury--Paul J. Sutcovoy USARC, Lydia Street Extension, POC: Commander, 94th Regional Readiness Command, ATTN: Base Transition Coordinator, 11 Saratoga Boulevard, Devens, MA 01432-5216 Telephone: 978-796-2238

Authority: This action is authorized by the Defense Base Closure and Realignment Act of 1990, Title XXIX of the National Defense Authorization Act for Fiscal Year 1991, Pub. L. 101-510; the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, Pub. L. 103-421; the Military Construction Authorization Act for Fiscal Year 1994, Division B of Pub. L. 103-160; and 10 U.S.C. 113.

Dated: May 3, 2006.

Joseph W. Whitaker,

Deputy Assistant Secretary of the Army (Installations and Housing).

[FR Doc. 06-4305 Filed 5-8-06; 8:45 am]

BILLING CODE 3710-08-M

III. Notice of Interest- Public Notice

PUBLIC NOTICE OF TIME FRAME FOR EXPRESSION OF INTEREST FOR HOMELESS PROVIDERS AND NON-FEDERAL PUBLIC AGENCIES RE US ARMY RESERVE CENTER AREA MAINTENANCE SUPPORT FACILITY, MIDDLETOWN, MIDDLESEX COUNTY, CT

This public notice provides information and establishes a time frame for the submission of expression of interest regarding the reuse of the property declared surplus at the US Army Reserve Center Area Maintenance Support Facility, which is located at 499 Mile Lane in Middletown, Middlesex County, Connecticut.

Under the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Redevelopment Act), as amended, the City of Middletown Local Redevelopment Authority is seeking notices of interest from State and local interests, including representatives of the homeless, for a building and real property that have been declared surplus to the Federal Government. The US Army Reserve Center Area Maintenance Support Facility was selected for closure and declared surplus by the 2005 Defense Base Closure and Realignment Commission.

As required by the Redevelopment Act, the property and buildings that have been declared surplus must be made available for use to address some of the economic redevelopment, homeless assistance, and other development needs of the City of Middletown. Notices of interest for homeless assistance or recognized public benefit purposes (such as recreation, health and education) may be submitted by and State or local government agency or private nonprofit organization that provides or propose to provide services to homeless persons and families in the City of Middletown, or that proposes to acquire property for public benefit use. Although the building or property to serve homeless individuals or families are available at no cost, representatives of the homeless are responsible for improvements and operating costs.

All notices of interest must include all of the requirements outlined in the Federal Property and Administration Service Act of 1949 and the Base Closure Community Redevelopment Act and Homeless Assistance Act of 1994.

The property declared surplus is a parcel of real property that totals approximately 23.7 acres and contains 1 building, totaling approximately 14,352 square feet. All utilities are available on site including City water and City sewer. The property address is 499 Mile Lane and is located in the City of Middletown, Middlesex County, south side of Mile Lane in the Westfield section of the City.

The Middletown Local Redevelopment Authority has been recognized by the Office of Economic Adjustment as the agency responsible for planning the reuse of this parcel.

The Middletown Local Redevelopment Authority has established a three month screening process. The three-month screening process will extend from June 1, 2006 to September 1, 2006.

The Middletown Local Redevelopment Authority will hold a public workshop on Wednesday June 21, 2006, starting at 7:00pm at the City of Middletown Municipal Building, 245 DeKoven Drive, Middletown, CT 06457.

The workshop is designed to provide information about the closure/realignment and disposal process and to answer questions about the LRA's process. Information on submission requirements can also be obtained from the point of contacts listed below and will also be provided as handouts at the public workshop listed above.

The Middletown Local Redevelopment Authority is located at the Mayor's Offices of the City of Middletown which address is 245 DeKoven Drive, Middletown, CT 06457. For information contact William Warner, Director of Planning, Conservation and Development at 860-344-3425.

IV. Notice of Interest Requirements

Homeless Assistance Providers

The Notice of Interest requirements are as follows:

- A description of the homeless assistance program proposed, including the purposes to which the property or facility will be put, including uses such as supportive services, job and skills training, employment programs, shelters, transitional housing or housing with no established limitation on the amount of time residence, food and clothing banks, treatment facilities, or any other activity which clearly meets and identified need of the homeless and fills a gap in the continuum of care;
- A description of the need for the program;
- A description of the extent to which the program is or will be coordinated with other homeless assistance programs in the communities in the vicinity of the installations;
- Information about the physical requirements necessary to carry out the program, including a description of the buildings and property at the installation that are necessary to carry out the program;
- A description of the representatives of the homeless which is submitting the notice, its capacity to carry out the program and its financial plan for implementing the program; and,
- An assessment of the time required in order to commence carrying out the program.

Other Interested Entities

The notices of interest from entities other than representatives of the homeless should specify the name of the entity and specific interest in property or facilities, along with a description of the planned use.

Inspection of Property

Any interested party may arrange to inspect the site by making a written request to the Middletown Local Redevelopment Authority, Attention: William Warner, 245 DeKoven Drive, Middletown, CT 06457. The request must be made within the next 45 days (approximately June 30, 2006). Since the site is under the control of the Army and entry is subject to the rules and regulation of the Army, you will then be notified of the date and time of the inspection tour and any special requirements of the tour.

Deadline for Receipt of Notice of Interest

Any Notice of Interest must be received at the office of the Mayor of the City of Middletown, Middletown Local Redevelopment Authority, 245 DeKoven Drive, Middletown, CT 06457 on or before 4:30pm, August 9, 2006. The City of Middletown Local Redevelopment Authority will not be able to consider any submission received after that date and time.

V. Local Homeless Providers

Middletown/Middlesex County Continuum of Care
United Way
100 Riverview Center
Middletown, CT 06457

The Connection Inc.
955 South Main Street
Middletown, CT 06457

Nehemiah Housing Corporation
33 Ferry Street
Middletown, CT 06457

Northern Middlesex Habitat for Humanity
9 Pleasant Street
Middletown, CT 06457

Middletown Housing Authority
40 Broad Street
Middletown, CT 06457

Mercy Housing And Shelter Corporation
112 Bow Lane
Middletown, CT 06457

Veterans Affairs, Conn. State Dept. Of
287 West St.
Rocky Hill, CT 06067

Community Health Center
635 Main Street
Middletown, CT 06457

St. Vincent De Paul Place
617 Main Street
Middletown, CT 06457

River Valley Services
351 Silver St.
Middletown, CT 06457

Gilead Community Services
222 Main Street Extension
Middletown, CT 06457

VI. Tax Assessor Information

Basic Information

Property Location- Mile Lane
 Account #- E30586
 Map Block Lot #- 10 11-1 1B
 Class- E
 State Class- 900

Miscellaneous Information

Deed Info: 260/132
 Zoning- R-15
 Routing #- 10/
 Neighborhood- 118
 Living Units- 0
 Census Tract- 5414
 District- 1

Assessment Information

Appraised Value- 10/1/2002
 Income- \$ 898,700
 Land- \$1,306,580
Buildings- \$1,306,080
 Total- \$1,718,080

Land Information

47.2 Acres

Building Information

Building Number 1

Year Built- 1987
 Structure Type- Office Building- Low-rise
 Grade- B+
 Notes- Army Reserve Center
 Size- 13,104 sq. ft.
 Exterior Walls- Concrete Load Bearing
 Construction Type- Fireproof

Building Number 2

Year Built- 1940
 Structure Type- Office Building- Low-rise
 Grade- C
 Notes- Building Unused, Asbestos
 Throughout
 Size- 7,584 sq. ft.
 Exterior Walls- Concrete Block
 Construction Type- Wood Joist

VII. Zoning Code

Section 21 – RPZ, R-15, R-30, R-45, R-60 zones (Residential)

21.00 Uses- in these zones are limited to Section 60.

21.01 Height- The maximum height of a structure shall not exceed three (3) stories or thirty-six (65) feet.

21.02 Minimum Lot Sizes for new lots and yards- Shall be in accordance with the following chart.

Zone	R-15
Lot Frontage	100**
Lot Area	15,000
Front Yard	25
Side Yard	10
Rear Yard	30

21.03 LOT COVERAGE- The ground covered by the principal structure and is accessory buildings or structure shall not be greater that twenty-five (25) percent of the lot area.

21.04 OFF-STREET PARKING- See Code

**21.05 WATER AND SEWERAGE REQUIREMENTS- When in accordance with the Plan of Development all new subdivisions of lots shall be served by city water and sewer unless specifically excluded herein after. Lots in the R-45 and R-60 zones may have uses served by on site water and septic systems if the Department of Health certifies, at the time the lots are authorized by the Commission, that the soil of the lots is suitable for on site water and sewer facilities. However at the discretion of the Commission, lots in the R-15 and R-30 zone may be established without city sewer, provided they meet the size criteria for lots in the R-45 zone as to adequately support private well and or septic system. Private wells will be considered only if city water is determined to be unavailable (per Section 19-13-B51 of the Connecticut Public Health Code). Lots in the R-15 and R-30 zone may be established without city water provided they can be serviced with sewer and are approved by both the water and Sewer Department and the Health Department. (Amended effective 3/30/93.)

Permitted Uses

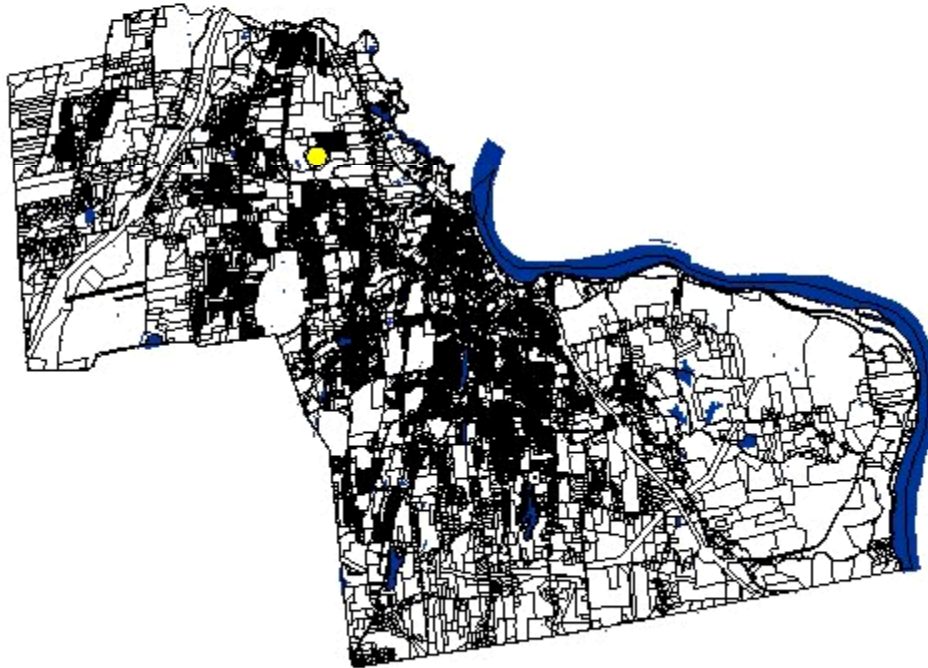
- Single-Family Dwelling – detached (60.01.01)
- Farming (60.01.03)
- Residential Business (60.01.04)
- Assisted Elderly Housing (R-15 Only) (60.01.07) – with 500 feet of existing elderly housing & 11 units per acre

Special Exception Uses

- Child Care Facilities (60.02.02)
- Public Utility Buildings (60.02.11)
- Natural Resource Extraction (R-15, R-30, R-45, R-60) (60.02.14)
- Adaptive Residential (60.02.15) – currently or recently occupied by non-conforming uses
- Adaptive Historic Preservation (60.02.16)
- Cemeteries (R-15, R-30, R-45, R60) (60.02.20)
- Churches (60.02.21) – parish house defined
- Monasteries (60.02.22)
- Educational Institutions (60.02.23)
- Outdoor Recreation (R-15, R-30, R-45, R60) (60.02.27) – defined, including golf courses
- Bus Stop Shelter (60.02.32)
- Active Adult Housing (RPZ, R-15, R-30) (60.02.39)

VIII. Maps of the Property

Location in Middletown

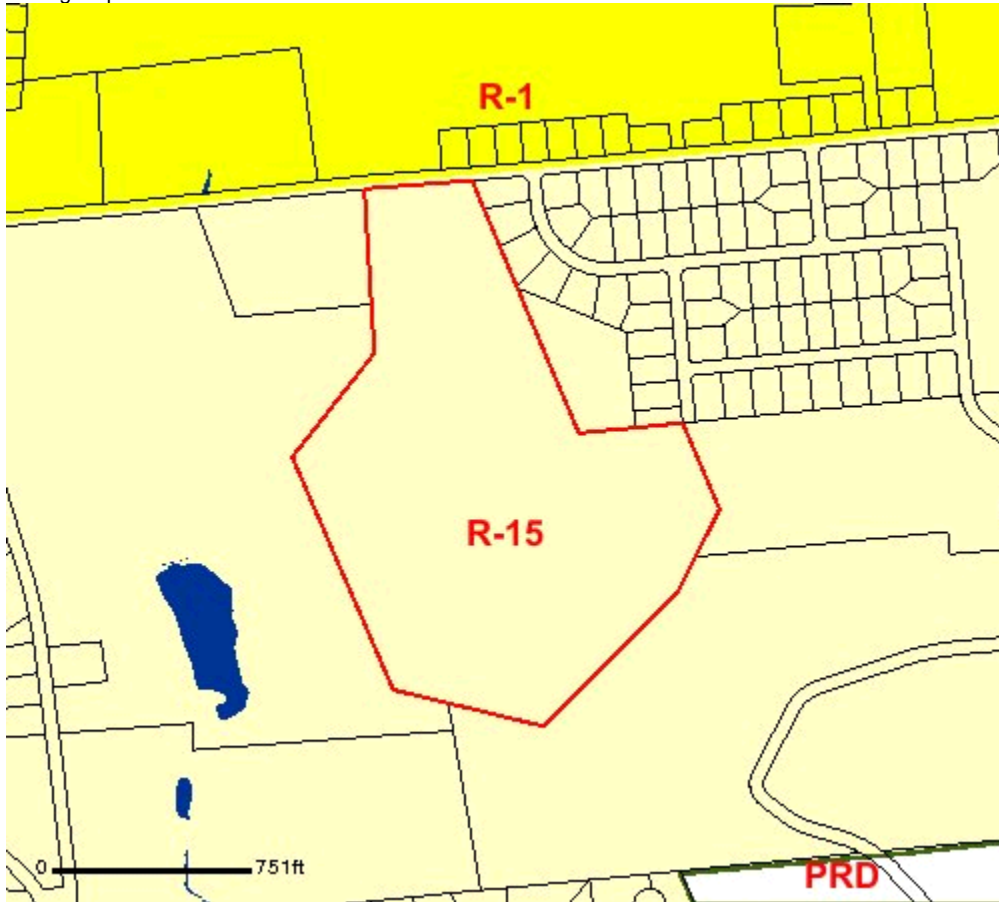


0 ————— 12017ft

Aerial Photo



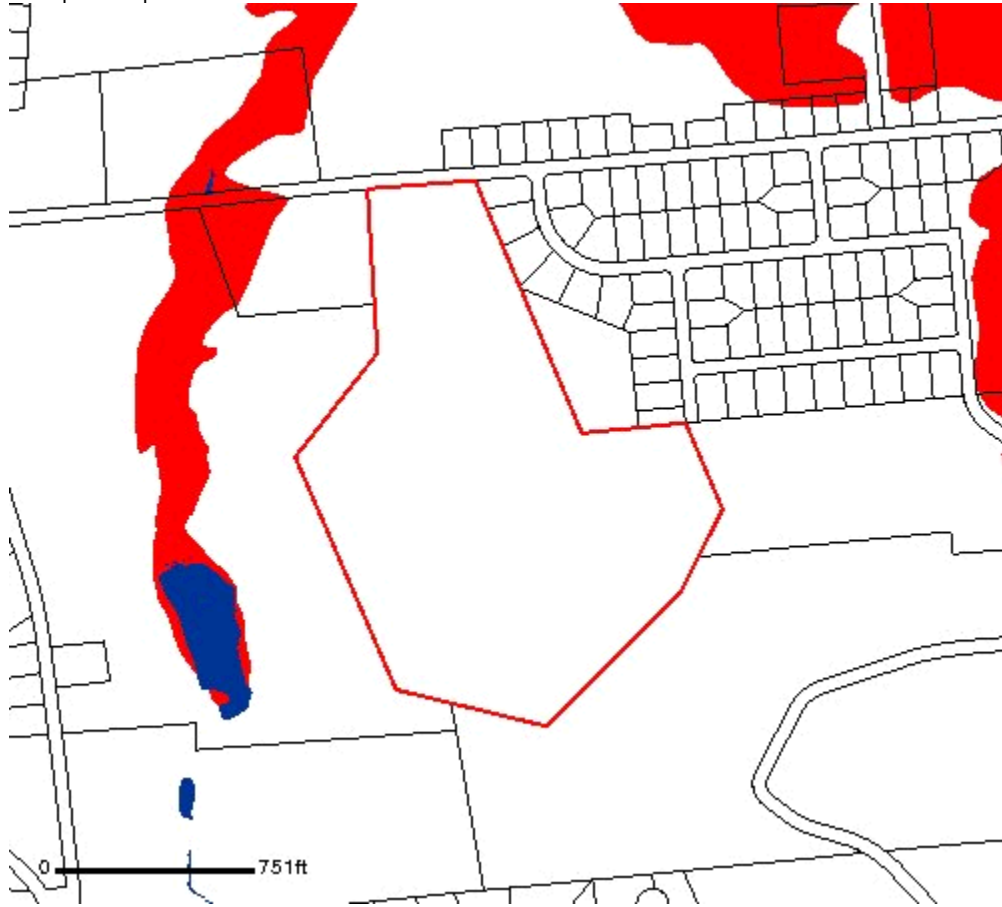
Zoning Map



Wetlands Map



Floodplain Map



IX. 32 CFR Parts 174, 175, and 176

**DEPARTMENT OF DEFENSE
Office of the Secretary
32 CFR Parts 174, 175, and 176
DOD-2006-OS-0020
[RIN 0790-AH91]**

Revitalizing Base Closure Communities and Addressing Impacts of Realignment

AGENCY: Department of Defense (DoD).
ACTION: Final rule.

List of Subjects in 32 CFR Parts 174, 175, and 176

Community development, Surplus Government property.

Accordingly, 32 CFR part 174 is revised, part 175 is removed, and part 176 is amended to read as follows:

1. Part 174 is revised to read as follows:

PART 174—REVITALIZING BASE CLOSURE COMMUNITIES AND ADDRESSING IMPACTS OF REALIGNMENT

Subpart A—General Sec.

- 174.1 Purpose.
- 174.2 Applicability.
- 174.3 Definitions.

Subpart B—Policy

- 174.4 Policy.
- 174.5 Responsibilities.

Subpart C—Working with Communities and States

- 174.6 LRA and the redevelopment plan.

Subpart D—Real Property

- 174.7 Retention for DoD Component use and transfers to other Federal agencies.
- 174.8 Screening for properties covered by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, cross-reference.
- 174.9 Economic development conveyances.
- 174.10 Consideration for economic development conveyances.
- 174.11 Leasing of real property to non-Federal entities.
- 174.12 Leasing of transferred real property by Federal agencies.

Subpart E—Personal Property

- 174.13 Personal property.

Subpart F—Maintenance and Repair

- 174.14 Maintenance and repair.

Subpart G—Environmental Matters

- 174.15 Indemnification under Section 330 of the National Defense Authorization Act for Fiscal Year 1993.
 - 174.16 Real property containing explosive or chemical agent hazards.
 - 174.17 NEPA.
 - 174.18 Historic preservation.
- Authority: 10 U.S.C. 113 and 10 U.S.C.2687 note.

Subpart A—General

§ 174.1 Purpose.

This part:

- (a) Establishes policy, assigns responsibilities, and implements base closure laws and associated provisions of law relating to the closure and the realignment of installations. It does not address the process for selecting installations for closure or realignment.
- (b) Authorizes the publication of DoD 4165.66-M, “Base Redevelopment and Realignment Manual,” in accordance with DoD

5025.1-M 1 , “DoD Directive System Procedures,” March 2003.

§ 174.2 Applicability.

This part applies to:

- (a) The Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as the "DoD Components").
- (b) Installations in the United States selected for closure or realignment under a base closure law.
- (c) Federal agencies and non-Federal entities that seek to obtain real or personal property on installations selected for closure or realignment.

§ 174.3 Definitions.

- (a) Base closure law. This term has the same meaning as provided in 10 U.S.C. § 101(a)(17)(B) and (C).
- (b) Closure. An action that ceases or relocates all current missions of an installation and eliminates or relocates all current personnel positions (military, civilian, and contractor), except for personnel required for caretaking, conducting any ongoing environmental cleanup, or property disposal. Retention of a small enclave, not associated with the main mission of the base, is still a closure.
- (c) Consultation. Explaining and discussing an issue, considering objections, modifications, and alternatives; but without a requirement to reach agreement.
- (d) Date of approval. This term has the same meaning as provided in section 2910(8) of the Defense Base Closure and Realignment Act of 1990, Pub. L. 101-510.
- (e) Excess property. This term has the same meaning as provided in 40 U.S.C. § 102(3).
- (f) Installation. This term has the same meaning as provided in the definition for "military installation" in section 2910(4) of the Defense Base Closure and Realignment Act of 1990, Pub. L. 101-510.
- (g) Local Redevelopment Authority (LRA). This term has the same meaning as provided in the definition for "redevelopment authority" in section 2910(9) of the Defense Base Closure and Realignment Act of 1990, Pub. L. 101-510. sroberts on PROD1PC70 with RULES
- (h) Military Department. This term has the same meaning as provided in 10 U.S.C. 101(a)(8).
- (i) National Environmental Policy Act (NEPA). The National Environmental Policy Act of 1969, Pub. L. 91-190, 42 U.S.C. 4321 et seq., as amended.
- (j) Realignment. This term has the same meaning as provided in section 2910(5) of the Defense Base Closure and Realignment Act of 1990, Pub. L. 101-510.
- (k) Secretary concerned. This term has the same meaning as provided in 10 U.S.C. 101(a)(9)(A), (B), and (C).
- (l) Surplus property. This term has the same meaning as provided in 40 U.S.C. 102(10).
- (m) Transition coordinator. This term has the same meaning as used in section 2915 of the National Defense Authorization Act for Fiscal Year 1994, Public Law 103-160.

Subpart B—Policy

§ 174.4 Policy.

It is DoD policy to:

- (a) Act expeditiously whether closing or realigning. Relocating activities from installations designated for closure will, when feasible, be accelerated to facilitate the transfer of real property for community reuse. In the case of realignments, the Department will pursue aggressive planning and scheduling of related facility improvements at the receiving location.
- (b) Fully utilize all appropriate means to transfer property. Federal law provides the Department with an array of legal authorities, including public benefit transfers, economic development conveyances at cost and no cost, negotiated sales to state or local government, conservation conveyances, and public sales, by which to transfer property on closed or realigned installations. Recognizing that the variety of types of facilities available for civilian reuse and the unique circumstances of the surrounding communities does not lend itself to a single universal solution, the Department will use this array of authorities in a way that considers individual circumstances.
- (c) Rely on and leverage market forces. Community redevelopment plans and military conveyance plans should be integrated to the extent practical and should take account of any anticipated demand for surplus military land and facilities.
- (d) Collaborate effectively. Experience suggests that collaboration is the linchpin to successful installation redevelopment. Only by collaborating with the local community can the Department close and transfer property in a timely manner and provide a foundation for solid economic redevelopment.
- (e) Speak with one voice. The Department of Defense, acting through the DoD Components, will provide clear and timely information and will encourage affected communities to do the same.
- (f) Work with communities to address growth. The Department will work with the surrounding community so that the public and private sectors can provide the services and facilities needed to accommodate new personnel and their families. The Department recognizes that installation commanders and local officials, as appropriate (e.g., State, county, and tribal), need to integrate and coordinate elements of their local and regional growth planning so that appropriate off-base facilities and services are available for arriving personnel and their families.

§ 174.5 Responsibilities.

- (a) The Under Secretary of Defense for Acquisition, Technology, and Logistics shall issue DoD Instructions as necessary to further implement applicable public laws affecting installation closure and realignment implementation and shall monitor compliance with this part. All authorities and responsibilities of the Secretary of Defense—
 - (1) Vested in the Secretary of Defense by a base closure law, but excluding those provisions relating to the process for selecting installations for closure or realignment;
 - (2) Delegated from the Administrator of General Services relating to base closure and realignment matters;

- (3) Vested in the Secretary of Defense by any other provision relating to base closure and realignment in a national defense authorization act, a Department of Defense appropriations act, or a military construction appropriations act, but excluding section 330 of the National Defense Authorization Act for Fiscal Year 1993; or
- (4) Vested in the Secretary of Defense by Executive Order or regulation and relating to base closure and realignment, are hereby delegated to the Under Secretary of Defense for Acquisition, Technology, and Logistics.
- (b) The authorities and responsibilities of the Secretary of Defense delegated to the Under Secretary of Defense for Acquisition, Technology, and Logistics under paragraph (a) of this section are hereby re-delegated to the Deputy Under Secretary of Defense (Installations and Environment).
- (c) The Heads of the DoD Components shall ensure compliance with this part and any implementing guidance.
- (d) Subject to the delegations in paragraphs (a) and (b) of this section, the Secretaries concerned shall exercise those authorities and responsibilities specified in subparts C through G of this part.
- (e) The cost of recording deeds and other transfer documents is the responsibility of the transferee.

Subpart C—Working with Communities and States

§ 174.6 LRA and the redevelopment plan.

- (a) The LRA should have broad-based membership, including, but not limited to, representatives from those jurisdictions with zoning authority over the property. Generally, there will be one recognized LRA per installation.
- (b) The LRA should focus primarily on developing a comprehensive redevelopment plan based upon local needs. The plan should recommend land uses based upon an exploration of feasible reuse alternatives. If applicable, the plan should consider notices of interest received under a base closure law. This section shall not be construed to require a plan that is enforceable under state and local land use laws, nor is it intended to create any exemption from such laws.
- (c)(1) The Secretary concerned will develop a disposal plan and, to the extent practicable, complete the appropriate environmental documentation no later than 12 months after receipt of the redevelopment plan. The redevelopment plan will be used as part of the proposed Federal action in conducting environmental analyses required under NEPA.
- (2) In the event there is no LRA recognized by DoD or if a redevelopment plan is not received from the LRA within 9 months from the date referred to in section 2905(b)(7)(F)(iv) of Pub. L. 101-510, (unless an extension of time has been granted by the Deputy Under Secretary of Defense (Installations and Environment)), the Secretary concerned shall, after required consultation with the governor and heads of local governments, proceed with the disposal of property under applicable property disposal and environmental laws and regulations.

Subpart D—Real Property

§ 174.7 Retention for DoD Component use and transfer to other Federal agencies.

- (a) To speed the economic recovery of communities affected by closures and realignments, the Department of Defense will identify DoD and Federal interests in real property at closing and realigning installations as quickly as possible. The Secretary concerned shall identify such interests. The Secretary concerned will keep the LRA informed of these interests. This section establishes a uniform process, with specified timelines, for identifying real property that is available for use by DoD Components (which for purposes of this section includes the United States Coast Guard) or is excess to the needs of the Department of Defense and available for use by other Federal agencies, and for the disposal of surplus property for various purposes.
- (b) The Secretary concerned should consider LRA input, if provided, in making determinations on the retention of property (location and size of cantonment area).
- (c) Within one week of the date of approval of the closure or realignment, the Secretary concerned shall issue a notice of availability to the DoD Components and other Federal agencies covering closing and realigning installation buildings and property available for transfer to the DoD Components and other Federal agencies. The notice of availability should describe the property and buildings available for transfer. Withdrawn public domain lands which the Secretary of the Interior has determined are suitable for return to the jurisdiction of the Department of the Interior (DoI) will not be included in the notice of availability.
- (d) To obtain consideration of a requirement for such available buildings and property, a DoD Component or Federal agency is required to provide a written, firm expression of interest for buildings and property within 30 days of the date of the notice of availability. An expression of interest must explain the intended use and the corresponding requirement for the buildings and property.
- (e)(1) Within 60 days of the date of the notice of availability, the DoD Component or Federal agency expressing interest in buildings or property must submit an application for transfer of such property to a Military Department or Federal agency. In the case of a DoD Component that would normally, under the circumstances, obtain its real property needs from the Military Department disposing of the real property, the application should indicate the property would not transfer to another Military Department but should be retained by the current Military Department for the use of the DoD Component. To the extent a different Military Department provides real property support for the requesting DoD Component, the application must indicate the concurrence of the supporting Military Department.
- (2) Within 90 days of the notice of availability, the Federal Aviation Administration (FAA) should survey the air traffic control and air navigation equipment at the installation to determine what is needed to support the air traffic control, surveillance, and communications functions supported by the Military Department, and to identify the facilities needed to support the National Airspace System. FAA requests for property to manage the National Airspace System will not be governed by paragraph (h) of this section. Instead, the FAA shall work directly with the Military Department to prepare an agreement to assume custody of the property necessary for control of the airspace being relinquished by the Military Department.
- (f) The Secretary concerned will keep the LRA informed of the progress in identifying interests. At the same time, the LRA is encouraged to contact Federal agencies which sponsor public benefit conveyances for information and technical assistance. The Secretary concerned will provide to the LRA points of contact at the Federal agencies.

(g) DoD Components and Federal agencies are encouraged to discuss their plans and needs with the LRA, if an LRA exists. If an LRA does not exist, the consultation should be pursued with the governor or the heads of the local governments in whose jurisdiction the property is located. DoD Components and Federal agencies are encouraged to notify the Secretary concerned of the results of this consultation. The Secretary concerned, the Transition Coordinator, and the DoD Office of Economic Adjustment Project Manager are available to help facilitate communication between the DoD Components and Federal agencies, and the LRA, governor, and heads of local governments.

(h) An application for property from a DoD Component or Federal agency must contain the following information:

- (1) A completed GSA Form 1334, Request for Transfer (for requests from DoD Components, a DD Form 1354 will be used). This must be signed by the head of the Component or agency requesting the property. If the authority to acquire property has been delegated, a copy of the delegation must accompany the form;
 - (2) A statement from the head of the requesting Component or agency that the request does not establish a new program (i.e., one that has never been reflected in a previous budget submission or Congressional action);
 - (3) A statement that the requesting Component or agency has reviewed its real property holdings and cannot satisfy its requirement with existing property. This review must include all property under the requester's accountability, including permits to other Federal agencies and outleases to other organizations;
 - (4) A statement that the requested property would provide greater long-term economic benefits for the program than acquisition of a new facility or other property;
 - (5) A statement that the program for which the property is requested has long-term viability;
 - (6) A statement that considerations of design, layout, geographic location, age, state of repair, and expected maintenance costs of the requested property clearly demonstrate that the transfer will prove more economical over a sustained period of time than acquiring a new facility;
 - (7) A statement that the size of the property requested is consistent with the actual requirement;
 - (8) A statement that fair market value reimbursement to the Military Department will be made at the later of January of 2008, or at the time of transfer, unless this obligation is waived by the Office of Management and Budget and the Secretary concerned, or a public law specifically provides for a non-reimbursable transfer (this requirement does not apply to requests from DoD Components);
 - (9) A statement that the requesting DoD Component or Federal agency agrees to accept the care and custody costs for the property on the date the property is available for transfer, as determined by the Secretary concerned; and
 - (10) A statement that the requesting agency agrees to accept transfer of the property in its existing condition, unless this obligation is waived by the Secretary concerned.
- (i) The Secretary concerned will make a decision on an application from a DoD Component or Federal agency based upon the following factors:
- (1) The requirement must be valid and appropriate;
 - (2) The proposed use is consistent with the highest and best use of the property;
 - (3) The proposed transfer will not have an adverse impact on the transfer of any remaining portion of the installation;
 - (4) The proposed transfer will not establish a new program or substantially increase the level of a Component's or agency's existing programs;
 - (5) The application offers fair market value for the property, unless waived;
 - (6) The proposed transfer addresses applicable environmental responsibilities to the satisfaction of the Secretary concerned; and
 - (7) The proposed transfer is in the best interest of the Government.
- (j) When there is more than one acceptable application for the same building or property, the Secretary concerned shall consider, in the following order—
- (1) The need to perform the national defense missions of the Department of Defense and the Coast Guard;
 - (2) The need to support the homeland defense mission; and
 - (3) The LRA's comments as well as other factors in the determination of highest and best use.
- (k) If the Federal agency does not meet its commitment under paragraph (h)(8) of this section to provide the required reimbursement, and the requested property has not yet been transferred to the agency, the requested property will be declared surplus and disposed of in accordance with the provisions of this part.
- (l) Closing or realigning installations may contain "public domain lands" which have been withdrawn by the Secretary of the Interior from operation of the public land laws and reserved for use by the Department of Defense. Lands deemed suitable for return to the public domain are not real property governed by title 40, United States Code, and are not governed by the property management and disposal provisions of a base closure law. Public domain lands are under the jurisdiction of the Secretary of the Interior and administered by the Bureau of Land Management (BLM) unless the Secretary of the Interior has withdrawn the lands and reserved them for another Federal agency's use.
- (1) The Secretary concerned will provide the BLM with information about which, if any, public domain lands will be affected by the installation's closure or realignment.
 - (2) The BLM will review the information to determine if any installations contain withdrawn public domain lands. The BLM will review its land records to identify any withdrawn public domain lands at the closing installations. Any records discrepancies between the BLM and Military Departments should be resolved. The BLM will notify the Secretary concerned as to the final agreed upon withdrawn and reserved public domain lands at an installation.
 - (3) Upon agreement as to what withdrawn and reserved public domain lands are affected at closing installations, the BLM will initiate a screening of DoI agencies to determine if these lands are suitable for programs of the Secretary of the Interior.
 - (4) The Secretary concerned will transmit a Notice of Intent to Relinquish (see 43 CFR Part 2370) to the BLM as soon as it is known that there is no DoD Component interest in reusing the public domain lands. The BLM will complete the suitability determination screening process within 30 days of receipt of the Secretary's Notice of Intent to Relinquish. If a DoD Component is approved to reuse the public domain lands, the BLM will be notified and BLM will determine if the current authority for military use of these lands needs to be modified or amended.

- (5) If BLM determines the land is suitable for return, it shall notify the Secretary concerned that the intent of the Secretary of the Interior is to accept the relinquishment of the land by the Secretary concerned.
- (6) If BLM determines the land is not suitable for return to the DoI, the land should be disposed of pursuant to base closure law.
- (m) The Secretary concerned should make a surplus determination within six (6) months of the date of approval of closure or realignment, and shall inform the LRA of the determination. If requested by the LRA, the Secretary may postpone the surplus determination for a period of no more than six (6) additional months after the date of approval if the Secretary determines that such postponement is in the best interests of the communities affected by the closure or realignment.
- (1) In unusual circumstances, extensions beyond six months can be granted by the Deputy Under Secretary of Defense (Installations and Environment).
- (2) Extensions of the surplus determination should be limited to the portions of the installation where there is an outstanding interest, and every effort should be made to make decisions on as much of the installation as possible, within the specified timeframes.
- (n) Once the surplus determination has been made, the Secretary concerned shall follow the procedures in part 176 of this title.
- (o) Following the surplus determination, but prior to the disposal of property, the Secretary concerned may, at the Secretary's discretion, withdraw the surplus determination and evaluate a Federal agency's late request for excess property.
- (1) Transfers under this paragraph shall be limited to special cases, as determined by the Secretary concerned.
- (2) Requests shall be made to the Secretary concerned, as specified under paragraphs (h) and (i) of this section, and the Secretary shall notify the LRA of such late request.
- (3) Comments received from the LRA and the time and effort invested by the LRA in the planning process should be considered when the Secretary concerned is reviewing a late request.

§ 174.8 Screening for properties covered by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, cross-reference.

The Departments of Defense and Housing and Urban Development have promulgated regulations to address state and local screening and approval of redevelopment plans for installations covered by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Pub. L. 103-421). The Department of Defense regulations can be found at part 176 of this title. The Department of Housing and Urban Development regulations can be found at 24 CFR part 586.

§ 174.9 Economic development conveyances.

- (a) The Secretary concerned may transfer real property and personal property to the LRA for purposes of job generation on the installation. Such a transfer is an Economic Development Conveyance (EDC).
- (b) For installations having a date of approval for closure after January 1, 2005, the Secretary concerned shall seek to obtain consideration in connection with any transfer under this section in an amount equal to the fair market value of the property.
- (c) An LRA is the only entity able to receive property under an EDC.
- (d) A properly completed application will be used to decide whether an LRA will be eligible for an EDC. An LRA may submit an EDC application only after it adopts a redevelopment plan. The Secretary concerned shall establish a reasonable time period for submission of an EDC application after consultation with the LRA. The Secretary will review the application and make a decision whether to make an EDC based on the criteria specified in paragraph (g) of this section; such decision will only be made after the Secretary has notified and obtained the concurrence of the Deputy Under Secretary of Defense (Installations & Environment) of the proposed decision. The terms and conditions of the EDC will be negotiated between the Secretary and the LRA.
- (e) The application should explain why an EDC is necessary for job generation on the installation. In addition to the following elements, after the Secretary concerned reviews the application, additional information may be requested to allow for a better evaluation of the application:
- (1) A copy of the adopted redevelopment plan.
 - (2) A project narrative including the following:
 - (A) A general description of the property requested.
 - (B) A description of the intended uses.
 - (C) A description of the economic impact of closure or realignment on the local community.
 - (D) A description of the financial condition of the community and the prospects for redevelopment of the property.
 - (E) A statement of how the EDC is consistent with the overall redevelopment plan.
 - (3) A description of how the EDC will contribute to short- and long-term job generation on the installation, including the projected number and type of new jobs it will assist in generating.
 - (4) A business/operational plan for the EDC parcel, including such elements as:
 - (A) A development timetable, phasing schedule, and cash flow analysis.
 - (B) A market and financial feasibility analysis describing the economic viability of the project, including an estimate of net proceeds over a fifteen-year period, the proposed consideration or payment to the Department of Defense, and the estimated present fair market value of the property.
 - (C) A cost estimate and justification for infrastructure and other investments needed for the development of the EDC parcel.
 - (D) Local investment and proposed financing strategies for the development.
 - (E) A statement describing why other authorities, such as public or negotiated sales and public benefit conveyances for education, parks, public health, aviation, historic monuments, prisons, and wildlife conservation, cannot be used to accomplish the job generation goals.
 - (6) Evidence of the LRA's legal authority to acquire and dispose of the property.

(7) Evidence that the LRA has full authority to perform all of the actions required of it pursuant to the terms of the EDC, can demonstrate through agreements or assurances that the LRA has the appropriate local government approvals to implement the approved reuse plan, and that the officers executing the EDC documents on behalf of the LRA have full authority to do so.

(8) Proof the LRA has obtained sufficient financing for acquiring the EDC property and carrying out the LRA's redevelopment objectives.

(f) Upon receipt of an application for an EDC, the Secretary concerned will determine whether an EDC is needed for purposes of job generation and examine whether the terms and conditions proposed are fair and reasonable. The Secretary may also consider information independent of the application, such as views of other Federal agencies, appraisals, caretaker costs, and other relevant material. The Secretary may propose and negotiate any alternative terms or conditions that the Secretary considers necessary seeking always to obtain an amount equal to the fair market value.

(g) The following factors will be considered, as appropriate, in evaluating the application and the terms and conditions of the proposed transfer, including price, time of payment, and other relevant methods of compensation to the Federal government.

(1) Adverse economic impact of closure or realignment on the region and potential for economic recovery through an EDC.

(2) Extent of short- and long-term job generation.

(3) Consistency with the entire redevelopment plan.

(4) Financial feasibility of the development, including market analysis and need and extent of proposed infrastructure and other investments.

(5) Extent of state and local investment, level of risk incurred, and the LRA's ability to implement the plan.

(6) Current local and regional real estate market conditions.

(7) Incorporation of other Federal agency interests and concerns, and applicability of, and conflicts with, other Federal surplus property disposal authorities.

(8) Relationship to the overall Military Department disposal plan for the installation.

(9) Economic benefit to the Federal Government, including protection and maintenance cost savings and anticipated consideration from the transfer.

(10) Compliance with applicable Federal, state, interstate, and local laws and regulations.

(h) Before making an EDC, the Secretary concerned shall prepare an estimate of the fair market value of the property.

(1) In preparing the estimate of fair market value, the Secretary concerned shall use the most recent edition of the Uniform Appraisal Standards for Federal Land Acquisitions, published by the Appraisal Institute in cooperation with the U.S. Department of Justice.

(2) The Secretary concerned shall consult with the LRA on valuation assumptions, guidelines, and on instructions given to the appraiser.

(3) The Secretary concerned is fully responsible for completion of the valuation. The Secretary, in preparing the estimate of fair market value shall consider the proposed uses identified in the redevelopment plan to the extent that they are not inconsistent with the highest and best use.

§ 174.10 Consideration for economic development conveyances.

(a) For conveyances made pursuant to § 174.9 of this part, the Secretary concerned will review the application for an EDC and negotiate the terms and conditions of each transaction with the LRA. The Secretary will have the discretion and flexibility to enter into agreements that specify the form of payment and the schedule. The consideration may be in cash or in-kind and may be paid over time.

(b) The Secretary concerned shall seek to obtain consideration at least equal to the fair market value, as determined by the Secretary.

(c) Any amount paid in the future should take into account the time value of money and include repayment of interest.

(d) Additional provisions may be incorporated in the conveyance documents to protect the Department's interest in obtaining the agreed upon consideration, including such items as predetermined release prices, or other appropriate clauses designed to ensure payment and protect against fraudulent transactions.

(e)(1) An EDC without consideration may only be made if—

(i) The LRA agrees that the proceeds from any sale or lease of the property (or any portion thereof) received by the LRA during at least the first seven years after the date of the initial transfer of property shall be used to support economic redevelopment of, or related to, the installation; and

(ii) The LRA executes the agreement for transfer of the property and accepts control of the property within a reasonable time after the date of the property disposal record of decision.

(2) The following purposes shall be considered a use to support economic redevelopment of, or related to, the installation—

(i) Road construction;

(ii) Transportation management facilities;

(iii) Storm and sanitary sewer construction;

(iv) Police and fire protection facilities and other public facilities;

(v) Utility construction;

(vi) Building rehabilitation;

(vii) Historic property preservation;

(viii) Pollution prevention equipment or facilities;

(ix) Demolition;

(x) Disposal of hazardous materials generated by demolition;

(xi) Landscaping, grading, and other site or public improvements; and

(xii) Planning for or the marketing of the development and reuse of the installation.

(f) Every agreement for an EDC without consideration shall contain provisions allowing the Secretary concerned to recoup from the LRA such portion of the proceeds from its sale or lease as the Secretary determines appropriate if the LRA does not use the proceeds to support economic redevelopment of, or related to, the installation for the period specified in paragraph (e)(1) of this section.

§ 174.11 Leasing of real property to non-Federal entities.

(a) Leasing of real property to non-Federal entities prior to the final disposition of closing and realigning installations may facilitate state and local economic adjustment efforts and encourage economic redevelopment, but the Secretary concerned will always concentrate on the final disposition of real and personal property.

(b) In addition to leasing property at fair market value, to assist local redevelopment efforts the Secretary concerned may also lease real and personal property, pending final disposition, for less than fair market value if the Secretary determines that:

(1) A public interest will be served as a result of the lease; and,

(2) The fair market value of the lease is unobtainable or not compatible with such public benefit.

(c) Pending final disposition of an installation, the Secretary concerned may grant interim leases which are short-term leases that make no commitment for future use or ultimate disposal. When granting an interim lease, the Secretary will generally lease to the LRA but can lease property directly to other entities. If the interim lease (after complying with NEPA) is entered into prior to completion of the final disposal decisions, the term may be for up to five years, including options to renew, and may contain restrictions on use. Leasing should not delay the final disposal of the property. After completion of the final disposal decisions, the term of the lease may be longer than five years.

(d) If the property is leased for less than fair market value to the LRA and the interim lease permits the property to be subleased, the interim lease shall provide that rents from the subleases will be applied by the lessee to the protection, maintenance, repair, improvement, and costs related to the property at the installation consistent with 10 U.S.C. 2667.

§ 174.12 Leasing of transferred real property by Federal agencies.

(a) The Secretary concerned may transfer real property that is still needed by a Federal agency (which for purposes of this section includes DoD Components) to an LRA provided the LRA agrees to lease the property to the Federal agency in accordance with all statutory and regulatory guidance.

(b) The decision whether to transfer property pursuant to such a leasing arrangement rests with the Secretary concerned. However, a Secretary shall only transfer property subject to such a leasing arrangement if the Federal agency that needs the property agrees to the leasing arrangement.

(c) If the subject property cannot be transferred pursuant to such a leasing arrangement (e.g., the relevant Federal agency prefers ownership, the LRA and the Federal agency cannot agree on terms of the lease, or the Secretary concerned determines that such a lease would not be in the Federal interest), such property shall remain in Federal ownership unless and until the Secretary concerned determines that it is surplus.

(d) If a building or structure is proposed for transfer pursuant to this section, that which is leased by the Federal agency may be all or a portion of that building or structure.

(e) Transfers pursuant to this section must be to an LRA.

(f) Either existing Federal tenants or Federal agencies desiring to locate onto the property after operational closure may make use of such a leasing arrangement. The Secretary concerned may not enter into such a leasing arrangement unless:

(1) In the case of a Defense Agency, the Secretary concerned is acting in an Executive Agent capacity on behalf of the Agency that certifies that such a leasing arrangement is in the interest of that Agency; or,

(2) In the case of a Military Department, the Secretary concerned certifies that such a leasing arrangement is in the best interest of the Military Department and that use of the property by the Military Department is consistent with the obligation to close or realign the installation in accordance with the recommendations of the Defense Base Closure and Realignment Commission.

(g) Property eligible for such a leasing arrangement is not surplus because it is still needed by the Federal Government. Even though the LRA would not otherwise have to include such property in its redevelopment plan, it should include the property in its redevelopment plan anyway to take into account the planned Federal use of such property.

(h) The terms of the LRA's lease to the Federal Government should afford the Federal agency rights as close to those associated with ownership of the property as is practicable. The requirements of the General Services Administration (GSA) Federal Acquisition Regulation (48 CFR Part 570) are not applicable to the lease, but provisions in that regulation may be used to the extent they are consistent with this part. The terms of the lease are negotiable subject to the following:

(1) The lease shall be for a term of no more than 50 years, but may provide for options for renewal or extension of the term at the request of the Federal Government. The lease term should be based on the needs of the Federal agency.

(2) The lease, or any renewals or extensions thereof, shall not require rental payments.

(3) Notwithstanding paragraph (h)(2) of this section, if the lease involves a substantial portion of the installation, the Secretary concerned may obtain facility services for the leased property and common area maintenance from the LRA or the LRA's assignee as a provision of the lease.

(A) Such services and common area maintenance shall be provided at a rate no higher than the rate charged to non-Federal tenants of the transferred property.

(B) Such services and common area maintenance shall not include—

(i) Municipal services that a State or local government is required by law to provide to all landowners in its jurisdiction without direct charge, including police protection; or

(ii) Firefighting or security-guard functions.

(C) The Federal agency may be responsible for services such as janitorial, grounds keeping, utilities, capital maintenance, and other services normally provided by a landlord. Acquisition of such services by the Federal agency is to be accomplished through the use of Federal Acquisition Regulation procedures or otherwise in accordance with applicable statutory and regulatory requirements.

(4) The lease shall include a provision prohibiting the LRA from transferring fee title to another entity during the term of the lease, other than one of the political jurisdictions that comprise the LRA, without the written consent of the Federal agency occupying the leased property.

(5)(i) The lease shall include an option specifying that if the Federal agency no longer needs the property before the expiration of the term of the lease, the remainder of the lease term may be satisfied by the same or another Federal agency that needs property for a similar use. ("Similar use" is a use that is comparable to or essentially the same as the use under the original lease, as determined by the Secretary concerned.)

(ii)(B) If the tenant is a DoD Component, before notifying GSA of the availability of the leasehold, it shall determine whether any other DoD Component has a requirement for the leasehold; in doing so, it shall consult with the LRA. If another DoD Component has a requirement for the leasehold, that DoD Component shall be allowed to assume the leasehold for the remainder of its term. If no DoD Component has a requirement for the leasehold, the tenant shall notify GSA in accordance with paragraph (h)(5)(ii)(A) of this section.

(A) The Federal tenant shall notify the GSA of the availability of the leasehold. GSA will then decide whether to exercise this option after consulting with the LRA or other property owner. The GSA shall have 60 days from the date of notification in which to identify a Federal agency to serve out the term of the lease and to notify the LRA or other property owner of the new tenant. If the GSA does not notify the LRA or other property owner of a new tenant within such 60 days, the leasehold shall terminate on a date agreed to by the Federal tenant and the LRA or other property owner.

(B) If the GSA decides not to exercise this option after consulting with the LRA or other property owner, the leasehold shall terminate on a date agreed to by the Federal tenant and the LRA or other property owner.

(6) The terms of the lease shall provide that the Federal agency may repair and improve the property at its expense after consultation with the LRA.

(i) Property subject to such a leasing arrangement shall be conveyed in accordance with the existing EDC procedures. The LRA shall submit the following in addition to the application requirements outlined in § 174.9(e) of this part:

(1) A description of the parcel or parcels the LRA proposes to have transferred to it and then to lease to a Federal agency;

(2) A written statement signed by an authorized representative of the Federal agency that it agrees to accept the lease of the property; and,

(3) A statement explaining why such a leasing arrangement is necessary for the long-term economic redevelopment of the installation property.

(j) The exact amount of consideration, or the formula to be used to determine that consideration, as well as the schedule for payment of consideration must be agreed upon in writing before transfer pursuant to this section.

Subpart E—Personal Property

§ 174.13 Personal property.

(a) This section outlines procedures to allow transfer of personal property to the LRA for the effective implementation of a redevelopment plan. Personal property does not include fixtures.

(b) The Secretary concerned, supported by DoD Components with personal property on the installation, will take an inventory of the personal property, including its condition, within 6 months after the date of approval of closure or realignment. This inventory will be limited to the personal property located on the real property to be disposed of by the Military Department. The inventory will be taken in consultation with LRA officials. If there is no LRA, the Secretary concerned shall consult with the local government in whose jurisdiction the installation is wholly located, or a local government agency or a State government agency designated for that purpose by the Governor of the State. Based on these consultations, the installation commander will determine the items or category of items that have the potential to enhance the reuse of the real property.

(c) Except for property subject to the exemptions in paragraph (e) of this section, personal property with potential to enhance the reuse of the real property shall remain at an installation being closed or realigned until the earlier of:

(1) One week after the Secretary concerned receives the redevelopment plan;

(2) The date notified by the LRA that there will be no redevelopment plan;

(3) 24 months after the date of approval of the closure or realignment of the installation; or

(4) 90 days before the date of the closure or realignment of the installation.

(d) National Guard property under the control of the United States Property and Fiscal Officer is subject to inventory and may be made available for redevelopment planning purposes.

(e) Personal property may be removed upon approval of the installation commander or higher authority, as prescribed by the Secretary concerned, after the inventory required in paragraph (b) of this section has been sent to the LRA, when:

(1) The property is required for the operation of a unit, function, component, weapon, or weapons system at another installation;

(2) The property is uniquely military in character and is likely to have no civilian use (other than use for its material content or as a source of commonly used components). This property consists of classified items; nuclear, biological, and chemical items; weapons and munitions; museum property or items of significant historic value that are maintained or displayed on loan; and similar military items;

(3) The property is not required for the reutilization or redevelopment of the installation (as jointly determined by the Secretary concerned and the LRA);

(4) The property is stored at the installation for purposes of distribution (including spare parts or stock items) or redistribution and sale (DoD excess/surplus personal property). This property includes materials or parts used in a manufacturing or repair function but does not include maintenance spares for equipment to be left in place;

(5) The property meets known requirements of an authorized program of a DoD Component or another Federal agency that would have to purchase similar items, and is the subject of a written request by the head of the DoD Component or other Federal agency. If the authority to acquire personal property has been delegated, a copy of the delegation must accompany the request. (For purposes of this paragraph, "purchase" means the DoD Component or Federal agency

- intends to obligate funds in the current quarter or next six fiscal quarters.) The DoD Component or Federal agency must pay packing, crating, handling, and transportation charges associated with such transfers of personal property;
- (6) The property belongs to a nonappropriated fund instrumentality (NAFI) of the Department of Defense; separate arrangements for communities to purchase such property are possible through PRO1PC70 with RULES and may be negotiated with the Secretary concerned;
- (7) The property is not owned by the Department of Defense, i.e., it is owned by a Federal agency outside the Department of Defense or by non-Federal persons or entities such as a State, a private corporation, or an individual; or,
- (8) The property is needed elsewhere in the national security interest of the United States as determined by the Secretary concerned. This authority may not be re-delegated below the level of an Assistant Secretary. In exercising this authority, the Secretary may transfer the property to any DoD Component or other Federal agency.
- (f) Personal property not subject to the exemptions in paragraph (e) of this section may be conveyed to the LRA as part of an EDC for the real property if the Secretary concerned makes a finding that the personal property is necessary for the effective implementation of the redevelopment plan.
- (g) Personal property may also be conveyed separately to the LRA under an EDC for personal property. This type of EDC can be made if the Secretary concerned determines that the transfer is necessary for the effective implementation of a redevelopment plan with respect to the installation. Such determination shall be based on the LRA's timely application for the property, which should be submitted to the Secretary upon completion of the redevelopment plan. The application must include the LRA's agreement to accept the personal property after a reasonable period and will otherwise comply with the requirements of §§ 174.9 and 174.10 of this part. The transfer will be subject to reasonable limitations and conditions on use.
- (h) Personal property that is not needed by a DoD Component or a tenant Federal agency or conveyed to an LRA (or a state or local jurisdiction in lieu of an LRA), or conveyed as related personal property together with the real property, will be transferred to the Defense Reutilization and Marketing Office for disposal in accordance with applicable regulations.
- (i) Useful personal property not needed by the Federal Government and not qualifying for transfer to the LRA under an EDC may be donated to the community or LRA through the appropriate State Agency for Surplus Property (SASP) under 41 CFR part 102-37 surplus program guidelines. Personal property donated under this procedure must meet the usage and control requirements of the applicable SASP.

Subpart F—Maintenance and Repair

§ 174.14 Maintenance and repair.

- (a) Facilities and equipment located on installations being closed are often important to the eventual reuse of the installation. This section provides maintenance procedures to preserve and protect those facilities and items of equipment needed for reuse in an economical manner that facilitates installation redevelopment.
- (b) In order to ensure quick reuse, the Secretary concerned, in consultation with the LRA, will establish initial levels of maintenance and repair needed to aid redevelopment and to protect the property for the time periods set forth in paragraph (c) of this section. Where agreement between the Secretary and the LRA cannot be reached, the Secretary will determine the required levels of maintenance and repair and its duration. In no case will these initial levels of maintenance:
- (1) Exceed the standard of maintenance and repair in effect on the date of approval of closure or realignment;
 - (2) Be less than maintenance and repair required to be consistent with Federal Government standards for excess and surplus properties as provided in the Federal Management Regulations of the GSA, 41 CFR part 102;
 - (3) Be less than the minimum levels required to support the use of such facilities or equipment for nonmilitary purposes;
- or,
- (4) Require any property improvements, including construction, alteration, or demolition, except when the demolition is required for health, safety, or environmental purposes, or is economically justified in lieu of continued maintenance expenditures.
- (c) Unless the Secretary concerned determines that it is in the national security interest of the United States, the levels of maintenance and repair specified in paragraph (b) of this section shall not be changed until the earlier of:
- (1) One week after the Secretary concerned receives the redevelopment plan;
 - (2) The date notified by the LRA that there will be no redevelopment plan;
 - (3) 24 months after the date of approval of the closure or realignment of the installation; or
 - (4) 90 days before the date of the closure or realignment of the installation.
- (d) The Secretary concerned may extend the time period for the initial levels of maintenance and repair for property still under the Secretary's control for an additional period, if the Secretary determines that the LRA is actively implementing its redevelopment plan, and such levels of maintenance are justified.
- (e) Once the time period for the initial or extended levels of maintenance and repair expires, the Secretary concerned will reduce the levels of maintenance and repair to levels consistent with Federal Government standards for excess and surplus properties as provided in the Federal Management Regulations of the GSA, except in the case of facilities still being used to perform a DoD mission.

Subpart G—Environmental Matters

§ 174.15 Indemnification under Section 330 of the National Defense Authorization Act for Fiscal Year 1993.

Section 330 of the National Defense Authorization Act for Fiscal Year 1993, Pub. L. 102-484, as amended, provides for indemnification of transferees of closing Department of Defense properties under circumstances specified in that statute. The authority to implement this provision of law has been delegated by the Secretary of Defense to the General Counsel of the Department of Defense; therefore, this provision of law shall only be referred to or recited in any deed, sales agreement, bill of sale, lease, license, easement, right-of-way, or transfer document for real or personal property after

obtaining the written concurrence of the Deputy General Counsel (Environment and Installations), Office of the General Counsel, Department of Defense.

§ 174.16 Real property containing explosive or chemical agent hazards.

The DoD Component controlling real property known to contain or suspected of containing explosive or chemical agent hazards from past DoD military munitions-related or chemical warfare-related activities shall, prior to transfer of the property out of Department of Defense control, obtain the DoD Explosives Safety Board's approval of measures planned to ensure protectiveness from such hazards, in accordance with DoD Directive 6055.9E, Explosives Safety Management and the DoD Explosives Safety Board.

§ 174.17 NEPA.

At installations subject to this part, NEPA analysis shall comply with the promulgated NEPA regulations of the Military Department exercising real property accountability for the installation, including any requirements relating to responsibility for funding the analysis. See 32 CFR parts 651 (for the Army), 775 (for the Navy), and 989 (for the Air Force). Nothing in this section shall be interpreted as releasing a Military Department from complying with its own NEPA regulation.

§ 174.18 Historic preservation.

(a) The transfer, lease, or sale of National Register-eligible historic property to a non-Federal entity at installations subject to this part may constitute an "adverse effect" under the regulations implementing the National Historic Preservation Act (36 CFR 800.5(a)(2)(vii)). One way of resolving this adverse effect is to restrict the use that may be made of the property subsequent to its transfer out of Federal ownership or control through the imposition of legally enforceable restrictions or conditions. The Secretary concerned may include such restrictions or conditions (typically a real property interest in the form of a restrictive covenant or preservation easement) in any deed or lease conveying an interest in historic property to a non-Federal entity. Before doing so, the Secretary should first consider whether the historic character of the property can be protected effectively through planning and zoning actions undertaken by units of State or local government; if so, working with such units of State or local government to protect the property through these means is preferable to encumbering the property with such a covenant or easement.

(b) Before including such a covenant or easement in a deed or lease, the Secretary concerned shall consider—

- (1) Whether the jurisdiction that encompasses the property authorizes such a covenant or easement; and
- (2) Whether the Secretary can give or assign to a third party the responsibility for monitoring and enforcing such a covenant

or easement.

PART 175—[REMOVED AND RESERVED]

- 2. Part 175 is removed and reserved.

PART 176—REVITALIZING BASE CLOSURE COMMUNITIES AND COMMUNITY ASSISTANCE— COMMUNITY REDEVELOPMENT AND HOMELESS ASSISTANCE

- 3. The authority citation for part 176 continues to read as follows:

§ 176.20 [AMENDED]

4. Section 176.20(b) is amended by revising "32 CFR part 175" to read "32 CFR part 174".

Dated: February 24, 2006.

L.M. Bynum,
Alternate OSD Federal Register Liaison
Officer, DoD.

[FR Doc. 06-1902 Filed 2-24-06; 12:08 pm]

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X. Public Law 101-510

Defense Base Closure and Realignment Act of 1990, as amended
Defense Base Closure and Realignment Act of 1990
(Pub. L. 101-510)
Enacted November 5, 1990

As amended by the National Defense Authorization Acts for Fiscal Years 1992/1993 (Pub. L. 102-190), 1993 (Pub. L. 102-484), 1994 (Pub. L. 103-160), 1995 (Pub. L. 103-337), and 1996 (Pub. L. 104-106), and the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Pub. L. 103-421)

TITLE XXIX--DEFENSE BASE CLOSURES AND REALIGNMENTS**PART A--DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION****SEC. 2901. SHORT TITLE AND PURPOSE****SEC. 2902. THE COMMISSION****SEC. 2903. PROCEDURE FOR MAKING RECOMMENDATIONS FOR BASE CLOSURES AND REALIGNMENTS****SEC. 2904. CLOSURE AND REALIGNMENT OF MILITARY INSTALLATIONS****SEC. 2905. IMPLEMENTATION****SEC. 2906. ACCOUNT****SEC. 2907. REPORTS****SEC. 2908. CONGRESSIONAL CONSIDERATION OF COMMISSION REPORT****SEC. 2909. RESTRICTION ON OTHER BASE CLOSURE AUTHORITY****SEC. 2910. DEFINITIONS****SEC. 2911. CLARIFYING AMENDMENT****SEC. 2901. SHORT TITLE AND PURPOSE**

(a) **SHORT TITLE.**--This part may be cited as the "Defense Base Closure and Realignment Act of 1990".

(b) **PURPOSE.**--The purpose of this part is to provide a fair process that will result in the timely closure and realignment of military installations inside the United States.

SEC. 2902. THE COMMISSION

(a) **ESTABLISHMENT.**--There is established an independent commission to be known as the "Defense Base Closure and Realignment Commission".

(b) **DUTIES.**--The Commission shall carry out the duties specified for it in this part.

(c) **APPOINTMENT.**--(1)(A) The Commission shall be composed of eight members appointed by the President, by and with the advice and consent of the Senate.

(B) The President shall transmit to the Senate the nominations for appointment to the Commission--

(i) by no later than January 3, 1991, in the case of members of the Commission whose terms will expire at the end of the first session of the 102nd Congress;

(ii) by no later than January 25, 1993, in the case of members of the Commission whose terms will expire at the end of the first session of the 103rd Congress; and

(iii) by no later than January 3, 1995, in the case of members of the Commission whose terms will expire at the end of the first session of the 104th Congress.

(C) If the President does not transmit to Congress the nominations for appointment to the Commission on or before the date specified for 1993 in clause (ii) of subparagraph (B) or for 1995 in clause (iii) of such subparagraph, the process by which military installations may be selected for closure or realignment under this part with respect to that year shall be terminated.

(2) In selecting individuals for nominations for appointments to the Commission, the President should consult with--

(A) the Speaker of the House of Representatives concerning the appointment of two members;

(B) the majority leader of the Senate concerning the appointment of two members;

(C) the minority leader of the House of Representatives concerning the appointment of one member; and

(D) the minority leader of the Senate concerning the appointment of one member.

(3) At the time the President nominates individuals for appointment to the Commission for each session of Congress referred to in paragraph (1)(B), the President shall designate one such individual who shall serve as Chairman of the Commission.

(d) **TERMS.**--(1) Except as provided in paragraph (2), each member of the Commission shall serve until the adjournment of Congress sine die for the session during which the member was appointed to the Commission.

(2) The Chairman of the Commission shall serve until the confirmation of a successor.

(e) **MEETINGS.**--(1) The Commission shall meet only during calendar years 1991, 1993, and 1995.

(2)(A) Each meeting of the Commission, other than meetings in which classified information is to be discussed, shall be open to the public.

(B) All the proceedings, information, and deliberations of the Commission shall be open, upon request, to the following:

(i) The Chairman and the ranking minority party member of the Subcommittee on Readiness, Sustainability, and Support of the Committee on Armed Services of the Senate, or such other members of the Subcommittee designated by such Chairman or ranking minority party member.

(ii) The Chairman and the ranking minority party member of the Subcommittee on Military Installations and Facilities of the Committee on National Security of the House of Representatives, or such other members of the Subcommittee designated by such Chairman or ranking minority party member.

(iii) The Chairmen and ranking minority party members of the Subcommittees on Military Construction of the Committees on Appropriations of the Senate and of the House of Representatives, or such other members of the Subcommittees designated by such Chairmen or ranking minority party members.

- (f) VACANCIES.--A vacancy in the Commission shall be filled in the same manner as the original appointment, but the individual appointed to fill the vacancy shall serve only for the unexpired portion of the term for which the individual's predecessor was appointed.
- (g) PAY AND TRAVEL EXPENSES.--(1)(A) Each member, other than the Chairman, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.
- (B) The Chairman shall be paid for each day referred to in subparagraph (A) at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314, of title 5, United States Code.
- (2) Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.
- (h) DIRECTOR OF STAFF.--(1) The Commission shall, without regard to section 5311(b) of title 5, United States Code, appoint a Director who has not served on active duty in the Armed Forces or as a civilian employee of the Department of Defense during the one-year period preceding the date of such appointment.
- (2) The Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.
- (i) STAFF.--(1) Subject to paragraphs (2) and (3), the Director, with the approval of the Commission, may appoint and fix the pay of additional personnel.
- (2) The Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.
- (3)(A) Not more than one-third of the personnel employed by or detailed to the Commission may be on detail from the Department of Defense.
- (B)(i) Not more than one-fifth of the professional analysts of the Commission staff may be persons detailed from the Department of Defense to the Commission.
- (ii) No person detailed from the Department of Defense to the Commission may be assigned as the lead professional analyst with respect to a military department or defense agency.
- (C) A person may not be detailed from the Department of Defense to the Commission if, within 12 months before the detail is to begin, that person participated personally and substantially in any matter within the Department of Defense concerning the preparation of recommendations for closures or realignments of military installations.
- (D) No member of the Armed Forces, and no officer or employee of the Department of Defense, may--
- (i) prepare any report concerning the effectiveness, fitness, or efficiency of the performance on the staff of the Commission of any person detailed from the Department of Defense to that staff;
- (ii) review the preparation of such a report; or
- (iii) approve or disapprove such a report.
- (4) Upon request of the Director, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Commission to assist the Commission in carrying out its duties under this part.
- (5) The Comptroller General of the United States shall provide assistance, including the detailing of employees, to the Commission in accordance with an agreement entered into with the Commission.
- (6) The following restrictions relating to the personnel of the Commission shall apply during 1992 and 1994:
- (A) There may not be more than 15 persons on the staff at any one time.
- (B) The staff may perform only such functions as are necessary to prepare for the transition to new membership on the Commission in the following year.
- (C) No member of the Armed Forces and no employee of the Department of Defense may serve on the staff.
- (j) OTHER AUTHORITY.--(1) The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.
- (2) The Commission may lease space and acquire personal property to the extent funds are available.
- (k) FUNDING.--(1) There are authorized to be appropriated to the Commission such funds as are necessary to carry out its duties under this part. Such funds shall remain available until expended.
- (2) If no funds are appropriated to the Commission by the end of the second session of the 101st Congress, the Secretary of Defense may transfer, for fiscal year 1991, to the Commission funds from the Department of Defense Base Closure Account established by section 207 of Public Law 100-526. Such funds shall remain available until expended.
- (3)(A) The Secretary may transfer not more than \$300,000 from unobligated funds in the account referred to in subparagraph (B) for the purpose of assisting the Commission in carrying out its duties under this part during October, November, and December 1995. Funds transferred under the preceding sentence shall remain available until December 31, 1995.
- (B) The account referred to in subparagraph (A) is the Department of Defense Base Closure Account established under section 207(a) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).
- (l) TERMINATION.--The Commission shall terminate on December 31, 1995.
- (m) PROHIBITION AGAINST RESTRICTING COMMUNICATIONS.--Section 1034 of title 10, United States Code, shall apply with respect to communications with the Commission.
- SEC. 2903. PROCEDURE FOR MAKING RECOMMENDATIONS FOR BASE CLOSURES AND REALIGNMENTS
- (a) FORCE-STRUCTURE PLAN.--(1) As part of the budget justification documents submitted to Congress in support of the budget for the Department of Defense for each of the fiscal years 1992, 1994, and 1996, the Secretary shall include a force-structure plan for the Armed Forces based on an assessment by the Secretary of the probable threats to the

national security during the six-year period beginning with the fiscal year for which the budget request is made and of the anticipated levels of funding that will be available for national defense purposes during such period.

(2) Such plan shall include, without any reference (directly or indirectly) to military installations inside the United States that may be closed or realigned under such plan--

(A) a description of the assessment referred to in paragraph (1);

(B) a description (i) of the anticipated force structure during and at the end of such period for each military department (with specifications of the number and type of units in the active and reserve forces of each such department), and (ii) of the units that will need to be forward based (with a justification thereof) during and at the end of each such period; and

(C) a description of the anticipated implementation of such force-structure plan.

(3) The Secretary shall also transmit a copy of each such force-structure plan to the Commission.

(b) **SELECTION CRITERIA.**--(1) The Secretary shall, by no later than December 31, 1990, publish in the Federal Register and transmit to the congressional defense committees the criteria proposed to be used by the Department of Defense in making recommendations for the closure or realignment of military installations inside the United States under this part.

The Secretary shall provide an opportunity for public comment on the proposed criteria for a period of at least 30 days and shall include notice of that opportunity in the publication required under the preceding sentence.

(2)(A) The Secretary shall, by no later than February 15, 1991, publish in the Federal Register and transmit to the congressional defense committees the final criteria to be used in making recommendations for the closure or realignment of military installations inside the United States under this part. Except as provided in subparagraph (B), such criteria shall be the final criteria to be used, making such recommendations unless disapproved by a joint resolution of Congress enacted on or before March 1991.

(B) The Secretary may amend such criteria, but such amendments may not become effective until they have been published in the Federal Register, opened to public comment for at least 30 days, and then transmitted to the congressional defense committees in final form by no later than January 15 of the year concerned. Such amended criteria shall be the final criteria to be used, along with the force-structure plan referred to in subsection (a), in making such recommendations unless disapproved by a joint resolution of Congress enacted on or before February 15 of the year concerned.

(c) **DOD RECOMMENDATIONS.**--(1) The Secretary may, by no later than April 15, 1991, March 15, 1993 and March 1, 1995, publish in the Federal Register and transmit to the congressional defense committees and to the Commission a list of the military installations inside the United States that the Secretary recommends for closure or realignment on the basis of the force-structure plan and the final criteria referred to in subsection (b)(2) that are applicable to the year concerned.

(2) The Secretary shall include, with the list of recommendations published and transmitted pursuant to paragraph (1), a summary of the selection process that resulted in the recommendation for each installation, including a justification for each recommendation. The Secretary shall transmit the matters referred to in the preceding sentence not later than 7 days after the date of the transmittal to the congressional defense committees and the Commission of the list referred to in paragraph (1).

(3)(A) In considering military installations for closure or realignment, the Secretary shall consider all military installations inside the United States equally without regard to whether the installation has been previously considered or proposed for closure or realignment by the Department.

(B) In considering military installations for closure or realignment, the Secretary may not take into account for any purpose any advance conversion planning undertaken by an affected community with respect to the anticipated closure or realignment of an installation.

(C) For purposes of subparagraph (B), in the case of a community anticipating the economic effects of a closure or realignment of a military installation, advance conversion planning--

(i) shall include community adjustment and economic diversification planning undertaken by the community before an anticipated selection of a military installation in or near the community for closure or realignment; and

(ii) may include the development of contingency redevelopment plans, plans for economic development and diversification, and plans for the joint use (including civilian and military use, public and private use, civilian dual use, and civilian shared use) of the property or facilities of the installation after the anticipated closure or realignment.

(4) In addition to making all information used by the Secretary to prepare the recommendations under this subsection available to Congress (including any committee or member of Congress), the Secretary shall also make such information available to the Commission and the Comptroller General of the United States.

(5)(A) Each person referred to in subparagraph (B), when submitting information to the Secretary of Defense or the Commission concerning the closure or realignment of a military installation, shall certify that such information is accurate and complete to the best of that person's knowledge and belief.

(B) Subparagraph (A) applies to the following persons:

(i) The Secretaries of the military departments.

(ii) The heads of the Defense Agencies.

(iii) Each person who is in a position the duties of which include personal and substantial involvement in the preparation and submission of information and recommendations concerning the closure or realignment of military installations, as designated in regulations which the Secretary of Defense shall prescribe, regulations which the Secretary of each military department shall prescribe for personnel within that military department, or regulations which the head of each Defense Agency shall prescribe for personnel within that Defense Agency.

(6) Any information provided to the Commission by a person described in paragraph (5)(B) shall also be submitted to the Senate and the House of Representatives to be made available to the Members of the House concerned in accordance with the rules of that House. The information shall be submitted to the Senate and House of Representatives within 24 hours after the submission of the information to the Commission.

(d) **REVIEW AND RECOMMENDATIONS BY THE COMMISSION.**--(1) After receiving the recommendations from the Secretary pursuant to subsection (c) for any year, the Commission shall conduct public hearings on the recommendations. All testimony before the Commission at a public hearing conducted under this paragraph shall be

presented under oath. [The preceding sentence shall apply with respect to all public hearings conducted by the Defense Base Closure and Realignment Commission after November 30, 1993.]

(2)(A) The Commission shall, by no later than July 1 of each year in which the Secretary transmits recommendations to it pursuant to subsection (c), transmit to the President a report containing the Commission's findings and conclusions based on a review and analysis of the recommendations made by the Secretary, together with the Commission's recommendations for closures and realignments of military installations inside the United States.

(B) Subject to subparagraph (C), in making its recommendations, the Commission may make changes in any of the recommendations made by the Secretary if the Commission determines that the Secretary deviated substantially from the force-structure plan and final criteria referred to in subsection (c)(1) in making recommendations.

(C) In the case of a change described in subparagraph (D) in the recommendations made by the Secretary, the Commission may make the change only if the Commission--

(i) makes the determination required by subparagraph (B);

(ii) determines that the change is consistent with the force-structure plan and final criteria referred to in subsection (c)(1);

(iii) publishes a notice of the proposed change in the Federal Register not less than 45 days before transmitting its recommendations to the President pursuant to paragraph (2); and

(iv) conducts public hearings on the proposed change.

(D) Subparagraph (C) shall apply to a change by the Commission in the Secretary's recommendations that would--

(i) add a military installation to the list of military installations recommended by the Secretary for closure;

(ii) add a military installation to the list of military installations recommended by the Secretary for realignment; or

(iii) increase the extent of a realignment of a particular military installation recommended by the Secretary.

(E) In making recommendations under this paragraph, the Commission may not take into account for any purpose any advance conversion planning undertaken by an affected community with respect to the anticipated closure or realignment of a military installation.

(3) The Commission shall explain and justify in its report submitted to the President pursuant to paragraph (2) any recommendation made by the Commission that is different from the recommendations made by the Secretary pursuant to subsection (c). The Commission shall transmit a copy of such report to the congressional defense committees on the same date on which it transmits its recommendations to the President under paragraph (2).

(4) After July 1 of each year in which the Commission transmits recommendations to the President under this subsection: the Commission shall promptly provide, upon request, to any Member of Congress information used by the Commission in making its recommendations.

(5) The Comptroller General of the United States shall--

(A) assist the Commission, to the extent requested, in the Commission's review and analysis of the recommendations made by the Secretary pursuant to subsection (C); and

(B) by no later than April 15 of each year in which the Secretary makes such recommendations, transmit to the Congress and to the Commission a report containing a detailed analysis of the Secretary's recommendations and selection process.

(e) REVIEW BY THE PRESIDENT.--(1) The President shall, by no later than July 15 of each year in which the Commission makes recommendations under subsection (d), transmit to the Commission and to the Congress a report containing the President's approval or disapproval of the Commission's recommendations.

(2) If the President approves all the recommendations of the Commission, the President shall transmit a copy of such recommendations to the Congress, together with a certification of such approval.

(3) If the President disapproves the recommendations of the Commission, in whole or in part, the President shall transmit to the Commission and the Congress the reasons for that disapproval. The Commission shall then transmit to the President, by no later than August 15 of the year concerned, a revised list of recommendations for the closure and realignment of military installations.

(4) If the President approves all of the revised recommendations of the Commission transmitted to the President under paragraph (3), the President shall transmit a copy of such revised recommendations to the Congress, together with a certification of such approval.

(5) If the President does not transmit to the Congress an approval and certification described in paragraph (2) or (4) by September 1 of any year in which the Commission has transmitted recommendations to the President under this part, the process by which military installations may be selected for closure or realignment under this part with respect to that year shall be terminated.

SEC. 2904. CLOSURE AND REALIGNMENT OF MILITARY INSTALLATIONS

(a) IN GENERAL.--Subject to subsection (b), the Secretary shall--

(1) close all military installations recommended for closure by the Commission in each report transmitted to the Congress by the President pursuant to section 2903(e);

(2) realign all military installations recommended for realignment by such Commission in each such report;

(3) initiate all such closures and realignments no later than two years after the date on which the President transmits a report to the Congress pursuant to section 2903(e) containing the recommendations for such closures or realignments; and

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

(b) CONGRESSIONAL DISAPPROVAL.--(1) The Secretary may not carry out any closure or realignment recommended by the Commission in a report transmitted from the President pursuant to section 2903(e) if a joint resolution is enacted, in accordance with the provisions of section 2908: disapproving such recommendations of the Commission before the earlier of--

(A) the end of the 45-day period beginning on the date on which the President transmits such report; or

(B) the adjournment of Congress sine die for the session during which such report is transmitted.

(2) For purposes of paragraph (1) of this subsection and subsections (a) and (c) of section 2908, the days on which either House of Congress is not in session because of adjournment of more than three days to a day certain shall be excluded in the computation of a period.

SEC. 2905. IMPLEMENTATION

(a) IN GENERAL.--(1) In closing or realigning any military installation under this part, the Secretary may--

(A) take such actions as may be necessary to close or realign any military installation, including the acquisition of such land, the construction of such replacement facilities, the performance of such activities, and the conduct of such advance planning and design as may be required to transfer functions from a military installation being closed or realigned to another military installation, and may use for such purpose funds in the Account or funds appropriated to the Department of Defense for use in planning and design, minor construction, or operation and maintenance;

(B) provide--

(i) economic adjustment assistance to any community located near a military installation being closed or realigned, and
(ii) community planning assistance to any community located near a military installation to which functions will be transferred as a result of the closure or realignment of a military installation, if the Secretary of Defense determines that the financial resources available to the community (by grant or otherwise) for such purposes are inadequate, and may use for such purposes funds in the Account or funds appropriated to the Department of Defense for economic adjustment assistance or community planning assistance;

(C) carry out activities for the purposes of environmental restoration and mitigation at any such installation, and shall use for such purposes funds in the Account. [Amendments to this subsection took effect on December 5, 1991.]

(D) provide outplacement assistance to civilian employees employed by the Department of Defense at military installations being closed or realigned, and may use for such purpose funds in the Account or funds appropriated to the Department of Defense for outplacement assistance to employees; and

(E) reimburse other Federal agencies for actions performed at the request of the Secretary with respect to any such closure or realignment, and may use for such purpose funds in the Account or funds appropriated to the Department of Defense and available for such purpose.

(2) In carrying out any closure or realignment under this part, the Secretary shall ensure that environmental restoration of any property made excess to the needs of the Department of Defense as a result of such closure or realignment be carried out as soon as possible with funds available for such purpose.

(b) MANAGEMENT AND DISPOSAL OF PROPERTY.--(1) The Administrator of General Services shall delegate to the Secretary of Defense, with respect to excess and surplus real property, facilities, and personal property located at a military installation closed or realigned under this part--

(A) the authority of the Administrator to utilize excess property under section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483);

(B) the authority of the Administrator to dispose of surplus property under section 203 of that Act (40 U.S.C. 484);

(C) the authority to dispose of surplus property for public airports under sections 47151 through 47153 of title 49, United States Code; and

(D) the authority of the Administrator to determine the availability of excess or surplus real property for wildlife conservation purposes in accordance with the Act of May 19, 1948 (16 U.S.C. 667b).

(2)(A) Subject to subparagraph (B) and paragraphs (3), (4), (5), and (6), the Secretary of Defense shall exercise the authority delegated to the Secretary pursuant to paragraph (1) in accordance with--

(i) all regulations governing the utilization of excess property and the disposal of surplus property under the Federal Property and Administrative Services Act of 1949; and

(ii) all regulations governing the conveyance and disposal of property under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)).

(B) The Secretary may, with the concurrence of the Administrator of General Services--

(i) prescribe general policies and methods for utilizing excess property and disposing of surplus property pursuant to the authority delegated under paragraph (1); and

(ii) issue regulations relating to such policies and methods, which shall supersede the regulations referred to in subparagraph (A) with respect to that authority.

(C) The Secretary of Defense may transfer real property or facilities located at a military installation to be closed or realigned under this part, with or without reimbursement, to a military department or other entity (including a nonappropriated fund instrumentality) within the Department of Defense or the Coast Guard.

(D) Before any action may be taken with respect to the disposal of any surplus real property or facility located at any military installation to be closed or realigned under this part, the Secretary of Defense shall consult with the Governor of the State and the heads of the local governments concerned for the purpose of considering any plan for the use of such property by the local community concerned.

(3)(A) Not later than 6 months after the date of approval of the closure of a military installation under this part, the Secretary, in consultation with the redevelopment authority with respect to the installation, shall--

(i) inventory the personal property located at the installation; and

(ii) identify the items (or categories of items) of such personal property that the Secretary determines to be related to real property and anticipates will support the implementation of the redevelopment plan with respect to the installation.

(B) If no redevelopment authority referred to in subparagraph (A) exists with respect to an installation, the Secretary shall consult with--

(i) the local government in whose jurisdiction the installation is wholly located; or

(ii) a local government agency or State government agency designated for the purpose of such consultation by the chief executive officer of the State in which the installation is located.

(C)(i) Except as provided in subparagraphs (E) and (F), the Secretary may not carry out any of the activities referred to in clause (ii) with respect to an installation referred to in that clause until the earlier of--

(I) one week after the date on which the redevelopment plan for the installation is submitted to the Secretary;

- (II) the date on which the redevelopment authority notifies the Secretary that it will not submit such a plan;
 - (III) twenty-four months after the date of approval of the closure of the installation; or
 - (IV) ninety days before the date of the closure of the installation.
- (ii) The activities referred to in clause (i) are activities relating to the closure of an installation to be closed under this part as follows:
- (I) The transfer from the installation of items of personal property at the installation identified in accordance with subparagraph (A).
 - (II) The reduction in maintenance and repair of facilities or equipment located at the installation below the minimum levels required to support the use of such facilities or equipment for nonmilitary purposes.
 - (D) Except as provided in paragraph (4), the Secretary may not transfer items of personal property located at an installation to be closed under this part to another installation, or dispose of such items, if such items are identified in the redevelopment plan for the installation as items essential to the reuse or redevelopment of the installation. In connection with the development of the redevelopment plan for the installation, the Secretary shall consult with the entity responsible for developing the redevelopment plan to identify the items of personal property located at the installation, if any, that the entity desires to be retained at the installation for reuse or redevelopment of the installation.
 - (E) This paragraph shall not apply to any personal property located at an installation to be closed under this part if the property--
 - (i) is required for the operation of a unit, function, component, weapon, or weapons system at another installation;
 - (ii) is uniquely military in character, and is likely to have no civilian use (other than use for its material content or as a source of commonly used components);
 - (iii) is not required for the reutilization or redevelopment of the installation (as jointly determined by the Secretary and the redevelopment authority);
 - (iv) is stored at the installation for purposes of distribution (including spare parts or stock items); or
 - (v)(I) meets known requirements of an authorized program of another Federal department or agency for which expenditures for similar property would be necessary, and (II) is the subject of a written request by the head of the department or agency.
 - (F) Notwithstanding subparagraphs (C)(i) and (D), the Secretary may carry out any activity referred to in subparagraph (C)(ii) or (D) if the Secretary determines that the carrying out of such activity is in the national security interest of the United States.
- (4)(A) The Secretary may transfer real property and personal property located at a military installation to be closed under this part to the redevelopment authority with respect to the installation.
- (B)(i)(I) Except as provided in clause (ii), the transfer of property under subparagraph (A) may be for consideration at or below the estimated fair market value of the property transferred or without consideration. Such consideration may include consideration in kind (including goods and services), real property and improvements, or such other consideration as the Secretary considers appropriate. The Secretary shall determine the estimated fair market value of the property to be transferred under this subparagraph before carrying out such transfer.
- (II) The Secretary shall prescribe regulations that set forth guidelines for determining the amount, if any, of consideration required for a transfer under this paragraph. Such regulations shall include a requirement that, in the case of each transfer under this paragraph for consideration below the estimated fair market value of the property transferred, the Secretary provide an explanation why the transfer is not for the estimated fair market value of the property transferred (including an explanation why the transfer cannot be carried out in accordance with the authority provided to the Secretary pursuant to paragraph (1) or (2)).
- (ii) The transfer of property under subparagraph (A) shall be without consideration in the case of any installation located in a rural area whose closure under this part will have a substantial adverse impact (as determined by the Secretary) on the economy of the communities in the vicinity of the installation and on the prospect for the economic recovery of such communities from such closure. The Secretary shall prescribe in the regulations under clause (i)(II) the manner of determining whether communities are eligible for the transfer of property under this clause.
- (iii) In the case of a transfer under subparagraph (A) for consideration below the fair market value of the property transferred, the Secretary may recoup from the transferee of such property such portion as the Secretary determines appropriate of the amount, if any, by which the sale or lease of such property by such transferee exceeds the amount of consideration paid to the Secretary for such property by such transferee. The Secretary shall prescribe regulations for determining the amount of recoupment under this clause.
- (C)(i) The Secretary may transfer real property at an installation approved for closure or realignment under this part (including property at an installation approved for realignment which will be retained by the Department of Defense or another Federal agency after realignment) to the redevelopment authority for the installation if the redevelopment authority agrees to lease, directly upon transfer, one or more portions of the property transferred under this subparagraph to the Secretary or to the head of another department or agency of the Federal Government. Subparagraph (B) shall apply to a transfer under this subparagraph.
- (ii) A lease under clause (i) shall be for a term of not to exceed 50 years, but may provide for options for renewal or extension of the term by the department or agency concerned.
- (iii) A lease under clause (i) may not require rental payments by the United States.
- (iv) A lease under clause (i) shall include a provision specifying that if the department or agency concerned ceases requiring the use of the leased property before the expiration of the term of the lease, the remainder of the lease term may be satisfied by the same or another department or agency of the Federal Government using the property for a use similar to the use under the lease. Exercise of the authority provided by this clause shall be made in consultation with the redevelopment authority concerned.
- (D)(i) The transfer of personal property under subparagraph (A) shall not be subject to the provisions of sections 202 and 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483, 484) if the Secretary determines that

the transfer of such property is necessary for the effective implementation of a redevelopment plan with respect to the installation at which such property is located.

(ii) The Secretary may, in lieu of the transfer of property referred to in subparagraph (A), transfer property similar to such property (including property not located at the installation) if the Secretary determines that the transfer of such similar property is in the interest of the United States.

(E) The provisions of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) shall apply to any transfer of real property under this paragraph.

(F) The Secretary may require any additional terms and conditions in connection with a transfer under this paragraph as such Secretary considers appropriate to protect the interests of the United States.

(5)(A) Except as provided in subparagraph (B), the Secretary shall take such actions as the Secretary determines necessary to ensure that final determinations under paragraph (1) regarding whether another department or agency of the Federal Government has identified a use for any portion of a military installation to be closed under this part, or will accept transfer of any portion of such installation, are made not later than 6 months after the date of approval of closure of that installation.

(B) The Secretary may, in consultation with the redevelopment authority with respect to an installation, postpone making the final determinations referred to in subparagraph (A) with respect to the installation for such period as the Secretary determines appropriate if the Secretary determines that such postponement is in the best interests of the communities affected by the closure of the installation.

(6)(A) Except as provided in this paragraph, nothing in this section shall limit or otherwise affect the application of the provisions of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.) to military installations closed under this part. For procedures relating to the use to assist the homeless of buildings and property at installations closed under this part after the date of the enactment of this sentence, see paragraph (7).

(B)(i) Not later than the date on which the Secretary of Defense completes the determination under paragraph (5) of the transferability of any portion of an installation to be closed under this part, the Secretary shall--

(I) complete any determinations or surveys necessary to determine whether any building or property referred to in clause (ii) is excess property, surplus property, or unutilized or underutilized property for the purpose of the information referred to in section 501(a) of such Act (42 U.S.C. 11411(a)); and

(II) submit to the Secretary of Housing and Urban Development information on any building or property that is so determined.

(ii) The buildings and property referred to in clause (i) are any buildings or property located at an installation referred to in that clause for which no use is identified, or of which no Federal department or agency will accept transfer, pursuant to the determination of transferability referred to in that clause.

(C) Not later than 60 days after the date on which the Secretary of Defense submits information to the Secretary of Housing and Urban Development under subparagraph (B)(ii), the Secretary of Housing and Urban Development shall--

(i) identify the buildings and property described in such information that are suitable for use to assist the homeless;

(ii) notify the Secretary of Defense of the buildings and property that are so identified;

(iii) publish in the Federal Register a list of the buildings and property that are so identified, including with respect to each building or property the information referred to in section 501(c)(1)(B) of such Act; and

(iv) make available with respect to each building and property the information referred to in section 501(c)(1)(C) of such Act in accordance with such section 501(c)(1)(C).

(D) Any buildings and property included in a list published under subparagraph (C)(iii) shall be treated as property available for application for use to assist the homeless under section 501(d) of such Act.

(E) The Secretary of Defense shall make available in accordance with section 501(f) of such Act any buildings or property referred to in subparagraph (D) for which--

(i) a written notice of an intent to use such buildings or property to assist the homeless is received by the Secretary of Health and Human Services in accordance with section 501(d)(2) of such Act;

(ii) an application for use of such buildings or property for such purpose is submitted to the Secretary of Health and Human Services in accordance with section 501(e)(2) of such Act; and

(iii) the Secretary of Health and Human Services--

(I) completes all actions on the application in accordance with section 501(e)(3) of such Act; and

(II) approves the application under section 501(e) of such Act.

(F)(i) Subject to clause (ii), a redevelopment authority may express in writing an interest in using buildings and property referred to subparagraph (D), and buildings and property referred to in subparagraph (B)(ii) which have not been identified as suitable for use to assist the homeless under subparagraph (C), or use such buildings and property, in accordance with the redevelopment plan with respect to the installation at which such buildings and property are located as follows:

(I) If no written notice of an intent to use such buildings or property to assist the homeless is received by the Secretary of Health and Human Services in accordance with section 501(d)(2) of such Act during the 60-day period beginning on the date of the publication of the buildings and property under subparagraph (C)(iii).

(II) In the case of buildings and property for which such notice is so received, if no completed application for use of the buildings or property for such purpose is received by the Secretary of Health and Human Services in accordance with section 501(e)(2) of such Act during the 90-day period beginning on the date of the receipt of such notice.

(III) In the case of buildings and property for which such application is so received, if the Secretary of Health and Human Services rejects the application under section 501(e) of such Act.

(ii) Buildings and property shall be available only for the purpose of permitting a redevelopment authority to express in writing an interest in the use of such buildings and property, or to use such buildings and property, under clause (i) as follows:

(I) In the case of buildings and property referred to in clause (i)(I), during the one-year period beginning on the first day after the 60-day period referred to in that clause.

- (II) In the case of buildings and property referred to in clause (i)(II), during the one-year period beginning on the first day after the 90-day period referred to in that clause.
- (III) In the case of buildings and property referred to in clause (i)(III), during the one-year period beginning on the date of the rejection of the application referred to in that clause.
- (iii) A redevelopment authority shall express an interest in the use of buildings and property under this subparagraph by notifying the Secretary of Defense, in writing, of such an interest.
- (G)(i) Buildings and property available for a redevelopment authority under subparagraph (F) shall not be available for use to assist the homeless under section 501 of such Act while so available for a redevelopment authority.
- (ii) If a redevelopment authority does not express an interest in the use of buildings or property, or commence the use of buildings or property, under subparagraph (F) within the applicable time periods specified in clause (ii) of such subparagraph, such buildings or property shall be treated as property available for use to assist the homeless under section 501(a) of such Act.
- (7)(A) The disposal of buildings and property located at installations approved for closure or realignment under this part after October 25, 1994, shall be carried out in accordance with this paragraph rather than paragraph (6).
- (B)(i) Not later than the date on which the Secretary of Defense completes the final determinations referred to in paragraph (5) relating to the use or transferability of any portion of an installation covered by this paragraph, the Secretary shall--
- (I) identify the buildings and property at the installation for which the Department of Defense has a use, for which another department or agency of the Federal Government has identified a use, or of which another department or agency will accept a transfer;
- (II) take such actions as are necessary to identify any building or property at the installation not identified under subclause (I) that is excess property or surplus property;
- (III) submit to the Secretary of Housing and Urban Development and to the redevelopment authority for the installation (or the chief executive officer of the State in which the installation is located if there is no redevelopment authority for the installation at the completion of the determination described in the stem of this sentence) information on any building or property that is identified under subclause (II); and
- (IV) publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information on the buildings and property identified under subclause (II).
- (ii) Upon the recognition of a redevelopment authority for an installation covered by this paragraph, the Secretary of Defense shall publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information on the redevelopment authority.
- (C)(i) State and local governments, representatives of the homeless, and other interested parties located in the communities in the vicinity of an installation covered by this paragraph shall submit to the redevelopment authority for the installation a notice of the interest, if any, of such governments, representatives, and parties in the buildings or property, or any portion thereof, at the installation that are identified under subparagraph (B)(i)(II). A notice of interest under this clause shall describe the need of the government, representative, or party concerned for the buildings or property covered by the notice.
- (ii) The redevelopment authority for an installation shall assist the governments, representatives, and parties referred to in clause (i) in evaluating buildings and property at the installation for purposes of this subparagraph.
- (iii) In providing assistance under clause (ii), a redevelopment authority shall--
- (I) consult with representatives of the homeless in the communities in the vicinity of the installation concerned; and
- (II) undertake outreach efforts to provide information on the buildings and property to representatives of the homeless, and to other persons or entities interested in assisting the homeless, in such communities.
- (iv) It is the sense of Congress that redevelopment authorities should begin to conduct outreach efforts under clause (iii)(II) with respect to an installation as soon as is practicable after the date of approval of closure of the installation.
- (D)(i) State and local governments, representatives of the homeless, and other interested parties shall submit a notice of interest to a redevelopment authority under subparagraph (C) not later than the date specified for such notice by the redevelopment authority.
- (ii) The date specified under clause (i) shall be--
- (I) in the case of an installation for which a redevelopment authority has been recognized as of the date of the completion of the determinations referred to in paragraph (5), not earlier than 3 months and not later than 6 months after that date; and
- (II) in the case of an installation for which a redevelopment authority is not recognized as of such date, not earlier than 3 months and not later than 6 months after the date of the recognition of a redevelopment authority for the installation.
- (iii) Upon specifying a date for an installation under this subparagraph, the redevelopment authority for the installation shall--
- (I) publish the date specified in a newspaper of general circulation in the communities in the vicinity of the installation concerned; and
- (II) notify the Secretary of Defense of the date.
- (E)(i) In submitting to a redevelopment authority under subparagraph (C) a notice of interest in the use of buildings or property at an installation to assist the homeless, a representative of the homeless shall submit the following:
- (I) A description of the homeless assistance program that the representative proposes to carry out at the installation.
- (II) An assessment of the need for the program.
- (III) A description of the extent to which the program is or will be coordinated with other homeless assistance programs in the communities in the vicinity of the installation.
- (IV) A description of the buildings and property at the installation that are necessary in order to carry out the program.
- (V) A description of the financial plan, the organization, and the organizational capacity of the representative to carry out the program.
- (VI) An assessment of the time required in order to commence carrying out the program.

(ii) A redevelopment authority may not release to the public any information submitted to the redevelopment authority under clause (i)(V) without the consent of the representative of the homeless concerned unless such release is authorized under Federal law and under the law of the State and communities in which the installation concerned is located.

(F)(i) The redevelopment authority for each installation covered by this paragraph shall prepare a redevelopment plan for the installation. The redevelopment authority shall, in preparing the plan, consider the interests in the use to assist the homeless of the buildings and property at the installation that are expressed in the notices submitted to the redevelopment authority under subparagraph (C).

(ii)(I) In connection with a redevelopment plan for an installation, a redevelopment authority and representatives of the homeless shall prepare legally binding agreements that provide for the use to assist the homeless of buildings and property, resources, and assistance on or off the installation. The implementation of such agreements shall be contingent upon the decision regarding the disposal of the buildings and property covered by the agreements by the Secretary of Defense under subparagraph (K) or (L).

(II) Agreements under this clause shall provide for the reversion to the redevelopment authority concerned, or to such other entity or entities as the agreements shall provide, of buildings and property that are made available under this paragraph for use to assist the homeless in the event that such buildings and property cease being used for that purpose.

(iii) A redevelopment authority shall provide opportunity for public comment on a redevelopment plan before submission of the plan to the Secretary of Defense and the Secretary of Housing and Urban Development under subparagraph (G).

(iv) A redevelopment authority shall complete preparation of a redevelopment plan for an installation and submit the plan under subparagraph (G) not later than 9 months after the date specified by the redevelopment authority for the installation under subparagraph (D).

(G)(i) Upon completion of a redevelopment plan under subparagraph (F), a redevelopment authority shall submit an application containing the plan to the Secretary of Defense and to the Secretary of Housing and Urban Development.

(ii) A redevelopment authority shall include in an application under clause (i) the following:

(I) A copy of the redevelopment plan, including a summary of any public comments on the plan received by the redevelopment authority under subparagraph (F)(iii).

(II) A copy of each notice of interest of use of buildings and property to assist the homeless that was submitted to the redevelopment authority under subparagraph (C), together with a description of the manner, if any, in which the plan addresses the interest expressed in each such notice and, if the plan does not address such an interest, an explanation why the plan does not address the interest.

(III) A summary of the outreach undertaken by the redevelopment authority under subparagraph (C)(iii)(II) in preparing the plan.

(IV) A statement identifying the representatives of the homeless and the homeless assistance planning boards, if any, with which the redevelopment authority consulted in preparing the plan, and the results of such consultations.

(V) An assessment of the manner in which the redevelopment plan balances the expressed needs of the homeless and the need of the communities in the vicinity of the installation for economic redevelopment and other development.

(VI) Copies of the agreements that the redevelopment authority proposes to enter into under subparagraph (F)(ii).

(H)(i) Not later than 60 days after receiving a redevelopment plan under subparagraph (G), the Secretary of Housing and Urban Development shall complete a review of the plan. The purpose of the review is to determine whether the plan, with respect to the expressed interest and requests of representatives of the homeless--

(I) takes into consideration the size and nature of the homeless population in the communities in the vicinity of the installation, the availability of existing services in such communities to meet the needs of the homeless in such communities, and the suitability of the buildings and property covered by the plan for the use and needs of the homeless in such communities;

(II) takes into consideration any economic impact of the homeless assistance under the plan on the communities in the vicinity of the installation;

(III) balances in an appropriate manner the needs of the communities in the vicinity of the installation for economic redevelopment and other development with the needs of the homeless in such communities;

(IV) was developed in consultation with representatives of the homeless and the homeless assistance planning boards, if any, in the communities in the vicinity of the installation; and

(V) specifies the manner in which buildings and property, resources, and assistance on or off the installation will be made available for homeless assistance purposes.

(ii) It is the sense of Congress that the Secretary of Housing and Urban Development shall, in completing the review of a plan under this subparagraph, take into consideration and be receptive to the predominant views on the plan of the communities in the vicinity of the installation covered by the plan.

(iii) The Secretary of Housing and Urban Development may engage in negotiations and consultations with a redevelopment authority before or during the course of a review under clause (i) with a view toward resolving any preliminary determination of the Secretary that a redevelopment plan does not meet a requirement set forth in that clause. The redevelopment authority may modify the redevelopment plan as a result of such negotiations and consultations.

(iv) Upon completion of a review of a redevelopment plan under clause (i), the Secretary of Housing and Urban Development shall notify the Secretary of Defense and the redevelopment authority concerned of the determination of the Secretary of Housing and Urban Development under that clause.

(v) If the Secretary of Housing and Urban Development determines as a result of such a review that a redevelopment plan does not meet the requirements set forth in clause (i), a notice under clause (iv) shall include--

(I) an explanation of that determination; and

(II) a statement of the actions that the redevelopment authority must undertake in order to address that determination.

(I)(i) Upon receipt of a notice under subparagraph (H)(iv) of a determination that a redevelopment plan does not meet a requirement set forth in subparagraph (H)(i), a redevelopment authority shall have the opportunity to--

(I) revise the plan in order to address the determination; and

(II) submit the revised plan to the Secretary of Defense and the Secretary of Housing and Urban Development.

- (ii) A redevelopment authority shall submit a revised plan under this subparagraph to such Secretaries, if at all, not later than 90 days after the date on which the redevelopment authority receives the notice referred to in clause (i).
- (J)(i) Not later than 30 days after receiving a revised redevelopment plan under subparagraph (I), the Secretary of Housing and Urban Development shall review the revised plan and determine if the plan meets the requirements set forth in subparagraph (H)(i).
- (ii) The Secretary of Housing and Urban Development shall notify the Secretary of Defense and the redevelopment authority concerned of the determination of the Secretary of Housing and Urban Development under this subparagraph.
- (K)(i) Upon receipt of a notice under subparagraph (H)(iv) or (J)(ii) of the determination of the Secretary of Housing and Urban Development that a redevelopment plan for an installation meets the requirements set forth in subparagraph (H)(i), the Secretary of Defense shall dispose of the buildings and property at the installation.
- (ii) For purposes of carrying out an environmental assessment of the closure or realignment of an installation, the Secretary of Defense shall treat the redevelopment plan for the installation (including the aspects of the plan providing for disposal to State or local governments, representatives of the homeless, and other interested parties) as part of the proposed Federal action for the installation.
- (iii) The Secretary of Defense shall dispose of buildings and property under clause (i) in accordance with the record of decision or other decision document prepared by the Secretary in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.). In preparing the record of decision or other decision document, the Secretary shall give substantial deference to the redevelopment plan concerned.
- (iv) The disposal under clause (i) of buildings and property to assist the homeless shall be without consideration.
- (v) In the case of a request for a conveyance under clause (i) of buildings and property for public benefit under section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)) or sections 47151 through 47153 of title 49, United States Code, the sponsoring Federal agency shall use the eligibility criteria set forth in such section or such subchapter (as the case may be) to determine the eligibility of the applicant and use proposed in the request for the public benefit conveyance. The determination of such eligibility should be made before submission of the redevelopment plan concerned under subparagraph (G).
- (L)(i) If the Secretary of Housing and Urban Development determines under subparagraph (J) that a revised redevelopment plan for an installation does not meet the requirements set forth in subparagraph (H)(i), or if no revised plan is so submitted, that Secretary shall--
- (I) review the original redevelopment plan submitted to that Secretary under subparagraph (G), including the notice or notices of representatives of the homeless referred to in clause (ii)(II) of that subparagraph;
- (II) consult with the representatives referred to in subclause (I), if any, for purposes of evaluating the continuing interest of such representatives in the use of buildings or property at the installation to assist the homeless;
- (III) request that each such representative submit to that Secretary the items described in clause (ii); and
- (IV) based on the actions of that Secretary under subclauses (I) and (II), and on any information obtained by that Secretary as a result of such actions, indicate to the Secretary of Defense the buildings and property at the installation that meet the requirements set forth in subparagraph (H)(i).
- (ii) The Secretary of Housing and Urban Development may request under clause (i)(III) that a representative of the homeless submit to that Secretary the following:
- (I) A description of the program of such representative to assist the homeless.
- (II) A description of the manner in which the buildings and property that the representative proposes to use for such purpose will assist the homeless.
- (III) Such information as that Secretary requires in order to determine the financial capacity of the representative to carry out the program and to ensure that the program will be carried out in compliance with Federal environmental law and Federal law against discrimination.
- (IV) A certification that police services, fire protection services, and water and sewer services available in the communities in the vicinity of the installation concerned are adequate for the program.
- (iii) Not later than 90 days after the date of the receipt of a revised plan for an installation under subparagraph (J), the Secretary of Housing and Urban Development shall--
- (I) notify the Secretary of Defense and the redevelopment authority concerned of the buildings and property at an installation under clause (i)(IV) that the Secretary of Housing and Urban Development determines are suitable for use to assist the homeless; and
- (II) notify the Secretary of Defense of the extent to which the revised plan meets the criteria set forth in subparagraph (H)(i).
- (iv)(I) Upon notice from the Secretary of Housing and Urban Development with respect to an installation under clause (iii), the Secretary of Defense shall dispose of buildings and property at the installation in consultation with the Secretary of Housing and Urban Development and the redevelopment authority concerned.
- (II) For purposes of carrying out an environmental assessment of the closure or realignment of an installation, the Secretary of Defense shall treat the redevelopment plan submitted by the redevelopment authority for the installation (including the aspects of the plan providing for disposal to State or local governments, representatives of the homeless, and other interested parties) as part of the proposed Federal action for the installation. The Secretary of Defense shall incorporate the notification of the Secretary of Housing and Urban Development under clause (iii)(I) as part of the proposed Federal action for the installation only to the extent, if any, that the Secretary of Defense considers such incorporation to be appropriate and consistent with the best and highest use of the installation as a whole, taking into consideration the redevelopment plan submitted by the redevelopment authority.
- (III) The Secretary of Defense shall dispose of buildings and property under subclause (I) in accordance with the record of decision or other decision document prepared by the Secretary in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.). In preparing the record of decision or other decision document, the Secretary shall give deference to the redevelopment plan submitted by the redevelopment authority for the installation.
- (IV) The disposal under subclause (I) of buildings and property to assist the homeless shall be without consideration.

(V) In the case of a request for a conveyance under subclause (l) of buildings and property for public benefit under section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)) or sections 47151 through 47153 of title 49, United States Code, the sponsoring Federal agency shall use the eligibility criteria set forth in such section or such subchapter (as the case may be) to determine the eligibility of the applicant and use proposed in the request for the public benefit conveyance. The determination of such eligibility should be made before submission of the redevelopment plan concerned under subparagraph (G).

(M)(i) In the event of the disposal of buildings and property of an installation pursuant to subparagraph (K) or (L), the redevelopment authority for the installation shall be responsible for the implementation of and compliance with agreements under the redevelopment plan described in that subparagraph for the installation.

(ii) If a building or property reverts to a redevelopment authority under such an agreement, the redevelopment authority shall take appropriate actions to secure, to the maximum extent practicable, the utilization of the building or property by other homeless representatives to assist the homeless. A redevelopment authority may not be required to utilize the building or property to assist the homeless.

(N) The Secretary of Defense may postpone or extend any deadline provided for under this paragraph in the case of an installation covered by this paragraph for such period as the Secretary considers appropriate if the Secretary determines that such postponement is in the interests of the communities affected by the closure of the installation. The Secretary shall make such determinations in consultation with the redevelopment authority concerned and, in the case of deadlines provided for under this paragraph with respect to the Secretary of Housing and Urban Development, in consultation with the Secretary of Housing and Urban Development.

(O) For purposes of this paragraph, the term "communities in the vicinity of the installation", in the case of an installation, means the communities that constitute the political jurisdictions (other than the State in which the installation is located) that comprise the redevelopment authority for the installation.

(P) For purposes of this paragraph, the term "other interested parties", in the case of an installation, includes any parties eligible for the conveyance of property of the installation under section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)) or sections 47151 through 47153 of title 49, United States Code, whether or not the parties assist the homeless.

(8)(A) Subject to subparagraph (C), the Secretary may enter into agreements (including contracts, cooperative agreements, or other arrangements for reimbursement) with local governments for the provision of police or security services, fire protection services, airfield operation services, or other community services by such governments at military installations to be closed under this part if the Secretary determines that the provision of such services under such agreements is in the best interests of the Department of Defense.

(B) The Secretary may exercise the authority provided under this paragraph without regard to the provisions of chapter 146 of title 10, United States Code.

(C) The Secretary may not exercise the authority under subparagraph (A) with respect to an installation earlier than 180 days before the date on which the installation is to be closed.

(D) The Secretary shall include in a contract for services entered into with a local government under this paragraph a clause that requires the use of professionals to furnish the services to the extent that professionals are available in the area under the jurisdiction of such government.

(c) APPLICABILITY OF NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.--(1) The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to the actions of the President, the Commission, and, except as provided in paragraph (2), the Department of Defense in carrying out this part.

(2)(A) The provisions of the National Environmental Policy Act of 1969 shall apply to actions of the Department of Defense under this part (i) during the process of property disposal, and (ii) during the process of relocating functions from a military installation being closed or realigned to another military installation after the receiving installation has been selected but before the functions are relocated.

(B) In applying the provisions of the National Environmental Policy Act of 1969 to the processes referred to in subparagraph (A), the Secretary of Defense and the Secretary of the military departments concerned shall not have to consider--

(i) the need for closing or realigning the military installation which has been recommended for closure or realignment by the Commission;

(ii) the need for transferring functions to any military installation which has been selected as the receiving installation; or

(iii) military installations alternative to those recommended or selected.

(3) A civil action for judicial review, with respect to any requirement of the National Environmental Policy Act of 1969 to the extent such Act is applicable under paragraph (2), of any act or failure to act by the Department of Defense during the closing, realigning, or relocating of functions referred to in clauses (i) and (ii) of paragraph (2)(A), may not be brought more than 60 days after the date of such act or failure to act.

(d) WAIVER.--The Secretary of Defense may close or realign military installations under this part without regard to--

(1) any provision of law restricting the use of funds for closing or realigning military installations included in any appropriations or authorization Act; and

(2) sections 2662 and 2687 of title 10, United States Code.

(e) TRANSFER AUTHORITY IN CONNECTION WITH PAYMENT OF ENVIRONMENTAL REMEDIATION COSTS.--

(1)(A) Subject to paragraph (2) of this subsection and section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), the Secretary may enter into an agreement to transfer by deed real property or facilities referred to in subparagraph (B) with any person who agrees to perform all environmental restoration, waste management, and environmental compliance activities that are required for the property or facilities under Federal and State laws, administrative decisions, agreements (including schedules and milestones), and concurrences.

(B) The real property and facilities referred to in subparagraph (A) are the real property and facilities located at an installation closed or to be closed under this part that are available exclusively for the use, or expression of an interest in a

use, of a redevelopment authority under subsection (b)(6)(F) during the period provided for that use, or expression of interest in use, under that subsection.

(C) The Secretary may require any additional terms and conditions in connection with an agreement authorized by subparagraph (A) as the Secretary considers appropriate to protect the interests of the United States.

(2) A transfer of real property or facilities may be made under paragraph (1) only if the Secretary certifies to Congress that--

(A) the costs of all environmental restoration, waste management, and environmental compliance activities to be paid by the recipient of the property or facilities are equal to or greater than the fair market value of the property or facilities to be transferred, as determined by the Secretary; or

(B) if such costs are lower than the fair market value of the property or facilities, the recipient of the property or facilities agrees to pay the difference between the fair market value and such costs.

(3) As part of an agreement under paragraph (1), the Secretary shall disclose to the person to whom the property or facilities will be transferred any information of the Secretary regarding the environmental restoration, waste management, and environmental compliance activities described in paragraph (1) that relate to the property or facilities. The Secretary shall provide such information before entering into the agreement.

(4) Nothing in this subsection shall be construed to modify, alter, or amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(5) Section 330 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 10 U.S.C. 2687 note) shall not apply to any transfer under this subsection to persons or entities described in subsection (a)(2) of such section 330.

(6) The Secretary may not enter into an agreement to transfer property or facilities under this subsection after the expiration of the five-year period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994 [November 30, 1993].

(f) TRANSFER AUTHORITY IN CONNECTION WITH CONSTRUCTION OR PROVISION OF MILITARY FAMILY HOUSING.--

(1) Subject to paragraph (2), the Secretary may enter into an agreement to transfer by deed real property or facilities located at or near an installation closed or to be closed under this part with any person who agrees, in exchange for the real property or facilities, to transfer to the Secretary housing units that are constructed or provided by the person and located at or near a military installation at which there is a shortage of suitable housing to meet the requirements of members of the Armed Forces and their dependents. The Secretary may not select real property for transfer under this paragraph if the property is identified in the redevelopment plan for the installation as property essential to the reuse or redevelopment of the installation.

(2) A transfer of real property or facilities may be made under paragraph (1) only if--

(A) the fair market value of the housing units to be received by the Secretary in exchange for the property or facilities to be transferred is equal to or greater than the fair market value of such property or facilities, as determined by the Secretary; or

(B) in the event the fair market value of the housing units is less than the fair market value of property or facilities to be transferred, the recipient of the property or facilities agrees to pay to the Secretary the amount equal to the excess of the fair market value of the property or facilities over the fair market value of the housing units.

(3) Notwithstanding paragraph (2) of section 2906(a), the Secretary may deposit funds received under paragraph (2)(B) in the Department of Defense Family Housing Improvement Fund established under section 2873(a) of title 10, United States Code.

(4) The Secretary shall submit to the congressional defense committees a report describing each agreement proposed to be entered into under paragraph (1), including the consideration to be received by the United States under the agreement. The Secretary may not enter into the agreement until the end of the 30-day period beginning on the date the congressional defense committees receive the report regarding the agreement.

(5) The Secretary may require any additional terms and conditions in connection with an agreement authorized by this subsection as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2906. ACCOUNT

(a) IN GENERAL.--(1) There is hereby established on the books of the Treasury an account to be known as the "Department of Defense Base Closure Account 1990" which shall be administered by the Secretary as a single account.

(2) There shall be deposited into the Account--

(A) funds authorized for and appropriated to the Account;

(B) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Defense for any purpose, except that such funds may be transferred only after the date on which the Secretary transmits written notice of, and justification for, such transfer to the congressional defense committees;

(C) except as provided in subsection (d), proceeds received from the lease, transfer, or disposal of any property at a military installation closed or realigned under this part; and

(D) proceeds received after September 30, 1995, from the lease, transfer, or disposal of any property at a military installation closed or realigned under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(b) USE OF FUNDS.--(1) The Secretary may use the funds in the Account only for the purposes described in section 2905, or, after September 30, 1995, for environmental restoration and property management and disposal at installations closed or realigned under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(2) When a decision is made to use funds in the Account to carry out a construction project under section 2905(a) and the cost of the project will exceed the maximum amount authorized by law for a minor military construction project, the Secretary shall notify in writing the congressional defense committees of the nature of, and justification for, the project and

the amount of expenditures for such project. Any such construction project may be carried out without regard to section 2802(a) of title 10, United States Code.

(c) REPORTS.--(1)(A) No later than 60 days after the end of each fiscal year in which the Secretary carries out activities under this part, the Secretary shall transmit a report to the congressional defense committees of the amount and nature of the deposits into, and the expenditures from, the Account during such fiscal year and of the amount and nature of other expenditures made pursuant to section 2905(a) during such fiscal year.

(B) The report for a fiscal year shall include the following:

(i) The obligations and expenditures from the Account during the fiscal year, identified by subaccount, for each military department and Defense Agency.

(ii) The fiscal year in which appropriations for such expenditures were made and the fiscal year in which funds were obligated for such expenditures.

(iii) Each military construction project for which such obligations and expenditures were made, identified by installation and project title.

(iv) A description and explanation of the extent, if any, to which expenditures for military construction projects for the fiscal year differed from proposals for projects and funding levels that were included in the justification transmitted to Congress under section 2907(1), or otherwise, for the funding proposals for the Account for such fiscal year, including an explanation of--

(I) any failure to carry out military construction projects that were so proposed; and

(II) any expenditures for military construction projects that were not so proposed.

(2) Unobligated funds which remain in the Account after the termination of the authority of the Secretary to carry out a closure or realignment under this part shall be held in the Account until transferred by law after the congressional defense committees receive the report transmitted under paragraph (3).

(3) No later than 60 days after the termination of the authority of the Secretary to carry out a closure or realignment under this part, the Secretary shall transmit to the congressional defense committees a report containing an accounting of--

(A) all the funds deposited into and expended from the Account or otherwise expended under this part; and

(B) any amount remaining in the Account.

(d) DISPOSAL OR TRANSFER OF COMMISSARY STORES AND PROPERTY PURCHASED WITH

NONAPPROPRIATED FUNDS.--(1) If any real property or facility acquired, constructed, or improved (in whole or in part) with commissary store funds or nonappropriated funds is transferred or disposed of in connection with the closure or realignment of a military installation under this part, a portion of the proceeds of the transfer or other disposal of property on that installation shall be deposited in the reserve account established under section 204(b)(7)(C) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note).

(2) The amount so deposited shall be equal to the depreciated value of the investment made with such funds in the acquisition, construction, or improvement of that particular real property or facility. The depreciated value of the investment shall be computed in accordance with regulations prescribed by the Secretary of Defense.

(3) The Secretary may use amounts in the account (in such an aggregate amount as is provided in advance in appropriation Acts) for the purpose of acquiring, constructing, and improving--

(A) commissary stores; and

(B) real property and facilities for nonappropriated fund instrumentalities.

(4) As used in this subsection:

(A) The term "commissary store funds" means funds received from the adjustment of, or surcharge on, selling prices at commissary stores fixed under section 2685 of title 10, United States Code.

(B) The term "nonappropriated funds" means funds received from a nonappropriated fund instrumentality.

(C) The term "nonappropriated fund instrumentality" means an instrumentality of the United States under the jurisdiction of the Armed Forces (including the Army and Air Force Exchange Service, the Navy Resale and Services Support Office, and the Marine Corps exchanges) which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.

(e) ACCOUNT EXCLUSIVE SOURCE OF FUNDS FOR ENVIRONMENTAL RESTORATION PROJECTS.--Except for funds deposited into the Account under subsection (a), funds appropriated to the Department of Defense may not be used for purposes described in section 2905 (a)(1)(C). The prohibition in this subsection shall expire upon the termination of the authority of the Secretary to carry out a closure or realignment under this part.

SEC. 2907. REPORTS

As part of the budget request for fiscal year 1993 and for each fiscal year thereafter for the Department of Defense, the Secretary shall transmit to the congressional defense committees of Congress--

(1) a schedule of the closure and realignment actions to be carried out under this part in the fiscal year for which the request is made and an estimate of the total expenditures required and cost savings to be achieved by each such closure and realignment and of the time period in which these savings are to be achieved in each case, together with the Secretary's assessment of the environmental effects of such actions; and

(2) a description of the military installations, including those under construction and those planned for construction, to which functions are to be transferred as a result of such closures and realignments, together with the Secretary's assessment of the environmental effects of such transfers.

SEC. 2908. CONGRESSIONAL CONSIDERATION OF COMMISSION REPORT

(a) TERMS OF THE RESOLUTION.--For purposes of section 2904(b), the term "joint resolution" means only a joint resolution which is introduced within the 10-day period beginning on the date on which the President transmits the report to the Congress under section 2903(e), and--

(1) which does not have a preamble;

(2) the matter after the resolving clause of which is as follows: "That Congress disapproves the recommendations of the Defense Base Closure and Realignment Commission as submitted by the President on ", the blank space being filled in with the appropriate date; and

(3) the title of which is as follows: "Joint resolution disapproving the recommendations of the Defense Base Closure and Realignment Commission."

(b) REFERRAL.--A resolution described in subsection (a) that is introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. A resolution described in subsection (a) introduced in the Senate shall be referred to the Committee on Armed Services of the Senate.

(c) DISCHARGE.--If the committee to which a resolution described in subsection (a) is referred has not reported such a resolution (or an identical resolution) by the end of the 20-day period beginning on the date on which the President transmits the report to the Congress under section 2903(e), such committee shall be, at the end of such period, discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the House involved.

(d) CONSIDERATION.--(1) On or after the third day after the date on which the committee to which such a resolution is referred has reported, or has been discharged (under subsection (c)) from further consideration of, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. A member may make the motion only on the day after the calendar day on which the Member announces to the House concerned the Member's intention to make the motion, except that, in the case of the House of Representatives, the motion may be made without such prior announcement if the motion is made by direction of the committee to which the resolution was referred.

The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the respective House until disposed of.

(2) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(3) Immediately following the conclusion of the debate on a resolution described in subsection (a) and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

(e) CONSIDERATION BY OTHER HOUSE.--(1) If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it except in the case of final passage as provided in subparagraph (B)(ii).

(B) With respect to a resolution described in subsection (a) of the House receiving the resolution--

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(2) Upon disposition of the resolution received from the other House, it shall no longer be in order to consider the resolution that originated in the receiving House.

(f) RULES OF THE SENATE AND HOUSE.--This section is enacted by Congress--

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 2909. RESTRICTION ON OTHER BASE CLOSURE AUTHORITY

(a) IN GENERAL.--Except as provided in subsection (c), during the period beginning on the date of the enactment of this Act and ending on December 31, 1995, this part shall be the exclusive authority for selecting for closure or realignment, or for carrying out any closure or realignment of, a military installation inside the United States.

(b) RESTRICTION.--Except as provided in subsection (c), none of the funds available to the Department of Defense may be used, other than under this part, during the period specified in subsection (a)--

(1) to identify, through any transmittal to the Congress or through any other public announcement or notification, any military installation inside the United States as an installation to be closed or realigned or as an installation under consideration for closure or realignment; or

(2) to carry out any closure or realignment of a military installation inside the United States.

(c) EXCEPTION.--Nothing in this part affects the authority of the Secretary to carry out--

(1) closures and realignments under title II of Public Law 100-526; and

(2) closures and realignments to which section 2687 of title 10, United States Code, is not applicable, including closures and realignments carried out for reasons of national security or a military emergency referred to in subsection (c) of such section.

SEC. 2910. DEFINITIONS

As used in this part:

- (1) The term "Account" means the Department of Defense Base Closure Account 1990 established by section 2906(a)(1).
- (2) The term "congressional defense committees" means the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives.
- (3) The term "Commission" means the Commission established by section 2902.
- (4) The term "military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility. Such term does not include any facility used primarily for civil works, rivers and harbors projects, flood control, or other projects not under the primary jurisdiction or control of the Department of Defense. [The preceding sentence shall take effect as of November 5, 1990, and shall apply as if it had been included in section 2910(4) of the Defense Base Closure and Realignment Act of 1990 on that date.]
- (5) The term "realignment" includes any action which both reduces and relocates functions and civilian personnel positions but does not include a reduction in force resulting from workload adjustments, reduced personnel or funding levels, or skill imbalances.
- (6) The term "Secretary" means the Secretary of Defense.
- (7) The term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and any other commonwealth, territory, or possession of the United States.
- (8) The term "date of approval", with respect to a closure or realignment of an installation, means the date on which the authority of Congress to disapprove a recommendation of closure or realignment, as the case may be, of such installation under this part expires. [The date of approval of closure of any installation approved for closure before November 30, 1993 shall be deemed to be November 30, 1993.]
- (9) The term "redevelopment authority", in the case of an installation to be closed under this part, means any entity (including an entity established by a State or local government) recognized by the Secretary of Defense as the entity responsible for developing the redevelopment plan with respect to the installation or for directing the implementation of such plan. [The above revision shall take effect as if included in the amendments made by section 2918 of Pub. L. 103-160.]
- (10) The term "redevelopment plan" in the case of an installation to be closed under this part, means a plan that--
 - (A) is agreed to by the local redevelopment authority with respect to the installation; and
 - (B) provides for the reuse or redevelopment of the real property and personal property of the installation that is available for such reuse and redevelopment as a result of the closure of the installation.
- (11) The term "representative of the homeless" has the meaning given such term in section 501(i)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(i)(4)).

SEC. 2911. CLARIFYING AMENDMENT

Section 2687(e)(1) of title 10, United States Code, is amended--

- (1) by inserting "homeport facility for any ship," after "center,"; and
- (2) by striking out "under the jurisdiction of the Secretary of a military department" and inserting in lieu thereof "under the jurisdiction of the Department of Defense, including any leased facility,".

XI. HUD Review Checklist

U.S. Department of Housing and Urban Development Office of Community Planning and Development

Base Closure Community Redevelopment and Homeless Assistance Act

Redevelopment Plan and Homeless Assistance Submission Completeness Review

Middletown- US Army Reserve Center, 499 Mile Lane
Name of the Installation

Middletown Realignment and Closure Redevelopment Authority
Name of the Local Redevelopment Authority

Redevelopment Plan

1. yes___ no___ pg.____ Does the LRA Application include a redevelopment plan for the installation?

Outreach to Homeless Assistance Providers

2. yes___ no___ pg.____ Does the LRA Application include a list of the political jurisdictions that comprise the LRA?

3. yes___ no___ pg.____ Does the LRA Application include a copy of the LRA newspaper advertisement from a newspaper of general circulation in the vicinity of the installation?

3a. yes___ no___ pg.____ Did the newspaper advertisement announce the receipt of notices of interest for a minimum of 90 days, maximum 180 days?

4. yes___ no___ pg.____ Does the LRA Application provide a list of homeless assistance providers consulted during the outreach process?

5. yes___ no___ pg.____ Does the LRA Application discuss the LRA's overall efforts of outreach to homeless providers in the community in the vicinity of the installation?

6. yes___ no___ pg.____ Does the LRA Application discuss the workshop that was conducted during the outreach period?

Information about Homeless in the Vicinity of the Installation

7. yes___ no___ pg.____ Is there a list of all the political jurisdictions that comprise the LRA?

7a. yes___ no___ pg.____ Does the LRA Application include copies of the appropriate Consolidated Plan(s) Tables 1
n/a___ and 2 along with appropriate narrative? LRAs that represent cities within urban counties should comment on how the Consolidated Plan applies to their particular jurisdiction.

7b. yes___ no___ pg.____ If the community in the vicinity of the installation is not an entitlement city or a city in an
n/a___ urban county, did the LRA provide information on the homeless population?

Notices of Interest (NOIs)

8. yes___ no___ pg.____ Does the LRA include a copy of each NOI received
n/a (no NOIs) from homeless providers (this includes both approved and disapproved NOIs)?

8a. yes___ no___ pg.____ Does the LRA explain why each NOI from a homeless
n/a (no NOIs) assistance provider was either approved/disapproved?

Legally Binding Agreements (LBAs)

9. yes___ no___ pg.____ Does the LRA Application include an LBA for each of the selected

NOIs with homeless assistance providers?

- 9a. yes___ no___ pg.____ Does each LBA for property have an 'environmental renegotiation' clause (586.30(b)(3)(i)), i.e., does each LBA provide for a process for negotiating alternative arrangements that would enable the same balance of interests made originally in the event that an environmental review conducted subsequent to HUD approval indicates that any property identified for transfer in the agreement is not suitable for the intended purpose?
- 9b. yes___ no___ pg.____ Does each LBA have a 'Reverter' clause (586.30(b)(3)(i) and 586.45(e)), i.e., when an LBA discusses on-base property awards, does it provide for the reversion or transfer, either to the LRA or to another entity or entities, of building and property in the event they cease to be used for the homeless?
10. yes___ no___ pg.____ Does the LRA application discuss how the LBA(s) with homeless
n/a___ providers meet gap(s) in the continuum of care?
11. yes___ no___ pg.____ Does the LRA application discuss how the LBAs may/may not impact the community in
n/a___ terms of:
- 11a. yes___ no___ pg.____ the impact the homeless housing and services provided
n/a___ through the LBA(s) might have on the community?
- 11b. yes___ no___ pg.____ the concentration of homeless/low income individuals and families in the community?
n/a___
- 11c. yes___ no___ pg.____ availability of general services in support of the homeless persons or families
n/a___ served by LBA(s)?
12. yes___ no___ pg.____ Are the LBA's executed?
n/a___
- If unexecuted:
- 12a. yes___ no___ pg.____ Are LBA acceptance letters provided from each non-profit with an LBA?
- 12b. yes___ no___ pg.____ If the non-profit is an umbrella or consortium organization, did the provider organizations consent to the arrangement with the umbrella/consortium and LRA as reflected within the LBA?
13. yes___ no___ pg.____ Has the LRA's or political jurisdiction's chief legal counsel provided an opinion for LBA(s) as to their enforceability under State law (586.30(b)(3)(i)?

Balance between Economic Redevelopment, Other Development, and Homeless Assistance

14. yes___ no___ pg.____ Does the LRA Application discuss how the LBAs are the
n/a___ consistent with Consolidated Plan?
- 14a. yes___ no___ pg.____ Does the LRA Application relate the LBAs to the priorities discussed in the Consolidated
n/a___ Plan?
- 14b. yes___ no___ pg.____ Does the LRA Application describe how it balances the
n/a___ needs for economic redevelopment, other development, and homeless assistance?

Public Comment Requirements

15. yes___ no___ pg.____ Does the LRA Application provide an overview of the citizen participation process?
- 15a. yes___ no___ pg.____ Does the LRA Application provide information on the public hearing?

15b. yes___ no___ pg.____ Does the LRA Application include a summary of the comments from the public hearing on the draft application?

Public Benefit Transfer Outreach

16. yes___ no___ pg.____ Does the LRA Application contain evidence that public benefit transfer outreach was conducted?

Field Office Review completed by: _____ on _____
Name Date

Headquarters Review completed by: _____ on _____
Name Date

XII. DOD & HUD Contact Information and Resources

DOD Contacts

Office of Economic Adjustment
Paul Oskvarek
Project Manager
Office of Economic Adjustment (OEA)
Office of the Secretary of Defense
400 Army Navy Drive, Suite 200
Arlington, Virginia 22202-4704
Office 703-604-5152
Fax 703-604-5843
Paul.Oskvarek@wso.whs.mil

HUD Contacts

HUD Headquarters
Assistant Secretary for Community Planning and Development
U.S. Department of Housing and Urban Development
ATTN: BRAC Coordinator
451 7th Street SW., Room 7266
Washington, DC 20410

HUD Field CPD Office
One Corporate Center
20 Church Street, 19th Floor
Hartford, CT 06103-3220
Tel. 860-240-4800
Fax. 860-240-4857