THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

JUL 30 2003

MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF DEFENSE
(SECURITY AND INFORMATION OPERATIONS)

SUBJECT: Establishment of the Intelligence Joint Cross-Service Group

On November 15, 2002, the Secretary of Defense formally initiated the 2005 Defense Base Realignment and Closure (BRAC) process (attached). He established the Infrastructure Executive Council (IEC) and the subordinate Infrastructure Steering Group (ISG) to oversee and operate the BRAC 2005 process, further directing the ISG to recommend to the IEC those functions that should receive joint cross-service analysis. The ISG established six joint cross-service groups (JCSGs) to review common, business-oriented functions across the Military Departments and Defense Agencies. These are Education & Training; Headquarters and Support Activities; Industrial; Medical; Supply & Storage; and Technical. At its June 27, 2003, meeting the ISG formed a seventh JCSG to review intelligence functions.

You have been selected to chair the Intelligence JCSG. The following individuals are the senior members of your JCSG: Mr. Terrance Ford, Assistant Deputy Chief of Staff for Intelligence (G2), United States Army; Mr. Fred Frederickson, Division Chief, Strategy, Policy and Intelligence Community, Directorate for Naval Intelligence; Brigadier General Michael Ennis, Director of the Intelligence Department, United States Marine Corps; Kenneth Dumm, Associate Director for Intelligence, Directorate of Intelligence, Surveillance and Reconnaissance, Deputy Chief of Staff for Air And Space Operations, Headquarters United States Air Force. A Joint Staff representative will be provided at a later date. The nomination letters are attached.

Your JCSG will be responsible for overseeing the joint cross-service analysis of intelligence functions in the context of BRAC 2005. This entails ensuring that your analysis group performs a broad, comprehensive look at DoD installation requirements for intelligence functions. Using certified data, the analysis group must perform a detailed analysis of existing capabilities and capacity, and develop recommendations that best satisfy DoD's requirements. JCSGs will use Military Value as the primary consideration, while balancing all other selection criteria. Your JCSG will communicate regularly with the Military Departments to ensure that their recommendations are fully consistent with those of your JCSG; provide detailed periodic reports to the ISG on your progress and direction; and submit and explain your JCSG's closure and realignment recommendations to the ISG.

Not later than August 22, 2003, your JCSG, in coordination with the OSD and Military Department BRAC Directors, must develop recommendations to the ISG on the specific functions that will receive joint cross-service analysis; the organization structure you will establish to conduct the analysis; and the leadership of any subordinate groups within your structure. Your written report should also include a general description of the approach and notional metrics for your analysis. To assist you in this effort, a report template is attached. The ISG will meet to discuss and review your report at one of its future meetings.

When determining what specific functions should receive joint cross-service analysis within your group, you must start by listing all of the functions that fall under your area and then identify those that you recommend to receive joint cross-service analysis. You should be prepared to justify your selections and exclusions. Once the Secretary has approved the designation of your particular functions for joint cross-service analysis, your group will be required to carry that analysis through to its logical conclusion. Removal of a function from joint cross-service analysis will require the approval of the Secretary of Defense, through the ISG and IEC. Specificity regarding the functions that you recommend for joint cross-service analysis is important because the Military Departments must analyze those functions that are not designated for joint cross-service analysis.

Because of the potential impact upon DoD and local communities, BRAC is a subject of intense interest to all stakeholders. To provide the ISG with the optimal set of recommendations, the analytical work and subsequent deliberations that your JCSG will conduct must occur free from opinions, internal or external, based on non-certified data and speculation. To protect the integrity of the BRAC 2005 process, all files, data, and materials relating to that process are deemed sensitive and internal to DoD. The members of the JCSGs are entrusted to have access to BRAC 2005 data and information and are, therefore, required to use every precaution to prevent the improper release of and/or access to BRAC 2005 data and information. As the Chair of the Intelligence JCSG, you will ensure all assigned and substitute members of your group read and sign the attached Nondisclosure Agreement, and comply with prescribed policy direction from the ISG. You are also responsible for ensuring that the JCSG complies with the direction contained in the attached Policy Memorandum One.

In addition to providing the report on your functions, I also request that you provide me within 30 days transformational options for stationing and supporting forces and functions that you judge will rationalize our infrastructure consistent with defense strategy and contribute to increased efficiency and effectiveness. I also request that you nominate the names of organizations from which you think DoD should consider soliciting transformational options. Each of the JCSGs and the DoD Components (including each of the Defense Agencies) have been requested to provide their transformational ideas. Copies of these requests are attached. Please use the memorandum addressed to the JCSGs as a guide for your response.

The OSD and Military Department BRAC Directors will serve as advisors to your JCSG to help ensure that your activities are consistent with established BRAC processes and direction. Because the other six JCSGs were established earlier this year and are well along in the initial stages of the process, my BRAC office is prepared to support your efforts to get underway immediately. Please contact Pete Potochney, 703-614-5356, to coordinate the involvement of the OSD and Military Department BRAC Directors.

Michael W. Wynne
Acting USD (Acquisition, Technology & Logistics)
Chairman, Infrastructure Steering Group

Attachments:

1. JCSG Member nominations
2. Non Disclosure Agreement
3. Policy Memorandum One
4. Report template
5. Memoranda entitled "Transformational Options for BRAC 2005"

cc: Infrastructure Steering Group
Intelligence JCSG Members

DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, D.C. 20350-2000

IN REPLY REFER TO

17 July 2003

Mike

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE (ACQUISITION TECHNOLOGY AND LOGISTICS)

Subj: NAVY MEMBER FOR THE INTELLIGENCE JOINT CROSS SERVICE WORKING GROUP

Ref: (a) Infrastructure Steering Group Mtg of 27 Jun

1. Per reference (a), we nominate Mr. Fred Frederickson to be our rep on this group.

WJF

WILLIAM J. FALLON
Admiral, U.S. Navy
Vice Chief of Naval Operations

Copy to:
Acting SECNAV
Ms. Ann Davis
OPNAV, N2

Nondisclosure Agreement

My duties include work assignments and responsibilities in which I may acquire personal knowledge of or access to information concerning the development of recommendations relating to potential closure or realignment of military installations in the Base Realignment and Closure (BRAC) 2005 process. I understand and agree that it is my duty and obligation to comply with the provisions of this agreement respecting such information, and that my violation of this agreement may result in disciplinary action.

1. I understand that the development of any BRAC 2005 information, written or oral, pursuant to the Defense Base Closure and Realignment Act of 1990, as amended, is an official, sensitive, and deliberative process. "Written" information includes all electronic and hard copy forms of communication. I further understand that the development of such information is not limited to final documents or products, but also includes all draft and feeder documents, briefings and notes, as well as any other related oral or written communication.

2. The public and all levels of federal, state, and local government have a right to expect and trust that the BRAC 2005 process will be conducted objectively and impartially. Any unauthorized disclosure of BRAC information undermines that expectation and trust and is therefore prohibited. Unauthorized disclosures may also constitute a violation of law and DoD or Military Department directives, regulations, instructions, policies, or guidance. I promise not to disclose any BRAC information, except as specifically authorized.

3. I further understand that any document or any other written communication, whether draft or final, is the official property and record of the Department of Defense and shall be retained, disseminated, released, and destroyed in accordance with requirements of law and applicable DoD or Military Department directives, regulations, instructions, policies or guidance.

4. I understand that the provision of this agreement bind me personally until the Secretary of Defense transmits BRAC recommendations to the Commission and Congress even if I am reassigned to other duties or stations, retire, or otherwise cease employment or any contract, agency, or other relationship or association with the Department of Defense.

_____ _____

Signature Date

Name Printed: _____

Office: _____

Telephone: _____

BRAC Group:

THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

APR 16 2003

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTORS OF THE DEFENSE AGENCIES

SUBJECT: Transformation Through Base Realignment and Closure (BRAC 2005) Policy Memorandum One - - Policy, Responsibilities, and Procedures

Background

The Secretary of Defense memorandum of November 15, 2002, established the authorities, organizational structure, goals, and objectives for the Department's implementation of the Defense Base Closure and Realignment Act of 1990 (Sections 2901-2914 of Public Law 101-510, as amended (Appendix A))(BRAC). With few exceptions, BRAC establishes the exclusive procedures under which the Secretary of Defense may pursue realignment or closure of military installations inside the United States until April 15, 2006.

Purpose

This memorandum is the first in a series of Under Secretary of Defense for Acquisition, Technology and Logistics (USD(AT&L)) policy memoranda implementing the Secretary's memorandum. Except as noted below, this guidance supersedes all other Office of the Secretary of Defense Guidance for prior rounds of

base realignments and closures. The guidance herein establishes a foundation of policy, responsibilities, and procedures for developing the Secretary's realignment and closure recommendations for submission to the 2005 Defense Base Closure and Realignment Commission (2005 Commission). USD(AT&L) will periodically publish additional policy memoranda throughout the BRAC process, as necessary.

Policy Guidance

This guidance applies to the Military Departments and Defense Agencies (DoD Components) and Joint Cross-Service Groups (JCSGs) in developing the Secretary's base realignment and closure recommendations for submission to the 2005 Commission for its review.

Thresholds for BRAC Actions

As provided in section 2909 of BRAC, the BRAC process is the exclusive means for selecting for closure or realignment, or for carrying out any closure or realignment of, a military installation inside the United States until April 15, 2006. Only those closures and realignments to which Section 2687 of title 10 does not apply may proceed outside the BRAC process, and then only after approval on the basis of guidance issued by the USD(AT&L). If, based on information existing on December 28, 2001, Section 2687 would apply to a proposed closure or realignment, BRAC will be the exclusive means for selecting for closure or realignment, or for carrying out that closure or realignment. However, even if Section 2687 does not apply to a proposed closure or realignment, Components may elect to evaluate that closure or realignment within the BRAC process.

Section 2687 applies to the closure of any military installation at which 300 or more DoD direct hire permanent civilians are authorized to be employed. Section 2687 defines a military installation as "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, which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, or Guam. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects."

Section 2687 also applies to the realignment of any military installation at which 300 or more DoD direct hire permanent civilians are authorized to be employed if that realignment will result in the reduction by more than 1000, or by more than 50 percent, in the number of DoD direct hire permanent civilians authorized to be employed at that installation. A realignment is "any action that 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, skill imbalances, or other similar causes."

Section 2687 does not apply to the closure or realignment of a military installation if the President certifies to the Congress that such closure or realignment must be implemented for reasons of national security or military emergency.

Basis for Recommendations

Base realignment, closure, or consolidation studies that could result in a recommendation to the 2005 Commission of a base realignment or closure must:

- Be based on the Force Structure Plan and Infrastructure Inventory required by Section 2912 of BRAC and the final Selection Criteria required by Section 2913 of that Act;

- Use data that is certified accurate and complete in accordance with Section 2903(c)(5) of BRAC to analyze the base structure by like functional categories;

- Not take into account for any purpose any advance conversion planning undertaken by an affected community with respect to an anticipated closure or realignment;

- Consider any notice received from a local government in the vicinity of a military installation that the government would approve of the closure or realignment of the installation in accordance with Section 2914(b) of BRAC; and

- Consider all military installations inside the United States equally without regard to whether it has been previously considered or proposed for closure or realignment by the Department.

Responsibilities

Report to Congress Certifying the Need for BRAC 2005

Section 2912 of BRAC requires the Secretary to submit a report to Congress with the FY 2005 budget. This report will include a 20-year force structure plan, a comprehensive infrastructure inventory, and the Secretary's certification of the need for further realignments and closures. The USD(AT&L) will issue specific taskings

to the Joint Staff and DoD Components for information required to meet this reporting mandate. Absent such reports and certification, the BRAC process is terminated.

Interim and Final Selection Criteria

The BRAC 2005 Infrastructure Steering Group (ISG) will issue interim selection criteria consistent with Section 2913(b)-(d) of BRAC. Pending approval of final selection criteria for BRAC 2005, all DoD Components and JCSGs shall use these interim selection criteria in their analyses. Should changes in these interim selection criteria develop during the review and approval process, the interim selection criteria shall be amended by the ISG. Approved changes to the selection criteria must be incorporated in all prior analyses. Prior to December 13, 2003, the ISG, through the Infrastructure Executive Council (IEC), will recommend to the Secretary of Defense whether any changes to the interim selection criteria are appropriate. No later than December 31, 2003, the Secretary must publish in the Federal Register the proposed criteria to be used by the Secretary in making recommendations for the realignment and closure of military installations inside the United States and to announce a 30-day public comment period. At the same time, the Secretary must transmit these proposed criteria to the congressional defense committees.

At the end of the public comment period, the ISG will review all public comments received and incorporate appropriate suggestions. The ISG, through the IEC, will recommend final criteria to the Secretary of Defense. No later than February 16, 2004, the Secretary must publish in the Federal Register and transmit to the congressional defense committees the final criteria to be used by the Secretary in making recommendations for the realignment and closure of military installations in 2005.

Force Structure Plan

The Department's long-term force structure plan is a critical foundation of BRAC 2005. The Chairman of the Joint Chiefs of Staff shall develop the force structure plan in accordance with Section 2912(a)(1)(A) of BRAC and submit the plan to the Secretary of Defense. This plan will be coordinated with the Military Departments and relevant agencies and offices to include: the Under Secretary of Defense for Policy; the Under Secretary of Defense for Acquisition, Technology and Logistics; the Under Secretary of Defense (Comptroller); the Under Secretary of Defense (Personnel and Readiness); the General Counsel; and the Director, Program Analysis and Evaluation. Pending issuance of the final force structure plan by the Secretary of Defense, DoD Components shall use an interim force structure plan to be developed and issued in accordance with the above coordination procedures by

the Chairman of the Joint Chiefs of Staff. The interim force structure plan shall be issued no later than October 1, 2003. The final force structure plan shall be issued as soon as possible after final force decisions are made during preparation of the FY 2005 budget, but no later than February 2, 2004. Additional revisions to the final force structure plan may be made prior to submission of the FY 2006 budget. If revisions are made, DoD Components and JCSGs will ensure that all BRAC 2005 recommendations are based on the revised force structure plan.

Commissioner Nominations

BRAC requires that the President nominate commissioners no later than March 15, 2005, or the BRAC 2005 process will be terminated. The Special Assistant to the Secretary of Defense and Deputy Secretary of Defense will coordinate all matters relating to the Secretary's recommendations to the President regarding appointments to the 2005 Commission. All inquiries from individuals interested in serving on the Commission should be referred to the Special Assistant.

Commission Support

The USD (AT&L), assisted by the Director of Administration and Management and supported by the Military Departments, will provide the Department's support to the 2005 Commission required by Section 2902 of BRAC.

Primary Point of Contact

The USD (AT&L) shall be the primary point of contact for the Department of Defense with the 2005 Commission and the General Accounting Office (GAO). Each DoD Component shall designate to USD (AT&L) one or more points of contact with the 2005 Commission and the GAO. The USD (AT&L) will establish procedures for interaction with the 2005 Commission and GAO.

Procedures

BRAC 2005 Analytical Tools

Execution of the BRAC 2005 process will be facilitated by use of lead Services for selected areas. The first such assignments follow:

Optimization Methodology
During the BRAC 1995 process, a general optimization methodology was developed for use by the JCSGs. Each JCSG applied the methodology to develop an optimization model specific to the characteristics of the facilities under its purview. Each JCSG then used its model to generate alternatives

for consideration. The Department of the Navy will lead a tri-Departmental effort to review and update this methodology for use by the JCSGs during BRAC 2005. The review and update will ensure that the methodology not only addresses functional commonality to enhance cross-service analyses, but also reflects the policies and procedures developed for BRAC 2005.

Installation Visualization Tool (IVT)
The IVT is a planned capability to enhance the Department's overall ability to manage its infrastructure. This same capability can and should be used as a tool during the BRAC 2005 process. The ISG will develop requirements and priorities for developing the IVT through an integrated product team (IPT) established by USD (AT&L). The purpose of this application of IVT is to assist the JCSGs, the IEC and ISG, and DoD Components in their BRAC 2005 analyses. The Department of the Air Force will be the lead Service for this effort.

Cost of Base Realignment Actions (COBRA)
The COBRA model used in previous BRAC rounds will be upgraded and loaded with revised standard cost assumptions. DoD Components and the JCSGs must use the COBRA model to calculate the costs, savings, and return on investment of proposed realignment and closure actions. The Department of the Army will be the lead Service for this effort.

Record Keeping

DoD Components and JCSGs participating in the BRAC 2005 analysis process shall, from the date of receipt of this memorandum, develop and keep:

- Descriptions of how base realignment and closure policies, analyses and recommendations were made, including minutes of all deliberative meetings;

- All policy, data, information, and analyses considered in making base realignment and closure recommendations;

- Descriptions of how recommendations met the final selection criteria and were based on the final force structure plan and infrastructure inventory; and

- Documentation for each recommendation to the Secretary of Defense to realign or close a military installation under the law.

Internal Control Plan (ICP)

DoD Components empowered to participate in the BRAC 2005 analysis process must develop and implement an internal control plan for base realignment, closure or consolidation studies to ensure the accuracy of data collection and analyses. Appendix B is the Department's ICP that will be the ICP for all JCSGs and will guide and regulate the DoD Component ICPs.

Data Certification

Section 2903(c)(5) of BRAC requires specified DoD personnel to certify to the best of their knowledge and belief that information provided to the Secretary of Defense or the 2005 Commission concerning the realignment or closure of a military installation is accurate and complete.

DoD Components and JCSGs shall establish procedures and designate appropriate personnel to certify that data and information collected for use in BRAC 2005 analyses are accurate and complete to the best of that person's knowledge and belief. DoD Components' and JCSGs' certification procedures should be incorporated within the required internal control plan and must be consistent with DoD certification procedures. Both are subject to audit by the General Accounting Office.

Inspector General of the Department of Defense

The Inspector General of the Department of Defense (IG DoD) shall be available to assist the DoD Components and JCSGs by providing advice on the development and implementation of the internal control plans, as well as reviewing and making recommendations related to the internal control plans. In addition, the IG DoD will assist by reviewing the accuracy of BRAC data and the certification process. The DoD Components and JCSGs are encouraged to make use of these IG DoD services as well as consultation with their audit agencies.

Criteria Measures/Factors

DoD Components and JCSGs must develop one or more measures/factors for applying each of the final selection criteria to base structure analyses. Measures/factors may vary for different categories of bases. DoD Components and JCSGs must document the measures/factors used for each of the final selection criteria.

Reserve Component Impacts

Considerable overall DoD savings can be realized through the joint use of Active and Reserve Component facilities, irrespective of Service affiliations. DoD Components and JCSGs shall evaluate opportunities to consolidate or relocate Active and Reserve Components onto any base that is retained in the base structure, and on any enclave of realigning and closing bases where such relocations make operational and economic sense to the Department.

In developing BRAC 2005 recommendations affecting Reserve component activities, DoD Components and JCSGs must complete Reserve component recruiting demographic studies required by DoD Directive 1225.7 to ensure that the impact on the Reserve components of specific realignments and closures are considered.

Release of Information/Guidance

Data and analyses used by the DoD Components and the JCSGs to evaluate military installations for realignment and closures will not be released until the Secretary has forwarded his recommendations to the 2005 Commission no later than May 16, 2005, unless specifically required by law.

The General Accounting Office (GAO), however, has a special role in assisting the Commission in its review and analysis of the Secretary's recommendations. Once the Secretary has submitted the Department's BRAC recommendations, the GAO must prepare a report detailing the Department of Defense's selection process. For these reasons, the GAO will be provided free and open access to the BRAC 2005 process except for deliberative sessions. Approved minutes of these deliberative sessions will be provided, upon request, to the GAO. DoD Components and JCSGs must keep records of all data/access provided to the GAO.

All participants in the BRAC 2005 process must sign a non-disclosure agreement before they are allowed access to the BRAC 2005 process. A copy of the DoD standard BRAC 2005 non-disclosure agreement is at Appendix C. The DoD Components may include additional information in their non-disclosure agreements, but the information included in the standard agreement must be included as a minimum.

Community Preference

Section 2914(b)(2) of BRAC requires the Secretary of Defense to consider any notice received from a local government in the vicinity of a military installation that the government would approve of the closure or realignment of the installation.

DoD Components and JCSGs shall document any written correspondence or meetings with local government officials regarding such requests. In making any recommendations to the Secretary that do not support such community requests, the DoD Components and JCSGs shall explain the reasons for such a recommendation. This documentation will be provided to the Commission and congressional defense committees along with the Secretary's recommendations for base realignments and closures.

Timelines

The timelines, described in this memorandum, as well as key BRAC 2005 dates are depicted at Appendix D.

DoD Components shall disseminate this guidance and subsequent policy memoranda as widely as possible throughout their organizations.

E.C. Aldridge, Jr.
USD (Acquisition, Technology & Logistics)
Chairman, Infrastructure Steering Group

Attachments (4)
Appendix A BRAC 90 as amended
Appendix B OSD Internal Control Plan
Appendix C BRAC 2005 Non-Disclosure Agreement
Appendix D BRAC 2005 Timeline

DEFENSE BASE CLOSURE AND REALIGNMENT ACT OF 1990
(As amended through FY 03 Authorization Act)

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 advise 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 Armed Services 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 15, 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 persons 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) carry out the privatization in place of a military installation recommended for closure or realignment by the Commission in the 2005 report only if privatization in place is a method of closure or realignment of the military installation specified in the recommendations of the Commission in such report and is determined by the Commission to be the most cost-effective method of implementation of the recommendation;

(4) 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

(5) 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 subchapter II of chapter 5 of title 40, United States Code;

(B) the authority of the Administrator to dispose of surplus property under subchapter III of chapter 5 of title 40, United States Code;

(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 or realignment 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 or realignment of the installation; or

(IV) ninety days before the date of the closure or realignment of the installation.

(ii) The activities referred to in clause (i) are activities relating to the closure or

realignment of an installation to be closed or realigned 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 or realigned 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 or realigned 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 or realigned under this part to the redevelopment authority with respect to the installation for purposes of job generation on the installation.

(B) With respect to military installations for which the date of approval of closure or realignment is after January 1, 2005, the Secretary shall seek to obtain consideration in connection with any transfer under this paragraph of property located at the installation in an amount equal to the fair market value of the property, as determined by the Secretary. The transfer of property of a military installation under subparagraph (A) may be without consideration if the redevelopment authority with respect to the installation—

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

(ii) 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 (42 U.S.C. 4321 et seq.).

(C) For purposes of subparagraph (B), the use of proceeds from a sale or lease described in such subparagraph 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:

(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.

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

(D) The Secretary may recoup from a redevelopment authority such portion of the proceeds from a sale or lease described in subparagraph (B) as the Secretary determines appropriate if the redevelopment authority does not use the proceeds to support economic redevelopment of, or related to, the installation for the period specified in subparagraph (B).

(E)(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.

(v) Notwithstanding clause (iii), if a lease under clause (i) involves a substantial portion of the installation, the department or agency concerned may obtain facility services for the leased property and common area maintenance from the redevelopment authority or the redevelopment authority's assignee as a provision of the lease. The facility 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. Facility services and common area maintenance covered by the lease

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; or

(II) firefighting or security-guard functions.

(F) The transfer of personal property under subparagraph (A) shall not be subject to the provisions of subchapters II and III of chapter 5 of title 40, United States Code, 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.

(G) 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.

(H)(i) In the case of an agreement for the transfer of property of a military installation under this paragraph that was entered into before April 21, 1999, the Secretary may modify the agreement, and in so doing compromise, waive, adjust, release, or reduce any right, title, claim, lien, or demand of the United States, if—

(I) the Secretary determines that as a result of changed economic circumstances, a modification of the agreement is necessary;

(II) the terms of the modification do not require the return of any payments that have been made to the Secretary;

(III) the terms of the modification do not compromise, waive, adjust, release, or reduce an right, title, claim, lien, or demand of the United States with respect to in-kind consideration; and

(IV) the cash consideration to which the United States is entitled under the modified agreement, when combined with the cash consideration to be received by the United States for the disposal of other real property assets on the installation, are as sufficient as they were under the original agreement to fund the reserve account established under section 204(b)(7)(C) of the Defense Authorization Amendments and Base Closure and Realignment Act, with the depreciated value of the investment made with commissary store funds or nonappropriated funds in property disposed of pursuant to the agreement being modified, in accordance with section 2906(d).

(ii) When exercising the authority granted by clause (i), the Secretary may waive some or

all future payments if, and to the extent that, the Secretary determines such waiver is necessary.

(iii) With the exception of the requirement that the transfer be without consideration, the requirements of subparagraphs (B), (C), and (D) shall be applicable to any agreement modified pursuant to clause (i).

(I) In the case of an agreement for the transfer of property of a military installation under this paragraph that was entered into during the period beginning on April 21, 1999, and ending on the date of enactment of the National Defense Authorization Act for Fiscal Year 2000, at the request of the redevelopment authority concerned, the Secretary shall modify the agreement to conform to all the requirements of subparagraphs (B), (C), and (D). Such a modification may include the compromise, waiver, adjustment, release, or reduction of any right, title, claim, lien, or demand of the Untied States under the agreement.

(J) 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 subparagraphs (B) and (C), 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 or realigned 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 or realignment 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 or realignment of the installation.

(C)(i) Before acquiring non-Federal real property as the location for a new or replacement Federal facility of any type, the head of the Federal agency acquiring the property shall consult with the Secretary regarding the feasibility and cost advantages of using Federal property or facilities at a military installation closed or realigned or to be closed or realigned under this part as the location for the new or replacement facility. In considering the availability and suitability of a specific military installation, the Secretary and the head of the Federal agency involved shall obtain the concurrence of the redevelopment authority with respect to the installation and comply with the redevelopment plan for the installation.

(ii) Not later than 30 days after acquiring non-Federal real property as the location for a new or replacement Federal facility, the head of the Federal agency acquiring the property shall submit to Congress a report containing the results of the consultation under clause (i) and the reasons why military installations referred to in such clause that are located within the area to be served by the new or replacement Federal facility or within a 200-mile radius of the new or replacement facility, whichever area is greater, were considered to be unsuitable or unavailable for the site of the new or replacement facility.

(iii) This subparagraph shall apply during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998 and ending on July 31, 2001.

(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 or realignment 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 the date of publication of such determination in a newspaper of general circulation in the communities in the vicinity of the installation under subparagraph (B)(i)(IV); 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. 4321 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 550 of title 40, United States Code, 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. 4321 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 (I) of buildings and property for public benefit under section 550 of title 40, United States Code, 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 or realignment 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 550 of title 40, United States Code, 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, or at facilities not yet transferred or otherwise disposed of in the case of installations 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, or realigned or to be realigned, 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. The real property and facilities referred to in subparagraph (A) are also the real property and facilities located at an installation approved for closure or realignment under this part after 2001 that are available for purposes other than to assist the homeless.

(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 otherwise to be paid by the Secretary with respect to

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) In the case of property or facilities covered by a certification under paragraph (2)(A), the Secretary may pay the recipient of such property or facilities an amount equal to the lesser of—

(A) the amount by which the costs incurred by the recipient of such property or facilities for all environmental restoration, waste, management, and environmental compliance activities with respect to such property or facilities exceed the fair market value of such property or facilities as specified in such certification; or

(B) the amount by which the costs (as determined by the Secretary) that would otherwise have been incurred by the Secretary for such restoration, management, and activities with respect to such property or facilities exceed the fair market value of such property or facilities as so specified

(4) 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.

(5) 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.).

(6) 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, except in the case of releases or threatened releases not disclosed pursuant to paragraph (4).

(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.

(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 2883(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.

(g) ACQUISITION OF MANUFACTURED HOUSING.--(1) In closing or realigning any military installation under this part, the Secretary may purchase any or all right, title, and interest of a member of the Armed Forces and any spouse of the member in manufactured housing located at a manufactured housing park established at an installation closed or realigned under this part, or make a payment to the member to relocate the manufactured housing to a suitable new site, if the Secretary determines that--

(A) it is in the best interests of the Federal Government to eliminate or relocate the manufactured housing park; and

(B) the elimination or relocation of the manufactured housing park would result in an unreasonable financial hardship to the owners of the manufactured housing.

(2) Any payment made under this subsection shall not exceed 90 percent of the purchase price of the manufactured housing, as paid by the member or any spouse of the member, plus the cost of any permanent improvements subsequently made to the manufactured housing by the member or spouse of the member.

(3) The Secretary shall dispose of manufactured housing acquired under this subsection through resale, donation, trade or otherwise within one year of acquisition.

SEC. 2906. DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 1990

(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 the date of approval of closure or realignment of which is before January 1, 2005; 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).

(3) The Account shall be closed at the time and in the manner provided for appropriation accounts under section 1555 of title 31, United States Code. Unobligated funds which remain in the Account upon closure shall be held by the Secretary of the Treasury until transferred by law after the congressional defense committees receive the final report transmitted under subsection (c)(2).

(b) USE OF FUNDS.--(1) The Secretary may use the funds in the Account only for the purposes described in section 2905 with respect to military installations the date of approval of closure or realignment of which is before January 1, 2005, 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). After July 13, 2001, the Account shall be the sole source of Federal funds for environmental restoration, property management, and other caretaker costs associated with any real property at military installations closed or realigned under this part or such title II.

(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) No later than 60 days after the termination of the authority of the Secretary to carry out a closure or realignment under this part with respect to military installations the date of approval of closure or realignment of which is before January 1, 2005, and no later than 60 days after the closure of the Account under subsection (a)(3), 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 with respect to such installations; 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 the date of approval of closure or realignment of which is before January 1, 2005, 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 as provided in section 2906A(e) with respect to funds in the Department of Defense Base Closure Account 2005 under section 2906A and 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 closure of the Account under subsection (a)(3).

SEC. 2906A. DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005.

(a) IN GENERAL.—(1) If the Secretary makes the certifications required under section 2912(b), there shall be established on the books of the Treasury an account to be known as the "Department of Defense Base Closure Account 2005" (in this section referred to as the "Account"). The Account 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; and

(C) except as provided in subsection (d), proceeds received from the lease, transfer, or disposal of any property at a military installation that is closed or realigned under this part pursuant to a closure or realignment the date of approval of which is after January 1, 2005.

(3) The Account shall be closed at the time and in the manner provided for appropriation accounts under section 1555 of title 31, United States Code. Unobligated funds which remain in the Account upon closure shall be held by the Secretary of the Treasury until transferred by law after the congressional defense committees receive the final report transmitted under subsection (c)(2),

(b) USE OF FUNDS.—(1) The Secretary may use the funds in the Account only for the purposes described in section 2905 with respect to military installations the date of approval of closure or realignment of which is after January 1, 2005.

(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 using amounts in the Account, 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 finds 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) No later than 60 days after the termination of the authority of the Secretary to carry out a closure or realignment under this part with respect to military installations the date of approval of closure or realignment of which is after January 1, 2005, and no later than 60 days after the closure of the Account under subsection (a)(3), 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 with respect to such installations; 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 the date of approval of closure or realignment of which is after January 1, 2005, 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.

(3) The Secretary may use amounts in the reserve account, without further appropriation, for the purpose of acquiring, constructing, and improving—

(A) commissary stores; and

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

(4) In this subsection, the terms commissary store funds", "nonappropriated funds", and "nonappropriated fund instrumentality" shall have the meaning given those terms in section 2906(d)(4).

(e) ACCOUNT EXCLUSIVE SOURCE OF FUNDS FOR ENVIRONMENTAL RESTORATION PROJECTS.—Except as provided in section 2906(e) with respect to funds in the Department of Defense Base Closure Account 1990 under section 2906 and except for funds deposited into the Account under subsection (a), funds appropriated to the Department of Defense may not he used for purposes described in section 2905(a)(1)(C). The prohibition in this subsection shall expire

upon the closure of the Account under subsection (a)(3).

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 November 5, 1990, and ending on April 15, 2006, 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 Armed Services 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 or realigned 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 or realigned 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 or realignment 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,".

SEC. 2912. 2005 ROUND OF REALIGNMENTS AND CLOSURES OF MILITARY INSTALLATIONS.

(a) FORCE-STRUCTURE PLAN AND INFRASTRUCTURE INVENTORY.—

(1) PREPARATION AND SUBMISSION.—As part of the budget justification documents submitted to Congress in support of the budget for the Department of Defense for fiscal year 2005, the Secretary shall include the following:

(A) 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 20-year period beginning with fiscal year 2005, the probable end-strength levels and major military force units (including land force divisions, carrier and other major combatant vessels, air wings, and other comparable units) needed to meet these threats, and the anticipated levels of funding that will be available for national defense purposes during such period.

(B) A comprehensive inventory of military installations world-wide for each military department, with specifications of the number and type of facilities in the active and reserve forces of each military department.

(2) RELATIONSHIP OF PLAN AND INVENTORY.— Using the force-structure plan and infrastructure inventory prepared under paragraph (1), the Secretary shall prepare (and include as part of the submission of such plan and inventory) the following:

(A) A description of the infrastructure necessary to support the force structure described in the force-structure plan.

(B) A discussion of categories of excess infrastructure and infrastructure capacity.

(C) An economic analysis of the effect of the closure or realignment of military installations to reduce excess infrastructure.

(3) SPECIAL CONSIDERATIONS.—In determining the level of necessary versus excess infrastructure under paragraph (2), the Secretary shall consider the following:

(A) The anticipated continuing need for and availability of military installations outside the United States, taking into account current restrictions on the use of military installations outside the United States and the potential for future prohibitions or restrictions on the use of such military installations.

(B) Any efficiencies that may be gained from joint tenancy by more than one branch of the Armed Forces at a military installation.

(4) REVISION.—The Secretary may revise the force-structure plan and infrastructure inventory; If the Secretary makes such a revision, the Secretary shall submit the revised plan or inventory to Congress as part of the budget justification documents submitted to Congress for fiscal year 2006.

(b) CERTIFICATION OF NEED FOR FURTHER CLOSURES AND REALIGNMENTS.—

(1) CERTIFICATION REQUIRED—On the basis of the force-structure plan and infrastructure inventory prepared under subsection (a) and the descriptions and economic analysis prepared under such subsection, the Secretary shall include as part of the submission of the plan and inventory—

(A) a certification regarding whether the need exists for the closure or realignment of additional military installations; and

(B) if such need exists, a certification that the additional round of closures and realignments would result in annual net savings for each of the military departments beginning not later than fiscal year 2011.

(2) EFFECT OF FAILURE TO CERTIFY.—If the Secretary does not include the certifications referred to in paragraph (1), the process by which military installations may be selected for closure or realignment under this part in 2005 shall be terminated.

(c) COMPTROLLER GENERAL EVALUATION.—

(1) EVALUATION REQUIRED.—If the certification is provided under subsection (b), the Comptroller General shall prepare an evaluation of the following:

(A) The force-structure plan and infrastructure inventory prepared under subsection (a) and the final selection criteria prepared under section 2913, including an evaluation of the accuracy and analytical sufficiency of such plan, inventory, and criteria.

(B) The need for the closure or realignment of additional military installations.

(2) SUBMISSION.—The Comptroller General shall submit the evaluation to Congress not later than 60 days after the date on which the force-structure plan and infrastructure inventory are submitted to Congress.

(d) AUTHORIZATION OF ADDITIONAL ROUND; COMMISSION.—

(1) APPOINTMENT OF COMMISSION.—Subject to the certifications required under subsection (b), the President may commence an additional round for the selection of military installations for closure and realignment under this part in 2005 by transmitting to the Senate, not later than March 15, 2005, nominations pursuant to section '2902(c) for the appointment of new members to the Defense Base Closure and Realignment Commission.

(2) EFFECT OF FAILURE TO NOMINATE.—If the President does not transmit to the Senate the nominations for the Commission by March 15, 2005, the process by which military installations may be selected for closure or realignment under this part in 2005 shall be terminated.

(3) MEMBERS.—Notwithstanding section 2902(c) (1), the Commission appointed under the authority of this subsection shall consist of nine members.

(4) TERMS; MEETINGS; TERMINATION.—Notwithstanding subsections (d), (e)(1), and (1) of section 2902, the Commission appointed under the authority of this subsection shall meet during calendar year 2005 and shall terminate on April 15, 2006.

(5) FUNDING.—If no funds are appropriated to the Commission by the end of the second session of the 108th Congress for the activities of the Commission in 2005, the Secretary may transfer to the Commission for purposes of its activities under this part in that year such funds as the Commission may require to carry out such activities. The Secretary may transfer funds under the preceding sentence from any funds available to the Secretary. Funds so transferred shall remain available to the Commission for such purposes until expended.

SEC. 2913. SELECTION CRITERIA FOR 2005 ROUND.

(a) PREPARATION OF PROPOSED SELECTION CRITERIA.—

(1) IN GENERAL.—Not later than December 31, 2003, the Secretary shall publish in the Federal Register and transmit to the congressional defense committees the criteria proposed to be used by the Secretary in making recommendations for the closure or realignment of military installations inside the United States under this part in 2005.

(2) PUBLIC COMMENT.—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 this subsection.

(b) MILITARY VALUE AS PRIMARY CONSIDERATION.— The selection criteria prepared by the Secretary shall ensure that military value is the primary consideration in the making of recommendations for the closure or realignment of military installations under this part in 2005. Military value shall include at a minimum the following:

(1) Preservation of training areas suitable for maneuver by ground, naval, or air forces to guarantee future availability of such areas to ensure the readiness of the Armed Forces.

(2) Preservation of military installations in the United States as staging areas for the use of the Armed Forces in homeland defense missions.

(3) Preservation of military installations throughout a diversity of climate and terrain areas in the United States for training purposes.

(4) The impact on joint warfighting, training, and readiness.

(5) Contingency, mobilization, and future total force requirements at both existing and potential receiving locations to support operations and training.

(c) SPECIAL CONSIDERATIONS.—The selection criteria for military installations shall also address at a minimum the following:

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

(2) The economic impact on existing communities in the vicinity of military installations.

(3) The ability of both existing and potential receiving communities' infrastructure to support forces, missions, and personnel.

(4) The impact of costs related to potential environmental restoration, waste management, and environmental compliance activities.

(d) EFFECT ON DEPARTMENT AND OTHER AGENCY COSTS.—Any selection criteria proposed by the Secretary relating to the cost savings or return on investment from the proposed closure or realignment of military installations shall take into account the effect of the proposed closure or realignment on the costs of any other activity of the Department of Defense or any other Federal agency that may be required to assume responsibility for activities at the military installations.

(e) FINAL SELECTION CRITERIA.—Not later than February 16, 2004, the Secretary shall 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 in 2005. Such criteria shall be the final criteria to be used, along with the force-structure plan and infrastructure inventory referred to in section 2912, in making such recommendations unless disapproved by an Act of Congress enacted on or before March 15, 2004.

(f) RELATION TO CRITERIA FOR EARLIER ROUNDS.— Section 2903(b), and the selection criteria prepared under such section, shall not apply with respect to the process of making recommendations for the closure or realignment of military installations in 2005.

SEC. 2914. SPECIAL PROCEDURES FOR MAKING RECOMMENDATIONS FOR REALIGNMENTS AND CLOSURES FOR 2005 ROUND; COMMISSION CONSIDERATION OF RECOMMENDATIONS.

(a) RECOMMENDATIONS REGARDING CLOSURE OR REALIGNMENT OF MILITARY INSTALLATIONS.—If the Secretary makes the certifications required under section 2912(b), the Secretary shall publish in the Federal Register and transmit to the congressional defense committees and the Commission, not later than May 16, 2005, 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 infrastructure inventory prepared by the Secretary under section 2912 and the final selection criteria prepared by the Secretary under section 2913.

(b) PREPARATION OF RECOMMENDATIONS.—

(1) IN GENERAL.—The Secretary shall comply with paragraphs (2) through (6) of section 2903(c) in preparing and transmitting the recommendations under this section. However, paragraph (6) of section 2903(e) relating to submission of information to Congress shall be deemed to require such submission within 48 hours.

(2) CONSIDERATION OF LOCAL GOVERNMENT VIEWS.—(A) In making recommendations to the Commission in 2005, the Secretary shall consider any notice received from a local government in the vicinity of a military installation that the government would approve of the closure or realignment of the installation,

(B) Notwithstanding the requirement in subparagraph (A), the Secretary shall make the recommendations referred to in that subparagraph based on the force-structure plan, infrastructure inventory, and final selection criteria otherwise applicable to such recommendations.

(C) The recommendations shall include a statement of the result of the consideration of any notice described in subparagraph (A) that is received with respect to a military installation covered by such recommendations. The statement shall set forth the reasons for the result.

(c) RECOMMENDATIONS TO RETAIN BASES IN INACTIVE STATUS.—In making recommendations for the closure or realignment of military installations, the Secretary may recommend that an installation be placed in an inactive status if the Secretary determines that—

(1) the installation may be needed in the future for national security purposes; or

(2) retention of the installation is otherwise in the interest of the United States.

(d) COMMISSION REVIEW AND RECOMMENDATIONS.—

(1) IN GENERAL.—Except as provided in this subsection, section 2 903(d) shall apply to the consideration by the Commission of the recommendations transmitted by the Secretary in 2005. The Commission's report containing its findings and conclusions,

based on a review and analysis of the Secretary's recommendations, shall be transmitted to the President not later than September 8, 2005.

(2) AVAILABILITY OF RECOMMENDATIONS TO CONGRESS.—After September 8, 2005, the Commission shall promptly provide, upon request, to any Member of Congress information used by the Commission in making its recommendations.

(3) LIMITATIONS ON AUTHORITY TO ADD TO CLOSURE OR REALIGNMENT LISTS.—The Commission may not consider making a change in the recommendations of the Secretary that would add a military installation to the Secretary's list of installations recommended for closure or realignment unless, in addition to the requirements of section 2903(d)(2)(C)—

(A) the Commission provides the Secretary with at least a 15-day period, before making the change, in which to submit an explanation of the reasons why the installation was not included on the closure or realignment list by the Secretary; and

(B) the decision to add the installation for Commission consideration is supported by at least seven members of the Commission.

(4) TESTIMONY BY SECRETARY.—The Commission shall invite the Secretary to testify at a public hearing, or a closed hearing if classified information is involved, on any proposed change by the Commission to the Secretary's recommendations.

(5) SITE VISIT.—In the report required under section 2903(d)(2)(A) that is to be transmitted under paragraph (1), the Commission may not recommend the closure of a military installation not recommended for closure by the Secretary under subsection (a) unless at least two members of the Commission visit the installation before the date of the transmittal of the report.

(6) COMPTROLLER GENERAL REPORT.—The Comptroller General report required by section 2903(d)(5)(B) analyzing the recommendations of the Secretary and the selection process in 2005 shall be transmitted to the congressional defense committees not later than July 1, 2005.

(e) REVIEW BY THE PRESIDENT.—

(1) IN GENERAL.—Except as provided in this subsection, section 2903(e) shall apply to the review by the President of the recommendations of the Commission under this section, and the actions, if any, of the Commission in response to such review, in 2005. The President shall review the recommendations of the Secretary and the recommendations contained in the report of the Commission under subsection (d) and prepare a report, not later than September '23, 2005, containing the President's approval or disapproval of the Commission's recommendations.

(2) COMMISSION RECONSIDERATION.—If the Commission prepares a revised list of recommendations under section 2903(e)(3) in 2005 in response to the review of the President in that year under paragraph (1), the Commission shall transmit the revised list to the President not later than October 20, 2005.

(3) EFFECT OF FAILURE TO TRANSMIT.—If the President does not transmit to Congress an approval and certification described in paragraph (2) or (4) of section 2903(e) by November 7, 2005, the process by which military installations may be selected for closure or realignment under this part in 2005 shall he terminated.

(4) EFFECT OF TRANSMITTAL.—A report of the President under this subsection containing the President's approval of the Commission's recommendations is deemed to be a report under section 2903(e) for purposes of sections 2904 and 2908.

OFFICE OF THE SECRETARY OF DEFENSE INTERNAL CONTROL PLAN FOR THE 2005 BASE REALIGNMENT AND CLOSURE PROCESS

PURPOSE

This guidance establishes the policies and responsibilities that constitute the Office of the Secretary Defense (OSD) Base Realignment and Closure Internal Control Plan (ICP). It is to be used to implement the Defense Base Closure and Realignment Act of 1990 (P.L. 101-510 as amended) (BRAC) and the Secretary's November 15, 2002, "Transformation Through Base Realignment and Closure" memorandum and all subsequent policy memoranda outlining the DoD BRAC 2005 process. It is designed to delineate broad lines of authority and responsibilities of the OSD approach to BRAC 2005, ensure that base realignment and closure analysis and recommendations are based on accurate and complete data, and ensure that the process is properly documented and auditable. Each Military Department and Defense Agency is responsible for developing specific Internal Control Plans to supplement this guidance. This guidance supersedes all other Office of the Secretary of Defense ICP guidance issued in previous BRAC rounds.

AUTHORITY

With few exceptions, BRAC establishes the exclusive procedures under which the Secretary of Defense may pursue realignment or closure of military installations within the United States. The law authorizes the establishment of an independent Commission to review the Secretary of Defense's recommendations for realigning and closing military installations. The Secretary's recommendations must be based on the force structure plan and final selection criteria required by Sections 2912 and 2913 of BRAC. When developing recommendations, the Secretary of Defense must consider all military installations on an equal basis without regard to prior consideration for realignment or closure. The Secretary of Defense has established and chartered the Infrastructure Executive Council (IEC) and the Infrastructure Steering Group (ISG) as the BRAC 2005 deliberative bodies responsible for leadership, direction, and guidance. These two groups will ensure that the policies, procedures, and responsibilities set forth in this ICP support and produce comprehensive analyses to form the basis for the Secretary's recommendations to the Commission.

General

The responsibilities assigned by this ICP are designed to provide an "unbroken chain" of accountability for each subelement of information used by DoD in the BRAC process. This systematic approach provides:

- Uniform guidance defining data requirements and sources
- Systems for verifying accuracy of data at all levels of command
- Procedures to check the accuracy of the analyses made from the data
- Protection of data to prevent premature dissemination

In addition to the requirements above, the ICP defines the certification requirements prescribed in Section 2903(c)(5) of BRAC. This plan also specifies the process and required documentation to be used in developing the BRAC 2005 recommendations. Finally, the Military Departments, Defense Agencies, and OSD will incorporate comprehensive auditor participation to ensure a thorough assessment of the data and process. Also, audits will assess specific applications of data calls and the accuracy of the data collection process.

The BRAC 2005 process is designed to provide a structured, systematic approach for developing base realignment and closure recommendations for submittal to the Commission in May 2005. Throughout the process, all military installations shall be considered equally, without regard to prior consideration for realignment or closure. The base realignment and closure recommendations resulting from this process will be based on the force structure plan, infrastructure inventory, and selection criteria. Although an interim force structure plan and selection criteria may be used initially, the final DoD BRAC 2005 recommendations shall be based on the force structure plan and infrastructure inventory developed and submitted to Congress in accordance with Section 2912 of BRAC, and the final published selection criteria.

INTERNAL CONTROL MECHANISMS

The objective of the internal control mechanisms is to ensure the accuracy, completeness, and integrity of the information upon which the Secretary of Defense recommendations for base realignments and closures will be based. The two principal control mechanisms are organization and documentation.

Organization Controls

Under the oversight and guidance of the Secretary, there are two groups within the DoD which have primary responsibilities for assisting the Secretary: the IEC, chaired by the Deputy Secretary of Defense and the ISG, chaired by the Under Secretary of Defense for Acquisition, Technology and Logistics (USD(AT&L)).

To ensure the integrity of the BRAC process, these two groups are separated by distinct functional boundaries and levels of authority. The Chair and membership of the IEC/ISG have already been determined and approved by the Secretary. The attachment to the

Secretary's November 15, 2002, memorandum depicts the organizational relationship between these oversight groups, the Joint Cross-Service Groups (JCSGs), and the Military Departments.

> **Infrastructure Executive Council:** The IEC is the policy making and oversight body for the entire BRAC process, chaired by the Deputy Secretary of Defense. The IEC is the approval authority for all base realignment and closure recommendations to the Secretary of Defense. The IEC is responsible for forwarding approved JCSG recommendations to the Military Departments and Defense Agencies. In addition, the IEC also provides guidance to the Military Departments, JCSGs, and Defense Agencies on complex issues referred directly to them.

> **Infrastructure Steering Group:** The ISG is the group responsible for overseeing the joint cross-service analyses of common business oriented functions and ensuring the integration of those processes with the Military Departments' and Defense Agencies' specific analyses of all other functions. Additionally, the ISG will provide progress reports to the IEC. This group will be chaired by the USD(AT&L). It should also be noted that the USD(AT&L) has been assigned the authority and responsibility for issuing the operating policies and detailed direction necessary to conduct the BRAC 2005 analyses by the Secretary of Defense.

The Inspector General of the Department of Defense (IG DoD) will advise the IEC and ISG on the implementation of this ICP. IG DoD auditors will review the activities of the IEC/ISG, and designated JCSGs to ensure such activities comply with the requirements of the ICP.

Documentation Controls for the IEC, ISG, and JCSGs

The following outlines document controls for the IEC, ISG, and JCSGs to ensure accuracy and auditablity of the information used in the BRAC 2005 analyses. The Military Departments and Defense Agencies will establish similar document controls for their BRAC processes.

The BRAC 2005 process will be recorded and clearly documented to ensure the integrity of the process performed by the IEC, ISG, JCSGs, Military Departments and Defense Agencies. Furthermore, controls will be implemented to ensure that the information used by the JCSGs in their analysis is certified for accuracy and completeness, and that the information is used consistently by OSD, the Military Departments, and the Defense Agencies throughout the BRAC 2005 process. To protect the integrity of the BRAC 2005 documentation prepared, handled, or processed by the JCSGs, the JCSGs will adhere to the following control elements:

> **Data Collection:** Information used for analyses and/or decision making will be obtained from the Military Departments and the Defense Agencies. The mechanism for requesting JCSG data from the Military Departments and the

Defense Agencies will be in the form of electronic and/or hard copy information requests issued to the Military Departments and Defense Agencies. The Military Departments and Defense Agencies will use their BRAC 2005 internal control mechanisms for collecting the requested information and ensuring such information is certified for accuracy and completeness before it is forwarded to the respective JCSG. Only certified information will be used to develop BRAC 2005 recommendations.

Certification: Section 2903(c)(5) of BRAC requires that all information used to develop and make realignment and closure recommendations submitted to the Secretary of Defense and/or the 2005 Defense Base Closure and Realignment Commission must be certified as accurate and complete to the best of the certifier's knowledge and belief. The preparation of responses to the information requests by the Military Departments and Defense Agencies will adhere to the BRAC 2005 certification procedures and the internal control plans implemented for those entities.

Any data file forwarded to the JCSGs by the Military Departments or Defense Agencies must be certified. Data and information gathered from authoritative or official sources external to DoD (such as the Bureau of Labor Statistics national employment data) need only be certified as to the source if the sources' accuracy can be determined by the audit community in accordance with U.S. General Accounting Office (GAO) guidance. Additional instructions regarding data certification will be issued in subsequent policy guidance.

Record Keeping: Minutes will be maintained of all deliberative meetings of the IEC, ISG, JCSGs, Military Departments, and Defense Agencies. Each group will record attendance, provide a synopsis of items discussed and include all decisions and recommendations. To assist in this effort, individuals with BRAC experience will be available to support each JCSG. The Chairs of each designated group will be responsible for overseeing and enforcing attendance at each meeting as well as approving substitutions on a case by case basis. The Chairs will also be responsible for ensuring that only certified data provided by the Military Departments and Defense Agencies is used in the deliberative process. The overall responsibility for safeguarding BRAC 2005 data and information rests with the Chairs of each group. However, this does not relieve each and every individual involved in the BRAC 2005 process from the responsibility to protect internal/deliberative information involved in the BRAC 2005 process. Records of non-deliberative meetings are not required.

Oral Briefings: On occasion, the IEC, ISG and JCSGs may receive formal and informal briefings from inside and outside the Federal Government. To ensure a record of all information provided to these groups is maintained, the content of all oral briefings must be captured in the minutes prepared for the meeting at which a particular briefing was presented. All briefing slides and electronic presentations will be attached to the minutes recorded for the meeting. While these briefings

may be useful in developing policies or suggesting methods for making measurements or evaluations, no data from such briefings may be accepted by the groups, unless such data is independently validated and certified in accordance with these procedures.

Outside Studies: During the BRAC 2005 process, studies and reports that originated outside the process may be brought to the attention of any designated BRAC group. While these studies may be useful in developing policies and/or suggesting methods for making measurements or evaluations, no data from such briefings may be accepted by the groups, unless such data is independently validated and certified in accordance with these procedures.

Technical Experts: Technical experts may be used to support the development and/or the refinement of the analytical efforts of the JCSGs. The Military Departments and Defense Agencies will identify such technical experts to the JCSGs and each individual will be briefed on the sensitivity of BRAC data. Each JCSG that utilizes technical experts will maintain a list of individuals authorized to access their data. When technical experts provide information, expertise, or data that a JCSG considers relevant and appropriate for analyses, the experts shall be requested to submit that information or data in writing with the required certification. Technical experts will be granted only limited access to BRAC 2005 data and information that will allow them to assist the JCSGs in the development and/or refinement of analytical efforts. The use of technical experts will be communicated, either orally or in writing, to the ISG.

Non-Disclosure Agreements: Each IEC, ISG and JCSG member will sign a BRAC 2005 non-disclosure agreement. Additionally, all other individuals working within the process or providing support to the process (including IG DoD, technical experts, contractors, etc.) will be required to sign non-disclosure agreements (The DoD standard agreement is at Appendix C to "Transformation Through Base Realignment and Closure (BRAC 2005) Policy Memorandum One -- Policy, Responsibilities, and Procedures" memorandum).

ACCESS TO BRAC 2005 INFORMATION

To protect the integrity of the BRAC 2005 process, all files, data, and materials relating to that process are deemed deliberative and internal to DoD. All requests for release of BRAC 2005 data and materials, including those under the Freedom of Information Act, received prior to the Secretary forwarding his realignment and closure recommendations to the Defense Base Closure and Realignment Commission shall be forwarded to the Military Department BRAC authority concerned, or the DUSD(I&E) with respect to JCSGs. All BRAC 2005 documents, including electronic media, will have the following statements either as a header or footer, as appropriate:

The members of the IEC, ISG, JCSGs, and the OSD BRAC office are entrusted to have access to BRAC 2005 data and information that originated from either the Military Departments or the Defense Agencies. Consistent with the organization controls set forth in this ICP, access will not be granted to any individual, to include technical experts or outside consultants, without the consent of the Chairs of the designated JCSGs that control the data. Such access carries a responsibility for ensuring that BRAC 2005 data and information is treated as sensitive and predecisional. The members of the IEC, ISG, and JCSGs are required to protect the BRAC 2005 process from either improper or unofficial disclosures. The Chair of each designated BRAC group will ensure all assigned and substitute members of his or her group are informed that no internal deliberations or data will be discussed or shared with anyone outside their group without specific Chair approval. The group members must also take precautions to prevent the acceptance of information that is not certified or may be forwarded to a JCSG through channels other than those identified in this document and BRAC 2005 policy guidance.

AUDIT ACCESS TO RECORDS

The Comptroller General is required to submit a report to Congress and the Commission containing a detailed analysis of the Secretary's recommendations and selection process shortly after the Secretary provides his BRAC recommendations to the Commission. To facilitate this review, the Department will allow the GAO auditors full and open access to all elements of the DoD process, except for deliberative meetings, and to all data supporting the Secretary's final recommendations as it is being developed and implemented. Copies of the deliberative meeting minutes will be made available to the GAO as they are signed by the Chair.

Full and open access to the BRAC 2005 process and data will be granted to the Inspector General of the Department of Defense. Furthermore, the audit agencies of the Military Departments and Defense Agencies participating in BRAC 2005 will review and validate data collected and analyzed by their Departments and Agencies. GAO, the DoD Inspector General, and the relevant audit agencies will coordinate their efforts to avoid duplication of effort.

DISSEMINATION

All members of the IEC, ISG, JCSGs, Military Departments, and Defense Agencies must use every precaution to prevent the improper release of and/or access to BRAC 2005 data

and information. Not only is access restricted to those individuals officially approved to take part in the BRAC 2005 process, care must also be taken to avoid inadvertent dissemination through telephone conversation, facsimile "FAX", or electronic "E-mail" transmission. Dissemination of information that is not discussed in this ICP will only be made with the expressed documented approval of the USD(AT&L).

The USD(AT&L) will disseminate this ICP to the applicable JCSGs, Military Departments, and Defense Agencies. The Military Departments and Defense Agencies will incorporate this guidance in their ICPs for use within their Departments or Agencies. The USD(AT&L) will be advised of any control violations or weaknesses that are identified through application of this ICP or of any modifications that may be needed.

COMMUNITY RELATIONS/INTERACTIONS

The BRAC 2005 round will motivate local communities to solicit information from the DoD on the process and data used to develop recommendations. Protecting the integrity of the DoD BRAC 2005 process requires OSD, Military Departments, and Defense Agencies to designate key individuals and processes that will address community and congressional inquiries.

CHANGES TO ICP

As the USD(AT&L) issues supplemental guidance that affects this ICP, Military Departments and Defense Agencies will incorporate this guidance into their respective ICPs.

Nondisclosure Agreement

My duties include work assignments and responsibilities in which I may acquire personal knowledge of or access to information concerning the development of recommendations relating to potential closure or realignment of military installations in the Base Realignment and Closure (BRAC) 2005 process. I understand and agree that it is my duty and obligation to comply with the provisions of this agreement respecting such information, and that my violation of this agreement may result in disciplinary action.

1. I understand that the development of any BRAC 2005 information, written or oral, pursuant to the Defense Base Closure and Realignment Act of 1990, as amended, is an official, sensitive, and deliberative process. "Written" information includes all electronic and hard copy forms of communication. I further understand that the development of such information is not limited to final documents or products, but also includes all draft and feeder documents, briefings and notes, as well as any other related oral or written communication.

2. The public and all levels of federal, state, and local government have a right to expect and trust that the BRAC 2005 process will be conducted objectively and impartially. Any unauthorized disclosure of BRAC information undermines that expectation and trust and is therefore prohibited. Unauthorized disclosures may also constitute a violation of law and DoD or Military Department directives, regulations, instructions, policies, or guidance. I promise not to disclose any BRAC information, except as specifically authorized.

3. I further understand that any document or any other written communication, whether draft or final, is the official property and record of the Department of Defense and shall be retained, disseminated, released, and destroyed in accordance with requirements of law and applicable DoD or Military Department directives, regulations, instructions, policies or guidance.

4. I understand that the provision of this agreement bind me personally until the Secretary of Defense transmits BRAC recommendations to the Commission and Congress even if I am reassigned to other duties or stations, retire, or otherwise cease employment or any contract, agency, or other relationship or association with the Department of Defense.

_____ _____

Signature Date

_____

Name Printed

FY 2002 National Defense Authorization Act
BRAC 2005 Timeline

Now thru
May 16, 05 — DoD Deliberative Process. DoD undertakes internal data gathering and analytic process necessary to formulate recommendations and meet the statutory reporting requirements outlined below.

Dec 31, 03 — Draft Selection Criteria. Not later than this date the Secretary of Defense "shall publish in the Federal Register and transmit to the congressional defense committees the criteria proposed to be used by the Secretary in making recommendations for the closure or realignment of military installations inside the United states." There is a 30 day public comment period.

Feb ~, 04 — Force Structure Plan & Infrastructure Inventory to Congress. As part of the FY 05 Budget justification documents submitted to Congress, the Secretary shall include the following:

- 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 20-year period beginning with fiscal year 2005, the probable end-strength levels and major military force units (including land force divisions, carrier and other major combatant vessels, air wings, and other comparable units) needed to meet these threats, and the anticipated levels of funding that will be available for national defense purposes during such period."
- A "comprehensive inventory of military installations world-wide for each military department, with specifications of the number and type of facilities in the active and reserve forces of each military department."
- A "description of infrastructure necessary to support the force structure described in the force structure plan."
- A "discussion of excess categories of excess infrastructure and infrastructure capacity."
- An "economic analysis of the effect of the closure or realignment of military installations to reduce excess infrastructure."
- A "certification regarding whether the need exists for the closure or realignment of additional military installations; and if such need exists, a certification that the additional round of closures and realignments would result in annual net savings for each of the military departments beginning not later than fiscal year 2011."

Feb 16, 04 — Final Selection Criteria. Not later than this date the Secretary of Defense shall "publish in the Federal Register and transmit to the congressional defense committees the final criteria to be used in making recommendations for the closure and realignment of military installations inside the United States."

Mar 15, 04 — Deadline for Congressional disapproval of Final Selection Criteria

Apr ~, 04 Comptroller General Evaluation. Not later than 60 days after the date on which the force-structure plan and infrastructure inventory are submitted to Congress, the Comptroller General shall prepare an evaluation of the force-structure plan, infrastructure inventory, selection criteria, and the need for the closure and realignment of additional military installations

Feb ~, 05 Revisions to Force-Structure Plan and Infrastructure Inventory. If the Secretary has made any revisions to the force-structure plan and infrastructure inventory, the Secretary shall submit those revisions to Congress as part of the FY 06 Budget justification documents

Mar 15, 05 Nomination of Commissioners. Not later than this date, the President must transmit to the Senate nominations for the appointment of new members to the Defense Base Closure and Realignment Commission.

May 16, 05 Secretary of Defense Recommendations. Not later than this date, the Secretary must publish in the Federal Register and transmit to the congressional defense committees and the Commission, a list of the military installations that the Secretary recommends for closure or realignment.

Jul 1, 05 Comptroller General Analysis. Not later than this date, the Comptroller General shall transmit to the congressional defense committees, a report containing a detailed analysis of the Secretary's recommendations and selection process.

Sep 8, 05 Commission's Recommendations. Not later than this date, the Commission must transmit to the President "a report containing its findings and conclusions based on a review and analysis of the Secretary's recommendations."

Sep 23, 05 President's Approval or Disapproval of Commission Recommendations. Not later than this date, the President shall transmit to the Commission and to the Congress, "a report containing the President's approval or disapproval of the Commission's recommendations."

If the President approves the recommendations, the recommendations are binding 45 "legislative" days after Presidential transmission or adjournment sine die, unless Congress enacts joint resolution of disapproval.

Oct 20, 05 Commission's Revised Recommendations. If the President disapproves the Commission's initial recommendations, the Commission must submit revised recommendations to the President not later than this date.

Nov 7, 05 President's Approval or Disapproval of Revised Recommendations. The President must approve the revised recommendations and transmit approval to Congress by this date or the process ends. The recommendations become binding 45 "legislative" days after Presidential transmission or adjournment sine die, unless Congress enacts joint resolution of disapproval.

Apr 15, 06 Commission terminates

THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

MAR 21 2003

MEMORANDUM FOR PRINCIPAL DEPUTY UNDER SECRETARY OF DEFENSE
(ACQUISITION, TECHNOLOGY AND LOGISTICS)
PRINCIPAL DEPUTY UNDER SECRETARY OF DEFENSE
(PERSONNEL & READINESS)
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
DIRECTOR, LOGISTICS (J-4), JOINT STAFF
SURGEON GENERAL OF THE AIR FORCE
DEPUTY UNDER SECRETARY OF THE ARMY

SUBJECT: Template for Joint Cross-Service Group (JCSG) Reporting

In my March 15, 2003, memorandum notifying you of your selection as a chair of one of the six JCSGs for the 2005 Base Realignment and Closure round, I described specific reporting requirements you should fulfill by March 31, 2003. I am attaching a template to assist you and your team as you prepare your written report to the Infrastructure Steering Group.

The OSD and Service BRAC Directors will serve as advisors to each JCSG to help ensure that your activities are consistent with established BRAC processes and direction. Please contact Pete Potochney, 614-5356, to coordinate the involvement of the OSD and Service BRAC Directors.

E.C. Aldridge, Jr.
USD (Acquisition, Technology & Logistics)
Chairman, Infrastructure Steering Group

Attachment:
As stated

March 31, 2003 JCSG Report Draft Template

I. Identify all functions that fall under JCSG's scope (include a brief but specific description of each function and subordinate functions, as appropriate)

II. Identify the functions and subordinate functions that the JCSG proposes to analyze (including a brief explanation of why you selected each function or subordinate function)

III. If you exclude a function or subordinate function from joint cross-service analysis, briefly explain why

IV. Organizational structure (proposed leadership for subordinate groups, if appropriate)

V. JCSG's analytical approach

   A. Overall approach to analysis

   B. Notional metrics (key indices used in functional oversight--gives ISG sense of how JCSG will frame the analysis)

THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

MAY 23 2003

MEMORANDUM FOR CHAIRMEN, BRAC 2005 JOINT CROSS-SERVICE GROUPS

SUBJECT: Transformational Options for BRAC 2005

The Secretary of Defense, in his November 15, 2002, memorandum initiating the BRAC process, asked for a broad series of options for stationing and supporting forces and functions to increase efficiency and effectiveness. As the Secretary indicated in that memorandum, the enduring value of our BRAC effort rests largely on our ability to conduct an analysis that reaches beyond a mere capacity reduction in the status-quo configuration to one that "reconfigure[s] our current infrastructure into one in which operational capacity maximizes *both* warfighting capability and efficiency."

To assist in this effort, we must pull together the very best suggestions to stimulate critical analysis by the Military Departments and the Joint Cross-Service Groups in support of the most comprehensive and transformational analysis possible. To that end, I request each Joint Cross-Service Group identify some key transformational options for stationing and supporting forces and functions that you judge will rationalize our infrastructure consistent with defense strategy and contribute to increased efficiency and effectiveness. Options will be reviewed by the Infrastructure Steering Group and Infrastructure Executive Council to determine their potential impact on military value before being forwarded to the Secretary for approval. These options will constitute minimum analytical frameworks upon which the Military Departments and Joint Cross-Service Groups will conduct their respective BRAC analyses.

Because of the sensitivity of BRAC and the deliberative nature of the analytical process, the BRAC analytical process is a closely held internal Department responsibility. Therefore, I ask you to shape your suggestions within the following constraints.

- Please provide a brief written description for each suggested option. Cross-referencing to earlier studies would be helpful.
- Please make your options overarching and notional. Do not identify any specific installations.
- Please provide your input within 30 days.
- Please treat your response to this request as an internal deliberative document.

In addition to obtaining your Joint Cross Service Group's input, the ISG believes that, in your functional role, you exchange ideas and views with a variety of private and public sector organizations. Therefore, the ISG would like each of you to nominate organizations from which DoD would consider soliciting additional ideas. By June 20, 2003, please provide the names and a brief description of any organizations that you believe could contribute to the development of the analytical frameworks for BRAC 2005. The ISG will consider your suggestion to solicit input from these organizations and send appropriate letters requesting their input. Please do not contact these organizations directly.

Thank you in advance for your thoughtful consideration of this request. I look forward to your contribution to shaping our BRAC 2005 effort. Should you have any question regarding this request, please contact Mr. Peter Potochney, the OSD Director for BRAC, at (703) 614-5356.

E.C. Aldridge, Jr.
USD (Acquisition, Technology & Logistics)
Chairman, Infrastructure Steering Group