

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
US ENVIRONMENTAL PROTECTION AGENCY
AND
THE US DEPARTMENT OF DEFENSE**

Subject: Support for Department of Defense (DoD) Cleanup Implementation for Base Realignment and Closure (BRAC) Installations Rounds I - IV

1. Purpose: The purpose of this Memorandum of Understanding (MOU) is to establish responsibilities and funding for the US Environmental Protection Agency's (EPA's) assistance and support in accelerating environmental restoration and cleanup decisions in support of reuse at selected Department of Defense (DoD) Base Realignment and Closure (BRAC) installations. Funds provided through this MOU shall not be used to support EPA enforcement actions at a BRAC installation. The EPA and DoD enter into this MOU pursuant to the Economy Act, Section 2905(a)(1)(E) of the Defense Base Closure and Realignment Act of 1990, which states that DoD may reimburse other Federal agencies for assistance in the base closure process, and 10 U.S.C. § 2667(f) which requires an MOU to establish procedures for DoD consultation with EPA on environmental suitability for leasing BRAC property pursuant to that subsection.

2. Scope: As the lead agency for environmental restoration at DoD installations, DoD requires EPA assistance to expedite a number of activities related to Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) response actions, including work to support community involvement, facilitate property transfer, implement remedies as soon as practicable, and maintain remedies that protect human health and the environment. The DoD Components (hereinafter Components) conduct environmental restoration to protect human health and the environment at BRAC installations in concert with efforts supporting economic revitalization of surrounding communities. The DoD will make funds available annually to EPA for the types of activities described above at selected 1988, 1991, 1993, and 1995 BRAC installations (BRAC Rounds I – IV). This MOU also satisfies the requirement in 10 U.S.C. § 2667(f) for DoD consultation with EPA on environmental suitability for leasing property made available by the 1988, 1991, 1993, and 1995 BRAC rounds. The scope of this MOU includes environmental restoration activities in support of reuse at BRAC installations under statutes, regulations, and other authorities including, but not limited to, the following:

- The Base Realignment and Closure Acts (1988 and 1990).
- The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986.
- The Resource Conservation and Recovery Act (RCRA).
- The Community Environmental Response Facilitation Act (CERFA).

3. EPA Responsibilities: In support of the DoD and its BRAC environmental restoration and reuse efforts, EPA will provide necessary resources, as appropriate, to accelerate environmental restoration activities, maintain remedies that protect human health and the environment, support

public participation, and facilitate property transfer at selected BRAC installations. The EPA will make resources readily available for actions such as, but not limited to, streamlining decision-making, performing concurrent document review, participating in face-to-face meetings with other BRAC Cleanup Team (BCT) members, and providing technical assistance to DoD by making the greatest use of environmental restoration tools and promoting innovative practices. Such actions will typically be conducted by the EPA Remedial Project Manager (RPM) assigned to the installation. The EPA RPM will be supported by EPA technical experts such as community relations coordinators, hydrologists, risk assessors, and toxicologists. The EPA RPM will represent EPA on the BCT and coordinate the EPA team that works across the installation to support the BRAC process, depending on the needs at the installation at a given time. Through close coordination and discussion throughout the BRAC process, EPA and DoD are looking for opportunities to streamline documents, decision making, and response actions. Areas in which the EPA RPM and support team will work closely with DoD to support cleanup and property transfer acceleration include, but are not limited to:

- Supporting up-front planning and scoping.
- Providing assistance to DoD, and to the states, in implementing all environmental cleanup programs related to closure in an expeditious and cost effective manner in accordance with the BRAC Cleanup Plan (BCP) and applicable laws and regulations.
- Assisting in the preparation of and jointly reviewing documents related to environmental restoration or that support the lease or transfer of property within the timeframe agreed by the BCT to support DoD real property leasing or transfer actions. Examples of such documents are: the sampling and analysis plan, baseline risk assessment, the Remedial Investigation/Feasibility Study, proposed plan, record of decision, remedial design, remedial action plan, study and sampling data, Finding of Suitability to Transfer (FOST), Finding of Suitability to Lease (FOSL), Finding of Suitability for Early Transfer (FOSET), and Operating Properly and Successfully (OPS) determinations.
- Assisting with updating existing BCPs, participating in the development of annual BCP abstract, and assisting with the development of the final, close out BCP.
- Participating, in conjunction with the BCT members, on the community's Restoration Advisory Board (RAB), reviewing environmental matters, as well as coordinating and exchanging cleanup and reuse information with the Local Redevelopment Authority.
- Participating in the identification of clean parcels under the CERFA, if DoD deems any additional CERFA identification beneficial to property transfer and reuse.
- Supporting and facilitating restoration privatization efforts.

4. Program Funding: The DoD shall make resources available annually to EPA to help expedite environmental restoration and property transfer at selected BRAC installations. The full-time equivalent (FTE) and funding ceilings will be agreed to by DoD and EPA on or about July 15, prior to the start of the fiscal year (FY). Nothing in this MOU shall be interpreted to require an obligation or payment in violation of the provisions of the Anti-Deficiency Act (31 U.S.C. § 1341) or Purpose Statute (31 U.S.C. § 1301(a)) or affect EPA's obligation to meet its statutory and regulatory responsibilities.

a. To determine the appropriate number of FTEs funded by DoD, EPA will provide DoD, on or about each February 15, EPA's annual FTE/funding estimates for the upcoming two FYs following the current FY for each supported BRAC installation. The annual EPA

request shall include the makeup (e.g., payroll, travel) and basis (e.g., GS-13-09 grade level) of the per FTE cost for the upcoming two FYs. FTE estimates are to be based on anticipated workload at a given installation. Prior to providing DoD with these estimates, EPA will develop its estimates through its Regions, coordinating anticipated FTE needs with the supported installation. Any differences or unresolved FTE issues will be highlighted in EPA's annual request to DoD. The DoD will evaluate the EPA funding request and provide a written FTE and funding ceiling for the upcoming FY and a planning estimate for the subsequent FY (i.e., current FY+ 2) on or about July 31 of each year. In DoD's review and evaluation of EPA's request, Components will consult with EPA Regions on changes to EPA's request which may have an impact on future EPA FTE requirements. Major issues regarding projected FTE levels will be highlighted at the Spring DoD-EPA Management Review (See Section 7).

b. EPA will provide DoD on or about July 1 of each year, EPA's projection of unexpended balance, expenditure rate, and carryover of funds into the upcoming FY. DoD will use this information to determine the DoD funding to be transferred via a Military Interdepartmental Purchase Requisition (MIPR) to EPA during the upcoming FY. DoD will inform EPA on or about July 31 of the resource level EPA can expect to receive during the upcoming FY.

c. If, during the term of this MOU, it is determined that DoD is not legally able to pay for some or all of the costs DoD currently pays for, then such payment shall be discontinued. DoD will make its best effort to provide EPA with a 45 day written notification of this action. In the absence of funding from DoD, EPA is under no obligation to conduct the actions described in this MOU that will no longer be funded by DoD. Once related internal EPA billings have cleared, the remaining BRAC funds will be returned to DoD.

d. The annual funding, as approved by the Assistant Deputy Under Secretary of Defense (Environment, Safety and Occupational Health)(ADUSD(ESOH)) based on the EPA's request, shall be provided to EPA in semi-annual segments through the issuance of MIPRs by the Department of the Army (Army). The Army is DoD's lead for transferring and managing funding pursuant to this MOU. The Army will make its best effort to transfer the first half of the BRAC resources to EPA within 30 days of the Army's receipt of funds and obligation authority. The Army will make its best effort to transfer the final distribution of BRAC resources to EPA on or about April 15 of each year. Funds are to be used for EPA personnel, and may be used for contractor support for EPA personnel if authorized by the affected DoD Component.

e. The following provision is intended to provide Components and EPA Regions the flexibility to use available resources from one installation to satisfy emerging requirements at another BRAC installation. To accelerate environmental restoration in support of reuse at supported BRAC installations, EPA may reallocate funds from one installation to another installation if:

- the DoD installation managers and EPA remedial project managers agree to the reallocation,

- the installation from which the funds are reallocated will not suffer delays in cleanup progress or property transfer,
- the funds are being moved among installations within a DoD Component and there is no change to the total FTE level (or contractor support) for the Component,
- the EPA Regions receive approval from the Federal Facilities Restoration and Reuse Office (FFRRO) before any changes are permitted, and
- FFRRO submits a written justification (hardcopy or electronic) for the installation-specific changes to the respective Component within fifteen days of approving such action.
- The Component will provide a written (hardcopy or electronic) acknowledgement to EPA's FFRRO and a copy to the Army (as the DoD manager of funds) within 10 days of receiving the reallocation notification.

5. Consultation for Environmental Suitability for Leasing Property: The May 18, 1996, DoD policy memorandum, subject: Fast Track Cleanup at Closing Installations, contains the procedures and responsibilities for determining the environmental suitability for leasing property made available as a result of BRAC Rounds I - IV. DoD and EPA agree the guidance in the May 18, 1996, policy memorandum adequately describes the procedures for consultation with EPA on determining the environmental suitability for leasing of BRAC properties by Components as required by 10 U.S.C. § 2667(f).

6. Reporting:

- a. The EPA will provide, at a minimum, quarterly billing statements by installation and funds received, expended, and remaining by funding document. The financial reports must comply with the financial management requirements provided to EPA by the Army in order to maintain accountability of funds. In the event that the financial reports are not deemed sufficient, EPA and the Army will work together to meet the requirements. The EPA will send these reports to the Army (specific office will be designated by the Army in funding documents) with a copy to the ADUSD(ESOH).
- b. The EPA will provide quarterly program progress and review reports to DoD via a searchable database of a design agreed to by DoD and EPA prior to implementation, or in electronic form until the database design is finalized. These reports will be provided no later than 45 days after the end of each quarter. These reports will include regional summaries and installation specific reports (Attachment A). An EPA Headquarters mid-year and end-of-year summary report will also be provided (Attachment B). DoD expects that EPA's quarterly reports will include, at a minimum, the following: updates on activities planned in the BRAC Cleanup Plan Abstract; any significant issues, to include a discussion of schedule delays or other issues impeding progress at installations; and any other pertinent information of which BRAC managers should be made aware. Expenditure reports will be provided to the Army under separate cover. EPA will provide to each Component, reports tailored to the DoD Component and a complete copy of the report to the ADUSD(ESOH).

7. BRAC Management Review Process: It is the intent of DoD and EPA to work together effectively and efficiently to perform their respective duties relating to the cleanup and reuse of BRAC properties. DoD and EPA will conduct joint management reviews to evaluate progress and support provided under this MOU. To this end, Biennial Management Review meetings will be held during which DoD and EPA representatives will discuss approaches to improving the program. In preparation for, and as part of the meetings, DoD and EPA will work together to determine the focus and agendas of the Management Reviews, perform the analyses described below, and develop options for improving the program. Specifically, the Management Review execution process is:

a. Spring Management Review.– DoD and EPA will analyze the data collected, as discussed in Section 7.a.(1) and (2), and present the issues, analyses, and recommended options for improving the program, including performance objectives and interim milestones. Management Review participants will discuss the data and issues and recommend options. DoD and EPA will report on progress made during the Fall Management Review.

(1) Data collected prior to the Spring Management Review – Prior to the Spring Management Review, DoD and EPA will review the progress made in expediting environmental restoration and property transfer activities and streamlining environmental restoration decisions at the installations. Specifically, DoD and EPA will evaluate data, primarily from DoD’s Restoration Management Information System (RMIS) (unless otherwise specified), on the progress made at BRAC installations during the previous FY, including the following metrics:

- Sites completing investigation phase: Number remaining for completion/planned in the FY/completed in the FY,
- Sites reaching remedy in place (RIP): Number remaining for completion/planned in FY/completed in FY,
- Sites reaching response complete (RC): Number remaining for completion/planned in FY/completed in FY,
- Number and reasons for re-opened sites in investigation or cleanup,
- Installation last RIP,
- Operating Properly and Successfully Determinations* Number completed in FY.** Updated in FY, as needed.
- Number Finding of Suitability to Transfer (FOST) completed in FY:** Updated in FY, as needed.
- Number Finding of Suitability to Lease (FOSL) completed in FY: Updated in FY, as needed.
- Number Finding of Suitability for Early Transfer (FOSET) completed in FY:** Updated in FY, as needed.
- Acres made available for lease or transfer in FY by NPL status.**

* RMIS does not collect information pertaining to OPS determinations. EPA would provide this information.

** RMIS does not collect information pertaining to FOSTs, FOSLs, or FOSETs. DoD would obtain this information from other sources.

The purpose of this data review is to determine which installations should be requested to provide more information about their progress and barriers to greater progress. In addition to the RMIS data specified above, EPA BRAC Quarterly Reports (see section 6b), and other data as mutually agreed upon will be used to evaluate the progress made, including EPA's support under this MOU. DoD and EPA recognize that the metrics may need to be refined based on further review and evaluation. Adjustments to the BRAC metrics will be made with mutual agreement by DoD and EPA.

(2) Installation Appraisals Completed prior to Spring Management Review.— The data collected under Section 7.a. will be analyzed to ascertain which installations did not meet projected goals. Based on this review, DoD and EPA Headquarters will request that EPA RPMs and Base Environmental Coordinators (BECs) at bases that did not meet the planned goals complete an Installation Appraisal (see Attachment C). The purpose of the Appraisal is to ascertain the barriers that are preventing greater progress. EPA Headquarters and DoD will review this information in addition to the data collected in Section 7.a. to ascertain what assistance should be provided to these RPMs and BECs so that greater progress can be made. If the Installation Appraisal needs to be refined based on implementation and further review, it will be done with the mutual agreement of both organizations.

b. Fall Management Review: Focus on key issues and new approaches – DoD and EPA will determine three to five key issues to focus on during the Fall Management Review, as well as successes and lessons learned from the implementation of new approaches to cleanup and transfer. The key issues and lessons learned will be based on the information in the quarterly reports, EPA and DoD areas of interest, RMS data, the Spring Management Review, as well as other mutually agreed upon sources. Also, there may be an update on installations that did not meet the previous year's goals, or discussion of potential recommendations for program improvements at installations that indicate that they are going to have difficulty meeting end-of-year goals (see Section 7.a.). Prior to the Fall Management Review, DoD and EPA will research and analyze data from installations that have raised these issues. During the Management Review, DoD and EPA will present the comprehensive findings and discuss recommended options for proceeding. Management Review participants will discuss and recommend a path forward. DoD and EPA will report progress during the subsequent Spring Management Review.

8. Program duration and termination: This agreement expires September 30, 2008, but may be extended upon the agreement of the signatories to this MOU. Either DoD or EPA may make modifications to this MOU upon the mutual agreement of the signatories; however, modifications shall be made in writing. The MOU will remain unchanged absent a concurring response. Conflicts arising between the signatories on the requirements or interpretation of this MOU shall be resolved administratively between the agencies. Absent agreement, dispute resolution shall be in accordance with procedures for resolving disputes between Federal agencies.

Attachment A – Regional and Installation Specific Reports

Part I REGIONAL SUMMARY

1. Hot Issues

- Issues for HQs EPA and/or HQs DoD's attention
- Include Congressional or High Profile Items

2. Other Regional Issues

- Successes/achievements
- Region-wide issues

3. Points of Contact

- EPA point(s) of contact (HQs and Region)

Part II
INSTALLATION SUMMARY

1. Installation Name and Contact Information:

- DoD/EPA/State BCT member contact information.

2. Significant Issues:*

- a. Congressional.
- b. High profile items.
- c. Delays in Environmental Restoration Actions.**

3. Issues Impacting Reuse/Transfer.

4. Staffing/Funding Issues:

- Staffing and funding issues at the installation affecting EPA, State, and Component

* Note if item is for information or for headquarters/management attention.

** Include if any site will not meet projections and any re-opened site, reasons, and fixes to get back on track.

Attachment B – BRAC National Summary

BRAC Summary

EPA Term	DoD Term	Planned Current FY	Accomplished Current FY	Total Planned		Total Accomplished		Actions Planned for # Sites in FY+ 1*
				FY 2006 Data	Current Data	FY 2006 Data	Current Data	
Decision Documents	Decision Documents	#	#	#	#	#	#	# for # sites
RA/CMI Starts	Remedial Action-Construction (RA-C)	#	#	#	#	#	#	# for # sites
RA/CMI Completions	Response Complete (RC)	#	#	#	#	#	#	# for # sites
Site Construction Completion**	Last RIP	#	#	#	#	#	#	# for # sites
FOST/FOSL/CDR-FOSET Parcels & Acres	FOST/FOSL/CDR-FOSET Parcels & Acres	N/A	#	N/A	N/A	#	#	N/A
OPS Determination	OPS Determination	N/A	#	N/A	N/A	#	#	N/A
Active RAB	Active RAB	N/A	#	N/A	N/A	#	#	N/A

Data Source: CERCLIS (pull date)

* The first number is the number of actions planned to occur. The second number is the number of sites covered by those actions. For example, 19/6 means there are 19 actions covering a total of 6 sites.

** If there is a number, please list the names of the sites here:

Attachment C

Installation Appraisal

The BRAC Program Installation Appraisal will be used to inform senior leadership on potential causes for delays in cleanup and reuse of BRAC property *at those installations that do not meet planned goals*. The Installation Appraisal will be administered at the base level, capturing performance data from both EPA RPMs and their DoD counterparts (BECs) at each base. The Installation Appraisal contains basic questions aimed at characterizing base-specific issues, budget/funding dynamics, and the level of coordination amongst stakeholders. The data will also help DoD evaluate barriers to progress at installations, and assist DoD in evaluating EPA support. DoD and EPA may also develop specific questions tailored to situations at individual installations.

INSTALLATION APPRAISAL FORM

INSTALLATION NAME:

PROJECT MANAGER NAME/ORGANIZATION:

QUESTION	ANSWER (circle one)	Description
1. What were the milestones/accomplishments/activities during the ast 12 months?		
2. Did any significant issue or challenge arise over the last 12 months? If so, please describe the issue or challenge.	Y / N	
3. If any significant issues or challenges arose, how were they addressed?		
4. Was the funding level adequate for this site over the past 12 months? (Y/N) If "no", please describe.	Y / N	
5. Would additional funding have accelerated cleanup over the past 12 months? If so, how?	Y / N	
6. Did all BCT participants attend BCT meetings as scheduled over the past year?	Y /N /NA	
7. Did SCT members each have an opportunity to provide input on the BRAC Cleanup Plan abstract prior to submittal?	Y /N /NA	
8. Can any project delays be attributed to any party's participation on the BCT?	Y / N	
9. Has EPA provided technical assistance in the past 12 months? If so, please describe.	Y / N	
10. Did EPA's technical assistance help solve/mitigate a problem or address a potential issue in the past 12 months? If so, please describe.	Y / N	
11. Were documents prepared and reviewed in a timely manner, e.g. in accordance with agreed upon deadlines?	Y / N	
12. Are there any variables, outside the control or influence of the BCT, which have impeded progress at the installation?	Y / N	