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MILITARY BASE
CLOSURES

Observations on
Legislative Proposal
for No-Cost Transfer
of Surplus Property

Statement of David R. Warren, Director, Defense
Management Issues, National Security and International
Affairs Division



G A O

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Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss a proposal to amend the 1988 and 1990 base closure laws. The proposal would promote economic redevelopment of affected communities by transferring property to them without consideration. Under the proposed legislation, affected communities receiving property under an economic development conveyance (EDC) could receive that property at no cost if certain conditions are met.¹ Currently, EDCs are available at or below fair market value and at no cost for rural communities. The proposal involves a trade-off between recouping the value of surplus property and providing communities opportunities to enhance economic recovery. The trend in recent years regarding BRAC-related properties has been to move toward the latter. Your office asked that we comment on (1) the likelihood that the proposed legislation would expedite the property transfer process and (2) the expected financial consequences to the Department of Defense (DOD).

Before discussing our specific observations, we would like to summarize our key points.

Results in Brief

The proposed legislation provides an opportunity to expedite the EDC process. It would likely alleviate the frustration and administrative burden communities and DOD experience in negotiating agreements. In some instances, the elimination of lengthy negotiations over fair market value issues might have expedited property transfers. However, it is not clear to what extent the legislation would uniformly shorten the time frame for property transfers. Our prior work also shows that other factors, such as communities' abilities to accept property transfers in a timely fashion and environmental cleanup considerations, are the primary factors that determine the pace of property transfers. The legislation would impact 23 pending or anticipated EDCs. However, the amendment would also allow up to 26 existing EDCs to be renegotiated if certain conditions are met.

DOD will lose revenue if the proposed amendment is enacted. DOD would likely forgo revenue from the 23 EDCs that are either in the negotiating

¹An economic development conveyance is a method used to transfer surplus DOD property to communities for the purpose of promoting economic development of the property.

stage or expected to be submitted on or after April 21, 1999. The extent of lost revenue for these properties would not be known until final agreements are reached. The proposed legislation would also allow the Secretary of Defense to approve changes in prior agreements based on determinations of changes in economic circumstances. DOD estimates that it would lose about \$218 million (net present value) between fiscal year 2000 and 2043 if all agreements are renegotiated as no-cost conveyances. Approximately \$87 million, or 40 percent, of this revenue would be lost between fiscal year 2000 and 2005, and the remaining revenue would be lost between fiscal year 2006 and 2043. Finally, the Department projects the legislation will avoid about \$12 million in costs that otherwise would be incurred in maintaining the closed bases prior to transfer.

Background

Under special legislative authorities, DOD conducted four BRAC rounds between 1988 and 1995 to reduce its infrastructure and free up funds for future defense programs, such as weapons modernization. To fund the closures and realignments, Congress established special BRAC accounts to pay for numerous activities, such as relocating personnel and equipment, constructing new facilities at receiving bases, and performing environmental cleanup. According to DOD data, when all BRAC actions from these rounds are completed by the end of fiscal year 2001, DOD will have reduced its domestic military basing structure by about 20 percent, generated net savings of about \$14 billion, and created recurring annual savings of about \$5.7 billion. We have previously reported that these numbers are only a rough approximation of savings rather than a precise amount.²

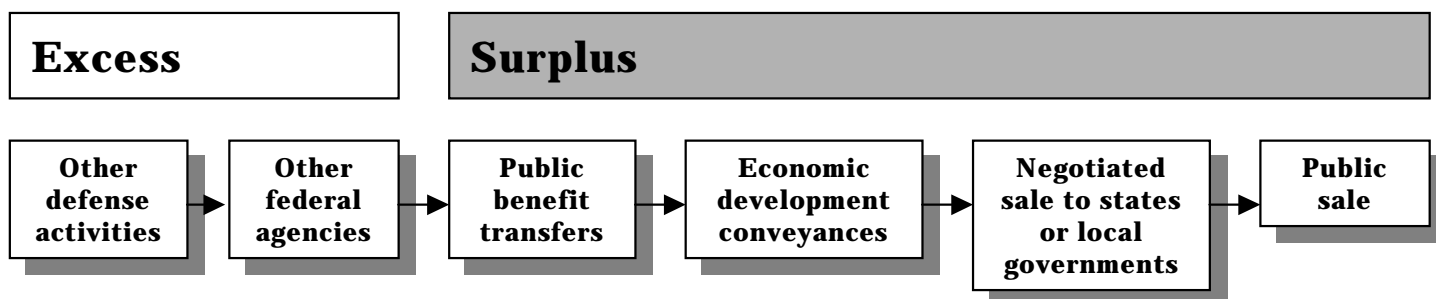
While our prior work indicated that DOD was essentially on track in closing and realigning facilities and expected to finish these actions by the end of fiscal year 2001 as required, progress in transferring unneeded property to other users has progressed at a much slower pace and will extend beyond 2001.³ Under federal law, once property is no longer needed by a federal agency, the property is declared excess and is offered to other federal

²Military Bases: Review of DOD's 1998 Report on Base Realignment and Closure (GAO/NSIAD-99-17, Nov. 13, 1998).

³Military Bases: Status of Prior Base Realignment and Closure Rounds (GAO/NSIAD-99-36, Dec. 11, 1998).

agencies to satisfy their requirements. Figure 1 shows the process used to screen unneeded property under BRAC.

Figure 1: DOD's Usual Procedures for Transferring Property



Source: GAO.

Excess property that is not selected by federal agencies is declared surplus to the federal government. At that point, surplus property can be transferred to nonfederal activities by various transfer mechanisms noted above. Appendix I further highlights the types of public benefit transfers and other conveyance mechanisms that may be used to transfer surplus property.

Although DOD data indicate that DOD will retain a substantial portion of the BRAC property or transfer it to other federal agencies, over 150,000 acres are to be transferred to nonfederal entities. Our December 1998 report on the status of prior BRAC rounds shows that about 75,000 acres of the planned nonfederal transfers were expected to occur through EDCs, and most of the remaining acreage through public benefit conveyances and sales. This contrasts with the early years of implementing the 1988-93 BRAC rounds, when DOD expected to rely on market sales and projected much higher revenues from such sales than it is now experiencing. While DOD originally projected about \$4.7 billion in revenue from the sale of surplus BRAC properties, expected sale revenues are recently projected to be about \$122 million. Land sale revenues are separate from the EDC process. Additional revenues are realized through lease agreements and EDCs.

The decrease in expected sales revenue is largely attributable to national policy changes reflected in legislation that in recent years has given increased emphasis on assisting the economic recovery of communities

that were losing bases. In 1993, for example, with the enactment of Public Law 103-160, increased recognition was given to the perspective that reduced employment caused by an installation closure could result in economic hardship to surrounding communities and areas. One means for mitigating such hardship was to expeditiously transfer installation property to local redevelopment authorities at less than fair market value, if necessary, for reuse and stabilization of employment. As a result, communities were able to obtain such property through economic development conveyances at below fair market value and in the case of rural areas at no cost.

The proposed legislation we are discussing today would authorize the Secretary of Defense to transfer property at no cost to local redevelopment authorities, provided that the property be used for job creation purposes and that any proceeds generated from the property be reinvested in economic development of or related to the installation. The legislation would cover all EDCs approved after April 21, 1999. In addition, it would also give the Department the authority to modify EDCs approved prior to April 21, 1999, if the Secretary of Defense determines that such a modification is necessary as the result of a change in economic circumstances. The legislation would not require the return of any payments already made to the Department. It also would not change the existing requirement to screen property for use by other federal agencies and by eligible recipients of public benefit conveyances for such purposes as parks, education, ports, and airports.

Likelihood of Expediting the Base Property Transfer Process

The proposed legislation provides an opportunity to expedite the EDC process. However, it is not clear to what extent the legislation would uniformly shorten the time frame for property transfers.

Service officials we interviewed generally stated that no-cost EDCs for job creation and economic development would eliminate often frustrating and contentious property valuation negotiations and enhance DOD and community relations. In some instances, no-cost transfers could expedite decision-making leading to property transfers or lease agreements in anticipation of transfers, but in other instances, they would not necessarily result in faster transfers. It should be noted that use of no-cost EDCs does not mean that title to the property is immediately transferred. Transfer may initially occur under a lease agreement, pending completion of required environmental remediation actions that could delay title transfer.

According to service officials, the key determinants affecting the pace of property transfers have been each community's readiness and ability to take control of the property and the time it takes DOD to perform necessary environmental cleanup of contaminated sites. They told us that the pace of property transfers is not driven primarily by the appraisal process or time spent in value negotiations for which the legislation would offer relief. The proposed legislation does not affect these issues because no-cost conveyances are just as vulnerable to these problems as any other conveyance. While the legislation might eliminate the time previously required for appraisals and negotiations over fair market value, these actions have generally overlapped other steps in the process.

Regarding future transfers, Army officials expressed concern that if prices were not negotiated, the services' leverage in other aspects of the negotiations over property transfers could be reduced. For example, local communities using zero as their starting baseline may seek to have the services pay for demolition of unwanted buildings or for asbestos and lead paint removal, which the services do not usually pay for but rather consider as part of the discount from the property's fair market value. Communities have been eligible for federal grants and other funding to facilitate base reuse planning and property transfer. We recently reported that such funding totaled \$1.1 billion through fiscal year 1997.

Further, prior negotiated agreements could be revisited under the modification provision of the proposed legislation. Because most of DOD's nonrural EDCs from the prior four base closure rounds have already been negotiated, a primary concern is how the legislation might affect these agreements. If, for example, no-cost EDCs were granted across the board, service officials expect that communities with prior negotiated costs would seek relief on the basis of changed economic circumstances.

Financial Consequences of Adopting the Amendment

DOD will lose revenue if the proposed amendment is enacted. Under the proposed legislation, the Department likely would forgo revenue from all EDCs entered into on or after April 21, 1999. However, we could not estimate the extent of lost revenue because negotiations over financial terms for these conveyances have not been finalized. In addition, the legislation allows the Department to modify EDCs in effect before April 21, 1999; as a result, DOD could lose \$218 million (net present value). On the other hand, with the legislation, the Department projects it would avoid about \$12 million in costs that otherwise would be incurred in maintaining the closed bases prior to transfer.

The Department likely would lose revenue from 23 nonrural EDCs that are currently pending or anticipated.⁴ Service officials stated that agreements for 5 of the 23 locations are nearing completion and the estimated revenue ranges from \$350,000 to \$70 million. However, service officials said the payment terms for these agreements would not be final until they were signed. Therefore, we could not determine when the Department would expect to realize this revenue.

As previously noted, the proposed legislation would also give the Department authority to modify nonrural EDCs approved before April 21, 1999, based on a Secretary of Defense determination that there has been a change in economic circumstances. Until DOD develops criteria for changed economic circumstances, it is difficult to know how many of the 26 communities will be eligible to renegotiate their existing EDCs. However, some service officials expect that the majority of eligible communities will want to renegotiate terms of their agreements to obtain no-cost EDCs. If all 26 communities renegotiated no-cost EDCs, DOD estimates it could lose about \$218 million (net present value) in potential revenue between fiscal year 2000 and 2043.⁵ Our analysis shows that \$131 million, or 60 percent, of these revenues would have been received after fiscal year 2005.

BRAC land proceeds have historically been used to offset BRAC costs. We estimate that the services would collect about \$87 million (constant 1999 dollars) from the existing EDCs between fiscal year 2000 and 2005, which would be available to offset projected environmental cleanup costs. The remaining \$131 million in projected revenues would be received between fiscal year 2006 and 2043, when much of the environmental cleanup would already be completed. If the legislation is enacted and the communities renegotiate existing agreements as no cost EDCs, it would eliminate some proceeds that could be used to offset future budget requirements. As already noted, the amount of this potential offset depends on when the revenues would have been realized.

DOD estimates that with the proposed legislation it would avoid about \$12 million in costs. Approximately \$10 million, or 83 percent, of this

⁴There are 12 pending or anticipated no-cost rural EDCs that would not be affected by the proposed legislation.

⁵DOD used a 5-percent discount rate as specified in Office of Management and Budget Circular A-94 to calculate net present value.

amount would result from the avoidance of costs for protection and maintenance support through the earlier transfer of property. However, the extent to which the legislation will expedite final property transfers is not clear.

DOD believes that redirecting the focus of the property conveyance from an adversarial real estate deal to an effort to facilitate job creation will also reduce the Department's EDC transaction costs. We note that if the legislation is adopted, DOD might be in a position to reduce the amount of resources it currently devotes to managing the EDC process.

As I said at the beginning of my statement, the legislative proposal involves a trade-off between recouping the value of surplus property and providing communities opportunities to enhance economic recovery. The trend in recent years regarding BRAC-related properties has been to move toward the latter.

Mr. Chairman, this concludes my prepared remarks. We would be pleased to answer any questions that you or members of the Subcommittee may have.

Contacts and Acknowledgement

For questions regarding this testimony, please contact David Warren at (202) 512-8412. Individuals making key contributions to this testimony include Barry Holman, William Crocker, Michael Kennedy, and James Reifsnyder.

Surplus Federal Property Transfer Methods

DoD Base Reuse Implementation Manual

Table A-2. Surplus Federal Property Transfer Methods

Type of Property, Purpose, or Method	Transfer Type ¹	Federal Agency with Authority	FMV Discount	Statutory and Regulatory Authority
PUBLIC AIRPORT CONVEYANCE	Approved	Federal Aviation Administration	100%	49 U.S.C §§ 47151-47153, 41 CFR 101-47.308-2
PUBLIC BENEFIT CONVEYANCE CATEGORIES				
Historic Monument	Approved	Department of the Interior	100%	FPASA § 203(k)(3), 41 CFR 101-47.308-3
Education	Sponsored	Department of Education	Up to 100%	FPASA § 203(k)(1), 41 CFR 101-47.308-4
Public Health	Sponsored	Department of Health and Human Services	Up to 100%	FPASA § 203(k)(1), 41 CFR 101-47.308-4
Public Park or Recreation	Sponsored	Department of the Interior	Up to 100%	FPASA § 203(k)(2), 41 CFR 101-47.308-7
Non-Federal Correctional Facility	Approved	Department of Justice	100%	FPASA § 203(p)(1), 41 CFR 101-47.308-9
Port Facility	Sponsored	Department of Transportation	100%	FPASA § 203(q)(1), 41 CFR 101-47.308-10
Shrines, Memorials, or Religious Uses [only as part of another public benefit conveyance] ²	Sponsored	Department of Education or Department of Health and Human Services	Up to 100%	41 CFR 101-47.308-5
Homeless Assistance [Public Health] ³	Sponsored	Department of Health and Human Services	Up to 100%	42 U.S.C. § 11411, FPASA § 203(k)
OTHER SPECIFIC CONVEYANCE CATEGORIES				
Power Transmission Lines	Approved	Military Department	None	SPA § 13(d), 41 CFR 101-47.308-1
Housing for Displaced Persons	Requested ⁴	Military Department	Up to 100%	URARPAPA § 218, 41 CFR 101-47.308-8
Wildlife Conservation	Approved	Department of the Interior	Up to 100%	16 U.S.C. § 667b-d
Federal-Aid or Other Highways [to States]	Sponsored	Department of Transportation	100%	23 U.S.C. §§ 107, 317
Widening of Public Highways or Streets	Approved	Military Department	Up to 100%	40 U.S.C. § 345c
Homeless Assistance	Approved	Department of HUD	100%	BCCRHA § 2
NEGOTIATED SALE	Sale	Military Department	None	FPASA § 203(e), 41 CFR 101-47.304
PUBLIC SALE	Sale	Military Department	None	FPASA § 203(e), 41 CFR 101-47.304
DEPOSITORY INSTITUTION FACILITIES	Sale	Military Department	None	NDAA 92/93 § 2825, NDAA 94 § 2928
LEASEBACK	Approved	Military Department	Up to 100%	NDAA 96, Title XXVIII, § 2837
ECONOMIC DEVELOPMENT CONVEYANCE	Approved	Military Department	Up to 100%	NDAA 94, Title XXIX, § 2903

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Appendix I
Surplus Federal Property Transfer Methods

Key to Table A-2

¹Public benefit and other specific conveyances are typically either approved or sponsored by the authorized Federal Agency. In approved transfers, the Federal Agency must grant its approval but property conveyance is accomplished by the Military Department. In sponsored transfers, the Military Department assigns the property to the Federal Agency, upon request, and the Federal Agency is responsible for conveyance of the property to its recipient.

²Property for shrines, memorials or other religious purposes is eligible for public benefit conveyance (PBC) only as part of a parcel transferred under another PBC mechanism.

³42 U.S.C. § 11411 designates uses for homeless assistance as a specific public health category under FPASA § 203(k) and gives priority to such uses when considering PBCs.

⁴When the activities of a Federal Agency result in the displacement of persons from their housing, the Federal Agency may request surplus property for replacement housing. Transfer of property is directly from the Military Department to an eligible State agency.

Acronyms and Abbreviations used in Table A-2

CFR	<i>Code of Federal Regulations</i>
FMV	Fair Market Value
FPASA	Federal Property and Administrative Services Act, 40 U.S.C. § 471 <i>et seq.</i>
LRA	Local Redevelopment Authority
NDAA 92/93	National Defense Authorization Act for Fiscal Years 1992 and 1993, Pub. L. 102-190
NDAA 94	National Defense Authorization Act for Fiscal Year 1994, Pub. L. 103-160
SPA	Surplus Property Act, 50 U.S.C. App. § 1622(d) and 49 U.S.C. §§ 47151– 47153
U.S.C.	<i>United States Code</i>
URARPAPA	Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646

Related GAO Products

Military Bases: Status of Prior Base Realignment and Closure Rounds
(GAO/NSIAD-99-36, Dec.11, 1998).

Military Bases: Review of DOD's 1998 Report on Base Realignment and Closure (GAO/NSIAD-99-7, Nov. 13, 1998).

Military Base Closures: Questions Concerning the Proposed Sale of Housing at Mather Air Force Base (GAO/NSIAD-99-13, Oct. 8, 1998).

Military Bases: Lessons Learned From Prior Base Closure Rounds
(GAO/NSAID-97-151, July 25, 1997).

Military Bases: Update on the Status of Bases Closed in 1988, 1991, and 1993 (GAO/NSIAD-96-149, Aug. 6, 1996).

Military Bases: Environmental Impact at Closing Installations
(GAO/NSIAD-95-70, Feb. 23, 1995).

Military Bases: Transfer of Pease Air Force Base Slowed by Environmental Concerns (GAO/NSIAD-93-111FS, Feb. 3, 1993).

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