

1

Introduction

1.1 PURPOSE

This Manual has been prepared by the Office of the Deputy Under Secretary of Defense (**Industrial Affairs and Installations**)¹, in cooperation with the Military Departments, and the Office of the Secretary of Housing and Urban Development, to:

- Provide supplemental guidance for those carrying out the regulations for revitalizing base closure communities and community assistance [32 Code of Federal Regulations (CFR) Parts 174,175, and 176].
- Identify common-sense approaches and general practices for the Military Departments to follow during various aspects of base reuse implementation.
- Provide a common set of guidelines that allow flexibility for the Military Departments' base reuse implementation teams. Manual users are encouraged to adapt the guidance in this Manual to their own **installation-specific** circumstances.

1.2 PHILOSOPHY AND GOALS

The disposal and reuse of closing military installations represents a critical challenge. The Department of Defense (DoD) needs to accomplish disposal quickly and efficiently to save money for readiness and other responsibilities. The reuse of these installations through their transition to **civilian** use is an equally critical part of our task. The Defense Department has a responsibility to assist the communities that hosted our installations, one that it has recognized for more than 30 years. The President of the United States and the Secretary of Defense have articulated the goals of this **effort**:

- Close bases quickly, but in a manner that will preserve valuable assets to support rapid reuse and redevelopment.
- Give high priority to local economic redevelopment when disposing of available real and personal property.

¹ Deputy Secretary of Defense memorandum of May 15, 1996, "OUSD (Acquisition and Technology) Reorganization" disestablished the Office of the Assistant Secretary of Defense for Economic Security and established the Office of the Deputy Under Secretary of Defense (Industrial Affairs and Installations).

Introduction

- Put available property to productive use as quickly as possible through leases and conveyances to spur rapid economic recovery and reduce DoD caretaker costs.
- Expedite the “screening” process, which identifies interests in excess and surplus property at closing and realigning bases.
- Fast-track environmental cleanup by removing needless delays while protecting human health and the environment.
- Make every reasonable effort to assist the Local Redevelopment Authority (LRA) in obtaining the available personal property needed to implement its redevelopment plan.
- Support the local redevelopment process through sufficient planning grants and on-site Base Transition Coordinators.
- Coordinate Federal resources to assist **community** economic recovery.

To achieve these goals, the Department of Defense developed this Manual around three key themes:

- **Consultation.** The Military Department and the LRA should be in constant contact throughout the base closure and reuse process. Problems can be avoided through consultation.
- **Partnership.** The Military Departments and LRAs should work together honestly and with full disclosure. **Their** efforts should be coordinated to minimize duplicative efforts and avoid misunderstandings. Mutual goals can be achieved between parties that treat each other as partners, not adversaries.
- **Flexibility.** To maximize flexibility and allow for site-specific solutions, discretion has been left, where possible, to allow for **common-sense** decisions by the implementors.

This Manual reflects the Administration’s effort to create a flexible process that works better and costs less. Provisions that are intended to cover all situations could straightjacket Federal employees and confuse the public. This Manual is written to maintain flexibility while providing guidance to Military Department implementors by offering examples of how to address specific problems.

KEYS TO SUCCESSFUL DISPOSAL OF CLOSING MILITARY INSTALLATIONS

The President, the Secretary of Defense, and the Secretaries of the Military Departments have each given this issue personal attention, and each is committed to this program’s success. The base closure and reuse process is a new and complex task that requires creative solutions and a break from “business as usual.” Many communities affected by base closure face an uncertain economic future and are presented with tremendous challenges to their local economic base. To assist our customers, the local communities, you need to:

- **WORK COOPERATIVELY.** Reaching agreements with the LRA will make the process smoother in the long run. Treat the LRA as if it is your partner.
- **CONSIDER COMMUNITY NEEDS.** Think about how decisions will affect the ability of communities to redevelop the base.
- **COMPROMISE.** Reaching agreements early in the process will save time and money later.
- **BE FLEXIBLE.** Do not be wedded to a particular approach to a problem. Creativity, within the applicable laws and regulations, is essential to successful base closure and reuse.
- **BE INNOVATIVE.** Do not be hamstrung by past practices. This is a new process, and decisions *should* be new and different.
- **EXERCISE COMMON SENSE.** Solutions should be site-specific. There will rarely be cookie-cutter solutions that apply to all cases.
- **DELEGATE.** Allow front-line employees to make as many decisions as possible, especially when an issue is routine or when the policy has already been formulated; requiring layers of approval will only delay the process.
- **CUT “RED TAPE.”** The Department of Defense is seeking to eliminate as much red tape as possible. By itself, each additional procedure may make sense, but the accumulation of them over time grinds matters to a halt. Cutting across bureaucratic lines to slash red tape is essential to getting the job done and additional levels of bureaucracy can lead to higher costs and wasted taxpayer money.

1.3 HISTORY

The Department of Defense is engaged in a phase of downsizing, resulting in fewer military bases to support defense missions. The Base Realignment and Closure (BRAC) process has resulted in the closing of hundreds of military facilities throughout the country.

A military base often represents a major employment center and provides significant economic stimulus to the local economy. A base closure can be a serious blow to the local community. As a result, the Department of Defense recognizes that the manner in which real and personal property at closing bases is transferred can have an important impact on the local community's prospects for economic recovery.

Lessons learned in previous rounds of base closures have shown that the traditional Federal property disposal process has not always met the economic recovery needs of the local community. Therefore, in July 1993, the President announced a plan to provide for more rapid redevelopment and job creation in communities affected by base closure decisions. This Presidential initiative gave top priority to helping affected communities realize early reuse of base assets to spur economic recovery.

Introduction

A PRESIDENTIAL INITIATIVE

The President's Five-Part Plan for Revitalizing Base Closure Communities (1993) consists of the following:

- Jobs-centered property disposal that puts local economic redevelopment first.
- . Fast-track environmental cleanup that removes needless delays while protecting human health and the environment.
- . Assignment of on-site Base Transition Coordinators at major bases slated for closure to assist communities and the Military Departments with property disposal and economic redevelopment.
- Easy access to transition and redevelopment help for workers and communities.
- . Quick economic development planning grants to base closure communities.

The Administration's new approach to make base property more readily available to communities for economic development and job creation represents a fundamental change in the policy of Federal property disposal at closing bases.

CONGRESSIONAL SUPPORT AND DEFENSE IMPLEMENTATION

In November 1993, Congress supported the President's plan by enacting the Base Closure Community Assistance Act (Subtitle A of Title XXIX of the National Defense Authorization Act for Fiscal Year 1994, Pub. L. 103-160), referred to here as "Title XXIX." This legislation substantially amended the base closure laws and provided the Department of Defense with tools it needed to carry out the President's plan. A copy of the law is provided in Appendix B.

In April 1994, the Department of Defense issued an interim final rule, codified at 32 CFR Parts 174 and 175. The interim final rule provided guidance to the Military Departments for implementing provisions of Title XXIX, specifically real property screening to aid disposal planning, property conveyances at or below fair market value (referred to as "Economic Development Conveyances"), interim leasing, personal property inventory and disposal, and minimum maintenance levels necessary to support civilian use. The rule was available for public comment until August 1994.

In response to public comments, the Assistant Secretary of Defense for Economic Security (now the Deputy Under Secretary of Defense (Industrial Affairs and Installations)) convened a BRAC Implementation Working Group with representatives from the Military Departments and from the Office of the Secretary of Defense. The Working Group was tasked to address the public's concerns and to develop needed revisions for the final rule, as well as to identify and foster DoD-wide approaches to base reuse implementation. One of the Working Group's first products was an amendment to the April 1994 interim final rule, issued by the Department of Defense in October 1994, that addressed the requirements for Economic Development Conveyances (EDCs). The

amendment eliminated certain requirements, including a “market test” to determine marketability of **property**, and provided more detailed instructions on EDC application and review criteria.

In October 1994, Congress enacted the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, Pub. L. 103-421 (“Redevelopment Act”). This law, in amending Pub. L. 101-510, exempts most closing bases (including some BRAC 8§, BRAC 91, and BRAC 93 bases, and all BRAC 95 bases) from the Stewart B. McKinney Homeless Assistance Act and establishes a new process by which homeless assistance needs can be satisfied in base closure communities.

In July 1995, the Department of Defense issued a final **rule**, addressing public comments to the interim final rule and the **amendment** to the interim **final** rule. In conjunction with the Department of Housing and Urban Development, the Defense Department also issued an interim final rule, codified at 32 CFR Part 176, to provide a uniform regulatory framework for implementing the new homeless assistance procedures outlined in the Redevelopment Act. The interim final rule was available for public comment until October 16, 1995.

On February 10, 1996, the President signed the National Defense Authorization Act for FY 1996 (NDAA 96). Title XXVIII of that Act contained several sections that further amended the base closure laws including:

- Section 2832 Eliminated the requirement that a substantial part of the installation be leased in order for the Military Departments to accept in-kind lease payments performed on any portion of the installation.
- Section 2833: Authorized, in certain circumstances, interim lease terms that extend beyond the expected completion date for the disposal Environmental Impact Statement.
- Section 2834: clarified that DoD can enter into long-term leases (also called “leases in furtherance of conveyance”) while environmental remediation is ongoing.
- Section 2837 Authorized DoD to transfer property still needed by a Federal Department or Agency to an LRA, provided the LRA leases the property back to the Federal entity at no cost.
- Section 2838: Amended the Redevelopment Act.

In response to the changes to the Redevelopment Act contained in Section 2838 and to address public comments received on the interim final rule, DoD published a final rule implementing the Redevelopment Act on July 1, 1997. In addition, on February 21, 1997, DoD published a proposed rule establishing procedures for implementing the leaseback authority granted in Section 2837. The proposed rule was open for public comments until April 22, 1997. A final rule implementing the leaseback authority is being developed.

Sections 2833 and **2834** of the NDAA 96 were implemented in policy memoranda signed by the then Principal Assistant Deputy Under Secretary of Defense

(Industrial Affairs and Installations) on June 12, 1996. Copies of these memoranda can be found in Appendix D. In addition, Chapter 5 contains language reflecting the new authority granted by Section 2832 of the NDAA 96.

The National Defense Authorization Act for FY 1997 (NDAA 97) also contained **several** provisions affecting the base closure and reuse process including

- . Section 334: Authorized the Department to transfer property, under certain conditions, prior to the completion of remedial actions. Under this “Early Transfer Authority” it is also possible for the new property owner to undertake environmental **remediation** activities (instead of DoD) concurrently with redevelopment efforts.
- Section 2811: Restored the Department’s authority to complete intragovernmental transfers at BRAC ’88 locations.
- Section 2812: Expanded the Department’s authority to enter into agreements (e.g., contracts, cooperative agreements) with local governments for the provision of caretaker services.
- Section 2814: Restored the Department’s authority to make grants, conclude cooperative agreements, and supplement other Federal funds to assist States in providing assistance and support to local adjustment and diversification efforts.

Information on the implementation of Section 334 can be found in Chapters 2 and 5 and Appendix F.

1.4 MANUAL CONTENTS

This Manual supplements the existing rules and provides guidelines for Federal decision-makers and staff and others involved in implementing base reuse. This Manual does not instruct the LRA or the general public, but allows them to understand the instructions and guidance that the Military Departments are required to follow.

This Manual is written in an easy to read question and answer format to help you quickly find answers to specific questions on the base closure and reuse process. It contains guidance on real property screening and disposal, inventory and disposal of personal property, leasing, maintenance of closing installations, transfers of real property **under** an EDC, and transfers of property using the leaseback authority. In addition, the appendices contain laws, regulations, and policy guidance relevant to base reuse.

This Manual does not create any rights or remedies and may not be relied upon by any person, organization, or other entity to allege a denial of any rights or remedies other than those provided by Title XXIX of Pub. L. 103-160, Pub. L. 103-421, or Title XXVIII of Pub. L. 104-106.

1.5 AVAILABILITY ON LINE

This Manual is available via the World Wide Web at:

<http://emissary.acq.osd.mil/bctoweb/brim.nsf>.

1.6 UPDATES

This Manual will continue to be updated as determined appropriate. Comments are welcome, especially suggestions on how to improve the document's usefulness. Suggestions or questions should be addressed to:

Base Closure and Community Reinvestment Office
400 Army Navy Drive, Suite 200 .
Arlington, VA 22202
E-mail address: base_reuse@acq.osd.mil

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