

constant contact throughout the base closure and reuse process. Problems can be avoided through consultation.

- *Partnering.* 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, these regulations have been generally limited to those provisions required by law, as well as those that affect other federal agencies. Discretion has been left, where possible, for solutions that are most appropriate for a given installation.

These regulations reflect the Administration's effort to create a flexible process that works better and costs less. Regulations which are intended to cover all situations straight jacket federal employees and confuse the public. In order to maintain flexibility while providing guidance, the Office of the Secretary of Defense prepared a Base Reuse Implementation Manual for use by the Military Departments. The Manual, which provides greater detail about the issues addressed in this part, is available to Local Redevelopment Authorities and other interested parties. Copies will be available, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

Overview of changes

- What has changed in the section on the identification of interests ("screening") in real property?
 - The timetables for federal screening have been clarified and shortened.
 - The review criteria have been clearly articulated.
- What has changed in the leasing procedures?
 - The differences between interim and long-term leases have been clarified.
 - The term of interim leases have been clarified. These leases can now last for up to five years, including options to renew.
 - A termination-at will clause is no longer required.
 - If property is leased for less than fair market value and the lease permits the property to be sublet, the rents from the subleases must be applied to the protection, maintenance, repair, improvement, and costs related to the property.
 - What has changed in the handling of personal property?

- The regulation has been revised to require the Military Departments to:
 - Provide a comprehensive inventory list to the Local Redevelopment Authority.

- Consult with the Local Redevelopment Authority before establishing the deadlines for removing equipment from the closing base.

- Prohibit the transfer of ordinary fixtures unless not required for redevelopment.

- Permit the transfer of other personal property required for Military Department use when the LRA objects, only if the transfer is approved by an Assistant Secretary of the Military Department.

- Consult with the redevelopment authority before offering it a suitable substitute for property being removed.

- Two procedures for transfers of personal property not related to real property have been created.

- What has changed regarding Economic Development Conveyances?

- Valuation terms have been clarified.

- The requirement for an excess profits clause has been removed.

- What has changed in the section on maintenance, utilities, and services?

- DoD clarified the procedures for determining the initial levels of maintenance to encourage quick reuse and specified the time periods for which the Military Departments will sustain the initial levels of maintenance. The time periods are now greater than the legal minimums, and the Secretaries of the Military Departments may extend them (under specific circumstances).

Discussion of Public Comments and Changes

In response to the April 6, 1994, publication of the Interim Final Rule in the **Federal Register**, DoD received comments from 126 separate sources, consisting of redevelopment authorities and local governments, State and regional governments, public and private organizations, federal departments and agencies, members of Congress, and individuals. Almost half of these comments were addressed when the Interim Final Rule was amended (59 FR 53735, October 26, 1994). This amendment removed § 91.7(d), "Jobs-Centered Property Disposal," and revised §§ 91.7(e), "economic development conveyance," and 91.7(f), "Profit Sharing."

The response to the remainder of the comments is divided into sections corresponding to the regulation.

Identification of Interests in Real Property

The public comments regarding real property screening spanned two

sections of the Interim Final Rule: real property screening and McKinney Act screening.

- *Federal agency priority.* Several federal entities suggested that DoD Components and federal agencies have an un-questioned right to property.

RESPONSE: DoD specified time tables and requirements that federal agencies must follow to claim base closure property under the priority accorded to them by the Federal Property and Administrative Services Act of 1949. If the agencies meet these strict requirements within the given time tables, their request will be considered prior to others. However, DoD remains committed to promoting economic recovery and rapid job creation in the communities adversely affected by base closures, while still ensuring that federal resources are available for other important public uses. To carry out those dual responsibilities, DoD must maintain the flexibility to determine the highest and best use for the property.

- *Fair Market Value.* Other federal agencies suggested waiving the requirement for federal agencies to pay fair market value for the property.

RESPONSE: DoD will continue to follow current federal policies (41 CFR 101-47.203-7(f)(2)) that require federal agencies to pay fair market value to DoD for its property, unless specifically granted an exemption by the Office of Management and Budget.

- *Timetables.* Many comments suggested clarifying timetables for federal screening and for submitting applications for the property to the Military Departments.

RESPONSE: DoD revised the rule in response to these requests.

- *Native American interests.* Several comments requested clarification regarding Native American tribes' participation in the screening process.

RESPONSE: Native American interests can be addressed at two points in the screening process. First, Native American tribes can submit expressions of interest to the Bureau of Indian Affairs (BIA), which is held to the same tight timetables and criteria as other federal agencies. Interested Native American tribes should contact BIA for information about its policy for expressions of interest. Alternatively, tribal governments may participate in the local comprehensive planning process and express their interests to the LRA. Tribes adversely affected by the base closure should be part of the LRA and should work within this process to see that their needs are addressed through a single, comprehensive plan.

- *Local control over the planning process.* Comments from non-federal