

HUD's Role in BRAC 2005

Presented By:

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Presentation Outline

- History
- Overview of Process
- HUD Review
- HUD Technical Assistance
- HUD Resources
- Case Law

History

- ❑ 1987 – McKinney Act (Title V) - Made homeless use the first priority for all surplus property.
- ❑ Did not address all the interests involved in large parcels of properties, e.g., military installations.
- ❑ HUD, DoD, VA, HHS, GSA, homeless service providers, and other community groups conferred on changes to McKinney Act.

History – Redevelopment Act

- ❑ The Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Redevelopment Act) established a community-based process where representatives of the homeless and other community groups participate in local reuse planning.
- ❑ Places base reuse planning in the hands of a Local Redevelopment Authority (LRA), who is selected by and represents all community interests.
- ❑ The LRA develops a reuse plan that balances the need for economic redevelopment and other development with the needs of the homeless.
- ❑ Establishes timelines to promote rapid reuse.

Overview of the Process

- Nov 9, 2006 – BRAC List became law and DoD started to recognize LRAs.
- May 9, 2006 - Military Departments publish list of surplus property.
- Within 30 days, LRA will advertise availability and will receive Notices of Interest from State and local governments, representatives of the homeless, and other interested parties.

-Minimum: 90 days/Maximum – 180 days

Overview of the Process

- Once outreach is complete, LRA has 270 days to develop and submit a reuse plan and homeless assistance submission to HUD for review.
- Within 60 days of submission of a **complete** application, HUD notifies Military Department of its determination.

HUD's Role in BRAC

- Review the application for compliance with BRAC process, as defined by statutory and regulatory requirements.
 - HUD's regulation at 24CFR586
- Provide technical assistance to LRA.
- Complete the review within 60 days and notify DoD of HUD determination.

HUD's Review

1. Need

- ❑ Consider the size and nature of the homeless population in the vicinity of the installation.
- ❑ Show evidence of having consulted with homeless assistance providers.
- ❑ Specify how buildings, property, etc will become available for homeless assistance (legally binding agreements).

HUD's Review

2. Impact of Notices of Interest

- Consider the economic impact of the proposed homeless assistance on communities in the vicinity of the installation.
 - NOIs feasible, given demands placed on available social services/fire/police/infrastructure?
 - NOIs consistent with Consolidated Plan?
 - All NOIs included, with decision methodology?

HUD's Review

3. Legally Binding Agreements

- Complete and Enforceable?

- Specify manner in which the buildings, real and personal property, funding, and/or services on or off the installation will be made available for homeless assistance purposes.

HUD's Review - LBAs

- Does each LBA for property have an 'environmental renegotiation' clause, i.e., does each LBA provide for a process for negotiating alternative arrangements that would enable the same balance of interests made originally in the event that an environmental review conducted subsequent to HUD approval indicates that any property identified for transfer in the agreement is not suitable for the intended purpose.

HUD's Review - LBAs

- Does each LBA have a 'Reverter' clause, i.e., when an LBA discusses on-base property awards, does it provide for the reversion or transfer, either to the LRA or to another entity or entities, of building and property in the event they cease to be used for the homeless?

HUD's Review - LBAs

- LBAs executed? If not, are LBA acceptance letters provided from each non-profit with an LBA?
- Has the LRA's attorney provided an opinion for LBA(s) as to their enforceability under State law?

HUD's Review

4. Balance

- Does the Plan balance, in an appropriate manner, a portion or all 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.

HUD's Review - Balance

- Does the LRA Application discuss how the LBAs are consistent with the Consolidated Plan?
- Does the LRA Application relate the LBAs to the priorities discussed in the Consolidated Plan?
- Does the LRA Application describe **how** it balances the needs for economic redevelopment, other development, and homeless assistance?

HUD's Review

5. Outreach

- ❑ Reuse plan developed in consultation with representatives of the homeless and the homeless assistance planning boards, if any, in the community?
- ❑ Outreach requirements fulfilled by LRA?

HUD's Review

5a. Outreach Requirements

- ❑ Solicitation of NOIs in a newspaper of general circulation in the vicinity of the installation.
- ❑ Prescribe the form and contents of NOI.
- ❑ Contact local government officials and other interested parties who may be interested in helping the homeless.
 - HUD to provide list of providers

HUD's Review

- ❑ Conduct at least one workshop, with HUD representation, to explain BRAC process and provide tour of facility.
- ❑ Make the draft application available to the public for review and comment periodically while developing the plan.
- ❑ Public Benefit Transfer Screening – LRA should work with Federal agencies who sponsor public benefit transfers during the outreach period. LRA must consider PB NOIs, but not required to incorporate them in plan.

HUD's Review

A. Public Comments

- Does the LRA Application provide an overview of the citizen participation process?
- Does the LRA Application provide information on the public hearing?
- Does the LRA Application include a summary of the comments from the public hearing on the draft application?

HUD Technical Assistance

- HUD provides assistance to the LRA throughout the development of the plan.
- Field Offices provide links between the LRA and homeless service providers, identify sources of funding, and guide the LRA on BRAC process.
- Guidebook on Military Base Reuse and Homeless Assistance

Case Law

□ Kelly AFB, Senior Resources, et. al. v. Martinez et. al.

-All a governmental entity or nonprofit must do to qualify as a representative of the homeless is to **propose to serve the homeless with base property.**

-Do not table any NOIs for consideration after the plan is submitted to HUD.

Case Law – Kelly AFB

You **may** require NOI submitters to include more than the bare bones information specified in the regulation.

You may notify NOI submitters of the selection criteria you will use to evaluate their proposal. Evaluate all NOIs using the same criteria.

Homeless means McKinney-Vento Act homeless, not the poor or disadvantaged.

Case Law – Ft Ritchie

- ❑ Fort Ritchie, Role Models America, Inc. v. Harvey, et. al.
- ❑ The military department must screen for public benefit transfers. The LRA should screen for public benefit transfers if they want to avoid litigation.
- ❑ Dot every “i” and cross every “t.”

Lesson Learned

- ❑ Lessons learned from litigation threatened but avoided (so far).
- ❑ LRAs and their subcommittees should consist of persons who reside or operate businesses within the LRA community.
- ❑ Don't let personality conflicts rule the process.