INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202

REPORT
NO. 91-044

February 12, 1991

MEMORANDUM FOR ASSISTANT SECRETARY OF DEFENSE (PRODUCTION AND LOGISTICS)

SUBJECT: Final Quick-Reaction Report on the Audit of DoD Leasing of Family Housing (Project No. 0CG-0006.02)

Introduction

In October 1989, we announced our audit of DoD Leasing of Family Housing. The audit objectives included determining whether the Services acquired family housing under build-to-lease and other leasing arrangements, in compliance with Public Law 98-115 and DoD guidance. We also evaluated whether leasing family housing was an economical, long-term alternative to military construction of such facilities.

During our audit, we found that leasing military family housing units for up to 20 years was not subject to the temporary prohibition on military construction directed by the Secretary of Defense. The prohibition on military construction was made because of continuing changes in the world situation, plans for force restructuring, the impact of new base closure and realignment studies, and constraints on resources available for the national defense. The temporary prohibition on military construction should also apply to long-term leasing decisions to ensure that DoD does not commit to unneeded family housing units. Under the build-to-lease program, 28 projects consisting of 9,310 family housing units were in various stages of project review and approval.

We issued a draft report recommending that the Assistant Secretary of Defense (Production and Logistics) make long-term leasing of family housing subject to the Secretary of Defense's temporary prohibition on military construction.

Background

Public Law 98-115, Title X, Section 801, "Military Family Housing Leasing Program," authorizes the use of private capital to provide housing and to eliminate the initial Government

investment necessary under military construction funding. The program is available to installations with a valid housing shortage that can be satisfied economically through a 20-year leasing agreement. In addition, the Office of Assistant Secretary of Defense (Production and Logistics) reviews and obtains the necessary approvals for each long-term housing project before contract award by the Services. No contract can be awarded until the Secretary of Defense provides the appropriate congressional committees with prescribed economic justification and 21 days have elapsed following such notification.

The Secretary of Defense placed a temporary prohibition on military construction in a memorandum to DoD Components entitled "Military Construction Moratorium and Review," January 24, 1990. Subsequent memorandums have extended the prohibition on military construction. In the extension memorandum dated November 15, 1990, the Secretary of Defense stated that no military construction contracts financed by military construction appropriations may be awarded and no options under such existing contracts may be exercised. Exceptions were granted for: support of Operation Desert Shield (renamed Operation Desert Storm); architectural and engineering design services for locations that are not in Europe, and military installations that are not the object of a net reduction of personnel under the Base Closure and Realignment Act (Public Law 100-526); and construction with which the United States has a legal obligation to proceed under a statute, treaty, international agreement, or court decree. The Deputy Secretary of Defense may also grant exceptions from the prohibition on awarding contracts and exercising options for construction projects needed to meet urgent requirements.

Discussion

Long-term leasing of family housing was not subject to the Secretary of Defense's temporary prohibition on military construction. Leasing of family housing is financed with Operation and Maintenance (O&M) funds and was not explicitly addressed in the Secretary of Defense's memorandums. Section 801 housing, however, represents a 20-year commitment, and the same rationale for temporary prohibition on military construction projects logically should also apply to the long-term leasing of family housing. As stated in the Secretary's memorandum, dated November 15, 1990, DoD must exercise careful stewardship of its military construction resources in light of continuing changes in the world situation and constraints on resources available for national defense.

The DoD is authorized a maximum of 19,500 Section 801 family housing units. As of August 23, 1990, solicitations for 4 projects (1,150 units) had been issued, and 24 projects (8,160 units) were in various stages of project review and approval. To expedite the review process, at least 10 proposed

projects were being reviewed for possible exemption from revised Office of Management and Budget funding guidance on long-term leasing arrangements. The 10 projects consisted of 3,160 family housing units costing as much as $228 million in net present value terms. Until decisions on the future force structure are finalized, DoD should not commit limited resources to family housing units that subsequently may be determined to be unneeded.

Recommendation

We recommend that the Assistant Secretary of Defense (Production and Logistics) issue appropriate instructions to the Services making the long-term leasing of family housing, such as Section 801, "Build-to-Lease Program," subject to the provisions of the Secretary of Defense's temporary prohibition on military construction unless the Deputy Secretary of Defense specifically grants an exception.

Management Comments

A draft of this quick-reaction report was provided to the Assistant Secretary of Defense (Production and Logistics) on December 21, 1990. We received comments from the Principal Deputy Assistant Secretary of Defense (Production and Logistics) dated January 4, 1991. The complete text of the comments is provided in Enclosure 1.

The Principal Deputy concurred with Recommendation 1. in the draft report and stated that long-term family housing leasing programs will be made subject to the same restrictions that apply to the military construction program. To document this understanding, a memorandum entitled, "Temporary Suspension of Long Term Lease Contracts for Military Family Housing," dated January 3, 1991, was sent to the Services. The memorandum (included with management comments) also stated that, except for contracts needed to meet urgent requirements, as determined by the Deputy Secretary of Defense, no new Section 801 or Section 802 housing contracts will be approved for award before April 16, 1991.

The Principal Deputy took exception to the wording of Recommendation 2. in the draft report. He stated that the phrase "direct the Services to curtail awarding contracts" implies that such contract awards can occur without the consent of the Office of the Secretary of Defense, and perhaps have been occurring during the past year when other construction programs have been restricted. Since the construction moratorium was first imposed, only one Section 801 project had been awarded and then only after being approved by the Deputy Secretary of Defense. Compliance with the spirit of the construction moratoria has been in effect since their inception in January 1990.

Audit Response

We consider management's response on the report to be fully responsive and in conformance with the provisions of DoD Directive 7650.3. The draft report was revised to reflect the role of the Office of Assistant Secretary of Defense (Production and Logistics) in obtaining approval for long-term leasing of family housing. As a result, Recommendations 1. and 2. in the draft report were combined and additional comments on the final report are not required.

The courtesies extended to the audit staff are appreciated. If you have any questions on the final quick-reaction report, please contact Mr. Michael G. Huston, Program Director, at (703) 614-6281 (AUTOVON 224-6281) or Mr. Gary R. Padgett, Project Manager, at (703) 614-3459 (AUTOVON 224-3459). Potential monetary benefits were not quantified for the reasons cited in Enclosure 2. Activities visited or contacted and the audit team members are listed in Enclosures 3 and 4, respectively. Copies of this report are being provided to the activities listed in Enclosure 5.

Robert J. Lieberman

Robert J. Lieberman
Assistant Inspector General
for Auditing

Enclosures

cc:
Deputy Secretary of Defense
Secretary of the Army
Secretary of the Navy
Secretary of the Air Force
Under Secretary of Defense for Acquisition

ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301-8000

PRODUCTION AND LOGISTICS

January 4, 1991

MEMORANDUM FOR DEPARTMENT OF DEFENSE INSPECTOR GENERAL

SUBJECT: Draft Quick-Reaction Report of December 21, 1990, on the Audit of DoD Leasing of Family Housing (Project No. OCG-0006.02)

I have reviewed the subject report, and concur with your recommendation that we make our long-term family housing leasing programs subject to the same restrictions which currently apply to our military construction program. To document this understanding, the attached memorandum (Attachment 1) is being sent to each of the Services.

In the interest of technical accuracy, I request that you amend the subject report to incorporate the enclosed comments (Attachment 2). In particular, I think it is important to note that the Services are restricted by law from awarding any Section 801 or 802 contract without the prior consent of OSD and appropriate Congressional committees, and that we have been complying with the spirit of the construction moratoria since their inception last January. Only one Section 801 project (Hurlburt Field) has been awarded during this period, and it had the approval of the Deputy Secretary of Defense.

David J. Berteau
David J. Berteau
Principal Deputy

Attachments

THE OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301-8000

PRODUCTION AND
LOGISTICS

3 JAN 1991

MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF THE ARMY
(INSTALLATIONS AND HOUSING)
DIRECTOR, INSTALLATIONS AND FACILITIES, OFFICE OF
THE ASSISTANT SECRETARY OF THE NAVY
(INSTALLATIONS AND ENVIRONMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(INSTALLATIONS)

SUBJECT: Temporary Suspension of Long Term Lease Contracts for Military Family Housing

By his memorandum of November 15, 1990, the Secretary of Defense issued restrictions on the award of military construction contracts, effective until April 16, 1991. Although the Build-to-Lease (Section 801) and the Rental Guarantee (Section 802) housing programs are not addressed by these restrictions, prudence dictates that all long term commitments for facilities be curtailed pending force structure realignment decisions. Accordingly, except for contracts needed to meet urgent requirements as determined by the Deputy Secretary of Defense, no new Section 801 or Section 802 housing contracts will be approved for award prior to April 16, 1991.

Robert A. Stone
Deputy Assistant Secretary of Defense
(Installations)

REVIEW COMMENTS
DRAFT QUICK-REACTION REPORT ON THE AUDIT OF DOD LEASING OF FAMILY HOUSING
PROJECT NO. OGC-0006.02

1. page 2, line 6: Insert the word "not" between the words "are" and "the". 2

2. page 2, para 3: The phrase "...4 projects for 1,150 units were pending award" is incorrect. At the referenced point in time these projects were only being advertised (i.e., proposals were being solicited). As of today, the solicitations on two of these projects have been cancelled (no viable proposals were received), and proposals received under the other two solicitations are still undergoing Service evaluation. A project assumes "pending award" status when a contract award recommendation is forwarded from the Service for OSD review. Accordingly, no Section 801 projects were then or are now "pending award". 2

3. page 2, para 3: The identification of "10 Section 801 projects . . . actively being considered for approval" is misleading (and inaccurate), as it implies that unless DoD moves to block the Services, additional long-term contractual commitments are imminent. In truth, project planning is in various stages of progress at more than 10 locations, but with the exception of the two active solicitations mentioned in comment 2 above, contract awards during the current construction prohibition period are impossible. Further, irrevocable commitments have never been contemplated for any Section 801 project absent assurances of a long term continuing need. Suggesting that the recommended moratorium on such leases could save the Government up to the full estimated value of all candidate projects would be true only if all such projects later prove to be unnecessary, and if the moratorium itself is necessary to preclude such unwise decisions. Appropriate rewording of this portion of the draft report is requested. 2, 3

4. Recommendation 2: The phrase "direct the Services to curtail awarding contracts" implies that such contract awards can occur without OSD consent, and perhaps have been occurring during the past year when other construction programs have been restricted. The authorizing statutes for the long-term family housing leasing programs require that no contract can be awarded until the Secretary of Defense provides the appropriate committees of Congress with prescribed economic justification, and 21 days have elapsed following such notification. Since January, 1990, when the first construction moratorium was imposed by the Secretary of Defense, only one Section 801 project has been awarded, and then only after being approved by the Deputy Secretary of Defense. It would seem more appropriate to recommend that the Assistant Secretary of Defense (Production and Logistics) formally document the continuation of what has been the practice to date with respect to new contract awards.

5. Enclosure 1, footnote: As noted in comment 3 above, monetary benefits should be attributed to the audit only to the extent that the recommended moratorium on new contracts precludes the award of such contracts at locations without a long term need for the additional housing. Although not formally documented prior to now, safeguards against unwise commitments have been in place all along. Therefore, it would be inappropriate to credit the audit with saving the Government from unnecessary contracts.