

JUL 19 2005

The **Forest Glen Commonwealth**, Inc.
501c3 organization, Tax ID #52-2204011
4014 Brainard Avenue Kensington, MD 20895
Phone: 301-588-6503 Fax: 301-564-9620
July 6, 2005

Received

Mr. Anthony Principi, Commission Chairman
BRAC Commission
2521 South Clark ST Suite 600
Arlington VA 22202

BY FAX TO 703-699-2735

Dear Mr. Principi:

We had the honor of meeting you by introduction of Dave Autry of Disabled American Veterans at the program "Honoring our Unsung Heroes" LIFE's 6th Annual Event in November 2002 honoring then Maryland Secretary of Veterans Affairs, Tom Bratton.

Our work to protect, adapt and reuse for public benefit purposes federal properties across America that have been significant as (1) veterans healing centers and/or (2) other distinctive properties that seem qualified for adaptation for federal public benefit reuses continues to this day. We have seen many obstacles thrown out by federal, state and local authorities. These obstacles can be devastating to local community groups and not for profit advocates. We are recommending that we be chartered to systematically identify and aid in removal of these obstacles.

Please accept your copy of our letter to Director Patrick O'Brien of the Office of Economic Advantage as an opportunity for us --- our team --- and the BRAC Commission to aid by leveling the playing field and thereby preserving for public benefit purposes and the national best-interest, all or parts of the real property included in current or incomplete BRAC closures.

Respectfully,
Forest Glen Commonwealth, Inc.



Rebecca Rush
Chairman



Richard Lank
President

The Forest Glen Commonwe
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Phone: 301-588-6503 Fax: 301-5
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Plz Send to
Commission

Date Stamp
June 1, 2005
Scan as one PDF

Mr. Patrick J. O'Brien, Director
Office of Economic Adjustment
Office of the Secretary of Defense
400 Army Navy Drive, Suite 200
Arlington VA 22202-4704

Re: Unsolicited request for sole-source provision

Dear Director O'Brien:

Our organization, which is a 501-c-3 Maryland not for profit corporation, believes that the Office of Economic Adjustment ("OEA") is the appropriate federal agency for us to submit this (unsolicited) proposal. We believe our project will streamline both BRAC and other transfers of excess federal real property, provide independent oversight and thereby improve the speed and transparency of transfers to the private sector. In the federal portfolio of excess real property, some of the subject properties are also historic in nature and/or have served a nationally significant purpose in times of war and of peace. Hence, these particular properties require special vigilance and dispensation techniques throughout the disposal process and in choosing their ultimate steward(s).

Our proposal seeks to establish both a new administrative and evaluative/review process, instituted and managed by Forest Glen Commonwealth, that will make future transfers of real property more cost effective, transparent and equitable – and will weigh the transfer in terms of the impact on the national versus the local economy and interests.

Background

Under the Federal Property and Administrative Services Act of 1949 (as amended – hereinafter "the Property Act"), when real property owned by the U.S. Government is to be disposed of, there is a specific process to be followed: first, other federal agencies are asked if they want said property. If not, then it is screened for private non-profit Homeless shelter use. If not wanted for that specific purpose, then it goes into a Public Benefit Conveyance procedure. The applicant must be a non-profit organization to qualify. And, finally, the last option is either a transfer to a local government or offering the property for a public sale.

The public benefit reuses germane to our scope of interest include educational and health care-related reuses and historic monuments.

Concerns

It has been our observation that the Public Benefit Conveyance process is often short-circuited in order for the subject property to be moved to a private for-profit developer even if though there may be commanding evidence that the subject property could serve a larger public benefit purpose.

Obstacles and Biases

Not-for-profit and civic associations are often formed to be stewards of significant historic and cultural assets and land – museums, homes of historically important people, battlefield land trusts, and so forth. These groups are in an excellent position to become the custodians of important landmarks, collections, and buildings of architectural and historic significance. They may already be financial stakeholders. And yet when it comes to federally owned property scheduled for excess or surplus actions, such as former convalescence centers, military parade grounds and historically-significant Veterans Administration hospitals, the interests of non-profits and civic associations seem to be routinely sidestepped, ignored, discredited, and – sometimes – outright sabotaged.

Our Perspective

Our not for profit organization has been a witness to, participant in and suffered economic losses from dutifully adhering to the present public benefit conveyance process. We are now aware of other organizations equally challenged by what may be an intentionally ambiguous, costly and unnecessarily hostile processes that begins at the federal level and thereafter stifles a fair evaluation of a not-for-profit organization's reuse plans. Of the projects with which we are most familiar, one transfer is a BRAC project; one is a non-BRAC transfer and others are VA-CARES projects.

We see evidence that a national best interest is often ignored or thwarted by local interests funded by private for-profit developer interests. We have also witnessed state intermediaries undermining goals of local community members.

The following are three examples of inconsistencies that we believe seriously require further evaluation in order to make both pending and future real property transfers more cost effective, transparent and equitable.

- Not for profit organizations are discriminated against in that they are not given the right to apply for OEA grants (see, for example, # 12.600 Community Economic Adjustment, Office of Economic Adjustment, AUTHORIZATION: 10 U.S.C.- 2391) for which the only entities that may apply are municipalities and Local Redevelopment Authorities.
- Public benefit conveyance stipulations of the U.S. Department of Education, for instance, require Department of Education oversight of a non-profit transferee's activities for 30-years after the date of transfer. This is purportedly required to substantiate the discount and ensure that the non-profit organization continuously owns and operates the property exclusively for public benefit purposes. However, there is no similar oversight requirement or requirement that for-profit organizations continuously own a property, (i.e. not sell parts of the property at a profit) in exchange for the discount. This rule unfairly prejudices the not for profit organization and its public benefit reuse scenarios, is costly to administer and does not serve the best interest of the public at large.

- For-profit developers may lobby: not for profit organizations are generally prohibited from lobbying.
- For profit developers are routinely campaign contributors; not for profit organizations do not typically make political contributions.

What We Are Seeking

We are requesting (1) a Contract for the amount of \$99,275 (budget will be provided upon request) and (2) a National Charter to become the sole-source provider of a proprietary information and referral service for civic groups and not for profit organizations involved in federal real estate transfers. By providing both printed materials, coaching and Internet services to not for profit organizations and civic associations, their access will be enhanced to timely, practical, impartial and meaningful information about federal transfer laws, best practices, successes and failures of prior BRAC and other federal excess property sales. We believe this small step will aid in assuring transparency, reduce the frequency of lawsuits and result in long-term financial benefits for the federal government and the communities involved.

Our **constituency** will include: (a) not-for-profit organizations interested in qualifying for a public benefit conveyance of real property, (b) not-for-profit organizations desiring to compete for a discounted conveyance of excess federal property, and (c) civic groups and other local stakeholders representing a community's long-term best interest.

Our **product** is printed and Internet-based materials including technical information, resources and referral lists, frequently asked questions and other decision support management tools suitable for non-profit and civic constituents.

Our **governing body** will include persons who have been leaders of non-profit or civic organizations that have dealt with BRAC, Direct/Non-BRAC and/or VA Cares transfers in their own communities.

We believe this modest investment will pay dividends for the federal government and may result in legislative recommendations designed to revamp, modernize and streamline the presently cumbersome process. Our independent process may also save countless dollars currently wasted by non-profits on "consultants" and/or attorneys when good information may mitigate these needs. We believe that our executable plan will benefit the federal government in the following ways:

- (1) improve cash flow through expediting transfers
- (2) result in more transfers with fewer lawsuits
- (3) obtain consistently higher or more-fair prices for the federal government
- (4) reduce the frequency of "sweetheart" deals and unjustifiable discounts
- (5) improve the community's perception of the negotiation process as transparent
- (6) improve accountability
- (7) aid in revising ambiguous or inappropriate "Requests for Proposals" for redevelopment

- (8) guide not for profit organizations to better understand the measurement criteria, due diligence and other professional standards against which plans they support may be judged
- (9) aid local decision makers to understand the economic benefits, social and cultural opportunities provided by some public benefit conveyance proposals
- (10) prevent disenfranchisement of the local stakeholders by LRA's and government authorities
- (11) recommend simplification or clarification of current statutes, procedures, training and/or techniques that may encumber successful public benefit reuses.

We believe that this project should be funded initially by contract through your office as a non-competitive, sole source contract. We believe additional sources of funds may be available through:

- (1) the equivalent of a "community impact fee" paid by developers who have been awarded BRAC or other federal properties
- (2) a penalty to Local Redevelopment Authorities or their equivalents in communities with incomplete BRAC transfers lingering from prior years and current BRAC-round communities with transfers unconsummated within 5 years,
- (3) grants from grant makers favoring historic preservation, green space, civic action, public policy and leadership development missions.

There are, at least, ten (10) issues that seem to need more clarification, written best practices and oversight in transfers that may be improved in future transfers through our streamlining project. The issues are indexed below and are more fully developed in the attached briefing:

- a. Mandated appraisals and periodic appraisal updates
- b. Discounts from appraised values defined and correlated encumbrances in place in exchange for discounts given
- c. Excess profits limitations; non-flipping clauses
- d. Prejudice against historic preservation projects as "too expensive" and therefore not competitive.
- e. Lack of lobbying capacity
- f. Sale and leaseback options
- g. Transfer backlogs
- h. Stakeholder Education, that not for profit ownership does not automatically mean "no property taxes" billable.
- i. Better communication channels and mediation system between local civic groups and federal authorities through which possibly unethical activities at the LRA level can be reported and investigated.
- j. Increase oversight to reduce "acceptability" of sub-rosa dealings.

Several of our proposed team members have extensive experience in each of the issues above including specialists in military property transfers, brownfield reclamation, economic and community development, public policy, tax credits for historic preservation, affordable housing, tourism and recreation development and mixed-use economic conversions of challenging real estate projects.

Summary

We believe that the impending BRAC closures and other real estate transfers without impartial outreach systems and practices being in place will result in years of unnecessary litigation as well as stakeholders incurring unnecessary expenses and short and long-term opportunity costs. Additionally, it will result in a waste of precious time, energy and money of civic and not-for-profit organizations.

We are therefore requesting a contract in the amount of **\$99,275** to enable our team to produce materials and an on-line decision support system designed to respond to questions posed by other not-for-profit organizations and civic associations with federal land and/or buildings in their neighborhoods.

Our request, when fulfilled, will serve to expedite successful transfers and also help a variety of constituents in communities dealing with their once-in-a-lifetime experience of participating in transfer of governmental property.

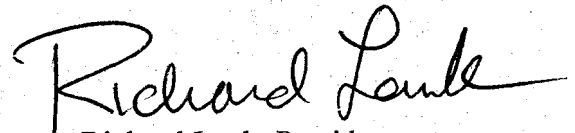
We believe this outsourcing-type of sole-source contract will enable the federal government to possibly expedite the backlog of existing transfers and streamline future transfers, improve the public trust through improving transparency and potentially save millions of dollars in lawsuits.

I have attached a briefing paper and would appreciate your prompt reply and, if you have questions, will be glad to meet with you personally.

Forest Glen Commonwealth, Inc.



Rebecca Rush, Chairman



Richard Lank, President

Cc: U.S. Congressman Chris VanHollen
Director of the BRAC Commission, Mr. Anthony Principi
Acting U.S. Secretary of Veterans Affairs
The Cascade Committee, Cascade, Maryland
The Soldier's Home Foundation, Milwaukee, WI
Representative: National Trust for Historic Preservation

Request for Contract between Forest Glen Commonwealth's Coalition and Office of Economic Adjustment

*to Develop Resource Materials and Decision Support Information Systems
for the benefit of Not for Profit Organizations, Civic Associations
and other Stakeholders in Communities Affected by BRAC, Veterans CARES or
other potential transfers of Federal real property.*

Background

The Office of Economic Adjustment policies and procedures may seem clear and forthcoming for those who work every day with these issues. However, these procedures, designed for aiding elected officials, assume that:

- 1) elected officials have basic experience in land valuation and transfer matters
- 2) Local Redevelopment Authorities (LRA's) understand the long-term economic benefits and potential social cost savings that may result from adaptations for educational, health, historic monument/tourism and other public reuse options
- 3) a community is incorporated and has its own local elected "town" officials representing its best interests
- 4) an impacted community is within one state or one county
- 5) local stakeholders, passionate about the community assets at risk, will settle for being ignored or patronized by LRA's and other decision makers
- 6) someone (other than the media) is accountable for enabling, documenting, facilitating and/or monitoring communication between the LRA and local citizen/stakeholder groups throughout the excruciatingly long process.

As National Needs Changes, Reuse Scenarios May Require Change

Issues facing local communities and America at the start of a BRAC process may change dramatically during the multi-year process. Early public hearing input should be regularly updated, re-evaluated and modified in light of contemporary national and regional issues such as significant real estate appreciation, America at war/Homeland Security needs, the aging of America, transportation or technology changes, regional water rights, Health Needs of the Population, etc.

Experience

A federal property transfer is a once-in-a-lifetime experience for most people. For real estate developers, however, economic conversions may be "all in a day's work" and developers have access to professional organizations for learning and partnering. No comparable national network for learning or partnering is available for civic associations and not-for-profit stakeholders.

**Federal Domestic Assistance Grants by the Office of Economic Adjustment
Do Not Include Not for Profits as Potential Awardees**

Grants offered through your agency and published in the Catalog of Federal Domestic Assistance with respect to transfers of federal property are not available to not for profit organizations. They are only offered to municipalities and to Local Redevelopment Authorities. Civic groups and not for profit organizations deserve timely, impartial and adequate resources during this important process. We believe this proposal will satisfy this presently unmet need. See for example:

- CFDA # 12.600 Community Economic Adjustment, Office of Economic Adjustment, AUTHORIZATION: 10 U.S.C.- 2391: to apply you must be a municipality or a LRA.

Problems with Transfer Backlog Statistics

Your own web site Summary Statistics page located at http://www.hqda.army.mil/acsim/brac/Conus_Summary.htm with respect to past transfers reports that of 27 Planned BRAC transfers, all 27 are completed.

However, Fort Ritchie (MD) is encumbered with lawsuits and has not yet been transferred making the reported 100% success rate questionable and the public accounting shown above equally questionable. The pending actions related to Fort Ritchie are listed below.

- (1) See United States District Court of Washington D.C.
Civil Action #04-1595 (RMU)
Denying Plaintiff's Motion for Leave to File a Sur-Reply
and Denying Defendant's Motion to Dismiss
Role Models America, Inc. Vs. Lee Brownlee, Secretary of the U.S. Army, *et al.*
- (2) See United States District Court of Washington D.C.
Case Number 1:05CV00949 Pro se General Civil
Complaint for Declaratory and Injunctive Relief
Jim LEMON and Robin BISER vs The Honorable Francis J. Harvey, Secretary of the
Army and PenMar Development Corporation and Corporate Office Properties Trust

Ten Representative Concerns

The following 10 issues are highlighted below. They are meant to be representative but this is not an exhaustive list of concerns.

1. **Appraisals:** should be mandated and updated at least every two years
2. **Discounts:**
 - (a) variances between sales prices and appraised value must be documented and justifiable; the combined federal and (on occasion) state or local historic preservation tax credits should also be included in the buyers' discount calculations before offering additional incentives.

(b) Valuing encumbrances in exchange for discounts: Discounts must be negotiated in a transparent and arms-length manner. Not for profit organizations that accept property under a public benefit conveyance for \$1.00 or another deep discount must agree to consistently perform the "public benefit" and continue to own all the property that qualified them for the discount for a term of 30 years!

This onerous covenant deserves review and parity between the rules for non-profit and for-profit developers with respect to holding periods, oversight and reversionary stipulations.

3. **Excess profits:** Profit margin ceilings should be in place for the same 30-year period as mentioned above on sales to for-profit developers with excessive, deep or "sweetheart" discounts.
4. **Prejudice against historic preservation and other "tree hugger" projects that are not generally "taxable" requires education and demonstrated models of success for the communities served.**
5. **Lack of lobbying capacity: for-profit organizations have the right to lobby and donate to political campaigns,** a right and privilege not generally afforded to a not-for-profit candidate.
6. **Sale and leaseback:** This technique should be more frequently discussed to enable the Federal Government to obtain sales proceeds and lease back at a discount remodeled or new built space if circumstances warrant a new governmental need.
7. **Transfer backlogs:** Obstacles and lawsuits may be reduced with this new review and public/private streamlining approach.
8. **Not for profit does not always mean "no tax base".** A not for profit organization may itself subdivide, operate a for profit venture (up to certain limits) and/or sublease real property and thereby make owned real estate subject to local real estate taxes.
9. **Ongoing education:** Community members, not for profits, civic leaders and elected officials in BRAC communities, have generally had little previous experience with successful federal real property negotiations or transfers. However, successful developers are experienced in land acquisition negotiation, or through professional and trade associations, are able to network with other developers or professionals who have the requisite experience. Our project would provide an important resource, referral and educational system to aid non-profit and civic stakeholders.
10. **Compliance with Original Agreements:** There must be more timely and effective oversight and a system or methodology for local civic organizations to report suspicious activities by LRA's. In the Fort Ritchie example, the local civic groups allege that the LRA may have attempted to unilaterally change terms and conditions from original transfer agreements for the benefit of the buyer and to the detriment of the federal government and/or local stakeholders. There is no clear reporting channel in place -- other than lawsuits --- to get attention at the highest levels.

Our Team Members (Representative Listing/Invited) Include:

Sheldon Cohen, Esq., Cascade Committee
George Drastal, Cascade Committee
Todd Hunter, Esq., Madison, WI, Heritage Guard Foundation
Richard Lank, Forest Glen Commonwealth, Public Policy/Communications
Patricia Lynch, Soldiers Home Foundation, Milwaukee, WI
Martin Millspaugh, Enterprise Real Estate and Master Developer for Baltimore Inner Harbor
Project and other successful economic conversions around the world
Joe Noonan, Worcester-Eisenbrand Construction, Inc.
Jane Rohde, AIA, JSR Associates
Rebecca R. Rubin, Military Environmental Transfers, Brownfields Remediation Expert
Rebecca L. Rush, CPA, Forest Glen Commonwealth, Project Manager
Representative: National Trust for Historic Preservation

“We believe that our Team is uniquely qualified and experienced to assist communities and their stakeholders that are either already involved in or likely to be involved in BRAC, VA Cares or other real estate transfers from the federal government into the private sector.”