

110TH CONGRESS
2D SESSION

H. R. 5931

To ensure appropriate implementation and oversight of the realignment of military installations and the relocation of military personnel on Guam, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 2008

Ms. BORDALLO (for herself and Mr. ABERCROMBIE) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To ensure appropriate implementation and oversight of the realignment of military installations and the relocation of military personnel on Guam, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Joint Guam Projects Oversight Act”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

- Sec. 2. Guam Defense Policy Review Initiative Account.
- Sec. 3. Sense of Congress regarding use of Special Purpose Entities for military housing related to Guam realignment.
- Sec. 4. Sense of Congress regarding Federal assistance to Guam.
- Sec. 5. Comptroller General report regarding interagency requirements related to Guam realignment.
- Sec. 6. Energy and environmental design initiatives in Guam military construction and installations.
- Sec. 7. Department of Defense Inspector General report regarding Guam realignment.
- Sec. 8. Eligibility of the Commonwealth of the Northern Mariana Islands for military base reuse studies and community planning assistance.
- Sec. 9. Support for small businesses and local employment opportunities in Guam realignment.
- Sec. 10. HUBZone program limitation on construction contracts for small business concerns.
- Sec. 11. Procurement Technical Assistance Center on Guam.
- Sec. 12. Enhancement of Guam enforcement of tax, employment, and licensing laws against construction contractors of the military departments.

1 **SEC. 2. GUAM DEFENSE POLICY REVIEW INITIATIVE AC-**
 2 **COUNT.**

3 (a) ESTABLISHMENT OF ACCOUNT.—There is estab-
 4 lished on the books of the Treasury an account to be
 5 known as the “Guam Defense Policy Review Initiative Ac-
 6 count” (in this section referred to as the “account”).

7 (b) CREDITS TO ACCOUNT.—

8 (1) AMOUNTS IN FUND.—There shall be cred-
 9 ited to the account the following amounts:

10 (A) Amounts authorized for and appro-
 11 priated to the account.

12 (B) Contributions received under section
 13 2350k of title 10, United States Code, for the
 14 realignment of military installations and the re-
 15 location of military personnel on Guam.

1 (C) Amounts transferred to the account to
2 support the realignment of military installations
3 and the relocation of military personnel on
4 Guam.

5 (2) NOTICE OF RECEIPT OF CONTRIBUTIONS.—
6 The Secretary of Defense shall submit to Congress
7 written notice of the receipt of contributions referred
8 to in paragraph (1)(B), including the amount of the
9 contributions, not later than 30 days after receiving
10 the contributions.

11 (c) USE OF ACCOUNT.—

12 (1) AUTHORIZED USES.—Subject to paragraph
13 (2), in such amounts as may be provided in advance
14 in appropriations Acts, amounts in the account may
15 be used as follows:

16 (A) To carry out or facilitate the carrying
17 out of a transaction in connection with the re-
18 alignment of military installations and the relo-
19 cation of military personnel on Guam, including
20 military construction, military family housing,
21 unaccompanied housing, general facilities con-
22 structions for military forces, and utilities im-
23 provements.

1 (B) To carry out improvements of property
2 or facilities on Guam as part of such a trans-
3 action.

4 (C) To obtain property support services for
5 property or facilities on Guam resulting from
6 such a transaction.

7 (D) To develop military facilities or train-
8 ing ranges in the Commonwealth of the North-
9 ern Mariana Islands.

10 (2) COMPLIANCE WITH GUAM MASTER PLAN.—
11 Transactions authorized by paragraph (1) shall be
12 consistent with the Guam Master Plan, as incor-
13 porated in decisions made in the manner provided in
14 section 102 of the National Environmental Policy
15 Act of 1969 (42 U.S.C. 4332).

16 (3) LIMITATION REGARDING MILITARY HOUS-
17 ING.—To extent that the authorities provided under
18 subchapter IV of chapter 169 of title 10, United
19 States Code, are available to the Secretary of De-
20 fense, the Secretary shall use such authorities to ac-
21 quire, construct, or improve family housing units,
22 military unaccompanied housing units, or ancillary
23 supporting facilities in connection with the relocation
24 of military personnel on Guam.

1 (4) COMPLIANCE WITH WAGE RATE REQUIRE-
2 MENTS.—Subchapter IV of chapter 31 of title 40,
3 United States Code, shall apply to the use of all
4 amounts in the account.

5 (5) SPECIAL REQUIREMENTS REGARDING USE
6 OF CONTRIBUTIONS.—

7 (A) TREATMENT OF CONTRIBUTIONS.—
8 Except as provided in subparagraphs (C) and
9 (D), the use of contributions referred to in sub-
10 section (b)(1)(B) shall not be subject to condi-
11 tions imposed on the use of appropriated funds
12 by chapter 169 of title 10, United States Code,
13 or contained in annual military construction ap-
14 propriations Acts.

15 (B) NOTICE OF OBLIGATION.—Contribu-
16 tions referred to in subsection (b)(1)(B) may
17 not be obligated for a transaction authorized by
18 paragraph (1) until the Secretary of Defense
19 submits to Congress notice of the transaction,
20 including a detailed cost estimate, and a period
21 of 21 days has elapsed after the date on which
22 the notification is received by Congress or, if
23 over sooner, a period of 14 days has elapsed
24 after the date on which a copy of the notifica-
25 tion is provided in an electronic medium.

1 (C) COST AND SCOPE OF WORK VARI-
2 ATIONS.—Section 2853 of title 10, United
3 States Code, shall apply to the use of contribu-
4 tions referred to in subsection (b)(1)(B).

5 (D) PREFERENCE FOR UNITED STATES
6 CONTRACTORS.—The general provision con-
7 tained in annual military construction appro-
8 priations Acts that provides a limited preference
9 for military construction in the United States
10 territories and possessions in the Pacific shall
11 apply to the use of contributions referred to in
12 subsection (b)(1)(B).

13 (d) TRANSFER AUTHORITY.—

14 (1) TRANSFER TO HOUSING FUNDS.—The Sec-
15 retary of Defense may transfer funds from the
16 Guam Defense Policy Review Initiative Account to
17 the following funds:

18 (A) The Department of Defense Family
19 Housing Improvement Fund established by sec-
20 tion 2883(a)(1) of title 10, United States Code.

21 (B) The Department of Defense Military
22 Unaccompanied Housing Improvement Fund
23 established by section 2883(a)(2) of such title.

24 (2) TREATMENT OF TRANSFERRED
25 AMOUNTS.—Amounts transferred under paragraph

1 (1) to a fund referred to in that paragraph shall be
2 available in accordance with the provisions of section
3 2883 of title 10, United States Code, for activities
4 on Guam authorized under subchapter IV of chapter
5 169 of such title.

6 **SEC. 3. SENSE OF CONGRESS REGARDING USE OF SPECIAL**
7 **PURPOSE ENTITIES FOR MILITARY HOUSING**
8 **RELATED TO GUAM REALIGNMENT.**

9 (a) NATURE OF SPECIAL PURPOSE ENTITIES.—It is
10 the sense of Congress that any Special Purpose Entity es-
11 tablished to assist in the provision of military family hous-
12 ing in connection with the realignment of military installa-
13 tions and the relocation of military personnel on Guam
14 should—

15 (1) be operated, to the extent practicable, in the
16 manner provided for public-private ventures under
17 subchapter IV of chapter 169 of title 10, United
18 States Code; and

19 (2) be conducted as joint ventures between Jap-
20 anese and United States private firms, except that
21 any military family housing venture carried out by
22 such a joint venture should be primarily managed by
23 a United States private firm.

24 (b) SCOPE OF ACTIVITIES.—It is the sense of Con-
25 gress that funding for such a Special Purpose Entity

1 should not be limited to only utility improvements and the
2 construction of military family housing in connection with
3 the realignment of military installations and the relocation
4 of military personnel on Guam.

5 (c) UTILITY INFRASTRUCTURE IMPROVEMENTS.—It
6 is the sense of Congress that funding for such a Special
7 Purpose Entity should support proposed utility infrastruc-
8 ture improvements on Guam that incorporate the civilian
9 and military infrastructure into a single grid to realize and
10 maximize the effectiveness of the overall utility system.

11 (d) MILITARY FAMILY HOUSING.—It is the sense of
12 Congress that the building requirements imposed for any
13 military family housing constructed by such a Special Pur-
14 pose Entity in connection with the realignment of military
15 installations and the relocation of military personnel on
16 Guam should be established by the Department of Defense
17 in accordance with current building standards that are
18 used with other projects.

19 **SEC. 4. SENSE OF CONGRESS REGARDING FEDERAL AS-**
20 **SISTANCE TO GUAM.**

21 (a) SENSE OF CONGRESS.—It is the sense of Con-
22 gress that the Secretary of Defense, in coordination with
23 the Interagency Group on Insular Areas, should enter into
24 a memorandum of understanding with the Government of
25 Guam to identify, before the realignment of military in-

1 stallations and the relocation of military personnel on
2 Guam, local funding requirements for civilian infrastruc-
3 ture development and other needs related to the realign-
4 ment and relocation. The memorandum of understanding
5 would stipulate the commitment of Federal agencies to as-
6 sist the Government of Guam in carrying out the Guam
7 realignment in a responsible and consistent manner.

8 (b) INTERAGENCY GROUP ON INSULAR AREAS DE-
9 FINED.—In this section, the term “Interagency Group on
10 Insular Areas” means the interagency group established
11 by Executive Order No. 13299 of May 12, 2003 (68 Fed.
12 Reg. 25477; 48 U.S.C. note prec. 1451). The term in-
13 cludes any sub-group or working group of that interagency
14 group.

15 **SEC. 5. COMPTROLLER GENERAL REPORT REGARDING**
16 **INTERAGENCY REQUIREMENTS RELATED TO**
17 **GUAM REALIGNMENT.**

18 (a) REPORT REQUIRED.—Not later than 180 days
19 after the date of the enactment of this Act, the Comp-
20 troller General shall submit to Congress a report on the
21 status of interagency coordination through the Inter-
22 agency Group on Insular Areas of budgetary requests to
23 assist the Government of Guam with its budgetary re-
24 quirements related to the realignment of military forces
25 on Guam. The report shall address to what extent and

1 how the Interagency Group on Insular Areas will be able
2 to coordinate interagency budgets so the realignment of
3 military forces on Guam will meet the 2014 completion
4 date as stipulated in the May 2006 security agreement be-
5 tween the United States and Japan.

6 (b) INTERAGENCY GROUP ON INSULAR AREAS DE-
7 FINED.—In this section, the term “Interagency Group on
8 Insular Areas” means the interagency group established
9 by Executive Order No. 13299 of May 12, 2003 (68 Fed.
10 Reg. 25477; 48 U.S.C. note prec. 1451). The term in-
11 cludes any sub-group or working group of that interagency
12 group.

13 **SEC. 6. ENERGY AND ENVIRONMENTAL DESIGN INITIA-**
14 **TIVES IN GUAM MILITARY CONSTRUCTION**
15 **AND INSTALLATIONS.**

16 (a) LEADERSHIP IN ENERGY AND ENVIRONMENTAL
17 DESIGN PRINCIPLES.—With respect to all new military
18 construction projects on Guam and military housing to be
19 constructed on Guam related to the realignment of mili-
20 tary forces on Guam, the Secretary of Defense shall re-
21 quire the incorporation, into the design criteria for the
22 projects, of principles developed by the Leadership in En-
23 ergy and Environmental Design to achieve not less than
24 the silver standard, as determined by the appropriate
25 Leadership in Energy and Environmental Design com-

1 mittee. This requirement shall apply regardless of the
2 source of funds for the project.

3 (b) RENEWABLE ENERGY GOAL.—The Secretary of
4 Defense shall establish a goal for the use of renewable en-
5 ergy sources on all military installations on Guam. Not
6 later than one year after the date of the enactment of this
7 Act, the Secretary shall submit to Congress a report con-
8 taining the plan of the Secretary to achieve the renewable
9 energy goal. The report shall identify the renewable
10 sources of energy that will be utilized and describe how
11 the renewable sources will be utilized and installed at mili-
12 tary installations on Guam.

13 **SEC. 7. DEPARTMENT OF DEFENSE INSPECTOR GENERAL**
14 **REPORT REGARDING GUAM REALIGNMENT.**

15 Not later than 180 days after the date of the enact-
16 ment of this Act, the Inspector General of the Department
17 of Defense shall submit to Congress a report on the ef-
18 forts of the Inspector General to address potential waste
19 and fraud associated with the realignment of military
20 forces on Guam.

1 **SEC. 8. ELIGIBILITY OF THE COMMONWEALTH OF THE**
2 **NORTHERN MARIANA ISLANDS FOR MILI-**
3 **TARY BASE REUSE STUDIES AND COMMUNITY**
4 **PLANNING ASSISTANCE.**

5 (a) INCLUSION IN DEFINITION OF MILITARY INSTAL-
6 LATION.—Section 2687(e)(1) of title 10, United States
7 Code, is amended by inserting after “Virgin Islands,” the
8 following: “the Commonwealth of the Northern Mariana
9 Islands,”.

10 (b) INCLUSION OF FACILITIES OWNED AND OPER-
11 ATED BY COMMONWEALTH.—Section 2391(d)(1) of title
12 10, United States Code, is amended by inserting after
13 “Guam,” the following: “the Commonwealth of the North-
14 ern Mariana Islands,”.

15 **SEC. 9. SUPPORT FOR SMALL BUSINESSES AND LOCAL EM-**
16 **PLOYMENT OPPORTUNITIES IN GUAM RE-**
17 **ALIGNMENT.**

18 (a) SENSE OF CONGRESS.—In connection with con-
19 tracts to be entered into by the Secretary of Defense re-
20 lated to the realignment of military installations and the
21 relocation of military personnel on Guam, it is the sense
22 of Congress that the Secretary should grant a preference,
23 to the maximum extent practicable—

24 (1) to small business concerns domiciled on
25 Guam or in the Commonwealth of the Northern
26 Mariana Islands in awarding the contracts; and

1 (2) to the local workforce for employment under
2 such contracts.

3 (b) TRAINING PROGRAMS.—The Secretary of De-
4 fense, in coordination with other Federal agencies com-
5 prising the Interagency Group on Insular Areas, should
6 develop and support programs for training of the local
7 workforce to acquire the job skills needed for employment
8 opportunities arising as a result of the realignment of mili-
9 tary installations and the relocation of military personnel
10 on Guam.

11 (c) INTERAGENCY GROUP ON INSULAR AREAS DE-
12 FINED.—In this section, the term “Interagency Group on
13 Insular Areas” means the interagency group established
14 by Executive Order No. 13299 of May 12, 2003 (68 Fed.
15 Reg. 25477; 48 U.S.C. note prec. 1451). The term in-
16 cludes any sub-group or working group of that interagency
17 group.

18 **SEC. 10. HUBZONE PROGRAM LIMITATION ON CONSTRUC-**
19 **TION CONTRACTS FOR SMALL BUSINESS**
20 **CONCERNS.**

21 Section 31(b) of the Small Business Act (15 U.S.C.
22 657a(b)) is amended by adding at the end the following:

23 “(6) LIMIT HUBZONE PROGRAM CONSTRUCTION
24 CONTRACTS IN OR NEAR A HUBZONE.—A small busi-
25 ness concern may not obtain a construction contract

1 by reason of the HUBZone program unless the con-
2 struction project is located in or near the HUBZone
3 in which the small business concern has its principal
4 place of business. The Administrator shall prescribe
5 standards for determining when a project is located
6 ‘near’ a HUBZone for purposes of this paragraph,
7 except that under no circumstances can a project lo-
8 cated more than 150 miles from a HUBZone be lo-
9 cated ‘near’ that HUBZone.”.

10 **SEC. 11. PROCUREMENT TECHNICAL ASSISTANCE CENTER**
11 **ON GUAM.**

12 (a) COOPERATIVE AGREEMENT.—Using funds appro-
13 priated pursuant to the authorization of appropriations in
14 subsection (b), the Secretary of Defense shall enter into
15 a cooperative agreement under section 2413 of title 10,
16 United States Code, for the purpose of establishing a Pro-
17 curement Technical Assistance Center on Guam.

18 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
19 authorized to be appropriated to the Secretary of Defense
20 for fiscal year 2009 \$600,000 to establish the Procure-
21 ment Technical Assistance Center on Guam.

1 **SEC. 12. ENHANCEMENT OF GUAM ENFORCEMENT OF TAX,**
2 **EMPLOYMENT, AND LICENSING LAWS**
3 **AGAINST CONSTRUCTION CONTRACTORS OF**
4 **THE MILITARY DEPARTMENTS.**

5 (a) REQUIREMENT FOR TAX-RELATED CLEARANCE
6 FROM POTENTIAL CONSTRUCTION CONTRACTORS.—For
7 purposes of section 2305 of title 10, United States Code,
8 in order to be considered a responsible bidder or offeror
9 for a contract for the construction of a public building,
10 facility, or work on Guam, a bidder or offeror shall submit
11 with the bid or offer a tax clearance from the Government
12 of Guam indicating that the bidder or offeror is in compli-
13 ance with all the tax laws of Guam.

14 (b) REQUIREMENT TO WITHHOLD FINAL CONTRACT
15 PAYMENT UNTIL RECEIPT OF TAX-RELATED CLEARANCE
16 AND CERTIFICATION OF COMPLIANCE WITH EMPLOY-
17 MENT LAWS FROM CONTRACTOR.—The Secretary of a
18 military department shall withhold final payment under
19 any contract for the construction of a public building, fa-
20 cility, or work on Guam until the contractor submits to
21 the Secretary both of the following:

- 22 (1) A tax clearance required by subsection (a).
23 (2) A certification stating that the contractor is
24 in compliance (or was in compliance during the per-
25 formance of the contract) with all applicable laws of
26 Guam that require employers to make payments to

1 or for the benefit of employees, including laws relat-
2 ing to unemployment insurance, workers compensa-
3 tion, health insurance, and disability insurance.

4 (c) AUTHORITY TO WITHHOLD PAYMENT TO CON-
5 TRACTOR OF AMOUNTS NECESSARY TO MEET GUAM TAX
6 OBLIGATIONS.—The Secretary of a military department
7 may withhold, from any payment due to a contractor
8 under a contract made by the Secretary for the construc-
9 tion of a public building, facility, or work on Guam, an
10 amount considered necessary by the Secretary to pay to
11 the Government of Guam the amount of the contractor’s
12 tax liability to Guam that is attributable to the contract.
13 The Secretary may, upon request of the Government of
14 Guam, and with such documentation as the Secretary con-
15 siders necessary, pay such tax liability amount directly to
16 the Government of Guam from the withheld payment. Any
17 amount of a withheld payment that exceeds the actual tax
18 liability amount shall be paid to the contractor.

19 (d) REQUIREMENT FOR CONSTRUCTION CONTRAC-
20 TORS TO OBTAIN APPLICABLE LICENSES.—In any con-
21 tract entered into by the Secretary of a military depart-
22 ment for the construction of a public building, facility, or
23 work on Guam, the Secretary shall require that the con-
24 tractor performing the type of work to be performed under
25 the contract be licensed to perform such work.

1 (e) EFFECTIVE DATE.—This section shall apply with
2 respect to contracts entered into after the date of the en-
3 actment of this Act.

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