

Installations

Intergovernmental Coordination of DOD Federal Development Programs and Activities

Headquarters
Department of the Army
Washington, DC
31 December 1984

Unclassified

SUMMARY of CHANGE

AR 210-70

Intergovernmental Coordination of DOD Federal Development Programs and Activities

This regulation implements DOD Directive 4165.61 and Executive Order 12372. It provides policy for coordinating Army programs on construction, real property actions, and housing with State and local governments. This regulation does not include Civil Works and the Army National Guard.

Installations

Intergovernmental Coordination of DOD Federal Development Programs and Activities

By Order of the Secretary of the Army:

JOHN A. WICKHAM, JR.
General, United States Army
Chief of Staff

Official:

DONALD J. DELANDRO
Brigadier General, United States Army
The Adjutant General

History. This UPDATE printing publishes a new Army regulation that is effective 31 December 1984. This publication has been reorganized to make it compatible with the Army electronic publishing database. No content has been changed.

Summary. This regulation implements Army policy and procedures for intergovernmental coordination established by

DOD Directive 4165.61. It covers the intergovernmental management process that ensures coordination of Department of Defense land and facility plans and projects with State, regional, and local officials. This regulation states the requirement for Army DOD Federal Region Liaison Representatives for 3 of the 10 standard Federal regions. It also deals with State, local, and other Federal agency programs that may affect Army activities. It explains the process by which States select Army programs for review and procedures for communicating with State and local officials, other military services, and Federal agencies.

Applicability. This regulation applies to the Active Army, (excluding the civil works functions of the US Army Corps of Engineers) and the US Army Reserve. It does not apply to the Army National Guard.

Proponent and exception authority. Not applicable

Impact on New Manning System. This regulation does not contain information that affects the New Manning System.

Army management control process. Not applicable.

Supplementation. Supplementation of this regulation is prohibited without prior approval from HQDA(DAEN-ZCI), WASH DC 20310.

Interim changes. Interim changes to this regulation are not official unless they are authenticated by The Adjutant General. Users will destroy interim changes on their expiration dates unless sooner superseded or rescinded.

Suggested Improvements. The proponent agency of this regulation is the Office of the Chief of Engineers. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to HQDA(DAEN-ZCI), WASH DC 20310-2600.

Distribution. Active Army: C; USAR and ARNG: D.

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*This regulation supersedes DA Pamphlet 210-4, 27 June 1977.

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Chapter 1 Introduction

1-1. Purpose

This regulation implements Army responsibilities and procedures as prescribed by DOD Directive 4165.61. It establishes and maintains an intergovernmental coordination management process on Army land and facility plans and projects. The program objective is to achieve full consultation between the DOD, other Federal agencies, and authorities within the States. (See DOD Directive 4165.61 in app B.)

1-2. References

Required and related publications are listed in appendix A.

1-3. Explanation of abbreviations and terms

a. Abbreviations.

- (1) AFRCE—Air Force Regional Civil Engineer
- (2) ASD(MI&L)—Assistant Secretary of Defense (Manpower, Installations, and Logistics)
- (3) CDRUSAEIGHT—Commander, Eighth US Army (EUSA)
- (4) CDRUSARJ—Commander, US Army Japan
- (5) CEQ—Council on Environmental Quality
- (6) CINCUSAREUR—Commander in Chief, US Army Europe
- (7) COE—Chief of Engineers
- (8) DOD—Department of Defense
- (9) HQDA—Headquarters, Department of the Army
- (10) MACOM—Major Army command
- (11) MOU—Memorandum of understanding
- (12) NEPA—The National Environmental Policy Act of 1969
- (13) SPOC—single point of contact
- (14) USAED—US Army Engineer Division

b. Terms.

- (1) DOD Federal Region Liaison Representatives. An official serving as a DOD representative to the States in their respective Federal regions for all DOD intergovernmental coordination matters. (See DOD 4165.61, Encl 4 and Para D, in app B.)
- (2) Intergovernmental coordination process. A systematic review of DOD land and facility plans and projects by other Federal agencies, State, regional, and local officials.

Chapter 2 Army Responsibilities for the Intergovernmental Process

2-1. The Chief of Engineers (COE)

The COE will—

- a. State the Army's official point of contact for the intergovernmental coordination management process. (See DOD Directive 4165.61, Sec A, Para 2 in app B.)
- b. Name the US Army Engineer Division (USAED) responsible for standard Federal regions II, VII, and X. (See DOD Directive 4165.61, encl 4, in app B.)
- c. Assign areas of responsibility by State, territory, or Commonwealth to subordinate US Army Corps of Engineers commands.
- d. Set up and check the policies, responsibilities, and procedures for the Army program under DOD 4165.61.
- e. Ensure that Department of the Army (DA) directives and instructions are reviewed for their effect on the process.
- f. Keep Assistant Secretary of Defense (Manpower, Installations, and Logistics, ASD(MI&L)) advised of the name, position, and office of the Army point of contact. The COE also will include names, positions, and organizations of Army DOD Region Liaison Representatives.

2-2. US Army Corps of Engineers Divisions (USAEDs)

The USAED commanders will—

- a. Appoint individuals as Liaison Representatives to standard

Federal Regions II, VII, and X, prescribed by DOD Directive 4165.61.

- b. Set up and maintain an intergovernmental process. (See DOD Directive 4165.61 in app B.)

- c. Ensure coordination of DOD Federal development programs, within the areas shown below, with single points of contact (SPOCs). (See DOD Directive 4165.61, encl 4, in app B.)

- (1) The 50 States.
- (2) The District of Columbia.
- (3) The Commonwealth of Puerto Rico.
- (4) The Commonwealth of Northern Mariana Islands.
- (5) Guam.
- (6) US Virgin Islands.
- (7) The Trust Territories of the Pacific Islands.

- d. Set up and maintain a process to insure that Army programs are consistent and compatible with those of other Federal agencies at local levels. Reciprocal action by other Federal agencies must be encouraged. Close coordination with Navy and Air Force DOD Federal Region Liaison Representatives must be maintained, as the Army should be party to all cooperative agreements.

- e. Develop cooperative agreements, in the form of memorandums of understanding (MOUs), with States in Federal Regions II, VII, and X. The USAED commanders will ensure that the Navy, Air Force, and MACOMs are party to each MOU. The Army will also become party to each MOU prepared by the Navy in Regions III, IV, and IX and the Air Force in Regions I, V, VI, and VIII.

- f. Ensure that issues among the Services, States, other Federal agencies, or local authorities are agreed upon. Issues not resolved will be sent to HQDA(DAEN-ZCI), WASH DC 20310.

- g. Keep records of—

- (1) Federal, State and local agency comments and requests for information.
- (2) Reviews.
- (3) Determinations, to include decisions to withhold information.
- (4) Recommendations.
- (5) Programs.
- (6) MOUs.

2-3. Major Army commands (MACOMs)

Commanding generals of MACOMs (excluding the Commander in Chief, US Army, Europe (CINCUSAREUR); Commander, US Army, Japan (CDRUSARJ); and Commander, Eighth US Army (EUSA)) will—

- a. Set up and maintain an Army intergovernmental coordination management process for Army land and facility plans and projects.
- b. Assist the DOD Federal Region Liaison Representatives in preparing of cooperative agreements with the States and other interested Federal agencies.
- c. Designate a MACOM point of contact. The name, grade, office, and telephone number will be sent to HQDA(DAEN-ZCI), Washington, DC 20310.
- d. Ensure that cooperative agreements are agreed with subordinate installations and US Army Engineer Districts to ensure consistency with local development programs and activities.

2-4. Commanders of installations and US Army Engineer Districts

Commanders will—

- a. Name a point of contact for the intergovernmental coordination management process and notify the next higher command of person named.
- b. Communicate with MACOMs and Engineer divisions for current information on activities that may affect their commands. State MOUs, State review processes, and other documentation will be obtained.
- c. Establish and maintain an intergovernmental management process consistent and compatible with that of the MACOM and other Federal agencies operating in their geographical areas of responsibility.

d. Take part in the community planning process by giving information, policy, and position statements on programs and activities to concerned agencies.

e. Keep records of—

- (1) Federal, State, and local agency comments and requests for information.
- (2) Reviews.
- (3) Determinations, to include decisions to withhold information.
- (4) Recommendations.
- (5) Programs in progress.
- (6) MOUs.
- (7) Review processes.
- (8) Programs selected for review.

Chapter 3 The Intergovernmental Process

3-1. General

DOD will—

- a. Promote an intergovernmental partnership and a strengthened federalism by relying on State and local processes to coordinate proposed DOD land and facility plans and projects.
- b. Encourage the opportunity to review other agency programs and activities that may affect the DOD.

3-2. Guidance

- a. Army elements will set up and maintain an intergovernmental coordination management process. The process will achieve full consultation with State, regional, and local authorities for programs and activities covered by DOD Directive 4165.61.
- b. Policy in this regulation is intended to ensure Army plans and projects are consistent with those of the States and other Federal agencies. This action should identify duplicate or conflicting current plans and projects. This regulation does not affect existing cooperative agreements between Army elements and other authorities.
- c. This regulation is not a substitute for nor does it affect requirements to comply with existing laws, executive orders, and Federal regulations.
- d. DOD Federal Region Liaison Representatives are representatives of the ASD (MI&L) in all matters associated on the intergovernmental process and DOD Federal development programs and activities. (See DOD Directive 4165.61, encl 2, in app B.) Army Liaison representatives, in addition to their primary duties, must know—
 - (1) The US Army Corps of Engineers missions and functions.
 - (2) The DOD Federal development programs and activities covered by this regulation.

3-3. Coordination and cooperation

- a. Army elements will follow procedures described in DOD Directive 4165.61 to coordinate and cooperate with States and local interests (See DOD Directive 4165.61, encl 4, in app B.) Land and facility plans and projects in the National Capital Region will be agreed with the National Capital Planning Commission. (See DOD Directive 4165.61, Sec A, Para 13 in app B.) Coordination will be under procedures in AR 210-5, except as required by section 610, Public Law 93-166.
- b. To insure that MOUs are uniform and consistent with DA policies and procedures, they should be prepared as shown in the sample format in figures 3-1 and 3-2. In the absence of an MOU, as specified in this regulation, Army elements will follow existing cooperative agreements. Exceptions exist, if a State review process is established, an SPOC is named, and the affected program or function is included on the State's selected review list; then a copy of the proposal will be sent to the SPOC.
- c. The responsible U.S. Corps of Engineers Division determines the information to be provided to States or Federal agencies on Army plans or projects. If a request for information is refused, one

copy of the written response will be sent to HQDA(DAEN-ZCI). Army elements will not provide classified information to any non-DOD or other DOD agency without a need to know or the facilities to store and safeguard the information.

3-4. Cooperative agreements

- a. DOD Federal Region Liaison Representatives will publish a list of SPOCs.
- b. Where the DOD Federal Region Liaison Representatives represent the Navy or Air Force, the Army will assist, as necessary, in developing MOUs and become a party to them.
- c. Cooperative agreements that predate this regulation will continue in force until revised.

3-5. Coordination of Army Reserve Projects and Acquisitions

- a. General. The Division/District Engineer or his representative, as the principal executing agent for real estate acquisition, design, and construction of Army Reserve facilities will—
 - (1) Initiate the intergovernmental process for projects and acquisitions as early as practicable in the respective construction process.
 - (2) Act as coordination agency when replies to Army Reserve plans are required.
 - (3) Include statements concerning effected coordination in appropriate planning documents.
- b. Coordination of Land of Facility Acquisition for Army Reserve Use.
 - (1) The Division/District Engineer will provide to the appropriate state contact, information concerning Army Reserve acquisition plans at completion of either the Available Site Identification and Validation (ASIV) Report or the Brief Lease Planning Report (BLPR).
 - (2) Information forwarded should provide as a minimum, the site locations being considered, intended use of the site, and the term of use. A statement will be included in the ASIV or BLPR that coordination has been initiated.
 - c. Coordination of Military Construction, Army Reserve (MCAR).
 - (1) Upon initiation of project design, the Division Engineer will provide to the appropriate state contact basic information concerning the project. Minimum information shall provide the site location, scope of work, type of construction, and description of work. Site plans may be provided following approval of preconcept design. Do not provide information on estimated cost of year of construction until after project has been submitted to Congress.
 - (2) A statement of consideration of intergovernmental coordination will be included in the design concept document.

Chapter 4 Assignment of Department of Defense Federal Region Liaison Representatives

4-1. Regions of Army responsibility

- a. The Army will furnish DOD Federal Region Liaison Representatives to 3 of the 10 standard Federal regions. (See DOD Directive 4165.61, Encl 3 in app B.)
- b. The USAEDs will furnish the DOD Federal Region Liaison Representatives to regions II, VII, and X. (See table 4-1.)

Table 4-1
Army DOD Federal Region Liaison Representatives for the intergovernmental process

Federal regions	US Army Corps of Engineer Divisions
Region II	North Atlantic
Region VII	Missouri River
Region X	North Pacific

c. USAED assignments for the intergovernmental process by region and State are in table 4-2.

**Table 4-2
USAED assignments for the intergovernmental process by region and State**

Regions	Divisions	States
Region I	North Atlantic	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont
Region II	North Atlantic	New York, New Jersey, Puerto Rico, US Virgin Islands
Region III	North Atlantic	Delaware, Maryland, Pennsylvania, West Virginia, Virginia
Region IV	South Atlantic	Alabama, Georgia, Florida, Mississippi, North Carolina, South Carolina, Tennessee
Region IV	Ohio River	Kentucky
Region V	Ohio River	Illinois, Indiana, Michigan, Ohio
Region V	Missouri River	Minnesota, Wisconsin
Region VI	Southwestern	Arkansas, Louisiana, New Mexico, Oklahoma, Texas
Region VII	Missouri River	Iowa, Kansas, Missouri, Nebraska
Region VIII	South Pacific	Utah
Region VIII	Missouri River	Colorado, North Dakota, South Dakota, Wyoming
Region VIII	North Pacific	Montana
Region IX	South Pacific	Arizona, California, Nevada
Region IX	Pacific Ocean	American Samoa, Guam, Northern Mariana Islands, Hawaii, Trust Territory
Region X	North Pacific	Alaska, Idaho, Oregon, Washington

4-2. Other regions

a. The Air Force Regional Civil Engineers (AFRCEs) will provide DOD Federal Region Liaison Representatives to regions I, V, VI, and VIII. (See table 4-3.)

**Table 4-3
US Air Force DOD Federal Region Liaison Representatives for the intergovernmental process**

Headquarters/ Region	Organizations
HQ USAF/LEEV	Headquarters US Air Force/LEEV Directorate of Engineering and Services Bolling Air Force Base WASH DC 20332 Commercial telephone number:

**Table 4-3
US Air Force DOD Federal Region Liaison Representatives for the intergovernmental process—Continued**

Headquarters/ Region	Organizations
	(202)767-6244
I	US Air Force Regional Civil Engineering—Eastern Region ROV 526 Title Building 30 Pryor Street S.W. Atlanta, GA 30303 Commercial telephone number: (404)221-6771
V, VI, VIII	US Air Force Regional Civil Engineering—Central Region ROV 1114 Commerce Street Dallas, TX 75242 Commercial telephone number: (214)767-2514

b. The Naval Facilities Engineering Command Field Divisions will provide DOD Federal Region Liaison Representatives to Regions III, IV, and IX. (See Table 4-4.)

**Table 4-4
US Navy DOD Federal Region Liaison Representatives for the intergovernmental process**

Headquarters/ Region	Organizations
Headquarters Naval Facilities Engineering Command	Commander Naval Facilities Engineering Command Code 2023AZ 200 Stovall Street ALEX, VA 22332 Commercial telephone number: (202)325-0090
III	Commanding Officer, Northern Division Naval Facilities Engineering Command Philadelphia, PA 19112 Telephone numbers: Autovon—443-6255 or 6256 Commercial— (215)755-6255 or 6526
IV	Commanding Officer, Southern Division Naval Facilities Engineering Command P.O. Box 10068 Charleston, SC 29411 Telephone numbers: Autovon—794-2608 Commercial— (803)743-2608
IX	Commanding Officer, Western Division Naval Facilities Engineering Command

Table 4-4
US Navy DOD Federal Region Liaison Representatives for the
intergovernmental process—Continued

Headquarters/ Region	Organizations
	San Bruno, CA 94066
	Telephone numbers: Autovon—859-7572

Table 4-4
US Navy DOD Federal Region Liaison Representatives for the
intergovernmental process—Continued

Headquarters/ Region	Organizations
	Commercial— (415)877-7572

Section I

Sample Written Agreement

INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS
(EXECUTIVE ORDER 12372 JUN 16, 1982)
(REVISED APRIL 8, 1983)

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
DEPARTMENT OF DEFENSE
AND THE
STATE OF . . .
IMPLEMENTING EXECUTIVE ORDER 12372

This Memorandum of Understanding is between the Department of Defense, hereinafter called DOD, for the installations listed in enclosure 1, represented by (name of DOD Federal Region Liaison Representatives) and the State single point of contact, hereinafter called the SPOC, for the State of . . . pursuant to Executive Order 12372, 14 July 1982, as amended by Executive Order 12416, 8 April 1983.

WITNESSETH:

WHEREAS, The DOD and the SPOC are interested in the cooperative evaluation review and coordination of Federal and federally assisted plans, programs, and projects that may affect the plans, programs, and projects of the DOD and State. Whereas, the DOD and the SPOC are interested in consistency and compatibility of all plans, programs and projects.

NOW THEREFORE:

a. The DOD agrees to submit information on the following plans, programs, and projects that may affect State plans, programs, and projects:

- (1) Installation comprehensive master planning (Master Planning).
- (2) Military construction.
- (3) Family housing.
- (4) Real property acquisitions and disposals.
- (5) Withdrawals of public domain land for military use.
- (6) Substantial changes in existing use of installations.
- (7) Notices of intent, findings of no significant impact, and draft and final environmental impact statements (as part of the standard process).
- (8) Installation compatible use zone (ICUZ) studies.
- (9) Natural resource plans.
- (10) Flood plain management and wetlands protection.
- (11) Appropriate information and data for regional plans, programs, and projects.

b. The DOD will incorporate State comments into proposed plans, programs, and projects, or, if not accepted, explain in writing within 60 days, the reasons why they were not accepted.

c. The DOD will, within 60 days of receipt, evaluate, comment, and make recommendations on DOD interests on plans, programs, and projects sent to the DOD for review.

d. The SPOC agrees to—

(1) Expedite communication and exchange of information between interested State parties and the DOD.
(2) Submit to the appropriate DOD installation for review and comment, project notifications, plans, projects, reports, studies, and similar information on land, facility, and environmental activities near the installations. Installations are listed in enclosure 1. (See section II.) Examples of Federal programs and activities that may affect DOD are—

- (a) Environmental assessments and impact statements.
- (b) Noise abatement and control.
- (c) Coastal zone management.
- (d) Areawide waste treatment management.
- (e) Recreation.
- (f) Fish and wildlife conservation.
- (g) Air quality.
- (h) Flood control.
- (i) State and regional transportation.
- (j) State and regional land use.
- (k) Energy facility siting.
- (l) Federal Housing Administration (FHA) and VA mortgage insurance.
- (m) Historic preservation.
- (n) Primitive and wilderness area management.

(3) Submit State recommendations, as the SPOC on DOD development programs and activities, that are considered to be of Statewide significance. The recommendations will focus on the relationship of the proposal to State, regional, and local plans and programs. The recommendations will be sent as soon as possible after receipt of a notice of intent, with a full description of the proposed development.

Figure 3-1. Sample Format for a Memorandum of Understanding

(4) Send to DOD for review, and comment, and information, statewide plans, programs, policies, projects, reports, studies, standards, and similar information on land, facility, and environmental activities including, but not limited to, subject areas in (2) above.

(5) Perform the SPOC functions in volume 48, Federal Register, pp. 29140 and 29141 (48 FR 29140 and 29141).

(6) Incorporate DOD comments into State responses to applicants or, if not accepted, explain in writing within 60 days the reasons that they were not included.

(7) Give to DOD installations, comments on their submissions within 60 days.

e. It is MUTUALLY agreed that—

(1) Environmental impact statements will be processed under NEPA requirements and CEQ guidelines and, therefore, will not be subject to the time periods indicated above.

(2) Failure to provide comments within the periods indicated above implies tacit agreement, unless the time periods are changed by mutual agreement for a requirement.

(3) The review process details and appropriate forms may be developed to ease uniform and efficient exchange of comments.

(4) This MEMORANDUM OF UNDERSTANDING will be reviewed annually, or more frequently if required, to determine adequacy of the review process and types of projects or information to be added to or deleted from automatic review.

(5) Nothing herein shall be construed as obligating the DOD or the SPOC to violate existing laws or regulations.

(6) This agreement will remain in effect until ended or revised in writing.

APPROVED:
UNITED STATES ARMY

By _____
Title _____
Date _____

(Official Title of State)

By _____
Title _____
Date _____

UNITED STATES AIR FORCE

By _____
Title _____
Date _____

UNITED STATES NAVY

By _____
Title _____
Date _____

Figure 3-1. Sample Format for a Memorandum of Understanding—Continued

Section II

(See DA PAM 210-1 for listing of US Army Installations and Major Activities)

<u>NO.</u>	<u>DOD INSTALLATION</u>	<u>COUNTY</u>	<u>POINTS OF CONTACT</u> <u>STATE</u>	<u>LOCAL</u>
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Figure 3-2. Sample Enclosure 1 to Written Agreement

Appendix A References

Section I Required Publications

AR 210-5

Planning Procedures for Construction Projects in the National Capital Region. (Cited in para 3-3.)

DOD Directive 4165.61

Intergovernmental Coordination of DOD Federal Development Programs and Activities

DOD Instruction 5400.10

Coordination and Clearance of Announcements of Personnel Reductions, Closures of Installations, and Reduction of Contract Operations Within the United States (MI). (This instruction is available from the Directives Division, Directorate, Washington Headquarters Service, WASH DC 20402-0001.)

Section II Related Publications

A related publication is merely a source of additional information. The user does not have to read it to understand this regulation.

AR 200-1

Environmental Protection and Enhancement

AR 200-2

Environmental Effects of Army Actions

AR 210-20

Master Planning for Army Installations

AR 210-50

Family Housing Management

AR 405-10

Acquisition of Real Property and Interest Therein

AR 415-2

Department of Defense Construction Criteria

AR 415-10

General Provisions for Military Construction

AR 415-15

Military Construction, Army (MCA) Program Development

AR 415-28

Department of the Army Facility Classes and Construction Categories Category Codes

AR 415-35

Minor Construction

AR 420-74

Natural Resources—Land, Forest, and Wildlife Management

DA PAM 210-1

US Army Installations and Major Activities

Appendix B
DOD 4165.61
AUGUST 9, 1983



August 9, 1983
NUMBER 4165.61

Department of Defense Directive

SUBJECT: Intergovernmental Coordination of DoD Federal Development Programs and Activities

- References:**
- (a) DoD Directive 4165.61, "Intergovernmental Coordination of Department of Defense Land and Facility Plans and Projects," December 16, 1976 (hereby canceled)
 - (b) Executive Order 12372, "Intergovernmental Review of Federal Programs," July 16, 1982, (as amended by Executive Order 12416, April 8, 1983)
 - (c) Title 31, United States Code, Section 6506
 - (d) through (m), see enclosure 1

A. REISSUANCE AND PURPOSE

This Directive reissues reference (a) and under references (b) and (c) updates policies, assigns responsibilities, and prescribes procedures for an intergovernmental process to assist coordination of appropriate DoD federal development programs and activities in the United States with state and local governments and federal agencies, and to encourage state and local governments and federal agencies to coordinate their programs and activities with the Department of Defense.

B. APPLICABILITY AND SCOPE

1. This Directive applies to the Office of the Secretary of Defense, the Military Departments (excluding the civil works function of the U.S. Army Corps of Engineers) and the Defense Agencies (hereafter referred to collectively as "DoD Components").

2. Neither reference (b) nor this Directive are intended to create any right or benefit enforceable at law by a party against the Department of Defense or its officials.

3. This Directive covers all programs and activities developed by DoD Components for military construction (as defined in DoD Instruction 7040.4 (reference (d))), acquisition of real property, substantial changes in existing use of military installations and real property, and disposal of real property that may affect state and local government or other federal agency community development programs and activities, and state, local, and other federal agency programs and activities that may affect DoD activities.

4. A list of the DoD programs and activities subject to E.O. 12372 (reference (b)) is at enclosure 2.

Figure B-1. DOD Directive 4165.61 (page 1)

C. DEFINITION

State. Any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

D. POLICY

It is the policy of the Department of Defense to promote an intergovernmental partnership and a strengthened federalism by relying on state processes and on state, areawide, regional, and local coordination for review of proposed DoD federal development; and to encourage the opportunity to review other agency programs and activities that may affect the Department of Defense.

E. RESPONSIBILITIES

1. The Executive Secretary of the Department of Defense, having been designated by the Secretary of Defense as the DoD intergovernmental coordination point of contact, shall act as the focal point for all matters relating to E.O. 12372 (reference (b)).

2. The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (ASD(MRA&L)) shall develop policy, and shall:

a. Have overall management responsibility for intergovernmental coordination of DoD federal development programs and activities;

b. Monitor the implementation of reference (b) within the Department of Defense.

3. The Assistant Secretary of Defense (Comptroller) (ASD(C)) shall review any proposed action involving intergovernmental programs and activities for potential funding implications affecting Defense appropriations.

4. The Heads of DoD Components shall:

a. Establish and maintain an intergovernmental coordination management process concerning DoD federal development programs and activities described in enclosure 2.

b. Monitor the application of policies, responsibilities, and procedures contained in this Directive within their subordinate elements.

c. Designate an official to be the point of contact for intergovernmental coordination and review matters covered by this Directive and report his name, position, and office to the ASD(MRA&L).

d. Develop procedures that will ensure that a record of state comments, reviews, determinations, recommendations, and the status of programs and activities are maintained.

e. Designate an official, in accordance with enclosure 3, who shall serve as a DoD liaison representative to the states in the respective federal regions for all DoD intergovernmental coordination matters. The identification of the liaison representatives shall be provided to the ASD(MRA&L) who shall publish a directory of liaison representatives in the Federal Register. The liaison function shall be in addition to the representatives' regular duties.

F. PROCEDURES

1. DoD Components shall establish and maintain an intergovernmental coordination management process, reflected in a cooperative agreement when feasible, to achieve full consultation with state, regional, and local entities for those programs and activities covered by this Directive. DoD Components shall encourage reciprocal actions with regard to the state, regional, and local programs and activities.

2. DoD Components shall establish and maintain an interagency coordination management process to ensure that their development programs and activities are consistent and compatible with the development actions of federal agencies operating at the local levels. DoD Components shall encourage reciprocal actions by other federal agencies with regard to their programs and activities. Unresolved conflicts shall be brought to the attention of the ASD(MRA&L).

3. DoD Components that conduct activities or operate installations that may be affected by the programs and activities of federal agencies shall take part in the community planning process by providing information, policy, and position statements on those programs and activities to the agencies concerned.

4. The degree of public interest in a proposed program or activity shall be considered when deciding whether the Congress and the public shall be notified before offering information for comment as prescribed in this Directive.

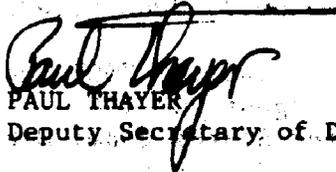
5. In an emergency, provisions of this Directive may be waived by the Secretary of the Military Department concerned. Such instances will be reported to the ASD(MRA&L).

6. This Directive does not affect normal cooperative community planning or coordination relationships between DoD installations and surrounding communities.

7. Further procedures for DoD federal development programs are prescribed at enclosure 4.

G. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective September 30, 1983. Forward one copy of implementing documents to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) within 120 days.


PAUL THAYER
Deputy Secretary of Defense

Enclosures - 4

1. References
2. DoD Programs and Activities Included Under This Directive
3. DoD Liaison Representatives for Intergovernmental Coordination of DoD Federal Development Programs and Activities
4. Procedures for DoD Federal Development Programs and Activities

Figure B-4. DOD Directive 4165.61 (page 4)

REFERENCES, continued

- (d) DoD Instruction 7040.4, "Military Construction Authorization and Appropriation," March 5, 1979
- (e) DoD Directive 5400.7, "DoD Freedom of Information Act Program," March 24, 1980
- (f) DoD Instruction 5400.10, "OSD Implementation of DoD Freedom of Information Act Program," August 20, 1981
- (g) Title 40, United States Code, Section 71d
- (h) DoD 4270.1-M, "Construction Criteria," June 1, 1978 (Advance Edition)
- (i) DoD Instruction 4165.57, "Air Installation Compatible Use Zones," November 8, 1977
- (j) Title 42, United States Code, Section 4331, 4332
- (k) Title 33, United States Code, Section 1251 et seq
- (l) Commerce Business Daily (published by Superintendent of Documents, Government Printing Office, Washington, D.C. 20402)
- (m) DoD Directive 6015.17, "Planning and Acquisition of Military Health Facilities," March 17, 1983
- (n) Title 10, United States Code, Section 2662

Figure 1-1. DOD Directive 4165.61 (encl 1)

DOD PROGRAMS AND ACTIVITIES INCLUDED UNDER THIS DIRECTIVE

1. Installation comprehensive master planning
2. Military construction
3. Family housing
4. Real property acquisition and disposal
5. Withdrawals of public domain land for military use
6. Substantial changes in existing use of installations
7. Notices of intent, findings of no significant impact, and draft and final environmental impact statements (EIS) (as part of the standard process)
8. Air installation compatible use zone (AICUZ) studies
9. Natural resource plans
10. Floodplain management and wetlands protection
11. Appropriate information and data for regional plans, programs, and projects

Figure 2-1. DOD Directive 4165.61 (encl 2)

DoD LIAISON REPRESENTATIVES FOR INTERGOVERNMENTAL COORDINATION
OF DoD FEDERAL DEVELOPMENT PROGRAMS AND ACTIVITIES

<u>STANDARD FEDERAL REGIONS</u>	<u>COMPONENT FURNISHING REPRESENTATIVE</u>
I Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	Air Force
II New Jersey, New York, Puerto Rico, Virgin Islands	Army
III Delaware, Maryland, Pennsylvania, Virginia, West Virginia	Navy
IV Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee	Navy
V Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin	Air Force
VI Arkansas, Louisiana, New Mexico, Oklahoma, Texas	Air Force
VII Iowa, Kansas, Missouri, Nebraska	Army
VIII Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming	Air Force
IX American Samoa, Arizona, California, Northern Mariana Islands, Guam, Hawaii, Nevada, Trust Territory	Navy
X Alaska, Idaho, Oregon, Washington	Army

Figure 3-1. DOD Directive 4165.61 (encl 3)

PROCEDURES FOR DOD FEDERAL DEVELOPMENT
PROGRAMS AND ACTIVITIES

A. GENERAL

1. State Selection of Programs and Activities

a. A state may select any program or activity listed in enclosure 2 of this Directive for intergovernmental review. Each state, before selecting programs and activities, will consult with local elected officials

b. Each state that adopts a process will notify the DoD liaison representative for the federal region in which that state is located of DoD programs and activities selected for that process.

c. A state may notify the liaison representative of changes in its selections at any time. For each change, the state will submit an assurance that the state has consulted with elected local officials regarding the change. The DoD Components may establish deadlines by which states are required to inform them of changes in their program selections.

d. DoD Components shall use a state's process as soon as feasible after notification of the state's selections.

2. Communication with State and Local Officials

a. For those programs and activities covered by a state process, the DoD Components shall (1) use the official state process to determine views of state and local elected officials; and (2) communicate with state and local elected officials, through the official state process as early in a program planning cycle as is reasonably feasible, to explain specific plans and actions (see section C., below)

b. DoD Components shall provide notice to directly affected state, areawide, regional, and local entities in a state of proposed DoD federal development if (1) the state has not adopted an official process; or (2) the development involves a program or activity not selected for the state process. This notice may be made by publication in the Federal Register or other appropriate means.

3. Opportunity to Comment

a. Except in unusual circumstances, DoD Components shall give state processes 60 days from the date established by the Component to comment on DoD federal development programs and activities.

b. This subsection A.3. also applies to comments in cases in which the state has delegated the review, coordination, and communication responsibilities.

4. Receipt of and Response to Comments

a. DoD Components shall follow procedures in subsection A.5., below, if (1) a state office or official is designated to act as a single point of contact (SPOC) between a state process and all federal agencies; and (2) that office or official transmits a state process recommendation for a selected program.

b. The SPOC is not obligated to transmit comments from state, areawide, regional, or local officials and entities when there is no state process recommendation.

c. If a state process recommendation is transmitted by a SPOC, all comments from state, areawide, regional, and local officials and entities that differ from it will also be transmitted.

d. If a state has not established a review process, or is unable to submit a state process recommendation, state, areawide, regional, and local officials and entities may submit comments directly to the DoD Component.

e. If a program or activity is not selected for a state review process, state, areawide, regional, and local officials and entities may submit comments directly to the DoD Component. In addition, if a state process recommendation for a nonselected program or activity is transmitted by the SPOC to the DoD Component, the Component shall comply with subsection A.5., below.

f. DoD Components shall consider comments which do not constitute a state process recommendation and for which the Component is not required to comply with subsection A.5., below, when such comments are provided by a SPOC or directly by a commenting party.

5. Accommodation of Intergovernmental Concerns

a. If a state process provides a state process recommendation to a DoD Component through its SPOC, the Component either (1) accepts the recommendation; (2) reaches a mutually agreeable solution with the state process; or (3) provides the SPOC with a written explanation of the decision.

b. In any explanation, the SPOC shall be informed that (1) the decision will not be implemented for at least 10 days after the SPOC receives the explanation; or (2) the Secretary of the Military Department or Director of the Defense Agency concerned has reviewed the decision and determined that because of unusual circumstances the waiting period of at least 10 days is not feasible.

c. For purposes of computing the waiting period, a SPOC is presumed to have received written notification 5 days after the date of mailing of such notification.

6. Obligations in Interstate Situations. DoD Components shall:

a. Identify DoD federal development that has an impact on interstate areas.

- b. Notify appropriate officials and entities in states that have adopted a process and selected the particular program or activity.
- c. Make efforts to identify and notify the affected state, areawide, regional, and local officials and entities in those states that have not adopted a process or selected the particular program or activity.
- d. Respond to subsection A.5., above, if a recommendation is received from a designated areawide agency transmitted by a SPOC when the state has delegated the review, coordination, and communication responsibilities.
- e. Use the procedures in subsection A.5., above, if a state process provides a state process recommendation through a SPOC.

7. Memoranda of Understanding. The Department of Defense shall use cooperative agreements in the form of memoranda of understanding with states having a process to establish the information to be submitted to the SPOCs and the timing of the submittals. DoD Components shall contact their DoD liaison representatives to identify the SPOCs with whom the agreements shall be made. When it is determined that an agreement is practical, all DoD Components that have a presence in the state shall become parties to the agreement whenever possible. When such agreements are used, the content shall be uniform and shall be consistent with the policies and procedures contained in this Directive. Cooperative agreements that predate this Directive may continue in force until revised and shall be the basis for new agreements.

8. Records. DoD Components shall maintain, as part of the records of each review, the comments received from all sources together with the status of the review.

9. Information to be Provided. The specific information to be provided to the states or federal agencies depends on the particular plan or project and must be determined by each DoD Component. Information normally available for construction projects such as site location, scope of work, type of construction and description of work, together with necessary site plans shall be provided. Normally, justification or rationale for the project in question may not be furnished.

10. Requests for Information. Requests for additional information from the public shall be handled in accordance with DoD Directive 5400.7 and DoD Instruction 5400.10 (references (e) and (f)). If a request for additional information is refused, the requestor shall be informed in writing, with appropriate explanation, and the response placed in the record.

11. Classified Information. Classified information shall not be provided to any non-DoD entity that does not have the authority to receive it.

12. Review of Other Programs and Activities. Even if a program or activity is not included in the scope of this Directive, the DoD Component may still provide the public the opportunity to have its views considered. Many statutes involving DoD activities have their own consultation requirements and the DoD Components shall comply with them.

13. National Capital Region. DoD Components responsible for federal development in the National Capital Region (as defined in the National Capital Planning Act of 1952 (reference (g))) shall coordinate with the National Capital Planning Commission.

B. SCOPE

1. Programs and Activities to be Reviewed. There are no minimum quantitative levels that can be used to determine whether comments shall be sought on a specific program or activity. Repair, maintenance, and rehabilitation projects are excluded from the scope of this Directive unless they result in a substantially changed capacity or function of facilities that could affect non-DoD entities. The following types of programs and activities shall be considered for inclusion:

a. Appropriate portions of the Military Department-approved installation master plans (such as land use plans) developed in accordance with DoD 4270.1-M (reference (h)).

b. Air Installation Compatible Use Zone (AICUZ) studies developed in accordance with DoD Instruction 4165.57 (reference (i)).

c. Military construction included in the budget fiscal year DoD military construction program that may affect community development, especially as regard utilities, transportation, and schools.

d. Real property acquisition projects approved by the Military Department concerned or included in the current fiscal year DoD military construction program that may affect community development plans.

e. Military Department-approved programs and activities that change substantially the use of military installations and real property and may affect community development plans

f. Real property disposal projects that may affect community development plans.

2. Responsibility for Community Impact Determination. The DoD Component concerned shall make the judgment whether a particular program or activity affects community development plans.

3. Other Review Requirements. The procedures contained in this Directive are in addition to compliance with the requirements of the National Environmental Protection Act (reference (j)), and Federal Water Pollution Control Act (reference (k)).

C. SCHEDULING OF NOTIFICATION

Subject to provisions of other statutory and regulatory requirements, DoD Components shall offer their programs and activities for review at the planning stages indicated below.

1. Installation Master Plans. The military installation master plan as described in DoD 4270.1-M (reference (h)) shall be offered upon approval by the Military Department concerned. Significant changes to the installation master plan shall also be submitted for review. The intent of the review is to allow local officials to evaluate the impact of land and facility use on their own development plans. It will also help the review of later annual construction and real property acquisition and disposal projects.

2. Military Construction. Information on military construction shall be submitted after approval of a design planning directive for project development to be accomplished either in-house or by contract. In the latter case, the information normally shall be provided upon the architect-engineer selection for project development as announced in the Commerce Business Daily (reference (1)).

a. Substantive changes in project development shall be considered for additional review. Information may be provided to the states before transmission of a project to the Congress, so care must be taken to ensure the year of funding and estimated project cost are not made public. On verification that a project is included in the budget fiscal year DoD military construction program submitted to Congress, additional information and documentation on the project (that is, DD Forms 1391) may be provided for review if they are consistent with the submission to the Congress.

b. Proposed major military construction projects included in the Five-Year Defense Program may not be provided to the states individually or collectively except as described above.

c. DoD Components shall continue to comply with DoD Directive 6015.17 (reference (m)) for military health facility projects.

d. Each DD Form 1391 for projects covered by this Directive shall include a statement explaining the status of the intergovernmental review.

3. Real Property Acquisition. Real property acquisition projects shall be submitted only upon verification that the projects have been approved by the Secretary of the Military Department concerned, or, if congressional approval is required, only after the Congress has been notified of the projects. In exceptional cases, this provision may be waived by the ASD(MRA&L). When real property acquisition is part of a military construction project, the acquisition may be coordinated as part of that project even though the above events have not occurred.

4. Mission Realignments. Plans and projects that may change substantially the use of military installations and real property and may affect non-DoD facilities, services, and activities, shall be submitted only after approval by the head of the DoD Component concerned and, if congressional notification of the plan or action is required, only after the Congress has been officially notified.

5. Real Property Disposal. Real property disposal projects that require prior congressional approval shall be submitted only after required DoD screening has been completed and the disposal report required by 10 U.S.C.

2662 (reference (n)) has been cleared by the Congress. In exceptional cases, this procedure may be waived by the ASD(MRA&L) to allow release for review at the time the disposal report is submitted to the Congress.

D. DoD FEDERAL REGION LIAISON REPRESENTATIVES shall:

1. Serve as the ASD(MRA&L)'s local representatives.
2. Establish and maintain liaison with SPOCs in their regions to determine the state process for intergovernmental review, if one exists, and any special requirements or conditions.
3. Pursue cooperative agreements with the states by means of memoranda of understanding that specify the programs to be included and the process for review consistent with the policies and procedures of this Directive.
4. Keep the DoD Components within their regions informed of intergovernmental review activities.
5. To the extent possible, resolve intergovernmental review issues among DoD Components within their regions. If resolution is not possible at the regional level, submit the matter to the ASD(MRA&L).
6. Keep the ASD(MRA&L) informed of events, experiences, and problem areas so that the DoD intergovernmental review process may be improved.

Figure 4-6. DOD Directive 4165.61 (encl 4 - page 6)

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