



*Children served by the Homeless Assistance Center on the former site of the Homestead Airbase.*

# Federal Surplus Property for the Homeless: An Opportunity Advocates Should Not Miss

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## INTRODUCTION

**I**n 1994, the Federal Government closed Homestead Air Force Base as part of the national base closure and reorganization effort. As a result of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (BRAC)<sup>1</sup>, the Miami-Dade County Homeless Trust was able to acquire 84 acres of vacant land in a suburban area in Miami-Dade County. The Trust, along with several other local homelessness providers use this property free of charge to provide housing, transitional housing, healthcare, job training, and day care to more than 300 homeless individuals and families each day and over 2000 clients annually. There are plans to expand the services to include substance abuse programs and other social service programs. The conversion of unused military property to facilities and programs that assist the homeless was a success because of the cooperative effort of a coalition of homeless providers, local government, and the business community.

In 2001, the Federal Government listed a former navel housing complex in Pensacola, Florida, as federal surplus

property. The property consisted of 198 duplex homes, which until approximately 2000 had been used as housing. It was declared surplus property when the Navy upgraded its minimum square footage requirements for family housing. The old, but sturdy, brick homes had been refurbished by the Navy in the late 1990s and were in good condition with relatively new appliances and fixtures. Pursuant to the requirements of the Stewart B. McKinney-Vento Homeless Assistance Act of 1987 (McKinney Act)<sup>2</sup> the government made the property available to local homeless providers for use to assist the homeless. In response, several local and out-of-state homeless assistance organizations expressed an interest in the property. Yet, because these efforts were not planned, coordinated, or adequately funded, the providers' proposals quickly crumbled in the face of opposition by the local government and residents. None of the local homelessness organizations managed to even file a completed application. As a result, none of the 198 homes were utilized for the benefit of the approximately two thousand homeless people in Escambia County. Because no homeless providers claimed the property, it was turned over to the County, which demolished the homes to make way for a park. →

While there were many factors that led to the differing results in the examples above, the two situations aptly illustrate some common themes in utilizing federal law to obtain federal surplus property. First, federal law can provide homeless providers with a once in a lifetime opportunity to obtain land, buildings, and other facilities to assist the homeless at a relatively modest cost. Second, in order for homeless organizations to do so, they must be able to plan quickly, coordinate with other organizations, and develop the resources necessary to carry out their proposed project. Although the obstacles can be great, the benefits, as shown by the Miami-Dade experience, can be immeasurable. This article aims to make homeless providers aware of existing opportunities under federal law by briefly explaining the basics of how non-profit organizations and state and local government agencies can obtain federal surplus property at no cost, to use for services and facilities to assist homeless individuals.

Surplus federal property is obtained under the McKinney Act and the BRAC. Since 1994, closed military bases are regulated by BRAC under a different process. An overview of both are provided below.

### THE MCKINNEY ACT

Under Title V of the McKinney Act 3, homeless service providers can obtain surplus property that has been deemed suitable for such use, at no cost to the organization. The types of federal property that are available under the Title V program are: housing, warehouses, child care centers, office buildings and vacant land. Once obtained, the property can be used for facilities such as: shelters, transitional housing, job training, mental health care, substance abuse treatment, child care, soup kitchens, food pantries, health care and administrative services. Unfortunately, under HHS policy, such property cannot be used for permanent housing.

In accordance with Title V, the General Services Administration (GSA) is responsible for canvassing to find unused federal property, and the Department of Housing and Urban Development (HUD) determines whether the property is suitable for use to assist homeless individuals. The property is available on an “as-is” basis. Occasionally, however, HUD incorrectly designates such property as unsuitable for use for homeless services; thus, the National Law Center for Homelessness and Poverty (NLCHP) urges interested organizations to contact them in the event that there is unused federal property that has not been designated as suitable. Every Friday, HUD publishes a list of suitable federal surplus

properties in the Federal Register, which may be found at local libraries or online at [http://www.gpo.gov/su\\_docs](http://www.gpo.gov/su_docs), by calling the HUD Title V toll-free hotline at 1-800-927-7588, or by contacting the Property Disposal Division of the GSA at an area regional office. As a practical matter, in advance of official publication in the Federal Register, organizations that are interested in finding surplus property may be able to confirm suspicions that an existing piece of federal property will become available by contacting GSA or the property holding agency for the specific piece of property. As in the Pensacola case, such information is sometimes available prior to official listing.

Property listed in the Federal Register is “frozen” for 60 days and is only available to homeless providers during that time. During the 60-day period, organizations that are interested in applying for surplus property must submit a formal written expression of interest, called a notice of intent to apply for a property, to the United States Department of Health and Human Services (HHS). The notice of intent can be a single letter stating that the organization is a non-profit organization seeking to acquire the property under the McKinney Act for use to assist homeless people. Although notices of intent may be submitted after the 60-day period, HHS is only obligated to consider them if the property is still available.

Upon receipt of an organization’s notice of intent for surplus property, HHS will send the organization an application and instruction packet. Organizations must submit the completed application to the Secretary of HHS no later than 90 days from the date on which HHS receive the organization’s notice of intent. According to the NLCHP, applications, which can be extensive depending on the size of the proposed project, must include: (1) a description of the organization, including proof that it is a 501(c)(3) organization or a state or local government agency; (2) a description of the proposed program; and (3) proof of the organization’s ability to finance the program. One factor that should not be overlooked is that surplus property may need renovations, the costs of which can be substantial. Significantly, where the available surplus property is large, organizations can partner with eligible agencies or organizations.

After investigating the feasibility of the proposal, HHS approves or denies the completed application within 25 days. According to HHS, if the application is approved, “[the property] must be placed into its intended use within 12 months of transfer, or within 16 months where construction or major renovation is contemplated.”

After approval, the organization or agency enters into either a long-term lease or transfer of deed with the landholding agency. After transfer, all non-profit organizations acquiring surplus property under Title V must submit a yearly report to HHS on their progress in implementing the program proposed in their application. Significantly, property that is obtained by a non-profit for homeless assistance cannot be sold or used for other purposes, and must be transferred back to the Federal Government when the proposed program ceases or the property is no longer needed. The organization may be responsible for costs associated with transfers, such as property insurance, surveys, appraisals, and closing costs.

### BRAC: BASE CLOSURE PROPERTY

While military base closures were initially included under the McKinney Act, the BRAC removed base closures from the McKinney Act, but incorporated many of its requirements. When a military base is closing, the Department of Defense (DOD) is responsible for designating a Local Redevelopment Agency (LRA) to convert a closed military base to nonmilitary use. The LRA must publish information about base closures in both the local newspaper and the Federal Register. Organizations attempting to obtain base closure property for homeless assistance must apply directly to the LRA. To do so, organizations submit a notice of interest to the LRA for specific buildings and property within the set deadline—a date that is set three to six months after the LRA is “recognized” by the DOD or where it was previously recognized, three to six months after it was declared surplus property. The notice of interest must include the following information: an identification of the property, a description of the homeless assistance proposed, a demonstration of the need for the proposed program, the extent of coordination with other providers in the area, a financial plan, the organizational or fiscal capacity of the applicant, and the estimated amount of time it will take for

implementation of the proposed plan. Such plans should be considered in the broader context of the LRA’s reuse plan.

While in some respects, the BRAC is more complicated than the McKinney Act, it allows for broader use of surplus property and is more flexible. Specifically, surplus property that is available under the BRAC can be used for temporary or permanent housing and its use is not limited to homeless people. Thus, facilities and services can be proposed that

assist both homeless and low-income communities. In addition to obtaining the property directly, homeless providers may negotiate agreements to provide resources and assistance. For example, as was recently done in Philadelphia, money from the sale of a property may be put into a trust fund to provide services for homeless people. Moreover, while the McKinney Act leaves decisions up to the Federal Government, the BRAC localizes the

decision-making process in many ways, giving the community a voice in the reuse plan.

Under BRAC, homeless providers are not given federal preference in obtaining surplus property. The LRA must only consider the needs of homeless people in determining the overall reuse plan for the base. However, the LRA must conduct outreach and consult with and assist representatives of homeless people in evaluating appropriate uses for the property at the base. In other words, the LRA must consult with representatives of homeless people in preparing a reuse plan. Because, Congress instructed HUD to consider the needs of both the homeless community and the community at large, it is important for homeless providers to include in its letter of interest information and data about the nature of the homeless population, the need for additional homeless facilities and programs, and how the proposed use will work with the other development proposals for the entire base. Once a reuse plan is developed, the LRA must provide the public with information and an opportunity to comment, then it submits the plan to HUD. HUD has 60 days to



*Camillus House- providing transitional housing for homeless families on the former Airbase.*

review the reuse plan and application. If HUD rejects a proposed reuse plan, it must notify the LRA of its decision and reasons therefor, and it has 90 days to resubmit a new plan. HUD has 30 days to review the revised reuse plan. Upon approval of a reuse plan, HUD notifies the DOD and then transfers the real and personal property in accordance with the plan. Similar to the McKinney Act, all transferred properties are free to homeless providers. However, once the proposed use of the property ceases, it must be transferred back to the government.

At this point in time, BRAC is particularly significant because there will be another round of military base closures in 2005. Approximately 25 percent of existing military bases will be closing at that time in an expedited process—all of the closures will take place within 18 to 24 months of the initial announcement. Additionally, closed and closing military installations represent the greatest single source of surplus federal assets available since the inception of the McKinney Act. As the NLCHP instructs, it is essential that homeless service providers who are interested in obtaining property under the BRAC plan in advance so that they can submit a timely notice of interest with the LRA. While this process affords a little more flexibility than the procedure under the McKinney Act, service providers will be up against local government and private organizations with interest in the property.

Unfortunately, there is no “official” way to find out in advance of official publication if a particular military base is slated for closure. NLCHP is monitoring the 2005 base closures in Congress and will provide interested groups with information about closures in their area as soon as possible. In addition, local newspapers may pick up advance information about a base rumored to be closing. Nevertheless, it is advisable that groups interested in acquiring base closure property treat any military base in their community as a possible closure and start to plan accordingly.

## CONCLUSION

This article is merely an overview, and in many respects an oversimplification, of the McKinney Act and the BRAC, aimed at creating awareness of existing opportunities. While both Acts afford excellent opportunities for homeless providers to obtain federal surplus property, at no cost, for homeless related services, advanced planning and

organization is key. To be sure, once surplus property is announced, time is limited and the application procedures under both Acts require the presentation of a feasible and necessary proposal. As such, we recommend that service providers who are interested in obtaining surplus property begin now in planning for the availability of surplus property and check the Federal Register regularly. Beyond that, providers may occasionally be able to identify the existence of federal surplus property that will come available in the future, prior to its official publication, simply by looking or listening for such information around the area. In the Pensacola case, for example, long before its publication in the Federal Register, it was common knowledge in the community that the homes would become surplus. If suspicions arise that a particular piece of property owned by the government may become “surplus,” a call to HUD may confirm such suspicions by contacting HUD at: HUD Headquarters Office, Kathy Burruss, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, Room 7262, 451 7th Street, SW, Washington, DC 20410. Tel: (202) 708-1234.

Finally, we highly recommend consulting legal counsel for a better understanding of what is required under each law. Both Southern Legal Counsel and the NLCHP are happy to provide assistance.

Southern Legal Counsel, Inc., is a non-profit public interest law firm located in Gainesville, FL, that can provide legal assistance to organizations seeking to obtain available surplus property. Please contact Peter Sleasman at [peter.sleasman@southernlegal.org](mailto:peter.sleasman@southernlegal.org) or (352) 271-8890.

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Most of the information used to compile this article came from publications issued by the NLCHP, located in Washington, D.C. The NLCHP monitors federal agency compliance with the McKinney Act and provides technical assistance to law firms and individuals seeking to obtain federal surplus property through the McKinney Act and the BRAC. For assistance or more information, contact Becky Troth, at [rtroth@nlchp.org](mailto:rtroth@nlchp.org). Additional articles, reports, and information, including the NLCHP's new report entitled "Acquiring Federal Property to Serve Homeless People," can be accessed on their website <http://www.nlchp.org/>.

In compiling this article, we relied on the following materials:  
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NLCHP, Securing Housing for Homeless Individuals: Options and Obstacles (April 2004)  
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