

DOCUMENT RESUME

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Community Assistance--Deactivation of Safeguard Missile Sites.
B-164250. August 8, 1977. 5 pp.

Decision by Robert F. Keller, Deputy Comptroller General.

Issue Area: Intergovernmental Relations and Revenue Sharing
(800).

Contact: Office of the General Counsel: General Government
Matters.

Budget Function: National Defense: Atomic Energy Defense
Activities (053).

Organization Concerned: Department of the Air Force: Grand Forks
APB, ND; Department of the Air Force: Malmstrom APB, MT;
Department of Defense; Department of Housing and Urban
Development.

Authority: (P.L. 91-511, sec. 610; 84 Stat. 1204; 84 Stat.
1224). Department of Defense Appropriation Act for Fiscal
Year 1976 (P.L. 94-212; 90 Stat. 153). Military Construction
Appropriation Act of 1973 (P.L. 92-547; 86 Stat. 1156).
Housing Act of 1954, sec. 701, as amended. Housing and
Community Development Act of 1974, title I. Military
Construction Authorization Act of 1971. S. Rept. 91-1234. S.
Rept. 92-1249. H. Rept. 94-710.

The Acting Deputy General Counsel of the Department of
Housing and Urban Development (HUD) requested an opinion as to
HUD's authority to disburse Department of Defense funds to
minimize the negative community impact caused by the termination
and deactivation of a Safeguard missile site. The costs incurred
by two communities in establishing municipal services as a
result of construction and operation of the Safeguard
Anti-ballistic Missile System remain for the communities to
liquidate after the sites are deactivated. Continued financial
assistance may be given to these communities to assist them in
handling these obligations. (Author/SC)

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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-184250

DATE: August 8, 1977

MATTER OF: Community Assistance--Deactivation of Safe-
guard Missile Sites

DIGEST: Costs incurred by two named communities in establishing municipal services as a result of construction and operation of Safeguard Anti-ballistic Missile System remain for the communities to liquidate after the sites are deactivated. We concur with the Defense Department that in view of the provisions and legislative history of section 610 of Pub. L. No. 91-511 and the relevant appropriation acts, continued financial assistance may be given to these communities to assist them in handling these obligations.

This is in response to a request from the Acting Deputy General Counsel of the Department of Housing and Urban Development (HUD) for an opinion as to HUD's authority to disburse Department of Defense (DOD) funds, pursuant to an agreement entered into under the authority of section 610, Pub. L. No. 91-511, October 26, 1970, 84 Stat. 1204, 1224, to minimize the negative community impact caused by the termination and deactivation of a Safeguard site.

Section 610(a) authorizes the Secretary of Defense:

"to assist communities located near Grand Forks Air Force Base, Grand Forks, North Dakota, and Malmstrom Air Force Base, Great Falls, Montana, in meeting the costs of providing increased municipal services and facilities to the residents of such communities, if the Secretary [of Defense] determines that there is an immediate and substantial increase in the need for such services and facilities, as such communities as a direct result of work being carried out in connection with the construction, installation, testing, and operation of the Safeguard Anti-ballistic Missile System."

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The Secretary of Defense is required to assist the communities through existing Federal programs by section 610(b). In accordance with an agreement with DOD, HUD intends to disburse these funds in compliance with the requirements of either the Comprehensive Planning Assistance Program under 701 of the Housing Act of 1954, as amended, or the Community Development Block Grant Program under title I of the Housing and Community Development Act of 1974.

The problem arises because there is no specific provision in Pub. L. No. 91-511 for assistance to communities upon the curtailment or closeout of the Safeguard defense system. We are asked for our opinion as to whether funds available to carry out section 610 are also available when the Safeguard site is being closed or curtailed.

Comments on the Safeguard Community Assistance Program sent by the Army Office of the Chief of Staff on December 1, 1975, with which the Army General Counsel and the General Counsel of the Office of the Secretary of Defense concurred, concluded that the phase-out assistance was authorized by section 610. The memorandum stated:

"The statute does not proscribe the use of funds appropriated thereunder to alleviate conditions resulting from cessation of Ballistic Missile Defense (BMD) operations. Clearly, but for the construction and operation of the North Dakota site, the present impact attributable to its shutdown would never have resulted.

"The statute's legislative history indicates Congress wanted broad legislative language to give the Secretary of Defense discretion in helping these small communities cope with any excessive financial burden due to the location of the SAFEGUARD site in the area."

Section 610 was added to the Military Construction Authorization Act of 1971 by the Senate Committee on Armed Services which indicated in its report an intent to give broad discretion to the Secretary of Defense to utilize Federal programs to assist several small, rural communities cope with the large influx of construction workers and later Defense personnel to build and operate the Safeguard Missile Program. While stressing the tax strain caused by immediate needs

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to build more schools, enlarge medical facilities, and provide police, sewerage and other services which would have not been necessary had the missile project not been located in their communities, the Senate Committee observed that since the Safeguard system was a part of a national defense system, these costs should not be borne by the immediate region of the missile sites alone:

"Spokesmen for both the states of Montana and North Dakota have made it clear that these communities for the most part are now taxed to the legal limits and they simply cannot afford to make such a substantial contribution to support the antiballistic missile program which is indeed a national defense system and not just for the protection of these two areas. They are firmly of the opinion that any improvement or expansion of municipal facilities made necessary by the impact of Safeguard construction should be a part of the programmed cost of the system and borne by the Government.

"The Committee is of the opinion that this is a unique if not unprecedented situation. Consequently, there has been included an amendment to the bill, namely Section 610, which would authorize the Secretary of Defense to afford these communities such relief as he finds necessary." Sen. Rep. No. 91-1234, 91st Cong., 2d Sess. 10 (1970).

The two named communities incurred increased municipal services and facilities costs because of the construction and operation of the missile sites. Some of these costs were to have been paid by tax revenues and user charges assessed against employees and their families who were located in the communities in connection with the Safeguard program. These costs remain even though the sites are being deactivated or terminated. We understand it is with these costs which HUD and DOD plan to assist the affected communities in accordance with section 610. In this way, the negative impact on the communities of the deactivation of the sites will be minimized.

In its consideration of the relevant appropriation acts, the Congress expressed its intent that Community Impact funds could be used for the adverse effects suffered by the covered communities from the closing or deactivation of missile sites as well as their

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construction and operation. The Conference Committee on the Department of Defense Appropriation Act for Fiscal Year 1976, Pub. L. No. 94-212, February 9, 1976, 90 Stat. 153, stated the following in its report:

"The conferees also understand that approximately \$2,500,000 of Community Impact funds remain from prior year appropriations. Such funds can be used to provide assistance qualifying under the provisions of Section 010 of the Military Construction Authorization Act, 1971 (84 Stat. 1224) which are a direct result of the negative community impact caused by the termination and deactivation of the Safeguard ABM site * * * near Grand Forks, North Dakota. For example, the conferees are aware that the Safeguard-affected community supporting service activities such as telephone and electrical utilities which have incurred obligations including indebtedness will now be left without anticipated revenues from taxes or customers. The Defense Department is expected to provide the maximum assistance possible to these problems with the \$2,500,000 which remains available." H. Rep. No. 94-710, 94th Cong., 1st Sess. 29 (1975). (Emphasis added.)

Also, in its report on the Military Construction Appropriation Act of 1973, Pub. L. No. 92-547, October 25, 1972, 86 Stat. 1155, the Senate Committee on Appropriations restored \$6 million in previously appropriated impact funds for use at the Malmstrom Missile site which was being phased out in accord with the 1972 Anti-Ballistic Missile Treaty. The Committee stated:

"The community impact assistance program was established by fiscal year 1971 legislation to assist communities located near the Grand Forks and Malmstrom sites in meeting costs of providing increased municipal services and facilities in connection with the construction, installation, testing and operation of the SAFEGUARD system. * * * The Committee understands that the remainder of the \$17 million should be adequate to cover Grand Forks requirements through site

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readiness date of October, 1974, and to fulfill all commitments incident to phasing out the deployment effort at the Malmstrom site." S. Rep. No. 92-1249, 92d Cong., 2d Sess. 14-15 (1972). (Emphasis added.)

In view of the provisions of the statutes and legislative histories just discussed and of the wide discretion given to the Secretary of Defense to determine when and the amount of community impact funds to be allocated in connection with the Safeguard program, we are of the view that HUD may disburse DOD funds pursuant to an agreement entered into in accordance with section 610 to assist communities adversely affected by the curtailment or termination of the Safeguard Anti-ballistic Missile program if DOD finds that there is a need to provide such assistance.


Deputy Comptroller General
of the United States