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OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

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25 MAY 1972

IR
INSTALLATIONS AND LOGISTICS

MEMORANDUM FOR Acting Assistant Secretary of Defense (International Security Affairs)

SUBJECT: Micronesia Status Negotiations--JCSM-113-72

- References:
- (a) Your memorandum of March 2, 1972, which requested the Joint Chiefs of Staff to forward to OASD(I&L) a proposed negotiating strategy for the satisfaction of Defense land requirements in the Marianas.
 - (b) Memorandum from the Chairman of the Joint Chiefs of Staff, March 16, 1972, forwarded by your office which submitted for consideration various negotiating positions which might be taken to accomplish the desired land acquisition.
 - (c) Subsequent meetings and discussions among representatives of your office, OJCS, Assistant General Counsel and this office on the proposed TTPI negotiations.

We have reviewed JCSM-113-72 (Enclosure 1) in accordance with your request and with due regard to the importance of the Mariana District to the Department of Defense. It is our conclusion, as was discussed in our meetings, that there are basic failings in the strategy, the more important being the rigid position in which the Ambassador is being placed, items which are overlooked, undesirable, or legally objectionable or considerations which have no relationship to a land negotiation. As examples:

- a. While highly desirable, as stated by the JCS, acquisition of the entire Tinian Island may not be essential and could be prejudicial to the interests of the U.S. We believe that such an action would indicate a general insensitivity to the feelings of an emerging people or commonwealth and could incur substantial costs which would result from relocation, construction of a new village, transportation, etc. A reduction of the Tinian acreage to the minimum 16,518 acres in a homogeneous area with a restrictive easement type estate over the 2,000 acres required for ammunition transfer could still accomplish the desired objective of an integrated operation.

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b. In the absence of a commonwealth or territory relationship with the U.S. and the vesting in the U.S. of the power of Eminent Domain, the U.S. must look solely to the Governing Body of the District for the satisfaction of its land requirements. Without the condemnation authority, there is no way by which a recalcitrant land owner can be forced to sell or lease. The status negotiations must therefore consider the premise that Eminent Domain authority in the U.S. to accompany commonwealth status is a necessity or at the least highly desirable. Failing this, the District Government must give assurances similar to that of a host government that it will provide the land interests necessary for the U.S. requirements.

c. The target date for the start of construction (by the end of CY 74) would require that these projects be included in the FY 74 Military Construction Program and may be somewhat optimistic. We do not believe that negotiations could be concluded in time nor military requirements adequately determined to put together a complete and viable package with engineering estimates based on any degree of planning and design effort for inclusion of a total package in the FY 74 program. Since there is a commitment to begin some work by end of CY 74, however, an initial increment of construction could be programmed in the FY 74 MilCon.

d. OSD Contingency Construction funding is not appropriate for the construction contemplated in the JCS paper and should not be discussed or contemplated. The scope of the entire package is far in excess of the contingency authorization and funding as now programmed. Secondly, it does not appear to be time sensitive to urgency to the degree required to justify contingency funding.

e. Land values discussed in the JCS memorandum are historical and in the absence of current appraisals may be too low. Rapidly escalating land costs on Guam are bound to have an effect on the values on Tinian and Saipan. The need for current appraisals is particularly necessary in view of the approximately 1,077 acres in private ownership, the application of Public Law 91-646, The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to the TTPI and the possibility that Eminent Domain proceedings would be required to quiet title or to acquire from reluctant land owners.

f. The offering in the negotiations of the construction of a park, guaranteed employment to Tinian natives, rapid water transportation, purchase of crops, etc., should be avoided as part of a land negotiation. Some of these promises may be legally or practically impossible to fulfill. Some (e.g., water transportation, parks, etc.) are outside the purview of this Department and could run into trouble with the Congress. The ex gratia payment of \$10,000,000 for an educational trust fund may not be supportable and is without basis in a land negotiation.

g. The promises to build roads and a specified amount of \$3,000,000 for this purpose is likewise questioned. A clearly demonstrated Defense access road need must exist before such can be promised. Again, this has no application to a land negotiation and the price to be paid for that land.

h. The need for the leasing back of lands for agricultural purposes at a \$15 per acre annual rate is also questioned. Rather than the acquisition offer with lease-back in the first place, agricultural use of quantity distance acres could be provided for by the acquisition of an easement estate by the U.S. which would have a secondary advantage of leaving the property on the tax rolls.

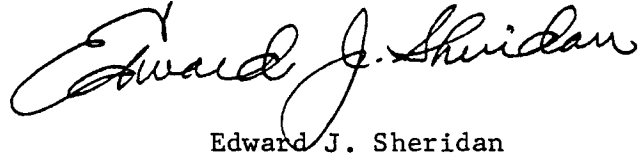
i. We would also disagree with regard to negotiating position No. 3, Item (1) on the construction or leasing of housing on Saipan for DoD personnel and dependents. This would create an unnecessary burden on our activities and could stifle civilian development of the Saipan economy.

Because of our objections to the JCS proposed strategy, we have developed, and are forwarding as Enclosure 2, an alternative land negotiation proposal which we believe can be supported as such in the Congress. In the absence of a firm indication of what political relationship with the U.S. the Micronesians will choose, we have developed this negotiation strategy on the assumption of a close alliance, that of commonwealth or possession status. This strategy would necessarily require modification, possibly to a leasing negotiation if a less close relationship is voted. In this instance, we believe the question should be readdressed and a new negotiating strategy developed. It should be recognized also that the proposed strategy is for land acquisition only and may be considered as one of the inducements to an overall status negotiation package.

As a final matter, this office cannot concur in the recommendation made in the fifth paragraph of the JCS covering memorandum that this project package be funded as a DoD requirement without charge to the Service budgets. Under the proposal, each Service would presumably have its own missions and installation requirements on the islands. There do not appear to be any unique circumstances or factors affecting this program which would indicate that each Service should not program and fund for its own needs just as they would normally do in the CONUS and overseas. We believe that if a package is required, it could be assigned to one of the Military Departments as the executive agent for the DoD and, the executive agent would coordinate the special requirements for the other Services which they would fund as is now done with any host/tenant situation. We would agree that the land acquisition be treated as a package for programming purposes with the Department of the Air Force justifying the land requirement and the Department of the Navy being assigned as the implementing acquiring agency. In accord with our latest discussions, we have forwarded a copy of our proposed strategy to the

Department of the Navy for review as to land values and reasonableness of approach.

This office is prepared to discuss this matter with you in more detail or to provide any assistance to the U.S. negotiator which you deem appropriate. We would strongly recommend that, in view of the new approaches to land acquisitions and relocations which have resulted from Public Law 91-646, professional DoD real estate assistance be provided to the Ambassador.



Edward J. Sheridan
Deputy Assistant Secretary of Defense
(Installations and Housing)

Enclosures 2