

POINT PAPER

ON

BAH "WINDFALL" IN HOUSING PRIVATIZATION

- Anticipated large increases in BAH through FY05 have prompted Congress to ask what we will do with "windfall" to housing privatization developers since BAH is rental payment for military members
- Mr. Dishner answered that it would go into a local account and then to the Family Housing Improvement Fund (FHIF)
 - Answer was not coordinated with SAF/GCN
- ILE is currently staffing a policy requiring "windfall" to be forwarded to FHIF
 - Potential legal problems with this approach because no authority currently exists to deposit in FHIF since BAH windfall is personnel account money and is not covered by 10 USC 2883 authority to deposit certain monies in the FHIF
 - Since FHIF money is used to supplement MILCON for future privatization projects, depositing MILPERS money into FHIF without Congressional authority would essentially "launder" it into MILCON-type money
- Wright-Patterson will propose that developer offer a percentage of "windfall" to be used to pay-off Government direct loan or Government guaranteed loan earlier with "windfall" from out-years going to FHIF with Congressional approval
 - Provides benefit to both Government and developer
 - Not prohibited by 10 USC 2883 since "windfall" not within definition of income or return on Government investment in project that must be returned to the FHIF
- SAF/GCN concurs with Wright-Patterson approach

RECOMMENDATION:

- AF/JA support the Wright-Patterson approach to the use of "windfall" as beneficial to the project, the Government and the developer and allowed by law