

NOV 04 2013



**U.S. Customs and
Border Protection**

Commissioner

The Honorable John McCain
United States Senate
Washington, DC 20510

Dear Senator McCain:

Thank you for your September 17, 2013 letter regarding U.S. Customs and Border Protection's (CBP) construction of residential housing units in Ajo, Arizona. In addition to the information provided below, CBP conducted a phone briefing with various representatives from the Arizona Delegation on August 29, 2013, including members of your staff.

The Ajo Housing Project was completed in January 2013 and provides 21 new two and three bedroom, government-owned rental units. These units, which are located in proximity to CBP operations in Lukeville and Ajo, Arizona, provide safe, adequate, and conveniently-situated housing for our CBP Officers, Border Patrol Agents, and their families. CBP appreciates your recognition of the importance of our mission-critical employees in this remote and operationally significant border location, and we agree that sound analyses must support our investment decisions.

In response to the housing gap for mission-critical personnel and their families created by recent staffing growth, CBP and the U.S. General Services Administration (GSA) completed feasibility studies and developed a housing design prototype based on the following key performance criteria: (1) the ability of agents and officers to rapidly deploy to their duty stations; (2) affordability; (3) durability and local serviceability; (4) sustainability; and (5) energy-efficiency. This new prototype focused on ensuring the best long-term value by incorporating features to significantly lower maintenance costs over the extended useful life of the rental housing units.

Prior to the commencement of the Ajo Housing Project, CBP's Office of Border Patrol and Office of Field Operations noted that high rental prices in a very limited rental market constituted a significant obstacle to deploying the necessary personnel to staff the border in the Ajo and Lukeville area. Significantly, most agents and officers were commuting approximately 100 miles in each direction between communities such as Buckeye, Phoenix, or Tucson and their duty stations. This presented a safety and economic issue for agents and officers who would work 8 to 12 hour shifts (often patrolling in a vehicle) and then commute by road for up to three or more hours a day.

CBP and GSA conducted rental market analyses, which confirmed that Ajo property rental options were limited and that most of the habitable units were already occupied. The market research indicated that there was insufficient available housing to accommodate CBP's current staff or its planned growth. Furthermore, the market research revealed that there had not been any significant increase in the number of Ajo rental properties over the previous five years.

GSA advertised this project as a Design-Build contract with full and open competition in accordance with the Federal Acquisition Regulations (FAR). Factors driving the cost of the project included: (1) the remote location of the site; (2) the lack of qualified skilled labor and supply resources in the Ajo area; (3) the need to transport equipment, materials, and labor to the site from the Phoenix or Tucson areas (with two to three hour drives each way); (4) the need for contractors and sub-contractors to commute significant distances every day, as a result of the shortfall of private rental housing in Ajo; and (5) federal, state, and local government regulations (such as the Buy America Act) and environmental mandates (such as: Executive Orders (EO) 13423 "Strengthening Federal Environmental, Energy and Transportation Management, EO 13514 "Federal Leadership in Environmental, Energy and Economic Performance and the "Guiding Principles"), as well as cultural, historic, and tribal clearances required for federal government construction, but which may not apply to private market homes and buildings.

The total cost for the project included, but was not limited to: environmental assessments, cultural and tribal clearances, state and county historical impact clearances, and the site acquisition. This cost was also inclusive of all design fees, architectural and engineering services, and site/civil improvements, such as the replacement of existing water sewer infrastructure, completion of power and telecommunications upgrades, and the installation of emergency backup generators.

Responses to each of the specific questions posed in your letter are provided below.

1. Who provided the final approval for the Ajo housing development? Please provide name, title and division? Please also provide contemporaneous decision memorandum or similar document that articulates the basis for that approval and this project's execution.

The results of the final CBP Housing Program Feasibility Study, which included the preferred alternative for Ajo, were presented to and approved by a body of CBP mission support and operational executives to include the Offices of Administration, Border Patrol and Field Operations in July 2009. Subsequently, in June 2010 the prototype design was approved by the same body. In 2008 and 2009, the CBP Investment Review Board also reviewed housing requirements and made funding allocations to the project accordingly.

2. Were alternatives reviewed in lieu of the Ajo development? If so, what costs/benefits were associated with each alternative?

Overall, CBP operations in Lukeville and Ajo are located in areas that are extremely remote and isolated from any major population centers. These operational areas are flanked by the 330,000 acre Organ Pipe Cactus National Monument, the 860,000 acre Cabeza Prieta National Wildlife Refuge, the 1.7 million acre Barry M. Goldwater Gunnery Range, and the 2.8 million acre Tohono O'Odham nation. Given this geographic location, CBP available sites for new construction are severely limited.

CBP considered possible alternatives in both the geographical area surrounding Ajo, as well as alternatives in the town of Ajo as part of the CBP Housing Program Feasibility Study and the Environmental Assessment. Ajo was chosen because of its general suitability in comparison to other, nearby and available sites. Ajo is the largest town in the area, and as a result, offers

infrastructure that is more capable of sustaining additional households than the other sites considered. Lukeville was eliminated as a potential site as there was no property for sale or existing infrastructure that could support additional housing units. At the time, there was also no existing private rental market. Similarly, locations in Why were eliminated from consideration because of the lack of infrastructure and limited water supply.

A thorough process examined alternatives in the town of Ajo based on evaluation criteria, which included an analysis of estimated project costs, yielded the possible and viable alternatives and, finally, the preferred alternative, which offered the lowest unit cost. For example, the possible alternative site at Ajo Wells Road site was eliminated due to the adjacency to the waste water treatment plant, limited site usability as part of the site is located in a 100 year flood plain and the presence of endangered cactus, which would have required their relocation. The Ajo Rasmussen Road site, also the second viable alternative, scored lower for: site usability based on the topographical challenges; access to utilities; flexibility to accommodate future phases; sustainability due to unimproved site; and first cost given the required site development.

In addition to site locations, CBP considered and evaluated numerous alternative types of housing when planning for the construction of employee housing. CBP first considered the option of not taking any action with regards to the employee housing shortfall. The option was eliminated as it did not serve the requirements of the Agency, nor did it improve the situation of agents and officers who faced long commutes back to established metropolitan areas after their shifts. Standard mobile homes were eliminated from consideration due to the difficulty and cost to maintain the units in the demanding desert climate and the general undesirability for families. In addition to constructing the 21 rental housing units, CBP acquired 20 energy-efficient mobile homes to be used for interim housing in Ajo until the new homes were available for occupancy at 55 S. Sahuaro. These units were specifically designed to be readily transportable to another location when the new permanent units were completed, and addressed an immediate short-term need posed by new CBP personnel assigned to the area. The ultimate CBP prototype design for housing units incorporated lessons learned from construction practices on older homes in the CBP inventory and represents a durable and low maintenance facility. CBP concluded that the housing prototype, as outlined in the 2009 CBP Housing Standard was the most advantageous to the Agency, CBP employees, their families, and the taxpayer and that the site at 55 S. Sahuaro was best suited for their location.

3. What is the current occupancy rate of the Ajo housing complex? Also, what is the retention rate of occupants who have moved into the housing complex since its opening in 2011?

CBP completed the Ajo Housing Project in January 2013. As of October 22, 2013, 15 of the 21 units were occupied, and tenants have been identified for the remaining six units. These six vacant units will be occupied within the next 60 days. Of the tenants (defined as head of the household) that have resided in the 15 occupied units, nine have since vacated and have been replaced with new tenants.

The assignment of CBP agents and officers to a specific region is based on operational need; therefore, a tenant's length of occupancy may fluctuate. CBP anticipates regular turnover within its Ajo housing units, as staffing requirements are aligned to the operational needs of the Agency.

4. Does anyone who was involved in the design, selection or authorization of the Ajo project currently reside in the complex? If so, please provide names, titles and divisions.

No tenant in CBP's Ajo housing was involved in the design, selection, or authorization of the Ajo project.

5. Please provide justification for why the Ajo housing development was built to LEED Platinum specifications instead of Silver or Gold and a detailed cost-breakdown for the project if it had been instead built to Silver or Gold specifications. Please identify who authorized the Platinum certification effort.

Achieving Leadership in Energy Efficiency and Environmental Design (LEED) Platinum was not an objective of the project. The solicitation called for LEED Silver Certification for the Ajo Housing Project and CBP obtained additional LEED points through a variety of factors that resulted in the project's Platinum certification. The project received additional LEED credits for: (1) the orientation of the buildings on the site (to avoid passive solar heating with exposure of windows to the most intense sun of the day) – no additional cost over award; (2) selecting an upgraded HVAC from a 13 "SEER" rated unit to 16 "SEER" unit, due to the lack of available regional service options and technicians for the 13 "SEER" rated unit – total cost \$40,000. Though a LEED point was granted for the HVAC selection, CBP had no choice in the selection due to lack of serviceability of the lower SEER rated unit; (3) tenant training materials - no additional cost over award; (4) selecting drought tolerant plants for the landscaping - no additional cost over award; (5) separation/recycling of waste materials and products - no additional cost over award; (6) for the use of recycled materials in the backyard fencing - no additional cost over award; (7) addition of landscaping of the rear yards for soil retention and drainage purposes - total cost \$20,000; (8) addition of exhaust fan timer to the bathrooms to prevent mold growth and to prevent continuous operation and promote energy efficiency– total cost \$4400; (9) selection of a higher grade HVAC filter – no additional cost over award. Though a LEED point was granted for the filter selection, it was selected to increase efficiency and decrease maintenance costs as it requires replacement every 6 months as opposed to every 3 for the lower grade filters; and (10) addition of garage vents – total cost \$53,000. Though a LEED point was granted for the vent addition, the primary driver was health and safety - to clear any carbon monoxide and heat build-up in the garage, which is essential in a desert environment.

The changes identified above, which cost a total of \$117,400 for 21 units, were made for the stated purpose and would have been made regardless of their impact on LEED. The additional LEED points they provided were a consequence of these changes which resulted in the LEED Platinum certification.

6. Did this project receive any subsidies from local or state entities? What percentage of the project was funded by the Federal Government?

This project did not receive any funds from local or state entities. The Federal Government was the exclusive funding source.

7. Originally, this project was scheduled to cost \$10.79 million. What caused the increase to \$12.7 million? Who authorized the additional expense and why? Who should ultimately be held responsible for cost overruns of this project? Who is responsible for future construction projects at CBP?

CBP did not exceed the original cost estimates for this project. The government estimate for this effort prior to award was \$13.1 million. The final construction cost was \$10.79 million, which included \$430,000 in construction modifications after award, which were covered by the project budget through planned project contingency. Of the modifications, approximately \$325,000 is attributed to unforeseen site conditions related to the presence of underground rock. Value engineering changes resulted in savings in construction costs and the remaining increase, which represented approximately 1 percent of the contract cost, were made for a variety of small changes, most of which are described in the response to question number five, above.

The remaining costs were associated with environmental compliance, site acquisition and relocation, and project management fees, for a total project cost of \$12.797 million. The program authority for CBP construction projects resides with the Executive Director of the CBP Facilities Management and Engineering Directorate, within the Office of Administration.

8. Was the contract for the construction of these housing units awarded competitively? If not, please explain why not and how this contract was in fact awarded.

The contract for the construction of the Ajo housing project was awarded competitively, and there were no special circumstances, delays or difficulties related to the bidding process. Bids were evaluated in accordance with the following factors: Total Evaluated Price; Design Concept and Construction Methodology; and Project Management and Formal Presentation Plan. All construction contracts for and on behalf of CBP are competitively bid in accordance with Federal Acquisition Regulations, and the cost of construction is ultimately determined by the market.

9. Please provide the CBP Housing Guide and the CBP Construction Strategy and include any LEED certification plans for each project.

Newly constructed CBP housing is based on CBP Housing Standards that outline: the performance criteria of the housing unit; planning and site design; general requirements for space, accessibility, prototype plans, construction methods and maintenance; climate and energy analyses; and house outline specifications. CBP has enclosed the "Executive Summary from the 2009 CBP Housing Standards" and will provide the entire study upon request.

CBP is in the process of developing the CBP Housing Operations Policy which details: legislative and regulatory requirements, housing operations, financial considerations, and housing program management.

CBP has typically designed and constructed facilities to LEED Silver standards and the CBP Housing Prototype met those requirements. As of 2010, GSA requires, at a minimum, new construction and substantial renovation of federally-owned facilities to be LEED Gold.

All federal agencies are required to meet the mandatory compliance requirements. Executive Order (EO) 13423 (2007), "Strengthening Federal Environmental, Energy, and Transportation Management" – Requires that all new construction of federal buildings comply with the 2006 Federal Leadership in High Performance and Sustainable Buildings Memorandum of Understanding. Government housing projects must utilize an integrated project team to design and construct sustainable housing units that meet the federal standards in the areas of integrated design, energy performance, water conservation, indoor environmental quality, and materials.

Executive Order 13514 (2009), "Federal Leadership in Environmental, Energy, and Economic Performance" –Requires that all new construction of federal buildings comply with the current (2008) Guiding Principles for Federal Leadership in High Performance and Sustainable Buildings (Guiding Principles). The Guiding Principles include requirements for new construction projects in the areas of integrated design, energy performance, water conservation, indoor environmental quality, and materials and are aimed at helping federal agencies and organizations reduce the total ownership cost of facilities, improve energy efficiency and water conservation, provide safe, healthy, and productive built environments, and promote sustainable environmental stewardship. This is the standard by which the sustainability of government housing projects is measured. The guiding principles require either third party verification or agency self-verification in order to consider a building to be compliant with the guiding principles. CBP determined that using the U.S. Green Building Council (USGBC) as a third party verifier was the least costly method of verification due to the established verification system. The number of Agency buildings meeting these requirements must be reported quarterly in the Office of Management and Budget (OMB) Scorecard and annually in the Department of Homeland Security (DHS) Strategic Sustainability Performance Plan (SSPP).

With the exception of two planned projects in Lukeville, Arizona, and Piegan, Montana, using prior year funds, there is currently no additional capital funding available for housing construction.

10. Was a given contractor's ability to build, or past performance in building housing to LEED Platinum specifications an evaluation factor or qualification used to award this construction contract? If not, why not? If so, how did the awardee-contractor score against that evaluation factor or qualification in relation to other bidders?

No, a contractor's ability to build or past performance in building to LEED Platinum specifications were not evaluation factors or qualifications used to award this construction contract. Past performance in building housing to LEED Platinum specifications was not an evaluation factor as CBP typically builds to LEED Silver. In addition to Total Evaluated Price, the following non-price factors were evaluated during the contractor selection process: Design Concept and Construction Methodology; and Project Management Plan and Formal Presentation. The solicitation required only that the contractor obtain LEED Silver specifications.

11. What process or safeguards have been put in place to prevent future incidents of wasting taxpayer funds? Who will provide final approval for future construction projects?

In recent years, CBP has significantly enhanced its methodologies for managing all types of capital investments, to include development of guidance for acquisition oversight of capital investments and the development of a Capital Facilities Investment Plan.

Improvements to the acquisition oversight process include the review and approval of projects at key planning and acquisition milestones. These milestones include approval of the mission need, as well as approval of the alternatives analysis and business case before program funding is requested. The process also requires approval by the lead technical authority for the project, to ensure the project complies with technical standards. For work in progress, enhancements include recurring program management reviews to ensure project scope, cost, and schedule are being appropriately managed.

Authorities for review and approval of project acquisition milestones are based on risk and lifecycle cost thresholds. The table below from the CBP Program Lifecycle Process Guide (March 2012) outlines the current authorities for project approval. The Executive Steering Committee (ESC) includes all CBP Assistant Commissioners and the Chief of the Border Patrol. The CBP Governance Board (CGB) consists of CBP Deputy Assistant Commissioners. Both boards also include representation from the Component Acquisition Executive and the Head of the Contracting Activity when acquisition matters are discussed.

CBP Decision Thresholds and Decision Authorities

Lifecycle Cost	Acquisition Decision Authority
\$50 million to ≤ \$300 million	ESC
\$10 million to < \$50 million	CGB, when delegated
< \$10 million	CBP Enterprise Architecture Review Board, when delegated

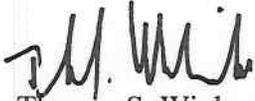
CBP acquired the Ajo housing units in compliance with applicable statutes and regulations, and the units are now available to house federal law enforcement officers in support of CBP's homeland security mission. The new housing better equips CBP to meet its mission-critical rental housing needs in an efficient and effective manner. Furthermore, the addition of these agents, officers, and their families to the town of Ajo contributes to its continued growth, security, economic viability, and sense of community.

An entrance conference with the DHS Inspector General for CBP's Acquisition of Housing for Employees was held on September 24, 2013 and we are currently working with the Inspector General to review all aspects of this important program.

The Honorable John McCain
Page 8

I appreciate your interest in U.S. Customs and Border Protection. If we may offer further assistance, please contact Mr. Michael Yeager, Assistant Commissioner of the Office of Congressional Affairs at (202) 344-1760.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Winkowski', written in a cursive style.

Thomas S. Winkowski
Acting Commissioner

Enclosure

CBP Housing Standards – July 2009

EXECUTIVE SUMMARY

PURPOSE

This report is a central component of a comprehensive Feasibility Study that addresses the current and future housing needs for mission-critical Customs and Border Protection personnel located at the United States borders. The Feasibility Study has three objectives: 1) to develop standard criteria for the CBP Housing Program, 2) to develop a Business Model for the housing's development, ownership, and operations and maintenance, and 3) to assess the current and future housing needs and to propose a master plan for the development of housing at six locations: Piegan, Montana; Ajo, Arizona; Presidio, Texas; Sierra Blanca, Texas; Sanderson, Texas; and Van Horn, Texas.

The CBP has requested that the housing be robust and maintainable for the locations, climates and environments they will be exposed to. Focus will be on speed, efficiency, durability and local serviceability. The dwellings should also be affordable to the personnel based on rent guideline policies.

This particular Report documents the development of recommendations for housing standards at the northern and southern borders. It aims to identify the key issues in the planning, design & construction of housing facilities for the CBP, and establish architectural and energy performance criteria that responds to the particular technical, programmatic & climatic circumstances found in the remote sites investigated in this Feasibility Study. The Report contains recommendations on planning density and types, space provisions and arrangement, construction methods, energy performance and maintenance, based on optimal cost/benefit analysis.

PROCESS

This report compiles and builds upon the contents of the presentations given by Garrison Architects to the CBP and GSA on two separate occasions. The first meeting took place via conference call on March 30, 2009 and it was organized around a presentation that identified the key issues, and presented strategies and approaches for planning and development of housing prototypes. Comments from that presentation, along with further detailed development, were incorporated into a second presentation at the Dallas Facilities Center on April 29, 2009. This meeting concentrated on the further development of performance criteria of the housing prototypes, cost analysis and payback periods for performance upgrade investments, final recommendations on project delivery, and outline specifications.

This portion of the Feasibility Study was performed by Garrison Architects from January 2009 through July 2009. The principal participants throughout the process were representatives from GSA and CBP Facilities Management and Engineering, as well as the CBP Offices of Field Operations and Border Patrol.

METHODOLOGY

The development of the Housing Standards began with the compilation of relevant documents (OMB A-45, previous CBP Housing Standards memo, various GSA design guidelines, etc.). Interviews with CBP personnel were conducted at the national, regional and local levels during the Project Orientation meeting and the site visits to Piegan, MT; Ajo, AZ; and Presidio, Sierra Blanca, Van Horn and Sanderson, TX. The Project Team identified key programmatic, performance and contextual issues drawn from the findings presented in the "Existing Conditions" & "Needs Assessment" portions of the Feasibility Study and observations made of the sites' locality, area housing and existing CBP housing, where present.

Strategies for achieving the CBP's objectives were established, within the context of these key issues. Extensive research was conducted - from planning and building precedents to high-efficient building

products and manufacturers - in order to qualitatively and quantitatively evaluate these strategies and propose recommendations for plan and planning configurations and construction technologies. The final recommendations are the product of these studies and it are presented and discussed later in this report. An Appendix is included to document much of the supporting research.

The Housing Standards Report is divided into two primary sections: "Planning" and "Housing Facility Design". The first section deals with the planning and organization of the houses on a given site, and addresses key issues such as density, creation of community, provisions for amenities, security & traffic control. The study on planning takes into consideration the existing building landscape of the locations studied and makes recommendations on unit and density types.

The second section concentrates on the housing prototype development and delineates strategies for the design and construction of facilities that are affordable, rapidly deployable, durable, locally-serviceable, low maintenance and climate appropriate. A substantial portion of the "Housing Facility Design" section is dedicated to the issues of climate and energy. Together with Transsolar, our climate engineering consultant, Garrison Architects developed energy performance models for four performance alternatives for the typical northern border house, and three performance alternatives for the typical southern border house. These alternatives were priced and analyzed in terms of payback periods and life-cycle costs. The findings of these analyses, in addition to other considerations such as government mandates for energy, inform the final recommendations made at the end of this report.

CHALLENGES & CONCLUSIONS

MAXIMIZING VALUE

The subject locations of this study are remote; typically requiring a several-hour round trip drive to secondary commercial areas for supplies, services and cultural amenities. This remoteness makes quality construction difficult to monitor, difficult to find skilled construction firms and expensive.

This study anticipates the construction of approximately five hundred houses in six locations. This is a substantial construction effort that can take advantage of economies of scale if properly planned and procured.

In meeting the requirements of LEED, ASHRAE 90.1 and Executive Order 13423 these homes must meet a level of energy performance that is, at this time, unfamiliar to most regional builders.

This study analyzes the cost and performance of various construction delivery methods. It concludes that, given remote locations and lack of local expertise, prefabrication techniques should be widely utilized for the construction of these homes. In addition it recommends that pre-qualified prefabrication constructors demonstrate their ability and cost effectiveness through the competitive pricing and construction of prototypes.

IMPROVING QUALITY OF LIFE AND EMPLOYEE RETENTION

The overarching need addressed by this study is to provide housing of such quality and character that it will improve employee quality of life and encourage retention. The CBP sees the potential for its housing to attract talented officers and agents to its more remote and challenging posts.

This report acknowledges that new housing comply with OMB-45 with regard to room sizes, and include features specific to remote and extreme-climate locations, such as oversized storage areas, energy-saving construction and systems, large enclosed vestibules in the north and shaded porches in the south. In addition these houses should be designed to include spacious interiors, large glass areas, and high quality domestic finishes.

It is recommended that large developments include shared amenities such as playgrounds, landscaped areas, and community meeting places when they are not available in the surrounding communities.

MINIMIZING MAINTENANCE

CBP homes are rental properties for the CBP staff and represent a long-term investment for the government. As such they will not receive the same level of occupant care as owner-occupied homes. They are located in extreme climates where extreme temperatures and high winds are common. Consequently they must be more substantially constructed with more durable materials than a typical home.

This report includes the life cycle analysis of all materials, products, and systems typically found in home construction. Based on this analysis, outline specifications have been prepared for northern and southern locations, with recommendations for systems that typically exceed a twenty five year life span. Construction costs include allowances for these more durable materials and systems.

COMMUNITY INTEGRATION

The CBP personnel and their families will comprise a significant percentage of the total population in the communities in which this housing is constructed. The median family income of these communities averages \$23,000 per year or approximately 52% of the average CBP salary. Consequently, this new housing and population can contribute dramatically to the appearance and socioeconomic well being of these communities.

This study recommends that, wherever possible and in due consideration of the local security context, new housing be integrated as seamlessly as possible into the community. This will encourage the interaction of the existing and CBP population and generally raise the quality of life and property values throughout the town.

It should be noted that this new housing will not contribute to local real estate value based taxation and it may pose a significant burden on local infrastructure and subsequently a burden on finances. Aid to mitigate this impact should be considered.

OPTIMAL ENERGY PERFORMANCE

This report integrates the requirements of Executive Order 13423 of 2007 with regard to its broad mandate for sustainability. The housing solutions recommended in this report meet or exceed the end targets for the above order. In addition the houses are capable of achieving LEED Certification as required by the GSA and the CBP Housing FS Requirements. These homes are, in fact, capable of meeting LEED for Homes, Gold or Platinum Certification. Note that when LEED Platinum Certification is achieved the filing cost of certification is rebated in full.

The prototypical two bedroom house recommended in this report achieves a 40% reduction in total energy consumption over comparable 2004 U.S. households. Because these houses are designed for their individual climates, the northern and southern houses have nearly identical energy costs. This reduced energy consumption will yield significant monthly savings in utility costs for the tenants, which is an additional attraction to the CBP staff.

Executive Order 13423 requires that the developing Federal "agency" invest in renewable energy sources on agency property. Within the context of this Feasibility Study, roof integrated photovoltaic electricity generation is the preferred energy source for all southern locations given its flexibility, simplicity and long term maintenance free characteristics. Such systems can exceed the total energy requirements for these houses. At certain northern sites wind energy can produce similar results. A study of these alternatives will be included in a separate report.