



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
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WASHINGTON DC 20350-1000

SECNAVINST 11011.47B
ASN I&E
12 Jan 2009

SECNAV INSTRUCTION 11011.47B

From: Secretary of the Navy

Subj: ACQUISITION, MANAGEMENT, AND DISPOSAL OF REAL PROPERTY AND
REAL PROPERTY INTERESTS BY THE DEPARTMENT OF THE NAVY

Ref: (a) Section 101 of Title 40, United States Code (U.S.C.),
et seq.
(b) Part 102-71 of Title 41, Code of Federal Regulations
(CFR), et seq.
(c) SECNAVINST 5430.7P
(d) through (bi), see enclosure (1)

1. Purpose

a. To revise and restate Department of the Navy (DON) policy for the acquisition, management, and disposal by the Department of the Navy of real property and real property interests, and to assign responsibility and delegate authority to carry out such policy.

b. To assign responsibility and delegate authority to carry out such policy. This instruction includes a technical revision to paragraph 7 below, involving a delegation of limited acquisition authority to the Base Realignment and Closure Program Management Office (BRAC PMO).

2. Cancellation. SECNAVINST 11011.47A.

3. Background. The original instruction (SECNAVINST 11011.47) was issued in 1983, and a substantive revision (SECNAVINST 11011.47A) revoking the original 1983 instruction was issued on 23 February 2006. This revision established and clarified DON real property policy and addressed the need to provide the BRAC PMO with limited acquisition authority.

4. Definitions. The definitions of references (a) and (b) pertain to this instruction. Additional definitions are included in paragraphs 8, 9, and 10.

5. Applicability and Scope. This instruction applies to the acquisition, management, and disposal of all real property and real property interests under the control of the Department of the Navy, subject to the exceptions listed in paragraphs 8, 9 and 10.

6. Policy. The Secretary of the Navy holds real property for the Department of the Navy. By reference (c) the Assistant Secretary of the Navy (Installations and Environment) (ASN(I&E)) is responsible for policies and procedures and for overseeing all DON functions and programs related to acquiring, utilizing, managing and disposing of DON real property. In accordance with references (a) and (b), it is DON policy that only such property required to meet the Department of the Navy's military mission may be acquired and, when the property is no longer required, it shall be reported excess to the needs of the Department of the Navy. This policy recognizes that certain real property must be retained for mobilization purposes and that, because of its location, or other pertinent factors, some property that is not being optimally used may not be suitable for excessing. Nevertheless, holding such property has considerable cost. Making such property available for compatible alternative uses helps offset shore installation costs. Before entering into agreements for the use of DON real property by others, however, it is important to carefully consider the impacts that such alternative uses will have on the potential future use of the real property by the Department of the Navy. Notwithstanding the delegations of authority in this instruction, ASN(I&E) staff shall be consulted prior to taking any real estate acquisition, management, or disposal action that has potential to be controversial or politically sensitive.

7. Responsibilities/Action

a. Except as provided in subparagraph 7c below, assignments of responsibility, requirements for approvals and delegations of authority are contained in paragraphs 8, 9, and 10 below. The Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM) under direction of the Chief of Naval Operations (CNO) for Navy property, and with the concurrence of the Commandant of the Marine Corps (CMC) for Marine Corps property, shall issue implementing instructions, prescribe operating procedures and develop controls required to ensure compliance with this instruction. Copies of each implementing instruction shall be provided to ASN(I&E), CNO, and CMC.

b. COMNAVFACENGCOM is solely responsible for warranting real estate contracting officers for the Department of the Navy. Before any individual enters into a contract on behalf of the United States under the authorities delegated herein, COMNAVFACENGCOM, in coordination with CMC, shall establish a program to warrant such contracting officers. The program shall ensure that the contracting officers are qualified and properly trained to enter into such contracts. Copies of all contracts entered into under the authorities herein delegated shall be maintained by COMNAVFACENGCOM as the central cadastral records repository for the Department of the Navy.

c. In the limited instances where the acquisition of real property is incidental to the execution of the BRAC PMO's responsibilities at BRAC facilities, the BRAC PMO shall also be authorized to exercise the responsibilities and authorities delegated to COMNAVFACENGCOM for real property acquisition in accordance with paragraph 8 below.

8. Real Property Acquisition

a. Definitions

(1) The term "real property" means land and any interest in land, together with any improvements, buildings, structures, fixtures and growing crops located thereon, and appurtenances thereto.

(2) The term "lease" means an agreement or contract by which the owner of property grants to another the exclusive rights to possess, use, and enjoy such property for a specified period of time in exchange for consideration.

(3) The term "easement" means a non-possessory right, or interest, not revocable at will, to use real property of the owner for a limited purpose.

b. Applicability and Scope. This paragraph applies to the following methods of real property acquisition set forth in subparagraphs 8b(1) through 8b(10) below. This paragraph does not apply to agreements for use of real property in foreign countries acquired by or through the Department of State or through the agency of a foreign government pursuant to treaties, executive agreements or diplomatic arrangements.

(1) Acquisitions for which authorization and appropriations, where appropriate, have been obtained through annual Military Construction (MILCON) programs or other applicable legislation. This includes acquisition by purchase, transfer, exchange of real property, condemnation, or donation.

(2) Minor land acquisitions made under reference (d) at a cost of not more than the statutory amount contained therein.

(3) Acquisitions under the authority of reference (e) when the real property is valued in excess of minor land acquisition authority, and when conditions of urgency do not permit the delay necessary to include the acquisition in an annual MILCON act.

(4) A gift or donation (reference (f)).

(5) Acquisition by lease or through the General Services Administration (GSA). This includes:

(a) Leasing of real property in the United States and its territories and possessions, except industrial real property per reference (g);

(b) Leasing of real property in foreign countries;
and

(c) Acquisition of general-purpose space by assignment from GSA in buildings under its control and through leasing by GSA, except in the Washington, DC, area, which is covered by reference (h).

(6) Acquisition by transfer of real property held by other military departments or other Federal agencies (references (a) and (i)).

(7) Acquisition of real property for the reserve components of the Navy and Marine Corps (references (j), (k) and (l)). This includes acquisition by gift, purchase, transfer, exchange, or otherwise.

(8) Withdrawal, reservation or restriction of public lands for DON use (references (m) and (n)).

(9) Acquisition of facilities under the authority of references (o) and (p).

(10) Acquisition or sharing of interests in property to limit encroachment around installations and ranges under the authority of reference (q).

c. Policy

(1) Generally, the Department of the Navy may only acquire real property if there is no other Government property available that adequately satisfies its mission requirements. Additionally, as required by reference (r), priority consideration shall be given to rural areas for the location of new offices and other facilities.

(2) To ensure maximum use of existing DON shore infrastructure, all DON activities, regardless of funding source, shall obtain prior approval from Commander, Navy Installations Command (CNI) (via the applicable Navy region), or CMC (Land Use and Military Construction) (LFL) prior to seeking acquisition or use of non-DON real property through GSA, Washington Headquarters Services (in the National Capital region), Navy lease, or any other form of contract arrangement.

(3) Under reference (s), all major land acquisitions must receive approval from the Under Secretary of Defense (Acquisition, Technology, and Logistics) (USD(AT&L)) for property outside of the Washington, DC, area, or from the Secretary or Deputy Secretary of Defense in the case of property within the Washington, DC, area, prior to issuing formal public notice. The public notice includes a request for proposals, notice of intent to perform environmental analysis, request for legislation or budget line item, press release or other official notice. Major land acquisitions for this purpose are purchases, withdrawals from the public domain, leases or permits from individuals or Government entities, or any other types of agreements involving more than 1,000 acres, or land having an estimated purchase price or annual lease price exceeding \$1 million. This prior approval requirement does not apply to the acquisition or lease of facilities and structures, or to acquisition of non-possessory property interests under the authority of reference (q). Additionally, no proposals for relocating into or within the Washington, DC, area may be made public in the manner described above without the prior approval of the Secretary or the Deputy Secretary of Defense.

(4) MILCON Acquisitions

(a) The Department of the Navy will request legislative approval for the acquisition of real property through the annual National Defense Authorization Act when:

1. The legislative proposal is supported by detailed documentation for the acquisition of land and the construction of facilities, including cost estimates, economic analysis where appropriate and complete engineering studies; and

2. The proposed project has been reviewed and approved by the Navy regional commander, CNI, COMNAVFACENGCOM, CNO, for Navy projects, or CMC, for Marine Corps projects, and ASN(I&E) or his/her designee.

(b) Upon enactment of authority to acquire real property, COMNAVFACENGCOM shall make every effort to acquire the property through negotiations within the cost authorized. However, in accordance with reference (t), the Secretary of the Navy has determined that an increase which is not more than 25 percent of the amount appropriated or 200 percent of the amount specified by law as the maximum amount for a minor MILCON project, whichever is lesser, is required for the sole purpose of meeting unusual variations in cost and that such variations in cost could not have been reasonably anticipated at the time the project was originally approved by Congress when COMNAVFACENGCOM finds the following circumstances:

1. The property owner or owners are willing to enter into a negotiated sale or sales;

2. The appraised fair market value of the property and/or the cost of relocation expenses has increased beyond what was initially estimated, or the DON's appraiser finds the amount the owner is willing to sell for is reasonable; and

3. Acquiring the property through eminent domain would be either more costly or not in the Navy's best interest.

(5) Minor Land Acquisitions. Under reference (d), the Secretary of the Navy has determined that an interest in land is needed in the interest of national defense when:

(a) The property involved can be acquired at a cost of not more than the current statutory limitation in reference (d), exclusive of administrative costs and the amounts of any deficiency judgments;

(b) The property to be acquired will fully satisfy the requirement and does not involve the acquisition, as part of the same project, of more than one parcel of land unless the parcels are non-contiguous, or if contiguous, unless the total cost is not more than the current statutory limitation;

(c) The proposed acquisition is consistent with the policies stated in reference (u);

(d) Funds available for maintenance or construction are available to cover the cost of the property and other related charges per reference (d); and

(e) The Navy regional commander and CNI, or CMC for Marine Corps property, has approved the military requirement.

(6) Urgent Land Acquisitions. An interest in land may be acquired under the authority of reference (e) when:

(a) It is determined it is needed in the interest of national defense;

(b) It is required to maintain the operational integrity of a military installation;

(c) Considerations of urgency do not permit the delay necessary to include the required acquisition in an annual MILCON authorization act; and

(d) The Congressional submission required by reference (e) has been made by COMNAVFACENGCOM. Appropriations available for MILCON may be used for the purpose of acquiring such interests in land.

(7) Options. Under the authority in reference (v), the Secretary of the Navy determines that an option on real property is suitable and likely to be needed for a military requirement for the Navy or Marine Corps when COMNAVFACENGCOM has found that:

(a) The property is required for a military mission;

(b) A project to acquire the property is programmed in a future year MILCON program, or the property has an estimated fair market value not greater than the current statutory limitation in reference (d); and

(c) Obtaining an option on the property will enhance DON's ability to acquire the property in a timely manner or at a lower cost.

(8) Acquisition by DON Lease or Through GSA

(a) The Department of the Navy may acquire real property by lease or acquire general purpose space through GSA when:

1. The real property is needed to meet an approved military requirement; and

2. There is no Department of Defense (DoD) or Government real property available that can adequately support the approved military requirement, or a business case analysis shows it is more advantageous to the Government to lease than to buy. In evaluating available Government space, priority will be given to owned space over existing leased space; and

3. The leased property meets the force protection requirements of reference (w).

(b) Except as specifically authorized in law, the term of the lease may not exceed 12 months, unless the cost of the lease is nominal. In foreign countries, a leasehold interest may be acquired for military family housing for a term not exceeding the current statutory limitation in reference (x). In foreign countries, a leasehold interest may be acquired for military uses other than military family housing for a term not exceeding the current statutory limitation in reference (y).

(c) Leases under this section may provide for renewal at the option of the Government.

(d) A mission that requires a long-term use must pursue relocation into Government-owned facilities or land. Activities/commands that are presently leasing non-Government owned space in the United States (including territories and possessions) shall make an evaluation prior to lease renewal, or at least every 5 years, to determine if it is more advantageous to the Government to relocate to Government-owned facilities or land.

(e) The Department of the Navy may directly lease property when:

1. The requirement is for special purpose space, or general purpose space outside urban centers (reference (z)), or the lease is authorized by special legislation; and

2. The acquisition obtains full and open competition through the use of competitive procedures, unless expressly authorized by statute or if one of the exceptions provided in reference (aa) applies. Pursuant to reference (ab), acquisition of land is exempt from the competition requirement.

(f) Under the standing delegation of authority to all Federal agencies from GSA in reference (ac), the Department of the Navy may directly lease space without regard to geographical location, size, cost, or type of space, for a term of up to 20 years, under the following conditions:

1. Prior to initiating any leasing action under this delegation, the Department of the Navy must notify, in writing, the appropriate GSA Assistant Regional Administrator for the Public Buildings Service (GSA-ARA-PBS) of its intention to exercise the delegated leasing authority. If GSA has suitable space available in its inventory, it will be assigned to the Department of the Navy.

2. Before the Department of the Navy may relocate from GSA-controlled space, written confirmation from the GSA-ARA-PBS must be received indicating that no suitable Government-controlled space is available.

3. All lease procurements must comply with applicable Federal laws, regulations and Executive Orders. Notwithstanding subparagraph 8c(8)(f) above, DON leases are limited to 1-year firm terms due to annual appropriations.

4. There is no GSA restriction on the cost of the space required; however, if the annual rental exceeds the GSA's prospectus level threshold established by Congress, GSA

must submit a prospectus report to the appropriate Congressional committees for approval before the lease can be executed.

5. All lease procurements must be compatible with the GSA community housing plans for new Federal construction, or any suitable space that will become available in Federally-controlled facilities. GSA will advise the Department of the Navy of any limiting factors such as the length of lease term, etc. The Department of the Navy will be responsible for executing the lease, paying the rent, and administering the lease.

6. The Department of the Navy must notify GSA at least 1 year prior to lease expiration so that GSA can determine if suitable Government-controlled space will be available.

7. The Department of the Navy must ensure that its contracting staff is adequately trained. GSA can assist by identifying possible training courses and sources.

8. The Department of the Navy must report to GSA information about its leasing performance, as well as information regarding the lease itself.

9. This standing delegation does not change any existing delegations the Department of the Navy may have, nor does it authorize the Department of the Navy to conduct lease procurements for other agencies.

(9) Transfers within the Department of Defense. Under reference (i), real property may be transferred from one military service to another, including Coast Guard, without consideration, upon the request of one armed force and the approval of the other.

(10) Transfers of Excess Property. Under reference (b), property that has been declared excess by another Federal agency may be acquired through GSA. Under reference (ad), National Forest System lands may be acquired by exchange with the United States Department of Agriculture.

(11) Acquisitions of Reserve Forces Facilities. Subject to the requirements and limitations of references (j), (k) and (l), real property may be acquired in support of the Reserve Forces Facilities program when:

(a) The property is required to meet a valid military requirement in support of a reserve facility in an annual MILCON program.

(b) The property is required to protect the DON's investment in a Reserve Forces facility constructed on lands in which the Government's interest is less than fee simple title.

(c) The proposed acquisition is consistent with the policies stated in reference (ae).

(12) Withdrawal, Reservation or Restriction of Public Domain Lands. The Department of the Interior (DOI) is responsible for administration of all public domain lands. In coordination with DOI and under references (m) and (n), public domain lands may be withdrawn or reserved for specific military purposes.

(13) Encroachment Partnering Agreements

(a) The Department of the Navy may enter into an agreement with an eligible entity described in reference (q) to address the use or development of real property in the vicinity of a DON installation for the purpose of:

1. Limiting any development or use of the property that would be incompatible with the mission of the installation; or

2. Preserving habitat on the property that is compatible with environmental requirements and may eliminate or relieve current or anticipated environmental restrictions that would interfere with current or anticipated military training, testing or operations on the installation.

(b) Such an agreement may provide for the acquisition by the entity of fee simple title or a lesser interest in the property and the sharing by the United States and the entity of acquisition costs.

(c) Property interests may not be acquired pursuant to the agreement unless the property owner consents to acquisition.

(d) The agreement shall require the entity to transfer to the United States all, or a portion, of the property or interest acquired under the agreement if the Department of the Navy requests.

(e) The authority to acquire property interests also includes the authority to purchase water rights from any available source when necessary to support or protect the mission of the installation.

(f) Real property or interests therein acquired under this authority shall not be occupied by the Department of the Navy or used for military operations or training.

(g) The Department of the Navy will seek the best project proposals from all eligible sources and avoid the appearance of excluding or favoring any potential partner.

(h) Funds available for operations and maintenance (or research, development, test and evaluation funds, in the case of an installation operated primarily with such funds) shall be used for the purposes described in this paragraph.

(14) Construction on Land Held in Less Than Fee Simple Title. In accordance with reference (af), the Secretary of the Navy has determined that a MILCON project or a military family housing project may be executed on land held in less than fee simple title when the following exists:

(a) The estimated life of the mission for which the project is to be constructed is less than the term of the interest to be acquired in the property and the mission cannot be accomplished without the construction of the project on that property; and

(b) Acquiring fee simple title is not practical or is not in the best interest of the Government; or an economic analysis shows that the cost of construction can be fully amortized over the term of the interest to be acquired in the property.

d. Approvals. The acquisitions authorized herein are subject to obtaining the following approvals:

(1) For minor land acquisitions, consistent with the requirements of subparagraph 8c(5) above:

(a) Approval of the regional commander for acquisitions of property interests for Navy use when the cost is \$50,000 or less.

(b) Approval of the Regional Commander and CNI for acquisitions of property interests for Navy use when the cost exceeds \$50,000.

(c) Approval of the installation commander/ commanding officer and CMC for all acquisitions of property interests for the Marine Corps.

(d) Approval of the Deputy Assistant Secretary of the Navy (Installations and Facilities) (DASN(I&F)) and USD(AT&L) for all acquisitions of more than 1,000 acres of land (reference (s)).

(2) For urgent land acquisitions, consistent with the requirements of subparagraph 8c(6) above:

(a) Approval of the regional commander, CNI, CNO, and DASN(I&F) for Navy use.

(b) Approval of the installation commander/ commanding officer, CMC, and DASN(I&F) for Marine Corps.

(c) Approval of DASN(I&F) and USD(AT&L) when more than 1,000 acres or land costing in excess of \$1,000,000 is involved (reference (s)).

(3) For acquisition by Navy lease or through GSA or Washington Headquarters Services, consistent with the requirements of subparagraph 8c(8) above:

(a) Approval of the regional commander and CNI for Navy use regardless of funding source.

(b) Approval of DASN(I&F) when the annual rental exceeds the statutory reporting requirements of reference (ag).

(c) Approval of the installation commander/ commanding officer and CMC for all leases of property interests for the Marine Corps.

(d) Approval of DASN(I&F) and USD(AT&L) for all leases of more than 1,000 acres, or land costing in excess of \$1,000,000 per annum (reference (s)). This does not include leases of facilities.

(e) Approval of DASN(I&F) and the Secretary or Deputy Secretary of Defense for leases that involve relocating into or within the Washington, DC, areas that exceed \$500,000 in relocation costs (reference (s)).

(4) For public land withdrawals, consistent with the requirements of subparagraph 8c(12) above:

(a) Approval of the regional commander, CNI, and CNO for Navy use.

(b) Approval of the installation commander/ commanding officer and CMC for Marine Corps use.

(c) Approval of ASN(I&E).

(d) Approval of USD(AT&L) when more than 1,000 acres are involved (reference (s)).

(5) For agreements to limit encroachment, consistent with the requirements of subparagraph 8c(13) above:

(a) Approval of the regional commander, CNI, and CNO for Navy use.

(b) Approval of the installation commander/ commanding officer and CMC for Marine Corps use.

(c) Approval of ASN(I&E).

(6) For any acquisition that requires prior approval by, or prior notification to, either the Office of the Secretary of Defense or Congressional Committees, approval of the DASN(I&F) is required prior to initiating acquisition actions.

e. Delegation. COMNAVFACENGCOM, under the direction of CNO for Navy property, and as requested by CMC for Marine Corps property, is authorized to take the following actions subject to the approvals required by subparagraph 8d:

(1) Acquire real property authorized and funded under the annual MILCON programs. This includes authority to acquire options in real property in accordance with reference (v) and consistent with subparagraph 8c(7) above.

(2) Accomplish minor land acquisitions when the criteria in subparagraph 8c(5) have been satisfied.

(3) Pay in excess of 100 percent of the value determined by COMNAVFACENGCOM for acquisitions involving an owner's approved counteroffer in accordance with authority provided in the general provisions of annual MILCON appropriation acts.

(4) Execute all necessary documents except Declarations of Taking, which will be signed by ASN(I&E), and requests to the Department of Justice to initiate condemnation proceedings, which will be signed by the Navy General Counsel.

(5) Acquire real property by lease and, thereafter, renew, extend or administer such leases. Acquire, administer and release general-purpose space, except in the National Capital region, in buildings controlled by GSA. These actions may be taken when:

(a) The criteria established in subparagraph 8c(8) have been satisfied.

(b) The Congressional submission required by reference (ag) has been made by COMNAVFACENGCOM, including actions taken by CMC or other authorized entity. COMNAVFACENGCOM shall provide copies of these notifications for review to DASN(I&F), CNO for Navy property, or CMC for Marine Corps property prior to submission.

(c) In the case of foreign leases for military family housing, the notification required by reference (x) has been made. COMNAVFACENGCOM shall provide copies of these notifications for review to the DASN(I&F), CNO for Navy property, or CMC for Marine Corps property prior to submission.

(6) Acquire excess real property by transfer when the regional commander, CNI, and CNO for Navy activities, or CMC for Marine Corps activities, has approved the transfer, and the Congressional submission required by reference (ag) has been made by COMNAVFACENGCOM. COMNAVFACENGCOM shall provide copies of these notifications for review to DASN(I&F), CNO for Navy property, or CMC for Marine Corps property, prior to submission.

(7) Acquire real property required in connection with the Reserve Forces Facilities program when the CNO or CMC, as appropriate, and DASN(I&F) have approved the transfer.

(8) Accomplish the withdrawal, reservation or restriction of public domain lands when the criteria established in subparagraph 8c(12) has been satisfied.

(9) Make the determination under reference (af) that even though the land will be held in other than a fee simple interest, the interest to be acquired in the land is sufficient for the purposes of the project when the criteria established in subparagraph 8c(14) has been satisfied.

(10) Enter into agreements with States or political subdivisions of States or private entities as described in reference (q).

(11) The authorities herein delegated are also delegated to CMC for acquisition of real property interests primarily required by the Marine Corps when, on a case-by-case basis, the Commandant determines that use of the services of COMNAVFACENGCOM would be either uneconomic or would otherwise not meet the needs of the Marine Corps.

(12) The authorities delegated herein may be redelegated, with the authority to further redelegate.

f. Responsibilities

(1) COMNAVFACENGCOM is responsible for making the Congressional submission or notification to the Armed Services Committees and, when applicable, the Appropriations Committees, prescribed by references (t), (x), or (ag). COMNAVFACENGCOM shall provide copies of these notifications for review to DASN(I&F), CNO for Navy property, or CMC for Marine Corps property, prior to submission.

(2) CNO and CMC are responsible for determining when changes in planning or requirements affect the acquisition of any real property. They will advise COMNAVFACENGCOM when such changes require that real property acquisition be delayed, modified or canceled.

9. Management of DON Real Property

a. Definitions

(1) The term "outgrant" means any agreement whereby a private party may, depending on the type of real estate instrument issued, enjoy an interest in, or use of, DON-controlled real property and includes leases, licenses, concession agreements, easements, conveyances, permits, or any other term applied to such an agreement.

(2) The term "license" means a personal privilege to do some particular act or series of acts on land without possessing any estate or interest therein. A license must be non-exclusive, revocable at the will of the licensor, and cannot grant a contractual right to the licensee.

(3) The term "lease" means an agreement or contract by which the owner of property grants to another the exclusive rights to possess, use, and enjoy such property for a specified period of time in exchange for consideration.

b. Applicability and Scope. This paragraph applies to all transactions for the use of DON-controlled real property by non-DON components except:

(1) Use of real property provided in accordance with the Federal Acquisition Regulation subpart 45 incident to performance of a Government contract for the procurement of supplies, services, construction, utilities, or other commodities.

(2) Civil aircraft landing permits issued under reference (ah).

(3) Agreements for U.S. Post Office facilities provided in accordance with reference (ai).

(4) Use of property for Public-Private Ventures (PPVs) for morale, welfare and recreation category C revenue-generating activities, which shall follow the requirements of reference (aj). PPVs requiring leases or easements are subject to this paragraph.

c. Policy

(1) The Secretary of the Navy holds real property for the Department of the Navy to fulfill the Navy and Marine Corps military missions. As such, the Secretary is responsible for policy matters relating to management and use of DON real property. Allowing use of DON property by others, even for short periods of time, may have consequences that are detrimental to fulfilling the official Navy and Marine Corps missions. Accordingly, it is important to carefully consider the effects such use will have on potential future military requirements before entering into agreements for non-naval use of DON real property.

(2) DON real property may only be made available for compatible non-naval uses when it can be clearly shown that:

(a) It is not excess property as defined in reference (a);

(b) Its use by others will not interfere with the accomplishment of the activity's mission, nor with the Department's present or foreseeable use of the property, nor with other Departmental activities in the vicinity; and

(c) Such use will be at minimal expense to the Department of the Navy.

(3) The user of DON real property shall be required to use, maintain, protect, and preserve the property in accordance with sound management practices and the terms of the outgrant.

(4) Non-Federal users of DON property, except State, county, or local Government agencies which are precluded by law from assuming liability, shall assume, when appropriate, liability for loss of or damage to the real property and for third party bodily injury and property damage. When these liabilities are imposed, the user will be required to demonstrate sufficient financial responsibility to assume these liabilities, or, at the user's own expense, to procure and maintain sufficient

insurance to cover them. This requirement for insurance does not apply to voluntary, non-profit associations chartered to operate on DON installations.

(5) Prior to making property available for non-Federal use, COMNAVFACENGCOM will screen the property for use by other DoD or Federal agencies, in accordance with reference (b). Unless the property proposed for non-Federal use is not subject to consideration for potential use to assist the homeless in accordance with criteria set forth in reference (b), COMNAVFACENGCOM shall report it to the Department of Housing and Urban Development in accordance with reference (ak).

(6) Prior to making property available to other users outside of the Department of the Navy, the regional commander for Navy properties, or the installation commander/commanding officer for Marine Corps properties, will prepare an environmental condition of property in accordance with reference (al).

(7) Since it is inappropriate for the military departments to directly create competition with private enterprise, particularly in the third party lodging and food service industries, the outgranting or otherwise making available of DON-controlled real property for these or related type uses except for DoD-sponsored programs under reference (aj) should be avoided.

(8) In authorizing the operation of vending facilities, including restaurants and cafeterias on DON property, priority shall be given to blind persons licensed by a State agency as provided in reference (am).

(9) The Department of the Navy will not authorize the construction or display of commercial billboards or signs promoting private commercial or political interests on DON-controlled property. Any existing commercial billboards or signs on DON property may remain until such time as the present lease expires or other arrangements are made. Renewal options may not be exercised.

(10) Since it could be construed as a political endorsement by the Department of the Navy, space on DON property will not be made available, either by lease or other agreement, for use by a Member of Congress for a district office or other political uses.

(11) Utilizing the multiple use principle, DON real property shall be made available for mineral exploration and extraction to the maximum extent possible consistent with military mission requirements, and environmental conservation and protection.

d. Consideration and Reimbursement of DON Expenses

(1) Non-Federal users of DON real property shall be required to:

(a) Reimburse the Department of the Navy for administrative expenses incurred by the Department of the Navy in entering into the transaction, as allowed by reference (an). Such expenses shall include the costs of surveys, environmental studies, appraisals and the time of DON personnel, both at the activity and the contracting office. This requirement may be waived when the amount is less than the cost of collecting such reimbursement. It may also be waived if the activity on which the property is located agrees that a waiver is of benefit to the activity and further agrees to be responsible for paying all of the above administrative costs, including reimbursing the contracting office for the time of its personnel.

(b) Reimburse the Department of the Navy, in accordance with applicable statutes and regulations, for the cost of any utilities and services furnished. This requirement may be waived:

1. When the amount is nominal; or

2. For credit union operators under a license, for utilities, such as heat, lights and air conditioning, in accordance with reference (ao). Janitorial services, fixtures and maintenance may also be provided without reimbursement subject to budget or manpower constraints.

(2) In addition to the payment of administrative expenses and cost of utilities and services, non-Federal users shall be charged consideration (cash or in-kind only for leases executed under reference (ap)) in an amount not less than the fair market value of the property being used. In-kind consideration shall be encouraged in any such leasing action. This payment may be waived:

(a) In the case of easements, for a grant in connection with a Federal-aid highway project or a defense access road; or

(b) In the case of a license, for the use of Government space by credit unions in accordance with reference (ao); or

(c) To the extent of demonstrable benefits to the Government, except in the case of leases issued under the authority of reference (ap); or

(d) For licenses. Licenses generally have little or no value because the licensee has no contractual rights to remain on the property. Except for those entities that have been exempted from payment by statute, such as the Red Cross and the Boy Scouts, licensees should be charged fair market value if the license has more than nominal value because of its agreed upon terms. Payments for licenses shall be deposited into the special account in the Treasury (reference (ap)).

(3) Other non-DoD Federal agencies will be charged for their share of the operation and maintenance expenses and utility costs required for the use of DON space. Exceptions to this policy are:

(a) Real property and related services provided to an organization that solely supports or substantially benefits the installation's mission (e.g., a permit to a Federal Aviation Administration air controller on an air base, or a permit to the Federal Communications Commission for a communications tower).

(b) Use by the Forest Service that is limited to actual expenses of the Department of the Navy in conformance with the DoD/Forest Service Master Agreement.

e. Approvals

(1) The granting of rights of use authorized herein shall be subject to the prior approval of the regional commander and CNI for Navy properties and the installation commander/commanding officer and CMC for Marine Corps property, for all actions other than licenses with terms up to 1 year. Licenses of 1 year or less can be approved by the regional commander for Navy property (may be delegated to the commander/commanding officer), or by the commander/commanding officer for Marine Corps property. License renewals that will result in periods of usage exceeding a 1-year term are subject to approval by CNI or CMC, as appropriate.

(2) COMNAVFACENGCOM shall obtain the approval of DASN(I&F) for those outgrants that depart from the provisions of this paragraph, and for leases for which reference (ap) requires a Secretarial determination that is not included herein.

(3) COMNAVFACENGCOM is responsible for making those submissions to the Armed Services Committees required by references (ag) and (ap). COMNAVFACENGCOM shall provide copies of these notifications for review to DASN(I&F), CNO for Navy property, or CMC for Marine Corps property prior to submission.

f. Delegation

(1) Subject to the reporting requirements of reference (ag) and the policies, requirements and approvals of this paragraph, COMNAVFACENGCOM, under the direction of CNO for Navy property, and as requested by CMC for Marine Corps property, is authorized to grant, execute, amend, administer, and terminate all instruments granting the use of DON-controlled real property to departments, agencies, organizations, and persons outside the Department of the Navy. This also includes authority to administer, in coordination with CMC, the use of money rentals received from agricultural and grazing leases pursuant to reference (ap).

(2) The authority herein delegated is also delegated to CMC for interests at Marine Corps installations when, on a case-by-case basis, the Commandant determines that use of the services of COMNAVFACENGCOM would be uneconomic or otherwise not meet the needs of the Marine Corps.

(3) The authority herein delegated may be redelegated with authority to further redelegate.

g. Leases

(1) Under the authority of reference (ap), the Secretary of the Navy determines that the leasing of DON real property will be advantageous to the United States and will promote the national defense, or be in the public interest, when the policies set forth in subparagraph 9c have been met. Unless COMNAVFACENGCOM or his/her designee determines that there is only one available lessee or that leasing to a selected lessee can be fully justified as being in the best interests of the Government, leases shall be awarded through a competitive process consistent with current market conditions and sound business practices. This process includes evaluating the potential benefits and detriments of the responsive offers received. Lease award shall be based on the overall benefits to the Department of the Navy or other public interests, which include, but are not necessarily limited to, monetary compensation or value of services received.

(2) Each lease entered into under the authority of this instruction shall contain provisions as follows:

(a) The lease term, including all rights of renewal, shall not exceed 5 years unless a determination for a term in excess of 5 years has been made pursuant to subparagraph 9g(3) hereof, or unless such requirement is waived by DASN(I&F).

(b) A reservation in the Government of the right to revoke the lease at any time unless a determination is made

pursuant to subparagraph 9g(3) hereof, or unless such requirement is waived by DASN(I&F).

(c) A right in the Government to revoke the lease during a national emergency declared by the President.

(d) A provision forbidding subleasing by the lessee of any part of the property without the prior written approval of COMNAVFACENGCOM or his/her designee.

(e) To the extent that the leased property is later made taxable by State or local governments under an act of Congress, the lease shall be renegotiated.

(3) Under the authority of reference (ap), the Secretary of the Navy determines that the granting of a lease for a term in excess of 5 years, or the omission from a lease of the unqualified right to revoke it at any time, will promote the national defense or be in the public interest when COMNAVFACENGCOM or his/her designee finds that one of the following conditions exists:

(a) The lease is for the placement of a mobile service or other antenna provided for in reference (aq), for a term not to exceed 20 years.

(b) A lease of a parcel of land is for agricultural purposes for a term not to exceed 10 years.

(c) A lease of land under reference (ar) is for construction of a building to house a bank or credit union not to exceed 25 years. Such leases shall be subject to periodic review every 5 years to assess changes in fair market rental.

(d) A lease of Government space to a bank or credit union when the financial institution uses its own funds to improve the existing Government space under reference (ar) not to exceed 25 years. Such leases shall be subject to periodic review every 5 years to assess changes in fair market rental.

(4) Under reference (ap), leases shall provide for the payment, in cash or in-kind, by the lessee as consideration in an amount that is not less than the fair market value of the leasehold interest, as determined by COMNAVFACENGCOM. Reference (ap) provides for the types of allowable consideration and for the disposition of any money rentals received. In-kind consideration shall be pursued whenever practicable.

(5) In-kind consideration

(a) In-kind consideration accepted with respect to leases under reference (ap) may include the following:

1. Maintenance, protection, alteration, repair, improvement, or restoration (including environmental restoration) of property or facilities under the control of the Department of the Navy.

2. Construction of new facilities.

3. Provision of facilities.

4. Facilities operation support.

5. Provision of such other services relating to activities that will occur on the leased property as DASN(I&F) considers appropriate.

(b) In-kind consideration under subparagraph 9g(5)(a) may be accepted at any property or facility under the control of the Secretary of the Navy. Priority should be given to the acceptance of consideration on the base where the leased property is located. If this is not practical, then CNI for Navy property or CMC for Marine Corps property will determine the location at which consideration should be accepted.

(c) References (ag) and (as) shall not apply to any new facilities whose construction is accepted as in-kind consideration under this subparagraph.

(d) The benefits of any consideration received under subparagraph 9g(5)(a)5 above shall be valued by the regional commander for Navy or installation commander/commanding officer for Marine Corps on which the property is located and shall have the prior approval of DASN(I&F).

(e) In the case of a lease for which all or part of the consideration proposed to be accepted over the term of the lease is in-kind consideration with a value in excess of \$500,000, the Department of the Navy may not enter into the lease until 30 days after the date on which a report on the facts of the lease is submitted to the Congressional Defense Committees, per reference (ap).

(6) Under reference (ap), monetary rentals received directly from a lease for agricultural or grazing purposes may be retained and spent by COMNAVFACENGCOM, or CMC for leases of Marine Corps property, in such amounts necessary to cover the administrative expenses of leasing for such purposes and the

financing of multiple land use management programs at any Navy or Marine Corps installation. Revenues are not intended, and may not be used, for capital improvements normally funded under MILCON projects.

(7) Under reference (at), except as provided below, lessees shall not use the leased property for the storage or disposal of any material that is toxic or hazardous. If the toxic or hazardous material is contained on the list of materials which the Secretary of Defense has approved as suitable, the lease contains the necessary conditions, and COMNAVFACENGCOM certifies that the use of such material is required or generated in connection with the use authorized by the lease; then the Secretary has determined that the proposed use of the premises meets the criteria of sections (b)(9) and (10) of reference (at), subject to the terms and conditions of the lease.

h. Easements

(1) Under the authority of references (au) through (ay), the Secretary of the Navy determines that the granting of an easement for the purposes set forth in such laws will be in the public interest and will not substantially injure the interests of the United States in the property when COMNAVFACENGCOM, or CMC for Marine Corps property, or his/her designee, finds that:

(a) The real property involved is the only property that reasonably can be used for the purpose;

(b) An easement is the most appropriate interest for the purpose; and

(c) The policies set forth in subparagraph 9c above are followed.

(2) Each easement entered into under the authority of this instruction shall contain provisions as follows:

(a) A right in the Government to terminate for default, non-use for a period of 2 consecutive years, or abandonment.

(b) A requirement for the grantee to relocate its improvements at its expense if at any time the easement interferes with Government activities, and a reservation in the Government of the right to terminate the easement if relocation is not feasible. (This provision may be waived when the easement is for road purposes, or when the Secretary of the Navy determines that such waiver will not substantially injure the interests of the United States in the property.)

(c) A right in the Government to require the grantee to remove its improvements and to restore the premises at its expense upon termination of the easement. (This provision may be waived when the easement is for road purposes, or it can reasonably be determined that removal and restoration will not be necessary.)

(3) An easement authorized by reference (au) shall be granted for a period not to exceed 50 years. This limitation will normally apply to other easements, but they may be granted for a longer period, or in perpetuity when appropriate.

(4) Consideration will be required in accordance with subparagraph 9d. Consideration received from the granting of an easement authorized by references (av) and (aw) shall be deposited into the account established by reference (ap) and shall be available for those uses stated in reference (ap).

i. Licenses

(1) The Secretary of the Navy determines that licensing of DON-controlled real property will be advantageous to the United States when such use will be of benefit to the Department of the Navy, or otherwise will be in the public interest and when the policies set forth in subparagraph 9c hereof are followed.

(2) Each license entered into under the authority of this instruction shall contain provisions as follows:

(a) The licensee shall not make any structural improvements, except in accordance with instructions issued by COMNAVFACENGCOM and coordinated with the regional commander for Navy activities or the installation commander/commanding officer for Marine Corps properties.

(b) If required by the Department of the Navy, the licensee shall remove improvements and restore the property when the use terminates. This condition may be waived if requisite clearances for accepting the improvements are secured before the agreement is granted.

(3) Any proceeds received in consideration for entering into a license shall be deposited into the special account established by reference (ap) and shall be available for those uses stated therein.

(4) Care should be taken to assure that licenses are only used in proper circumstances. Licenses should not be used when the nature of the intended property use is inconsistent with the limited privilege granted by a license, especially the Navy right to terminate the use without cause and with no prior notice.

j. Responsibilities

(1) COMNAVFACENGCOM is responsible for obtaining the approvals required by subparagraph 9e above.

(2) COMNAVFACENGCOM is responsible for making the submission or notification to the Armed Services Committees prescribed by reference (ag).

(3) CNO and CMC are responsible for determining when changes in planning or requirements affect the outgranting of any real property. They will advise COMNAVFACENGCOM when such changes require that a real property outgrant be modified or canceled.

k. Action. COMNAVFACENGCOM shall maintain a record system of outgrants from which management information may be compiled and furnished.

10. Real Property Disposal

a. Definitions. The term "related personal property" includes any personal property which is an integral part of real property or is related to, designed for, or specially adapted to the functional, or productive capacity of the real property, and removal of which would significantly diminish the economic value of the real property.

b. Applicability and Scope

(1) This paragraph applies to the following methods of real property disposal:

(a) Removal from the control of the Department of the Navy of real and related personal property no longer required by the Department of Defense.

(b) Transfer of DON real and related personal property to the Army, Air Force or Coast Guard.

(c) Reassignment of real and related personal property within the Department of the Navy.

(d) In foreign countries, disposal of any real and related personal property under the control of the Department of the Navy under the provisions of any treaty or other agreement between the United States and a foreign government affecting such property.

(2) This paragraph does not apply to property at bases closed under a base closure law (reference (az)) that is disposed of in accordance with reference (ba).

c. Policy. The Secretary of the Navy holds real property for the Department of the Navy. As such, the Secretary is responsible for policy matters relating to DON real property disposal and prescribes the following policies:

(1) Real property that is not required for military purposes shall be promptly disposed of in accordance with this paragraph.

(2) Prior to initiating action to report any excess real and related personal property to GSA for disposal under procedures set forth in reference (b), Navy and Marine Corps will coordinate with COMNAVFACENGCOM to determine whether it is in the best interest of the Department of the Navy to dispose of the property under the housing PPV authority at reference (bb).

(3) Upon request of the Secretary of the Army, the Secretary of the Air Force or the Secretary of Homeland Security on behalf of the United States Coast Guard, any real and related personal property under the control of the Department of the Navy, may, under the authority of reference (i), be transferred without compensation to the Army, the Air Force or the Coast Guard; provided:

(a) Such property has been determined to be excess to the further requirements of the Department of the Navy; or

(b) The appropriate chain of command through the CNI for Navy property, or the CMC for Marine Corps property, has determined that the requirements of the using activity can and should be amended to accommodate the needs of the requesting agency, and shall have approved the transfer.

(4) Real and related personal property may be reassigned among DON commands to meet valid mission requirements and to facilitate planning and plant account processes. Reassignments which fragment or complicate plant account and planning processes shall be avoided whenever possible.

(5) All transactions in foreign countries or possessions and territories of the United States, which involve disposal outside the Department of Defense, shall conform to the foreign policy of the United States. The senior officer ashore, or such other officer designated by CNO, shall be advised of each proposed disposal transaction outside of the Department of Defense. If any such transaction reasonably might have an impact

on, or be affected by, the foreign policy of the United States, the senior officer ashore or other designated officer shall take the following actions:

(a) Possessions and Territories of the United States. Keep the local representative of the department or agency of the Federal Government exercising supervision over the possession or territory, fully and currently informed.

(b) Areas under the Sovereignty of Foreign Governments. Keep the local diplomatic representative of the Department of State fully informed and obtain his/her concurrence in any such disposal prior to execution. If such concurrence is denied by the local diplomatic representative of the Department of State, the matter shall be referred to COMNAVFACENGCOM, who, if he/she considers that the proposed transaction should nevertheless occur, shall refer the matter to ASN(I&E) via CNO for Navy property, or CMC for Marine Corps property, and via the Office of General Counsel, which shall consult with the Office of the Judge Advocate General with respect to matters under its cognizance.

(6) Whenever possible, disposals of real and related personal property in foreign countries will require payment to the United States in United States currency. When United States currency is not available, payment may be accepted in the form of foreign currency or credits when:

(a) The appropriate foreign exchange authority of the issuing country assures they are either readily convertible into United States dollars, or may be used in payment for any and all United States Government expenditures in that country; and

(b) The Navy or Marine Corps disbursing officer located in that country (except in excess or near-excess currency countries) determines that he/she reasonably expects to be able to expend the foreign currency or credits within a 6-month period. Except as provided above, the approval of the comptroller of the Navy will be obtained before foreign currency or credits are accepted. Approval of the comptroller of the Navy will also be obtained prior to acceptance of any amounts of excess or near-excess currencies. These currencies are listed in reference (ar). Moreover, when it shall be determined that it is in the interests of the United States to do so, payment may be accepted in the form of discharge, in whole or in part, of any claim against the United States in an amount that has been compromised or settled by any executive agency in accordance with the law.

(7) Foreign excess real and related personal property may be abandoned, demolished, or donated when such property has no

commercial value, or the estimated cost of its care and handling would exceed the estimated proceeds from its sale. In preference to being abandoned or demolished, if feasible, such property should be donated to foreign governments, municipalities, or any agency or instrumentality thereof, or to foreign non-profit and charitable institutions. After giving first consideration to the foregoing, such property may be donated to private bodies or persons.

(8) Appropriate action shall be taken to assure complete satisfaction by the purchaser of all taxes or similar charges by any foreign government to which any disposal of foreign real and related personal property may be subject under local law.

(9) Protection, maintenance and security of excess real property are the responsibility of CNI for Navy property or CMC for Marine Corps property.

d. Approvals

(1) The prior approval of the appropriate chain of command, including CNO for Navy property and CMC for Marine Corps property, will be obtained for any removal from DON control of property that exceeds in value the statutory reporting requirements of reference (ag). The above approval requirements do not apply when the property has been determined to be excess by the Department of Defense as a result of a survey under Executive Order 12512.

(2) Submissions to the Armed Services Committees of Congress prescribed by reference (ag) must be made for all proposed disposals of real property in the United States, Puerto Rico, Guam, American Samoa, the American Virgin Islands and the Trust Territory of the Pacific Islands, either by transfer to another Federal agency or another military department, or by report of excess to a disposal agency, and having an estimated fair market value in excess of the requirement set forth in reference (ag). Submissions to the Armed Services Committees of Congress must also be made for all proposed disposals of public domain lands which are not suitable for return to the public domain, exceeding the amounts set forth in reference (ag). COMNAVFACENGCOM shall provide copies of these notifications for review to DASN(I&F), CNO for Navy property or CMC for Marine Corps property, prior to submission.

(3) The prior approval of ASN(I&E) will be obtained for:

(a) A "hold" by a DON command of more than 60 days on any DON excess property. Assumption of financial responsibility for such property by the command requesting the "hold" will ordinarily be a condition of any extended "hold"; or

(b) Withdrawal from excess status of any such property reported to GSA.

e. Delegation. Subject to the reporting requirements of reference (ag) and the policy and approvals of subparagraphs 10c and 10d hereof, COMNAVFACENGCOM, under the direction of CNO for Navy property and as requested by CMC for Marine Corps property, is authorized to take the actions listed below. This authority may be redelegated with authority to further redelegate.

(1) Determine that real and related personal property is excess to the Department of the Navy when appropriate screening of other naval commands reveals no other need for it within the Department. Screening within the Department of the Navy is not required for property determined excess by an Executive Order 12512 survey.

(2) Determine that DON real and related personal property is excess to the Department of Defense when:

(a) Screening with the Army, Air Force, and Coast Guard reveals no need by them for the property, and it has been determined that disposal using housing PPV authority at reference (bb) is not in the best interest of the Department of the Navy; or

(b) The property involved consists of buildings or other improvements that have deteriorated beyond economic repair and maintenance.

(3) Transfer to the Army, Air Force or Coast Guard, without compensation, any real and related personal property which has been requested under reference (i) and subparagraph 10c(2) hereof, by the Secretary of the Army, Air Force or Homeland Security; provided, that as to such property, one of the determinations set forth in subparagraph 10c(2) hereof shall have been made.

(4) Determine, to the extent authorized by reference (b), that real and related personal property having an estimated fair market value of \$50,000 or less, that is excess to the Department of Defense, is surplus to the Government.

(5) Make the determination required by reference (bc) that a requested conveyance for airport use will not be inconsistent with the needs of the Department of the Navy when a finding is made that:

(a) The real property involved is the only property that can be used for the purpose;

(b) The transfer of such property will not interfere with the Government's present or foreseeable use of the remaining property, or with other Government activities in the vicinity;

(c) The transfer does not encompass the conveyance of a major portion of an existing airport or substantial improvements; and

(d) The transfer is in the public interest. (Any conveyance under this authority must include the statutory conditions set forth in subsection (a) of reference (bc).)

(6) Make the determination required by reference (bd) that the requested conveyance of lands for a Federal-aid highway or a defense access road will not be contrary to the public interest or inconsistent with the needs of the Department of the Navy. (Any conveyance under this authority must include the statutory conditions set forth in subsection (c) of reference (bd).)

(7) Under reference (ax), convey interests in real property to a state or political subdivision of a State in connection with an authorized widening of a public highway, street or alley.

(8) Under subsection (i) of reference (m), grant consent to the Secretary of the Interior to make, modify or revoke public land withdrawals.

(9) Take any action authorized by references (b), (i), (u), (ax), (bd), (be), (bf) and (bg), including the execution of appropriate documents to report as excess, transfer, convey, destroy, donate, exchange or otherwise dispose of property.

(10) Dispose of property by sale or as otherwise authorized by National Defense Authorization Acts or other acts of Congress.

(11) Under reference (be), provide GSA with the information required to screen for further Federal use any real property identified in special legislation for conveyance by the Department of the Navy (reference (bf)).

(12) For disposals of real and related property in foreign countries:

(a) Effect such disposal of any real and related personal property under the control of the Department of the Navy as shall be governed by the provisions of any treaty or other

agreement between the United States and a foreign government, under and in accordance with the provisions of such treaty or agreement.

(b) Transfer real and related personal property determined to be excess to the needs of the Department of Defense to other Federal agencies under reference (a).

(c) Dispose of foreign excess real and related personal property, under reference (a), by sale or lease, for cash or credit, with or without warranty, upon such terms and conditions, as he/she shall deem proper.

(d) As authorized or designated by GSA, dispose of surplus property after publicly advertising for bids, except such disposals that may be made on a negotiated basis as provided for in subsection (b) of reference (bh).

(e) Determine that it is in the interests of the United States to accept payment of the sale price for any sale of foreign excess real and related personal property in the form of a discharge, in whole or in part, of any claim or claims against the United States which have been finally and conclusively compromised or settled regarding the amount thereof by any executive agency of the United States in accordance with the law.

(f) Subject to the procedures and prior approvals cited in subparagraph 10c(5) hereof, determine that it is in the interest of the United States to accept payment for any sale or lease of foreign excess real or related personal property in the form of foreign currency or credits.

(g) Donate to public or private bodies, or abandon or demolish if such donation is not feasible, any foreign excess real and related personal property which, in his/her opinion, has no commercial value or for which the estimated cost of continued care and handling would exceed the estimated proceeds of its sale.

(h) Ascertain DON requirements for any real and related personal property determined to be excess to the requirements of the Army, Air Force, or Coast Guard, or for any real and related personal property of any Federal agency determined to be foreign excess property.

(13) The authorities herein delegated are also delegated to CMC for interests at Marine Corps installations, when the Commandant determines that use of the services of COMNAVFACECOM would be either uneconomic, or otherwise not meet the needs of the Marine Corps.

(14) Authority is delegated to the CNI in the Navy and to the CMC in the Marine Corps to reassign real and related personal property among activities under their respective command.

(15) The authorities delegated herein may be redelegated, with the authority to further redelegate.

f. Responsibilities

(1) COMNAVFACENGCOM will be responsible for making the submission to the Armed Services Committees prescribed by reference (ag); and

(2) COMNAVFACENGCOM will be responsible for obtaining all of the approvals required by subparagraphs 10c and 10d.

g. Action

(1) COMNAVFACENGCOM shall:

(a) Make appropriate changes to the inventory of Navy real property upon completion of any reassignment, transfer, or disposal effected under this instruction. CMC will make appropriate changes for Marine Corps property.

(b) When required under subparagraph 10c(5), obtain the prior approval of the Assistant Secretary of the Navy (Financial Management and Comptroller) (ASN(FM&C)) for the acceptance of foreign currency or credits in payment of all, or any part, of the sale price of any proposed sale of foreign excess real or related personal property. The comptroller shall be furnished the particulars of the proposed transaction and such other pertinent data as may be of assistance in obtaining from the Treasury Department and the Department of State any required approvals of the acceptance of payment in such form.

(2) CNO for Navy property, or CMC for Marine Corps property, shall inform COMNAVFACENGCOM when consideration of military requirements for the property involved necessitates the modification or termination of any action pursuant to this paragraph to reassign, transfer, or dispose of real and related personal property.

(3) Regional commanders for Navy property and installation commanders for Marine Corps property shall:

(a) Continually review the utilization and physical condition of property under their control and report real and related personal property, which may be made available for reassignment, transfer, or disposal.

(b) Obtain the approval of the cognizant command (CNI for Navy property or CMC for Marine Corps property) prior to: (1) reporting real and related personal property to COMNAVFACENGCOM as command excess property, and (2) requesting the reassignment to his/her activity of excess property. Such approvals are not required for excess facilities or other improvements that have deteriorated beyond repair and are planned for demolition.

(c) Promptly report reassignment of real and related personal property among activities within their commands to COMNAVFACENGCOM, in accordance with established procedures governing inventory of military real property.

(4) ASN(FM&C) shall obtain such approvals of the Treasury Department and the Department of State as may be required for the acceptance of foreign currency or credits in foreign countries in payment of the sales price in any disposal under this instruction, and, when they have been obtained, shall promptly advise COMNAVFACENGCOM of approval and the conditions required by subparagraph 10g(2).

11. Records Management. This instruction will generate a large number of records including, but not limited to, building drawing, environmental surveys, contract files and land easement and title information. Care must be taken to ensure that records are not destroyed prior to their approved disposition date. All records generated as a result of this instruction, regardless of media and format, shall be managed in accordance with reference (bi).



BJ Penn
Assistant Secretary of the Navy
(Installations and Environment)

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References (d) through (bi)

- (d) Section 2672 of Title 10, U.S.C. - Authority to acquire low-cost interests in land
- (e) Section 2672a of Title 10, U.S.C. - Acquisition: interests in land when need is urgent
- (f) Section 2601 of Title 10, U.S.C. - Acceptance of Gifts and Services
- (g) DoD Directive 4275.5 of 15 Mar 05
- (h) SECNAVINST 7000.21C
- (i) Section 2571 of Title 10, U.S.C. - Interchange of property and services
- (j) Section 18233 of Title 10, U.S.C. - Re: Acquisition for Reserve Components
- (k) Section 18233a of Title 10, U.S.C. - Re: Limitation on certain Reserve projects
- (l) Section 18234 of Title 10, U.S.C. - Re: location and use of reserve facilities
- (m) Section 1714 of Title 43, U.S.C. - Re: Withdrawals of public lands
- (n) Section 155 et seq. of Title 43, U.S.C. - Re: Withdrawal, reservation, or restriction of public lands for defense purposes
- (o) Section 2809 of Title 10, U.S.C. - Long-term facilities contracts for certain activities and services
- (p) Section 2812 of Title 10, U.S.C. - Lease-purchase of facilities
- (q) Section 2684a of Title 10, U.S.C. - Re: Agreements to limit encroachments and other constraints on military training, testing, and operations
- (r) Section 2204b-1 of Title 7, U.S.C. - Rural Development Act, as amended
- (s) SECDEF Memorandum of 17 Nov 02: Land Acquisition and Leasing of Office Space in the United States (NOTAL)
- (t) Section 2676 of Title 10, U.S.C. - Acquisition: limitation
- (u) DoD Directive 4165.6 of 13 Oct 04
- (v) Section 2677 of Title 10, U.S.C. - Options: property required for military construction projects
- (w) United Facilities Criteria 4-010-01, DoD Minimum Antiterrorism Standards for Buildings of 8 Oct 03
- (x) Section 2828 of Title, 10 U.S.C. - Leasing of military family housing
- (y) Section 2675 of Title 10, U.S.C. - Leases: foreign countries
- (z) 41 CFR Part 102-73 et seq.
- (aa) Section 2304 of Title, 10 U.S.C. - Contracts: competition requirements
- (ab) Section 2303 of Title 10, U.S.C. - re: Applicability of procurement chapter
- (ac) Administrator of General Services Letter of 25 Sep 96, re: "Can't Beat GSA Leasing", Standing Delegation of Space Leasing Authority to Federal Agencies (NOTAL)

- (ad) Section 505a of Title 16, U.S.C. - Interchange of lands between Department of Agriculture and military departments of Department of Defense
- (ae) DoD Directive 1225.07 of 6 Jun 01
- (af) Section 2852 10, U.S.C. - Military construction projects: waiver of certain restrictions
- (ag) Section 2662 of Title 10, U.S.C. - Real property transactions: reports to congressional committees
- (ah) SECNAVINST 3770.1C
- (ai) OPNAVINST 5112.6D
- (aj) DoD Instruction 1015.13 of 11 Mar 04
- (ak) McKinney-Vento Homeless Assistance Act, as amended (Section 11411 of Title 42, U.S.C.)
- (al) ASN(I&E) Memorandum of 5 Jul 06 - Department of the Navy Environmental Policy Memorandum 06-06: Streamlined Environmental Procedures Applicable to Non-BRAC Real Estate Actions (NOTAL)
- (am) Section 107 of Title 20, U.S.C. - Re: Vending Facilities For Blind Persons on Federal Property
- (an) Section 2695 of Title 10, U.S.C. - Acceptance of funds to cover administrative expenses relating to certain real property transactions
- (ao) Section 1770 of Title 12, U.S.C. - Re: Allotment of space in Federal buildings - (Federal Credit Unions)
- (ap) Section 2667 of Title 10, U.S.C., as amended - Leases: non-excess property of military departments
- (aq) Section 151 et. seq. of Title 47, U.S.C.
- (ar) DoD 7000.14-R, Volume 5 of Dec 01
- (as) Section 2802 of Title 10, U.S.C. - Military construction projects
- (at) Section 2692 of Title 10, U.S.C. - Storage, treatment and disposal of non-defense toxic and hazardous materials
- (av) Section 2668 of Title 10, U.S.C. - Easements for rights-of-way
- (ay) Section 2669 of Title 10, U.S.C. - Easements for rights-of-way: gas, water, sewer pipe lines
- (aw) Section 1314 of Title 40, U.S.C. - Re: Grant of easements by Executive Agencies; relinquishment of legislative jurisdiction
- (ax) Section 1304 of Title 40, U.S.C. - Transfer of Federal property to States
- (au) Section 961 of Title 43, U.S.C. - Rights-of-way through public lands, Indian, and other reservations for power and communications facilities
- (az) Section 101(a)(17) of Title 10, U.S.C.
- (ba) 32 CFR Parts 174-176
- (bb) Section 2878 of Title 10, U.S.C. - Re: Conveyance or lease of existing property and facilities
- (bc) Section 47125 of Title 49, U.S.C. - Re: Conveyances of United States Government land for airport purposes
- (bd) Section 317 of Title 23, U.S.C. - Appropriation for highway

SECNAVINST 11011.47B
12 Jan 2009

purposes of lands or interests in lands owned by the United States

- (be) Memorandum of Understanding between GSA and Military Services of 15 Jun 00 (NOTAL)
- (bf) Section 2696 of Title, 10 U.S.C - Screening of real property for further federal use before conveyance
- (bh) Section 545 of Title 40, U.S.C. - Disposal of Property
- (bg) 41 CFR Part 102-75.1025
- (bi) SECNAV M-5210.1