

CHAPTER 24

DISPOSAL OF FOREIGN REAL AND RELATED PERSONAL PROPERTY

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CHAPTER 24

DISPOSAL OF FOREIGN REAL AND RELATED PERSONAL PROPERTY

SECTION I - GENERAL

1. PURPOSE AND SCOPE

This Chapter prescribes policy, authority, operating procedures, and responsibility for the disposal of real and related personal property under the custody and control of the Department of the Navy (DON) outside the United States, Puerto Rico, American Samoa, Guam, the Trust Territories of the Pacific Islands and the Virgin Islands. P-73, Chapter 23, covers policy, authority, operating procedures, and responsibility for the disposal of real and related personal property in other areas.

2. REFERENCES

- (a) [Federal Property and Administrative Services Act of 1949, as amended, \(40 U.S.C. § 101 et seq\)](#)
- (b) [Admin Shore Chain of Command \(March 2011\)](#)
- (c) [10 U.S.C. § 2571\(a\)](#)
- (d) [SECNAVINST 11011.47B of 12 Jan 2009](#)
- (e) [U.S. Naval Regulations of 1990](#) found at <http://www.docstoc.com/docs/22296475/United-States-Navy-Regulations>

3. POLICY

It is the policy of the Department of Defense (DOD) that real estate holdings of the military departments (a) be limited to the minimum required to accomplish assigned missions; (b) be kept in balance with mobilization concepts; and (c) be utilized in an economical and practical manner. Real property under custody and control of the DON shall be limited to the land area and the number and types of buildings, and other improvements essential to the support of current missions and mobilization requirements. In addition, all disposals outside the DOD shall conform to the foreign policy of the United States.

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4. DEFINITIONS

a. The definitions set forth in [reference \(a\)](#) are applicable to the real estate actions covered by this Chapter. The following definitions are also applicable:

(i) Foreign Excess Property. Any real and related personal property located outside the United States, Puerto Rico, American Samoa, Guam, the Trust Territories of the Pacific Islands and the Virgins Islands under the control of any Federal agency that is not required for its needs and the discharge of its responsibilities.

b. Cognizant Command. The term "cognizant command" or "cognizant chain of command" refers to the mission component command/region of an activity designated as Echelon II in section 2 of [reference \(b\)](#) or the chain of command listed as echelons up to and including Echelon II for the activity under consideration in section 2 of [reference \(b\)](#).

SECTION II - AUTHORITIES

5. AUTHORITY FOR DISPOSAL OF REAL PROPERTY

The basic authority to dispose of real and related personal property is derived from [reference \(a\)](#) and certain treaties and other international agreements between the United States and foreign governments. Authority for transfers of property between military services is derived from [reference \(c\)](#). No specific legislative authority is necessary for reassignments since this action is merely the reallocation of resources within the Navy as required to accomplish assigned missions. The specific authorities delegated to NAVFACENGCOM are contained in [reference \(d\)](#).

6. DELEGATION OF AUTHORITY TO FACILITIES ENGINEERING COMMANDAS (FECs)

a. The Commanders/Commanding Officers of FECs are authorized, subject to the limitations in this paragraph, to accomplish the following real estate actions:

(i) Determine that real and related personal property is excess to the DON/DOD and is surplus to the

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United States Government when screening with other commands and agencies in accordance with [Paragraph 9](#) reveals no other need for the property.

(ii) Determine that improvements have deteriorated beyond economical repair and maintenance and are surplus to the United States Government. Screening is not required in these instances.

(iii) Transfer to the Army, Air Force, or Coast Guard, without compensation, any real and related personal property requested under the authority contained in [reference \(c\)](#), provided:

(x) That property has been determined to be excess to the further requirements of the DON; or

(y) It shall have been determined by the chief of the cognizant command, or the Commandant of the Marine Corps (CMC) for Marine Corps property, and the Chief of Naval Operations (CNO), that the requirements of the using activity can and should be amended to accommodate the needs of the requesting agency; and they shall have approved the transfer.

(iv) Transfer real and related personal property determined to be excess to the needs of the DOD to other Federal agencies.

(v) Dispose of foreign excess real and related personal property under [reference \(a\)](#) by sale or lease, for cash or credit, with or without warranty, and on the terms and conditions that he/she shall deem proper.

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

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(vii) Effect a disposal of any real and related personal property under the control of the DON that is governed by any treaty or other agreement between the United States and a foreign government, in accordance with the provisions of the treaty or agreement.

(viii) Take all necessary action, including the execution of documents, to transfer or dispose of real and related personal property in the exercise of the authority delegated by this paragraph.

(ix) This authority may be redelegated.

SECTION III - RESPONSIBILITIES

7. ACTIVITY RESPONSIBILITIES

a. Reporting Excess Property. The Commanding Officer of the activity having the excess property in its plant account is responsible for reporting it for disposal when (i) it has been determined that real and related personal property is excess to the military requirements of an activity; (ii) is involved in a base closure announcement; (iii) it has been found that the activity's requirements can and should be modified to accommodate the requirements of another military department; or (iv) it has been approved for disposal through the Shore Facilities Planning System. The reporting requirements of P-73, Chapter 23, are generally applicable to reports of foreign excess property although certain items in that chapter do not apply.

b. Required Approvals. The Commanding Officer of the activity currently holding custody and control of real and related personal property must approve any action to determine it excess. The Commanding Officer is also responsible for requesting the following additional approvals:

(i) For Class II Property (Buildings and Structures) Valued at Less Than \$15,000. The activity cognizant chain of command including the mission component command/region.

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(ii) For Class I and II Property (Land, Buildings and Structures) Valued at \$500,000 or Less

(x) The activity cognizant chain of command, including the mission component command/region.

(y) The CMC for Marine Corps property.

(iii) For Class I and II Property (Land, Buildings, and Structures) Valued in Excess of \$500,000. The additional approval of the CNO is required (except Marine Corps property).

8. FACILITIES ENGINEERING COMMAND (FEC)
REVIEW OF REPORT OF EXCESS REAL PROPERTY

Upon receipt of a Report of Excess Real Property from an activity, the FEC shall review it to ascertain the level of approvals required and whether additional information and data are necessary for further processing.

9. REQUIRED SCREENING

a. Upon receipt of a satisfactory Report of Excess Real Property, the FEC will screen all real and related personal property reported to it, according with subparagraphs a.(i) and a.(ii) below, except where it determines that some other method is more appropriate as dictated by the circumstances. Screening will be done by written Notice of Availability, which shall contain sufficient information to fully identify the property and state the name, title, address, and telephone number/e-mail address of the appropriate official with whom an inspection of the property may be arranged. Screening within and outside the Navy will be simultaneous whenever possible.

(i) Screening Within and Outside the DON. No screening within Navy is required if the CNO or higher authority has directed the disposal. Improvements that have deteriorated beyond economical repair and maintenance need not be screened within or outside the DON. All other excess property shall be screened with potential users within the DON, as the FEC determines. Whether or not there are any potential users, an FEC will send Notices of Availability in all cases to:

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- (x) Assistant Secretary of the Navy
(Shipbuilding and Logistics)
- (y) CNO
- (z) CMC
- (xx) CNO Area Coordinator
- (yy) Commander, Naval Facilities Engineering
Command (COMNAVFACENGCOM)
- (zz) Commander of Cognizant Command
- (xxx) Commander, Naval Supply Systems Command
(Storage and Warehouse Space only)
- (yyy) Chief of Chaplains (chapels only)
- (zzz) Director, Naval Petroleum Office (POL
Facilities only)
- (xxxx) Area Commanders, Army, Air Force, and
Coast Guard
- (yyyy) Other U.S. Federal agencies having a
presence in the area

(ii) Screening. Except where approvals are required by [Paragraph 7\(b\)](#), the FEC may assume that no requirements exist for the property unless otherwise informed within thirty (30) days. However, if a tentative request is received within that period, an additional thirty (30) days may be allowed for the submission for the firm request upon assurance that action has been initiated to obtain necessary approvals for acquisition of the property. Prior approval of the Assistant Secretary of the Navy (Energy, Installations and Environment)(ASN)(EI&E)) will be obtained for a "hold" by a Navy command of more than sixty (60) days on any excess Navy property. Assumption of financial responsibility for that property by the command requesting the "hold" will ordinarily be a condition of any extended "hold."

10. ADDITIONAL APPROVALS

a. Disposals Under Treaties or Other Agreements

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With Foreign Governments. The FEC shall submit a request for approval to COMNAVFACECOM for all disposals that are considered controversial, novel, or judged to have a significant impact upon relations with the host country. Each request shall include a fully documented fact sheet supported by a complete justification for the proposed transaction. COMNAVFACECOM will obtain all requisite approvals for the proposed transaction, or take other action that may be necessary, and then authorize the FEC to consummate the transaction.

b. Disposals of Property Valued in Excess of \$500,000. In addition to the approvals in [Paragraph 7\(b\)](#), the approval of the ASN (EIE) is required. The FEC shall submit a request for this approval to COMNAVFACECOM.

c. Disposals Outside the DOD. All transactions in foreign countries or possessions and territories of the United States that involve disposal outside the DOD shall conform to the foreign policy of the United States. The senior officer present under [reference \(e\)](#), or another officer that shall have been designated by the CNO, shall be advised of each proposed disposal transaction outside the DOD. If that transaction reasonably might have an impact on, or be affected by, the foreign policy of the United States, the senior officer present or other designated officer shall take the following action:

(i) 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.

(ii) Trust Territory of the Pacific Islands. Keep the High Commissioner of the Trust Territory fully informed and obtain his/her concurrence to any disposal before consummation.

(iii) Areas Under the Sovereignty of Foreign Governments. Keep the local diplomatic representative of the State Department fully informed and obtain his/her concurrence to any disposal before consummation.

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(x) If concurrence shall be denied by the local diplomatic representative of the State Department or by the High Commissioner of the Trust Territory, refer the matter to COMNAVFACECOM. If COMNAVFACECOM considers that the proposed transaction should nevertheless be consummated, it shall refer the matter to ASN (EIE) via the CNO or the CMC for Marine Corps property, and via the Office of General Counsel, which shall consult with the Office of the Judge Advocate General concerning matters under its cognizance.

SECTION IV - DISPOSAL METHODS

11. SUMMARY OF METHODS OF DISPOSAL.

Foreign real property and related personal property no longer required to fulfill an assigned mission may be:

(a) Reassigned to another Navy activity or command.

(b) Transferred to the Department of the Army, the Department of the Air Force, or the United States Coast Guard (U.S. Department of Homeland Security).

(c) Transferred to other Federal civilian agencies.

(d) Disposed of by competitive bidding or negotiated sale.

(e) Demolished, abandoned, or donated to public or private bodies in accordance with the policies and procedures stated below.

(f) Disposed of under and in accordance with any treaty or other agreement between the United States and a foreign government.

12. REASSIGNMENT OF PROPERTY WITHIN THE NAVY

Paragraph 10 of P-73, Chapter 23 applies.

13. TRANSFERS TO ARMY, AIR FORCE, AND COAST GUARD

a. Real and related personal property may be transferred to the Army, Air Force, or Coast Guard, without

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compensation. The transfer is made under [reference \(c\)](#), provided that the property has been determined to be excess to the further requirements of the DON, or that the head of the cognizant command and the CNO, or the CMC for Marine Corps property, shall have 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. Simultaneous circularizing may result in receipt of requests from Army, Air Force, or Coast Guard installations for property that is requested by activities of the DON.

b. If property is going to be reassigned to a Navy or Marine Corps activity, the FEC will advise the Army, Air Force, or Coast Guard that the property is required for DON purposes. If it is determined that property can be made available to the Army, Air Force, or Coast Guard, the FEC will, in cooperation with the local representative of the transferee, establish the date and method for assumption of custody and control by the transferee.

14. TRANSFERS TO FEDERAL CIVILIAN AGENCIES

The FEC will, upon determination that real or related personal property is excess to the DOD, proceed with the transfer under [reference \(a\)](#) and according to the delegation in [Paragraph 6](#).

15. DISPOSALS BY SALE

a. Whenever possible, disposals of real and related personal property will require payment to the United States in United States dollars and shall be performed on a competitive bid basis after advertising. However, the FEC may negotiate a sale without advertising as stated in [Paragraph 6\(a\)\(v\)](#). When United States dollars are not available, payment may be accepted in the form of foreign currency or credits when, (i) the appropriate foreign exchange authority of the issuing country shall assure they are either readily convertible into United States dollars or may be used in payment for United States Government expenditures in that country, and (ii) 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

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able to expend the foreign currency or credits within a six month period.

b. Except as stated above, the approval of the Assistant Secretary of the Navy (Financial Management and Comptroller) (ASN)(FMC) will also be obtained before foreign currency or credits are accepted. Approval of the ASN (FMC) will also be obtained before acceptance of any amounts of excess or near-excess currencies. Moreover, when it shall be determined that it is in the interest 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 the amount of which has been compromised or settled by any executive agency according to law. Requests for ASN (FMC) approval or approval to accept payment in the form of discharge a claim against the United States should be submitted by the FEC to COMNAVFACENGCOM with full justification for the request.

16. DISPOSAL BY DEMOLITION, ABANDONMENT, OR DONATION

a. Foreign excess real and related personal property may be abandoned, demolished, or donated when it 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, the property should be donated to foreign governments, municipalities, or any of its or their agencies or instrumentalities, or to foreign non-profit and charitable institutions. After giving first consideration to the those entities, the property may be donated to private bodies or persons.

b. The Commanding Officer of the activity shall initiate any recommendation to demolish, abandon, or donate excess property according to [Paragraph 7](#). The recommendation shall be supported by written findings that the property has no commercial value or the estimated cost of its care and handling exceeds the estimated proceeds from its sale. A statement regarding the feasibility of donation should also be included. The FEC will act as a review authority for those findings and, if necessary, will screen the property according to [paragraph 9](#). If no requirement develops, the FEC will dispose of the

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property. (Screening of improvements that have deteriorated beyond economical repair and maintenance is not required.)

17. DISPOSAL UNDER TREATY OR OTHER AGREEMENT

In many instances the treaty or other occupancy agreement with the host country includes specific terms and procedures for disposal of excess real and related property. Often it requires conveyance of the improvements at no cost to the host country. It is incumbent upon the FEC to assure that, where applicable, excess real and related property is disposed of in strict compliance with the treaty or other agreement with the host country.

SECTION V - DISPOSAL ACTIONS

18. TAXES

The FEC shall take appropriate action to assure complete satisfaction by any purchaser or donee of all taxes or similar charges by any foreign government to which any disposal of foreign excess real and related personal property may be subject under local law.

19. DISPOSAL OF FOREIGN EXCESS LEASEHOLDS

Foreign excess leaseholds, licenses, and permits, including Government-owned improvements, shall be screened by the FEC according to [Paragraph 9](#) and are subject to disposal under this chapter as foreign excess property.

20. PROCUREMENT OF RELEASES ON TERMINATED LEASEHOLDS

If not contrary to local custom, it is desirable to obtain a signed release in all cases where leases are terminated.

21. ADJUSTMENT TO THE INVENTORY OF MILITARY REAL PROPERTY

When foreign real and related personal property is reassigned, transferred, or disposed of, deliver copies of the appropriate documents to the FEC AM4 so it can take prompt action to record changes in INFADS.

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22. IMPLEMENTING INSTRUCTIONS

The FECs affected by foreign disposal actions shall issue implementing instructions to activities within their respective areas of cognizance. Those instructions will govern the procedures to be followed by those activities in reporting excess real and related personal property for disposal action. Copies of all implementing instructions issued by the FECs shall be forwarded to COMNAVFACENGCOM.

23. RECORDS REQUIREMENTS

The FEC shall promptly furnish COMNAVFACENGCOM one conformed copy of each executed document reassigning, transferring, or disposing of interests in land.

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