



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20350

SECNAVINST 11011.47
NAVFAC 20R
20 JUN 1983

SECNAV INSTRUCTION 11011.47

From: Secretary of the Navy

Subj: Acquisition, Use by Others and Disposal of Department of the Navy Real Property

Ref: (a) Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 471 et. seq.
(b) Federal Property Management Regulations (41 C.F.R. Chapter 101-47)

Encl: (1) Real Property Acquisition
(2) Use of Navy Real Property by Others
(3) Real Property Disposal

1. Purpose. To revise and restate Department of the Navy policy for the acquisition, use by others and disposal of real property and to assign responsibility and delegate authority to carry out such policy.

2. Cancellation. SECNAVINSTs 11011.15C, 11011.17C, 11011.22B, 11011.26A, 11011.38A, 11011.39, 11011.41 and 11011.45.

3. Definitions

a. The definitions of references (a) and (b) are applicable to this instruction.

b. The term "real property" or "property" includes interests in land, improvements and appurtenances.

c. The term "related personal property" includes any personal property which is located in or on real property and is:

- (1) an integral or necessary part of real property, or
- (2) essential to the productive capacity of real property, or
- (3) determined by the Commander, Naval Facilities Engineering Command, or designee, to be otherwise related to the real property.

4. Applicability. This instruction applies to the acquisition, use by others and disposal of all real property under the control of the Department of the Navy, subject to the exceptions listed in enclosures (1), (2) and (3).

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5. Implementation. Assignments of responsibility and delegations of authority are contained in enclosures (1), (2) and (3) as appropriate. The Commander, Naval Facilities Engineering Command and the Commandant of the Marine Corps (for Marine Corps leases, except for general purpose space) shall issue implementing instructions, prescribe operating procedures and develop controls required to insure compliance with this instruction. Copies of each implementing instruction shall be provided to the Assistant Secretary of the Navy (Shipbuilding and Logistics), the Chief of Naval Operations, the Commandant of the Marine Corps and the Chief of Naval Material, as appropriate.

Everett Pyatt

EVERETT PYATT
 PRINCIPAL DEPUTY
 ASSISTANT SECRETARY OF THE NAVY
 (SHIPBUILDING AND LOGISTICS)

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Real Property Acquisition

- Ref:
- (a) 10 U.S.C. 2672
 - (b) Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 471 et. seq.
 - (c) Federal Property Management Regulations, 41 C.F.R. Chapter 101-47
 - (d) 10 U.S.C. 2571(a)
 - (e) 10 U.S.C. 2233(a) (1)
 - (f) 10 U.S.C. 2233a
 - (g) 43 U.S.C. 1714
 - (h) 43 U.S.C. 155-158
 - (i) DOD Instruction 4165.6 of 22 Dec 1976 (enclosed in SECNAVINST 11011.46 (NOTAL))
 - (j) 10 U.S.C. 2304(a)
 - (k) 10 U.S.C. 2303(b)
 - (l) 10 U.S.C. 2675
 - (m) 10 U.S.C. 2828
 - (n) DOD Directive 1225.5 of 23 Jan 1979 (NOTAL)
 - (o) 10 U.S.C. 2677
 - (p) DOD Directive 5160.63 of 10 Aug 1978 (NOTAL)
 - (q) SECNAVINST 5430.7L (NOTAL)
 - (r) 10 U.S.C. 7572
 - (s) 10 U.S.C. 2662
 - (t) NAVSUPINST 4450.21A (NOTAL)

1. Scope. This enclosure applies to the following methods of real property acquisition:

a. Acquisitions for which authorization and appropriations, where appropriate, have been obtained through annual military construction (MILCON) programs. This includes acquisition by gift, purchase, transfer, exchange of real property, condemnation or donation.

b. Minor land acquisitions at a cost of not more than \$100,000 made pursuant to reference (a).

c. Acquisition by lease or through the General Services Administration. This includes (1) leasing of real property in the United States and its territories and possessions, except industrial reserve real property (2) leasing of real property in foreign countries, and (3) acquisition of general purpose space, except in the National Capital Region, by assignment from GSA in buildings under its control and through leasing by GSA. This does not apply to the determination of requirements in buildings proposed for construction or leasing by the GSA. It does not apply to agreements for use of real property in foreign countries acquired by or through the State Department or through the agency of a foreign government pursuant to treaties, executive agreements or diplomatic arrangements.

d. Acquisition by transfer of real property held by the other military departments and other federal agencies which is authorized by references (b), (c) and (d).

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e. Acquisition of real property for the reserve components of the Navy and Marine Corps pursuant to references (e) and (f). This includes acquisition by gift, purchase, transfer, exchange of land, condemnation or donation.

f. Withdrawal, reservation or restriction of public lands pursuant to references (g) and (h).

2. Policy

a. MILCON Acquisitions. Instructions governing the preparation, submission and review of the annual military construction programs provide for extensive review and approval of each project by the sponsor, the Naval Facilities Engineering Command, the Chief of Naval Operations or the Commandant of the Marine Corps, and the Assistant Secretary of the Navy (Shipbuilding and Logistics) prior to submission to the Congress for legislative action. Each such project is supported by detailed justifications, including complete engineering studies and cost estimates, both for the acquisition of land, and the construction of facilities. Final approval for these projects is granted by legislative enactment; each project, however, is subject to apportionment by the Office of Management and Budget.

b. Minor Land Acquisitions. Minor land acquisitions are determined to be in the interest of national defense and may be accomplished under this instruction when:

(1) The major claimant or the Commandant of the Marine Corps, as appropriate, has approved the military requirement.

(2) The property involved can be acquired at a cost of not more than \$100,000 exclusive of administrative costs and the amounts of any deficiency judgments.

(3) There is no other government real property available which can be used to adequately support the military requirement.

(4) The property to be acquired will fully satisfy the requirement and does not involve the acquisition of a portion of a larger project on an incremental basis.

(5) The proposed acquisition is consistent with the policies promulgated by reference (i).

(6) Funds are available to cover the acquisition cost of the property and other related charges.

c. Acquisition by Lease or Through GSA. Real property may be acquired by lease, or general purpose space may be acquired through the GSA when:

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- (1) The real property is needed to meet an approved military requirement and the activity requesting the space has certified a need for the property.
- (2) There is no Government real property available which can adequately support the approved military requirement.
- (3) It is more advantageous to the Government to lease the property than to acquire any other interest therein.
- (4) The proposed acquisition is consistent with the policies promulgated by reference (i).
- (5) Funds are available for the payment of rental and other related charges.
- (6) The acquisition is accomplished by formal advertisement, unless one of the exceptions provided in reference (j) applies. Pursuant to reference (k) acquisition of unimproved land is excepted from the requirement for advertisement.
- (7) The lease is for a period of not in excess of twelve months, but may provide for annual renewals at the option of the Government. Pursuant to reference (l) leases for structures and real property related thereto in any foreign country that are needed for military purposes, other than for military family housing, may not be for a period of more than five years. Reference (m) authorizes leases of housing facilities in foreign countries for assignment as family housing for any period not in excess of ten years.

d. Acquisition by Transfer. Real property which is excess to the other military departments and other federal agencies may be acquired by transfer when required to satisfy a military requirement.

e. Acquisitions for Reserve Forces Facilities. Real property shall be acquired in support of the Reserve Forces Facilities program when:

- (1) The property is required to meet a valid military requirement in support of a reserve facility in an annual MILCON program.
- (2) The property is required to protect the Navy's investment in a reserve forces facility constructed on lands in which the Government's interest is less than fee title.
- (3) The proposed acquisition is consistent with the policies promulgated by reference (n).

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f. Withdrawal, Reservation or Restriction of Public Lands.

The Department of the Interior is responsible for administration of all public lands. In coordination with the Department of the Interior and pursuant to references (g) and (h) public lands may be withdrawn, reserved or restricted for specific military purposes when:

- (1) The lands are required to meet a valid military requirement.
- (2) There is no other Government land available which can adequately satisfy the military requirement.
- (3) The proposed acquisition is consistent with the policies promulgated by reference (i).

3. Delegation

a. The Commander, Naval Facilities Engineering Command, under the direction of the Chief of Naval Operations and the Chief of Naval Material and in coordination with the Commandant of the Marine Corps for Marine Corps property, is authorized to take the actions listed below.

(1) Take all necessary action to acquire real property authorized and funded under the annual military construction programs. This includes authority to acquire options on real property in accordance with reference (o).

(2) Accomplish minor land acquisitions when the criteria in paragraph 2b of this enclosure have been satisfied.

(3) Pay in excess of 100% of the value determined by the Naval Facilities Engineering Command, in accordance with the authority delegated by reference (p) to the Secretary of the Navy. This includes authority to execute all necessary documents except Declarations of Taking which will be signed by the Assistant Secretary of the Navy (Shipbuilding and Logistics) and requests to the Department of Justice to initiate condemnation proceedings which will be signed by the Navy General Counsel.

(4) Pursuant to the authority in reference (q), perform or initiate all necessary action to acquire real property by lease (except Marine Corps leases for other than general purpose space) and thereafter renew, extend or otherwise administer such leases. This authority does not apply to leases made pursuant to reference (r) which concerns provision of lodging accommodations for personnel on sea duty aboard ships where quarters have been rendered uninhabitable. Take all necessary action to acquire, administer and release general purpose space, except in the National Capital Region, in buildings controlled by the GSA. The above actions may be taken when:

Enclosure (1)

(a) The criteria established in paragraph 2c of this enclosure have been satisfied.

(b) Approval of the commanding officer of the using activity has been obtained where the annual rental is \$1,000 or less.

(c) Approval of the major claimant has been obtained where the annual rental is between \$1,000 and \$100,000.

(d) Approval of the Commandant of the Marine Corps has been obtained for all Marine Corps acquisitions of general purpose space.

(e) Approval of the Chief of Naval Operations or the Commandant of the Marine Corps for Marine Corps acquisitions of general purpose space, has been obtained where the annual rental is more than \$100,000.

(f) The submission, required by reference (s) has been made. This applies also to space to be leased by the GSA.

(g) In the case of a foreign lease, except leases for military family housing, involving an average annual rental of more than \$250,000, the submission required by reference (l) has been made. In the case of foreign leases for military family housing, the notification required by reference (m) has been made.

(h) Commander, Naval Supply Systems Command, technical approval has been obtained for storage or warehouse space, as required by reference (t).

(i) The lease provides for termination by the Government on notice not exceeding 90 days, unless otherwise approved by the activity's major claimant.

(5) Take all necessary action to accomplish the transfer of real property which is excess to the needs of the other military departments and other federal agencies when the major claimant or, for property valued at more than \$100,000, the Chief of Naval Operations has approved the transfer. For Marine Corps property the Commandant of the Marine Corps must approve all transfers.

(a) Pursuant to subpart 101-47.203-7 of reference (c) transfers of excess real property from other federal agencies shall generally require reimbursement to the General Services Administration in an amount equal to 100 percent of the estimated fair market value of the property requested.

(b) Pursuant to reference (d) real property may be transferred from other military departments without compensation.

Enclosure (1)

(6) Take all necessary action to acquire real property required in connection with the Reserve Forces Facilities program.

(7) Take all necessary action to accomplish the withdrawal, reservation or restriction of public lands when:

(a) The criteria established in paragraph 2f of this enclosure have been satisfied.

(b) Approvals of the commanding officer of the using activity and the major claimant have been obtained for lands valued at up to \$100,000.

(c) Approval of the Commandant of the Marine Corps has been obtained for all withdrawals, reservations or restrictions of public lands for Marine Corps use.

(d) Approval of the Chief of Naval Operations has been obtained for lands valued over \$100,000 or where more than 500 acres are involved.

(e) Approval of the Assistant Secretary of the Navy (Shipbuilding and Logistics) has been obtained where more than 5,000 acres are involved.

b. Pursuant to the authority in reference (q), the Commandant of the Marine Corps is authorized to perform or initiate all necessary action to acquire real property by lease (Marine Corps leases only, except general purpose space) and thereafter renew, extend or otherwise administer such leases when:

(1) The criteria established in paragraph 2c of this enclosure have been satisfied.

(2) The submissions required by references (l) or (s), or the notification required by reference (m) have been made by the Commander, Naval Facilities Engineering Command.

(3) Commander, Naval Supply Systems Command, technical approval has been obtained for storage or warehouse space, as required by reference (t).

(4) The lease provides for termination by the Government on notice not exceeding 90 days, unless otherwise approved by the Commandant of the Marine Corps.

c. The authorities delegated herein may be redelegated, with the authority to further redelegate.

Enclosure (1)

4. Action

a. The Commander, Naval Facilities Engineering Command, will be responsible for obtaining the approvals required by paragraphs 2 and 3a of this enclosure and for making the submissions to the Armed Services Committees prescribed by references (l), (m), or (s).

b. The Chief of Naval Operations, the Commandant of the Marine Corps, the Chief of Naval Material and the major claimants will be responsible for determining when changes in planning or requirements affect the acquisition of any real property. They will advise the Commander, Naval Facilities Engineering Command when such changes require that real property acquisition be delayed, modified or cancelled.

Enclosure (1)

Use of Navy Real Property by Others

- Ref: (a) SECNAVINST 3770.1B (NOTAL)
(b) Civilian Manpower Management Instruction 790.7 of 26 Jun 1970
(c) OPNAVINST 5112.6 (NOTAL)
(d) NAVSUP Manual, Vol. II, paragraphs 27015 and 27165 through 27169 (NOTAL)
(e) NAVSUPINST 4450.21A (NOTAL)
(f) 30 U.S.C. 352
(g) 30 U.S.C. 181
(h) 10 U.S.C. 2667
(i) 10 U.S.C. 2662
(j) SECNAVINST 5381.1F (NOTAL)
(k) SECNAVINST 5381.3F (NOTAL)
(l) 10 U.S.C. 2668
(m) 10 U.S.C. 2669
(n) 40 U.S.C. 319
(o) 40 U.S.C. 345C
(p) 43 U.S.C. 961

1. Scope. This enclosure applies to all transactions for the use of Navy-controlled real property by other than Department of the Navy components except:

a. Leases of industrial reserve property for industrial purposes.

b. Use of real property provided in accordance with the Defense Acquisition Regulations (DAR) incident to performance of a Government contract for the procurement of supplies, services, construction, utilities, or other commodities.

c. Aviation facilities licenses issued pursuant to reference (a).

d. Agreements entered into under the authority of reference (b).

e. Agreements for U. S. Post Office facilities provided in accordance with reference (c).

f. Cross-servicing agreements for use of storage and warehousing facilities by other military departments, in accordance with references (d) and (e).

g. Oral or written authorizations granted by or under the authority of the head of an installation incident to day-to-day command and administration, such as for visitors and tradesmen doing business with installation officers and personnel and for activities of the Naval Sea Cadet Corps.

Enclosure (2)

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2. Policy

a. Navy real property will be made available for compatible non-Navy uses to the fullest extent authorized when:

(1) It is not for the time needed or is otherwise underutilized,

(2) Its use will not materially interfere with the accomplishment of the mission of the station nor with the Government's present or foreseeable use of the property nor with other Government activities in the vicinity, and

(3) Such use will not cause any substantial expense to the Navy.

b. The user of Navy real property shall be required to:

(1) Use, maintain, protect, and preserve the property in accordance with sound management practices, and

(2) 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:

(a) When the amount is inconsequential.

(b) For a licensee or lessee operating a non-self-sustaining banking facility, for so long as the non-self-sustaining status continues, as determined by the Department of Treasury.

(c) For an operator of a credit union under a no-cost license, for utilities, such as heat, light and air conditioning. Janitorial services, fixtures and maintenance may also be provided without reimbursement subject to budget or manpower constraints.

c. Non-Federal users of Navy property will be charged fair value. These charges may be waived:

(1) For a grant in connection with a Federal-aid highway project, or a defense access road,

(2) To the extent of demonstrable benefits to the Government,

(3) When the cost of collection would equal or exceed the charge,

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(4) For licenses to non-profit educational, civic and charitable organizations, and

(5) For leases to educational institutions, except that, in this case, the rental shall be not less than the cost of maintenance, protection, repair, and restoration of the property plus incidental administrative costs, when such costs are borne by the Government.

d. Non-Federal users of Navy 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. Where these liabilities are imposed, the user will be required to demonstrate sufficient financial responsibility to assume these liabilities, or, at his/her own expense, to procure and maintain sufficient insurance to cover them. This requirement for insurance does not apply to voluntary, non-profit associations authorized for operation at the activity.

e. 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 out-granting or otherwise making available of Navy-controlled real property for this or related type uses except for DOD-sponsored programs should be avoided.

3. Delegation. The Commander, Naval Facilities Engineering Command, under the direction of the Chief of Naval Operations and the Chief of Naval Material, and in coordination with the Commandant of the Marine Corps for Marine Corps property, is authorized to take all necessary action in accordance with this enclosure to grant, execute, amend, administer, and terminate all instruments granting the use of Navy-controlled real property to departments, agencies, organizations, and persons outside the Department of the Navy. This includes the authority to consent to mineral leasing by the Secretary of the Interior on acquired military lands pursuant to reference (f) and on public lands used for military purposes pursuant to reference (g). This also includes authority to administer the use of money rentals received from agricultural and grazing leases pursuant to subsection (d) of reference (h). The Commander, Naval Facilities Engineering Command may redelegate this authority with authority to redelegate.

4. Approvals. The granting of rights of use authorized here shall be subject to the prior approval of the officer in command of the shore activity concerned. For all actions other than licenses or leases, the said officers in command will obtain the approval of their superiors in the echelon of command up to and including the major claimant. The Commander, Naval Facilities

Enclosure (2)

Engineering Command will obtain the approval of the Assistant Secretary of the Navy (Shipbuilding and Logistics) for those outgrants that depart from the provisions of this enclosure, and for those leases for which reference (h) requires a Secretarial determination that is not made here. The Commander, Naval Facilities Engineering Command is responsible for making those submissions to the Armed Services Committees required by reference (i).

5. Leases

a. Pursuant to the authority of reference (h), the Secretary determines that the leasing of Navy 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 paragraph 2 have been met. Unless the Commander, Naval Facilities Engineering Command, or his/her designee, determines either that there is only one available lessee or that leasing to a selected lessee can be fully justified as being in the best interest of the Government, the property shall be advertised for leasing and awarded to the highest responsible bidder.

b. Each lease entered into under the authority of this instruction shall contain provisions as follows:

(1) The lease term, including all rights of renewal, shall not exceed five years unless a determination for a term in excess of five years has been made pursuant to paragraph 5c, or unless such requirement is waived by the Secretary.

(2) A reservation in the Government of the right to revoke the lease at any time unless a determination is made pursuant to paragraph 5c or 5d, or unless such requirement is waived by the Secretary.

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

(4) A prohibition forbidding subleasing by the lessee of any part of the property without the prior written approval of the Commander, Naval Facilities Engineering Command, or his/her designee.

(5) If and 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.

Enclosure (2)

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c. Pursuant to the authority of reference (h), the Secretary determines that the granting of a lease for a term in excess of five years and/or the omission from a lease of his/her unqualified right to revoke it at any time will promote the national defense or be in the public interest when the Commander, Naval Facilities Engineering Command, or his/her designee, finds that one of the following conditions exists:

(1) A lease of a parcel of land requires a long term, but not to exceed twenty-five years, to amortize the cost of public school construction or to satisfy the requirements of the Department of Education.

(2) A lease pursuant to reference (j) involves the construction or rehabilitation of a building for a banking activity to serve the installation, and requires a long term to amortize the cost of construction, such term not to exceed twenty-five years.

(3) A lease pursuant to reference (k) involves the construction or rehabilitation of a building for a Federal or state credit union to serve the installation, and requires a long term to amortize the cost of construction, such term not to exceed twenty-five years.

(4) A lease of a parcel of land for agricultural purposes requires a long term, but not to exceed ten years, to amortize lessee expenses required to establish or restore agricultural productivity to the lease area.

d. Pursuant to the authority of reference (h), the Secretary determines that the omission from a lease of his unqualified right to revoke it at any time will be in the public interest when the Commander, Naval Facilities Engineering Command, or his/her designee, finds that the lease is granted pursuant to reference (j) for a term of not more than five years for a banking activity.

e. Pursuant to the authority of reference (h) a lease may provide for the maintenance, protection, repair or restoration, by the lessee of the property leased, or of the entire unit or installation where a substantial part of it is leased, as part or all of the consideration for the lease.

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f. Pursuant to subsection (d) of reference (h) money rentals received directly from a lease for agricultural and grazing purposes may be retained and spent by the Commander, Naval Facilities Engineering Command, 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 installation. Revenues are not intended and may not be used for capital improvements normally funded under military construction projects.

6. Easements

a. Pursuant to the authorities of references (l) through (p), the Secretary determines that the granting of an easement for the purposes set forth in such statutes will be in the public interest and will not substantially injure the interests of the United States in the property when the Commander, Naval Facilities Engineering Command, or his/her designee, finds that:

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

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

(3) The policies set forth in paragraph 2 of this enclosure are followed.

b. Each easement entered into under the authority of this instruction shall contain provisions as follows:

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

(2) 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 it can reasonably be determined that relocation will not be necessary.)

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(3) 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.)

c. An easement authorized by reference (p) 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.

d. The Commander, Naval Facilities Engineering Command is authorized, with the right to redelegate, to relinquish legislative jurisdiction when granting an easement pursuant to reference (n).

7. Licenses

a. The Secretary determines that licensing of Navy-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 paragraph 2 are adhered to.

b. Each license entered into under the authority of this instruction shall contain provisions as follows:

(1) The licensee shall not make any structural alterations, additions, or betterments, except in accordance with instructions issued by the Commander, Naval Facilities Engineering Command.

(2) 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.

8. Storage and Warehousing Space. If a proposed lease or license involves use of storage and/or warehousing space for storage, warehousing, or other purposes, the officer commanding the shore activity concerned shall obtain the approval of the Commander, Naval Supply Systems Command for such outgrant.

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9. Action. The Commander, Naval Facilities Engineering Command will maintain a record system of outgrants from which management information may be compiled and furnished, when required.

Enclosure (2)

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Real Property Disposal

- Ref: (a) U. S. Navy Regulations, 1973
(b) 10 U.S.C. 2571(a)
(c) NAVCOMPTMAN, par. 042552-2e
(d) 10 U.S.C. 2662
(e) Federal Property Management Regulations, (41 C.F.R. Chapter 101-47)
(f) Section 516 of the Airport and Airway Improvement Act of 1982 (Public Law 97-248)
(g) 23 U.S.C. 317
(h) DOD Directive 5160.63 of 10 August 1978 (NOTAL)
(i) 40 U.S.C. 345c
(j) Section 204(i) of Public Law 94-579
(k) Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 471 et. seq.
(l) DOD Directive 4165.6 of 22 December 1976 (enclosed in SECNAVINST 11011.46 (NOTAL))

1. Scope. This enclosure 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 Navy 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 pursuant to the provisions of any treaty or other agreement between the United States and a foreign government affecting such property.

Enclosure (3)

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2. Policy

a. Real property that is not required for military purposes shall be promptly disposed of in accordance with this enclosure.

b. Upon request of the Secretary of the Army, the Secretary of the Air Force or the Secretary of Transportation, any real and related personal property under the control of the Department of the Navy, may, pursuant to the authority of reference (b), be transferred without compensation to the Army, the Air Force or the Coast Guard; provided,

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

(2) The head of the cognizant command, and the Chief of Naval Operations, or the Commandant of the Marine Corps for Marine Corps property shall determine 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.

c. Real and related personal property may be reassigned among Navy 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.

d. 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 present pursuant to reference (a), or such other officer as shall have been designated by the Chief of Naval Operations, shall be advised of each proposed disposal transaction outside 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 present or other designated officer shall take the following action:

(1) 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.

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(2) Trust Territory of the Pacific Islands - Keep the High Commissioner of the Trust Territory fully informed and procure his/her concurrence in any such disposal prior to consummation.

(3) Areas under the Sovereignty of Foreign Governments - Keep the local diplomatic representative of the State Department fully informed and procure his/her concurrence in any such disposal prior to consummation.

If such concurrence shall be denied by the local diplomatic representative of the State Department or by the High Commissioner of the Trust Territory, the matter shall be referred to the Commander, Naval Facilities Engineering Command, who, if he/she considers that the proposed transaction should nevertheless be consummated, shall refer the matter to the Assistant Secretary of the Navy (Shipbuilding and Logistics) via the Chief of Naval Operations or the Commandant of the Marine Corps 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.

e. Whenever possible disposals of real and related personal property will require payment to the United States of United States dollars. When United States dollars are not available, payment may be accepted in the form of foreign currency or credits when (1) 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 any and all United States Government expenditures in that country, and (2) 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 six 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 (c). 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 in accordance with the law.

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f. 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.

g. 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.

h. Protection, maintenance and security of excess real property are the responsibility of the major claimant having command of the shore activity.

3. Delegation

a. Subject to the reporting requirements of reference (d) and the requirements and approvals of paragraphs 2 and 4 of this enclosure, the Commander, Naval Facilities Engineering Command, under the direction of the Chief of Naval Operations and the Chief of Naval Material and in coordination with the Commandant of the Marine Corps 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 Navy when no other need for it within the Navy is revealed by appropriate screening of other Navy commands. Screening within the Navy is not required for property determined excess by an Executive Order 12348 Survey.

(2) Determine that excess Navy 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, or

(b) Accelerated screening has been accomplished by virtue of a DOD base closure announcement, or

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

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(3) Transfer to the Army, Air Force or Coast Guard, without compensation, any real and related personal property which has been requested pursuant to reference (b) and paragraph 2b of the enclosure by the Secretary of the Army, Air Force or Transportation; provided, that as to such property, one of the determinations set forth in subparagraph 2b of this enclosure shall have been made.

(4) Determine, to the extent authorized by subpart 101-47.601 of reference (e) that property having a fair market value of less than \$1,000 that is excess to the Department of Defense is surplus to the Government.

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

(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 section 516(b) of reference (f)).

(6) Make the determination required by reference (g), 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 section (c) of reference (g)).

(7) Pursuant to reference (h), to 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 in accordance with reference (i).

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(8) Pursuant to reference (h), to grant consent to the Secretary of the Interior to modify or revoke public land withdrawals in accordance with reference (j).

(9) Take any action authorized by references (b), (e), (f), (g), (h), (i) and (j), including the execution of appropriate documents to report as excess, transfer, convey, destroy, donate, exchange or otherwise dispose of property.

(10) 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, pursuant to 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 pursuant to reference (k).

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

(d) Make the finding required by Section 402 of reference (k) that a disposal without advertising, on a negotiated basis, is most practicable and advantageous to the Government.

(e) Determine that it is in the interest 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 shall have been finally and conclusively compromised or settled as to 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 paragraph 2d, 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.

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

b. Authority is delegated to the major claimants and to the Commandant of the Marine Corps, to reassign real and related personal property among activities under their respective command.

4. Approvals

a. The prior approval of the appropriate chain of command including the Chief of Naval Operations, the Chief of Naval Material when industrial property is involved, and the Commandant of the Marine Corps for Marine Corps facilities, will be obtained for any removal from Navy control of property which exceeds \$100,000 in value. For such property located in foreign countries the additional approval of the Assistant Secretary of the Navy (Shipbuilding and Logistics) will be obtained. The above approval requirements do not apply when the property has been determined to be excess by DOD as a result of a survey under Executive Order 12348.

b. Submissions to the Armed Services Committees of Congress prescribed by reference (d) 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 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 \$100,000. Submissions to the Armed Services Committees of Congress must also be made for all proposed disposals of public domain lands having an estimated fair market value in excess of \$100,000 or where the area exceeds 500 acres.

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c. If two or more commands or offices have requested reassignment of the same real property, the matter will be referred to the Chief of Naval Operations, and/or the Commandant of the Marine Corps as appropriate, and the Chief of Naval Material if industrial property is involved, regardless of the estimated value of the property.

d. The prior approval of the Assistant Secretary of the Navy (Shipbuilding and Logistics) will be obtained for a "hold" by a Navy command of more than 60 days on any Navy excess property. (Assumption of financial responsibility for such property by the command requesting the "hold" will ordinarily be a condition of any extended "hold".)

5. Action

a. The Commander, Naval Facilities Engineering Command will:

(1) Be responsible for obtaining all of the approvals required by paragraphs 2 and 4 of this enclosure.

(2) Make appropriate changes to the inventory of military real property upon consummation of any reassignment, transfer, or disposal effected pursuant to this instruction.

(3) When required under paragraph 2d, procure the prior approval of the Comptroller of the Navy 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.

b. The major claimants and the Commandant of the Marine Corps as to Marine Corps property will:

(1) Direct the commanding officers to continually review the utilization and physical condition of property under their control in accordance with the policies and criteria expressed in reference (1) and, in accordance with NAVFACENGCOM implementing instructions, report real and related personal property which may be made available for reassignment, transfer, or disposal.

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(2) Direct that each commanding officer shall obtain the approval of the cognizant command, or the Commandant of the Marine Corps for Marine Corps property, prior to (a) reporting real and related personal property to the Commander, Naval Facilities Engineering Command as command excess property, and (b) requesting the reassignment to his/her activity of excess property.

(3) Promptly report reassignment of real and related personal property among activities within their command to the Commander, Naval Facilities Engineering Command in accordance with established procedures governing inventory of military real property.

c. The Comptroller of the Navy will 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 sale price in any disposal pursuant to this instruction, and, when they have been obtained, shall promptly advise the Commander, Naval Facilities Engineering Command, of approval and the conditions required by subparagraph 5a(3) of this enclosure.

d. The Chief of Naval Operations or the Commandant of the Marine Corps for Marine Corps property, will inform the Commander, Naval Facilities Engineering Command when consideration of military requirements for the property involved necessitates the modification or termination of any action pursuant to this enclosure to reassign, transfer, or dispose of real and related personal property.

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