



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
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SECNAVINST 11011.47D
ASN (EI&E)
26 Jun 2019

SECNAV INSTRUCTION 11011.47D

From: Secretary of the Navy

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

Encl: (1) References
(2) Definitions
(3) Acquisition, Management, and Disposal of Real
Property and Real Property Interests Policies

1. Purpose

a. To provide Department of the Navy (DON) policy for the acquisition, management, and disposal of real property and real property interests, and to assign responsibility and delegate authority to carry out that policy, per enclosure (1), references (a) through (ck).

b. This instruction has been significantly revised and should be reviewed in its entirety.

2. Cancellation. SECNAVINST 11011.47C.

3. Background. The original instruction was issued in 1983. The first substantive revision, revoking the original 1983 instruction, was issued on 23 February 2006. The next revision, issued on 12 January 2009, established and clarified DON real property policy, and addressed the need to confer limited acquisition authority on the Base Realignment and Closure Program Management Office. A third revision, issued on 26 August 2013, incorporated changes to statutory authorities and policy and procedural guidance. This fourth revision incorporates changes to statutory authorities, leasing delegations, organizational changes, and policy and procedural guidance.

4. Definitions. Enclosure (2).

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 DON, subject to the exceptions listed in enclosure (3).

6. Policy

a. The Secretary of the Navy (SECNAV) has administrative jurisdiction and control over all real property owned by the United States for DON. Per enclosure (1), reference (a), the Assistant Secretary of the Navy (Energy, Installations and Environment) (ASN (EI&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. ASN (EI&E)'s oversight authority is hereby delegated via the Principal Deputy Assistant Secretary of the Navy (PDASN) (EI&E) to the Deputy Assistant Secretary of the Navy (Installations and Facilities) (DASN (I&F)) and may not be further delegated.

b. In accordance with enclosure (1), references (b) and (c), only real property required to meet DON's military mission may be acquired and, when the real property is no longer required, it shall be reported excess to the needs of DON.

c. Under certain circumstances real property that is not being optimally used may be retained for future mission needs and thus may not be suitable for disposal.

d. Notwithstanding the delegations of authority in this instruction, ASN (EI&E) staff shall be consulted prior to taking any real estate acquisition, management, or disposal action that has the potential to be controversial or politically sensitive.

e. Additional policy guidance is found in enclosure (3).

7. Responsibilities/Action

a. Per enclosure (1), reference (a), ASN (EI&E) has the authority and discretion to issue Real Estate Contracting Officer (RECO) warrants. This authority is hereby delegated via PDASN (EI&E) and DASN (I&F) to the Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM). ASN (EI&E), PDASN (EI&E), and DASN (I&F) retain and may exercise and further delegate or revoke the RECO warrant authority delegated herein as appropriate.

b. COMNAVFACENGCOM shall have general responsibility for warranting RECOs for DON. RECOs entering into a real estate contract on behalf of the United States under the authorities delegated herein must be warranted. COMNAVFACENGCOM, in coordination with the Chief of Naval Operations (CNO) and the Commandant of the Marine Corps (CMC), shall maintain a program certifying RECOs. The program shall ensure RECOs are qualified and properly trained.

c. COMNAVFACENGCOM, in coordination with CNO for Navy property and CMC for Marine Corps property, shall issue implementing instructions, prescribe operating procedures, and develop controls required to ensure compliance with this instruction. Requirements for approvals and delegations of authority beyond those stated in this paragraph 7 are contained in enclosure (3).

d. CNO for Navy Property and CMC for Marine Corps Property shall establish the requirements for acquisition, management, and disposal of real property. COMNAVFACENGCOM shall, in accordance with this instruction and applicable statutory authority, have the authority to execute those actions.

e. Unless otherwise limited herein, all authorities and responsibilities assigned by this instruction to CNO, CMC and COMNAVFACENGCOM may be further delegated. A copy of any such further delegation shall be provided to the DASN (I&F).

8. Records Management

a. Records created as a result of this instruction, regardless of format or media, must be maintained and dispositioned according to the records disposition schedules found on the Directives and Records Management Division (DRMD) portal page:

<https://portal.secnav.navy.mil/orgs/DUSNM/DONAA/DRM/SitePages/Home.aspx>

b. For questions concerning the management of records related to this instruction or the records disposition schedules, please contact your local Records Manager or the DRMD program office.

9. Forms. DD Form 1354, Transfer and Acceptance of DoD Real Property, is available from the official DoD website for DoD forms, <https://www.esd.whs.mil/Directives/forms/>.



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REFERENCES

- (a) SECNAVINST 5430.7R
- (b) 40 U.S.C. §101
- (c) 41 CFR 102-71
- (d) 10 U.S.C. §2663
- (e) 10 U.S.C. §2601
- (f) 10 U.S.C. §2661
- (g) DoD Directive 4275.5 of 15 March 2005
- (h) 10 U.S.C. §2828
- (i) 10 U.S.C. §2675
- (j) DoD Directive 5110.04 of 27 March 2013
- (k) 10 U.S.C. §2696
- (l) 10 U.S.C. §18233
- (m) 10 U.S.C. §18233b
- (n) 10 U.S.C. §18240
- (o) 43 U.S.C. §1714
- (p) 43 U.S.C. §155
- (q) 10 U.S.C. §2809
- (r) 10 U.S.C. §2812
- (s) 10 U.S.C. §2684a
- (t) 10 U.S.C. §2869
- (u) 42 U.S.C. §9604(j)
- (v) SECNAV Memo, Delegation of Presidential Authorities Under CERCLA of 17 Aug 91
- (w) 7 U.S.C. §2204b-1
- (x) DoD Instruction 4165.71 of 6 January 2005
- (y) SECDEF Memo, Relationship Between the Land Acquisition Moratorium Policy and 10 U.S.C. §2684a of 28 July 2005
- (z) 42 U.S.C. Chapter 61
- (aa) 49 CFR 24
- (ab) ASN (I&E) Memo, Department of the Navy Environmental Policy Memorandum 06-06: Streamlined Environmental Procedures Applicable to Non-BRAC Real Estate Actions of 5 Jul 2006
- (ac) 10 U.S.C. §2664
- (ad) 10 U.S.C. §2853
- (ae) 10 U.S.C. §2662
- (af) DoD Directive 4165.06 of 13 October 2004
- (ag) Interagency Land Acquisition Conference, Uniform Appraisal Standards for Federal Land Acquisitions (6th ed. 2016)
- (ah) DoD Instruction 7041.03 of 9 September 2015
- (ai) Unified Facilities Criteria 4-010-01, DoD Minimum Antiterrorism Standards for Buildings of 1 Oct 2013
- (aj) NAVFACINST 11000.40

- (ak) 10 U.S.C. §2304
- (al) 10 U.S.C. §2303
- (am) DoD Instruction 1225.08 of 10 May 2016
- (an) 10 U.S.C. §2852
- (ao) 10 U.S.C. §2802
- (ap) 16 U.S.C. §505a
- (aq) SECDEF Memo, Land Acquisition and Leasing of Office Space in the United States of 17 November 2002
- (ar) 10 U.S.C. §18233a
- (as) 32 CFR 766
- (at) OPNAVINST 5112.6E
- (au) DoD Instruction 1015.13 of 11 March 2004
- (av) DoD Instruction 1322.19 of 14 March 2013
- (aw) DoD Instruction 1322.25 of 15 March 2011
- (ax) DoD Instruction 1000.15 of 24 October 2008
- (ay) ASN (I&E) Memo, Department of the Navy Environmental Policy Memorandum 06-06: Streamlined Environmental Procedures Applicable to Non-BRAC Real Estate Actions of 5 Jul 06
- (az) 42 U.S.C. §11411
- (ba) 20 U.S.C. §107
- (bb) DASD (B) letter, Documenting Use of Real Property between Department of Defense Components of 22 July 2016
- (bc) 10 U.S.C. §2695
- (bd) SECDEF Memo, Installation Access and Support Services for VA-Recognized Veteran Service Organizations/Military Service Organizations of 23 December 2014
- (be) 12 U.S.C. §1770
- (bf) 10 U.S.C. §2667
- (bg) 47 U.S.C. § 151 et. seq
- (bh) DoD FMR 7000.14-R, Volume 5 of Nov 2017, Disbursing Policy
- (bi) 10 U.S.C. §2692
- (bj) 10 U.S.C. §101(a)(17)
- (bk) 32 CFR 174-176
- (bl) ASN (EI&E) Memo of 7 Oct 2011, BRAC Real Estate Contracting Officer Warrants
- (bm) 10 U.S.C. §2668
- (bn) 10 U.S.C. §2688
- (bo) SECDEF Memo, "Installation Access and Support Services for Nonprofit Non-Federal Entities" of 23 December 2014
- (bp) 10 U.S.C. §2474
- (bq) SECNAVINST 5820.7C
- (br) 10 U.S.C. § 2878
- (bs) DoD Instruction 4165.69 of 6 April 2005
- (bt) CJCSI 2300.03D of 26 June 2013

- (bu) 49 U.S.C. §47125
- (bv) 23 U.S.C. §317
- (bw) 40 U.S.C. §1304
- (bx) 41 CFR 102-75.1025
- (by) 40 U.S.C. §545
- (bz) Memorandum of Understanding between GSA and Military Services of 15 June 2000 (NOTAL)
- (ca) 40 U.S.C. §3112
- (cb) 10 U.S.C. §2683
- (cc) SECNAV M-5210.2
- (cd) DoD FMR 7000.14-R Volume 4, Chapter 6, Financial Management Regulation of June 2009
- (ce) DoD Instruction 4165.14 of 17 January 2014
- (cf) 10 U.S.C. §2831
- (cg) DoD Instruction 4151.21 of 21 November 2016
- (ch) 40 U.S.C. §102
- (ci) 43 U.S.C. §1702
- (cj) DoD Instruction 5303.5 of 4 November 2015
- (ck) Federal Acquisition Regulation (FAR) subpart 45

DEFINITIONS

Unless otherwise defined herein, the definitions of enclosure (2) shall apply to this instruction. In general, the following definitions apply to this instruction:

a. The term "annexation proceeding" means a proceeding in the United States initiated by a municipality to incorporate DON land into the corporate limits of such municipality or to include DON land within the corporate limits of a new municipality seeking to incorporate.

b. The term "cadastral" means muniments, contracts, maps, charts, plats, sketches, registers, real estate summary maps, and other derivative records. For purposes of the cadastral program, the scope of cadastral has been extended to include evidence of Federal legislative jurisdiction over real property controlled by DON.

c. The term "cadastral records" means those records pertaining to real property, interests therein, or rights thereto, of the United States of America and under the administrative control of DON and that evidence of the legal title, interests or rights of the United States and of other parties, as the case may be, with respect to such real property.

d. The term "easement" means a recordable interest in land, not revocable at will, to use or restrict the use of real property of the owner for a specific purpose for a specific period of time.

e. The term "excess property" has the same meaning as found in reference (ch).

f. The term "ingrant" means transactions such as leases, permits or licenses, easements, foreign base rights agreements, and treaties, under which DON acquires less than a fee interest in or control of real property.

g. The term "installation" means a base, camp, post, station, yard, center, or other activity, including leased facilities and facilities leased by Government to others, under the jurisdiction, custody, or control of the Secretary of Defense (SECDEF) or the Secretary of a Military Department or,

in the case of an activity in a foreign country, under the operational control of the SECDEF or the Secretary of a Military Department, without regard to the duration of operational control. An installation may include one or more sites.

h. The term "lease" means an agreement or contract by which the owner of real property grants an interest in real property to another providing for the exclusive rights to possess, use, and enjoy that property for a specified period of time in exchange for consideration.

i. The term "license" means a grant of a personal privilege for a specific purpose on real property without possessing any estate or interest in it. A license is a nonexclusive grant that is revocable at the will of the licensor.

j. The term "long-term" as used in this instruction means periods of more than five years to include renewable, extendible to periods of longer than five years, or for an indefinite period of time.

k. The term "municipality" means any political subdivision of a U.S. state, territory, or possession such as a county, city, or village, school, or a drainage, irrigation, or other service district.

l. The term "muniments" means any and all of the various instruments authenticating and documenting the estate the Government has in real property. The instruments include deeds, condemnation proceedings, Attorney General or other title opinions, abstracts, certificates of title, ingrants, licenses, permits, transfer and acceptance documents (DD Form 1354), outgrants, reports of excess, and related or referenced plats, sketches and final judgments.

m. The term "outgrant" means any agreement whereby a non-DoD entity 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, use agreements, easements, permits, rights of entry, or any other term applied to a similar agreement.

n. The term "property" means real property and related personal property.

o. The term "real property" means land and any interest in land, together with any buildings, fixtures, affixed improvements and structures, growing crops located thereon, and related appurtenances regardless of funding source.

p. The term "related personal property" means any personal property which is an integral part of real property or is related to, designed for, or specifically 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.

q. The term "short-term" means periods of five years or less including all rights of renewal.

r. The term "surplus property" has the same meaning as found in reference (ch).

s. The term "uneconomic remnant" has the same meaning as found in reference (aa).

t. The term "utility system" has the same meaning as found in reference (bn).

u. The term "warrant" means an official document that designates an individual as a RECO and states the limits of the RECO's authority. ASN (EI&E) has the authority and discretion to issue RECO warrants. COMNAVFACENGCOM has general responsibility for warranting RECOs for DON.

v. The term "withdrawal" has the same meaning as found in reference (ci).

REAL PROPERTY AND REAL PROPERTY INTERESTS POLICIES

1. Real Property Acquisition

a. **Applicability and Scope.** This paragraph applies to the methods of real property acquisition set forth in subparagraphs 1a(1) through 1a(12). This paragraph does not apply to agreements for the 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. Acquisition of real property required to meet a DON mission may be accomplished through the following methods:

(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) Acquisition of low-cost interests in land made under reference (d) at a cost of not more than the statutory amount contained therein.

(3) Acquisitions under the authority of reference (d) when the real property is valued in excess of low-cost interests in land and conditions of urgency do not permit the delay necessary to include the acquisition in an annual Military Construction Authorization Act.

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

(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 under the authority of reference (f), except industrial real property per reference (g);

(b) Leasing of real property in foreign countries under the authority of references (h) and (i); and

(c) Acquisition of space by assignment from GSA in buildings under its control and through leasing by GSA, except in the Washington, D.C. area, per reference (j).

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

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

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

(9) Acquisition of facilities through long-term facilities contracts or lease purchase agreements under the authority of references (q) and (r).

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

(11) Acquisition of title or interests in real property via exchange under the authority of reference (t).

(12) Acquisition of title or interest in real property required to meet environmental remediation obligations under the authority of reference (u) as implemented by reference (v).

b. Policy

(1) Generally, DON may only acquire real property if there is no other Government property available that adequately satisfies its mission requirements.

(2) To ensure maximum use of existing DON shore infrastructure, all DON activities, regardless of funding source, shall obtain prior approval from the CNO or CMC, as appropriate, prior to seeking acquisition or use of non-DON real property.

(3) All major land or leasehold acquisitions in the United States must comply with references (w), (x), (y) and (z) as implemented by reference (aa). Per references (x) and (y), reference (x) does not apply to the acquisition of non-possessory real property interests acquired under the authority of reference (s). Additionally, no proposals for relocating into or within the Washington, D.C. area may be made public in the manner described in reference (x) without the prior approval of the Secretary or the Deputy SECDEF.

(4) Prior to acquisition of real property interests, except for restrictive use easements and conservation easements, CNO for Navy property or CMC for Marine Corps property will prepare documentation to analyze the environmental condition of the property and determine the environmental risks and liabilities associated with the acquisition of the property, per reference (ab). For restrictive use easements or conservation easements, CNO for Navy properties or CMC for Marine Corps will collect documentation about the property sufficient to determine landowner compliance with the easement restrictions.

(5) Upon enactment of authority to acquire real property, COMNAVFACENGCOM shall make every effort to acquire the property through negotiations within the cost authorized. However, if the cost of a land acquisition project is projected to be exceeded, COMNAVFACENGCOM, per the delegated authority in subparagraph 7c, has the authority to make the determination described in references (ac) and (ad). Such an increase is allowable when congressional notification required by reference (ae) has been made (if applicable) and when COMNAVFACENGCOM finds one or more of the following circumstances:

(a) The property owner or owners are willing to enter into a negotiated sale or sales; or

(b) The appraised Fair Market Value (FMV) of the property and/or the cost of relocation expenses have increased beyond what was initially estimated, or COMNAVFACENGCOM determines that the amount the owner is willing to sell for is reasonable; or

(c) Acquiring the property through eminent domain is likely to be more costly or not in the Navy's best interest.

(6) MILCON Acquisitions. DON will request legislative approval for the acquisition of real property through the annual National Defense Authorization Act and Military Construction Appropriations Act when:

(a) The legislative proposal is supported by detailed documentation for the acquisition of land and the construction of facilities, including cost estimates, economic analyses where appropriate, and engineering studies; and

(b) The proposed project has been reviewed by COMNAVFACENGCOM for technical sufficiency and reviewed and approved by CNO for Navy projects and by CMC for Marine Corps Projects and by ASN (EI&E) or designee.

(7) Acquisition of Low-Cost Interests in Land

(a) Under reference (d), SECNAV has determined that an interest in land is needed in the interest of national defense when:

1. The property or interest 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; and

2. The property or interest 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; and

3. The proposed acquisition is consistent with the policies stated in reference (af); and

4. Funds available for operation and maintenance or construction are available to pay for the acquisition and related charges per reference (d); and

5. CNO for Navy property or CMC for Marine Corps property has approved the military requirement.

(b) Under reference (d), SECNAV has determined that an interest in land is needed solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening when:

1. The property or interest 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;

2. The property or interest 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;

3. The proposed acquisition is consistent with the policies stated in reference (af);

4. Funds available for operation and maintenance or construction are available to pay for the acquisition and related charges per reference (d); and

5. CNO for Navy property or CMC for Marine Corps property have approved the military requirement.

(c) For determining market value the following alternatives to formal appraisals of low cost interests in land that are not controversial or complex may be utilized as appropriate:

1. Waiver Valuations as defined and set forth in references (aa) and (ag) may be used for acquisitions under the rules in reference (aa).

2. Informal Value Estimates may be performed for acquisitions that do not fall under the rules of reference (aa). COMNAVFACENGCOM shall provide additional guidance, as required.

(8) Urgent Land Acquisitions. Any interest in land may be acquired under the authority of reference (d) when:

(a) SECNAV determines it is needed in the interest of national defense;

(b) The acquisition 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) Prior to exercising the authority under subparagraph 1b(8), Congressional submission required by references (d) and (ae) must be made. Appropriations available for MILCON or O&M may be used to pay for the acquisition.

(9) Options

(a) An option to acquire an interest in land may be acquired before or after its acquisition is authorized by law under the authority in reference (d) when SECNAV considers it suitable and likely to be needed for a military project for the Navy or the Marine Corps.

(b) Per reference (d), SECNAV may pay, from funds available under the jurisdiction of SECNAV for real property, an amount that is not more than 12 percent of the appraised FMV of the property.

(c) To exercise the authority to acquire an option, COMNAVFACENGCOM must find:

1. CNO or CMC has determined that the real property is required for a military mission;

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

3. Obtaining an option will enhance DON's ability to acquire the property.

(10) Acquisition by DON Lease or Through GSA

(a) Pursuant to the policies set forth in reference (x), DON may acquire real property by lease pursuant to either Department of Defense (DoD) leasing authorities or GSA delegated authorities, or acquire general purpose space through GSA, when:

1. The real property is needed to meet an approved military requirement, funds are available to pay rent, and funds are available for the administration of the lease or Occupancy Agreement with GSA; and

2. There is:

a. No DoD, or other Government real property available that can adequately support the approved military requirement, and

b. The economic analysis conducted in accordance with reference (ah) concludes it is more advantageous to the Government to lease than to buy. In evaluating available Government space or housing, priority will be given to DoD owned space or housing over existing leased space or housing.

3. The leased property meets, or can be altered to meet, or a waiver has been issued for, the force protection requirements of reference (ai), and seismic safety per reference (aj);

4. The acquisition obtains full and open competition through the use of competitive procedures, unless expressly authorized by statute and justified pursuant to reference (ak). The acquisition of unimproved land is exempt from the competition requirement as stated in reference (al); and

5. Advance reports required by references (h) and (ae) are submitted.

(b) Except as specifically authorized by law, the term of the lease may not exceed the limits of the appropriation used to fund the rent, unless the cost of the lease is nominal. In foreign countries, references (h) and (i) provide specific authority to lease for fixed periods greater than one year.

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

(d) A mission that requires a long-term use of leased space must pursue relocation into Government-owned facilities. In all circumstances where DON occupies leased premises in the United States for more than five years, CNO for Navy and CMC for the Marine Corps shall document the requirement for leasing. This documentation shall propose a permanent solution, other than leasing, and determine that it is currently more advantageous to the Government to lease rather than relocate to Government-owned facilities. This documentation shall be submitted to DASN (I&F) for approval prior to lease execution.

(e) DON may lease property directly using delegated GSA authorities as provided in reference (c). The requirements set out in subparagraphs (a) through (d) above must also be met.

(11) Transfers within the DoD. Under reference (k), real property may be transferred from one of the armed forces to another, including the Coast Guard, without consideration, upon the request of one Secretary and the approval of the other, or the Commandant of the Coast Guard.

(12) Transfers of Excess Property. Under reference (b), property that has been declared excess by another Federal agency may be acquired through GSA.

(13) Acquisition of Reserve Forces Facilities. Subject to the requirements and limitations of references (l), (m), and (n), 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; or

(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; and

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

(14) 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 (o) and (p), public domain lands may be withdrawn or reserved for specific military purposes.

(15) Encroachment Protection

(a) Pursuant to the authority and limitations set forth in reference (s), DON may enter into an agreement with an eligible entity to address the use or development of real property in the vicinity of, or ecologically related to, a DON installation or military airspace for the purposes set forth in reference (s).

1. Real property or interests acquired pursuant to reference (s) shall not be used for occupation by DON or for military operations or training under this authority.

2. DON will seek the best project proposals from all eligible sources.

(b) DON may enter into an agreement to convey real property, including any improvements thereon pursuant to the authorities and limitations set forth in reference (t).

(16) Construction on Land Held in Less than Fee Simple Title. In accordance with references (an) and (ao), SECNAV has determined that a MILCON project or a military family housing project may be executed on land held by the United States in less than fee simple where title is sufficient for purposes of the project when:

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

(b) An economic analysis concludes the value of the investment is supported by the interest held by the DON; and

(c) In addition to subparagraphs (16)(a) and (16)(b) above, for projects that are neither MILCON nor family housing, it must also be determined that the primary benefit of the project is to DON.

(17) Interchange of Lands Between Department of Agriculture and Military Departments. In accordance with reference (ap), exchanges of land between DON and the U.S. Forest Service without reimbursement or transfer of funds may occur when ASN (EI&E) and the Secretary of Agriculture determine that such transaction will facilitate land management and will provide maximum use thereof for authorized purposes.

(18) Acquisition of Title or Interest in Real Property Required to Meet Environmental Remediation Obligations Under CERCLA. The President has the authority to acquire, by purchase, lease, condemnation, donation, or otherwise, any real property or any interest in real property that the President in his discretion determines is needed to conduct a remedial action under CERCLA (reference (u)). This authority has been delegated, per reference (v), to ASN(EI&E). Before exercising this authority, DON must first obtain assurances from the State in which the interest is to be acquired that the State will accept transfer of the interest following completion of the remedial action. Per reference (u), this assurance can be through a contract or cooperative agreement or otherwise.

c. Approvals. Any proposal for the acquisition of 1,000 or more acres of land, or land with an estimated purchase price exceeding \$1,000,000 requires approval of DASN (I&F) and additional approvals from OSD in accordance with reference (x). In addition, the acquisition of title or other interests in real property, including uneconomic remnants, authorized by this instruction is subject to obtaining the following approvals:

(1) For acquisition of low-cost interests in land, consistent with the requirements of subparagraph 1b(7):

(a) Approval of CNO for Navy use.

(b) Approval of CMC for Marine Corps use.

(2) For urgent land acquisitions, consistent with the requirements of subparagraph 1b(8):

(a) Approval of CNO for Navy use.

(b) Approval of CMC for Marine Corps use.

(c) Approval of DASN (I&F) of proposed submission to Congress required by references (d) and (ae).

(3) For options, consistent with the requirements of subparagraph 8b(9):

(a) Approval of CNO for Navy use.

(b) Approval of CMC for Marine Corps use.

(4) For acquisition by DON lease or through GSA, consistent with the requirements of subparagraph 1b(10):

(a) Approval of CNO for Navy use regardless of funding source.

(b) Approval of CMC for Marine Corps use regardless of funding source.

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

(d) Approval of DASN (I&F) in all circumstances where DON occupies leased premises in the United States for more than five years.

(e) Approval of DASN (I&F) for relocation within the National Capital Region (NCR) when a lease is required and the total relocation cost (including relocation expenses, lease rental payment, utilities, and improvements) is in excess of \$500,000 per reference (cj).

(5) For transfers within DoD, consistent with the requirements of subparagraph 1b(11):

(a) Approval of CNO and DASN (I&F) for Navy use.

(b) Approval of CMC and DASN (I&F) for Marine Corps use.

(c) Approval by DASN (I&F) of proposed submission to Congress required by reference (ae).

(6) For transfers of excess property, consistent with the requirements of subparagraph 1b(12):

(a) Approval of CNO and DASN (I&F) for Navy use.

(b) Approval of CMC and DASN (I&F) for Marine Corps use.

(c) Approval by DASN (I&F) of proposed submission to Congress required by reference (ae).

(7) For acquisitions of reserve forces facilities, consistent with the requirements of subparagraph 1b(13):

(a) Approval of CNO and DASN (I&F) for Navy use.

(b) Approval of CMC and DASN (I&F) for Marine Corps use.

(c) Approval by DASN (I&F) of proposed submission to Congress required by references (ae) and (ar).

(8) For withdrawal, reservation or restriction of public domain lands, consistent with the requirements of subparagraph 1b(14):

(a) Approval of CNO and DASN (I&F) for Navy use.

(b) Approval of CMC and DASN (I&F) for Marine Corps use.

(9) For encroachment protection, consistent with the requirements of subparagraph 1b(15):

(a) Approval of CNO for Navy use.

(b) Approval of CMC for Marine Corps use.

(c) Approval of DASN (I&F) for all new encroachment protection agreements, initial acquisition under an agreement, initial expenditure of funds for natural resources management

under an agreement, changes in area of interest of an agreement, and material change to an agreement that alters previously approved rights and obligations of signatories that were executed under the authority of reference (s).

(d) Approval of DASN (I&F) for justifying acquisition cost higher than appraised FMV when warranted by the military value to be obtained under the authority of reference (s).

(e) Approval of DASN (I&F) for any acquisition under the authority of reference (t).

(10) For construction on land held in less than fee simple title, consistent with the requirements of subparagraph 1b(16):

(a) Approval of CNO for Navy use.

(b) Approval of CMC for Marine Corps use.

(c) Approval of COMNAVFACENGCOM.

(11) For interchange of property among DON and U.S. Forest Service with the requirements of subparagraph 1b(17):

(a) Approval of CNO and DASN (I&F) for Navy.

(b) Approval of CMC and DASN (I&F) for Marine Corps.

(12) For condemnation matters:

(a) Approval of DASN (I&F), in consultation with the Assistant General Counsel (Litigation) (AGC (L)), for offers of settlement: negotiated by Department of Justice (DOJ) exceeding \$1,000,000; or involving the revestment to the defendant(s) of any DON real property interest; or, regardless of amount or circumstance, which would control or adversely influence the disposition of other condemnation matters.

(b) Approval of AGC (L), in consultation with DASN (I&F), for decisions on whether to seek appeal of court decisions.

(13) For any acquisition that requires prior approval by, or prior notification to, either the Office of the SECDEF, Congress or specific Congressional committee(s), approval of DASN (I&F) is required prior to initiating acquisition actions.

(14) Approval of DASN (I&F), in consultation with DASN (Environment), for any acquisition related to environmental remediation obligations, consistent with the requirements of subparagraph 1b(18).

d. Delegation. COMNAVFACENGCOM, as requested by CNO for Navy property, or as requested by CMC for Marine Corps property, is authorized to take the following actions subject to the approvals required by subparagraph 1c:

(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 (d) and consistent with subparagraphs 1b(9) and 1c(3).

(2) Accomplish acquisitions of low-cost interests in land when the criteria in subparagraph 1b(7) and 1c(1) 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 contained in the general provisions of annual MILCON appropriation acts or other provision of law.

(4) Execute all necessary documents in connection with condemnation actions, except Declarations of Taking, which shall be signed by DASN (I&F), and requests to the DOJ to initiate condemnation proceedings, which shall be signed by the General Counsel of the Navy.

(5) Approve or reject an offer of settlement up to \$1,000,000 as just compensation for the taking of property in a condemnation proceeding if the offer of settlement is within the delegated authority of the United States Attorney. This authority does not include offers of settlement involving the revestment of any DON real property interest, which require approval by DASN (I&F), per subparagraph 1c(12)(a).

(6) Acquire real property by lease or GSA Occupancy Agreement and, thereafter, renew, extend, or administer such leases or GSA Occupancy Agreements. Within the NCR, acquisition of real property by lease requires the approval of Washington Headquarters Services. These actions may be taken when:

(a) The criteria established in subparagraph 1b(10) have been satisfied.

(b) The Congressional submissions required by reference (ae) have been made. A draft of these notifications shall be provided to DASN (I&F) for review and submission to Congress. Reference (ae) is not applicable for GSA leasing actions.

(c) In the case of foreign leases for military family housing, the notification required by reference (h) has been made, if required. A draft of these notices shall be provided to DASN (I&F) for review and submission to Congress.

(7) Acquire excess real property by transfer.

(8) Acquire real property required in connection with the Reserve Forces Facilities program.

(9) Accomplish the withdrawal, reservation, or restriction of public domain lands, in support of CNO identified mission requirements for Navy activities or CMC identified mission requirements for Marine Corps activities, when the criteria established in subparagraph 1b(14) have been satisfied.

(10) Make the determination under reference (an) 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 1b(16) have been satisfied.

(11) Enter into agreements with states or their political subdivisions or private entities for encroachment protection as described in reference (s).

(12) Enter into agreements, convey and acquire real property under the land exchange authority of reference (t).

Acquisitions under the authority in reference (t) are subject to approval by DASN (I&F).

(13) Execute interchanges with the Department of Agriculture, per reference (ap).

e. Responsibilities

(1) DASN (I&F) is responsible for submitting all Congressional notifications. COMNAVFACENGCOM shall prepare the notifications prescribed by references (s), (t) and (ae) for DASN (I&F) use.

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

2. Management of DON Real Property

a. 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 reference (ck) 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 (as).

(3) Agreements for U.S. Post Office Facilities provided in accordance with reference (at).

(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 (au).

(5) Space assignments for non-exclusive use of DON property by groups composed only of military personnel and/or

DoD employees, where CNO for Navy and CMC for Marine Corps have determined use of the space is appropriate. Capital improvements may not be made to the space by these groups. DON shall not assume additional liability from such use of space. CNO for Navy and CMC for Marine Corps may require liability insurance to mitigate risk.

(6) Space assignments for use of DON property to voluntary educational providers, per references (av) and (aw).

b. Policy. SECNAV holds the administrative jurisdiction and control of real property owned by the United States for DON 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 Navy and Marine Corps readiness missions. Accordingly, it is important to carefully consider the effects any use will have on potential future military requirements before entering into agreements for non-naval use of DON real property. The following conditions apply to the outgranting of DON property:

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

(a) It is not excess property or is property located at an installation and is made available as a result of a Base Realignment and Closure action; and

(b) Its use by others will not interfere with or adversely affect the accomplishment of the installation's mission, or with the DoD's present, planned or foreseeable use of the property, or with other Departmental activities in the vicinity; and

(c) The use will be at minimal expense to DON.

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

(3) Non-Federal users of DON property, except to the extent that state, county, or local Government agencies are precluded by law from assuming all or any part of any liability for use of DON property, 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 assigned to the user by the outgrant agreement, the user will be required to demonstrate to the satisfaction of DON sufficient financial responsibility to assume these liabilities, or, at the user's own expense, to procure and maintain sufficient insurance to cover them in certain minimum amounts, which requirements shall be identified in the real estate agreement. This requirement for insurance may be waived for voluntary, non-profit associations chartered to operate on DON installations.

(4) Unutilized or underutilized property proposed for non-Federal use is subject to procedures set forth in reference (ax) and the requirements of reference (ay), and shall be reported by COMNAVFACENGCOM to the Department of Housing and Urban Development in accordance with reference (az).

(5) Prior to making property available to other users outside of DON, CNO for Navy properties, or CMC for Marine Corps properties, will prepare an Environmental Condition of Property document in accordance with reference (ay) that analyzes the environmental condition of the property and determines its suitability for the proposed use.

(6) DON should avoid creating direct competition with private enterprise, particularly in the lodging and food service industries. The out granting or otherwise making available of DON-controlled real property for these or related type uses except for DoD-sponsored programs under reference (au) should be avoided.

(7) In authorizing the operation of vending facilities, including restaurants, cafeterias, or other private commercial operations on DON real property, priority shall be given to blind persons licensed by a state agency as required by reference (ba).

(8) In general, DON will not authorize the construction or display of commercial billboards or signs promoting private

commercial interests on DON-controlled property. However, exceptions to this rule may be considered when the following criteria are met:

(a) The proposed commercial billboard or sign complies with all applicable installation guidelines and criteria for signs; and

(b) The proposed commercial billboard or sign is located on a site leased from DON for a term of 10 years or more (except for banks or credit unions on property leased or licensed from DON for a term of five years or more); and

(c) The lease requires the lessee, upon termination, to remove the commercial billboard or sign and restore the DON property at no cost to the Government.

(9) Since it could be construed as a political endorsement by DON, space will not be made available, either by lease or other agreement, for use by any federal, state or local elected official for a district office or other political use.

(10) The use of DON land and facilities by another military component, including a National Guard Component operating under Title 10, does not require the issuance of an outgrant. Such use should be accommodated by a support agreement, per reference (bb).

c. Consideration and Reimbursement of DON Expenses

(1) Consistent with reference (bc) and reference (xx), all non-DON users of DON real property shall be required to compensate DON for administrative expenses incurred, or to be incurred, by entering into the transaction. These expenses shall include, but are not limited to, the costs of surveys, environmental studies, appraisals, and the time of DON personnel, both at the installation and the contracting office. The funds received must be credited to the appropriate appropriation, fund, or account in accordance with reference (bc). When funds are accepted before expenses are incurred, recipients must refund to the payer any amount in excess of actual expenses. The requirement to compensate DON for administrative expenses may be waived when:

(a) The amount is less than the cost of collecting the reimbursement; or

(b) The installation on which the real property is located agrees that a waiver will benefit the activity and further agrees to fund COMNAVFACENGCOM for all of those administrative costs.

(c) Note: CNO for Navy and CMC for Marine Corps shall fund COMNAVFACENGCOM for all administrative expenses required to issue licenses to VA-Recognized Veteran Service Organizations (VSOs) and Military Service Organizations (MSOs) pursuant to reference (bd).

(2) Non-DoD Federal agencies shall be charged for their share of the operation and maintenance services and utility costs associated with their use of DON property. 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 traffic 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 incurred on behalf of the DON in conformance with the DoD/Forest Service Master Agreement for emergency response.

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

(a) Reimburse DON, in accordance with applicable statutes and regulations, for the cost of any utilities and services furnished pursuant to a separate utilities sales contract or under the terms of the outgrant. This requirement may be waived:

1. By CNO for Navy or CMC for Marine Corps; or
2. For credit union operators under a no-cost lease or license for utilities such as heat, lights, and air

conditioning in accordance with reference (be). Janitorial services, fixtures, and maintenance may also be supplied to credit unions without reimbursement, subject to budget or manpower constraints.

(4) In addition to the payment of administrative expenses and cost of utilities and services, non-Federal users shall be charged consideration in an amount not less than the FMV of the property being used. Consideration 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 DON space or a lease of DON land not to exceed five years by credit unions in accordance with reference (be); or

(c) When the space is used by a VA-Recognized VSO or MSO, per reference (bd). NOTE: Per reference (bd), the space shall be made available at no cost to the VSO or MSO; or

(d) When outgranting real property that has been furnished to the US Government by a Foreign Host Nation at no cost; or

(e) For licenses where the FMV has been determined to be nominal by COMNAVFACENGCOM; or

(f) For licenses in those instances where:

1. The term of the license is one year or less with no renewal options; and

2. Results in only minimal costs to the installation as determined by CNO for Navy installations and CMC for Marine Corps installations; and

3. Issued to a not-for-profit organization or charity or service entity established to support a public interest; and

4. The use is advantageous to the DON.

d. Leases

(1) Under the authority of reference (bf), when the policies set forth in subparagraph 2b have been met, SECNAV has determined 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.

(2) Each lease entered into under the authority of this instruction shall be in accordance with all of the limitations set forth in reference (bf) and shall contain all of the provisions required by reference (bf). Except as provided in subparagraph 2d(3) below, all requests for a DASN (I&F) determination that the granting of a lease for a term in excess of five 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 will be made on a case by case basis. The omission from a lease of any termination provision (e.g., "national emergency," "change in federal requirement," "sale or transfer") requires DASN (I&F) approval.

(3) Under the authority of reference (bf), DASN (I&F) has determined that the granting of a lease for a term in excess of five 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; provided that COMNAVFACENGCOM finds that one of the following conditions exist:

(a) The lease is for the placement of wireless broadband telecommunication equipment on a DON building or structure provided for in reference (bg) for an initial five year term with additional option years not to exceed a total of 20 years. The lease shall be subject to periodic review every five years to assess and adjust the consideration to account for changes in fair market rental value; or

(b) The lease is for a parcel of land for agricultural purposes for a term not to exceed 10 years; or

(c) The lease is for use of land under reference (bh) for construction of a building to house a bank not to exceed 25 years. The lease shall be subject to periodic review

every five years to assess and adjust the consideration to account for changes in fair market rental; or

(d) The lease is for use of Government space by a bank or credit union when the financial institution will use its own funds to improve the existing Government space under reference (bh) and has a term not to exceed 25 years. The lease shall be subject to periodic review every five years to assess and adjust the consideration to account for changes in fair market rental when applicable.

(4) Leases pursuant to the authority and limitations set forth in reference (be) may provide for no-cost lease of land for a term of five years with the right to renew up to 4 additional five-year terms, and may omit from the lease the unqualified right to revoke, if the lease is for construction of a building to house a credit union and the credit union has certified its membership prior to lease execution and again prior to exercise of each lease renewal.

(5) In accordance with the authorities and limitations set forth in reference (bf), lessees shall be required to pay consideration in cash or in-kind in an amount that is not less than the FMV of the leasehold interest, as determined by COMNAVFACENGCOM. In determining FMV, COMNAVFACENGCOM shall establish a monetary value of both the leasehold estate and the consideration to be received.

(6) Under reference (bf), monetary rentals received directly from a lease for agricultural or grazing purposes may be retained and spent by COMNAVFACENGCOM, or by CMC for leases of Marine Corps property, in amounts necessary to cover the administrative expenses of leasing purposes and the financing of multiple land use management programs at any Navy or Marine Corps installation.

(7) Under reference (bi), except as stated below, lessees cannot use the leased property for the storage or disposal of any material that is toxic or hazardous unless the lease contains the necessary conditions and DON certifies that the use of that material is required or generated in connection with the use authorized by the lease.

(8) Subparagraph 2d does not apply to property at bases closed under a base closure law (reference (bj)) that is leased in accordance with reference (bk) pursuant to the authority delegated and assigned by reference (bl).

e. Easements

(1) Under the authority of reference (bm), SECNAV or its delegate has determined that the granting of an easement for the authorized purposes will be in the public interest and will not substantially injure the interests of the United States when CNO for Navy property, or CMC for Marine Corps property finds:

(a) The real property 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 2b are followed.

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

(a) A right in the Government to terminate for default based on non-use for a period of two 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, in the sole judgment of Government, and a reservation in the Government of the right to terminate the easement if relocation is not feasible (this provision may be waived by DASN (I&F));

(c) A right in the sole judgment of 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 by DASN (I&F) when the easement is granted for road purposes, or it can reasonably be determined that removal and restoration will not be necessary); and

(d) A provision stating that the Government shall not be responsible for damages to property or injuries to persons that may arise from, or be incident to, the use and occupation of the premises by the grantee, or for damages to the property or injuries to the persons of the Government's officers, agents, or employees, or others who may be on the premises at their invitation arising from or incidental to Governmental activities, except as permitted under the Federal Tort Claims Act.

(3) Consideration will be required in accordance with subparagraph 2c. Cash consideration received from an easement grant authorized by reference (bm) shall be deposited into the special account in the Treasury established by reference (bf) and shall be available for the uses stated in reference (bf). In-kind consideration received under the authority of reference (bm) shall be treated the same as in-kind consideration received under the authority of reference (bf).

(4) Construction of utilities, excluding cable television, that exclusively support PPV housing projects authorized under the authority of reference (bn) shall be authorized by the PPV entity through the commodity contract under which the utility service is procured or a license under the ground lease. In those instances where authorization under a commodity contract or a license under the ground lease is not feasible, an easement may be granted by COMNAVFACENGCOM. For such an easement grant required at a Navy installation under the cognizance of CNO for Navy, or CMC for Marine Corps installations, the following shall apply:

(a) Monetary consideration for the easement is waived as it has demonstrable benefit to the Government.

(b) The relocation and removal/restoration requirements set forth in subparagraphs 2e(2)(b) and 2e(2)(c) may be waived since the utilities authorized by the easement grant are considered to further National defense.

(c) Easements shall be issued by a warranted RECO for a term no longer than the term of the ground lease issued to the PPV entity.

(d) CNO or CMC, as appropriate, shall provide written concurrence for the grant of easement.

f. Licenses

(1) Real estate licenses are intended for non-possessory use of real property when the use of other real estate agreements is not appropriate. Care should be taken to ensure licenses are only used in proper circumstances. Licenses should not be used as a short-term substitute for a lease or easement. Licenses should not be used when the nature of the intended use is inconsistent with the limited privilege granted by a license, especially the right of DON to terminate the use without cause and without prior notice. SECNAV has determined licensing of DON controlled real property may only occur when the use will benefit DON, or otherwise will be in the public interest, and when the policies set forth in subparagraph 2b are followed.

(2) Each license authorized by this instruction shall contain the following provisions:

(a) The licensee shall not make any improvements to DON property unless approved by CNO for Navy and CMC for Marine Corps. Any improvements shall be in accordance with COMNAVFACENGCOM criteria.

(b) Unless otherwise provided for in the license, the licensee must remove improvements and restore the real property when the use terminates.

(3) Access and support services provided to VA-Recognized VSO/MSO in accordance with the guidance addressed in reference (bd) shall be accommodated via a license without charge in accordance with subparagraph 2h below.

g. Provision of Installation Access and Support Services for Nonprofit Non-Federal Entities that Assist Service Members and their Families

(1) Subject to the appropriate delegations from CNO for Navy installations and CMC for Marine Corps installations, all requests for installation access and support services from Nonprofit Non-Federal Entities that assist Service Members and their families shall be processed in accordance with the

direction set forth in subparagraphs (2) and (3) of reference (bo).

(2) The consideration and resolution of all requests for installation access and support services from Nonprofit Non-Federal Entities that assist Service Members and their families shall be in accordance with the guidance addressed in reference (bo) and shall remain subject to the policies and procedures set forth in paragraph 2.

(3) The CNO and CMC may issue supplemental guidance, as necessary, to ensure review and adjudication of requests for installation access and support services is consistently administered and in compliance with reference (bo).

h. Provision of Installation Access and Support Services for VA-Recognized VSO/MSO

(1) Subject to the appropriate delegations from CNO for Navy installations and CMC for Marine Corps installations, all requests for installation access and support services from VA-Recognized VSO/MSO shall be processed in accordance with direction set forth in subparagraphs (2) and (3) of reference (bd).

(2) The consideration and resolution of all requests for installation access and support services from VA-Recognized VSO/MSO shall be in accordance with the guidance addressed in reference (bd) and shall remain subject to the policies and procedures set forth in paragraph 2.

(3) Access and support services provided to VA-Recognized VSO/MSO in accordance with the guidance addressed in reference (bd) and the policies and procedures set forth in paragraph 2 of this instruction shall be accommodated via a license without charge.

(4) The CNO and CMC may issue supplemental guidance as necessary to ensure review and adjudication of requests for installation access and support services is consistently administered and in compliance with reference (bd).

i. Provision of Space for Centers of Industrial and Technical Excellence (CITE). Space for a CITE shall be provided in accordance with references (bp) and (cg) and shall follow the

policies and procedures of this instruction and will be executed by COMNAVFACENGCOM.

j. Approvals

(1) The granting of rights of use authorized herein shall be subject to the prior approval of CNO for Navy property and CMC for Marine Corps property.

(2) Commercial billboards or signs promoting private commercial interests that meet the criteria of subparagraph 2b(8) and are proposed for placement on DON property shall be approved in advance by:

(a) CNO for Navy property or CMC for Marine Corps property; and

(b) COMNAVFACENGCOM for consistency with the underlying real estate instrument for both Navy and Marine Corps property.

(3) COMNAVFACENGCOM shall obtain approval of DASN (I&F) when competition is to be waived under the authority of reference (bf). Such approval shall be based on and supported by a Justification and Recommendation issued by COMNAVFACENGCOM and approved by CNO for Navy property and CMC for Marine Corps property that all of the criteria set forth in reference (bf) are satisfied.

(4) COMNAVFACENGCOM shall obtain the approval of DASN (I&F) for those outgrants that depart from the provisions of this section, for leases for which reference (bf) requires a Secretarial determination that is not included herein, for leases where consideration as described in subparagraph 2d(5) will be pursuant to the authority set forth in subparagraph (c)(F) of reference (bf) will be accepted, for leases that require reporting under references (ae) or (bf), and for the omission from a lease of any termination provision.

(5) Granting use of DON property to Federal, state, or local civilian law enforcement officials for more than 60 days requires approval of the Assistant Secretary of the Navy (Manpower and Reserve Affairs) pursuant to reference (bq).

k. Delegation

(1) Subject to the reporting requirements of references (ae) and (bf), and the policies, requirements, and approvals of this paragraph, COMNAVFACENGCOM, as requested by 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 DON.

(2) COMNAVFACENGCOM, if requested by CNO for Navy property or by CMC for Marine Corps property, is authorized to grant exceptions to the prohibition on the placement of billboards on DON leased property if the criteria of subparagraph 2b(8) have been met.

(3) The authority delegated by this subparagraph 2k may be further delegated.

l. Responsibilities

(1) COMNAVFACENGCOM is responsible for obtaining the approvals required by subparagraph 2j.

(2) COMNAVFACENGCOM is responsible for preparing the Congressional submissions and notifications prescribed by references (d), (ac), (ae) and (t) for approval and transmission by DASN (I&F) as required by subparagraph 2j(4).

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

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

3. Real Property Disposal

a. Applicability and Scope

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

(a) Removal from the control of DON of real and related personal property once it is determined the real and related personal property is no longer required by DoD.

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

(c) Conveyance of real property, including any improvements thereon, to an eligible entity who agrees, in exchange for the real property, to carry out a real property acquisition under an encroachment protection agreement entered into under the authority of reference (s) to limit encroachments and other constraints on military training, testing, and operations.

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

(e) Conveyance of utility systems in connection with Utilities Privatization under the authority of reference (bn).

(2) With the exception of conveyances of real property accomplished under the authority of reference (t), this paragraph does not apply to property at installations closed under a base closure law (reference (bj)) that is disposed in accordance with reference (bk) pursuant to the authority delegated and assigned by reference (bl).

b. Policy. It is DON policy that:

(1) Real property that is not required for current or future military purposes shall be disposed 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 (c), the following actions must occur:

(a) CNO for Navy property and CMC for Marine Corps property will coordinate with COMNAVFACENGCOM to determine whether it is in the best interest of DON to utilize the property under the housing PPV authority, per reference (br); and then

(b) The real and related personal property must be screened for DoD uses.

(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 DON, may, under the authority of reference (k), be transferred without compensation as a result of such request, provided:

(a) The property has been determined to be excess to the needs of DON; or

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

(4) All transactions of real or related personal property in a foreign country shall be carried out in accordance with references (bs) and (bt) and applicable U.S. Embassy and Combatant Commander direction/guidance in the country where the real property or related personal property is located.

c. Approvals

(1) The prior approval of CNO for Navy property and CMC for Marine Corps property is required for any removal from DON control of real property or related personal property.

(2) Submissions to Congress prescribed by reference (ae) must be made for all proposed disposals of real property in the United States, its territories and possessions, either by transfer to another Federal agency or another military department, or by report of excess to a disposal agency, and having an estimated value in excess of the requirement set forth in reference (ae). Submissions to the Armed Services Committees must also be made for all proposed disposals of public domain lands that are not suitable for return to the public domain, exceeding the amounts set forth in reference (ae). COMNAVFACENGCOM shall provide copies of these notifications to DASN (I&F) for review, approval, and submission.

(3) For any conveyance of real property under the authority of reference (t), the Congressional submission is required by reference (ae).

(4) The prior approval of DASN (I&F) will be obtained for the transfer of DON real and related personal property to the Army, Air Force, or Coast Guard.

(5) Approval of DASN (I&F) for all land exchange agreements entered into under the authority of reference (t) shall be obtained prior to execution of any such agreement.

(6) The prior approval of DASN (I&F) will be obtained for withdrawal from excess status of any real property reported to GSA.

(7) The prior approval of the Assistant Secretary of the Navy (Financial Management and Comptroller) (ASN (FM&C)) shall be obtained 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 other pertinent data that may assist in obtaining from the Treasury Department and the Department of State any required approvals of the acceptance of payment in that form. Approval of ASN (FM&C) will also be obtained prior to acceptance of any amounts of excess or near-excess currencies.

(8) Approvals of the Treasury Department and the Department of State that may be required will be obtained for

the acceptance of foreign currency or credits in foreign countries in payment of the sale price in any disposal under this instruction.

d. Delegation. Subject to the reporting requirements of references (t) and (ae) and the policy and approvals of subparagraphs 3b and 3c, COMNAVFACENGCOM, as requested by 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 delegate.

(1) Determine DON real and related personal property is excess to DoD when:

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

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

(2) Transfer to the Army, Air Force, or Coast Guard, without compensation, of any real and related personal property that has been requested under reference (k), by the Secretary of the Army or Air Force, or Commandant of the Coast Guard; provided one of the determinations set forth in subparagraph 3b(3) has been made.

(3) Determine, to the extent authorized by reference (b), that real and related personal property which are excess to DoD, are surplus to the Government.

(4) Make the determination required by reference (bu), that a requested conveyance for airport use will not be inconsistent with the needs of DON when a finding is made that:

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

(b) The transfer of the real property will not interfere with the Government's present or foreseeable use of

the remaining real property, or with other Government activities in the vicinity; and

(c) The transfer does not encompass the conveyance of a major portion of an existing Naval Aviation Facility 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 (bu)).

(5) Make the determination required by reference (bv) 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 DON. Any conveyance under this authority must include the statutory conditions set forth in subsection (c) of reference (bv).

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

(7) Under subsection (k) of reference (o), grant consent to the Secretary of the Interior to make, modify, or revoke public land withdrawals.

(8) Take any action authorized by references (c), (k), (t), (v), (br), (bu), (bv), (bx) and (by), including the execution of appropriate documents to report as excess, transfer, convey, destroy, donate, exchange, or otherwise dispose of real property.

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

(10) Under reference (bz), provide GSA with the information required to screen for further Federal use any real property identified in special legislation for conveyance by DON (reference (k)).

(11) The authority delegated herein is also delegated to DASN (I&F) to exercise on a case-by-case basis when DASN (I&F)

determines and finds it to be in the best interests of DON to do so.

(12) Authority is delegated to CNO for the Navy and to CMC for the Marine Corps to reassign real and related personal property among activities under their respective commands.

(13) The authorities delegated by this subparagraph 3d may be further delegated.

e. Responsibilities

(1) COMNAVFACENGCOM will be responsible for:

(a) Preparing the Congressional submissions or notifications prescribed by references (s), (t), (ae) and (bf) for DASN (I&F) use;

(b) Obtaining all of the approvals required by subparagraphs 3c and 3d; and

(c) Making 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.

(2) CNO for Navy property, or CMC for Marine Corps property, shall:

(a) 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; and

(b) Continually review the utilization and physical condition of property under their control and identify real and related personal property that may be made available for reassignment, transfer, or disposal; and

(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. Annexation by Local Municipalities of DON Lands

a. Policy. It is the policy of the DON not to oppose annexation and to cooperate where local statutes so provide, except where DASN (I&F) determines that annexation would not be in the interest of the Government.

b. Annexation Proceedings. When notice that annexation proceedings have been instituted or a municipality informs the DON that annexation proceedings of DON lands are planned, CNO for Navy property and CMC for Marine Corps property will determine whether or not the annexation would be in the interest of the Government. If it is determined that it would not be in the interest of the Government, CNO for Navy property, or CMC for Marine Corps property, shall forward a request to DASN (I&F) via COMNAVFACENGCOM, seeking approval to oppose annexation.

5. Federal Legislative Jurisdiction Over DON Lands Within the United States

a. Applicability and Scope. This paragraph applies to the acquisition (reference (ca)) or relinquishment (reference (cb)) of Federal legislative jurisdiction over DON lands in the United States.

b. Policy. It is the policy of DON to acquire legislative jurisdiction over Federal real property only when such acquisition is necessary to the proper performance of military functions, missions, and tasks on the property. When legislative jurisdiction is considered essential, the degree of jurisdiction sought should be limited to the minimum level of jurisdiction required.

c. Approvals. The change of Federal legislative jurisdiction over DON lands in the United States is subject to the approval of CNO for Navy property and CMC for Marine Corps property, and approval of DASN (I&F).

d. Delegations. Subject to the approvals set forth herein and as provided for in subparagraph 5c, COMNAVFACENGCOM, as requested by CNO for Navy property and as requested by CMC for Marine Corps property, is authorized to change Federal legislative jurisdiction over DON lands within the United States.

e. Responsibilities. COMNAVFACENGCOM shall be responsible for preparing the request for DASN (I&F) signature to change the legislative jurisdiction to either the Governor of the State or state legislature as required by state law where the installation is located and such change in jurisdiction is being requested.

6. Records Management. This instruction will generate a large number of records including, but not limited to, building drawings, environmental surveys, contract files, land maps, muniments, and easement and title information. These records are cadastral records. 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 (cc).

a. Applicability and Scope. Cadastral records shall be maintained by COMNAVFACENGCOM and will contain both the originals and duplicate originals of all muniments, current registers of real estate documents, and up-to-date real estate summary maps of all land holding installations within DON in a manner where they are readily retrievable.

b. Policy. COMNAVFACENGCOM will retain the originals of the title papers until the property is reported excess to GSA or is transferred to another Government agency. At that time, appropriate title papers related to the area involved will be assembled and forwarded to GSA with the Report of Excess, or to the Government agency assuming administration, custody, and control over the real property. In the event disposition is made of only a portion of a DON activity, either the originals or reproduced copies of title papers will accompany the disposal instruments, depending upon whether the larger area of the activity is retained or released by DON. The muniments are always to remain in the custody of the holder of the larger area. COMNAVFACENGCOM shall retain a copy of these records in paper files, electronically, or both.

7. Financial Accounting and Reporting

a. Applicability and Scope. This paragraph applies to the financial accounting and reporting of all real property.

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b. Policy. In accordance with references (ah), (cd) and (ce), the DON will account for the value and depreciation of all real property under its jurisdiction and control, reconcile all real property data on a quarterly basis, and contribute to the balance of the United States Government Financial Statements.

c. Responsibilities. The management and reporting of DON interests as well as the financial accountability as required by references (cd), (ce) and (cf) will be the responsibility of COMNAVFACENGCOM.