



DEPARTMENT OF THE NAVY

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

SECNAVINST 4740.1B
ASN (RD&A)
23 December 2005

SECNAV INSTRUCTION 4740.1B

From: Secretary of the Navy

Subj: PROVISION OF SALVAGE FACILITIES BY CONTRACT, LEASE OR OTHERWISE

Ref: (a) 10 U.S.C. 7361-7364
(b) 10 U.S.C. 2667
(c) 40 U.S.C. 102

1. Purpose. To delegate Secretarial authority to provide, by contract, lease or otherwise, salvage facilities for public and private vessels; to provide notice of certain statutory requirements for salvage facilities contracts; and to establish policy governing the out-leasing of Navy salvage equipment.

2. Cancellation. SECNAVINST 4740.1A of 30 January 1987.

3. Background

a. Reference (a), the Salvage Facilities Act (as amended), authorizes the Secretary of the Navy to provide, by contract or otherwise, necessary salvage facilities for public and private vessels. It further authorizes the acquisition and transfer of vessels and other salvage equipment, as necessary, for operation by private salvage companies. The legislative history of reference (a) makes clear that such acquisitions or transfers may, among other means, be by lease or charter (as in the case of a vessel). As used herein, the term lease includes vessel charters.

b. Amendments to reference (a) clarified that the term "salvage facilities" includes equipment and gear utilized to prevent, abate, or minimize damage to the environment (i.e., pollution abatement equipment).

c. The leasing authority of reference (a), for salvage equipment, is separate and distinct from leasing of military property in reference (b).

4. Delegation

a. Except as stated otherwise in this instruction, the Supervisor of Salvage (SUPSALV), within Naval Sea Systems Command (NAVSEA), is delegated all Secretarial authority in reference (a) to provide salvage facilities for public and private vessels, and to acquire and transfer vessels and other salvage equipment. This authority will be exercised in coordination, as necessary, with the Chief of Naval Operations.

b. Proposed contracts for, or transfers of, salvage equipment that are obviously sensitive or that may be of Secretarial interest should be reported to the Deputy Assistant Secretary of the Navy (Ship Programs).

5. Statutory Requirements for Contracts

a. SUPSALV shall submit to the Department of Homeland Security (DHS) for comment any proposed Navy salvage facilities contract that affects the interests of DHS.

b. The formation of any term contract for the provision of salvage facilities must be preceded by SUPSALV's written determination that available commercial salvage facilities are inadequate to meet the requirements of national defense. For purposes of this provision, a term contract is one for the provision of standby, on-call salvage capabilities to meet whatever needs may arise during a set period of time, as opposed to incident-specific salvage contracts.

c. In order to provide for competition among commercial salvage companies, SUPSALV may not enter into a term contract for salvage facilities until the Navy has provided public notice of the intent to enter into such a contract.

6. Policies Concerning Out-leasing of Navy Salvage Equipment

a. It is the general policy of the Navy not to compete with available commercial entities. For that reason, the Navy will typically decline the exercise of its authority to lease Navy salvage equipment where it is determined that comparable equipment is reasonably available from commercial sources. However, that consideration may be overridden where the proposed lease would be in the public interest. Examples of such situations are the opportunity to bolster national maritime

salvage capability in an underserved region, or the need to provide a more timely and effective response to a significant salvage/pollution incident.

b. Prior to negotiation of a lease of Navy salvage equipment under the authority of reference (a), SUPSALV shall make a written determination that:

(1) the equipment is not needed for military use during the period of the lease;

(2) the proposed lease should not render the property unsuitable for future military use;

(3) the equipment is not "excess property" as defined by reference (c); and,

(4) comparable equipment is not reasonably available from commercial sources or, in the alternative, that the proposed lease will be in the public interest.

c. The term of any such lease shall not exceed five years without the express permission of the Deputy Assistant Secretary of the Navy (Ship Programs).

7. Lease Provisions

a. Leases of Navy salvage equipment shall contain the following provisions:

(1) a description of the general commercial operations in which the equipment may be used;

(2) a stipulation that the equipment may be utilized only for its designed operational purpose;

(3) a provision requiring the lessee to maintain, protect, and preserve the equipment using best commercial practices;

(4) a provision permitting the government to revoke the lease, upon a stipulated written notice period, whenever the government determines that the interests of the United States so require;

(5) a provision permitting the government to revoke the lease at any time during a national emergency declared by the President; and,

(6) a provision prohibiting the lessee from entering into a sublease without the prior written approval of SUPSALV.

b. In addition to the foregoing terms and conditions:

(1) A lease of salvage equipment under the authority of reference (a) shall provide that the equipment will be used to support offshore salvage facilities for the term of the lease or for such lesser period as SUPSALV considers appropriate.

(2) All such leases shall contain comprehensive indemnification and hold harmless provisions whereby lessees of Navy salvage equipment assume liability, including liability for loss of or damage to the equipment and for third-party bodily injury and property damage.

8. Rental Rates for Leased Equipment

a. In general, fair market rental value of the equipment to be leased will be charged as the rental rate. However, there can be exceptions to that general rule; see subparagraph 8d, below.

b. Commercial counterpart rates are normally the best measure of fair market value. For up to date salvage equipment rental rates, a valuable reference is the most current edition of *Appendix A to the Special Compensation Protection & Indemnity Clause (SCOPIC)* of Lloyd's Standard Salvage Agreement. SUPSALV is authorized, but not required, to utilize *Appendix A to SCOPIC* as the basis for the Navy's salvage equipment rental rates.

c. In the case of salvage vessels, leases should normally be awarded only after competitive bid. However, there can be exceptions to that general rule; see subparagraph 8d, below.

d. The Navy may determine that there is justification to transfer salvage equipment, for operation by private salvage companies, on terms that represent less than fair market value if necessary to provide adequate salvage facilities/capability for public and private vessels. For example, a rental rate

below fair market value may be appropriate, or even required, in order to provide additional salvage capability in an underserved region. Similarly, the aforementioned competitive bid requirement for the lease of a salvage vessel may have to be waived in certain cases.

e. At the discretion of SUPSALV, in-kind consideration (such as maintenance, protection, repair and improvement) may form part of the rental compensation scheme for leased salvage equipment.

f. In accordance with reference (a), rental funds received shall be credited to the account administered by SUPSALV for maintaining naval salvage facilities. However, any amount received under reference (a) in any fiscal year in excess of naval salvage costs incurred by the Navy during that fiscal year shall be deposited in the general fund of the Treasury.

9. Maintenance of Records. SUPSALV will maintain a record system from which management information, regarding contracts and leases executed under the authority of reference (a), may be compiled and furnished when required.



Delores M. Etter
Assistant Secretary of the Navy
(Research, Development and
Acquisition)

Distribution:
Electronic only, via Navy Directives Web site
[HTTP://NEDS.DAPS.DLA.MIL](http://NEDS.DAPS.DLA.MIL)