



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

SECNAVINST 11011.47C  
ASN EI&E  
26 AUG 2013

SECNAV INSTRUCTION 11011.47C

From: Secretary of the Navy

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

Ref: See Enclosure (1)

Encl: (1) References (a) through (bs)  
(2) Definitions  
(3) Acquisition, Management and Disposal of Real Property

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 references (a) through (bs).

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

2. Cancellation. SECNAVINST 11011.47B.

3. Background. The original instruction (SECNAVINST 11011.47) was issued in 1983, and a substantive revision (SECNAVINST 11011.47A) revoking the original 1983 instruction was issued on 23 February 2006. A second revision (SECNAVINST 11011.47B) was issued on 12 January 2009 that 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 (BRAC PMO). This third revision incorporates changes to statutory authorities, leasing delegations, organizational changes, 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. The Secretary of the Navy (SECNAV) holds real property for DON. By 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. In accordance with references (b) and (c), it is DON policy that 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.

a. DON policy recognizes that under certain circumstances real property, which is not being optimally used, may be retained for future mission needs and/or leasing purposes, and thus may not be suitable for disposal.

b. 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.

7. Responsibilities/Action

a. Except as provided in subparagraph 7c, assignments of responsibility, requirements for approvals and delegations of authority are contained in enclosure (3). The Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM), with the concurrence of the Chief of Naval Operations (CNO) for Navy property and in coordination with the Commandant of the Marine Corps (CMC) for Marine Corps property, shall issue implementing instructions, prescribe operating procedures, and develop controls required to ensure compliance with this instruction.

b. COMNAVFACENGCOM shall have general responsibility for warranting real estate contracting officers (RECO) for DON. RECOs who enter into a contract on behalf of the United States under the authorities delegated herein must be warranted. COMNAVFACENGCOM, in coordination with CMC, shall maintain a

program warranting contracting officers. The program shall ensure that the contracting officers are qualified and properly trained. Copies of all contracts, transactions and deeds entered into under these delegated authorities shall be maintained by COMNAVFACENGCOM as the central cadastral records repository for DON.

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

d. In addition to warrants issued by COMNAVFACENGCOM pursuant to subparagraph b above, the Principal Deputy Assistant Secretary of the Navy (Energy, Installations and Environment) (PDASN(EI&E)) shall have the authority and discretion to issue real estate contracting warrants on a case-by-case basis.

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 PDASN (EI&E).



ROGER M. NATSUHARA  
Principal Deputy  
Assistant Secretary of the Navy  
(Energy, Installations and  
Environment)

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REFERENCES

- (a) SECNAVINST 5430.7Q, Assignment of Responsibilities and Authorities in the Office of the Secretary of the Navy
- (b) 40 U.S.C. §101, et. seq., Federal Property and Administrative Services
- (c) 41 CFR 102-71, et. seq., Federal Management Regulations
- (d) 10 U.S.C. §2663, Land Acquisition Authorities
- (e) 10 U.S.C. §2601, General gift funds
- (f) 10 U.S.C. §2661, Miscellaneous Administrative Provisions Relating to Real Property
- (g) DoD Directive 4275.5 of 15 Mar 2005, Acquisition and Management of Industrial Resources
- (h) 10 U.S.C. §2828, Leasing of Military Family Housing
- (i) 10 U.S.C. §2675, Leases: Foreign Countries
- (j) DoD Directive 5110.4 of 19 Oct 2001, Washington Headquarters Services (WHS)
- (k) 10 U.S.C. §2696, Real Property Transfer Between Armed Forces and Screening Requirements for Other Federal Use
- (l) 10 U.S.C. §18233, Acquisition
- (m) 10 U.S.C. §18233b, Authority To Carry Out Small Projects With Operation and Maintenance Funds
- (n) 10 U.S.C. §18240, Acquisition of Facilities by Exchange
- (o) 43 U.S.C. §1714, Withdrawals of Lands
- (p) 43 U.S.C. §155, et. seq., Withdrawal, Reservation, or Restriction of Public Lands for Defense Purposes; "Public Lands" Defined; Exception
- (q) 10 U.S.C. §2809, Long-Term Facilities Contracts for Certain Activities and Services
- (r) 10 U.S.C. §2812, Lease-Purchase of Facilities
- (s) 10 U.S.C. §2684a, Agreements to Limit Encroachments and Other Constraints on Military Training, Testing, and Operations
- (t) 10 U.S.C. §2869, Exchange of Property at Military Installations
- (u) 7 U.S.C. §2204b-1, Rural Development
- (v) DoD Instruction 4165.71 of 6 Jan 2005, Real Property Acquisition
- (w) SECDEF Memorandum of 28 Jul 2005: Relationship Between the Land Acquisition Moratorium Policy and 10 U.S.C. §2684
- (x) 10 U.S.C. §2664, Limitations on Real Property Acquisition
- (y) DoD Directive 4165.06 of 13 Oct 2004, Real Property
- (z) United Facilities Criteria 4-010-01, DoD Minimum Antiterrorism Standards for Buildings of 8 Oct 2003

- (aa) 10 U.S.C. §2304, Contracts: Competition Requirements
- (ab) 10 U.S.C. §2303, Applicability of Chapter
- (ac) 16 U.S.C. §505a, Interchange of Lands Between Department of Agriculture and Military Departments of Department of Defense; Report to Congress
- (ad) DoD Directive 1225.07 of 6 Jun 2001, Reserve Component Facilities Programs and Unit Stationing
- (ae) 10 U.S.C. §2852, Military Construction Projects: Waiver of Certain Restrictions
- (af) 10 U.S.C. §2662, Real Property Transactions: Reports to Congressional Committees
- (ag) SECDEF Memo of 17 Nov 2002; Land Acquisition and Leasing of Office Space in the United States (NOTAL)
- (ah) 10 U.S.C. §18233a, Notice and Wait Requirements for Certain Projects
- (ai) 32 CFR 766, Use of Department of Navy Facilities by Civilian Aircraft
- (aj) OPNAVINST 5112.6D, Navy Postal Instruction
- (ak) DoD Instruction 1015.13 of 11 Mar 2004, DoD Procedures for Implementing Public-Private Ventures (PPVs) for Morale, Welfare and Recreation (MWR), and Armed Services Exchange Category C Revenue-Generating Activities
- (al) McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C. §11411)
- (am) ASN(I&E) Memo of 5 Jul 2006, Department of the Navy Environmental Policy Memorandum 06-06: Streamlined Environmental Procedures Applicable to Non-BRAC Real Estate Actions (NOTAL)
- (an) 20 U.S.C. §107, Operation of Vending Facilities
- (ao) 10 U.S.C. §2667, Leases: Non-Excess Property of Military Departments and Defense Agencies
- (ap) 10 U.S.C. §2668, Easements for Rights-Of-Way
- (aq) 10 U.S.C. §2695, Acceptance of Funds to Cover Administrative Expenses Relating to Certain Real Property Transactions
- (ar) 12 U.S.C. §1770, Allotment of Space in Federal Buildings or Federal Land (Federal Credit Unions)
- (as) 47 U.S.C. §151 et. seq., Purposes of Chapter; Federal Communications Commission Created
- (at) DoD FMR 7000.14-R, Volume 5 of Feb 2011, Disbursing Policy
- (au) 10 U.S.C. §2802, Military Construction Projects
- (av) 10 U.S.C. §2692, Storage, Treatment, and Disposal of Nondefense Toxic and Hazardous Materials
- (aw) 40 U.S.C. §1304, Transfer of Federal Property to States

- (ax) 10 U.S.C. §2878, Conveyance or Lease of Existing Property and Facilities
- (ay) SECNAVINST 5820.7C of 26 Jan 2006, Cooperation with Civilian Law Enforcement Officials
- (az) 10 U.S.C. §2688, Utility Systems: Conveyance Authority
- (ba) 10 U.S.C. §101(a)(17)
- (bb) 32 CFR 174-176, Revitalizing Base Closure Communities and Addressing Impacts of Realignment and Revitalizing Base Closure Communities and Community Assistance Community Redevelopment and Homeless Assistance
- (bc) 49 U.S.C. §47125, Conveyances of United States Government Land
- (bd) 23 U.S.C. §317, Appropriation for Highway Purposes of Lands or Interests in Lands Owned by the United States
- (be) Memorandum of Understanding between GSA and Military Services of 15 Jun 2000 (NOTAL)
- (bf) 41 CFR 102-75.1025
- (bg) 40 U.S.C. §545, Procedure for Disposal
- (bh) SECNAV M-5210.2, Department of the Navy, Navy Records Management Program
- (bi) DoD Instruction 7041.3 of 7 Nov 1995, Economic Analysis for Decision Making
- (bj) NAVFACINST 11000.40 of 22 October 2003, Seismic Safety
- (bk) 10 U.S.C. §2831, Military Family Housing Management Account
- (bl) DoD Instruction 4165.69 of 6 April 2005, Realignment of DoD Sites Overseas
- (bm) CJCSI 2300.03C of 26 Dec 2007, Realignment of Overseas Sites
- (bn) ASN(EI&E) Memo of 7 Oct 2011, BRAC Real Estate Contracting Officer Warrants
- (bo) DoD Instruction 1000.15 of 24 Oct 2008, Procedures and Support for Non-Federal Entities Authorized to Operate on DoD Installations
- (bp) 40 U.S.C. §3112, Federal Jurisdiction
- (bq) 10 U.S.C. §2683, Relinquishment of Legislative Jurisdiction
- (br) DoD FMR 7000.14-R, Volume 4, Chapter 6: Property, Plant, and Equipment
- (bs) DoD Instruction 4165.14 of 31 Mar 2006, Real Property Inventory and Forecasting

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 the 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 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.

e. The term "excess property" has the same meaning as found in 40 U.S.C. Section 102(3).

f. The term "ingrant" means transactions such as leases, permits or licenses, temporary 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 "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.

h. The term "license" means a grant of a personal privilege for a specific purpose (e.g., access) on real property without possessing any estate or interest in it. A license is a non-exclusive grant that is revocable at the will of the licensor.

i. 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.

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

k. 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.

l. The term "outgrant" means any agreement whereby a non-DON 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, host tenant real estate agreements, easements, permits, rights of entry, or any other term applied to a similar agreement.

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

n. 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.

o. 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.

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

q. The term "surplus property" has the same meaning as found in 40 U.S.C. Section 102(10).

r. The term "uneconomic remnant" has the same meaning as found in 42 U.S.C. Section 4651(9).

s. The term "utility system" has the same meaning as found in 10 U.S.C. Section 2688(j).

ACQUISITION, MANAGEMENT AND DISPOSAL OF REAL PROPERTY

Paragraphs 1-7 have been intentionally omitted.

8. Real Property Acquisition

a. Applicability and Scope. This paragraph applies to the methods of real property acquisition set forth in subparagraphs 8a(1) through 8a(10). 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 MILCON 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, which is covered by 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 the Department of Navy (DON) use (references (o) and (p)).

(9) Acquisition of facilities 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) or (t).

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 Chief of Naval Operations (CNO) or the Commandant of the Marine Corps (CMC) 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 (u) and (v). Per references (v) and (w), reference (v) does not apply to the acquisition of non-possessory real property interests 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 (v) without the prior approval of the Secretary or the Deputy Secretary of Defense.

(4) MILCON Acquisitions

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

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

2. The proposed project has been reviewed by the Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM) for technical sufficiency and reviewed and approved by CNO for Navy projects and by CMC for Marine Corps Projects and the Assistant Secretary of the Navy (Energy, Installations and Environment) (ASN(EI&E)) or his/her designee.

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

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

2. The appraised fair market value of the property and/or the cost of relocation expenses have increased

beyond what was initially estimated, or COMNAVFACECOM determines that the amount the owner is willing to sell for is reasonable; and

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

4. The Congressional notification required by references (w) and (af) has been made.

(5) Acquisition of Low-Cost Interests in Land. Under reference (d), SECNAV has determined that an interest in land is needed in the interest of national defense when:

(a) 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;

(b) 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;

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

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

(e) CNO for Navy or CMC for Marine Corps property have approved the military requirement.

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

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

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

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

(d) The Congressional submission required by references (d) and (af) has been made by COMNAVFACENGCOM. Appropriations available for MILCON may be used to pay for the acquisition.

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

(a) CNO or CMC have determined that the real property is required for a military mission;

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

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

(8) Acquisition by DON Lease or Through GSA

(a) Pursuant to the policies set forth in reference (v), 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 either (a) no DoD, or other Government real property available that can adequately support

the approved military requirement, or (b) a business case analysis 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; and

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

4. The acquisition obtains full and open competition through the use of competitive procedures, unless expressly authorized by statute and justified pursuant to reference (aa). Pursuant to reference (ab), acquisition of land is exempt from the competition requirement; and

5. Advance reports required by references (ac), (h), and (ad) 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.

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

(d) A mission that requires a long-term use must pursue relocation into Government-owned facilities or land. At least every 5 years, activities/commands that are presently leasing property in the United States (including territories and possessions) shall evaluate the decision to lease to determine whether it is more advantageous to the Government to relocate to Government-owned facilities or land.

(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.

(9) Transfers within the DoD. Under reference (k), real property may be transferred from one armed service to another,

including the Coast Guard, without consideration, upon the request of one Secretary and the approval of the other.

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

(11) 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.

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

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

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

(13) 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 also set forth in reference (s).

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

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

(b) Pursuant to the authority and limitations set forth in reference (t) DON may enter into an agreement to convey real property, including any improvements thereon, described in paragraph a.(2) of reference (t), to an eligible entity who agrees, in exchange for the real property, to carry out a land acquisition, including the acquisition of all right, title, and interest or a lesser interest in real property under an agreement entered into pursuant to reference (s) to limit encroachments and other constraints on military training, testing, and operations.

(14) Construction on Land Held in Less than Fee Simple Title. In accordance with references (ae) and (au), SECNAV has determined that a military construction 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 the following exists:

(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 in the land and the mission cannot be accomplished without the construction of the project on that land; and

(b) even though the land will be held in other than a fee simple interest an economic analysis determines that the cost of construction can be fully amortized over the term of the interest to be acquired; and

(c) in addition to subparagraphs (14)(a) and (14)(b) above, for projects that are neither military construction nor family housing, it must also be determined that the primary benefit of the project is to DON.

c. Approvals. 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 8b(5):

(a) Approval of CNO for acquisitions of property interests for use by the Navy when the cost exceeds \$100,000.

(b) Approval of CMC for all acquisitions of property interests for the Marine Corps.

(c) Approval of PDASN(EI&E) and Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)) for all acquisitions of more than 1,000 acres of land or has a cost of \$1,000,000 or more (reference (v)).

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

(a) Approval of CNO and PDASN(EI&E) for Navy use.

(b) Approval of CMC and PDASN(EI&E) for Marine Corps use.

(c) Approval of PDASN(EI&E) and USD(AT&L) for all acquisitions of more than 1,000 acres of land or has a cost of \$1,000,000 or more (reference (v)).

(d) Approval by PDASN(EI&E) of proposed submission by COMNAVFACENGCOM of the Congressional notification required by references (d) and (af).

(3) For options, consistent with the requirements of subparagraph 8b(7):

(a) Approval of CNO for Navy use.

(b) Approval of CMC for Marine Corps use.

(4) For acquisition by DON lease or through GSA or Washington Headquarters Service (WHS), consistent with the requirements of subparagraph 8b(8):

(a) Approval of CNO for Navy use regardless of funding source. Approval for succeeding leases with annual rents under \$250,000 may be delegated to the Navy Regional Commander. Approval of all renewals of in-leases may be delegated to the Navy Regional Commander provided they are within the original term of the lease.

(b) Approval of PDASN(EI&E) when the annual rental exceeds the statutory reporting requirements of reference (af).

(c) Approval of CMC for all leases of property interests for Marine Corps use.

(d) Approval of PDASN(EI&E) and USD(AT&L) for all leases of 1,000 or more acres of land, or land or facilities in the United States with an estimated annual lease price that exceeds \$1,000,000 prior to any public announcement, request for proposals, notice of intent to perform environmental analysis, request for legislation or budget line item, press release, or other official notice (reference (v)).

(e) Approval of PDASN(EI&E) and the Secretary or Deputy Secretary of Defense for leases that involve relocating into or within the Washington, D.C. area that exceeds \$500,000 in relocation costs (reference (ag)).

(5) For transfers within DoD, consistent with the requirements of subparagraph 8b(9):

(a) Approval of CNO and PDASN(EI&E) for Navy use.

(b) Approval of CMC and PDASN(EI&E) for Marine Corps use.

(c) Approval by PDASN(EI&E) of proposed submission by COMNAVFACENGCOM of the Congressional notification required by reference (af).

(6) For transfers of excess property, consistent with the requirements of subparagraph 8b(10):

(a) Approval of CNO and PDASN(EI&E) for Navy use.

(b) Approval of CMC and PDASN(EI&E) for Marine Corps use.

(c) Approval by PDASN(EI&E) of proposed submission by COMNAVFACENGCOM of the Congressional notification required by reference (af).

(7) For acquisitions of reserve forces facilities, consistent with the requirements of subparagraph 8b(11):

(a) Approval of CNO and PDASN(EI&E) for Navy use.

(b) Approval of CMC and PDASN(EI&E) for Marine Corps use.

(c) Approval by PDASN(EI&E) of proposed submission by COMNAVFACENGCOM of the Congressional notification required by references (ah)and(af).

(8) For withdrawal, reservation or restriction of public domain lands, consistent with the requirements of subparagraph 8b(12):

(a) Approval of CNO for Navy use.

(b) Approval of CMC for Marine Corps use.

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

(d) Approval of USD(AT&L) when required by (reference (v)).

(9) For encroachment management, consistent with the requirements of subparagraph 8b(13):

(a) Approval of CNO for Navy use.

(b) Approval of CMC for Marine Corps use.

(c) Approval of PDASN(EI&E) for all agreements entered into under the authority of reference (s).

(d) Approval of PDASN(EI&E) for any proposed change to the area of interest or change in the cost share greater than 15 percent to a previously approved agreement.

(e) Approval of PDASN(EI&E) for all agreements entered into under the authority of reference (t).

(f) For any acquisition under the authority of reference (t), COMNAVFACENGCOM shall provide notification in the

Federal Register, as well as the Congressional submission required by references (t) and (af). COMNAVFACENGCOM shall provide copies of these notifications to PDASN(EI&E) for review prior to submission.

(10) For construction on land held in less than fee simple title, consistent with the requirements of subparagraph 8b(14):

(a) Approval of CNO for Navy use.

(b) Approval of CMC for Marine Corps use.

(c) Approval of COMNAVFACENGCOM for technical consistency and consistency with underlying real estate interest.

(11) For any acquisition that requires prior approval by, or prior notification to, either the Office of the Secretary of Defense, Congress or specific Congressional committee(s), approval of PDASN(EI&E) is required prior to initiating acquisition actions.

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 8c:

(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 8b(7) and 8c(3).

(2) Accomplish acquisitions of low-cost interests in land when the criteria in subparagraph 8b(5) have been satisfied.

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

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

(5) Approve or reject an offer of settlement 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 from the DOJ to accept offers of settlement not exceeding \$500,000. The authority delegated to the United States Attorney does not involve the revesting of title or any other property interest.

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

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

(b) The Congressional submissions required by references (ac) and (af) have been made. Copies of these notifications shall be provided to PDASN(EI&E) for review prior to submission.

(c) In the case of foreign leases for military family housing, the notification required by reference (h) has been made, if required. COMNAVFACECOM shall provide copies of these notifications to PDASN(EI&E) for review prior to submission.

(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 8b(12) have been satisfied.

(10) Make the determination under reference (ae) 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 8b(14) have been satisfied.

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

(12) Enter into agreements, convey and acquire real property under the authority of reference (t) to limit encroachments and other constraints on military training, testing, and operations.

(13) The authorities delegated herein are also delegated to PDASN(EI&E), on a case-by-case basis when PDASN(EI&E) determines and finds it to be in the best interests of DON to do so.

e. Responsibilities

(1) COMNAVFACENGCOM is responsible for submitting a notice to the Federal Register when utilizing the authority of reference (t) and for making the Congressional submissions or notifications to the Armed Services Committees and, when applicable, the Appropriations Committees, prescribed by law. COMNAVFACENGCOM shall provide copies of these notifications to PDASN(EI&E) for review and approval prior to submission.

(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. They will advise COMNAVFACENGCOM when those changes require the real property acquisition to be delayed, modified, or canceled.

9. 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 the Federal Acquisition Regulation (FAR) subpart 45 incident to

performance of a Government contract for the procurement of supplies, services, construction, utilities, or other commodities.

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

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

(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 (ak).

b. Policy. SECNAV holds real property 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 official Navy and Marine Corps 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 (BRAC) action.

(b) Its use by others will not interfere with or adversely affect the accomplishment of the activity's mission, or with the DoD's present 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 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 that is proposed for non-Federal use and is subject to procedures set forth in reference (bo) and the requirements of reference (am), COMNAVFACENGCOM shall report such property to the Department of Housing and Urban Development in accordance with reference (al).

(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 (ECP) report in accordance with reference (am) to analyze the environmental condition of the property and determine 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 outgranting or otherwise making available of DON-controlled real property for these or related type uses except for DoD-sponsored programs under reference (ak) 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 (an).

(8) DON will not as a general rule, 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 5 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 a Member of Congress for a district office or other political use.

c. Consideration and Reimbursement of DON Expenses

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

(a) Reimburse DON for administrative expenses incurred by entering into the transaction, as allowed by reference (aq). 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 activity and the contracting office. This requirement may be waived when the amount is less than the cost of collecting the reimbursement. It may also be waived if the installation on which the real property is located agrees that a waiver will benefit the activity and further agrees to pay for all of those administrative costs.

(b) 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. When the amount is nominal; 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 (ar). Janitorial services, fixtures, and maintenance may also be supplied to credit unions without reimbursement subject to budget or manpower constraints.

(2) In addition to the payment of administrative expenses and cost of utilities and services, non-Federal users shall be charged consideration in an amount not less than the fair market value 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 Government space or a lease of land not to exceed 5 years by credit unions in accordance with reference (ar); or

(c) For licenses where the Fair Market Value (FMV) has been determined to be nominal.

(3) Other 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.

d. Leases

(1) Under the authority of reference (ao), when the policies set forth in subparagraph 9b have been met, SECNAV has determined that the leasing of DON real property will be advantageous to the United States and will promote the national defense, or be in the public interest.

(2) Each lease entered into under the authority of this instruction shall be in accordance with all of the limitations set forth in reference (ao) and shall contain all of the provisions required by reference (ao). Except as provided in subparagraph (d)(3) below, all requests for a SECNAV determination that the granting of a lease for a term in excess of 5 years, or the omission from a lease of the unqualified right to revoke it at any time, will promote the national defense or be in the public interest will be made on a case by case basis.

(3) Under the authority of reference (ao), SECNAV has determined that the granting of a lease for a term in excess of 5 years, or the omission from a lease of the unqualified right to revoke it at any time, will promote the national defense or be in the public interest; provided that COMNAVFACENGCOM finds that one of the following conditions exist:

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

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

(c) The lease is for use of land under reference (at) for construction of a building to house a bank not to exceed 25 years. The lease shall be subject to periodic review every 5 years to assess and adjust the consideration to account for changes in fair market rental.

(d) The lease is for use of Government space to a bank or credit union when the financial institution will use its own funds to improve the existing Government space under reference (at) and has a term not to exceed 25 years. The lease shall be subject to periodic review every 5 years to assess and adjust the consideration to account for changes in fair market rental.

(4) Leases pursuant to the authority and limitations set forth in reference (ar), providing for no-cost lease of land for a term of 5 years with the right to renew up to 4 additional 5-year terms, or the unqualified right to revoke at any time may omit from the lease the unqualified right to revoke, if the no-cost land lease is for construction of a building to house a credit union and the credit union has certified prior to lease execution, and again prior to exercise of each lease renewal, that all of the requirements of reference (ar) have been satisfied.

(5) In accordance with the authorities and limitation set forth in reference (ao), 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 (ao), 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 (av), 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) This subparagraph 9d does not apply to property at bases closed under a base closure law (reference (ba)) that is

leased in accordance with reference (bb) pursuant to the authority delegated and assigned by reference (bn).

e. Easements

(1) Under the authority of reference (ap), SECNAV 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 that:

(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 9b 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, non-use for a period of 2 consecutive years, or abandonment;

(b) A requirement for the grantee to relocate its improvements at its expense if at any time the easement interferes with Government activities, 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 PDASN(EI&E)).

(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 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 9c. Cash consideration received from an easement grant authorized by reference (ap) shall be deposited into the account established by reference (ao) and shall be available for the uses stated in reference (ao). In-kind consideration received under the authority of reference (ap) shall be treated the same as in-kind consideration received under the authority of reference (ao).

(4) Construction of utilities (excluding cable television) that exclusively support PPV housing projects authorized under the authority of reference (az) 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, the following shall apply:

(a) The easement premises must be located entirely within the footprint of the lease issued to the PPV entity.

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

(c) The relocation and removal/restoration requirements set forth in paragraphs 9e(2)(b) and 9e(2)(c) may be waived since the utilities authorized by the easement grant are considered to further National defense.

(d) Easements shall be issued by a warranted real estate contracting officer for a term no longer than the term of the lease issued to the PPV entity.

(e) CNO shall provide written concurrence for the grant of easement.

(f) This policy is not applicable to utility easements in connection with PPV housing projects at Marine Corps installations. Utility easements in connection with PPV housing projects at Marine Corps installations will be treated as any other grant of easement. Except as noted above, all other policies and procedures set forth in paragraph 9e remain applicable to the grant of utility easement (excluding cable television) in connection with PPV housing projects.

f. Licenses

(1) SECNAV has determined that licensing of DON controlled real property will be advantageous to the United States when the use will benefit DON, or otherwise will be in the public interest, and when the policies set forth in subparagraph 9b 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, except in accordance with instructions issued by COMNAVFACENCOM and approved by CNO for Navy activities or CMC for Marine Corps properties.

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

(3) Care should be taken to assure that 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 DON's right to terminate the use without cause and without prior notice.

g. Approvals

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

(2) Commercial billboards or signs promoting private commercial interests that meet the criteria of subparagraph 9b(8) and are proposed for placement on DON property shall be approved in advance by CNO for Navy property, or and by CMC for Marine Corps property, and COMNAVFACENGCOM for consistency with the underlying real estate instrument for both Navy and Marine Corps property.

(3) COMNAVFACENGCOM shall obtain approval of PDASN(EI&E) when competition is to be waived under the authority of reference (ao). Such approval shall be based on and supported by a Determination and Findings issued by COMNAVFACENGCOM and approved by CNO for Navy properties and CMC for Marine Corps properties that all of the criteria set forth in reference (ao) are satisfied.

(4) COMNAVFACENGCOM shall obtain the approval of PDASN(EI&E) for those outgrants that depart from the provisions of this section, for leases for which reference (ao) requires a Secretarial determination that is not included herein, for leases where consideration as described in subparagraph 9d(5) will be pursuant to the authority set forth in subparagraph (c)(F) of reference (ao) will be accepted, and for leases that require reporting under references (af) or (ao).

(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) (ASN(M&RA)) pursuant to reference (ay).

(6) Approval by PDASN(EI&E) of proposed submission by COMNAVFACENGCOM of the Congressional notification required by references (ac) and (af).

h. Delegation

(1) Subject to the reporting requirements of references (af) and (ao) 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 and as requested 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 9b(8) have been met.

(3) The authority delegated under this subparagraph (9h) is also delegated to PDASN(EI&E) to exercise on a case-by-case basis when PDASN(EI&E) determines and finds it to be in the best interests of DON to do so.

(4) The authority delegated herein may be redelegated.

i. Responsibilities

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

(2) COMNAVFACENGCOM is responsible to prepare the Congressional submissions or notifications prescribed by references (af) and (ao) for approval as required by subparagraph 9g(6).

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

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

10. 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 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 land acquisition under an 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 utilities systems in connection with Utilities Privatization under the authority of reference (az).

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

b. Policy. It is DON policy that:

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

(2) Prior to initiating action to report any excess real and related personal property to GSA for disposal under procedures set forth in reference (c), 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 (ax).

(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 the CMC for Marine Corps property, has determined that the requirements of the using activity can and should be amended to accommodate the needs of the requesting agency, and shall have approved the transfer.

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

(2) Submissions to the Armed Services Committees prescribed by reference (af) must be made for all proposed disposals of real property in the United States, Puerto Rico, Guam, American Samoa, the American Virgin Islands and the Trust Territory of the Pacific Islands, either by transfer to another Federal agency or another military department, or by report of excess to a disposal agency, and having an estimated FMV in excess of the requirement set forth in reference (af). 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 (af). COMNAVFACENGCOM shall provide

copies of these notifications to PDASN(EI&E) for review and approval prior to submission.

(3) For any conveyance of real property under the authority of reference (t), notification in the Federal Register, as well as the Congressional submission required by reference (af) must be made by COMNAVFACENGCOM. COMNAVFACENGCOM shall provide copies of these notifications to PDASN(EI&E) for review and approval prior to submission.

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

(5) Approval of PDASN(EI&E) for all agreements entered into under the authority of reference (t) shall be obtained prior to execution of any such agreement.

(6) The prior approval of PDASN(EI&E) will be obtained for withdrawal from excess status of any 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 (af) and the policy and approvals of subparagraphs 10b and 10c, 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 redelegate.

(1) Determine that 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 that disposal using housing PPV authority at reference (ax) 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, any real and related personal property that has been requested under reference (k), by the Secretary of the Army, Air Force, or Homeland Security; provided that one of the determinations set forth in subparagraph 10b(3) have 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 (bc), 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 property that can be used for the purpose;

(b) The transfer of the 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 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 (bc).)

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

(6) Under reference (aw), 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), (ax), (bc), (bd), (bf) and (bg), including the execution of appropriate documents to report as excess, transfer, convey, destroy, donate, exchange, or otherwise dispose of property.

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

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

(11) The authority delegated herein is also delegated to PDASN(EI&E) to exercise on a case-by-case basis when PDASN(EI&E) 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 delegated authorities may be redelegated.

e. Responsibilities

(1) COMNAVFACENGCOM will be responsible for:

(a) Preparing the Congressional submissions or notifications prescribed by references (t), (af) and (ao) for PDASN(EI&E) approval;

(b) Obtaining all of the approvals required by subparagraphs 10c and 10d; 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 inform COMNAVFACENGCOM when consideration of military requirements for the property involved necessitates the modification or termination of any action pursuant to this paragraph to reassign, transfer, or dispose of real and related personal property.

(3) CNO for Navy property and CMC for Marine Corps property shall:

(a) 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

(b) 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.

f. Action

(1) COMNAVFACENGCOM shall:

(a) Make appropriate changes to the inventory of Navy real property upon completion of any reassignment,

transfer, or disposal effected under this instruction. CMC will make appropriate changes for Marine Corps property.

(b) When required under subparagraph 10c(7), obtain the prior approval of the ASN(FM&C) for the acceptance of foreign currency or credits in payment of all, or any part, of the sale price of any proposed sale of foreign excess real or related personal property. The comptroller shall be furnished the particulars of the proposed transaction and such other pertinent data as may be of assistance in obtaining from the Treasury Department and the Department of State any required approvals of the acceptance of payment in such form.

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

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

(b) 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.

(3) COMNAVFACENGCOM, working with ASN(FM&C), shall obtain such approvals of the Treasury Department and the Department of State as may be required for the acceptance of foreign currency or credits in foreign countries in payment of the sales price in any disposal under this instruction.

#### 11. Annexation by Local Municipalities of DON Lands

a. Applicability and Scope. Annexation proceedings are covered by laws of the states or possessions of the United States that generally require:

(1) Initiation or approval of the annexation by the governing body of the municipality.

(2) Public or other notice to landowners involved.

(3) Approval, consent, or acquiescence by a majority of the landowners involved.

b. Policy. It is the policy of the DON not to oppose annexation and to cooperate where local statutes so provide, except where PDASN(EI&E) determines that annexation would not be in the interest of the Government.

c. Annexation Proceedings. When notice that annexation proceedings have been instituted or a municipality informs that annexation proceedings of DON lands are planned, CNO for Navy properties and CMC for Marine Corps properties 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 PDASN(EI&E) via COMNAVFACECOM, seeking approval to oppose annexation.

d. Delegation. Subject to the approval of PDASN(EI&E) prior to opposing annexation, the installation commander/commanding officer is authorized to cooperate with or oppose annexation proceedings.

## 12. Federal Legislative Jurisdiction Over DON Lands Within the United States

a. Applicability and Scope. This paragraph applies to the acquisition (reference (bp)) or relinquishment (reference (bq)) 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 acquisition or relinquishment 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 PDASN(EI&E).

d. Delegations. Subject to the approvals set forth herein and as provided for in subparagraph 12c, COMNAVFACENGCOM, as requested by CNO for Navy property and as requested by CMC for Marine Corps property, is authorized to acquire or relinquish Federal legislative jurisdiction over DON lands within the United States.

e. Responsibilities. COMNAVFACENGCOM shall be responsible for preparing the request for PDASN(EI&E) signature to adjust 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 adjustment in jurisdiction is being requested.

13. 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 (bh).

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 landholding 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.

14. Financial Accounting and Reporting

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

b. Policy. In accordance with references (bi), (br) and (bs), 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 (bk), (br) and (bs) will be the responsibility of COMNAVFACENGCOM.