

CHAPTER 9

RELOCATION OF CEMETERIES

1. PURPOSE AND SCOPE.

This Chapter provides guidance, describes procedures and enunciates the policies to be used and followed in accomplishing the relocation of cemeteries and burial grounds as made necessary by Department of the Navy projects.

2. REFERENCES.

- (a) Title 33 U.S.C. 558b-1
- (b) NAVFACENGCOM P-73, Chapter 3

3. GENERAL POLICY.

The relocation or protection of cemeteries is based upon the need for acquisition of a real estate interest and the extinguishment of the legal rights of next of kin to visit and preserve the burial grounds of their ancestors and relatives. The Navy's policy is to respect the wishes of next of kin as to the removal and reinterment of bodies. In general just compensation in the acquisition of an existing cemetery or burial ground consists of a substitute cemetery comparable to the existing one plus disinterment and reinterment of the bodies, plus the transfer of all other facilities including monuments from the old site to the new site.

4. CEMETERY RELOCATION PLAN.

A Cemetery Relocation Plan will be prepared by the Engineering Field Division (EFD)/Field Activity (EFA).

The plan will be based upon a thorough investigation and will contain a full statement of all essential factors including but not limited to the following:

- a. A statement as to the necessity for relocation of the cemetery.
- b. A map of the project showing the location of the cemetery clearly identified by cross symbol.
- c. A statement of the nature and control exercised over each cemetery containing a description of each cemetery, including location, type, number of graves, improvements, state of maintenance, names of parties having control, nature of their jurisdiction and control and all other appropriate information. The investigation must be thorough and meticulous to assure that no single graves or small private burial plots will be overlooked.
- d. A detailed map or plan of the existing cemetery with each grave identified by name and number. Graves not identified by name will be

designated as "Unknown" and appropriately numbered. All buildings, roads and other facilities will be shown on the plan.

e. Large photographs of the cemetery showing representative views, and where necessary, smaller photographs of all tombstones etc., properly indexed and identified, to be used in the proceedings and for record purposes.

f. A description of the reinterment site including its location and its improvements, together with information as to its present use. If it is an existing cemetery, information as to whether it is under the control of a duly constituted association or whether it is to be acquired and control then assumed by a newly-formed association; such information shall include the name of the cemetery, the name of the association and identification of the persons in the association. If the reinterment site is to be acquired the appraised value with full information as to when and how it will be acquired shall also be furnished.

g. A map or plan of the reinterment site showing proposed locations of all buildings, roads and facilities, and showing the location of each grave carefully identified by appropriate number.

h. Photographs of the reinterment site.

i. A register of the bodies to be reinterred including name, race, date of birth, date of death, type of casket, type of monument and next of kin. Information on next of kin shall include names, addresses, relationship to deceased, whether next of kin has signed a permit agreeing to the disinterment and reinterment of the body in the new cemetery site, and whether next of kin desires to be present at disinterment and/or reinterment.

j. A statement by the officials in charge of the existing cemetery, if any, approving the relocation plan.

k. A statement of the officials of the reinterment site approving the plan and agreeing to accept control of the relocated graves. (Such officials may be those of an existing cemetery if relocation is to be in an existing cemetery, or they may be those of a newly-formed association, if a new burial site is to be acquired.)

l. A statement signed by an appropriate, authorized official of the state, county and/or city having jurisdiction, stating that the cemetery relocation plan satisfies local requirements and laws relating to disinterment, transportation and reinterment of bodies. (If there is no such requirement, a statement to that effect should be obtained.)

5. ESTIMATED COSTS.

As a separate submission to be furnished at the same time as the relocation plan, the EPD will provide an estimate of costs of relocating the cemetery with supporting data and documentation, together with pertinent specifications, bid invitations, bids and awards, if any.

6. CERTIFICATE OF EPD.

Attached to the plan of relocation shall be a certificate that:

a. A thorough and diligent search and inquiry was made to determine

the existence, location, identity, and vital statistics of all bodies in the existing cemetery and to ascertain the names and addresses of the next of kin.

b. All next of kin who could be located were informed of the need for relocation and of the relocation plan, either by personal interview or by correspondence.

c. All next of kin interviewed have signed grave relocation permits in accordance with the plan or have provided statements that they desire reinterment at other locations or sites.

d. The Cemetery Relocation Plan contains a true listing of all grave relocation permits obtained.

e. All original signed grave relocation permits are on file in the office of the EPD, where they may be inspected and copies made if desired.

7. VACANT BURIAL SPACES IN FAMILY PLOTS.

Provision may be made in the Cemetery Relocation Plan prepared as provided in paragraph 4 above for replacement of spaces in existing cemeteries available for future burials. This is on the basis that a cemetery relocation is a replacement in kind. In developing such provisions in the Relocation Plan the following guidelines will be observed:

a. In the case of an active cemetery administered by an existing cemetery authority, with defined plots owned by separate families, consideration should first be given to the establishment of a new cemetery of equal size, or of a size decreased only in proportion to the reinterments to be made in other locations near the new site as may be preferred by next of kin. The Relocation Plan may provide for assignment by the relocated cemetery authority of family burial plots in the relocated cemetery substantially of the same size as exist in the existing cemetery to be relocated. If the relocation site is an already existing cemetery the Relocation Plan may contain a proposal for financing the acquisition of burial spaces for future use in the same number as exist in the present family plot, or as may be desired by the next of kin, whichever is lesser, through payment for such spaces by the relocation contractor, with reimbursement to the contractor by the Government. The plan should also discuss and present a proposal on the nature of the burial permits to be issued by the cemetery authority and the method to be used to assure their availability when needed.

b. In the case of an active community type cemetery not formally organized as described in paragraph 7.a above, but having, through usage, established family plot areas with or without fencing, curbing or other interior boundaries, burial spaces for future use may be provided and should be equal to the lesser of the following:

- (1) The number of such spaces now available in the present cemetery, or
- (2) The number of spaces desired by and required for the burial

of the living members of the immediate family. If family desires cannot be ascertained or resolved the Relocation Plan may provide for such spaces on the basis of local burial customs, or of custom of the particular cemetery to be relocated. Although it is preferable in this type of cemetery to provide a new site with assigned family plots, there may be situations where the best interest of the Government or the wishes of the next of kin may necessitate provision for such additional spaces in an existing cemetery.

c. In case of present active family burial plot release title is not separate from the title to the present tract, provision for additional spaces for future use, either by assignment of a family plot by the authority administering a new site, or by provision for such spaces in an existing cemetery, should be as provided in paragraph 7.b. The type of situation described in this paragraph 7.c is distinguished from the situation described in paragraph 7.a, even though the family owns the fee and one burial plot is fenced. The destruction is on the basis that there is no established burial ground held in a separate title as a cemetery, which can be used as a guide for replacement in kind.

8. PERPETUAL CARE.

a. The Relocation Plan should include provisions for perpetual care if available at the old cemetery. If not available at the old cemetery it should be given favorable consideration if:

- (1) It is required by State law for privately developed cemeteries,
- (2) It is to be provided at other relocated cemeteries for the same project or for a nearby project in another state which required perpetual care,
- (3) It is required by the regulations of an existing cemetery which is the most desirable and feasible relocation site; and/or
- (4) It can be justified as a part of the most economical Relocation Plan which can be developed to the satisfaction of all intended parties including cemetery trustees and/or next of kin.

b. Provisions for perpetual care proposed on the basis of any of the above mentioned considerations must be carefully and appropriately discussed and presented in the Relocation Plan.

c. Where perpetual care is to be provided contract specifications will provide that the grave relocation contractor will pay to the relocated cemetery organizations or associations the fixed per-grave cost for such perpetual care and maintenance in addition to the charge for each grave site in which reinterment is made or which is provided in exchange for an unused space in the existing cemetery. Such payments will be handled in the same manner as payments for relocation sites being acquired by the contractor as provided in paragraph 14.b on page 9-7, for which the contractor pays on a reimbursable fixed charge basis. If partial payments to the contractor are proposed the contract must contain appropriate provisions therefor.

9. SELECTION OF NEW SITES.

Selection of a cemetery relocation site will be made after careful consideration of all reasonably available areas, and with due consideration to recommendations and wishes by the cemetery organization and/or other interested parties, including next of kin. Within reason, the new site selected shall be approved by all such interested parties. The new site will be reasonably accessible to public roads and will be so located that expansion may be possible to accommodate requirements for additional graves which may be discovered in the progress of the disinterment. The site selected should have natural drainage, soil conducive to growth of landscaping, and of sufficient depth and quality to permit the interment of bodies at minimum cost. Where there is doubt as to the type, depth and character of the soil, test borings will be made and all bidders given opportunity to examine them before bidding. Where established cemeteries exist at locations reasonably close to the project area, arrangements may be made for the relocation of bodies to these established cemeteries rather than to acquire a separate site if it is in the best interest of the Government to do so. In no case will the site be on Government-owned land.

10. ACQUISITION OF NEW SITES.

General. Acquisition of new cemetery sites may be accomplished by direct purchase or by condemnation. Acquisition by condemnation proceedings instituted by the Government is not encouraged.

a. Purchase. The preferred method of acquisition is by negotiation of an option or agreement for purchase running from the owners to the United States of America. The site will be appraised and a preliminary title search made by a qualified attorney to determine that no legal obstacle exists to prevent acquisition in fee simple by direct purchase. The period for exercise of the option will be for as long as can be obtained and in no event for a shorter period than needed for processing a condemnation proceeding through NAVFACENGCOCOM and the Department of Justice and obtaining an order of court approving the Relocation Plan. The option will not be exercised by the EPD until the Relocation Plan is approved by the court unless the removal of all the bodies to the new site does not require court authorization. The format of option to be used may be patterned after and include appropriate provisions of Appendix "A" of Chapter 5 of this publication.

b. Condemnation. Where the only site satisfactory to the cemetery association or next of kin cannot be optioned or acquired by direct purchase at a satisfactory price consistent with the Government's approved, appraised valuation, acquisition of the relocation site will be by condemnation proceedings filed by the Government. Such proceedings will not be filed, however, until a relocation agreement has been made with the officials of the existing cemetery association who have authority to convey title to the existing cemetery to the United States. Where title to the

relocation site is taken in the name of the United States, whether by condemnation or otherwise, such title may be transferred to the cemetery association in exchange for the title to the existing cemetery by exchange of lands procedures pursuant to the Act of Congress as indicated by reference (a).

c. Title. To assure that title to the new site is good and marketable, whether acquired by purchase, donation or condemnation, it is essential that title evidence in the form of a title certificate or title insurance policy be obtained and that all interests in the land necessary for its use as a burial ground be obtained and all conflicting rights be acquired or extinguished.

11. ACQUISITION OF EXISTING CEMETERY SITE.

a. Normally acquisition of an existing burial ground or cemetery site requires acquisition of all real estate interests and extinguishment of burial and visitation rights.

b. The burial and visitation rights will always be extinguished simultaneously with acquisition of the real estate fee title and easement interests in the land.

c. Acquisition of an existing cemetery will always be by a condemnation proceedings filed in the appropriate Federal District Court; and in the same proceedings the court will be asked for an order extinguishing burial and visitation rights and approving the Relocation Plan.

12. CONDEMNATION PROCEDURES.

a. Condemnation of land comprising a cemetery will be accomplished by filing a condemnation complaint. The complaint will be prepared in the manner set forth in Chapter 11 of this publication. The Relocation Plan prepared by the EPD as prescribed above in paragraph 4 will be submitted by him to NAVFACENCOM with the condemnation assembly.

b. The EPD will, as appropriate and obtainable, submit with the condemnation assembly a stipulation or stipulations obtained from the owner or owners of the old cemetery site, stating that the replacement of the site and the relocation of the bodies, monuments and facilities will constitute just compensation.

13. COURT ORDER FOR DISINTERMENT.

a. General. To obtain Federal court orders approving disinterment and reinterment of bodies it is necessary that land interests be acquired in the same proceedings in which the cemetery relocation plan is filed. To provide a basis for court jurisdiction in such cases the following described procedures will be followed in acquiring cemeteries.

b. Public Cemeteries. In this category are formally organized burial grounds under control of cemetery associations, churches and like bodies. These cemeteries will all be acquired by condemnation under arrangement and agreement with the cemetery association or other governing body for relocation. The fee title to the cemetery will be acquired and a complete and detailed cemetery relocation plan must be submitted as

of completions will be made a part of this report. The EFD will prepare this report in sufficient number for distribution to the court and other necessary distribution, including the cemetery association, if any, the local county office of record and other interested State or local office having jurisdiction.

part of the condemnation assembly. The Relocation Plan will be delivered to the Department of Justice with the condemnation request for filing with the court to support a request for and order of disinterment in accordance with said Relocation Plan. All burial rights and visitation rights will be extinguished at the same time.

c. Private Cemeteries. Private cemeteries are those burial grounds commonly under control of individuals, such as family burial plots. Usually such plots lie within larger parent tracts or parcels and are vested in identical ownership. In such cases the burial grounds or plots will be described and mapped as separate and distinct parcels, and will be acquired by condemnation proceedings, even though the parent tract or parcel may also be acquired by a separate transaction, by direct purchase or by condemnation.

Every such burial plot or parcel will be acquired in fee simple, and all outstanding rights, including burial and visitation rights, will be extinguished. The condemnation assembly will include the cemetery Relocation Plan and the Federal Court will be asked for an order for disinterment and reinterment in accordance with said plan.

14. RELOCATION METHODS.

a. General. Actual work of relocating a cemetery will not be commenced until the court has issued the order for disinterment. Usually the work will be done by a qualified organization under Government contract. Specifications for the work will not only include Federal requirements but will also include requirements of local and State laws and regulations concerning cemetery relocations. As necessary, specifications will be revised to incorporate such requirements. In addition, the specifications will be approved by the trustees of the cemetery association or other interested parties, if necessary. This procedure contemplates the possibility of relocation agreements with the organizations having jurisdiction over the cemeteries to be relocated and/or the next of kin. It also contemplates the possibility of such organization or next of kin agreeing to contract for the actual relocation work.

b. Reinterment at Other Sites. Normally Relocation Plans will provide for reinterment of bodies and remains and relocation of monuments at the Government selected new site. At the request of next of kin, however, provision may be made for delivery to authorize persons who must be qualified morticians, of the remains of decedents disinterred from cemeteries within project areas, together with monuments, markers and other facilities removed from such cemeteries, for transportation to, reinterment in, and re-erection at another site than the Government's reinterment site. In such cases the Government's relocation contractor will accomplish the disinterment and preparation for reinterment and will deliver the old casket or the new casket furnished by the Government, including the remains, at graveside in the old cemetery or at another location as requested by the next of kin no further distant than the Government's reinterment

site. In addition, the Government will, through its relocation contractor, make a monetary contribution toward the expenses of reinterment elsewhere, but such contribution will be limited to the additional amount which would have been expended under the relocation contract to accomplish the reinterment in the Government's reinterment cemetery, including items such as purchase of burial plot, opening and closing of grave, transportation to Government reinterment site, erection of monuments and markers, etc. The cash contribution for such items to be made through the contractor, will be limited to the actual cost of the next of kin, but normally should not exceed the amount the Government would have spent had the remains been relocated in the Government's relocation cemetery as contemplated by the agreement with the contractor. This limitation will be exceeded only upon the most extenuating circumstances

15. SUPERVISION OF CEMETERY RELOCATIONS.

Cemetery relocations by their very nature are unusual and sensitive. It is essential therefore that care should be exerted to accomplish the work with discretion and dispatch and that contract requirements be scrupulously followed. To assure such conduct throughout the relocation the EFD may as appropriate, employ some local person or persons who may be recommended by the cemetery association concerned or some other local organization to work as a liaison for the EFD for the purpose of locating and interviewing next of kin, relatives and others, and notifying them of the time the bodies are to be disinterred and reinterred. This person may be a minister or other respected local citizen employed on a "Contract for Services" basis. Such person shall not be required to perform reburial rites or ceremonies as part of his employment, but may do so at his own volition if desired by next of kin. It is emphasized that such individual would be employed primarily as a public relations representative and not in place of an inspector at the work site, and his primary function would be to establish and maintain optimistic community relationships for the relocation contractor and the EFD.

16. FINAL REPORT.

To complete court records and Navy records of cemetery relocations it is necessary that a final, completion report of each such relocation be prepared. This report will contain photographs of the old site and the new one and contain data on the methods used to satisfy the interested parties, including cemetery groups, next of kin, local governmental bodies, etc. The report will contain a description of rededication ceremonies, if any, and will have a complete listing of all bodies transferred, containing names, plan of graves before and after, plot numbers, names of plot owners and other pertinent information. An inspector's report or final certificate



DEPARTMENT OF THE NAVY

NAVAL FACILITIES ENGINEERING COMMAND
200 STOVALL STREET
ALEXANDRIA, VA 22304-3300

IN REPLY REFER TO
NOV 04 1992

From: Commander, Naval Facilities Engineering Command
To: Commander, Atlantic Division, Naval Facilities
Engineering Command
Commander, Pacific Division, Naval Facilities
Engineering Command

Subj: DELEGATION OF AUTHORITY TO APPROVE JUSTIFICATION FOR OTHER
THAN COMPETITIVE PROCEDURES FOR REAL ESTATE LEASES

Ref: (a) NAVFAC letter of 11 Sep 92; DELEGATION OF
CONTRACTING AUTHORITY
(b) 10 U.S.C. 2304(f)(1)
(c) NAVFAC P-73 (REAL ESTATE PROCEDURAL MANUAL)

1. Reference (a) increased delegated authority to the Engineering Field Divisions for a variety of contracting actions. In keeping with reference (a), authority to approve justification for other than competitive procedures for leases of real property pursuant to reference (b) for proposed leases over \$1 million, but not exceeding \$10 million, is delegated to the Commanders, Atlantic and Pacific Divisions. This authority is non-delegable. In the absence of the Commander, such requests shall be forwarded to the Assistant Commander for Real Estate (NAVFAC 27). Requests in excess of \$10 million requiring ASSTSECNAV (RDA) approval shall be forwarded via NAVFAC-24.

2. Reference (c) will be amended to reflect this change.

A. J. ROTH
Assistant Commander for Real Estate

Limitations on Level II
Real Estate Contracting Officer Warrants

Type of Contracting Action	Dollar Limitation ¹ Per Contract
I. Acquisitions	
1. Acquisition of fee simple or easement	\$200,000 ²
2. Leases or renewal of leases	\$200,000 ³
3. Options	\$200,000 ⁴
4. Agreements, Memorandums of Understanding, etc. which obligate the government to acquire interests in real property upon certain conditions.	\$200,000 ²
II. Outgrants	
1. Competitive Outleases	\$200,000 ⁵
2. Utility pole agreements, spur track agreements	\$200,000 ⁵
3. Licenses	\$200,000 ⁵
4. Easements	\$200,000 ⁶
III. Disposals	
1. Reports of Excess to GSA	\$200,000 ⁶
2. Demolition	GSA Limit ⁷

NOTE: Footnotes Explain Dollar Limitations

¹In general, dollar limitations apply to the amount of money the government is obligated to pay under the terms of the contract without taking any other affirmative action. This limitation may be further restricted for an individual warrant.

²Total obligation of government.

³Total rental for the firm term of the lease or renewal period.

⁴The agreed upon purchase price for the property on which the option is taken.

⁵Annual compensation including maintenance in lieu of rental/rent credits.

⁶Estimated fair market value.

⁷As set forth in paragraph 101-47.503 of Code of Federal Regulations.

III. Disposals (continued)

3. Competitive Timber Sales	\$ 75,000 ⁸
IV. Appraisal Contracts	\$ 10,000 ⁸
V. Title Contracts	\$ 10,000 ⁸

The following contracting actions are not authorized under a Level II Warrant.

- A. Noncompetitive outleases
- B. Relocation assistance
- C. Sale of real property other than competitive timber sales
- D. Land exchanges
- E. Lease/Purchase agreements
- F. Build-to-Lease
- G. Disposals of property in which hazardous or toxic substances may be an issue

⁸Contract amount.