

CHAPTER 10

Real Estate Contracting Authority and Responsibility

Table of Contents

<u>Paragraph</u>	<u>Title</u>	<u>Page</u>
1.	Purpose and Scope	10-1
2.	Authority	10-1
3.	Levels of Real Estate Contracting Officer Warrants.	10-3
4.	Qualification Requirements for Contracting Officers for Real Estate Warrants.	10-4
5.	Procedures for Establishing Level III Warrants.	10-6
6.	Appointment and Termination of Real Estate Contracting Officers Warrants	10-6
7.	Post-Appointment Maintenance of Warrants.	10-7
8.	Real Estate Contracting Management Reviews.	10-8

CHAPTER 10

REAL ESTATE CONTRACTING AUTHORITY AND RESPONSIBILITY

1. PURPOSE AND SCOPE.

This chapter sets forth the real estate contracting authority of the Naval Facilities Engineering Command and each Engineering Field Division (EFD) and Engineering Field Activity (ACT). The remaining portions of this chapter that read EFD shall read to include EFA. This Chapter also sets forth procedures for warranting and qualifications for those personnel who perform the real estate contracting functions.

2. AUTHORITY.

a. Real Estate Contracting Officer Authority.

(1) Responsibility for Real Estate contracting is vested in the Commander/Commanding Officer of each Engineering Field Division.

(2) A Real Estate Contracting Officer may exercise only that authority expressly delegated to him/her in writing through warranting procedures. Appointment orders (warrants) shall be available for inspection to contractors, agency personnel and other interested parties. Real Estate Contracting Officers shall be warranted by a "Certificate of Appointment", Standard Form 1402, (Appendix A) which shall state the authority granted and any limitations in addition to those provided by law or regulation. Warrants may be delegated only as authorized below.

(3) Only Real Estate Contracting Officers are authorized to enter into, modify and/or terminate real estate contracts ("contracts").

(4) Appointments of Real Estate Contracting Officers remain in effect as long as appointees are assigned to the position stated on the warrant, unless sooner terminated.

(5) It is not necessary for EFD Commanders/Commanding Officers to be warranted as Real Estate Contracting Officers. However, they may, if qualified, request that they be warranted. Requests should be forwarded, with supporting documentation, to the Commander, Naval Facilities Engineering Command (Code 20R).

(6) Real Estate Contracting Officers within the limits of their Contracting Officer delegation, have the responsibility and the authority for:

(a) Executing and administering contracts in such a manner as to safeguard the interest of the United States in contractual relationships and making necessary determinations and findings under contracts;

(b) Providing the contractor written notice of the name of the Real Estate Contracting Officer's representative or any "on-site" or other technical representative either designated to provide technical surveillance of the contract at a particular site or any other service on behalf of the contracting office;

(c) Obtaining all necessary approvals and otherwise complying with applicable directives;

(d) Personally signing all contracts and modifications, or in those rare cases where signatory authority is assigned an unwarranted individual, insuring that all requirements have been met prior to signature;

(e) Exercising care, skill and judgment in all of their actions;

- (f) Assuring that funds for payment of contract obligations are available and that their actions are within the scope of their authority;
- (g) Maintaining necessary review with respect to contract performance on the part of the contractor;
- (h) Securing, where required, the advice of legal, technical and administrative staff as to the sufficiency of contracts prior to their execution; and,
- (i) Initiating any appropriate action necessary to properly assure satisfactory contract performance.

b. Appointment of Real Estate Contracting Officers.

(1) NAVFACENGCOM real estate contracting authority is delegated from the Secretary of the Navy to the Commander, Naval Facilities Engineering Command and redelegated to each EPD Commander/Commanding Officer.

(2) All individuals responsible for real estate contracting shall be warranted.

(3) The following positions at a minimum should be warranted:

- (a) NAVFACENGCOM 20R - Deputy Assistant Commander for Real Estate
- (b) NAVFACENGCOM 204 - Director, Real Estate Operations and Natural Resources Division
- (c) EPD 24—Director, Real Estate Division
- (d) EPD 241—Manager of Head, Operations Branch, Real Estate Division.
- (e) Director, European Branch, Atlantic Division, Naval Facilities Engineering Command.

(4) A responsible individual must be available at all times for performance of contract functions. COMNAVFACENGCOM and each EPD Commander/Commanding Officer shall appoint an Assistant Real Estate Contracting Officer, who shall be warranted and shall perform as acting Contracting Officer in the absence of the established Contracting Officer(s).

Level I warrants for NAVFACENGCOM and for Commander/Commanding Officer of the EPDs shall be issued by the Commander, NAVFACENGCOM.

(5) EPD Commanders/Commanding Officers are hereby delegated authority to appoint Real Estate Contracting Officers for their Commands to contract for the following:

- (a) Acquisition of real property and interests therein (including fee and lesser interest);
- (b) Management of real property including outleases, licenses and**
- (c) Disposal of land, interests in land, improvements and related personal property including sale of improvements on non-excess lands or forest products;
- (d) Relocation Assistance Services;
- (e) Title Evidence;
- (f) Appraisal Services; and,
- (g) Memoranda in furtherance of above functions (i.e., Timber sales, letter agreement, Memoranda of Understanding or Memoranda of Agreement)

(6) Actions taken by Real Estate Contracting Officers shall be executed in the following form, as appropriate:

** (b) (cont) other use agreements, and natural resource agreements;

John P. Smith
CDR, CEC, U.S. Navy
Real Estate Contracting Officer

Alice J. Jones
Director, Real Estate Division
Real Estate Contracting Officer

(7) Actions taken by an unwarranted individual pursuant to a special assignment of contracting authority shall be executed in the following form:

Jane P. Dow
CDR, CEC U.S. Navy
Special Contracting Officer pursuant to
COMEFDNAVFACEGCOM ltr 1000 dated 29 Feb 87

c. Limitations on Authority Delegated by Warrants.

(1) It shall be assumed that no authority has been delegated unless expressly stated in the warrant. On those rare occasions where circumstances require, special assignments of authority to unwarranted individuals shall set forth the exact authority being assigned and its limitations.

(2) All real estate contract action requests requiring approval of NAVFACEGCOM shall be submitted via the EPD. The EPD shall screen requests and forward to NAVFACEGCOM those which are consistent with sound real estate policies and procedures. Requests for NAVFACEGCOM approval shall be forwarded, "ATTN: 20R".

(3) Nothing set forth herein shall be construed as authorizing the obligation of funds or the award of a contract without authorization.

d. Supervision of Subordinate Activities.

(1) EPD Commanders/Commanding Officers shall supervise and monitor the contractual procedures, performance and staffing of subordinate contracting offices. Procedures and controls considered necessary for effective supervision shall be established.

(2) Commanders/Commanding Officers are responsible for assuring that EPDs and subordinate activities are adequately staffed by qualified personnel capable of performing the contracting functions assigned. EPD Commanders/Commanding Officers shall assure that civilian and military personnel warranted as Real Estate Contracting Officers receive formal education and training and attend related training at programs established by the Command.

(3) EPDs shall maintain a file documenting the factors considered in determining the level of authority delegated to each contracting officer.

3. LEVELS OF REAL ESTATE CONTRACTING OFFICER WARRANTS.

There are three levels of warrants for Real Estate Contracting Officers.

a. Level I warrants are not restrictive and cover the full scope of NAVFACEGCOM's real estate contracting authority. Level I warrants are normally limited to Deputy Assistant Commander for Real Estate, Director, Real Estate Operations and Natural Resources Division, and Real Estate Operations Branch Head at NAVFACEGCOM; Commanders, Deputy Commanders, the Department Head of Planning and Real Estate, and Real Estate Division Directors at the EPD; and the Director, European Branch, Atlantic Division, Naval Facilities Engineering Command. In addition, Branch Heads holding Level II warrants, who meet all qualifications, may be issued a temporary Level I warrant for use when they are acting as Real Estate Director.

b. Level II warrants are restrictive and cover the basic functions of NAVFACENGCOM real estate contracting authority. Level II warrants are normally limited to branch heads and senior or lead realty specialists. Level II warrants may be further restricted by type of contract and/or dollar value, at the discretion of the Commander/Commanding Officer issuing the warrant, but may not exceed the restrictions delineated in Figure (1) of Appendix B. All limitations shall be noted on the warrant.

c. Level III warrants are established for specific functions of NAVFACENGCOM's real estate contracting authority. Each Level III warrant shall have specific limitations and be subject to specific guidelines and instructions. Level III warrants are normally issued to meet a specific need as determined by the Department Head of Planning and Real Estate or the Director of Real Estate at the EPD. Specific Level III warrants shall be established by the EPD under the procedures set forth in paragraph 5.

4. QUALIFICATION REQUIREMENTS FOR CONTRACTING OFFICERS FOR REAL ESTATE WARRANTS.

A candidate must have completed the training required for each warrant level as described. Supervisors are responsible for providing qualified employees with the opportunity to complete the required training.

a. The following are the basic qualifications for a Level II Real Estate Contracting Officer.

(1) Experience. Three years of progressively complex general experience in the acquisition, management and disposal of real property.

(2) Education. College degree or equivalent work experience.

(3) Training. All Level II Real Estate Contracting Officers must have completed training in these areas to become warranted:

- (a) Business or Real Estate Law
- (b) Government Contract Law
- (c) Contracting for Leasehold Interests
- (d) Basic Appraisal
- (e) Small Purchase Contracts

(4) Duties. The individual regularly dedicates a significant portion of his/her time on real estate contracting matters.

b. The following are the basic requirements for a Level I Real Estate Contracting Officer.

(1) Experience. Five years of progressively complex general experience in the acquisition, management and disposal of real property (including two years specialized experience as Real Estate Contracting Officer, and three years specialized experience in the development, review or approval of government Real Estate Contracts, or experience as a Department Head for Planning and Real Estate).

(2) Education. A bachelor's degree, preferably in Business Administration, Accounting, Economics, Natural Resources, Law or Engineering or equivalent work experience.

(3) Training. Satisfactory completion of the courses designated for Level II plus:

- (a) CBOOS Real Estate Course
- (b) Advanced Contract Administration
- (c) Relocation Assistance - Residential

(4) Duties. Same as Level II, plus primary duties (over 75%) are supervising or performing real estate contractual functions.

c. Level III Warrants. Basic requirements for Level III Real Estate Contracting Officer are established for each specific warrant as set forth in paragraph 5.

d. Additional Training Requirements.

(1) In order to retain certification, all Level I and II warranted Officers shall complete at least one real estate or contracting course every two years. The following is a list of recommended courses:

- (a) Negotiating techniques.
- (b) Cost and Price Analysis
- (c) Relocation Assistance - Commercial
- (d) Real Property Management
- (e) Federal Real Estate Contracting
- (f) GSA Real Property Leasing
- (g) Advanced Appraisal
- (h) Law of Leasing
- (i) Officers with Level II warrants should first take those

courses required for a Level I Warrant.

(2) Warranted Contracting Officers who, as a result of the additional training requirements set forth in Change 14 to P-73, do not meet the minimum training requirements, shall complete the additional training within one year of its issuance.

e. Substitute courses.

Courses required to obtain and maintain a Level I or II Real Estate Contracting Warrant are available from a variety of sources. NAVFACENGCOM maintains a listing of approved courses and their sources which can be obtained by request to Code 20R.

In addition, training courses of equivalent content will be permissible substitutes. The Commander/Commanding Officer issuing the warrant is responsible for determining if a substitute course is permissible. NAVFACENGCOM should be notified of any such courses so they can be included on the approved course listing.

(1) Courses from the following sources are considered to be equivalent:

- (a) Training from a Government-sponsored source such as U.S. Army Logistics Management Center (ALMC) or General Services Administration.
- (b) Training from a source listed in the Defense Management Education and Training (DMET) Catalog or the Federal Acquisition Institute (FAI) Catalog.

(2) Courses from the following sources may be pursued to meet some of the requirements:

- (a) American Institute of Real Estate Management.
- (b) American Institute of Real Estate Appraisers.

e. Substitute Requirements for Military Officers. Military officers filling positions in which a Real Estate Contracting Officer Warrant is required or desirable may meet the requirements by:

(1) For a Level II Warrant the Officer must meet all requirements for a Level IV FAR Contracting Warrant as outlined in the NAVFAC P-68 "Contracting Manual" plus have completed the NAVFAC Real Estate Course.

(2) For a Level I Warrant the Officer must meet all requirements for a Level III FAR Contracting Warrant as outlined in the NAVFAC P-68 plus have completed the NAVFAC Real Estate Course and CECOS Real Estate course.

(3) Meet the requirements for a Contracting Warrant which is equivalent to what is required to meet the requirements set forth in (1) or (2) above as determined by NAVFACENGCOM, plus have completed the NAVFAC Real Estate Course.

5. PROCEDURES FOR ESTABLISHING LEVEL III WARRANTS.

a. EFDs may establish a class of Level III warrants for any specific purpose which is required.

b. For each class of warrant, the EFD will prepare an EFD Instruction which will contain the following information:

(1) The specific purpose for the warrant.

(2) The specific limitations on the warrant (i.e., dollar amounts, type of contract, etc.).

(3) Qualifications of those who would be warranted.

(4) Controls over the position by the EFD.

(5) Procedures for monitoring.

(6) Any approvals required to enter into contracts.

(7) Written guidelines for developing and executing the specific contracts. This guidance may take the form of a separate instruction which shall be referenced in the warrant instruction.

c. Warrants shall be issued in accordance with the Instruction.

Each warrant issued shall reference the EFD Instruction establishing such class of warrant. A copy of each warrant issued shall be forwarded to NAVFACENGCOM. Notice of termination of each warrant shall also be made to NAVFACENGCOM. If termination is for misuse of contracting authority, a brief description of the circumstances shall be forwarded with such notice.

d. It shall be the responsibility of the EFD to ensure that all warranted personnel comply with the terms of their warrant.

6. APPOINTMENT AND TERMINATION OF REAL ESTATE CONTRACTING OFFICERS WARRANTS.

a. Appointments.

(1) Candidates may be recommended for Real Estate Contracting Officer warrants to the Commander/Commanding Officer. The Commander/Commanding Officer or the Executive Officer, as designating officials, are authorized to sign the Standard Form 1402, Certificate of Appointment, Appendix A.

(2) Specific warrant limitations shall be set forth in certificates of appointment.

(3) In order to retain certification, all Level I and II warranted Officers shall complete the training required in paragraph 4d within the time allowed.

(4) Appointment documents will be reviewed periodically to determine the adequacy of local procedures, practices, and appointments.

b. Interim appointment provisions.

(1) Individuals who do not meet minimum qualifications may be appointed on an interim basis if the Commander/Commanding Officer considers the persons appropriate candidates based upon experience and past performance. All minimum training requirements shall be scheduled and met within a reasonable period of time, as determined by the Commander/Commanding Officer. At least two of the required courses shall be successfully completed each year after the date of appointments to retain the warrant.

(2) Instances that may require the use of interim appointments may include, but are not limited to, the following:

- (a) Organizational changes;
- (b) Reduction of force proceedings;
- (c) Sudden extreme increases in the number of acquisition, management and disposal requests; or
- (d) Delegation as acting Director of Real Estate Division or European Branch.

c. Changes of limitations of Contracting Officer appointments.

When a designating official determines to change or limit the appointment of a Real Estate Contracting Officer without revocation, a new Certificate of Appointment shall be issued.

d. Termination.

(1) The appointment of a Real Estate Contracting Officer may be revoked at any time by the designating official. Termination of a Real Estate Contracting Officer appointment will be by letter, unless the certificate of appointment contains other provisions for automatic termination. Terminations may be for reasons such as reassignment, termination of employment, or unsatisfactory performance. No termination shall operate retroactively.

(2) Real Estate Contracting Officer appointments terminate when the appointee is reassigned from the position or activity held at the time of appointment.

(3) Real Estate Contracting Officers whose appointments are revoked or terminated, shall be provided a written notice by the designating official stating the date of termination of contracting responsibilities. A copy of such notice shall be provided to NAVFACENGCOCM. If such termination is for misuse of contracting authority, a brief description of the circumstance shall be forwarded with such notice.

(4) Existing warrants remain in effect until expiration or termination.

7. POST-APPOINTMENT MAINTENANCE OF WARRANTS.

a. The original Certificate of Appointment shall be provided to the appointed Contracting Officer and displayed at the Contracting Officer's duty station. The designating official shall have a copy of the signed original Certificate of Appointment reproduced and numbered for distribution. One copy shall be maintained by the cognizant EFD and one copy shall be sent to NAVFACENGCOCM, ATTN: Code 20RP.

b. Certificates of Appointment shall be serially numbered for each EFD.

c. The Privacy Act of 1974 applies to the information collected during selection, designation and appointment of Contracting Officers.

8. REAL ESTATE CONTRACTING MANAGEMENT REVIEWS

a. NAVFACENCOM shall conduct Contracting Management Reviews of each EFD as determined necessary. Normally such reviews shall take place at least every three years. Information required to be made available to the Reviewer shall be provided prior to the Review.

b. EFDs shall conduct regular Contracting Management Reviews of any Level III warranting programs and any activities or branch offices which hold real estate contracting warrants.

Certificate of Appointment

Under authority vested in the undersigned and in conformance with
SECNAVINST 11011.47

is appointed

Real Estate Contracting Officer

for the

United States Department of the Navy

Subject to the limitations contained in the SECNAVINST 11011.47 and to the following
level 1 authority. This authority is issued pursuant to NAVFAC P-73, Real Estate
Procedural Manual, Chapter 10, and is subject to the criteria set forth therein.

Unless sooner terminated, this appointment is
effective as long as the appointee is assigned to:

(Organization)

(Agency/Department)

(Signature and Title)

(Date) _____ (No.)



Certificate of Appointment

Under authority vested in the undersigned and in conformance with
SECNAVINST 11011.47

is appointed

Real Estate Contracting Officer

for the

United States of America

Subject to the limitations contained in the SECNAVINST 11011.47 and to the following:
*Level II authority - the award and administration of agreements without dollar limitation
for leases and lease alterations and title evidence. This authority is issued pursuant to
NAVFAC P-73, Real Estate Procedural Manual, Chapter 10 and is subject to the criteria
set forth therein.*

Unless sooner terminated, this appointment is
effective as long as the appointee is assigned to:

(Organization)

(Agency/Department)

(Signature and Title)

(Date) _____ (Mo.)

