

CHAPTER 24

Disposal of Foreign Real and Related Personal Property

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CHAPTER 24

DISPOSAL OF FOREIGN REAL AND RELATED PERSONAL PROPERTY

1. PURPOSE AND SCOPE.

This Chapter prescribes policy, authority, operating procedures and responsibility for the disposal of real and related personal property under the custody and control of the Department of the Navy outside the United States, Puerto Rico, American Samoa, Guam, the Trust Territories of the Pacific Islands and the Virgin Islands. Policy, authority, operating procedures and responsibility for the disposal of real and related personal property in other areas are covered in Chapter 23.

2. REFERENCES.

- (a) 40 U.S.C. 471, Federal Property and Administrative Services Act of 1949
- (b) OPNAV P09B3-105, Catalog of Naval Shore Activities
- (c) 10 U.S.C. 2571(a)
- (d) SECHAVINST 11011.47
- (e) U.S. Naval Regulations of 1973
- (f) NAVCOMPTMAN, par. 042552-2e
- (g) NAVFACINST 11010.44B
- (h) OPNAVINST 11011.13

3. POLICY.

It is the policy of the Department of Defense that real estate holdings of the military departments be limited to the minimum required to accomplish assigned missions; that such holdings be kept in balance with mobilization concepts; and that these properties be utilized in an economical and practical manner. Real property under the custody and control of the Department of the Navy shall be limited to the land area and the number and types of buildings, and other improvements essential to the support of current missions and/or mobilization requirements. In addition, all disposals outside the Department of Defense shall conform to the foreign policy of the United States.

4. DEFINITIONS.

The definitions set forth in reference (a) are applicable to the real estate actions covered by this Chapter. The following definitions are also applicable:

a. Foreign Excess Property. Any real and related personal property located outside the United States, Puerto Rico, American Samoa, Guam, the Trust Territories of the Pacific Islands and the Virgin Islands under the control of any Federal agency which is not required for its needs and the discharge of its responsibilities.

b. Cognizant Command. Where used in this Chapter, the term "cognizant command" or "cognizant chain of command" refers to the major claimant of an activity designated as echelon 2 in section 2 of reference (b) or the chain of command listed as echelons up to and including echelon 2 for the activity under consideration in section 2 of reference (b).

5. AUTHORITY FOR DISPOSAL OF REAL PROPERTY.

The basic authority to dispose of real and related personal property is derived from reference (a) and certain treaties and other international agreements between the United States and foreign governments. Authority for transfers of property between military services is derived from reference (c). No specific legislative authority is necessary for reassessments since this action is merely the reallocation of resources within the Navy as required to accomplish assigned missions. The specific authorities delegated to NAVFACENGCOM are contained in reference (d).

6. DELEGATION OF AUTHORITY TO ENGINEERING FIELD DIVISIONS (EFDS).

The Commanders/Commanding Officers of EFDS are authorized, subject to the limitations of this Chapter, to accomplish the following real estate actions:

- a. Determine that real and related personal property is excess to the Department of the Navy and the Department of Defense and is surplus to the United States Government when screening with other commands and agencies in accordance with paragraph 9 reveals no other need for the property.
- b. Determine that improvements have deteriorated beyond economical repair and maintenance and is surplus to the United States Government. Screening is not required in these instances.
- c. Transfer to the Army, Air Force or Coast Guard, without compensation, any real and related personal property requested pursuant to the authority contained reference (c), provided:
  - (1) Such property has been determined to be excess to the further requirements of the Department of the Navy; or
  - (2) It shall have been determined by the Chief of the cognizant command, or the Commandant of the Marine Corps for Marine Corps property, and the Chief of Naval Operations, that the requirements of the using activity can and should be amended to accommodate the needs of the requesting agency; and they shall have approved the transfer.
- d. Transfer real and related personal property determined to be excess to the needs of the Department of Defense to other Federal agencies.
- e. Dispose of foreign excess real and related personal property, pursuant to reference (a) by sale or lease, for cash or credit, with or without warranty and upon such terms and conditions as he shall deem proper and, where appropriate, to make the finding required by Section 402 of reference (a) that a disposal without advertising, on a negotiated basis, is most practicable and advantageous to the Government.
- f. Donate to public or private bodies, or abandon or destroy if such donation is not feasible, any foreign excess real and related personal property which, in his opinion, has no commercial value or of which the estimated cost of continued care and handling would exceed the estimated proceeds of its sale.
- g. Effect such disposal of any real and related personal property under the control of the Department of the Navy as shall be governed by the provisions of any treaty or other agreement between the United States and a foreign government, pursuant to and in accordance with the provisions of such treaty or agreement.

h. Take all necessary action, including the execution of documents, to transfer or dispose of real and related personal property in the exercise of the authority herein delegated.  
i. The authority herein may be redelegated.

7. ACTIVITY RESPONSIBILITIES.

a. Reporting Excess Property. When it has been determined that real and related personal property is excess to the military requirements of an activity, is involved in a base closure announcement, has been found that the activity's requirements can and should be modified to accommodate the requirements of another military department or has been approved for disposal through the Shore Facilities Planning System the Commanding Officer of the activity having the excess property in its plant account is responsible for reporting it for disposal. The reporting requirements paragraph 7a of chapter 23 are generally applicable to reports of foreign excess property although certain items such as 7(a)(3)(i), (k) and (l) do not apply.

b. Required Approvals. The Commanding Officer of the activity currently holding custody and control of real and related personal property must approve any action to determine it excess. The Commanding Officer is also responsible for requesting the following additional approvals:

(1) For Class II Property (Buildings and Structures) Valued at Less Than \$1,000. The activity cognizant chain of command including the major claimant.

(2) For Class I and II Property (Land, Buildings and Structures) Valued at \$100,000 or Less.

(a) The activity cognizant chain of command including the major claimant.

(b) The Commandant of the Marine Corps for Marine Corps property.

(3) For Class I and II Property (Land, Buildings, and Structures) Valued in Excess of \$100,000. The additional approval of the Chief of Naval Operations is required (except Marine Corps property).

8. EFD REVIEW OF REPORT OF EXCESS REAL PROPERTY.

Upon receipt of a Report of Excess Real Property from an activity the EFD shall review it to ascertain the level of approvals required and whether or not additional information and data are necessary for further processing.

9. REQUIRED SCREENING.

Upon receipt of a satisfactory Report of Excess Real Property the EFD will screen all real and related personal property reported to it, in accordance with the following subparagraphs, except where it determines that some other method is more appropriate as dictated by the circumstances involved. Screening will be by written Notice of Availability which should contain sufficient information to fully identify the property and stating the name, title, address, and telephone number of the appropriate official with whom an inspection of the property may be arranged. Screening within and outside the Navy will be simultaneous whenever possible.

a. Screening Within and Outside the Department of the Navy. Screening within Navy will not be required if the disposal has been directed by the Chief of Naval Operations or higher authority. Improvements which have deteriorated beyond economical repair and maintenance need not be screened within or outside the Department of the Navy. All other excess property shall be screened with potential users within the Department of the Navy, as determined by the EFD. Whether or not there are any potential users, an EFD will send Notices of Availability in all cases to:

- (1) Assistant Secretary of the Navy (Shipbuilding and Logistics)
- (2) Chief of Naval Operations
- (3) Commandant of the Marine Corps
- (4) CNO Area Coordinator
- (5) Commander, Naval Facilities Engineering Command
- (6) Commander of Cognizant Command
- (7) Chief of Naval Material (Industrial Facilities only)
- (8) Commander, Naval Supply Systems Command (Storage and Warehouse Space only)
- (9) Chief of Chaplains (Chapels only)
- (10) Director, Naval Petroleum Office (POL Facilities only)
- (11) Area Commanders, Army, Air Force and Coast Guard
- (12) Other U. S. Government federal agencies having a presence in the area

b. Screening. Except where approvals are required by paragraph 7b, the EFD may assume that no requirements exist for the property unless advice to the contrary is received within thirty (30) days. However, if a tentative request is received within the thirty (30) day period, an additional thirty (30) days may be allowed for the submission for the firm request upon advice that action has been initiated to obtain necessary approvals for acquisition of the property. Prior approval of the Assistant Secretary of the Navy (Shipbuilding and Logistics) will be obtained for a "hold" by a Navy command of more than 60 days on any excess Navy property. Assumption of financial responsibility for such property by the command requesting the "hold" will ordinarily be a condition of any extended "hold".

10. METHODS OF DISPOSAL.

Foreign real property and related personal property no longer required to fulfill an assigned mission may be:

- a. Reassigned to another Navy activity or command.
- b. Transferred to the Department of the Army, the Department of the Air Force, or the United States Coast Guard.
- c. Transferred to other Federal civilian agencies.
- d. Disposed of by competitive bidding or negotiated sale.
- e. Demolished, abandoned, or donated to public or private bodies, all in accordance with the policies and procedures hereinafter provided.
- f. Disposed of pursuant to and in accordance with any treaty or other agreement between the United States and a foreign government.

11. ADDITIONAL APPROVALS.

- a. Disposals Pursuant to Treaties or Other Agreements With Foreign Governments. The EFD/EPA shall submit a request for approval to NAVFACENGCOM for all disposals that are

considered controversial or judged to have a significant impact upon relations with the host country. Each request shall be accompanied by a fully documented factual sheet supported by a complete justification for the proposed transaction. NAVFACENGCOM will obtain all requisite approvals for the proposed transaction, or take such other action as may be necessary and then authorize the EFD to consummate the transaction.

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b. Disposals of Property Valued in Excess of \$100,000. In addition to the approvals in paragraph 7.b the approval of the Assistant Secretary of the Navy (Shipbuilding and Logistics) is required. The EFD shall submit a request for this approval to NAVFACENGCOM.

c. Disposals Outside the Department of Defense. All transactions in foreign countries or possessions and territories of the United States which involve disposal outside the Department of Defense shall conform to the foreign policy of the United States. The senior officer present pursuant to reference (a), or such other officer as shall have been designated by the Chief of Naval Operations, shall be advised of each proposed disposal transaction outside the Department of Defense. If any such transaction reasonably might have an impact on or be affected by the foreign policy of the United States, the senior officer present or other designated officer shall take the following action:

(1) Possessions and Territories of the United States. Keep the local representative of the department or agency of the Federal Government, exercising supervision over the possession or territory fully and currently informed.

(2) Trust Territory of the Pacific Islands. Keep the High Commissioner of the Trust Territory fully informed and procure his/her concurrence in any such disposal prior to consummation.

(3) Areas Under the Sovereignty of Foreign Governments. Keep the local diplomatic representative of the State Department fully informed and procure his/her concurrence in any such disposal prior to consummation.

If such concurrence shall be denied by the local diplomatic representative of the State Department or by the High Commissioner of the Trust Territory, the matter shall be referred to NAVFACENGCOM, who, if he/she considers that the proposed transaction should nevertheless be consummated, shall refer the matter to the Assistant Secretary of the Navy (Shipbuilding and Logistics) via the Chief of Naval Operations or the Commandant of the Marine Corps for Marine Corps property, and via the Office of General Counsel which shall consult with the Office of the Judge Advocate General with respect to matters under its cognizance.

12. REASSIGNMENT OF PROPERTY WITHIN THE NAVY.  
Paragraph 10 of Chapter 33 applies.

13. TRANSFERS TO ARMY, AIR FORCE AND COAST GUARD

Real and related personal property may be transferred to the Army, Air Force or Coast Guard, without compensation, pursuant to reference (c) provided (a) such property has been determined to be excess to the further requirements of the Department of the Navy, or (b) the head of the cognizant command and the Chief of Naval Operations or the Commandant of the Marine Corps for Marine Corps property, shall have 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. Simultaneous circularizing may result in receipt of requests from Army, Air Force or Coast Guard installations for property which is requested by activities of the Department the Navy. If property is to be reassigned to a Naval or Marine Corps activity, the EFD will advise the Army, Air Force or Coast Guard that the property is required for Department of the Navy purposes. If it is determined that property can be made available to the Army, Air Force, or Coast Guard, the EFD will, in cooperation with the local representatives of the transferee, establish the date and method for assumption of custody and control by the transferee.

14. TRANSFERS TO FEDERAL CIVILIAN AGENCIES. The EPD will, upon determination that real or related personal property is excess to the Department of Defense, proceed with the transfer pursuant to reference (a) and in accordance with the delegation in paragraph 6.

15. DISPOSALS BY SALE.

Whenever possible disposals of real and related personal property will require payment to the United States of United States dollars and shall be accomplished on a competitive bid basis after advertising. However, a sale may be negotiated by the EPD without advertising as provided in paragraph 6e. When United States dollars are not available, payment may be accepted in the form of foreign currency or credits when (1) the appropriate foreign exchange authority of the issuing country shall assure they are either readily convertible into United States dollars or may be used in payment for any and all United States Government expenditures in that country, and (2) the Navy or Marine Corps disbursing officer located in that country (except in excess or near-excess currency countries) determines that he/she reasonably expects to be able to expend the foreign currency or credits within a six month period. Except as provided above, the approval of the Comptroller of the Navy will be obtained before foreign currency or credits are accepted. Approval of the Comptroller of the Navy will also be obtained prior to acceptance of any amounts of excess or near-excess currencies. These currencies are listed in reference (f). Moreover, when it shall be determined that it is in the interest of the United States to do so, payment may be accepted in the form of discharge, in whole or in part, of any claim against the United States the amount of which has been compromised or settled by any executive agency in accordance with the law. Requests for Comptroller of the Navy approval or approval to accept payment in the form of discharge a claim against the United States should be submitted by the EPD to NAVFACENCCOM with full justification for the request.

16. DISPOSAL BY DEMOLITION, ABANDONMENT, OR DONATION.

Foreign excess real and related personal property may be abandoned, demolished, or donated when such property has no commercial value or the estimated cost of its care and handling would exceed the estimated proceeds from its sale. In preference to being abandoned or demolished, if feasible, such property should be donated to foreign governments, municipalities, or any agency or instrumentality thereof, or to foreign non-profit and charitable institutions. After giving first consideration to the foregoing, such property may be donated to private bodies or persons.

Any recommendation to demolish, abandon, or donate excess property shall be initiated by the Commanding Officer of the activity in accordance with paragraph 7 and supported by written findings that such property has no commercial value and/or the estimated cost of its care and handling exceeds the estimated proceeds from its sale. A statement regarding the feasibility of donation should also be included. The EPD will act as review authority for such findings and, if necessary, will screen the property in accordance with paragraph 9. If no requirement develops, the EPD will dispose of the property. (No screening of improvements which have deteriorated beyond economical repair and maintenance is required.)

17. DISPOSAL PURSUANT TO TREATY OR OTHER AGREEMENT.

In many instances the treaty or other occupancy agreement with the host country includes specific terms and procedures for disposal of excess real and related property. Often it requires conveyance of the improvements at no cost to the host country. It is incumbent upon the EFD to assure that, where applicable, excess real and related property is disposed of in strict compliance with the treaty or other agreement with the host country.

18. TAXES.

The EFD shall take appropriate action to assure complete satisfaction by any purchaser or donee of all taxes or similar charges by any foreign government to which any disposal of foreign excess real and related personal property may be subject under local law.

19. DISPOSAL OF FOREIGN EXCESS LEASEHOLDS.

Foreign excess leaseholds, licenses and permits, including Government-owned improvements thereon, shall be screened by the EFD in accordance with paragraph 9 and are subject to disposal under this Chapter as foreign excess property.

20. PROCUREMENT OF RELEASES ON TERMINATED LEASEHOLDS.

It is desirable, if not contrary to local custom, to obtain a signed release in all cases where leases are terminated.

21. ADJUSTMENT TO THE INVENTORY OF MILITARY REAL PROPERTY.

When foreign real and related personal property is reassigned, transferred or disposed of copies of the appropriate documents should be provided to the EFD Planning Division so they can take prompt action to record changes in the Inventory of Military Real Property.

22. IMPLEMENTING INSTRUCTIONS.

The EFDs affected by foreign disposal actions shall issue implementing instructions to activities within their respective areas of cognizance. Such instructions will govern the procedures to be followed by those activities in reporting excess and related personal property for disposal action. Copies of all implementing instructions issued by the EFDs will be forwarded to NAVFACEMCOM.

23. RECORDS REQUIREMENTS.

The EFD shall promptly furnish NAVFACEMCOM one conformed copy of each executed document reassigning, transferring, or disposing of interests in land.

CHAPTER 25

Annexation by Local Municipalities of Department of the Navy Lands

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CHAPTER 25

ANNEXATION BY LOCAL MUNICIPALITIES OF DEPARTMENT OF THE NAVY LANDS

1. Scope. This Chapter states Department of the Navy policy and procedures regarding annexation of Department of the Navy lands by local municipalities.

2. Definitions

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

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

3. Background. Annexation proceedings are covered by laws of the states or possessions of the United States which generally require:

a. Initiation or approval of the annexation by the governing body of the municipality.

b. Public or other notice to landowners involved.

c. Approval, consent, or acquiescence by a majority of the landowners involved.

4. Policy. It is the policy of the Department of the Navy, as set forth in SECNAVINST 11011.2B, not to oppose annexation and to cooperate where local statutes so provide, except where the Assistant Secretary of the Navy (Shipbuilding and Logistics) determines that annexation would not be in the interest of the Government.

5. Delegation. Authority, as set forth in paragraph 6, is delegated to the officer in command of the activity concerned (hereinafter referred to as the commanding officer) to cooperate with or oppose annexation proceedings in accordance with the policy expressed in paragraph 4. Area coordinators under OPNAVINST 5400.24C will be available to assist in problem solving. Commanders/Commanding Officers of the Engineering Field Divisions of the Naval Facilities Engineering Command will also be available to provide technical support.

6. Action

a. When notice that annexation proceedings have been instituted or advice is received from a municipality that annexation proceedings of Department of the Navy lands are planned, such notice or advice shall be forwarded to the commanding officer of the activity concerned. The commanding officer shall review the proceedings or proposal for annexation and forward comments and recommendations through the following addressees for comments and recommendations:

(1) Local command channels, as appropriate.

(2) Commander/Commanding Officer of the appropriate Engineering Field Division of the Naval Facilities Engineering Command.

(3) Commandant of the Marine Corps for Marine Corps activities.

b. Upon receipt of comments and recommendations the commanding officer will review the annexation proceedings or proposal for annexation and will determine, in accordance with paragraph 4, whether or not the annexation would be in the interest of the Government. Each determination shall be in writing and shall be based on the following fully developed and supported considerations:

(1) Adverse effects, if any, such as an adverse effect on arrangements for or the cost of utilities, fire and police protection, schools, other essential services, or any other adverse effect upon the mission of the activity.

(2) Demonstrable benefits, if any, such as the improved provision of utilities, fire and police protection, schools, or a reduction in the costs thereof.

c. Upon determining that annexation would not be contrary to the interest of the Government, the commanding officer shall:

(1) Advise the annexing municipality that the Department of the Navy will not oppose annexation.

(2) Take such other action as may be required by state law to consent to the annexation.

(3) Promptly provide a copy of each such determination to the chain of command, the Commander, Naval Facilities Engineering Command, the Chief of Naval Operations or the Commandant of the Marine Corps, and the Assistant Secretary of the Navy (Shipbuilding and Logistics).

d. Upon determining that annexation would not be in the interest of the Government the commanding officer shall submit a request for prior approval to protest annexation to the Assistant Secretary of the Navy (Shipbuilding and Logistics). Such request will be submitted via the chain of command, the Commander, Naval Facilities Engineering Command and the Chief of Naval Operations or the Commandant of the Marine Corps. Each request shall include:

(1) Copies of commanding officer's written determination.

(2) Summary of applicable laws.

(3) The title held by the United States in the property.

(4) The legislative jurisdiction held by the Government.

(5) The reasons advanced for annexation by the proponents.

(6) Interest, if any, of other municipalities or organizations in the area.

(7) A vicinity map showing the boundaries of Government property, the limits of the annexing municipality and the area proposed for annexation.

Upon receipt of prior approval of the Assistant Secretary of the Navy (Shipbuilding and Logistics) the commanding officer shall take appropriate action to protest the annexation.

e. When the time allowed during which protest may be filed is too short to obtain comments, recommendations and final decision by the Assistant Secretary of the Navy (Shipbuilding and Logistics), the commanding officer shall:

(1) Enter an appearance in the proceeding and request an extension of time.

(2) Enter a protest to assure that the Government's interests in the matter are not forfeited.

(3) Provide advance information to the Assistant Secretary of the Navy (Shipbuilding and Logistics), with copy to all addressees listed in paragraph 6d, of any action taken to secure additional time or enter a protest in the proceeding.