

CHAPTER 3

PLANNING REPORTS FOR THE ACQUISITION OF REAL PROPERTY

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Definitions

As used in this chapter, "property" refers to real property unless specifically noted as "personal property."

CHAPTER 3

PLANNING REPORTS FOR THE ACQUISITION OF PROPERTY

SECTION I - GENERAL

1. PURPOSE AND SCOPE

The Planning Report for the Acquisition of Property, commonly known as the Land Planning Report (LPR), once was an integral part of the Navy's Military Construction (MILCON) program for projects requiring the acquisition of land, and/or interests in land. However, the LPR is no longer a required document that must be prepared for, and charged to, the MILCO program. From now on, the LPR should be used simply as an informal guide or tracking tool by the Facilities Engineering Command Asset Management Business Line, Real Estate Division (AM1), to assist in gathering information and data germane to a MILCON project, including information and data that is typically used to estimate the total real estate costs of a MILCON project. This chapter, then, suggests the kinds of information and data that may be helpful to the AM1. Because the LPR is no longer a required document, but simply an *ad hoc* AM1 internal tool, there is no need to submit it to any higher or collateral authority for approval or use.

2. USE OF AN LPR

a. The information and data that is gathered as determined by the AM1 can still be used as a basis for preparing the detailed justification sheets ([DD Form 1391](#)) sent to the Congress as a part of the MILCON program.

b. Annually, the Secretary of the Navy reviews and approves the Navy's MILCON program and then submits it to the Secretary of Defense for review. There, the Under Secretary of Defense (Comptroller) recommends which items in the MILCON programs of the various Military Departments to include in the DOD Military Construction Program.

c. Thereafter, the Secretary of Defense submits proposed Military Construction bills to the Congress to authorize the service secretaries to establish or develop military installations and facilities. Establishing and developing military facilities includes acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including site preparation, acquisition of land or land interests, appurtenances, utilities, and equipment for projects specifically designated in the proposed bills. The bills also contain authorization to perform similar work at various unspecified locations, usually for classified purposes. Line items for acquiring real estate are also included in the bills. The Congress then holds various committee hearings on these bills where Navy witnesses testify, using witness data sheets prepared from the LPRs, in support of real estate requirements contained in the Navy's MILCON program.

3. REFERENCES

- (a) [OPNAVINST 11210.2 18 July 2003](#)
- (b) [Outer Continental Shelf Lands Act, 43 U.S.C. §§ 1331-1356a](#)
- (c) [Resource Conservation and Recovery Act \(RCRA\) \(aka Solid Waste Disposal Act\), 42 U.S.C. §§ 6901-6992k](#)
- (d) [Comprehensive Environmental Response, Compensation, and Liability Act \(CERCLA\), 42 U.S.C. §§ 9601-9675](#)
- (e) [Toxic Substances Control Act, 15 U.S.C. §§ 2601-2692](#)
- (f) [Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136-136y](#)
- (g) [Clean Air Act, 42 U.S.C. §§ 7401-7671g](#)
- (h) [Clean Water Act \(aka Federal Water Pollution Control Act\), 33 U.S.C. §§ 1251-1387](#)
- (i) [Safe Drinking Water Act \(aka Public Health Service Act\), 42 U.S.C. §§ 300f-300j-26](#)
- (j) [Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. §§ 4601-4605](#)
- (k) [DODI 4165.71](#)

4. ESTABLISHMENT OF REQUIREMENT

The assignment of missions for which facilities are not available generates requirements. Upon assignment of a mission to a specific activity, the activity Commander/Commanding Officer reviews available facilities. The

deficiencies that exist in those facilities form the requirement foundation for the expansion of the installation, or the development of a new one. These requirements are submitted through the Military Construction Review Board procedures.

5. APPROVAL AUTHORITIES

a. Chief of Naval Operations (CNO)

As part of the Military Construction Review Board procedures, CNO authorizes Preliminary Engineering for proposed Military Construction (MILCON), or Military Construction Naval Reserve Forces (MCNR) projects. Pursuant to this authorization, the Commander, Naval Facilities Engineering Command (NAVFACENGCOM), will authorize the FEC to prepare a Preliminary Engineering Report.

Additionally, AM1 may used a LPR in conjunction with the acquisition of other property required by the Navy. This may include land transfers from other Government agencies, withdrawal of public lands, leaseholds, and low-cost land acquisitions.

b. Deputy Secretary of Defense

(1) Reference (k) addresses when major land acquisition proposals within the Washington, DC area may be made public through (1) a request for proposals; or (2) a notice of intent to perform environmental analysis; or (3) request for legislation or budget line item; or (4) press release; or (5) other official notice without the approval of the SECDEF or the DEPSECDEF. All previously approved or announced major land acquisitions within the Washington, DC area for which binding documents have not been executed as of 17 November 2002, may not proceed until approved by the SECDEF or the DEPSECDEF, after review by the Under Secretary of Defense (Acquisition, Technology, and Logistics) (USD (AT&L)). In addition, no major land acquisition proposals outside the Washington, DC area may be made public, in the manner stated above, without the approval of the USD (AT&L).

(2) Additionally, no proposals for relocating into or within the Washington, DC area that exceed \$500,000 in relocation costs may be made public in the manner stated above without approval by the SECDEF or the DEPSECDEF. All previously approved or announced relocations that have not occurred as of 17 November 2002 may not proceed until

approved by the SECDEF or the DEPSECDEF, after review by the USD (AT&L).

(3) Reference (k) defines a major land acquisition as the purchase, withdrawal from public domain, lease, or permit from individuals or government entities, or any other type of use agreement involving more than 1,000 acres, or land whose estimated purchase price or annual lease price exceeds \$1,000,000. The Washington, DC, area is defined generally as the geographic area within 100 miles of the Pentagon.

(4) Exceptions. By memorandum dated 28 Jul 2005, the Under Secretary of Defense stated that the acquisition of a negative, non-possessory easement under 10 U.S.C. §2684a does not constitute a major land acquisition as defined in this Section I. Also, renewal of existing withdrawals, leases, permits, or other use agreements other than those at bases being closed or realigned are not subject to the moratorium.

SECTION II - PROPERTY ACQUISITION PLANNING REPORTS

6. PREPARATION

a. If elected for use, an LPR from now on is recommended for preparation by the AM1, but appraisal reports and title evidence must be obtained directly from qualified contractor sources.

7. COORDINATION OF ACTION

When acquiring property, the AM1 must closely coordinate actions with personnel responsible for the planned operational uses of the property, and personnel responsible for planning construction on the property.

SECTION III - PLANNING REPORT CONTENT

8. FORMAT

Since it is simply an internal tracking tool, no particular format is mandated, but except for maps, plats, legal descriptions, exhibits, and appendixes, use only one side of plain bond paper 8 x 10-1/2 or 8-1/2 x 11.

9. INFORMATION REQUIREMENT

Gather enough information to enable NAVFACENGCOM to prepare and include property items in the justifications submitted to the Congress in support of MILCON and MCNR Programs. The requirements below include main features. Keep in mind that additional features may be helpful to track, such as site selection surveys, availability of water or other utilities, and water rights.

10. SCOPE OF PROPERTY ACQUISITION

Consider tracking these items:

- a. total acreage,
- b. the acreage to be acquired in fee,
- c. the acreage in private ownership
- d. acreage under the control of another governmental department or agency (including state, county, or municipality) and the names and addresses of the owner(s),
- e. any improvements on the acreage,
- f. whether the acquisition is limited to a restrictive easement,
- g. roads, highways, railways, canals, utilities etc., to be closed or relocated, and
- h. any other information of a general nature bearing on the acquisition.

11. PROJECT ANALYSIS

Only if it will be needed by NAVFACENGCOM, prepare an analysis that demonstrates that property under the control of the Government cannot meet the project property requirements. Consider including a list of Government-owned real estate surveyed during the site selection process and a state the reason(s) for the rejection of a Government-owned site(s). Get information from other planning reports and data prepared by Site Selection Boards or others charged with the responsibility of making site selections. Remember that if a lease of property best meets the project's property requirements, obtain a firm commitment from the owner, if possible, containing the terms and conditions under which the owner will lease that property to the Government.

12. ESTATE TO BE ACQUIRED

Do not forget to deal with outstanding rights and interests in the land. Get copies of recorded documents. It is not unusual to find certain interests, such as mineral rights, water rights, and timber, separated from the remaining interests in property, so analyze how, if at all, they may affect the project.

13. CROPS AND TIMBER

If all or any part of the property is devoted to raising crops, take these into consideration in relation to the specific project.

14. POLICY ON ACQUISITION OF MINERAL INTERESTS

It is the policy of the Navy to make a decision, on a project by project basis, whether to acquire mineral interests. Generally, information about the mineral characteristics of land and mineral production is available from the local offices of the United States Geological Survey and the United States Bureau of Mines.

15. SEVERANCE AND ADVERSE EFFECTS ON SEVERED LANDS

(a). Where there is a unitary holding, think about severance and any adverse effects on severed land

(b). In some instances, after an area has been acquired, claims are made against the Government for damages due to flooding of adjacent or abutting lands. Claims arising out of flooding usually occur because of changes in natural drainage, accelerated runoff from Government-owned lands, or discharges of waste. Unless the Government is the owner of an interest in the affected lands, there is no ready means available to correct drainage problems with the use of Government funds.

(c). Check to see whether the Government's acquisition will isolate any lands outside the proposed acquisition area, consequently closing the existing means of access to the lands.

16. SUBMERGED AREAS

If acquiring any submerged area, determine its ownership and handle the acquisition the same as any other

property. For informational purposes, ownership of "fast" lands does not always carry with it the right to construct, fill, or deposit spoil in the abutting submerged areas. It also does not necessarily permit the construction of improvements in those areas.

17. EVIDENCE OF PHYSICAL POSSESSION

Check to be sure that there is evidence of physical possession such as highways, roads, railways, utilities (above and below ground), irrigation and drainage ditches, and any other evidence of physical possession other than by property title ownership. If physical possession and access are issues, keep a note to treat them accordingly.

18. CLOSING AND RELOCATION OF ROADS, HIGHWAYS, AND UTILITIES

It may be determined necessary to close or relocate a public road, highway, or street, or to relocate a railway, utility, canal, ditch, or other similar improvement. If a closing or relocation is necessary, prepare to suggest and/or undertake that action, including an estimate of costs to do so.

19. RELOCATION OF CEMETERIES

Occasionally, a cemetery or a burial ground (collectively, "cemetery") may be found located wholly or partially within a proposed acquisition area. If it is determined that relocation of the cemetery is necessary, follow the procedures in **P-73, Chapter 9**. Estimate the cost of acquiring a new site, if one is necessary, and the cost of disinterring and reintering the remains of the deceased.

20. REAL ESTATE TAXES

Learn the amount of the real property taxes paid during the preceding tax year, the current assessed value, and the current tax rate established by taxing authorities.

21. EASEMENTS TO SERVE FACILITY

Determine if any easements needed for utilities, access roads, and other purposes to serve the naval activity to be located on the land.

22. JUSTIFICATION FOR EACH PARCEL

a. Justify the proposed acquisition in fee and/or easement of each parcel of land in a project by identifying a specific requirement such as construction, clear zones, safety areas, flight clearance, severance, or other justification. Also explain why the acquisition of a lesser estate will not fulfill the real estate requirement. When more than one parcel will be put to the same use, they may be justified as a group. An exception to this is boundary or fringe parcels that must be justified individually.

b. If the acquisition of a lesser estate than fee is recommended, justify the acquisition for each parcel based on a specific requirement. If the justification relates to a lease, it will state that the proposed acquisition meets the requirements of **P-73, Chapter 13**.

23. FRINGE AND BOUNDARY PARCELS

a. The FEC shall devote special attention to the need for each fringe or boundary parcel or its portion, and the reasons for establishing exterior boundary lines at the locations recommended for each acquisition project. Therefore, justification for the acquisition of fringe or boundary parcels will include:

(1) reasons for including or excluding parcels and/or portions(s) of parcels,

(2) reasons for any variance from straight boundary lines,

(3) estimated cost increase or decrease resulting from severance, and

(4) whether the remainder (portion left to owner) constitutes an economic unit.

b. Discuss the compliance with, or variance from, approved planning criteria as set out in the Command's instructions or directives. Cite the instructions or directives applicable to the criteria.

c. Valid reasons may exist for variance from straight exterior boundary lines. Among these reasons are: (1) increased cost to the Government due to severance or other causes, (2) following natural features, and (3) conforming

to section or quarter section lines, or other established lines. Each LPR will state the reasons and justify varying from straight exterior boundary lines. If the property is going to be fenced, compare the estimated cost of fencing along irregular boundary lines to the estimated cost of fencing straight boundary lines, and any increase in the property costs that may be incurred to avoid severance.

d. In projects where a Command has not firmly established the estate requirements, justify the acquisition of boundary parcels and the establishment of exterior boundary lines as required in subparagraph (a) above. Once the planning for acquisition of real estate is authorized and the scope of the real estate requirement for a project is firm, if the scope is expanded for any reason, submit a justification.

24. LEGAL DESCRIPTIONS

Prepare perimeter and parcel descriptions in a manner that allows their use for planning purposes, for condemnation proceedings, and for other related uses. Accomplish this by preparing them in a way to permit reproduction on letter size paper (8 x 10-1/2 or 8-1/2 x 11). Allow a margin of at least 2-1/2 inches at the top and sufficient margin on the left side to permit binding as required.

25. PERIMETER OR TABULAR DESCRIPTION OF ENTIRE AREA

Include a perimeter or tabular description of the entire area. Base this on a survey made at the time the LPR is prepared, or on an acceptable earlier survey such as the Public Land Rectangular Survey System, or a survey made of a subdivided or platted area. If the property to be acquired has been subdivided or platted, the description of the entire area either by perimeter or tabular description, i.e., by subdivision, lot, and block, is acceptable, provided that the subdivision or plat was based upon a survey. The underlying fee to street areas in platted subdivisions is generally dedicated to the local government by the developer when the plat is approved. In any case, all ownership should be surveyed. Take care to include these street areas both in description of the entire area and in the parcel description.

26. PARCEL DESCRIPTIONS

a. Furnish parcel descriptions for each separate ownership. Available sources are Public Land Rectangular Surveys, filed and recorded plats and subdivision maps, deeds, and other documents filed or recorded among the public records. It is NAVFACENGCOM policy to hold to a minimum the surveying of interior parcels in order to obtain their descriptions.

b. For areas that have been surveyed under the Public Land Rectangular Survey System, base the parcel descriptions on this system, unless the parcels are not susceptible to being described under this system.

c. If an area has been platted or subdivided, base parcel descriptions on the recorded or filed plats, or subdivision maps.

d. In areas that have neither been surveyed under the Rectangular Survey System, nor platted or subdivided, base parcel descriptions on descriptions appearing in deeds or other documents recorded among the public records.

e. If parcels are not susceptible to being described under the Rectangular Survey System, plats or subdivision maps, recorded deeds, or other documents, obtain surveys and base parcel descriptions on them. Normally, under these circumstances, surveys of interior parcels will not be required.

f. Since parcels may be added or dropped at any stage of an acquisition, wherever possible, describe each parcel on a separate page. Where parcel descriptions are short, more than one may be described on a page, but in those cases do not continue a description on a second page. Do not number the pages containing parcel descriptions, but clearly show the parcel number on them.

27. NUMBERING OF PARCELS

a. In each project, number the parcels consecutively beginning with the number "1." Do not change parcel numbers once assigned, and use them wherever appropriate, e.g., in descriptions, appraisals, title evidence, maps, and other documents. If, after assigning parcel numbers, a parcel is found that comprises more than one parcel, retain the same parcel designation, but designate the separate parcel(s) by

a letter suffix in capitals beginning with the capital letter "A."

b. Number easements being acquired for Government use in the same manner as parcels being acquired in fee. Easements that are being extinguished in the property acquisition should be assigned a parcel number in the same manner as other parcels preceded by the capital letter "E."

c. Identify each unpatented mining claim, millsite, or tunnel right determined in existence in an area being acquired, beginning with the number "1" preceded by the capital letter "M."

d. Circle or underline parcel numbers to avoid confusing them with other numbers appearing on maps.

28. PLANNING MAPS

Include a planning map, prepared on one sheet when practicable, depicting the following:

(a) the exterior boundaries of the property to be acquired and the parcels,

(b) the general location of major improvements and structures situated on the lands to be acquired,

(c) the siting of proposed Government construction on the lands to be acquired. This map will show the general outlines of the construction areas appropriately identified (runways, barracks and administration areas, housing area, etc.). In any acquisition of property where the requirement is based on technical criteria (such as airfields, ammunition storage areas, and communication stations), diagram that criteria on the planning map,

(d) the location of existing easements for roads, highways, railways, utilities, and other purposes,

(e) the proposed route of relocation of any of the easements mentioned above. If the proposed route of any intended relocation of an easement lies too great a distance from the proposed acquisition of property to be depicted on this map, display the planned relocation routes on the vicinity map required by paragraph 35, below,

(f) the approximate location and direction of flow of natural water courses,

(g) a small scale location insert showing the general location of the property in the vicinity, and

(h) any other pertinent information having a bearing on plans for the acquisition of the property.

29. LAND ACQUISITION MAP

Develop a land acquisition map. Some or all of the following data could be useful:

(a) display the boundaries, the parcels properly numbered, and the easements for roads, highways, railways, utilities, and other purposes traversing the area, making sure that parcel descriptions noted on the map agree with the written parcel descriptions,

(b) in areas where the Rectangular Survey System is used, a perimeter description of the area need not be drawn on the map, but if a land acquisition map is drawn, showing the townships, ranges, and sections with necessary subdivisions would be useful,

(c) in areas where the Rectangular Survey System is not used or useable, show the perimeter description on the map by courses and distances,

(d) delineate the interior parcels,

(e) if all or any part of the area to be acquired has been platted or subdivided, show the name of the platted or subdivided area and the lots, blocks, streets, and alleys, making sure that the data agrees with the written parcel descriptions,

(f) number each parcel and place an orientation arrow in a conspicuous space, and

(g) list the ostensible owner(s), by parcel number, for each parcel, and on the list, write the total acres of ownership, acreage to be acquired in the project, current use, and type of estate to be acquired.

30. VICINITY MAPS

A vicinity map depicting the location of the property could be helpful to denote any significant features in its immediate and general vicinity that affect its acquisition or its proposed use.

31. AERONAUTICAL CHARTS

In the case of airfields, gunnery ranges, and bombing ranges, it is helpful to obtain a Sectional Aeronautical Chart prepared by the U.S. Coast and Geodetic Survey. The chart should show the location of existing Airfields - private, commercial and Government, within a radius of 40 miles of the proposed property.

32. PROFILE

In cases involving airfields, a profile map should depict ground elevations and obstructions to flight. This map should delineate the profiles of the centerlines of approach zones and existing and proposed runways and/or runway extensions (both standard and Field Carrier Landing Practice (FCLP)) as appropriate. Note any variations in the terrain within the approach zones that may affect the required interests.

33. INTERPRETATION OF MAPS

Make sure that maps contain data and information that will assist in interpreting them.

34. AERIAL PHOTOGRAPHS

Obtain, if desirable and available, enlargements of aerial photos the property and the immediate vicinity. Usually these photographs can be obtained from the county agricultural agent, Defense Mapping Agency, local representative of the United States Geological Survey, or the local office of the United States Army Map Service. The most desirable enlargement found is 600 feet to the inch, or 660 feet to the inch. It is handy to depict the boundaries of the property on the photographs.

35. SECONDARY LAND USE

Sometimes, the property to be acquired may be available for secondary land uses, for example, lands within Air Installation Compatible Use Zones or Explosives Safety Quantity Distance Arcs.

36. APPRAISAL REPORTS

(a) Submit a complete appraisal report to offices that

need one. If an office needs a report that is not immediately available, give an estimate of the value of the property, basing it on the value on advance estimates of the appraisers or on the best available information.

b. The AM1 staff appraiser will analyze the appraisal reports and make comments as necessary.

37. TIMBER, MINERAL, AND CROP APPRAISALS

If the property under consideration for acquisition contains timber in commercial quantities, mineral deposits, or growing crops, it may be necessary to give special consideration to obtaining detailed estimates of their values. Unless the contract appraisers are clearly qualified to quote detailed estimates of value of timber, minerals, and growing crops, obtain these estimates from other qualified appraisers or sources. Valuable mineral deposits create a special problem since it is costly and time-consuming to perform the extensive work necessary to reach a real estate estimate of the value of those deposits. Before entering into any arrangements to obtain appraisals of valuable mineral deposits, obtain from the customer a specific determination whether the mineral interests will be acquired. In many instances, it is possible to obtain appraisals of growing crops from county agricultural agents and appraisals of timber from the United States Forest Service.

38. TITLE EVIDENCE

Note any unusual features such as covenants restricting the use of the real estate.

39. TOXIC AND HAZARDOUS SUBSTANCES

The Navy could be held responsible for toxic/hazardous wastes or materials left by other parties on property it acquires. This concept is known as strict liability and is established under CERCLA ([reference \(d\)](#)). Take care to note the presence or absence of toxic/hazardous materials. Contamination may also affect the property's fair market value. Paragraph 49 lists guidelines for evaluating property for the existence of hazardous/toxic materials.

40. COST OF REAL PROPERTY

a. Base this estimate upon complete, detailed, current

appraisals, and include, when appropriate, estimates of the cost of relocating cemeteries, roads, highways, power lines, ditches, and other utilities. In reaching this total, use the high estimate for each parcel and relocation, unless clearly erroneous. Keep track of the total amount together with sub-totals for each item.

b. If the completed appraisal reports are not available in a timely manner, base the cost of property on the appraisers advance estimates, or on the best information available.

41. COST OF TITLE EVIDENCE, APPRAISALS, AND SURVEYS

Charge the cost of obtaining title evidence, appraisal reports, surveys, and other items obtained under contract, or on a reimbursable basis from other Government agencies prior to project authorization to planning funds. These costs need not be included in the budget estimate. Updates of any of the above after project authorization require use of project funds and should be accounted for, if possible, in the budget estimate.

42. RELOCATION ASSISTANCE COSTS

Relocation assistance costs estimates must fall within the statutory limitation of [reference \(j\)](#), and will take into consideration the provisions of **P-73, Chapter 12**.

43. ESTIMATED COST OF LAND ACQUISITION

If you are required to prepare some formal report in writing for a specific project, use the following terminology:

(1) Appraised Value. The fair market value of the property. If an appraisal report is not available, substitute an in-house estimate based on the best information obtainable.

(2) Market Adjustment Factor. The anticipated adjustment in the value of the real estate acquisition based on the local market, between the date of the appraisal and anticipated date of commencement of acquisition, which must be specified. State the adjustment (plus or minus) in percentage form, and if the percentage adjustment is "plus," convert the percentage to decimal form and add a "1" prior

to calculations. If "minus," subtract the percentage adjustment from 100%, convert to decimal form, and calculate. The AMI review appraiser should determine this adjustment supported, whenever possible, by contract appraisal analysis with a clear explanation of basis for the adjustment.

(3) Subtotal (a). The product of the Appraised Value and the Market Adjustment Factor above.

(4) Value Adjustment Factor. This is an upward percentage adjustment (set by NAVFACENGCOM) to allow for adjustments of values, appraisals, or offers to reflect actual conditions at the time of negotiations. At present, the percentage of increase is 7-1/2% (.075). Convert the percentage to decimal form and add a "1" prior to calculation, i.e., 1.075.

(5) Subtotal (b). The product of Subtotal (a), and the Value Adjustment Factor above.

(6) Property Acquisition Cost. The sum of Subtotal (b) and Cost of Project Execution. This amount will normally be equivalent to the Land Acquisition line on the [DD Form 1391](#).

(7) Relocation Cost. The estimated cost of relocation assistance.

(8) Demolition Cost. The estimated cost of demolition and/or vegetation clearing. Allow for estimated cost increases due to the passage of time.

(9) Subtotal (c). The sum of Property Acquisition Cost, Relocation Cost, and Demolition Cost.

(10) Contingency. An amount included as a reserve for requirements and expenses that cannot reasonably be foreseen (i.e., changes in zoning development, etc.). Current DOD guidelines set a contingency factor of 5% (.05).

(11) Subtotal (d). The sum of Subtotal (c) and Contingency.

(12) SIOH. The Supervision, Inspection and Overhead (SIOH) charge for Navy is currently set at 6% (.06).

13) Total Request. The sum of Subtotal (d) and the

SIOH charge. This represents the total Project Cost for a Land Acquisition Project. Each item of terminology above, excluding subtotals, should be followed by a narrative, negative comment and a dollar value, or \$0.00 as applicable.

Follow the narratives as required above by a recapitulation, including subtotals as required, for all items having a positive dollar value. Use the chart below as an aid for computations.

Appraised value			XXXX	
Market Adjustment Factor				
(multiply)	(X)	<u>XX</u>	<u>XX</u>	
Subtotal (a)			XXX	
Value Adjustment Factor				
(multiply 7.5%)	(X)	<u>XX</u>	<u>XX</u>	
Subtotal (b)			<u>XXX</u>	
Property Acquisition Cost				XXX
Relocation Cost				XX
Demolition Cost (add)	(+)		<u>XX</u>	
Subtotal ©				XXXX
Contingency (5%) (add)	(+)		<u>XX</u>	
Subtotal (d)				XXXX
SIOH (6%) (add)	(+)		<u>XX</u>	
Total Request				<u>XXXX</u>

SAMPLE WORKSHEET

	1	2	3
			DD 1391 Entries
Appraised value		7,000	
Market Adjustment Factor	(X)	<u>5%</u>	
Subtotal (a)		7,350	
Value Adjustment Factor	(X)	<u>7-1/2%</u>	
Subtotal (b)		7,901	
Property Acquisition Cost			7,901
Relocation Cost			500
Demolition Cost	(+)		<u>150</u>
Subtotal ©			8,551
Contingency (5%)	(+)		<u>428</u>
Subtotal (d)			8,979
SIOH (6%)	(+)		<u>539</u>
Total Request			<u>9,518</u>

SECTION IV - PUBLIC LAND WITHDRAWAL/CONGRESSIONAL

44. PUBLIC LANDS

a. On occasion there are projects that contemplate using public lands rather than acquiring privately owned lands. Withdrawals in excess of 1,000 acres are subject to the land acquisition moratorium discussed in [reference \(k\)](#), and require prior approval from the Deputy Under Secretary of Defense (Installations & Environment) (DUSD) (I&E) before issuing formal public notice, in any manner, of the withdrawal. Requests for exception to this moratorium for urgent military requirements, or when the moratorium will have adverse effects on the Navy's ability to perform its mission must be approved by the DUSD (I&E).

b. Further, pursuant to [reference \(b\)](#), withdrawals in excess of 5,000 acres for defense purposes must be undertaken by Act of Congress. Thus, for these withdrawals, the Office of the Deputy Assistant Secretary of the Navy (Installations and Facilities) (DASN) (I&F) must fully prepare to answer any questions relating to the public lands proposed for Navy use. When requested, gather information to support testimony

45. COMMITTEE HEARINGS

a. The Armed Services and Appropriations Committees of the Senate and House of Representatives conduct hearings on each item contained in the proposed Military Construction bills. The Committees consider the requirement justifications involving the construction, real estate and other purposes specified in the bills, and either approve or disapprove the projects. DASN (I&F) witnesses provide supporting testimony for real estate requirements on behalf of the Department of the Navy. When called on, AM1 should assist in gathering data and facts for that testimony.

b. Appropriate committees of the Senate and House of Representatives conduct hearings on proposed legislation for the withdrawal of more than 5,000 acres of public lands for defense purposes.

46. ENACTMENT OF LEGISLATION

a. For your information, generally, Congress enacts proposed military construction bills without a large number

of deletions, but it does make numerous changes and amendments before the bill is actually enacted into law. Appropriations usually follow enactment of the military construction bills. However, on occasion, funds authorized pursuant to the Military Construction bills have been appropriated prior to the bills enactment. Usually, supplemental appropriation acts for the particular fiscal year involved provide for the appropriation of funds.

b. Public land withdrawals exceeding 5,000 acres for defense purposes under [reference \(b\)](#) have not been sufficiently utilized by the Navy. Thus, the Navy has not determined what success it will have in obtaining the desired legislation. Generally, NAVFACENCOM has found that proposed legislation involving real estate matters, if well planned and well supported, is enacted without undue delay. NAVFACENCOM, therefore, anticipates that such public land withdrawals will also receive favorable consideration if well planned and supported.

SECTION V - ENVIRONMENTAL GUIDELINES

47. TOXIC AND HAZARDOUS WASTE CONSIDERATIONS IN PROPERTY ACQUISITION

a. Purpose and Policy

a. Potentially, the Navy could be held responsible for the cost of remediating toxic/hazardous wastes or materials left by other parties at sites the Navy acquires, under the strict liability provisions of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA/Superfund), [reference \(d\)](#). In those situations, it is possible for the Navy to take legal action against the seller, or nearby property owner, if toxic/hazardous wastes are discovered after acquisition. However, this course of action should not be relied upon. Therefore, it is important that the Navy be aware of site contamination before signing an agreement with a seller/lessor. Or, if this information is not available, the AMI must include proper contingency language in the agreement. This language should be developed with the aid of counsel. Since there is always an element of risk that a site may unexpectedly contain toxic/hazardous waste, the following procedures attempt to minimize this risk.

It is Navy policy to avoid acquiring sites that have known toxic/hazardous waste contamination, unless it can be demonstrated to be in the best interest of the Navy to do so.

b. Applicable Federal Laws

The first four of the following Federal laws have direct impact on toxic/hazardous waste management. The other three are focused on more specific environmental issues:

- (1) [Resource Conservation and Recovery Act \(RCRA\) \(aka Solid Waste Disposal Act\), 42 U.S.C. §§ 6901-6992k \(reference \(c\)\)](#)
- (2) [Comprehensive Environmental Response, Compensation, and Liability Act \(CERCLA/Superfund\), 42 U.S.C §§ 9601-9675 \(reference \(d\)\)](#)
- (3) [Toxic Substances Control Act, 15 U.S.C. §§ 2601-2692 \(reference \(e\)\)](#)
- (4) [Federal Insecticide, Fungicide and Rodenticide Act, 3-7 U.S.C. §§ 136-136y \(reference \(f\)\)](#)
- (5) [Clean Air Act, 42 U.S.C. §§ 7401-7671q \(reference \(g\)\)](#)
- (6) [Clean Water Act, 33 U.S.C. §§ 1251-1387 \(reference \(h\)\)](#)
- (7) [Safe Drinking Water Act, 42 U.S.C. §§ 300f-300j-26 \(reference \(i\)\) \(aka Public Health Service Act\)](#)

c. Applicable State and Local Laws

More and more states have laws that regulate the transfer of property that has known or potential toxic/hazardous waste. It is wise to research these laws (with the assistance of counsel) before acquiring the property.

48. GENERAL PROCEDURES

Potential Sources of Toxic/Hazardous Material

The following are a few of the sources of toxic/hazardous contamination of sites and/or buildings:

- (a) past uses of the site for industrial/commercial/agricultural or other purposes. Paragraph 70, hereof, shows a list of some suspect land uses,

- uses,
- (b) contamination emanating from other off-site
- (c) equipment such as electrical transformers used in building systems,
- (d) chemicals used within the building,
- (e) radon gas emitted from soil or building materials,
- (f) leaking underground storage tanks, and
- (g) materials used in the construction of buildings.

49. EVALUATING RISK OF SITE CONTAMINATION

a. Existing Buildings/Structures on Site

(1) A qualified person or firm should undertake an inspection to determine the presence of any toxic/hazardous materials/substances within the building, to assess the magnitude of their occurrence, and to suggest methods and costs for remedial action should these materials/substances be found.

(2) Some examples of materials/substances that should be researched in an existing building/structure are:

- (a) friable asbestos,
- (b) PCB electrical transformers,
- (c) radioactive materials (including Radon),
- (d) underground storage tanks,
- (e) urea formaldehyde insulation,
- (f) pesticides,
- (g) hazardous/toxic materials on surface or in stored containers, and
- (h) lead-based paint on walls.

b. Land Areas of Sites with or without Improvements

If there is reason to believe that past uses of a site, or adjacent uses, may have led to toxic/hazardous wastes being on, under, or adjacent to the site, a qualified firm must undertake further investigation of surface and/or groundwater. Follow the procedures in paragraph 68 for assessing whether an on-site toxic/hazardous investigation should be pursued.

50. DETERMINING IF ON-SITE TOXIC/HAZARDOUS INVESTIGATION SHOULD BE PURSUED

a. Phase I - Preliminary Investigation

The following checklist may be used as an initial screening device for clues regarding possible hazardous waste problems, prior to a full site study. A thorough site study for toxic/hazardous materials/substances should be conducted by qualified technical experts:

(1) Historical Background. Check the previous ownership (by having a title company prepare a chain of title) and business license records for evidence of purchase or sale to manufacturing, chemical, or similar companies. Determine if previous site users generated waste, manufactured, refined, treated, stored, handled or disposed of waste, above or below ground. Check site plans for buildings and structures that may have been removed. Check insurance records and fire hazard maps to see if any hazardous operations were insured at the site. Check past aerial photographs (if available) of the site to see if areas of the site may have been used for waste disposal. Check with area residents, current/former employees, and brokers. Visit the site and discuss with people who are, or have been, connected with the site, or nearby properties, and/or its current or previous uses.

(2) Review Regulatory Agency Records. Check EPA and appropriate state and local agency records for permits, enforcement actions (consent decrees), uses, development permits/rights, audits, or inclusion on lists of hazardous waste sites. Local agencies may include health, fire, and zoning departments.

(3) Search for Evidence of Soil Staining. Check site for evidence of soil staining. Examine the drainage course at site for any different soil coloration.

(4) Search for Evidence of Vegetation Stress. Examine trees and vegetation for signs of stress.

(5) Check Site for Unusual Odors.

(6) Examine Site for any Fill Areas or Depressions. The use of clean dirt or other fill materials may cover hazardous wastes.

b. Phase II - Detailed Site Investigation by Technically Qualified Firm

Take this step if the preliminary investigation above indicates the potential for contamination, and the site has a high economic or operational potential that would justify the cost of the investigation, consistent with the Navy's policy in paragraph 65. The specific investigative tasks depend on the nature and extent of the contamination and the character of the site (i.e., soil type, geology, hydrology, etc.). For this reason, it is important that the selected firm have qualified and experienced scientists/engineers and use certified laboratories and testing procedures in conducting investigations. To obtain further information about a firm's competence to perform the work, contact state environmental agencies and/or regional offices of the EPA.

51. ACQUIRING SITES WITH CONTAMINATION

a. If site contamination exists, but, consistent with Navy policy in paragraph 65, it may still be necessary to purchase the property. Undertake the following steps, as a minimum, prior to purchase:

(1) work with counsel to develop appropriate protections in sale contracts, option agreements, or lease agreements,

(2) determine costs of remedial action (if Navy undertakes action). In most cases, these costs will affect the price to be paid for the property,

(3) determine, to the best extent possible, the time frame for cleanup,

(4) coordinate with the state environmental agency and/or EPA as appropriate.

b. Once a remedial effort is undertaken, the Navy should:

(1) have qualified technical experts oversee the remedial effort to ensure that the work is done in an effective manner, and

(2) obtain certification from the state environmental agency and/or EPA that remedial effort is acceptable to them.

52. EXAMPLES of LAND USES POTENTIALLY ASSOCIATED WITH
TOXIX/HAZARDOUS WASTE

(Source: U.S. Environmental Protection Agency)

Agricultural Operations
Agricultural Spraying Service Companies, including Lawn
Firms, Pest Control Operations
Airports
Asphalt Plants
Auto Repair Centers
Battery Companies
Bottling Companies
Cement Processing Operations
Chemical Companies
Dry Cleaners
Fence Companies
Firing Ranges/Test Sites
Gas Stations/Tank Farms/Heating Oil Businesses
Highway Spill Sites
Hospitals
Incinerator Sites
Industrial Parks
Junk Yards/Scrap Yards
Labor Camps - State Highway Department Operations
Landfills
Metal Fabricators
Mining Sites - Sand and Gravel Pits
Ordnance Operations
Paint Stores, Warehouses, etc.
Penitentiaries
Plastics Companies
Plating Operations
Processing Plants/Heavy Industrial Sites
Railroad Maintenance Yards and Other Related Uses
(derailment sites)
Recycling Companies
Refining Operations
Rendering Companies
Research Laboratories
Semiconductor/Computer Plants, High Technology Plants
Sewage Treatment Plants
Surplus Government Property
Surplus Military Property
Tanneries

Tire and Rubber Plants
Trucking Terminals
Utility Companies: power plants, electrical equipment
storage yards
Waste Lagoons
Welding Products Companies
Wood Processing and Preserving Operations