

CHAPTER 23

DISPOSAL OF REAL AND RELATED PERSONAL PROPERTY

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## CHAPTER 23

### DISPOSAL OF REAL AND RELATED PERSONAL PROPERTY

#### SECTION I - GENERAL

##### 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 DON (DON) in the United States, American Samoa, Guam, the Trust Territory of the Pacific Islands, Puerto Rico, and the Virgin Islands. Policy, authority, and operating procedures for the disposal of foreign real and related personal property are contained in P-73, Chapter 24. As used in this Chapter, "property" refers to real property unless otherwise noted.

##### 2. REFERENCES

- (a) [40 U.S.C. § 472 \(Federal Property and Administrative Services Act of 1949, as amended\)](#)
- (b) Subpart C of Chapter 102 of Volume 41 of the Federal Management Regulation
- (c) OPNAV P09B2-105, Catalog of Naval Shore Activities
- (d) [10 U.S.C. § 2696\(a\)](#)
- (e) [49 U.S.C. § 47151](#)
- (f) [23 U.S.C. § 317](#)
- (g) [40 U.S.C. § 1304](#)
- (h) [Federal Land Policy and Management Act of 1976 \(43 U.S.C. § 1701\)](#)
- (i) [SECNAVINST 11011.47B of 12 January 2009](#)
- (j) [NAVFACINST 11010.70 of 22 Mar 1983](#)
- (k) [Exec. Order No. 11,988, 42 Fed. Reg. 26,951 \(May 24, 1977\)](#)
- (l) [Exec. Order No. 11,990, 42 Fed. Reg. 26,961 \(May 24 1977\)](#)
- (m) [OPNAVINST 5090.1C \(Instructions and Chapters\) of 11 2008](#)
- (n) NAVFACINST 11010.44E
- (o) [10 U.S.C. § 2662](#)
- (p) [Title 23 U.S.C. \(USDOT statutes\)](#)
- (q) [10 U.S.C. § 2664](#)
- (r) [29 C.F.R. 1910.1001](#)
- (s) USD Memo of 28 Sep 2001, re: DERP Guidance
- (t) [10 U.S.C. § 2696](#)

### 3. POLICY

a. It is the policy of the Department of Defense (DOD) that real estate holdings of the military departments be limited to the minimum required to accomplish assigned missions; that holdings be kept in balance with mobilization concepts; and, that these properties be utilized in an economical and practical manner.

b. Real property under the custody and control of DON must 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. Further, real property that is not required for military purposes should be promptly disposed of in accordance with [reference \(i\)](#).

### 4. DEFINITIONS

a. Definitions as set forth in [references \(a\)](#) and [\(b\)](#) apply to real estate actions covered by this Chapter. The following additional definitions are also applicable:

(1) Cognizant Command/Cognizant Chain of Command. Refers to the mission component command/region of an activity designated as Echelon II in section 2 of [reference \(c\)](#), or the chain of command listed as echelons up to and including Echelon II for the activity under consideration in section 2 of [reference \(c\)](#).

(2) Reassignment. Refers to an action involved in changing the custody and control of real and related personal property from one Navy or Marine Corps activity to another.

(3) Transfer. Refers to a real estate action involved in changing the custody and control of real and related personal property from the DON to another military department, the Coast Guard, or other Federal department or agency.

(4) Property. Refers to real property, unless the context states otherwise.

### 5. AUTHORITIES FOR DISPOSAL ACTIONS

The basic authority to dispose of real and related personal property is derived from provisions of

reference (a). Provisions of reference (a) have been implemented by reference (b) and the delegation of authority from the Administrator of the General Services Administration (GSA) to the Secretary of Defense of 28 March 1957, and successive redelegations to the Secretary of the Navy and to the Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM). Authority for transfers of property between military services is derived from reference (d). Navy authority to dispose of real property specifically for public airport purposes is derived from reference (e); for a Federal-aid highway or defense access road from reference (f), and for authorized widening of a public highway, street, or alley from reference (g). Authority for granting consent to the Secretary of Interior to modify or revoke public land withdrawals is derived from reference (h). No specific legislative authority is necessary for reassignments since this action is merely the reallocation of resources within the Navy as required to accomplish assigned missions. Reference (i) contains the specific authorities delegated to COMNAVFACENGCOM.

## **6. DELEGATION OF AUTHORITY TO FACILITIES ENGINEERING COMMANDS (FECs)**

a. Commanders/Commanding Officers of Facilities Engineering Commands (FECs) are hereby authorized, subject to the limitations of this Chapter to accomplish the following real estate actions:

(1) Determine that real and related personal property is excess to the DON and/or the DOD, when screening required by Paragraph 9 below reveals no other need for the property and requisite approvals and/or clearances have been given.

(2) (a) Determine, within the limits prescribed by reference (b) and delegated authority, that real and related personal property, having a total estimated fair market value, including all component units of the property, of less than \$50,000 is surplus to the Government, and to dispose of the property by the means most advantageous to the United States.

(b) The surplus determination must be based upon a prior Federal screening of the property that discloses no further Federal need or requirement for the property.

(c) A Report of Excess Real Property is not required to be submitted to GSA under this authority. However, the disposal must otherwise conform to the requirements of [reference \(a\)](#).

(3) Take all actions authorized by [references \(b\)](#) and [\(d\)](#) through [\(h\)](#), including the execution of appropriate instruments, to report as excess, transfer, convey, demolish, destroy, donate, exchange, or otherwise dispose of real and related personal property, subject to the approvals and conditions specified in this Chapter.

(4) This authority may be redelegated.

## **SECTION II - RESPONSIBILITIES**

### **7. ACTIVITY RESPONSIBILITIES**

a. Reporting Excess Property. When it has been determined that real and related personal property is either (1) excess to the military requirements of an activity; (2) found to be excess through an Executive Order survey; (3) is involved in a base closure announcement; (4) found that the activity's requirements can and should be modified to accommodate the requirements of another military department or the Coast Guard; or (5) approved for disposal through the Shore Facilities Planning System, the Commander/Commanding Officer of the activity having the excess property in its plant account is responsible for reporting it for disposal. The following actions are required:

(1) Inventory. Identify specific items of the Inventory of Military Real Property that are excess to military requirements. (Recommend affected property record numbers be annotated on the forms identified in [Paragraphs 28 through 30](#) below.)

(2) Determination Concerning Hazardous Materials or Contamination. Before excessing any property, the activity will make sure all Federal and applicable state and local environmental laws and regulations have been followed. This will be done by both record searches and visual inspections under the procedures set forth in [Paragraph 22](#) below, and this information will be included in the Environmental Baseline Survey.

(3) Approvals. Requests for approvals of the disposal action must be initiated in accordance with subparagraph 7.b. Approvals may be obtained before actual reporting of the property for disposal or as part of the reporting process.

(4) Report of Excess Real Property (SF 118). Complete a Report of Excess Real Property for each disposal action. Submit an original and four copies of the Report, complete with all required information, to the FEC. Forward one complete advance copy to the FEC if the Report is submitted through the cognizant chain of command. The Commanding Officer or his/her authorized designee should sign the original Standard Form 118. The Report will contain the following documents, as appropriate:

(a) Standard Form 118, Report of Excess Real Property must be completed for all Reports of Excess Real Property. Section 102-75.115 of reference (b) contains instructions for completing this and other required standard forms.

(b) Standard Form 118a, Buildings, Structures, Utilities and Miscellaneous Facilities must be completed and included in each Report of Excess Real Property that includes Class II (buildings and structures) property.

(c) Standard Form 118b, Land, must be completed and included in each Report of Excess Real Property that includes Class I (land) property.

(d) Standard Form 118c, Related Personal Property must be completed and included in each Report of Excess Real Property that includes excess related personal property.

(e) Written Description. Each Report of Excess Real Property that includes excess land or interests in land will include a written metes and bounds or tabular description of the lands to be disposed. The description will be tied into existing boundary lines and/or permanent monuments indicating property corners of the activity and will refer to a map on which the excess property has been delineated. If the reporting activity does not have the technical capability of preparing the required description, it should submit an Engineering Services Request to the FEC.

(f) Maps and Drawings. Each Report of Excess Real Property which includes excess land will include a map or maps delineating the location, size and scope of the land or interests in lands to be disposed. Include additional maps or drawings which delineate the buildings, structures, utilities, and other facilities which have been determined to be excess to the military requirements of the reporting activity. The Real Estate Summary map delineating the excess land will reflect the metes and bounds as recited in the description. The map will also indicate the area in acres and the tie-ins to existing property lines or corner monuments of the activity. Also delineate any potentially contaminated nuclear waste, unexploded ordnance or hazardous material/hazardous waste sites identified through the procedures set forth in [Paragraph 22](#) below. For annotation of these sites, use the contaminate code(s) indicated by the electronic mapping system. Copies of the General Development Map or other maps included in the Master Plan for the activity may be used to delineate the excess Class II property.

(g) Aerial Photographs. It is highly desirable that an aerial photograph be included in Reports of Excess Real Property which has been marked to delineate the approximate boundaries of the excess real property being reported.

(h) Excess Family Housing. Funds derived from the sale of excess family housing properties must be reimbursed to the Department of Defense Family Housing Fund. Accordingly, it is necessary that family housing property be separated from other excess land and facilities as follows:

(1) Separate [Standard Form 118a](#). Complete a separate [Standard Form 118a](#) and include it in all Reports of Excess Real Property when excess family housing assets are being reported for disposal. List all excess housing units, roads, streets, utilities and other Class II family housing facilities on this form. Identify the type of housing such as Wherry, Capehart or DOD in block (c). Insert a statement on this form, as follows: "Net Proceeds from the sale of family housing, including related land and improvements, shall be remitted to the Family Housing Management Account, Defense (97X0700)."

(2) Separate [Standard Form 118b](#). Complete a separate [Standard Form 118b](#) and identify in acres or square feet all land and interests in land related

to the family housing being reported as excess. Inasmuch as Wherry and Capehart type housing may be mortgaged, the land related to the excess housing in those cases should be the same area as specified in the mortgage. Insert the same statement as required on [Standard Form 118a](#), on this form.

(3) Lead-Based Paint Disclosure. The disclosure will include information on the presence of any known lead-based paint and/or lead-based paint hazards in housing areas built before 1978. Information will include the location of the lead-based paint/hazards, and the condition of the painted surfaces, and records and reports including common areas.

(i) Reservation of Easements or Other Interests. In many cases where the Report of Excess does not include the entire activity, it will be found that roads and/or utilities that serve the residual property being retained are located on the property being reported as excess. In these cases, it will be necessary to retain title to the roads and utilities to assure that the residual property will have adequate access and/or have required utility service. Besides retaining title to such required facilities it will be necessary to retain sufficient interest in the excess land to avoid trespass when the property is disposed of to another owner. Additionally, excess lands that are within operational safety zones (AICUZ, ESQD, RFI, etc.) must be restricted to assure compatibility. Provisions for these reservations shall be made as follows:

(1) Statement of Estate to be Retained. In most cases the estate to be retained is an easement in perpetuity if the facilities that are located on excess lands are a permanent requirement. In other instances, it may be found that other access or utility connections should be made and the estate to be retained may be less than permanent. Perpetual restrictive easements will normally be retained over operational safety zones.

(2) Description. In order for the disposal agency to properly reserve the required interests in excess land, it will be necessary to include in the Report of Excess Real Property a metes and bounds or centerline description of the property to be so encumbered. These descriptions should be tied-in to property lines or

corner monuments of the activity boundary and should refer to a map or drawing on which the location of the interest to be reserved is delineated.

(3) Maps and Drawings. Delineate all easements or other interests to be reserved in the disposal of excess land on maps or drawings included in the Report of Excess Real Property. Show all bearings and distances included in the description on the map besides the tie-ins to activity boundaries or corner monuments.

(j) Environmental Condition of the Property. State the property's present condition; identify all dangers and/or hazards to health and safety; the extent of the contamination; plans for decontamination; the extent to which the property may be used without further decontamination, and future land use controls. An Environmental Baseline Survey provides this information. (See Paragraph 22 hereof for more procedural information.)

(k) Floodplains, Wetlands, and Historic Property. Include a statement of whether or not the indicated excess real property is subject to flooding, is located in a floodplain or wetlands and whether or not the excess property has any historical significance. Activity liaison with the Department of the Interior and State Historic Preservation Officer concerning property of historic significance is outlined in [reference \(j\)](#). Pursuant to section 102-75.125 (f) of [reference \(b\)](#), if property is located in a floodplain or wetlands, include a list of those uses that are restricted under identified Federal, state or local regulations as required by [references \(k\)](#) and [\(l\)](#).

(l) Endangered Species. Include a statement that, through consultation with the Department of the Interior, Fish and Wildlife Service, the Navy has ensured to the extent possible that the excessing action is not likely to jeopardize the continued existence of endangered or threatened species or to result in destruction or adverse modification of their critical habitat.

(m) Personnel Affected. Include a statement of how many military and civilian personnel will be affected by the proposed disposal.

(n) Abandonment, Demolition, or Donation.

for disposals of property where abandonment, demolition, or donation to public bodies is contemplated, include the appropriate written findings required by sections 102-75.990 and 102-75.1000-1010 of [reference \(b\)](#). Also include a recommendation on the appropriate method of disposal and indicate if demolition or other means of disposal is required for safety, health, security, or otherwise as specified in section 102.75.1045 of [reference \(b\)](#). Section 102-75.1025 of [reference \(b\)](#) prohibits abandonment of improvements on Navy-owned land.

(1) Section 102-75.1000 of [reference \(b\)](#) requires that before abandonment, destruction, or donation of property, a duly authorized agency official must find in writing either that the property has no commercial value or the estimated cost of its continued care and handling would exceed the estimated proceeds from its sale. Initial findings will be made by the activity and signed by a duly authorized official not directly accountable for the property. General Services Administration (GSA) construes a "directly accountable official" as any person literally in the direct chain of accountability, not others in the same or ancillary shops in the FEC who do not work directly on property accountability. Review and final determination will be made by the FEC.

(2) Section 102-75.1025 of [reference \(b\)](#) requires an additional written finding, before abandonment or destruction of property, that donation is not feasible. This finding can be included with those in section 102.75.1000 of [reference \(b\)](#). The subpart further requires that if donation becomes feasible at any time before abandonment or destruction, it must be completed.

(o) Protection and Maintenance Costs. Include a breakdown of the estimated annual protection and maintenance costs for the excess property.

(p) Environmental Assessment. GSA will be responsible for any environmental impact documentation for disposals in which it will be the disposal agency. In accordance with [reference \(m\)](#), the FEC will make an environmental evaluation for any disposal in which the Navy acts as disposal agency. Further environmental impact analysis documentation may be necessary depending on circumstances.

(5) Engineering Field Surveys. Engineering field

surveys may be required to adequately define the boundaries of excess property. If, after consultation with the FEC and possibly GSA, it is determined that an engineering field survey is required, the activity or region must fund its cost. The FEC may contract for these services based on an Engineering Services Request. Funds are not budgeted at COMNAVFACENGCOM or the FEC for these surveys. The activity may require the recipient of the property to perform the survey as a condition of the disposal. Where GSA is the disposal agency, it must agree to this condition.

(6) Contaminated Property. Coordinate all actions to dispose of contaminated property or property suspected of contamination early with COMNAVFACENGCOM (ENV). Do an evaluation of the feasibility of releasing the property without decontamination or with decontamination to some level other than unrestricted use. Consider decontamination to unrestricted use when it is economically and technically feasible and GSA or the recipient of the property will only accept it in an unrestricted use condition.

(a) Fee Owned Land. Property will normally be retained if:

(i) Decontamination costs will exceed the fair market value of the property after restoration to unrestricted use; or

(ii) It would be less costly to secure the property (fence and posting) and monitor the environment for 30 years to assure no migration of hazardous contamination from the site.

(b) Leased Land. Property will normally be retained if (1) decontamination costs will exceed its fair market value following restoration; (2) it would be less costly to continue the lease; or (3) it would be less costly to purchase the property, secure it, and monitor it for 30 years. Also compare the costs of restoration with the cost of paying specified damages to the owner to restrict future use of the property and monitor it for 30 years.

b. Required Approvals. The Commander/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 \$15,000. If required, the activity cognizant chain of command including the mission component command/region.

(2) For Class I and II Property (Land, Buildings, and Structures) Values at the current statutory limit in reference (o)(\$750,000)or Less

(a) The activity cognizant chain of command including the mission component command/region.

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

(3) For Demolition of Property as Part of an Approved Military Construction Project. No approvals are required, including that of the Commander/Commanding Officer of the activity. Approvals have been obtained as part of the project approval process. No Report of Excess or screening is required. Demolition must be specified in the project documentation.

#### **8. FACILITIES ENGINEERING COMMAND (FEC) REVIEW OF REPORT OF EXCESS REAL PROPERTY**

Upon receipt of a Report of Excess Real Property from an activity with region endorsement within its geographic area of responsibility, the FEC shall make a review to determine the level of approvals required and whether additional information and data are necessary for further processing. The FEC is responsible for assuring that all data and approvals required in [Paragraph 7](#) above are obtained. The FEC Base Development Division should be provided a copy of the Report of Excess Real Property for review and concurrence in the excessing action. Exceptions to this review requirement are Marine Corps and family housing property. Family housing property requires review and concurrence by the CNIC Housing Division.

#### **9. REQUIRED SCREENING**

a. Screening Pursuant to Special Legislation. In accordance with a Memorandum of Agreement of June 2000, between GSA and the Military Departments, FECs shall provide

GSA with an e-mail notice to nichelle.shoats@gsa.gov, (copy to COMNAVFACECOM), or hard copy to Director, GSA Real Property Disposal Division, containing the following information, at a minimum, so that GSA can perform Federal screening required by reference (t):

- (1) Copy of the legislation;
- (2) General property description (acreage, improvements, etc.);
- (3) Property location (including City, County, and State);
- (4) Current Use;
- (5) Restrictions on Use (if any);
- (6) Site Map (if available);
- (7) If available, information relating to CERCLA and any other environmental conditions (historical, endangered species, etc.);
- (8) Holding Agency Point of Contact.

b. Upon receipt of a satisfactory Report of Excess Real Property from an activity within its geographic area the FEC will screen all real and related personal property according to the following:

(1) Notice of Availability. Except where the FEC determines that some other method is more appropriate in the circumstances, screening will be by written Notices of Availability following the format of the form stated in [Paragraph 30](#) below.

(2) Screening Within the DON. The following property need not be screened within the DON, as the FEC determines: (1) Class I and Class II property which has been approved for disposal under the Shore Facilities Planning System prior to reporting the property to the appropriate FEC for disposal, or (2) if the improvements are reported as having deteriorated beyond economical repair and maintenance. Screening within the Navy is also not required for property determined excess to the needs of the Navy as a result of an Executive Order Survey. Whether or not there are any potential users of the excess property, the FEC will send Notices of Availability to the following:

(a) Assistant Secretary of the Navy  
(Installations and Environment) ((ASN)(I&E)).

(b) Commander, Navy Installation Command  
(CNIC). If the estimated fair market value exceeds the

current statutory limit in reference (o)(\$750,000 as of 10/28/04), transmit this copy by letter requesting approval to dispose of the property, provided no requests for use within the Navy are received as a result of the screening. In rare cases where screening is waived, CNIC approval must be requested by letter if the estimated fair market value exceeds the current statutory limit in [reference \(o\)](#). For Marine Corps property, a CNIC approval letter is not required.

- (c) Commandant of the Marine Corps (CMC).
- (d) Navy Region/Mission Component Command..
- (e) COMNAVFACENGCOM.
- (f) NAVSUPSYSCOM (Storage and warehousing space only).
- (g) Chief of Chaplains (Chapels only).
- (h) Director, Naval Petroleum Office (POL facilities only).

(3) Screening Outside the DON. Improvements that have deteriorated beyond economical repair and maintenance need not be screened outside the DON. All other property shall be screened with potential users outside the DON as determined by the FEC. Whether or not there are any potential users, the FEC will send Notices of Availability in all cases to:

(a) Department of the Army, Corps of Engineers, Real Estate Division (DAEN), Pulaski Building; 20 Massachusetts Avenue, NW, Washington DC 20314.

(b) Air Force Real Property Agency, AFRPA/Kelly, 2261 Hughes Ave., Suite 121, Lackland AFB, TX 78236-9821

(c) Commandant, U.S. Coast Guard (G-EVC); Coast Guard Headquarters, 2100 Second St., SW; Washington DC 20593-0001.

(d) Local Army, Air Force, and Coast Guard activities (The above notices will indicate this local screening).

(e) Department of Defense activities and agencies as appropriate.

(f) National Guard Bureau.

(4) Screening Period. Except for CNO approval required above for properties valued at more than the current statutory limit in [reference \(o\)](#), the FEC may assume that no requirement exists for the property unless advice to the contrary is received within 30 days. However, if a tentative Navy request is received within the 30 day period, an additional 30 days may be allowed for the submission of a firm request or upon notification that action has been initiated to obtain necessary approvals for the reassignment or transfer of the property. Prior approval of the ASN (I&E) 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."

(5) Expedited Screening. For unusual circumstances where excessing must be expedited, the screening response period may be reduced as appropriate. When necessary, screening may also be accomplished before obtaining all required data and approvals.

### **SECTION III - TYPES OF DISPOSALS/DISPOSAL REPORTS**

#### **10. REASSIGNMENT OF PROPERTY WITHIN THE NAVY**

a. [Reference \(i\)](#) provides that real and related personal property may be reassigned among Navy commands to meet valid mission requirements and to facilitate planning and plant account process. It further states that reassignments that fragment or complicate plant account and planning processes should be avoided whenever possible.

b. Naval activities desiring to obtain excess real and related personal property that is being screened will follow the reassignment procedures in Section II of Chapter 7, and Section III of Chapter 6, paragraph 6.8(D) contained in [reference \(n\)](#). If two or more commands or offices have requested reassignment of the same real property refer the matter to CNIC, and/or CMC, as appropriate, regardless of the estimated value of the property. An appropriate response to the screening Notice of Availability must also

be made so that the property will be placed on "hold" while approvals are obtained for reassignment. The response should contain a statement that sets out the requirement for the property with the provisions of the Shore Facilities Planning System. Reassignments involving land should be coordinated through the appropriate FEC Base Development Division(s) to allow for adjustment of real estate records. It is the responsibility of the receiving activity to obtain a legal description of the land to be reassigned.

**11. TRANSFERS TO THE ARMY, AIR FORCE, COAST GUARD, AND DEFENSE AGENCIES**

a. Such transfers are subject to the Defense Environmental Restoration Program (DERP) Guidance contained in reference (s) that imposes specified environmental restoration responsibilities on the transferee and transferor entities. Further, Navy shall retain ownership or control of real property where military munitions are known or suspected to be present, but where there has not been an assessment of and a response (where required) to address potential explosives hazards.

b. Concurrent screening within and without the Navy as indicated in [Paragraph 9](#) may result in receipt of requests from the Navy, Army, Air Force, Coast Guard, and Defense Activities. In such cases, the Navy requirements for the property will be given first preference and if it is determined that the property is to be reassigned, the Army, Air Force, Coast Guard, and Defense activities will be given appropriate notice. If however, it is determined that the property can be made available to the Army, Air Force, Coast Guard or Defense Activity, the FEC will as appropriate:

(1) Make the transfer. (See the form referenced in [Paragraph 34](#) below.)

(2) Advise the acquiring agency that the transfer will be made after compliance with approval requirements as indicated in [Paragraphs 7](#) and [9](#) above.

(3) Upon receipt of notification from COMNAVFACENGCOM that requisite approvals for the transfer have been obtained, arrangements shall be made with the local representative of the transferee for assumption of custody and control of the property.

**12. REPORT OF EXCESS FOR REAL AND RELATED PROPERTY VALUED  
IN EXCESS OF THE CURRENT STATUTORY LIMIT IN REFERENCE  
(O) (\$750,000 AS OF 10/15/03)**

a. Facilities Engineering Command (FEC). Upon completion of the screening process the FEC shall:

(1) Prepare a disposal planning assembly which includes a draft disposal report in accordance with the form stated in [Paragraph 32](#) below. Also include a statement indicating that the subject property has been analyzed and determined to be appropriate or not appropriate for use in exchange for any authorized or planned acquisitions of real property to meet any military requirements. Base this statement on results obtained from the Notice of Availability and review of any programmed or known unprogrammed real property requirements for Naval activities. The other FECs should be consulted before making the required statements. If it is determined that the property is appropriate for use in exchange for authorized, programmed or known requirements, list each acquisition project and identify the location, scope, and justification of the property.

(2) Submit the information required above to COMNAVFACENGCOM requesting that the submission required by [reference \(o\)](#) be made.

(3) When another military department has requested a no-cost transfer of all or a major portion of the excess property, the acquiring agency should be requested to make the submission to the Armed Services Committees of Congress required by [reference \(o\)](#) before transfer. In such case, the information in subparagraph a(1) herein will not be required. If the transfer involves only a minor portion of the excess property, the information therein will be required and the proposed transfer noted in the disposal report. Transfer shall not take place until the [reference \(o\)](#) submission is cleared according to subparagraph b. immediately below or, where the acquiring agency submits the report, it provides evidence of Armed Services Committees concurrence.

b. COMNAVFACENGCOM. Upon receipt of a disposal planning assembly from the FEC, COMNAVFACENGCOM will review the draft disposal report, correct it as necessary and submit to DASN (I&F) for concurrence, then to the Armed

Services Committees of Congress in accordance with [reference \(o\)](#). Disposal reports are submitted to the Armed Services Committees on the first day of each month. Reports not received by COMNAVFACENGCOM in sufficient time to obtain the required approvals will be delayed until the following submission. A disposal transaction may be entered into at the end of the 30-day period beginning on the first of the month after submission of the report, or at the end of the 14-day period subsequent to an electronic submission. COMNAVFACENGCOM reports are provided by electronic submission. COMNAVFACENGCOM will then advise the FEC of action taken by the Armed services Committees.

### **13. WITHDRAWN PUBLIC DOMAIN LANDS**

The reporting, approval, and screening requirements in [Paragraphs 7 through 10](#) above are also applicable to withdrawn public domain lands that are excess. In addition the Armed Services Committees of Congress have requested [reference \(o\)](#) submissions for all proposed disposals of these lands where the total acreage exceeds 500 acres or the value including all improvements and related property exceeds the current statutory limit in [reference \(o\)\(\\$750,000 as of 10/15/03\)](#). In these instances, [Paragraph 12](#) above applies. Procedures for modifying or revoking public land withdrawals in accordance with [reference \(h\)](#) are covered in [P-73, Chapter 15](#).

### **14. DISPOSALS OUTSIDE THE DEPARTMENT OF DEFENSE**

Upon completion of the actions in [Paragraphs 7 through 12](#) above, the FEC will process excess property for disposal outside of the DOD. This may be accomplished through the authorities and delegations of authority in [paragraphs 5 and 6](#) above.

### **15. REPORT OF EXCESS TO GSA**

a. Reporting Requirements. The disposal authority delegated to the FEC by [Paragraph 6](#) above for real and related personal property that has been determined to be excess to the DOD is limited to those properties having a total estimated fair market value of less than \$50,000. Disposal of property having a value of less than \$50,000 need not be reported to the General Services Administration (GSA) for disposal. If the estimated FMV is \$50,00, or more,

a Report of Excess Real Property shall be submitted to GSA. GSA has prepared an Excess Real Property Checklist to assist reporting agencies in preparing the SF-118, Report of Excess Real Property. An electronic, interactive version of the checklist can be found online at <http://rc.gsa.gov/>. Attach the completed checklist to the SF-118 that can also be found at the same GSA website. GSA encourages agencies to pay particular attention to documentation regarding property title and environmental areas of the checklist.

(1) Covering Letter. This letter will identify the project including the assigned Holding Agency Number, the contents of the report, any restrictions placed on the disposal and statements as to flooding, wetlands, historical significance, endangered species, and other specific information concerning the excess property. This letter will also advise of any omission from the report and the date additional information or data will be provided.

(2) Signed Standard Form 118. It will be necessary in all cases for the FEC to prepare and execute a new Standard Form 118 (Paragraph 27 below) since the one received from the reporting activity will be signed by the Commander/Commanding Officer of the activity or his/her designee. Some minor revisions to the activity submission may be necessary after review of the reports and comments of the chain of command.

(3) Standard Form 118a. Include this form (Paragraph 28 below) in all reports of excess which include buildings, structures, utilities or miscellaneous facilities. Please follow the requirements of paragraph 7a(3)(h) of the form regarding separate forms for excess family housing assets. Take care to assure that each item listed on this form is properly identified with the same item as reported in the Inventory of Military Real Property to assure proper clearance of the inventory after disposal.

(4) Standard Form 118b. Include this form (Paragraph 29 below) in all reports of excess that include land or interests in land. Each tract will be properly identified with information reflected on the Real Estate Summary Map and the Inventory of Military Real Property. Any restrictions or reservations relating to the disposal of each tract of land will be indicated in column (1) of this form. It is suggested that the Real Estate Summary Map be marked to annotate the area proposed for disposal when this form is prepared or reviewed to facilitate the permanent

revision of this map when disposal occurs. Separate [Standard Forms 118b](#) are required for lands involved in the disposal of family housing assets and shall contain the statement regarding disposition of net proceeds cited in [Paragraph 7.a.\(4\)\(h\)](#) above.

(5) [Standard Form 118c](#). Include this form ([Paragraph 30](#) below) in all reports of excess that include related personal property. In some cases it may be found that related personal property is reported by the activity on machine listings. To reduce the workload of preparing the report, it is suggested that when the activity submits machine listings, summarize them on the form indicating the total number of items, reference to the machine listing, range of condition classification and total cost. This procedure will facilitate changes to the listing that often occur after the report of excess is submitted to GSA.

(6) [Attorney's Report of Title](#). Include a Report on Title according to section 102-75.125 of [reference \(b\)](#) in each report of excess to GSA that includes land or interests in land. This report will be prepared and signed by a qualified employee of the FEC based on a review of all land acquisition and outgrant documents available. This report will include all existing or proposed restrictions on the use or transfer of the Government's interest such as legal, zoning, contamination, national security clause or reservations. If deemed necessary, the Report of Excess Real Property may be forwarded to GSA advising that the Report on Title will be furnished when completed. GSA may then begin to review the case but will probably not accept the Report of Excess Real Property until the Report on Title is provided. Delays of this type will prolong the Navy's financial responsibility for protection and maintenance of the excess property and should be avoided if all practicable. Therefore, it is suggested that actions necessary to obtain the Report on Title be initiated immediately upon receipt of a Report of Excess from an activity.

(7) [Mortgage Papers](#). Reports of Excess Real Property that include family housing will include an assembly of all documents mortgaging the property. This is necessary since GSA must satisfy the mortgage or mortgages prior to or simultaneous with disposal of the housing covered by the mortgage. For Capehart and certain Wherry housing units it will be necessary to request COMNAVFACECOM to obtain an early mortgage release and

provide the present outstanding mortgage balance. This information should be provided to GSA. The FEC should request this information from COMNAVFACENGCOM as early in the disposal process as practicable to avoid necessary delays.

(8) Environmental Baseline Survey (EBS). This survey, prepared by the FEC, documents the environmental condition of the property. The scope of the EBS (investigation and documentation) must be appropriate to the property involved. (See ASN (I&E) Memo of 22 Dec 1993, or NAVFAC Environmental Baseline Survey Guidance of March 1995)

(9) Retrocession of Jurisdiction. Retrocession of either exclusive or partial jurisdiction must be completed and all relevant documents attached. Follow the process outlined in [Paragraph 11 of Chapter 26](#). [Paragraph 5\(a\)\(3\) of Chapter 26](#) explains the meaning of partial jurisdiction.

(10) Other Items. Other items listed in [Paragraph 7.a.\(4\)](#) above include metes and bounds or tabular descriptions of lands to be disposed, reservation and description of easements and other interests in the excess lands, maps and drawings, aerial photographs, and identifications of contaminated property using the procedures contained in [Paragraph 23](#) below. Include all these items in the Report of Excess. The FEC shall review activity submissions of these items and make appropriate modification or obtain needed additional information.

b. Expediting Reports of Excess. Every effort should be made to expedite Reports of Excess Real Property to GSA for disposal. It may be beneficial in many instances to arrange a pre-disposal conference with GSA to resolve any questions on the disposal process. Where practical, advance copies of Reports of Excess Real Property may be provided to GSA so that initial review and processing may begin. When reports are provided in advance of all approvals and clearances, particularly Congressional clearance, GSA should be made aware of the specific approvals and clearances to be obtained. GSA will notify the FEC of the date that the Report of Excess is received and 15 days after receipt notify the FEC whether the report is accepted, rejected, or if more information is required. If GSA does not respond within the 15 day period, the FEC should contact them and find out why. Periodic contacts are also recommended to insure that GSA processes the property for disposal expeditiously.

c. Annual Protection and Maintenance Costs. The DON, as holding agency for the excess property, is responsible for physical care, handling, protection, maintenance and repairs for excess and surplus real and related personal property pending its disposal by GSA. It is also responsible for the expenses of such activities for not more than 12 months, plus the period to the first day of the succeeding quarter of the fiscal year after the date of GSA acceptance of the report of excess. Any such expenses incurred by the Navy after this period shall be reimbursed by the GSA. However, management responsibility for the property remains with the mission component command/region until GSA disposes of the property.

(1) Item 11.E of the form stated in [Paragraph 27](#) below provides a block for reporting the estimated annual protection and maintenance cost. This amount should be carefully considered and coordinated with the reporting activity and its region. The amount reported is especially important if a base closure is involved in order to accurately reflect the total estimated cost of providing the minimum security, maintenance and utilities required to protect against fire, vandalism, excessive deterioration or damage to the excess property in a caretaker status. The FEC should review this amount with GSA officials at the pre-disposal conference to assure agreement.

(2) Prior to obligation of any funds that are reimbursable, GSA should confirm that such funds will be available for reimbursement. Report any changes in the availability of funds as indicated by GSA immediately to the activity and region. Each activity holding excess real property shall be responsible for billing and collecting reimbursable costs from GSA. Billing may be accomplished by submission of a [Standard Form 1080](#) to the regional GSA office. The FEC may be requested to contract for protection and maintenance services if the region so elects in lieu of providing a caretaker force after the property is vacated.

## **16. TRANSFERS TO CIVILIAN AGENCIES**

Transfers to civilian agencies of the Government are normally executed by GSA, however, in some instances, GSA will request the FEC to effect such transfers. In these instances, the FEC is authorized to act as the disposal

agency for GSA provided such transfers are accomplished at the direction and under the authority of GSA. In these cases accomplish the transfer strictly in accordance with provisions of [reference \(b\)](#).

#### **17. DISPOSAL OF SURPLUS PROPERTY BY THE NAVY**

a. The FEC shall dispose of real and related personal property that has been determined to be surplus and for which the DON is the disposal agency according to the delegation of authority contained in [Paragraph 6](#) above and the applicable provisions of Subpart C of [reference \(b\)](#).

(1) Property for Which the DON is Disposal Agency. Provisions of section 102-75.296 of [reference \(b\)](#) designate the DON as the disposal agency for the following types of real property:

(i) Leases, permits, licenses, easements and similar real estate interests in non-Government-owned property (including Government-owned improvements located on the premises), except when it has been determined by either the holding agency or GSA that the Government's interests will be best served by the disposal of those real estate interests together with other property owned or controlled by the Government, that has been or is being reported to GSA as excess.

(ii) Fixtures, structures, and improvements of any kind to be disposed of without the underlying land with the exception of Government-owned-machinery and equipment that are fixtures being used by a contractor-operator where such machinery and equipment will be sold to the contractor-operator.

(iii) Standing timber and embedded gravel, sand, stone, and underground water to be disposed of without the underlying land.

b. Subchapter C of FMR 102-75.1055 delegates disposal authority for any excess real or related property having a total estimated fair market value, including all components of the property, of less than \$50,000.

c. Prior to any disposal by Navy, retrocession of

either exclusive or partial jurisdiction must be completed. Follow the process outlined in [Paragraph 11 of Chapter 26](#). [Paragraph 5\(a\)\(3\) of Chapter 26](#) explains the meaning of partial jurisdiction.

(1) Referral to GSA. Any of the property for which the DON is designated as the disposal agency may be reported as excess to GSA for disposal, however, in these cases the holding agencies shall be responsible for the continuing protection, maintenance, and payment of any rental or charges for the property until disposal is complete. Likewise, the holding agency shall continue to be responsible for payment of demolition and removal costs not offset by the sale of the property described in Paragraph 17 a.(1)(b).

## **18. DISPOSAL OF SURPLUS IMPROVEMENTS ON NON-EXCESS LAND**

a. Method of Disposal. The following are the usual disposal methods for disposal of surplus improvements on non-excess land:

(1) Destruction by Station Forces. The availability of station personnel and station funds are conditions precedent to the use of this method.

(2) Demolition by Contract. Bids may provide for payment to the Government or payment to the contractor by the Government. When payment by the Government is required, station funds must be made available before a contract is awarded.

(3) Sale by Purchase and Removal Contract. By this method, property is sold for cash only under provisions of [reference \(b\)](#). Alternate methods of disposal must be used if no acceptable bid is received.

(4) Abandonment. Improvements may be abandoned on leased premises according to lease provisions. A release should be obtained from any obligation to restore the premise upon termination or expiration of the lease.

(5) Donation to Public Bodies. This method of disposal may be used where the public benefits of donation are considered to outweigh any monetary return to the Government through sale of the property. It will be incumbent upon the donee to bear all costs of removal of the property.

b. Determination of Disposal Method. The FEC has the responsibility to select the disposal method or combination of methods that are most advantageous to the Government for the disposal of surplus improvements on non-excess lands. The FEC will review the written findings submitted by the activity under [Paragraph 7.a.\(4\)\(n\)](#) above for any proposed abandonment, destruction, or donation of real property. Whenever all such property proposed for disposal at any one location at any one time has an original cost of more than \$1,000, the FEC must approve the activity's written findings. Disposal by purchase and removal contract should be considered in each case to assure maximization of the monetary return and utilization of the most effective means of disposal. The determination of the particular method or methods of disposal shall be based upon consideration of, but not limited to, the following:

(1) The reasonable prospect of a market for sale of the improvements.

(2) Realistic site clearance requirements, and the capabilities of purchasers other than demolition contractors to accomplish the removal and restoration in accordance with specifications.

(3) The time in which removal and restoration must be accomplished. A requirement for immediate site clearance for new construction may be a deciding factor.

(4) The estimated cash return to the Government under sale contracts; the estimated cash return to the Government or the estimated cost to the Government under demolition contracts; the estimated cost of destruction by station forces; or the return or cost to the Government under a combination of methods.

c. Additional GSA Approvals. In addition to the approvals required by [Paragraph 7.b.](#) above, the FEC shall obtain GSA concurrence prior to:

(1) Donation to public bodies of improvements on land or related personal property having an original cost (estimated if not known) in excess of \$250,000 and of land, regardless of cost.

(2) Abandonment or destruction of improvements on land or related personal property:

(i) That had an original cost (estimated if not known) of more than \$50,000;

(ii) That are permanent type construction; or

(iii) Where their retention would enhance the value of the underlying land, if it were to be made available for sale or lease.

d. Disposal of Hazardous Property. Section 102-75.995 of [reference \(b\)](#) provides that no property that is dangerous to public health or safety shall be abandoned, destroyed, or donated to public bodies without first rendering it innocuous or providing adequate safeguards. The activity, therefore, must follow the procedures of [Paragraph 22](#) below before disposal. In addition, advertisement for demolition or sale and contracts or purchase agreements should:

(1) Alert the purchaser or donee to any potential hazardous or toxic substance, such as non-friable asbestos or energized PCB transformers on the property;

(2) State that these substances in their current condition are not considered hazardous to health and safety;

(3) State that the purchaser or donee shall be liable for complying with all applicable state and Federal laws and regulations concerning these substances; and

(4) That the Government assumes no liability for damage to the property of the purchaser or for personal injuries sustained as a result of removal or use of the property.

e. Necessary Actions to Accomplish Disposal. After the FEC makes a determination of the most appropriate method of disposal and required approvals are obtained the following actions should be taken:

(1) Destruction by Station Forces. If the activity indicates that necessary personnel and funds are available, the FEC will authorize the activity by letter to remove the improvements by station forces.

(2) Demolition by Contract. The FEC will advise the activity by letter of its determination and suggest submission of an Engineering Service Request for preparation of an engineering estimate. Activity funds will

be used to cover contract costs.

(3) Sale by Purchase and Removal Contract. The FEC will advise the activity by letter that action is being taken to advertise for the required contract.

(4) Abandonment. The FEC will advise the activity by letter that action is being taken to abandon improvements on leased land.

(5) Donation to Public Bodies. The FEC will advise the activity by letter that action is being taken to donate improvements to a public body.

(6) Contracting by FEC. Both demolition and purchase and removal contracts may be advertised, awarded, and administered by the Contracts Division. The Real Estate Division will coordinate with the Contracts Division to assure that appropriate real estate actions are taken. The Real Estate Division may also advertise, award, and administer these types of contracts, provided such authority has been delegated by the FEC Commander/Commanding Officer.

(7) Real Property Inventory. Upon completion of any of the above disposal actions make appropriate adjustments to the Inventory of Military Real Property. The activity should provide the FEC copies of the affected property records so that the adjustments can be made.

f. Negotiated Sales. The provisions of section 102-75.880 of [reference \(b\)](#) indicate the circumstances under which disposals may be accomplished by negotiation. Included are disposals of property with an estimated fair market value not in excess of \$15,000 and circumstances where it is impractical to advertise publicly for competitive bids and the fair market value of the property can be obtained through negotiation. Although these conditions should cover the majority of cases where the Navy is the disposal agency, it is still official policy to obtain competition for disposal actions whenever practical. Prepare and submit to GSA an explanatory statement according to section 102-75.905 of [reference \(b\)](#) for the rare cases where negotiated disposals are required but do not fall within the provisions of section 102-75.910 of [reference \(b\)](#).

**19. DISPOSAL OF LEASEHOLDS, LICENSES, PERMITS, AND EASEMENTS**

a. Leaseholds, Licenses, and Permits. Subject to the limitations of the delegation of authority contained in [Paragraph 6](#), the FEC shall take the appropriate action to dispose of all excess leases, licenses, permits, and similar instruments except as provided for in [paragraph 17.b.\(1\)](#) above. However, leases, including their renewal rights, that allow nine months or more of remaining use of or occupancy of the property must be reported to GSA according to section 102-75.115. Accordingly, the FEC may, subject to such reservations, restrictions, and conditions, if any, as the FEC deems proper to protect the interests of the United States against liability under a lease, license, permit, or similar interest:

(1) Transfer the lease, license, permit, or other similar interest subject to the assumption by the transferee of the obligations of the instrument unless a transfer is prohibited by the terms and conditions of the instrument.

(2) Terminate the lease, license, permit, or other similar instrument by notice or negotiated agreement.

(3) Dispose of any surplus Government-owned improvements on the premises in the following order by one or more of the following methods:

(i) Disposition of all or any portion thereof to the transferee of the lease, license, permit, or other instrument.

(ii) Disposition to the owner of the premises or grantor.

(x) In full satisfaction of a contractual obligation of the Government to restore the premises; or

(y) In satisfaction of a contractual obligation of the Government to restore the premises plus the payment of a monetary consideration to the Government by the owner or grantor or payment by the Government to the owner or grantor that is fair and reasonable under the circumstances.

(c) By disposition for removal from the premises.

(4) Procurement of Releases on Terminated Leaseholds. To adequately protect the interests of the Government against any future claims, it is desirable to procure a signed release in all cases when leases are terminated. There is no standard form for this purpose. However, a sample format is provided in the forms system as that may be used subject to any necessary modification to meet a specific case.

b. Disposal of Easements. Subject to the limitations of the delegation of authority contained in [Paragraph 6](#) above and the provisions of section 102-75.936 of [reference \(b\)](#), the FEC may terminate easements when:

(1) It is determined that the continued use, occupancy, and control of the easement is not needed for the operation, production, use, or maintenance of property under the custody and control of the DON.

(2) A determination is made whether the disposal is going to be made with or without a cash consideration to the Government based on all circumstances involved, including the acquisition cost to the Government. This determination must be made in writing and the signed findings retained in the documentation for the disposal.

(3) The disposal is made to the owner of the lands that are subject to the easement.

(4) If the easement is recorded in the public records, the disposal instrument must be prepared in recordable form and must be recorded in the same public records as the in-grant. The recipient should be requested to record the instrument and deliver the recording data to the FEC, including the place, date, book, and page numbers. Annotate this data on the file copy of the disposal document.

## **20. DISPOSAL OF NON-EXCESS REAL AND RELATED PERSONAL PROPERTY**

a. The region and the Commander, Navy Installation Command (CNIC) for Navy property, or the Commandant of the Marine Corps (CMC) for Marine Corps property must approve any transfer or conveyance of non-excess property.

(1) Transfers to the Army, Air Force, or Coast Guard. The transfer policy and Congressional reporting requirements of [Paragraphs 9.a.\(3\)](#) and [11.a.\(3\)](#) above are applicable to non-excess property. Perpetual term permits in advance of a transfer request cannot not be issued to circumvent this policy.

(2) Conveyances for Public Airport Purposes. [Reference \(e\)](#) provides that the Secretary of Transportation may request that Federal property that is reasonably necessary for use and development for public airport purposes be conveyed to the appropriate public agency. [Reference \(e\)](#) further requires that upon receipt of a request from the Secretary of Transportation (SOT), the Navy must determine whether the requested conveyance is inconsistent with its needs and respond within a period of four months. Pursuant to the delegation in [Paragraph 6](#) above, the FEC must execute any instruments to make the requested conveyance, provided the FEC first makes a determination for the Secretary of the Navy that the conveyance will not be inconsistent with the needs of the DON. To make this determination, the FEC must find that:

(i) The property involved is the only property that can be used for the purpose;

(ii) The transfer of that property will not interfere with the Government's present or foreseeable use of the remaining property or with other Government activities in the vicinity;

(iii) The conveyance does not encompass the conveyance of a major portion of an existing airport or substantial improvements; and

(iv) The transfer is in the public interest. [Reference \(e\)](#) also requires that the Attorney General of the United States approve all these conveyances. The FEC should request COMNAVFACENGCOM to obtain approvals. Congressional reporting requirements are also applicable for property valued in excess of the current statutory limit in reference (o) (\$750,000). Each conveyance document must contain the following provision:

This conveyance is made on the condition that, at the option of the Secretary of Transportation, the property interest conveyed shall revert to the United States in the event that the lands in

question are not developed for airport purposes or used in a manner consistent with the terms of the conveyance. If only a part of the property interest conveyed is not developed for airport purposes, or used in a manner consistent with the terms of the conveyance, only that particular part shall, at the option of the Secretary of Transportation, revert to the United States.

(3) Conveyances for Federal-aid Highways or Defense Access Roads. [Reference \(f\)](#) provides that if the SOT determines that any lands or interests in lands owned by the United States is reasonably necessary for any highway, or as a source of materials for construction or maintenance of any highway adjacent to those lands, the SOT must supply a map to the affected holding agency showing the lands required. The holding agency then has four months to either deny the request or agree to a conveyance subject to any necessary conditions. This law indicates that if after the four months there has been no certification to the SOT, either for or against, the lands may be transferred. Accordingly it is incumbent upon the Navy to respond in each instance within the four month period.

(i) Pursuant to the delegation in [Paragraph 6](#) above, the FEC must make this response and execute any instruments to make the requested conveyance provided that the FEC first makes a determination that the conveyance will not be contrary to the public interest or inconsistent with the needs of the DON.

(ii) Congressional reporting requirements are also applicable for property value in excess of the current statutory limit in [reference \(o\)](#) (\$750,000). Each conveyance document must contain the following Provision:

If at any time the need for any lands or materials for those purposes shall no longer exist, notice of the fact shall be given by the state highway department to the Secretary of Transportation and the lands or materials shall immediately revert to the control of the Secretary of the Navy.

(4) Conveyances for Widening of a Public Highway, Street, or Alley. [Reference \(g\)](#) allows a state or political subdivision to apply to a holding agency about an authorized widening of a public highway, street, or alley and the necessary land or interest in land may be conveyed without

consideration for that purpose. Pursuant to the delegation in [Paragraph 6](#) above the FEC should execute any instruments to make the requested conveyance, provided a determination has first been made by the FEC that the conveyance will not be adverse to the interests of the United States. Appropriate terms and conditions considered necessary to protect the interests of the United States should be included in each conveyance document. Congressional reporting requirements are applicable for property valued more than the current statutory limit in reference (o)(\$750,000 as of 10/15/03). [Reference \(g\)](#) also notes that no conveyance can be made that can otherwise be made for highway purposes under any applicable provision of [reference \(p\)](#).

## **21. LAND EXCHANGES**

a. Under limited conditions, property may be disposed of by exchange for other lands required for military purposes.

(1) GSA Exchange Authority. Pursuant to [reference \(a\)](#) and section 102-75.260 of [reference \(b\)](#), GSA will exchange surplus property for private property. This will be done only for property management considerations. The considerations are boundary realignment or provision of access, or in those situations where acquisition is authorized by law, and OMB and Congress have approved the exchange, and the transaction offers substantial economic or unique programmatic advantages not otherwise obtainable by any other method of acquisition. This authority has had a very limited applicability for Navy requirements.

(2) Navy Exchange Authority. Subsection (b) of [reference \(q\)](#) authorizes the Navy to acquire interests in property by exchange where the acquisition is authorized by law. This allows for use of excess and non-excess lands. Consider a determination of suitability of excess lands for exchange as part of the screening procedure mentioned in [Paragraph 12.a.](#) above and in the form stated in [Paragraph 31](#) below. For non-excess land, the [Paragraph 20](#) approvals and applicable Congressional reporting requirements apply unless the exchange property has been specifically identified in the acquisition approval process.

## **SECTION IV - ENVIRONMENTAL REQUIREMENTS AND OTHER PROVISIONS RELATING TO DISPOSALS**

## **22. EXAMINATION FOR HAZARDOUS MATERIALS OR CONTAMINATION.**

a. Before the disposal of any property, an Environmental Baseline Survey (EBS) must be prepared and a determination must be made that the property meets all Federal and applicable state and local laws and regulations concerning hazardous or toxic substances and environmental restoration. This will be done by both record searches and visual inspection and will include:

(1) Polychlorinated Biphenyls (PCBs): The activity will test by gas chromatography all unknown transformers for PCB content. The activity will remove and properly dispose of all de-energized electrical equipment (including transformers) which contain 50 PPM or more PCBs. The activity will similarly remove and properly dispose of all items (transformers, capacitors, other electrical equipment, hydraulic systems, drums, etc.) stored for disposal that contain 50 PPM or more PCB. The activity will remove and properly dispose of all stored or de-energized electrical equipment and other items containing PCBs at or above the regulated level if an EPA-authorized state hazardous waste program regulates PCBs as hazardous waste. The activity may leave in place any in-use (energized) PCB contaminated or PCB transformers, capacitors, or other electrical equipment that will be left in use (energized) at the time of transfer to a new owner, provided the equipment's use is allowed by Federal regulation (regulations issued under the Toxic Substances Control Act) at the time of transfer. That equipment left in place shall be clearly labeled according to applicable regulations. If Federal regulations prohibit the use of any of the PCB electrical equipment, the activity will remove and properly dispose of this equipment before excessing. The activity is responsible for executing and funding PCB actions, but may request FEC technical assistance, if needed. According to Federal regulations, the activity will continue to inspect PCB equipment left in place until excessing actions are complete.

(2) Past Hazardous Waste (HW) Disposal Sites: The activity, assisted by the FEC will review Installation Restoration (IR) Program studies to determine the areas from which contaminants may migrate onto the property. The activity will also determine by a complete record search whether any hazardous substance (HS) was stored on the

property for one year or more (See Superfund Amendments and Reauthorization Act (SARA) section 120(h)).

(i) HW Sites Shown on Existing IR Studies.

If HW disposal sites exist, the activity assisted by the FEC, will clean them up to a level which is protective of public health and the environment. Installation Restoration (IR) funds may be used for this cleanup. FECs will determine appropriate cleanup levels using EPA procedures and coordinating actions with federal and state authorities as required by the IR program.

(ii) No Existing Studies.

If no IR program studies exist, the FEC will perform a study to determine whether past disposal sites exist and whether any HS was stored on the property for one year or more. The study will consist of visual inspection, records review, and employee interviews. The study will include adjacent DOD-owned areas to determine whether contaminants may be migrating onto the property proposed for excessing. If HW disposal sites exist, the activity, assisted by the FEC, will clean them up to a level that is protective of public health and the environment. FECs will determine appropriate cleanup levels using EPA procedures and coordinating actions with Federal and state authorities. IR funds may be used for the study and for the cleanup.

(3) Underground Storage Tanks (USTs).

The activity will meet Federal and applicable state and local regulations regarding USTs, including tank inventory, tank testing, and tank abandonment. If leaking USTs have caused soil or groundwater contamination, the activity, assisted by the FEC, will cleanup the soil or groundwater contamination to a level that is protective of public health and the environment. FECs will determine appropriate cleanup levels using EPA procedures and coordinating actions with Federal, state and local authorities. IR funds may be used for soil or groundwater cleanup. However, activity or region funds must be used for tank inventories, tank testing or tank abandonment actions.

(4) Asbestos:

The activity will determine whether each asbestos containing building is structurally sound or structurally unsound. A building shall be considered structurally sound if it is adequate to allow removal of friable asbestos containing material without endangering the personnel or equipment necessary for the removal operations

and it is able to withstand all normal design loads and this stability will not be impaired by the asbestos removal.

(i) Structurally Sound Buildings. The activity will remove and dispose all friable asbestos containing material needed to meet applicable requirements. Actions to control asbestos exposure will be according to applicable Federal and state regulations. The activity does not need to remove non-friable asbestos products such as asbestos shingles, transit wallboard, and vinyl-asbestos floor tiles. The FEC can provide technical assistance, but the activity or region must provide funding for asbestos actions.

(ii) Structurally Unsound Buildings. The activity will demolish the buildings, including any asbestos in them. Demolition and disposal will be according to applicable federal and state regulations. The FEC can provide technical assistance, but the activity or region must provide funding for demolition.

(5) Abandoned Hazardous Waste/Hazardous Material (HW/HM) Containers. The activity must remove and properly dispose of any remaining hazardous waste or hazardous material containers. The report of excess for the property will include (negative findings will be declared):

(i) A statement describing the remaining in-use (energized) PCB electrical equipment, including PCB transformers and PCB capacitors and a map showing the location of these PCB items.

(ii) A statement that all de-energized PCB equipment and PCB items stored for disposal have been removed and properly disposed.

(iii) If any HS was stored on the property for a year or more, a statement of the type and quantity of HS stored, the time at which storage took place, and a map showing the location of HS storage. This statement will include information that can be obtained from a complete record search.

(iv) A statement describing any past HW disposal or release sites, any remedial action (RA) that was accomplished, and any restrictions on future site use. Also, a map showing the location of past HW disposal or

release sites. The description of any past HW disposal or release sites will include the type and quantity of HS involved and the time at which HS release or disposal occurred.

(v) A map showing the location of all underground tanks, a description of RA taken for underground tanks, and a statement on any restrictions on future underground tank site use.

(vi) A statement that any asbestos containing material remaining on the property meets applicable requirements and a description of the amount and type of any asbestos containing material remaining in buildings on the property.

(vii) A statement that all remaining HM/HW containers have been removed and properly disposed. For any property where any HS was stored for a year or more or where HS was released or disposed, the contract for property sale or transfer must include (to the extent this information is available from complete record search (see SARA Section 190(h)):

(x) Notice of the type and quantity of HS stored, released or disposed.

(y) Notice of the time at which HS storage, release, or disposal occurred.

(6) Ammunition and Explosives Contamination. The Heads of DOD Components, or their designees, shall submit to the chairman of the Department of Defense Explosives Safety Board (DDESB), for review and approval, plans for leasing, transferring, or disposing of DOD real property where ammunition and explosives contamination exists or is suspected to exist.

(7) Lead-Based Paint (LBP)

(i) Any building constructed or rehabilitated prior to 1978 is assumed to contain lead based paint (LBP). If it is residential housing built prior to 1978, a LBP risk assessment and paint inspection is required to be included in the excess package. If it is non-residential, only a statement is required indicating that the improvements were constructed prior to 1978 and have not been tested for LBP, or if testing has been done, that the testing indicated that

LBP exists in some or all of the improvements. If testing of non-residential buildings built prior to 1978 show that LBP is not present, so state on the checklist indicating which building(s), date(s) of construction and test results. Include a copy of the test report for GSA's use. (**Note:** GSA uses the words "buildings" and "improvements" synonymously on the checklist, therefore structures such as water towers are subject to this LBP policy, even though such structures may not technically "contain" LBP internally, but may have been painted externally with LBP that poses a health hazard from leeching into the groundwater.)

(ii) The activity is responsible for conducting a LBP risk assessment and paint inspection for residential structures built prior to 1978. The landholding agency is also responsible for abating LBP hazards in pre-1960 residential structures, though this requirement may be passed on to the purchaser. If completed, provide method of testing, description of remediation, and any certification received upon completion of work and copies of all studies. If the risk assessment and paint inspection have not been completed, provide a schedule for completion.

### **23. DEED COVENANTS**

a. For any property where any HS was stored for a year or more or where HS was released or disposed, the report of excess must state that the deed for property transfer must include (to the extent this information is available from a complete record search (see SARA section 190(h)):

(1) Notice of the type and quantity of HS stored, released or disposed.

(2) Notice of the time at which HS storage release or disposal occurred.

(3) Description of any remedial actions taken.

(4) A covenant warranting that all RA needed to protect human health and the environment concerning any HS remaining on the property has been taken before the date of transfer.

(4) A covenant warranting that any additional RA found to be necessary after the date of transfer will be

conducted by the United States. Note: These requirements do not apply if the person or entity to whom the property is transferred is a potentially responsible party for HS release sites on the property.

#### **24. DISPOSAL DOCUMENTATION**

a. Upon completion of a disposal action the FEC shall take the following actions:

(1) Upon receipt of disposal documents from GSA or otherwise, make appropriate entries on the Real Estate Summary Map, Title Register, and adjust the Inventory of Military Real Property.

(2) Provide reporting activity and its region with copies of disposal documents and microfilm to COMNAVFACENGCOM.

(3) Provide original acquisition documents to recipient of the property if a total disposal, or copies of the acquisition documents if only a partial disposal.

(4) Close file and ship to storage one year after completion of the disposal by the disposal agency.

#### **25. WITHDRAWALS FROM EXCESS**

Any action to withdraw property from excess status requires approval of the region and the CNIC for Navy property, or the CMC for Marine Corps property. For property that has been accepted by the GSA for disposal, upon obtaining required approvals, a request must be addressed to the appropriate regional GSA office according to section 102-75.145 of [reference \(b\)](#).

#### **26. REPORTING REQUIREMENTS**

The FEC shall prepare and submit to COMNAVFACENGCOM, a report on all real estate disposals valued at the current statutory amount (more than \$250,000, but not more than the current statutory limit in reference (o) \$750,000 as of 10/15/03). FECs shall prepare this report at the end of each fiscal year and submit an original and one copy to COMNAVFACENGCOM by 1 November. The form stated in [Paragraph 34](#) below is the appropriate format. Outleases (other than for agricultural and grazing purposes) having an annual

rental valued at the current statutory amount (more than \$250,000, but not more than the current statutory limit in reference (o) \$750,000 as of 10/15/03) should be included in this report. Negative reports are required. COMNAVFACEGCOM will submit the reports to the appropriate Congressional Committees as required by [reference \(o\)](#).

**SECTION V - AVAILABILITY OF FORMS**

27.	Report of Excess Real Property.....	23-	
28.	<a href="#">Standard Form 118a</a> (Buildings, Structures, Utilities, and Miscellaneous Facilities).....	23	*
29.	<a href="#">Standard Form 118b</a> (Land).....	23	*
30.	<a href="#">Standard Form 118c</a> (Related Personal Property)...	23	*
31.	Notice of Availability of Real Property.....	23	*
32.	Disposal Planning Assembly.....	23	*
33.	Information for Title 10 Disposal Report.....	23	*
34.	<a href="#">NAVFAC Form 11011/42</a> Real Estate Disposal Report.....	23	*
35.	Transfer and Acceptance of Military Real Property ( <a href="#">DD Form 1354</a> ).....	23	*

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 \* (Forms will be reviewed for updating in the future.)