

**Army Regulation 405–90**

**Real Estate**

# **Disposal of Real Property**

**Headquarters  
Department of the Army  
Washington, DC  
8 June 2020**

**UNCLASSIFIED**

# ***SUMMARY of CHANGE***

AR 405-90

Disposal of Real Property

This major revision, dated 8 June 2020--

- o Changes exception approval authority from the Assistant Secretary of the Army (Installations and Logistics) to Deputy Assistant Secretary of the Army (Installations, Housing, and Partnerships) (para 1-1).
- o Adds general policies for disposals by landholding commands, documentation by disposal reports, screening requirements, reporting to the General Services Administration, and reservation of certain interests (para 1-6).
- o Provides delegated authorities for garrison commanders or equivalent for transactions for standing timber (para 3-2).
- o Adds approval authorities for Director of Real Estate, U.S. Army Corps of Engineers; landholding commands; and garrison commanders, or equivalent for various disposal actions (para 3-4).
- o Updates requirements under Section 501 of the McKinney-Vento Homeless Assistance Act, Section 11411, Title 42, United States Code (42 USC 11411) (para 5-9).
- o Updates landholding agency's responsibility for expense of protection and maintenance to be consistent with Federal Management Regulation, Sections 965-980, Part 102-75, Subchapter C, Title 41, Code of Federal Regulations (41 CFR 102-75) (para 7-9).
- o Updates required Congressional Reports requirements and reporting threshold (para 7-20).
- o Updates timber disposal delegation limits (chap 10).
- o Updates other disposal authorities available (app B).
- o Changes major Army commands to landholding commands (throughout).
- o Changes headquarters, Department of the Army (DAEN-ZCI) to the Deputy Chief of Staff, G-9 (throughout).
- o Includes changes based on Federal Management Regulation, 41 CFR 102-75 (Real Property Disposal) (throughout).

**Real Estate**  
**Disposal of Real Property**

By Order of the Secretary of the Army:

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*General, United States Army*  
*Chief of Staff*

Official:

  
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**History.** This publication is a major revision.

**Summary.** This regulation provides policy for disposing of Army-controlled real estate. Specifically, it offers guidelines for property disposal, properties to be excessed, disposals by the General Services Administration, return of public domain lands, and disposals of real property by the Army. Also, it identifies other regulations that provide detailed real estate policy, authorities for the disposal of real property,

required environmental analysis and documentation, and notice of intention to relinquish.

**Applicability.** This regulation applies to the Regular Army, Army National Guard/Army National Guard of the United States, and the U.S. Army Reserve unless otherwise stated. This regulation does not apply to Civil Works.

**Proponent and exception authority.** The proponent of this regulation is the Chief of Engineers. The proponent has the authority to approve exceptions or waivers to this regulation that are consistent with controlling law and regulations. The proponent may delegate this approval authority, in writing, to a division chief within the proponent agency or its direct reporting unit or field operating agency, in the grade of colonel or the civilian equivalent. Activities may request a waiver to this regulation by providing justification that includes a full analysis of the expected benefits and must include formal review by the activity's senior legal officer. All waiver requests will be endorsed by the commander or senior leader of the requesting activity and forwarded through their higher headquarters to

the policy proponent. Refer to AR 25–30 for specific guidance.

**Army internal control process.** This regulation contains internal control provisions in accordance with AR 11–2 and identifies key internal controls that must be evaluated (see appendix C).

**Supplementation.** Supplementation of this regulation and establishment of agency, command, and installation forms are prohibited without prior approval from the Chief of Engineers (CEMP–CR), 441 G Street, NW, Washington, DC 20314–1000.

**Suggested improvements.** Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to the office of the Chief of Engineers (CEMP–CR), 441 G Street, NW, Washington, DC 20314–1000.

**Distribution.** This regulation is available in electronic media only and is intended for the Regular Army, Army National Guard/Army National Guard of the United States, and the U.S. Army Reserve.

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## Glossary



## **Chapter 1**

### **Purpose, Applicability, and Policies**

#### **1–1. Purpose**

This regulation sets forth authorities, responsibilities, policies, and procedures for the disposal and transfer of military and industrial real estate interests under the administrative jurisdiction or accountability of Department of the Army (DA) worldwide. This regulation does not apply to disposal of U.S. Army Corps of Engineers (USACE) Civil Works real property, real property under the Homeowners Assistance Program (Army Regulation (AR) 405–16) or base realignment and closure (BRAC) disposals. International (that is, foreign) disposals may be governed by the Status of Forces Agreement, treaty, or use agreement with the host nation. Model formats for various documents covered by this regulation are issued by Headquarters USACE (HQ USACE (CEMP–CR)). Contact your local USACE District Real Estate office for a copy of the model disposal report and applicable determinations.

#### **1–2. References and forms**

See appendix A.

#### **1–3. Explanation of abbreviations and terms**

See the glossary.

#### **1–4. Responsibilities**

Responsibilities are listed in chapter 2.

#### **1–5. Records management (recordkeeping) requirements**

The records management requirement for all record numbers, associated forms, and reports required by this regulation are addressed in the Army Records Retention Schedule-Army (RRS-A). Detailed information for all related record numbers, forms, and reports are located in ARIMS/RRS-A at <https://www.arims.army.mil>. If any record numbers, forms, and reports are not current, addressed, and/or published correctly in ARIMS/RRS-A, see DA Pam 25-403 for guidance."

#### **1–6. General policies**

*a.* The DA acquires and holds real property to carry out its military mission responsibilities. The DA will promptly dispose of real property no longer needed to support current or anticipated military mission requirements or legal responsibilities.

*b.* Landholding commands (LHCs) (see glossary for definition) shall ensure that real property utilization surveys, required annually (see AR 405–70) and real property master plan reviews and updates at their installations, required not less than every 5 years (see AR 210–20), identify real property no longer needed to support current or anticipated military mission requirements or legal responsibilities. For real property utilization surveys that contain land, landholding commands shall obtain validation (that is, existence, completeness, and obligation (for example, inspections/payments/restrictions) of real estate records) from local USACE districts for their installations and sites.

*c.* Proposals to dispose of real property shall be documented in a disposal report or by other documents and forwarded via the applicable chain of command to the DA official with approval authority (see paragraph 3–4 for definition) to approve a determination of disposal (for example, report of excess or other appropriate documentation).

*d.* Property proposed for disposal will be screened for other potential Department of Defense (DoD) use prior to taking other disposal actions unless otherwise specified by applicable disposal authority. Transferring property no longer needed by DA to another military department (MILDEP) (including the Secretary of Homeland Security on behalf of the United States Coast Guard) which requests such property to meet a documented military mission requirement takes priority over other authorized disposal alternatives.

*e.* DA-controlled real property in the United States that is excess to DoD requirements, and above dollar delegations outlined in Part 102–75, Subchapter C, Title 41, Code of Federal Regulations (41 CFR 102–75) Federal Management Regulation (FMR), will be reported to the General Services Administration (GSA) for disposal. Anticipated costs and benefits to the Army, environmental condition and other constraints on future use, and compatibility of potential post-disposal property uses with continuing DoD missions in the vicinity, if any, shall be considered in making and implementing disposal decisions.

*f.* Disposal of DA-controlled real property will normally include all of the Government's right, title, and interest therein, unless the DA official with approval authority to approve a determination of excess and/or disposal method determines

that reservation of certain interests (such as access or other easements) is necessary to support continuing DoD requirements.

### **1–7. Disposal commitments**

Except as set out in this regulation, no individual will commit DA to transfer or convey any interest in real property to a non-DA party. Commitments will not be made before the appropriate official has made a decision to dispose of property. Except in foreign countries, GSA is generally responsible for disposal of all DA real property to entities outside of DoD, except where DA has specific delegated execution authority or separate disposal or transfer authority.

## **Chapter 2 Responsibilities**

### **2–1. Secretary of the Army**

The Secretary of the Army (SECARMY), pursuant to Title 10 of the United States Code, section 7013 (10 USC 7013), is the head of DA and is responsible for and has the authority necessary to conduct all DA affairs. The SECARMY will—

- a. Serve as trustee for the real property under the administrative jurisdiction or accountability of the Army.
- b. Delegate responsibility for Army real estate programs.

### **2–2. Assistant Secretary of the Army (Installations, Energy and Environment)**

The Assistant Secretary of the Army (Installations, Energy and Environment) ASA (IE&E) will—

- a. On behalf of the SECARMY, act on delegated Army real estate disposal functions.
- b. Have primary responsibility for policies and programs for DA real property.
- c. On behalf of the ASA (IE&E), the Deputy Assistant Secretary of the Army (Installations, Housing & Partnerships (DASA (IH&P))) will—

- (1) Execute real estate responsibilities.
- (2) Formulate policies and programs for the disposal and transfer of DA-controlled military real property.
- (3) Oversee the implementation of disposal and transfer policies and programs.
- (4) Serve as the primary DA point of contact with the Office of the Secretary of Defense (OSD) and other agencies for DA real estate.
- (5) Delegate, as appropriate, disposal authorities.
- (6) Make required reports and notifications to Congress regarding DA real property disposal transactions.

### **2–3. Chief of Engineers/Commanding General, U.S. Army Corps of Engineers**

The Chief of Engineers/Commanding General, U.S. Army Corps of Engineers (COE/CG, USACE) will—

- a. Prepare for ASA (IE&E) review, policies, and procedure for the disposal of real property.
- b. Issue guidance on procedural and technical implementation of the policies and the general procedures in regulations pertaining to real estate, for which USACE is the proponent.
- c. Provide training in procedures, policies, authorities, and documents covered by these regulations.
- d. On behalf of the COE/CG, USACE, Director of Real Estate, USACE will—
  - (1) Act on determinations of disposal.
  - (2) Report excess real property in the United States, its territories, and possessions that is valued at or above the DoD delegation value as provided in 41 CFR 102–75.1055 (\$50,000 at the time of publication of this regulation) to GSA for disposal.
  - (3) Plan and execute disposal of property in the United States, its territories and possessions, where the Army has such authority, and this authority has been so delegated.
  - (4) Dispose of excess property in foreign countries.
  - (5) Inform the DASA (IH&P) of controversial or sensitive cases.
  - (6) Monitor disposals for compliance with applicable laws, rules, and regulations.
  - (7) Upon request, act as real estate agent in disposal actions for the Department of the Air Force and other Federal agencies.
  - (8) Monitor enacted legislation for directed or authorized disposals, and coordinate action to implement the legislation to include screening property in accordance with Section 2696, Title 10, United States Code (10 USC 2696).
  - (9) Supervise and give direction to field offices on disposal of DA-controlled real estate.
  - (10) Oversee delegations to USACE divisions and districts and establish qualifying standards for any re-delegation of authority.



- (11) On behalf of the Director of Real Estate, USACE districts, real estate chiefs will—
- (a) Provide validation (that is, existence, completeness, and obligation of real estate records) for real property utilization surveys that contain land.
  - (b) Conduct screenings (DoD and Federal agencies as appropriate).
  - (c) Assist with preparation of disposal reports including section D.
  - (d) Draft and obtain execution of disposal documents.
  - (e) Collect consideration and close transactions.
  - (f) Update land records in accountable property system of record (APSR).

#### **2-4. Deputy Chief of Staff, G-9**

The Deputy Chief of Staff (DCS), G-9 will—

- a. Review underutilized, unutilized, or unneeded property for alternative utilization or disposal.
- b. Review disposal reports as provided in chapter 3 and table 3-1.
- c. Review request for disposal of special-use facilities as provided in paragraph 3-6.
- d. Program and budget resources for disposal actions, to include reimbursement of USACE administrative costs when applicable.

#### **2-5. Commanding generals, landholding commands**

Commanding generals (CGs) of LHCs, with regard to real property under their respective jurisdiction will—

- a. Except for Reserve Components (that is, U.S. Army Reserve and Army National Guard (ARNG)), report non-foreign property that is underutilized, unutilized, or not needed for assigned missions to the DCS, G-9 for alternative utilization or disposal.
- b. Protect and maintain excess real estate until disposal or alternative disposition.
- c. Dispose of improvements without the underlying land.
- d. On behalf of CG, LHCs, garrison commanders or equivalents will—
  - (1) Survey real property holdings and report property no longer needed for assigned military missions to higher headquarters.
  - (2) Ensure proper remediation of real property.
  - (3) Comply with environmental and historic preservation documentation requirements related to the disposal of real property.
  - (4) Conduct sales transactions for standing timber within the authority delegated in paragraph 3-3b.
  - (5) Update status of ground improvements, utility systems, buildings, and structures in the real property inventory records in the APSR.

### **Chapter 3**

#### **Authorities, Delegations, Approvals, and Proceeds**

##### **3-1. Authorities - general**

- a. The Constitution of the United States, Article IV, Section 3, Clause 2, the “Property Clause,” states that “The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States. . . .” No real property of DA will be sold or otherwise disposed of without legislative authority.
- b. Congress has enacted legislation giving the SECARMY authority to dispose or transfer certain real property and real property interests. See appendix B for citations and descriptions of statutes granting disposal authority. For disposal under the Public Buildings, Property, and Works Act of 2002, as amended (Section 101, Title 40, United States Code, and what follows; hereafter, the “Property Act”), GSA has general authority to dispose of federal real property. GSA has delegated certain authorities under the Property Act to DA. See 41 CFR 102-75 and chapter 7 of this regulation.
- c. The SECARMY exercises these authorities in accordance with directives and instructions issued by the OSD.

##### **3-2. Regulations**

- a. *Issued by Government Services Administration.* Regulations issued by GSA to implement its authority for disposal of real property are contained in the FMR (41 CFR 102-75). These regulations give DA, as a landholding agency certain delegated authority. DA disposals are governed by these regulations when USACE is acting as a disposal agent under delegated authority from GSA. Special legislation which authorizes DA to dispose of property, is not governed by the

FMR. However, the FMR may be used and USACE implementing guidance will be used as a guide when disposing under special legislation.

*b. Issued by Office of the Secretary of Defense.* DoD general policies regarding real property disposal are found in Department of Defense Instruction (DoDI) 4165.72. DoD guidance applicable to disposal of real property in foreign countries is contained in DoDI 4165.69 and DoDI 4715.08. BRAC real property disposal follows DoD regulations at 32 CFR 174 and DoD 4165.66–M.

*c. Issued by Department of the Army.* DA policies and procedures pertaining to the transfer and disposal of DA military real property, except pursuant to BRAC closure and realignment, are contained in this regulation.

### **3–3. Delegated execution authority**

Delegated execution authority is defined as the right to execute real estate documents implementing a real property disposal action as provided in this regulation or a specific delegation letter.

*a.* The DASA (IH&P), who has been delegated general Secretariat oversight of Army real property disposal, may delegate to the Director of Real Estate, USACE the authority to execute real estate contracts, deeds, and related documents to dispose of real property and interests therein, including related personal property.

*b.* Garrison commanders or equivalent have the authority to conduct sales transactions for standing timber with estimated value not to exceed \$5,000, and no more than a total of \$30,000 per annum for any given installation (see chap 9).

### **3–4. Approval authority for disposal of real property containing land**

Approval authority is defined as the approving official that makes the decision to reassign, transfer, or dispose of DA real property.

*a.* The DASA (IH&P) will be approval authority for—

(1) Determinations of excess and/or surplus, and determinations approving disposal action for property (fee and easements) with value exceeding the Congressional notification threshold contained in 10 USC 2662 (\$750,000 at the time of publication of this regulation). This does not include release of easements to the owner of the land.

(2) Notifications to Congress regarding disposals.

(3) Reassignment of real property outside of a LHC but within DA.

(4) Transfers of real property to another MILDEP or Federal agency.

(5) Negotiated sales.

(6) Release of withdrawals of public domain lands.

(7) Holds on real property disposal by other DoD components.

(8) Withdrawals of determinations of excess.

(9) Real property disposals authorized by special legislation, when the legislative authority requires specific Secretarial determinations.

(10) Disposal of water rights without the underlying land.

*b.* The Director of Real Estate, USACE will be approval authority for waiver of screening requirements.

*c.* LHCs will be approval authority for determinations of excess and/or surplus and determinations approving disposal action for property (fee and easements) under their jurisdiction with value equal to or below the Congressional notification threshold contained in 10 USC 2662 (\$750,000 at the time of this publication). This does not include release of easements to the owner of the land.

*Note.* The Adjutant General is approval authority for disposal of state owned real property under ARNG control, subject to the terms of any Military Construction Cooperative Agreement that may apply to federally-funded improvements on the property (see NGR 5–1) and separate approval requirements that apply to proposed waiver of those terms.

*d.* Garrison commanders or equivalents will be approval authority for release of easements to the owner of the land.

### **3–5. Approval authority for real property disposal not including land**

*a.* Garrison commanders or equivalent will be approval authority for disposal of improvements with an estimated value equal to or less than the value provided in 41 CFR 102–75.1010 (\$50,000 at the time of publication of this regulation).

*b.* LHCs will be approval authority for disposal of improvements with an estimated value greater than the value provided in 41 CFR 102–75.1010 (\$50,000 at the time of publication of this regulation). Refer to paragraph 5–6 for guidance on improvement valuation.

*c.* Table 3–1 provides specifics on decision documents and the corresponding approval official, grouped by real property value required for the various property reassignments, transfers, and disposals. The approving official confirms the requirement for reassignment, transfer, or disposal and unless it involves a reassignment or disposal of improvements with

no commercial value, then the USACE District Real Estate Chief will ensure execution of transfer/disposal documents by the official with the appropriate delegated execution authority.

### 3-6. Approval authority for use of disposal proceeds

LHCs will be the approval authority for use of proceeds from disposals deposited to the accounts described in paragraph 3-7 other than those deposited in the treasury as miscellaneous receipts.

**Table 3-1  
Property Reassignment, Transfer, and Disposal Decision Documents and Approval Authority**

Action:		Real Property Value		
		≤\$50K <sup>2</sup>	>\$50K ≤ \$750K <sup>3</sup>	>\$750K <sup>4</sup>
Reassigning Real Property Within the Same LHC (Chapter 4)	Decision Document	DD Form 1354	DD Form 1354	DD Form 1354
	Approval Authority	LHC	LHC	LHC
Reassigning Real Property Outside of a LHC but Within DA (Chapter 4)	Decision Document	DD Form 1354	DD Form 1354	DD Form 1354
	Approval Authority	DASA (IH&P)	DASA (IH&P)	DASA (IH&P)
Transferring Buildings/Improvements/Land to other MILDEP, Coast Guard, or defense agency (Chapters 5 and 7)	Decision Document	Approval Memo	Approval Memo	Approval Memo
	Approval Authority	DASA (IH&P)	DASA (IH&P)	DASA (IH&P)
Transferring Buildings/Improvements/Land to Federal civilian agency (Chapters 5 and 7)	Decision Document	Determination	Determination	Determination
	Approval Authority	DASA (IH&P)	DASA (IH&P)	DASA (IH&P)
Disposing Buildings/Improvements on non-excess land (for example, building on installation) (Chapter 5)	Decision Document <sup>5</sup>	DA Form 337	DA Form 337	DA Form 337
	Approval Authority <sup>5</sup>	Garrison Commander	LHC	LHC
Disposing of Leaseholds, Licenses, and Permits (Chapter 6)	Decision Document	Notification Memo	Notification Memo	Notification Memo
	Approval Authority	Army User	Army User	Army User
Disposing of Easements to Underlying Fee Owner (Chapter 6)	Decision Document	Approval Memo	Approval Memo	Approval Memo
	Approval Authority	Garrison Commander	Garrison Commander	Garrison Commander
Disposing to Public Entity under 10 USC 2696 (Chapter 7)	Decision Document	Approval Memo	Approval Memo	Approval Memo
	Approval Authority	DASA (IH&P)	DASA (IH&P)	DASA (IH&P)
Disposing Land (Chapter 7)	Decision Document	Determination	Determination	Determination
	Approval Authority	LHC	LHC <sup>6</sup>	DASA (IH&P)
Disposing excess foreign real property (Chapter 8)	Decision Document	7	7	7
	Approval Authority	7	7	7
Disposing sand, gravel, stone and water (Chapter 9)	Decision Document	Approval Memo	Approval Memo	Approval Memo
	Approval Authority	LHC	DASA (IH&P)	DASA (IH&P)
Disposing of timber <sup>8</sup> (Chapter 10)	Decision Document	LHC <sup>9</sup>	LHC <sup>9</sup>	LHC <sup>9</sup>

**Table 3-1  
Property Reassignment, Transfer, and Disposal Decision Documents and Approval Authority—Continued**

	Approval Authority	LHC <sup>9</sup>	LHC <sup>9</sup>	LHC <sup>9</sup>
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Notes.

<sup>1</sup> The approving official confirms the requirement for reassignment, transfer, or disposal and unless it involves a reassignment or disposal of improvements with no commercial value, then USACE will ensure execution of transfer/disposal documents by the official with the appropriate delegated execution authority.

<sup>2</sup> This limit of less than \$50,000 is the value at the time of this publication of the DoD delegated value as provided in 41 CFR 102-75.1055 of the FMR.

<sup>3</sup> This range is the DoD delegated value as discussed in Note 2 and the Congressional notification threshold contained in 10 USC 2662, greater than \$750,000 at the time of this publication.

<sup>4</sup> This limit is the 10 USC 2662 threshold discussed in Note 3.

<sup>5</sup> If improvement to be transfers to MILDEP, Coast Guard, or defense agency, in addition to the DA Form 337, (Request for Approval of Disposal of Buildings and Improvements) DASA (IH&P) approval memo required. If improvement to be transfers to a non-DoD Federal agency, in addition to the DA Form 337, DASA (IH&P) letter of transfer required.

<sup>6</sup> LHCs, with the exception of the Reserve Components, will submit requests to DCS, G-9 for approval when disposing of land greater than \$750,000.

<sup>7</sup> See DoDI 4165.69.

<sup>8</sup> Garrison commanders have the authority to conduct sales transactions for standing timber with estimated value not to exceed \$5,000, and no more than a total of \$30,000 per annum for any given installation.

<sup>9</sup> See AR 200-1, command policy and implementation guidance provided by the LHC.

**3-7. Identification of real property for disposal**

*a. Review of real property holdings.* Accountable officials will review real property holdings to determine the current use of property, the degree of utilization, any interim or collateral use which could improve management, and to identify property not needed for assigned missions. See AR 405-70, and 41 CFR 102-79.

*b. Potentially excess property.* Property may also be identified as potentially excess (that is, not required by the Army) during the master planning process or other management reviews. See AR 210-20.

*c. Transfers, disposals, or exchanges of installation property.* Occasionally, non-DA parties, including other DoD elements, State or Local entities, or private parties, will propose transfers, disposals, or exchanges of installation property. Transfers, disposals, and exchanges may also be authorized by special legislation. Accountable officials must consider external proposals based on DA mission needs and equities, and obtain prior approval by the applicable DA approval authority before making any commitment.

*d. Additional coordination.* Certain special properties may require additional pre-disposal approvals, such as cemeteries, or training land. Consult USACE District Real Estate Chief for case-by-case guidance.

*e. Special-use facilities.* If the garrison commander or equivalent seeks to dispose of special-use facilities, the following requirements apply:

(1) When the garrison commander or equivalent forwards the DA Form 337 (see appendix A, section III) to the appropriate disposal approval authority (LHCs, DCS, G-9, or DASA (IH&P)), it must also attach the written concurrence of the special-use authority.

(2) The special-use facilities and the offices from which concurrence is required prior to disposal are as follows:

*(a) Chapels.* Obtain approval directly from Office of the Chief of Chaplains, Department of Army Chaplain, Director, Sustainment and Information.

*(b) Hospitals.* Obtain approval directly from the Army Materiel Command for disposal of all hospitals, medical, and research facilities under its control. Disposal of such facilities not under the Army Materiel Command must have prior approval of LHC.

*(c) Unaccompanied personnel housing (formerly known as troop housing).* Obtain approval directly from LHC for facilities categorized as permanent. No pre-disposal clearance necessary for those structures categorized as temporary or semi-permanent.

*(d) Historical buildings or buildings eligible for nomination to the National Register of Historic Places.* Obtain approval directly from the LHC.

*(e) Environmentally contaminated or hazardous facilities excluding asbestos and lead-based paint-only contaminated facilities.* Obtain approval directly from the LHC.

*(f) Improvements at industrial installations.* Obtain approval from Commander, Army Materiel Command (AMC), AMCOL-IF. The AMC will be the final approval authority for disposal of real property improvements at industrial-type installations under its control. AMC will notify the Assistant Secretary of Army for Acquisition, Logistics, and Technology (ASA (ALT)) if the disposal will in any way affect major program acquisition.

*(g) Morale, welfare, and recreation structures.* Disposal of MWR facilities requires that DCS, G-9 be provided with a copy of approved/executed DA Form 337 by the approving office. Pre-disposal clearance is not necessary.

(h) *Army Family housing.* Obtain approval directly from DCS, G-9 Army Housing Division (DAIM-ISH).

### **3-8. Disposition of proceeds from disposal**

#### *a. Military real property (land, buildings, or improvements).*

(1) Pursuant to the Property Act, as amended, 40 USC 572(b), proceeds from disposal of excess military land or buildings and improvements shall be deposited into a special fund account for disposal of DoD real property (see exception for military Family housing in paragraph c). At the time of publication of this regulation, the account designation is 97RS5188, "Disposal of DoD Real Property". Section 8034 of the DoD Appropriations Act, 2005 (PL 108-287) already appropriated amounts hereafter deposited to this account. Funds in this account are only available for obligation and expenditure for facility maintenance and repair or environmental restoration.

(2) Property that is disposed of under authority other than the Property Act must be deposited in the treasury as miscellaneous receipts unless otherwise specified by the statutory authority applicable to the disposal.

(3) Administrative expenses collected under 10 USC 2695 are not considered proceeds from a disposal and are retained.

*b. Military timber and forestry products.* In accordance with 10 USC 2665, proceeds from the sale of such timber and products shall first be used to reimburse all expenses to administer the timber program. Following this reimbursement, proceeds shall be placed in a reserve account. Coordinate with the USACE District for the specific account (at the time of publication of this regulation, the reserve account for DA military designation is Treasury Fund Symbol 21 X 5285, "Department of Defense, Forest Products Program, Army"). In accordance with 10 USC 2665(e), 40 percent of the remainder (that is, net proceeds) shall be paid annually to the states in which the military installation is located, for the benefit of public schools and roads in the county in which the installation is situated. The balance in the reserve account shall not exceed a specified amount (\$4,000,000 at the time of publication of this regulation) on 31 December of any calendar year. Unobligated balances exceeding that are deposited in the U.S. Treasury General Fund Miscellaneous Receipts Account.

*c. Military Family housing.* 10 USC 2831 provides that proceeds from a disposal of military Family housing, including related land and improvements, shall be transferred to Family Housing Management Account, Defense. Coordinate with the USACE District for the specific account. This does not include civil works housing, housing built under the Residential Communities Initiative, or houses on land acquired for military purposes unless the housing was specifically acquired to house military personnel. Property reported to GSA for disposal must specifically identify any portion that is military Family housing to which 10 USC 2831 applies.

*d. Reassignment, transfer, and disposal.* Chapters 4-10 provide policy for reassigning real property outside of a LHC but within DA (chapter 4); transferring buildings/improvements/land to other MILDEP, Coast Guard, or defense agency (chapters 5 and 7); transferring buildings/improvements/land to Federal civilian agency (chapters 5 and 7); disposing buildings/improvements on non-excess land (chapter 5); disposing of leaseholds, licenses, and permits (chapter 6); disposing of easements to underlying fee owner (chapter 6); disposing to public entity under 10 USC 2696 (chapter 7); disposing land (chapter 7); disposing foreign excess real property (chapter 8); disposing sand, gravel, stone, and water (chapter 9) and disposing of standing timber (chapter 10).

## **Chapter 4**

### **Reassigning Real Property within Department of the Army**

#### **4-1. Within the same landholding command**

A reassignment of real property accountability within the same LHC, can be approved by that LHC. The reassignment document will be a DD Form 1354 (Transfer and Acceptance of DoD Real Property) (see appendix A, section IV). Both the losing and gaining real property accountable officer or equivalent will update APSR.

#### **4-2. Outside of a landholding command but within Department of the Army**

Reassignment of real property accountability within the Army from one LHC to another requires DASA (IH&P) approval. LHCs are encouraged to informally socialize planned disposal actions with other Army LHC entities in an effort to streamline reassignment activities. If an Army LHC excesses an interest either before or during the USACE screening process, the losing LHC, coordinated through the gaining LHC, will submit a memorandum to DASA (IH&P) requesting approval of reassignment. See AR 200-1 for additional guidance on environmental documentation. The decision document will be a reply memorandum from DASA (IH&P). The reassignment document will be a DD Form 1354. Once DCS, G-9 has reassigned the accountable organization in the Headquarters, Department of the Army (HQDA) system, both the losing and gaining real property accountable officer or equivalent will update the APSR accordingly. When a reassignment is from/to Regular Army to/from a Reserve Component, the gaining real property accountable officer will notify the USACE District Real Estate Chief, who will update DA real estate APSR, as required.

## Chapter 5

### Disposal of Improvements without the Underlying Land

#### 5-1. Introduction

This chapter provides guidance on the disposal of improvements (for example, buildings, pavements, pipelines, and other structures more or less permanently attached to the land) no longer needed by the Army. Generally, these improvements are located on government owned land, such as an installation, and the land they are built on is not being disposed. See paragraphs 5-11b(6) and 5-13b for guidance on disposal of improvements not located on government owned land.

#### 5-2. Authority

*a.* In accordance with 41 CFR 102-75.296, DA, as a landholding agency, has been designated as a disposal agent for fixtures, structures (that is, facilities), and improvements of any kind to be disposed of without the underlying land.

*b.* Disposal of unneeded improvements acquired incidental to land acquisition should be included within the scope of the acquisition project.

*c.* Project specific, or other authority, may be granted for disposal of improvements without the underlying land, such as facilities in the footprint of new construction, or severance of title with improvements left in place under utility privatization and privatized housing initiatives.

#### 5-3. Decision documents

Disposal reports are not required for disposal of improvements without the underlying land. Documents associated with such disposals may include—

*a.* DA Form 337; for disposal by demolition, transfer to other DoD or privatization initiative.

*b.* Environmental Condition of Property Report; if the improvement could have or has affected the environmental condition of the associated real property and/or being transferred to another Federal agency.

*c.* DD Form 1354; for transfer to other DoD agencies.

*d.* Letter of transfer to non-DoD Federal agencies.

*e.* Title V Property Survey Federal Property Information Checklist (see appendix A, section IV) for reporting excess, un-utilized and under-utilized improvements to the U.S. Department of Housing and Urban Development (HUD).

*f.* And bill-of-sale for transfer of improvements to State or Local governments and general public intended for removal from Army land.

*Note.* See table 3-1 for details regarding thresholds for approval authorities.

#### 5-4. Conditions necessary for excessing

Excessing is the process of determining that real estate is not needed by the Army. The conditions under which buildings and improvements on nonexcess land may be declared excess are as follows:

*a.* When determined there is no current or future DoD use.

*b.* To meet facility reduction mandates and policies.

*c.* Transfer of ownership under facility or utility privatization authority.

*d.* Deteriorated or damaged to the point of being a nuisance or hazard to life and property and cannot be maintained, repaired, or renovated at justifiable cost (for example, 75 percent of replacement costs for barracks).

*e.* No longer serve the purpose for which they were constructed, and cannot be economically or practicably adapted to other beneficial use.

*f.* Or reside within the footprint of new construction approved for funding and execution under AR 420-1 and other applicable regulations and statutes.

#### 5-5. Environmental considerations

*a. Improvements containing asbestos and lead-based paint.* The appropriate authorized official will concur in the disposal of buildings containing asbestos material, and/or lead-based paint (LBP), after the conclusion of any recommended environmental studies and remediation. The DA Form 337 will include documentation on asbestos, LBP, and any specific requirements for management and disposal in compliance with applicable environmental laws and regulations.

*b. Destruction due to remediation.* In some instances, the required environmental remediation will destroy the improvement and the remaining materials, if any. Destruction due to environmental remediation activities will be noted on the DA Form 337.

## **5-6. Improvement valuation**

*a. Formal appraisals are not required.* The APSR's facility book value will be used to determine an improvement's value. This improvement valuation determination will be written. In many cases, the buildings will be worth only nominal salvage value, especially when the cost of removal is considered (see 41 CFR 102-75.1055). In cases where the improvements have no commercial value or the estimated costs of continued care and handling would exceed estimated sale proceeds, the garrison commander or equivalent must conclude in the determination that donating the property is not feasible under 41 CFR 102-75.990. This written finding, in accordance with 41 CFR 102-75.1025 is in addition to the determination prescribed in 41 CFR 102-75.1000, 41 CFR 102-75.1005, and 41 CFR 102-75.1010. Further, under 41 CFR 102-75.1035, GSA must concur on DA's abandonment or destruction of improvements on land prior to abandoning or destroying if they are of permanent type construction; or their retention would enhance the value of the underlying land, if it were to be made available for sale or lease. Alternatively, donation to public bodies, or abandonment (for improvements located on non-federal land only, if authorized by the real estate agreement with the landowner), may be considered. In these cases the garrison commander or equivalent will coordinate with the local USACE District Real Estate Chief.

*b. Valuation estimates.* If an improvement's value is questionable or difficult to estimate or ascertain, the garrison commander or equivalent will consult the USACE District Real Estate Chief.

*c. Valuation improvements.* Improvement valuation determinations will be attached to DA Form 337 as supporting documentation.

## **5-7. Pre-disposal clearance**

See paragraph 3-6 for additional details related to pre-disposal clearances required for special-use facilities.

## **5-8. Screening**

*a.* Excess improvements determined to have no salvage value may be, but are not required to be, screened with other agencies in the order listed in paragraphs 5-10*a*, *b*, and *c*.

*b.* Excess improvements determined to have salvage value shall be screened in the order listed in paragraphs 5-10*a*, *b*, *c*, *d*, and *e*. However, improvements which are not accessible to the general public (that is, located inside an access control point) and which have been determined to be infeasible to relocate due to their condition or type of construction are not required to be screened for donation or sale to State or Local governments, other non-federal public bodies, or the general public.

*c.* Screening with State and Local governments for donation or sale, when applicable, will be performed after McKinney Act-prescribed advertisement period (see para 5-9) has ended and no homeless assistance entity has provided a notice of interest in the improvement.

*d.* Screening with the general public, when applicable, will be performed after screening with State and Local governments is completed.

*e.* If a relocatable building is excess, the garrison commanders or equivalents will determine whether the building is accounted for as Army personal property (see AR 420-1, chapter 6) or Army real property (see AR 420-1, chapter 4) before proceeding with disposal. If a building is accounted for as real property a DA Form 337 must be prepared.

*f.* Installed equipment and fixtures may be approved for disposal as personal property or real property, separate from the improvement, in accordance with the approval authorities and paragraph 3-5. After complying with any environmental remediation requirements and after obtaining legal review if anyone has a security interest (that is, payment owned) in the equipment, these fixtures may be converted into personal property using a memorandum for record.

## **5-9. McKinney-Vento Act compliance (McKinney Act)**

*a. McKinney Act screening requirements.* In accordance with the McKinney-Vento Homeless Assistance Act of 1987 (42 USC 11411, and what follows, the "McKinney Act"), when other DoD and Federal agencies have no interest in improvements after initial screening, garrison commanders or equivalents shall submit excess, under-utilized and un-utilized improvements through their chain of command to HUD by completing a Title V Property Survey Federal Property Information Checklist for each improvement proposed for disposal by demolition or donation and/or by sale to State/Local governments or the general public. HUD advertises all available facilities in the Federal Register each quarter of each calendar year with a code of "Suitable" or "Unsuitable" for a homeless assistance entity's use with established waiting periods of 60 or 20 days, respectively, from the date of advertisement. At the end of the HUD waiting periods, if HUD has not reported any homeless assistance entity's interest in the excess improvement, the improvement becomes surplus (that is, not needed by any Federal agencies) and available for disposal.

*b. Temporary exemption from McKinney Act screening requirements.* Section 2822 of the National Defense Authorization Act for 2019 (PL 115–232) temporarily exempts DoD excess real property from the McKinney Act screening requirements set forth in paragraph 5–9a, upon a determination that the property is not feasible to relocate, is located in an area to which the general public is denied access in the interest of national security, and that the exemption would facilitate the efficient disposal of excess property or result in more efficient property management. The temporary authority under section 2822 expires on 30 September 2021. DASA (IH&P) will promulgate implementing guidance to LHCs regarding criteria, approval authority, recordkeeping, and reporting for the required exemption determinations, and any information about changes or extensions to this exemption that Congress may subsequently enact.

#### **5–10. Methods of disposal**

- a.* Transfer to other MILDEP, or Coast Guard.
- b.* Dispose to public entity for use as a correctional facility (10 USC 2696(f)).
- c.* Transfer to other Federal agency.
- d.* Transfer to a qualified homeless assistance entity under the McKinney Act for off-site removal.
- e.* Sale or donation to State or Local governments or other public bodies by offsite removal.
- f.* Sale or donation to the general public by offsite removal.
- g.* Abandonment of improvements located on private land may be considered if authorized by terms of the agreement (usually a lease or easement) with the landowner.
- h.* Demolition (In-house or contract).

#### **5–11. Disposal actions**

*a. Conform to master plan.* Garrison commanders or equivalents will ensure that plans for disposal of improvements conform to present and future building sites designated on the installation master plan (AR 210–20).

*b. Improvements with no commercial value.*

(1) Garrison commanders or equivalents, upon approving a DA Form 337 (see table 3–1 for approval authority), and completion of DoD, Federal, and McKinney Act screening with no interest or a determination that the facility is exempt from screening in accordance with paragraph 5–9b, will proceed with disposal within available resources (see AR 420–1, para 2–24). Material may also be recovered for training stocks. If no resources are available to dispose of the improvements, maintain a record of the location, existence, and cost of the improvement and list its condition in the Real Property Inventory (RPI) with the proper RPI Condition Code (DA Pamphlet (Pam) 405–45) until demolition funds become available.

(2) If an entity listed in paragraph 5–10 requests the improvement, the DA Form 337 will be transmitted to the USACE District Real Estate Chief to execute the transfer and ensure the improvement is removed from the site.

(3) Garrison commanders or equivalents shall ensure that all equipment-in-place is removed from the improvement prior to demolition.

(4) Relocatable Improvements acquired and listed as personal property, shall be disposed of by turn-in to Defense Logistics Agency Disposition Services pursuant to AR 420–1, chapter 6 and AR 735–5.

(5) Demolition and disposal, or use of salvage material, shall be completed pursuant to the Army construction and maintenance program. See AR 420–1 for additional details.

(6) In instances where the Government does not own the underlying land, garrison commanders or equivalent may request the USACE District Real Estate Chief to abandon or transfer the improvements to the owner of the land and ensure prompt compliance with all obligations related to removal and/or restoration of the real property, including obligations under the real estate instrument that allowed the use of the land.

*c. Improvements with sale/salvage value.*

(1) Garrison commanders or equivalents, upon approval of a DA Form 337 (see table 3–1 for approval authority), will transmit the DA Form 337, environmental condition documentation, and funding to the USACE District Real Estate Chief to complete the disposal. The USACE District Real Estate Chief will perform the required screenings and process the disposal in accordance with applicable laws and regulations.

(2) Garrison commanders or equivalents will assure that installed equipment is not removed and that facilities are not occupied or cannibalized.

(3) The USACE District Real Estate Chief, upon receipt of a DA Form 337 and funding, shall begin screening the improvements in the order defined pursuant to paragraph 5–10.

(4) When an improvement is accepted by another agency during screening, the USACE District Real Estate Chief will—

*(a)* Prepare a DD Form 1354 if to another DoD agency and forward via USACE Division Real Estate Chief to HQ USACE (CEMP-CR) for DASA (IH&P) approval and execution and then ensure removal of the improvement from the site.



(b) Ensure that any request made under 10 USC 2696(f) include appropriate DASA (IH&P) concept approval memo, prepare suitable real estate transactional documents, and ensure execution by the proper real estate contracting officer (RECO).

(c) Prepare a letter of transfer if to a non-DoD Federal agency and forward via USACE Division Real Estate Chief to HQ USACE (CEMP-CR) for DASA (IH&P) approval and execution and then ensure removal of the improvement from the site.

(d) Or prepare a bill-of-sale (or other appropriate form) if to a non-Government entity, ensure execution by the proper RECO and removal of the improvement from the site.

(5) Purchasers of excess property will not use the installation as a headquarters for resale and will not erect signs of any kind on Federal property. The terms of disposition should ensure prompt removal and site restoration, at the recipient's full expense.

(6) The USACE District Real Estate Chief will advise the garrison commander or equivalent and return the DA Form 337 after completion of disposal by USACE.

### **5–12. Unsuccessful disposals of facilities with salvage value**

*a. Sale by United States Army Corps of Engineers District.* If the disposition of an improvement that had an expectation of commercial value is unsuccessful, donation to a public body will be pursued.

*b. Demolition.* If donation is not feasible or unsuccessful, demolition of the facility may take place as provided in paragraph 5–11b(1).

*c. General Services Administration concurrence.* Prior to demolition, USACE District Real Estate Chief will obtain GSA concurrence if the improvement is of permanent type construction; or if retention would enhance the value of the underlying land if it were to be made available for sale or lease.

### **5–13. Disposal of improvements on other Department of Defense, Federal or non-Federal land**

*a.* Where the U.S. Government does own the underlying land, the USACE District Real Estate Chief will request that DoD or Federal agencies authorize Army improvements to be transferred in place wherever located. If such approval is not obtained, the garrison commander or equivalent may fund all costs of restoration if required pursuant to the ingrant's restoration condition.

*b.* Where the U.S. Government does not own the underlying land (private property or other non-Federal land), the USACE District Real Estate Chief may request the land owner accept the Army improvements and that such improvements be transferred in place (if permitted by the restoration condition of the ingrant or otherwise agreed to by the grantor), may transfer the improvement(s) by donation to the landowner or other public entity, or may determine that demolition is the only option. The Army activity with real property accountability for the improvement(s) shall fund all costs of site restoration if required pursuant to the ingrant's restoration condition.

### **5–14. Recordkeeping**

Garrison commanders or equivalents will update APSR with planned disposal and actual disposal with appropriate method as required when ground improvements, utility systems, buildings, and/or structures are involved. USACE District Real Estate Chiefs will update DA real estate APSR to reflect disposal action, as required when land is involved.

## **Chapter 6**

### **Disposing of Less than Fee (Leaseholds, Licenses, Permits, and Easements)**

#### **6–1. Leaseholds, licenses, and permits**

An Army component that is using/occupying non-DoD property under a lease, license, permit, or similar agreement shall notify the applicable USACE District Real Estate Chief if it no longer requires use of the property before the agreement term expires. USACE District Real Estate Chief shall take the appropriate action to dispose of all excess leases, licenses, permits, and similar instruments, to include coordination with GSA as required. If permissible under the terms of the agreement, the USACE District Real Estate Chief will screen against known Army requirements within the geographic area of the USACE Division and with other MILDEPs and Coast Guard within a 50-mile radius. The using Army component shall be responsible for the continuing protection, maintenance, and payment of any rental or other charges for the property under terms of the agreement until transfer to another Army/DoD component or other disposal or termination action is complete. The decision document is a written memorandum from the Army component to the applicable USACE District Real Estate Chief transmitting the disposal report with approval authority concurrence for disposal action. See table 3–1 for details regarding thresholds for approval authorities.

## **6–2. Easements to the underlying fee owner**

Pursuant to 41 CFR 102–75.936–938 and other applicable regulations, easements may be reported for disposal to the underlying fee owner when it is determined that the continued use, occupancy, and control of the easement is not needed for the operation, production, use, or maintenance of the DA and its missions.

*a. Disposal report.* Regular Army, Reserve Components and garrison commanders or equivalents will prepare information about the proposed termination of an easement via a disposal report. The garrison commander or equivalent will review the easement for potential termination. If the garrison commander or equivalent recommends termination, then the garrison commanders or equivalents will approve and forward disposal report with appropriate signed memorandum to the USACE District Real Estate Chief for action.

*b. Environmental documentation.* Disposal report will summarize environmental conditions of the easement property and analysis of environmental effects of the proposed termination. See AR 200–1 for additional guidance on supporting documentation.

*c. Decision document.* The decision document is a written memorandum from the garrison commander or equivalent to the applicable USACE District Real Estate Chief transmitting the disposal report for disposal action.

*d. Disposal document.* Depending on State/Local laws and the specific terms of the easement, the type of easement termination/disposal document may vary. The USACE District Real Estate Chief will determine the appropriate easement disposal method and execute the proper easement termination/disposal document, consistent with 41 CFR 102–75.936–938.

*e. Recordkeeping.* Garrison commanders or equivalents will update APSR with planned disposal and actual disposal with appropriate method, as required when ground improvements, utility systems, buildings, and/or structures are involved. USACE District Real Estate Chiefs will update DA real estate APSR to reflect disposal action, as required when land is involved.

## **Chapter 7 Transferring or Disposing of Land (with or without Improvements)**

### **7–1. Introduction**

*a.* This chapter describes the process to be followed to transfer or dispose of DA managed, Government owned fee land, with or without any associated buildings and structures, in the United States that a Regular Army or Reserve Component with real property accountability determines is no longer needed to meet its current or anticipated future mission responsibilities. See chapter 8 for process to dispose of excess foreign real property. LHCs should contact the USACE District Real Estate Chief when considering disposal of land.

*b.* Since it can take an extended period of time to gather all the information needed, before completing the entire disposal report, as described in paragraph 7–2, the garrison commander or equivalent may prepare and submit a memo requesting disposal concept approval by the appropriate approval authority. The approved concept approval memo can be provided to the USACE District Real Estate Chief in order to start DA/DoD and Department of Justice (DOJ) screening, as described in paragraph 7–3, before all of the information needed for the final disposal report has been completed.

*c.* See table 3–1 for details regarding thresholds for approval authorities.

### **7–2. Disposal report**

*a. Regular Army.* Garrison commanders or equivalent will prepare and submit information about the proposed disposal via a disposal report to their appropriate LHC. The LHC will review the property for alternative utilization or potential disposal (see AR 405–70). If the LHC recommends disposal and value of property is at or below the Congressional notification threshold contained in 10 USC 2662 (\$750,000 at the time of publication of this regulation), then the LHC will approve and forward disposal report with an appropriate signed determination to the USACE District Real Estate Chief for action. For property with value that exceeds the Congressional notification threshold contained in 10 USC 2662 (\$750,000 at the time of publication of this regulation), the LHC will certify and forward the disposal report through DCS, G–9 to DASA (IH&P) for review. If DASA (IH&P) approves disposal report, DASA (IH&P) will forward disposal report with an appropriate signed determination to HQ, USACE (CEMP-CR) for action after complying with the Congressional notification requirement.

*b. Reserve Components.* U.S. Army Reserve garrison commander or equivalent will submit information about the proposed disposal via a disposal report to U.S. Army Reserve Command (USARC). ARNG United States Property and Fiscal Officers will submit information about the proposed disposal via a disposal report to ARNG Directorate. USARC/ARNG Directorate will review the property for alternative utilization or potential disposal (see AR 405–70). If USARC/ARNG Directorate recommends disposal and value of property is at or below the Congressional notification threshold contained

in 10 USC 2662 (\$750,000 at the time of publication of this regulation), then USARC/ARNG Directorate will approve and forward disposal report with an appropriate signed determination to HQ, USACE (CEMP-CR) for action. If USARC/ARNG Directorate recommends disposal and value of property exceeds the Congressional notification threshold contained in 10 USC 2662 (\$750,000 at the time of publication of this regulation), then USARC/ARNG Directorate will certify and forward disposal report to DASA (IH&P) for review. If DASA (IH&P) approves disposal report, DASA (IH&P) will forward disposal report with appropriate signed determination to HQ, USACE (CEMP-CR) for action after complying with the Congressional notification requirement. When a Reserve Component proposes disposal of an enclave on or abutting a Regular Army installation and the Reserve Component holds accountability of the land and associated improvements, the disposal report will include coordination with the garrison commander or equivalent of the installation.

*c. Environmental documentation.* Reviews of records and site inspections concerning activities that may have or did affect the environmental condition of the land will be completed prior to the completion of the disposal report. The disposal report will summarize environmental conditions of the property and analysis of environmental effects of the proposed disposal. See AR 200–1 for additional guidance on supporting documentation required.

*d. Property valuation.* In order to comply with Congressional reporting requirements, a screening estimate or preliminary estimate of property value will be obtained from the USACE District Real Estate Chief and included with the disposal report (see 10 USC 2662). When required under the applicable disposal authority, appraisals will be performed for disposals. An appraisal will be based on the current fair market value of the property.

### **7–3. Department of the Army/Department of Defense and Department of Justice screening**

*a. General guidance.* In accordance with DoDI 4165.72 and AR 405–70, property that is underutilized, unutilized, or not needed for assigned missions will be screened by the USACE District Real Estate Chief for other MILDEP, Coast Guard, or Defense Agency use. When property has been identified for disposal, screening will take place promptly, to support timely transfer of property that is needed by other activities or agencies. Army, other MILDEP, Coast Guard, and Defense Agency screening will occur prior to determining property excess. While other MILDEP, Coast Guard, and Defense Agency screening may occur concurrently, Army requests for property will take first priority.

*b. Screening process.* Upon request from the garrison commander or LHC, USACE District Real Estate Chief will notify other Army commands, other MILDEP, Coast Guard, and Defense Agencies of potentially excess property, to determine if they have a requirement for the property. The USACE District Real Estate Chief will notify all military installations within a 50-mile radius, other MILDEP, Coast Guard, and Defense Agencies, as well as the Director, ARNG, and the appropriate Army Reserve Readiness Division. The notice will state that the screening period is for 60 days and is a preliminary action and that the Army has not made a decision to transfer or dispose of the property. If the property is requested by a DoD component within 60 days of the screening notice, see paragraph 7–4. If the property is not requested by a DoD component within 60 days of the screening notice, then USACE District Real Estate Chief will screen the property with the DOJ, pursuant to 10 USC 2696. If the property is requested by DOJ, see paragraph 7–5. If the property is not requested by DOJ, then the property may be declared excess to the needs of DoD, see paragraph 7–6. USACE District Real Estate Chief will include results of the screening in the disposal report.

*c. Exceptions.* Similar to GSA’s waiver policy for Federal screening provided in 41 CFR 102–75.1260 of the FMR, the requirement for other MILDEP, Coast Guard, and Defense Agency screening may be waived upon a determination by the USACE Director of Real Estate that it serves no useful purpose (for example, resolution of encroachment). The USACE Director of Real Estate’s determination to waive screening will be in writing and included in the disposal report.

### **7–4. Transfer real property to another military department under 10 USC 2696**

*a. Decision document.* HQ, USACE (CEMP-CR) will provide results of other MILDEP, Coast Guard, and Defense Agency screening to DASA (IH&P). The DASA (IH&P) will provide concept approval accepting a hold on transfer requested from another MILDEP, Coast Guard, or Defense Agency. The concept approval memo from DASA (IH&P) will serve as the decision document. No disposal report or determination is required. See AR 200–1 for additional guidance on environmental documentation.

*b. Transfer document.* Transfers of land or interest in land from DA real property to other MILDEP, Coast Guard, or Defense Agency are accomplished by a DASA (IH&P) memorandum to the other military secretary. The memorandum will authorize execution of a DD Form 1354 by the appropriate real property accountable officer.

### **7–5. Disposing real property to public agency under 10 USC 2696**

*a. Decision document.* HQ, USACE (CEMP-CR) will provide results of DOJ screening under 10 USC 2696 to DASA (IH&P). The DASA (IH&P) will provide concept approval accepting a hold on the real property requested by DOJ. The concept approval memo from DASA (IH&P) will serve as the decision document. A disposal report is required, but a

determination is not since property will not be declared excess. See AR 200–1 for additional guidance on environmental documentation.

*b. Disposal document.* Disposal of DA real property to a DOJ determined public agency under 10 USC 2696 is accomplished by suitable real estate transactional documents developed by the USACE District and executed by the proper RECO.

## **7–6. Reporting excess property to General Services Administration (General Services Administration as the disposal agency)**

*a. Generally.* The GSA is the disposal agency for DoD excess real property and related personal property unless otherwise provided for by specific legislative authority or a GSA delegation of authority under the Property Act. The GSA, Office of Property Disposal, part of the Public Building Service, is the disposal agency that handles the conveyance or transfer of fee interest in excess and surplus real estate and related personal property valued equal to or greater than the delegation value as provided in 41 CFR 102–75.1055 (\$50,000 at the time of publication of this regulation).

*b. Decision document.* The appropriate determination signed by the approval authority provided in table 3–1 will be the decision document. LHC should consult with the USACE District Real Estate Chief to ensure proper determination documentation is included in the disposal report.

*c. Report to General Services Administration.* When property is to be reported to GSA for disposal, upon receipt of the Determination of Excess, USACE District Real Estate Chief will prepare the GSA Standard Form (SF) 118 (Report of Excess Real Property) (see appendix A, section IV), or other approved form, and a draft SF 13327 (Report of Real Property Available for Transfer to Federal Agencies) (see appendix A, section IV), in accordance with GSA's implementing regulations. The completed forms are forwarded by USACE District Real Estate Chief to the appropriate regional office of GSA for GSA disposal of the real property.

*d. Federal screening.* GSA will be responsible for Federal screening. If the property is not requested by another Federal agency, then the property may be declared surplus to the needs of Federal government.

*e. McKinney Act.* The McKinney Act requires that certain property being considered for disposal be reported to HUD for a determination of suitability for use as facilities to assist the homeless. GSA will be responsible for McKinney Act screening.

*f. Withdrawals of reports of excess to General Services Administration.* Requests to withdrawal reports of excess must be routed through the same channels as the original recommendation to excess the property. DASA (IH&P) is the approval authority for all withdrawals of property previously reported to GSA for disposal. If DASA (IH&P) approves the withdrawal request, DASA (IH&P) will forward memo to HQ, USACE (CEMP-CR) for coordination with GSA. HQ, USACE (CEMP-CR) will notify LHCs when GSA acts on the withdrawal notification.

## **7–7. Department of the Army as disposal agency**

*a. Under the Property Act.* As provided in 41 CFR 102–75.1055, GSA has delegated to the Secretary of Defense (re-delegated to ASA IE&E) the authority to determine that Federal agencies do not need DA controlled excess real property and related personal property having a total estimated fair market value, including all the component units of the property, of less than \$50,000; and to dispose of the property by means deemed most advantageous to the United States. In these cases, the USACE District Real Estate Chief will conduct the Federal and McKinney Act screenings as required.

*b. Not under Property Act.* There are numerous disposal authorities independent of the Property Act, which apply in particular specialized circumstances (see appendix B for list). Most of these authorities do not require that the property be considered excess or surplus as defined in the Property Act, and GSA's implementing regulations do not apply. However, several statutes specifically authorize the transfer of surplus property as defined in the Property Act, so that property must be determined excess, screened by the USACE District Real Estate Chief under the McKinney Act and with other Federal agencies in order to be determined surplus as defined in the Property Act. Additionally, each year, Congress may also enact specific disposal authority (commonly referred to as Special Legislation) in annual National Defense Authorization Acts authorizing DA to dispose of property. HQ, USACE (CEMP-CR) will coordinate with GSA and others on all applicable screening and reporting requirements, as needed. Consult with applicable USACE District about potential applicability of any of these specialized authorities.

## **7–8. Withdrawn public domain land**

*a. Relinquishment.* See glossary for definition of withdrawn public lands. Withdrawn public lands are not subject to the Property Act or other property disposal authorities. When DA no longer requires use of withdrawn public lands, USACE District Real Estate Chief, with prior DASA (IH&P) approval, will file a Notice of Intention to Relinquish (NIR)

with the Department of the Interior (DOI) and provide a copy to the appropriate GSA regional office. See 43 CFR Subpart 2372 for information to be provided on the NIR.

*b. Disposal.* In some cases, the DOI's Bureau of Land Management (BLM) may determine that some or all of the withdrawn public land proposed for relinquishment is not suitable for return to the public domain. See glossary for definition of public domain. BLM will obtain GSA concurrence in such cases. BLM will also notify GSA of any mineral interests in such property not suitable for disposition under the public land mining and mineral leasing laws. BLM will then notify the USACE District Real Estate Chief that the property may be reported to GSA. BLM will furnish information on any other Federal agency jurisdiction claims and any encumbrances under public land laws for transmittal with the excess report.

### **7-9. Care and custody of excess and surplus property**

*a. Procedures and responsibilities for care, custody, accountability, security, and maintenance.* Care, custody, security, accountability, and maintenance of excess DA real property will remain the responsibility of the accountable LHC until final disposal is completed.

*b. Guidelines for protection and maintenance of excess and surplus real property.* Guidelines for protection and maintenance of excess and surplus real property are in the GSA Customer Guide to Real Property Disposal. Unimproved, excess property will require only periodic surveillance/inspection. In cases of improved property, LHCs will provide protection and maintenance of the property to prevent vandalism or unsafe conditions.

*c. Reimbursement of maintenance and protection costs.* When GSA disposes of property, the LHC is generally responsible for funding maintenance and protection of property submitted as excess for not more than 15 months plus any period for which DA defers disposal. See 41 CFR 102-75.965-980 for specific guidance regard reimbursement from GSA.

### **7-10. Recordkeeping**

Garrison commanders or equivalents will update APSR with planned disposal and actual disposal with appropriate method, as required when ground improvements, utility systems, buildings, and/or structures are involved. USACE District Real Estate Chiefs will update DA real estate APSR to reflect disposal action, as required when land is involved.

## **Chapter 8 Disposing of Foreign Excess Real Property**

### **8-1. Applicability, scope, and definitions**

*a.* This chapter is applicable to all DA sites and associated facilities located outside the United States, its territories and possessions.

*b.* This chapter is intended to be consistent with U.S. law and all applicable international agreements. Specific diplomatic, legal, or procedural matters not addressed directly by this regulation or applicable U.S. or international agreements should be resolved on a case-by-case basis in consultation with the Director of Real Estate, USACE.

*c.* In this chapter, realignment is defined as the return, or partial return, of overseas sites operated or maintained by U.S. personnel or forces to host nation control. It also applies to the conversion to standby status of overseas sites operated or maintained by the United States.

*d.* This chapter does not apply to realignment of temporary DA facilities or sites acquired or controlled by DA in areas with no long-term U.S. presence during the conduct or in support of planned or on-going contingency operations; realignment of temporary facilities or sites used while U.S. forces are operating as part of a multi-national force or property leased from private parties, which will be returned in accordance with the terms of the lease. Realignment of DA facilities and sites under the foregoing circumstances, including documentation of relevant environmental conditions at such facilities and sites, shall be accomplished in accordance with relevant U.S. law, regulations, and international law, including relevant international agreements, applicable property leases, DoD policy, and specific annexes (for example, environmental) incorporated into operations plans, operations orders, or similar operational directives.

*e.* In this chapter, "small parcel" is defined as a portion of an installation representing less than 5 percent of the overall installation in land area or infrastructure value.

### **8-2. General guidance**

*a.* Installations shall consult their supporting USACE District for guidance to ensure all disposal actions are executed in accordance with proper approval authority and delegated execution authority.

*b.* Overseas sites and associated facilities used, operated, and maintained by DA that are no longer required by DoD, shall be promptly nominated for realignment. See DoDI 4165.69 for details.

c. With the exception of the routine realignment of small parcels and the expedited realignment of property having no adverse effects on DA activities, only the Secretary of Defense or Deputy Secretary of Defense may approve overseas realignment actions and the timing of public announcements.

d. To the maximum extent possible and in accordance with applicable international agreements, the DA shall take steps to recover the residual value of U.S.-funded improvements at realigned sites (including non-appropriated funded facilities). See DoDI 4165.69 for details.

e. A small parcel may be authorized for realignment by the in-theater component commander (or sub-unified commander, where applicable), when the realignment does not affect stationing/basing and when no residual value considerations apply.

f. Consult DoDI 4715.08 and applicable international agreements on requirements for remediation of environmental contamination outside the U.S.

### **8–3. Methods of disposal**

In general the methods of disposal are as follows:

a. *Transfer.* Transfer to another MILDEP or U.S. Government agency.

b. *Realignment.* Realignment in accordance with procedure provided in DoDI 4165.69.

c. *Abandonment or destruction.* The LHC may abandon or destroy excess buildings or improvements with prior written findings by the office directly accountable for the property that—

(1) The property has no commercial value.

(2) The estimated cost of continued care and handling would exceed the estimated sales proceeds.

(3) Abandonment or destruction is required by military necessity or by consideration of health or safety.

d. *Donation.* The LHC may request authority from the ASA (IE&E) to donate foreign excess real property to foreign government entities, or to nonprofit educational, health, and charitable organizations with preference to any such organizations organized under the laws of the United States, or its States, territories, and possessions.

## **Chapter 9**

### **Sand, Gravel, Stone, or Water**

The following process will be followed to dispose of embedded gravel, sand, stone (including clay) or underground water:

#### **9–1. General overview**

a. *Overview.* In accordance with 41 CFR 102–75.296, DA may be the disposal agency for standing timber, embedded gravel, sand, stone (including clay), and underground water without the underlying land.

b. *Water rights.* The Army will maintain water rights for both ground and surface water consistent with mission requirements. Proposals to dispose of Army water rights, independent of the associated land, will be submitted via the applicable chain of command to the DASA (IH&P) for approval. See AR 405–80. The Government's title should be affirmed by appropriate legal review under applicable state law. Disposal of Army water rights together with the associated land will follow processes in chapter 7.

c. *Mineral interests.* See AR 405–80 for guidance on related activities for exploration and extraction of leasable minerals (coal, phosphate, sodium, oil, oil shale, native asphalt, solid or semisolid bitumen and bituminous rock, potassium, sulfur, or gas) and geothermal resources on DA-controlled lands within the United States and its territories and possessions for which the mineral rights are owned by the United States.

#### **9–2. Disposal report and Approval Authorities**

a. *Acquired land.* Garrison commanders or equivalents will submit information about the proposed disposal via a disposal report to their appropriate LHC. If LHC recommends disposal and estimated value of the embedded gravel, sand or stone (including clay) is less than \$50,000, then the LHC will approve and forward disposal report with appropriate signed determination to the USACE District Real Estate Chief for action. For embedded gravel, sand or stone (including clay) with estimated value equal to or greater than \$50,000, the LHC will forward the disposal report to DASA (IH&P) for review. If DASA (IH&P) approves disposal report, DASA (IH&P) will forward the disposal report with appropriate signed determination to HQ, USACE (CEMP-CR) for appropriate disposal action.

b. *Withdrawn public land.* Unless otherwise established in specific circumstances by prior agreement with DOI/BLM or the underlying statutory or administrative withdrawal action, DOI generally has the authority to dispose of embedded gravel, sand or stone (including clay) on withdrawn public land, subject to prior DA consent, following DOI/BLM proce-

dures. Approval authority to provide DA consent to such disposals will follow the approval authority thresholds in paragraph 9–2a. Such consent will define conditions of removal to prevent interference with the Army mission and degradation of the environment.

*c. Environmental documentation.* The disposal report will summarize environmental conditions of the property and analysis of environmental effects of the proposed disposal. Detailed documentation will be attached.

*d. Property valuation.* A screening estimate or preliminary estimate of value of the embedded sand, gravel, or stone (including clay) will be obtained from the USACE District Real Estate Chief and be included with the disposal report. A formal appraisal is not required where the estimated value of the material to be sold is less than \$50,000. A USACE District Real Estate Chief, may make the determination of whether the material is likely to be valued under \$50,000. A simple written statement is adequate documentation that the material’s value does not likely exceed the \$50,000 limit.

### **9–3. Decision document**

The decision document is a memorandum approving a disposal plan in accordance with the Integrated Natural Resources Management Plan. The decision document will be signed by the official approving the disposal report. See Table 3–1 for details regarding thresholds for approval authorities.

### **9–4. Disposal document**

The disposal document will be a sale contract or other authorized transfer document.

## **Chapter 10 Timber Disposals**

### **10–1. General overview**

In accordance with 41 CFR 102–75.296, DA may be the disposal agency for standing timber to be disposed of without the underlying land. In general, garrison commanders or equivalents are responsible for forestry management and approval of reports of availability for timber sales (see AR 200–1) and have delegated execution authority as provided in paragraph 3–3c. The USACE District Real Estate Chief is responsible for selling timber except in instances where the installation can conduct sales within delegation limits as provided in paragraph 3–3c.

*a. Timber sale authority.* 10 USC 2665 is the authority to dispose of timber on installations.

*b. Decision document.* Standing timber without the underlying land may be approved for disposal in accordance with AR 200–1, command policy and implementation guidance provided by the LHC.

*c. Withdrawn public land.* On withdrawn public land, timber management is conducted by the agency that has natural resource management responsibility as specified in the underlying statutory or administrative withdrawal action.

*d. West of the 100th Meridian.* Sales for export of unprocessed timber from installations west of the 100th meridian in the contiguous 48 states will not be made (see 16 USC 620a).

### **10–2. United States Army Corps of Engineers managed timber sales**

The USACE District Real Estate Chief will prepare a memorandum of understanding with each installation that has a forestry program to provide for mutual and reciprocal support as to these responsibilities to increase effectiveness, eliminate duplicate effort, and reduce costs.

*a. Advance planning and coordination.* To facilitate work planning requirements, the garrison commander or equivalent will furnish the USACE District Real Estate Chief pertinent parts of forestry management plans and updates. Ninety days in advance of each fiscal year, the garrison commander or equivalent will provide general declarations of availability to the USACE District Real Estate Chief through their LHC. Declarations will state the volume and type of timber and provide a map of general harvest areas. The garrison commander or equivalent will coordinate specific reports of availability in advance with the USACE District Real Estate Chief to maximize market potential for timber. Sales of metal-contaminated timber will be segregated from other sales.

*b. Maximizing timber proceeds.* The USACE District Real Estate Chief will aggressively market timber. In all cases administrative costs will be minimized. Unit or lump sum sales will be used, as appropriate, to maximize proceeds.

*c. Timely timber disposal.* The RECO will award contracts within 90 days after receipt of specific reports of availability unless otherwise agreed by the garrison commander or equivalent and the USACE District Real Estate Chief. HQ, USACE (CEMP-CR) will be advised of the reasons for delay in other cases.

*d. Monitoring.* The USACE District Real Estate Chief will take appropriate action to assure that construction contractors are not authorized, in the clearance of construction sites, to burn or otherwise destroy merchantable timber, unless circumstances exist that preclude sale or salvage, or remove it without payment. Performance of disposal contracts will be

monitored frequently by personnel authorized by the RECO to maximize proceeds, ensure compliance with contract terms, and preclude the development of problems such as unsatisfactory property restoration. DCS, G-9 and HQ, USACE (CEMP-CR) will also monitor the timber sales program annually to ensure efficiency and compliance with forestry management policies.

## **Chapter 11 Real Property Inventory Management**

### **11-1. Guidance**

Accountability and inventory policy is covered by AR 405-45 and DA Pam 405-45.

### **11-2. Records**

A real estate disposal action is not complete until it is accurately reflected in Army real property inventory records. The inventory and its supporting real estate files form the historical record of every real property disposal action.

## **Chapter 12 Records Management (Recordkeeping) Requirements**

### **12-1. Guidance**

All records (hard copy or electronic) created and/or received in the course of Army real property disposal actions shall be maintained as required by AR 25-400-2.

### **12-2. Operational Guidance**

Operational guidance to accomplish this can be found in DA Pam 25-403.



## Appendix A

### References

#### Section I

##### Required Publications

**AR 25-400-2**

The Army Records Information Management System (ARIMS) (Cited in para 12-1.)

**AR 200-1**

Environmental Protection and Enhancement (Cited in table 3-1.)

**AR 210-20**

Real Property Master Planning for Army Installations (Cited in para 1-6*b*.)

**AR 405-45**

Real Property Inventory Management (Cited in para 11-1.)

**AR 405-70**

Utilization of Real Property (Cited in para 1-6*b*.)

**AR 405-80**

Management of Title and Granting Use of Real Property (Cited in para 9-1*b*.)

**AR 420-1**

Army Facilities Management (Cited in para 5-4*f*.)

**DA Pam 405-45**

Real Property Inventory Management (Cited in para 5-11*b*(1).)

**DoD 4165.66-M**

Base Redevelopment and Realignment Manual (Cited in para 3-2*b*.) (Available at <https://www.esd.whs.mil/>.)

**DoDI 4165.69**

Realignment of DoD Sites Overseas (Cited in para 3-2*b*.) (Available at <https://www.esd.whs.mil/>.)

**DoDI 4165.72**

Real Property Disposal (Cited in para 3-2*b*.) (Available at <https://www.esd.whs.mil/>.)

**DoDI 4715.08**

Remediation of Environmental Contamination Outside the United States  
(Cited in para 3-2*b*.) (Available at <https://www.esd.whs.mil/>.)

**Federal Management Regulation (FMR)**

(Cited in 1-6*e*.) (Available at <https://www.gsa.gov/>.)

**41 CFR 102-75**

Utilization Of Excess Real Property: Real Property Disposal (Cited in para 1-6*e*.) (Available at <https://www.ecfr.gov/>.)

**41 CFR 102-75.296**

Designation of Disposal Agencies: When may a landholding agency other than GSA be the disposal agency for real and related personal property? (Cited in para 5-2*a*.) (Available at <https://www.ecfr.gov/>.)

**41 CFR 102-75.435**

Does the Airport and Airway Development Act of 1970, as amended (Airport Act of 1970), apply to the transfer of airports to State and local agencies? (Cited in para B-4.) (Available at <https://www.ecfr.gov/>.)

**41 CFR 102-75.936-938**

Disposing of Easements (Cited in para 6-2.) (Available at <https://www.ecfr.gov/>.)

**41 CFR 102-75.965-980**

Protection and Maintenance (Cited in para 7-9*c*.) (Available at <https://www.ecfr.gov/>.)

**41 CFR 102-75.990**

Abandonment, Destruction, or Donation to Public Bodies: May Federal agencies abandon, destroy, or donate to public bodies real property? (Cited in para 5-6*a*.) (Available at <https://www.ecfr.gov/>.)

**41 CFR 102–75.1000**

Determinations: How is the decision made to abandon, destroy, or donate property? (Cited in para 5–6a.) (Available at <https://www.ecfr.gov/>.)

**41 CFR 102–75.1005**

Determinations: Who can make the determination within the Federal agency on whether a property can be abandoned, destroyed, or donated? (Cited in para 5–6a.) (Available at <https://www.ecfr.gov/>.)

**41 CFR 102–75.1010**

Determinations: When is a reviewing authority required to approve the determination concerning a property that is to be abandoned, destroyed, or donated? (Cited in para 3–5a.) (Available at <https://www.ecfr.gov/>.)

**41 CFR 102–75.1025**

Abandonment and Destruction: When can a Federal agency abandon or destroy improvements on land or related personal property in lieu of donating it to a public body? (Cited in para 5–6a.) (Available at <https://www.ecfr.gov/>.)

**41 CFR 102–75.1035**

Abandonment and Destruction: Are there any restrictions on Federal agencies concerning the abandonment or destruction of improvements on land or related personal property? (Cited in para 5–6a.) (Available at <https://www.ecfr.gov/>.)

**41 CFR 102–75.1055**

Delegation to the Department of Defense (DoD): What is the policy governing delegations of real property disposal authority to the Secretary of Defense? (Cited in para 2–3d(2).) (Available at <https://www.ecfr.gov/>.)

**41 CFR 102–75.1260**

Screening of Federal Real Property: Does GSA conduct Federal screening on every property reported as excess real property? (Cited in para 7–3c.) (Available at <https://www.ecfr.gov/>.)

**41 CFR 102–79**

Assignment and Utilization of Space (Cited in para 3–7a.) (Available at <https://www.ecfr.gov/>.)

**10 USC 2662**

Real property transactions: reports to congressional committees (Cited in para 3–4a(1).) (Available at <http://uscode.house.gov/>.)

**10 USC 2696**

Real property: transfer between armed forces and screening requirements for other Federal use. (Cited in para 2–3d(8).) (Available at <http://uscode.house.gov/>.)

**10 USC 7013**

Secretary of the Army (Cited in para 2–1.) (Available at <http://uscode.house.gov/>.)

**Section II****Related Publications**

A related publication is merely a source of additional information. The user does not have to read it to understand this regulation. Codes of Federal Regulations are available at <https://www.gpo.gov/>. United States Codes are available at <http://uscode.house.gov/>.

**AR 5–10**

Stationing

**AR 10–87**

Army Commands, Army Service Component Commands, and Direct Reporting Units

**AR 11–2**

Managers' Internal Control Program

**AR 25–30**

Army Publishing Program

**AR 165–1**

Army Chaplain Corps Activities

**AR 210–190**

Post Cemeteries

**AR 405–16**

Homeowners Assistance Program

**AR 735–5**

Property Accountability Policies

**DA Pam 25–403**

Guide to Recordkeeping in the Army

**DA Pam 415–28**

Guide to Army Real Property Category Codes

**DoDD 4165.06**

Real Property (Available at <https://www.esd.whs.mil/>.)

**DoDI 4165.56**

Relocatable Buildings (Available at <https://www.esd.whs.mil/>.)

**DoDI 5000.64**

Accountability and Management of DoD Equipment and Other Accountable Property (Available at <https://www.esd.whs.mil/>.)

**FED–STD–313E**

Federal Standard: Material Safety Data, Transportation Data and Disposal Data for Hazardous Materials Furnished to Government Activities (Available at <https://www.gsa.gov/>.)

**NGR 5–1**

National Guard Grants and Cooperative Agreements (Available at <https://www.ngbpdc.ngb.army.mil/ngr/>)

**PL 108–287**

Department of Defense Appropriations Act, 2005

**PL 115–232**

John S. McCain National Defense Authorization Act for Fiscal Year 2019

**UFC 2–100–01**

Installation Master Planning (Available at <https://www.wbdg.org/>.)

**15 CFR 930**

Federal Consistency with Approved Coastal Management Programs

**24 CFR 581**

Use of Federal Real Property to Assist the Homeless

**32 CFR 174**

Revitalizing Base Closure Communities and Addressing Impacts of Realignment

**40 CFR 300**

National Oil and Hazardous Substances Pollution Contingency Plan

**41 CFR 102**

Federal Management Regulation

**43 CFR 2370**

Restorations and Revocations

**43 CFR 2372**

Procedures

**43 CFR 3620**

Free Use of Petrified Wood

**10 USC 2535**

Defense Industrial Reserve

**10 USC 2665**

Sale of certain interests in land; logs

**10 USC 2665(e)**

Sale of certain interests in land; logs: each State in which is located a military installation or facility

**10 USC 2668a**

Easements for rights-of-way: Authorized Types of Easements

**10 USC 2687**

Base closures and realignments (re: Defense Authorization Amendments and Base Closure and Realignment Act)

**10 USC 2688**

Utility systems: conveyance authority

**10 USC 2694a**

Conservation and cultural activities: Establishment-The Secretary of defense may establish...

**10 USC 2695**

Acceptance of funds to cover administrative expenses relating to certain real property transactions

**10 USC 2831**

Military family housing management account

**10 USC 2854a**

Restoration or replacement of damaged or destroyed facilities: Subject to subsection (b), the Secretary concerned may repair, restore, or replace a facility under his jurisdiction

**10 USC 2864**

Master plans for major military installations

**10 USC 2878**

Conveyance or lease of existing property and facilities

**10 USC 2883**

Department of Defense Housing Funds

**16 USC 470**

Transferred or Omitted (re: National Historic Preservation Act)

**16 USC 505a**

Interchange of lands between Department of Agriculture and military departments of Department of Defense; report to Congress

**16 USC 620a**

Findings and purposes: Findings

**16 USC 1451**

Congressional findings (re: Coastal Zone Management Act)

**16 USC 1531**

Congressional findings and declaration of purposes and policy (re: Endangered Species Act)

**18 USC 4122(d)**

Administration of Federal Prison Industries

**23 USC 317**

Appropriation for highway purposes of lands or interests in lands owned by the United States

**30 USC 601**

Rules and regulations governing disposal of materials; payment; removal without charge; lands excluded (re: Materials Act of 1947)

**40 USC**

Public Buildings, Property, and Works

**40 USC 101**

Purpose

**40 USC 102(3)**

Definitions: Excess Property

**40 USC 572(b)**

Real property: Real property under Control of a Military Department

**42 USC 1594a**

Contracts for construction: Contract provisions; competitive bids

**42 USC 4321**

Congressional declaration of purpose (re: National Environmental Policy Act (NEPA))

**42 USC 6901**

Congressional findings (re: Resource Conservation and Recovery Act)

**42 USC 9601**

Definitions (re: Comprehensive Environmental Response Compensation and Liability Act)

**42 USC 11301**

Findings and purpose

**42 USC 11411**

Use of unutilized and underutilized public buildings and real property to assist the homeless (re: McKinney Vento Homeless Assistance Act)

**43 USC 1719**

Mineral interests; reservation and conveyance requirements and procedures

**49 USC 47125**

Conveyances of United States Government land

**Section III**

**Prescribed Forms**

Unless otherwise indicated, DA forms are available on the Army Publishing Directorate (APD) website <https://armypubs.army.mil/>.

**DA Form 337**

Request for Approval of Disposal of Buildings Improvements (Prescribed in paras 2–7.)

**Section IV**

**Referenced Forms**

Unless otherwise indicated, DA forms are available on the Army Publishing Directorate (APD) website (<https://armypubs.army.mil/>); DD forms are available on the Office of the Secretary of Defense (OSD) website ([www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm](http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm)); Standard Forms (SF) are available on the GSA website ([www.gsa.gov](http://www.gsa.gov)); and Title V Property Survey is available on the U.S. Housing and Urban Development (HUD) website ([www.hud.gov](http://www.hud.gov)).

**DA Form 11–2**

Internal Control Evaluation Certification

**DA Form 2028**

Recommended Changes to Publication and Blank forms

**DD Form 1354**

Transfer and Acceptance of DoD Real Property

**SF 118**

Report of Excess Real Property

**SF 13327**

Report of Real Property Available for Transfer to Federal Agencies

## Appendix B

### Authorities for Disposal of Real Property

The authority to dispose of United States real property is vested in the Congress (United States Constitution, Article IV, Section 3, Para 2). The principal law authorizing the disposal of federal real property is the Federal Property and Administrative Services Act of 1949, as amended (40 USC 101, and what follows), hereinafter called the Federal Property Act. This act provides that each federal agency report real property in excess to its requirements to the GSA. GSA then determines if the available property can meet an unfulfilled requirement of any other federal agency. If not, GSA supervises and directs the disposal of the surplus property. All disposals of real property will be made under the authority of the Federal Property Act and implementing regulations issued by GSA called the Federal Management Regulation (FMR) (41 CFR 102, and what follows), unless otherwise authorized by law. Where other legislation authorizes disposal, the procedures of the GSA implementing regulations may nevertheless be helpful as nonbinding guidelines in processing the disposal. In addition to the Federal Property Act, the principal acts of Congress authorizing the SECARMY to dispose of real property are as follows:

#### **B-1. Real Property Transfer: Transfer between armed forces and screening requirements for other Federal use (10 USC 2696)**

Authorizes interchange of real estate without compensation between the Army, Air Force, Navy, and Coast Guard. Also provides that real property may not be conveyed unless it has first been screened by the Administrator of GSA for other Federal use.

#### **B-2. Appropriation for highway purposes of lands or interests in lands owned by the United States (23 USC 317)**

Authorizes transfer of land or of interest in land without charge under certain conditions for the construction or maintenance of Federal highways from adjacent lands to the Department of Transportation.

#### **B-3. Interchange of lands between Department of Agriculture and military departments of Department of Defense; report to Congress (16 USC 505a)**

Authorizes interchange of lands under the control of a MILDEP adjacent to lands part of the National Forest System without reimbursement or transfer of funds under certain conditions.

#### **B-4. Conveyances of United States Government land (49 USC 47125)**

Authorizes conveyance of lands to a public agency without any expense to the United States under certain conditions, including retention of reversionary rights in the United States, when the Secretary of Transportation determines the use of the land is reasonably necessary to carry out a project under this act. GSA has limited DA authority to operate under this act (41 CFR 102-75.435) for transferring nonexcess land for airport development purposes, providing that such real property does not constitute an entire airport.

#### **B-5. Acquisition of military housing financed under Armed Services Housing Mortgage Insurance Fund and rental housing at military bases (42 USC 1594a)**

Authorizes the acquisition of land by purchase, donation, condemnation, or other means of transfer or (with approval of the Secretary of Housing and Urban Development) of certain types of housing when the Secretary of Defense or designee deems it necessary for housing military personnel.

#### **B-6. Administration of Federal Prison Industries (18 USC 4122(d))**

Authorizes transfer without exchange of funds of any property suitable for industrial employment and training of prisoners (convicted by general courts-martial and confined in DoD institutions) to the Federal Prison Industries.

**B-7. Title 40, United States Code, subtitle I, chapter 5, subchapter 3**

**B-8. Title 40, United States Code, subtitle I, chapter 7**

**B-9. 10 USC 2694a**

**B-10. 10 USC 2854a**

**B-11. 10 USC 2878**

**B-12. 10 USC 2883**

**B-13. 10 USC 2688**

**B-14. 10 USC 2668a**

**B-15. 10 USC 2665**

**B-16. 43 USC 1719**

## Appendix C

### Internal Control Evaluation Certification

#### C–1. Function

The function covered by this checklist include property to be excessed, properties that are not excessed, disposals by the GSA return of public domain land, and Army disposals of real property.

#### C–2. Purpose

The purpose of this checklist is to assist the USACE Division and District chiefs of real estate, the Landholding Command real property officer, the installation real property officer, or other real property officer accountable for DA real property in evaluating the key management controls listed. It is not intended to cover all controls.

#### C–3. Instructions

Answers must be based on the actual testing of key management controls (for example, document analysis, direct observation, sampling, simulation, other). Answers that indicate deficiencies must be explained and corrective action indicated in supporting documentation. These management controls must be evaluated at least once every 5 years. Certification that this evaluation has been conducted must be accomplished on DA Form 11–2 (Internal Control Evaluation Certification).

#### C–4. Test Questions

- a.* Was a report made to the Armed Services Committee (ASC) on all proposed transfers of Army-controlled real property to another federal agency or another MILDEP or to a State, if the estimated value is more than \$750,000?
- b.* Was a report made to the ASC on all reports of excess Army-controlled real property to a disposal agency, if the estimated value is more than \$750,000?
- c.* Was the Army-controlled real property proposed for disposal screened for possible use by other MILDEPs and DoD agencies?
- d.* Was the Army-controlled real property proposed for disposal screened for possible use by non-DoD Federal agencies when the Army is acting as disposal agent?
- e.* Was the Army-controlled real property proposed for disposal reported to HUD in compliance with the McKinney Vento Homeless Assistance Act (42 USC 11301, and what follows) and were waiting periods specified in the Act adhered to prior to disposal of the property?
- f.* Was the Army-controlled real property either reported excess to a disposal agency or otherwise disposed of to a non-Army party only after a duly authorized official approved a Determination of Excess or a Determination Approving Disposal based on a supporting disposal report?
- g.* Is the consideration paid for the disposal of all Army-controlled real property supported by a properly reviewed and approved appraisal of market value unless the statute authorizing the disposal provides for consideration other than market value?
- h.* Is the consideration paid for the disposal of all Army-controlled real property properly recited in the conveyance documents?
- i.* Are procedures in place to ensure that proceeds collected from grantees will be deposited as required by the statute authorizing the disposal and implementing Army policy?

#### C–5. Suppression

Not applicable.

#### C–6. Comments

Help to make this a better tool for evaluating management controls. Submit comments to the Chief of Engineers (CEMP-R), 441 G Street NW, Washington, DC 20314–1000.



## **Glossary**

### **Section I**

#### **Abbreviations**

**AMC**

U.S. Army Materiel Command

**APSR**

Accountable Property System of Record

**ARIMS**

The Army Records Information Management System

**ARNG**

Army National Guard

**ASA (ALT)**

Assistant Secretary of Army (Acquisition, Logistics, and Technology)

**ASA (IE&E)**

Assistant Secretary of the Army (Installations, Energy and Environment)

**ASC**

Armed Services Committee

**BLM**

Bureau of Land Management

**BRAC**

Base Realignment and Closure

**CFR**

Code of Federal Regulations

**COE/CG, USACE**

Chief of Engineers/Commanding General, U.S. Army Corps of Engineers

**DA**

Department of the Army

**DASA (IH&P)**

Deputy Assistant Secretary of the Army (Installations, Housing and Partnerships)

**DCS, G-9**

Deputy Chief of Staff, G-9

**DoD**

Department of Defense

**DOI**

Department of the Interior

**DOJ**

Department of Justice

**FMR**

Federal Management Regulation

**GSA**

General Services Administration

**HAZMAT**

hazardous materials

**HQ USACE**

Headquarters, U.S. Army Corps of Engineers

**HQDA**

Headquarters, Department of the Army

**HUD**

Department of Housing and Urban Development

**LHC**

Landholding Command

**MILDEP**

military department

**MWR**

Morale, Welfare, and Recreation

**NEPA**

National Environmental Policy Act

**NIR**

Notice of Intention to Relinquish

**OSD**

Office of the Secretary of Defense

**RCI**

Residential Communities Initiative

**RECO**

real estate contracting officer

**RPI**

Real Property Inventory

**SECARMY**

Secretary of the Army

**SF**

Standard Form

**USACE**

U.S. Army Corps of Engineers

**USARC**

U.S. Army Reserve Command

**USC**

United States Code

**Section II****Terms****Abandon**

To surrender property rights permanently with no intention of reclaiming them. Mere nonuse is not necessarily abandonment.

**Active installation**

A facility in use by active organizations.

**Approval authority**

The approving official that confirms the requirement for reassignment, transfer, or disposal. This is not authority to execute real estate documents.

**Contamination**

The presence of an undesirable substance (physical, chemical, biological, or radiological) not normally present, or an unusually high concentration of a naturally occurring substance in water or soil.

**Delegated execution authority**

Right to execute real estate documents as provided in this regulation or a specific delegation letter.

**Demolition**

Disposal by removal or disassembly of existing buildings, structures, and utilities to provide a clear site.

**Disposal**

Any authorized method of permanently divesting DA of real property accountability of and responsibility for real estate.

**Division and district commanders**

Heads of local and intermediate USACE offices, respectively.

**Easement**

A non-possessory interest in real property. An easement may be temporary or permanent in duration. Easements may be classified as either appurtenant or in gross. An easement appurtenant involves two pieces of land, where one serves as the servient tenement (estate) that bears the burden, and the other the dominant tenement (estate), which benefits from the grant of the easement and with which the easement passes as an appurtenance. Easements may be classified as affirmative or negative. An affirmative easement gives the easement holder the right to do something on the grantor's land, such as travel on a road through the grantor's land. A negative easement gives the easement holder the right to prevent the owner of the land subject to the easement from doing something on his land that may otherwise be lawful for him to do, such as building a structure.

**Equipment-in-place**

A special category of personal property (not real property) consisting of capital equipment and other nonexpendable equipment of a movable nature that has been fixed in place or attached to real property, but not as an integral part of the facility. Therefore, such equipment may be severed or removed from a facility without severely damaging, destroying, or reducing the usefulness of the facility. Equipment-in-place is personal property and does not include installed building equipment. It is accounted for on property book records (not real property records).

**Excess real property**

Real property under the control of a federal agency that the head of the agency determines is not required to meet the agency's needs or responsibilities. See 40 USC 102(3).

**Excessing**

(Noun) The process of determining that real estate is not needed by the Army. (Verb) Reporting excess property to the disposal agency for disposal.

**Facility**

A real property entity consisting of one or more of the following: a building, a structure, a utility system, or underlying land. All real property facilities are categorized by one or more category codes from DA Pam 415-28. Also called a "real property facility."

**Facility Book Value**

The calculated value, recorded in US dollars and cents, for a real property facility that subtracts the facility total accumulated depreciation amount associated with the asset from the acquisition original recorded cost amount; the net amount carried on the financial records.

**Fair Market Value/Fair Value**

The amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would be sold, by a knowledgeable seller who desired but is not obligated to sell, to a knowledgeable purchaser who desired but is not obligated to buy. Usually established by appraisal.

**Federal Property Act**

Law that controls management and disposal of most federally controlled real estate (see 40 USC 101 *et seq.*).

**Fee Simple**

The largest estate known to the law and of potentially infinite duration. Its three principal characteristics are that it is alienable, divisible, and descendible. May also be referred to as "fee" or "fee simple absolute." Ownership in fee does not necessarily mean that no other person may have a limited interest in or right to use the property as, for example, property subject to an easement. May also be referred to as fee.

**Fee-owned**

Real property for which the United States has all right, title, and interest rather than a partial interest. Does not include withdrawn public land.

**Fixture**

Personal property that is so related to real property that a real property interest arises in it (for example, installed furnace). Not building materials.

**Foreign excess real estate**

Any excess real property interest located outside the United States, Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands. Real property overseas may not include timber, installed building equipment, and so forth. Check the applicable regulation for the definition of real estate under applicable law at each location (see USARJ 405-1 for Japan, USFK 405-7 for Korea, USAREUR 405-8 for Europe).

**Garrison commander or equivalent**

This term includes garrison commanders for Regular Army installations; Commanders, U.S. Army Reserve Regional Support Commands for Army Reserve installations; U.S. Property and Fiscal Officers for Army National Guard installations, and USACE District Engineers for civil works projects (when applicable).

**Hazardous materials**

Hazardous material (commonly referred to as HAZMAT) is defined by GSA in Federal Standard, Material Safety Data, Transportation Data and Disposal Data for Hazardous Materials Furnished to Government Activities (FED-STD-313E, 1 July 2014).

**Holding agency**

The Federal agency with accountability for the property.

**Improvements**

An addition to land amounting to more than repair or replacement and costing labor or capital (for example, buildings, pavements, pipelines, and other structures more or less permanently attached to the land).

**Industrial installation**

Industrial facility held by DA in active or inactive status as a reasonable reserve of departmental controlled production capacity and potential. Installations retained and used in their entirety or in part or maintained in idle status for production of military weapons, systems, munitions, components, and supplies.

**Ingrants**

A lease, license, easement, or permit which authorizes the Army use of real property controlled by other MILDEPs, Federal agencies, State and local governmental agencies, and private organizations or individuals.

**Installation**

An aggregation of contiguous or near contiguous, common mission-supporting real property holdings under the jurisdiction of or possession controlled by the Department of the Army or by a State, commonwealth, territory, or the District of Columbia, and at which an Army unit or activity (Regular Army, Army Reserve, or Army National Guard) is assigned. An installation is a single site or a grouping of two or more sites for the purposes of real property inventory control. The real property accountable officer is at the installation level.

**Installed building equipment**

Items of equipment that are affixed and built into the facility as an integral part of the facility. To qualify as installed building equipment the equipment must be necessary to make the facility complete, and if removed, would destroy or severely reduce the usefulness of the facility.

**Land**

Real estate that is fee-owned by the Federal Government and or under custody and accountability of the Army. Includes land acquired by purchase, condemnation, donation, transfer, permit, lease, or other means. Includes reclaimed or accreted lands if title is vested in the Federal Government and such lands are under custody and accountability of the Army.

**Landholding Commands (Army)**

Army commands, Army service component commands, and direct reporting units, as defined in AR 10-87, or Reserve Components, having landholding responsibilities. As of the time of this regulation issuance, the Army landholding commands are the U.S. Army Installation Management Command, U.S. Army Materiel Command, Army National Guard Bureau, U.S. Army Reserve Command, U.S. Army Europe, U.S. Army Central, and U.S. Army Corps of Engineers.

**Lease**

A written real estate instrument that conveys a possessory interest in real property, usually exclusive, for a period of time for a specified consideration. A lease carries a present interest and estate in the land for the period specified. The estate of the lessee, or tenant, is called the term and the estate of the lessor, or landlord, is the reversion. Generally, the lessee may occupy and use the premises for any lawful purpose not injurious to the reversion. However, the lease may contain express provisions or conditions restricting the use of the property. Leases are not appropriate between the Army and another DoD component or federal agency.

**License**

A license is a bare permission to an individual, an organization, a corporation, a state or local governmental entity, or another DoD component or federal agency, to do a specified act or series of acts on Army property without conveying any estate or possessory interest therein. Use is not exclusive and there is no alienation of title, ownership, or control of Government property. The license provides written evidence of the permission granted and of the obligations, responsibilities, and liabilities imposed on the licensee. A license may be issued pursuant to specific authority, as a lesser right under lease or easement authorities, or pursuant to the general administrative powers of the SECARMY. It is normally revocable at will, with minimal required notice.

**Nonusable condition**

Used to describe a facility as unserviceable, because it has deteriorated to the extent that it needs extensive restoration or it is a danger to the health and safety of personnel or to equipment.

**Outgrant**

A written document which conveys or grants to others the right to use Army-controlled real property. Includes leases, licenses, easements, permits, and host-tenant agreements.

**Permit**

A type of outgrant generally used to authorize use of DA real property by another Federal agency. Equivalent to a license.

**Personal property**

Any property not considered real property.

**Public Benefit Conveyance**

Various statutes authorize conveyance to state and local governments and in some cases, to nonprofits at up to 100% discount for public benefit use. Some of the qualifying uses include public health, homeless assistance, education, park and recreation, correctional, law enforcement, emergency management, among others.

**Public Domain**

Land or interest in land owned by the United States and administered by the Secretary of the Interior, through the Bureau of Land Management, without regard to how the United States acquired ownership, except lands located in the Outer Continental Shelf and lands held for the benefit of Indians, Aleuts, and Eskimos.

**Real estate**

See real property. Interests in real property are referred to as estates.

**Real estate contracting officer**

A qualified person with delegated authority to execute a real estate contract, to make real estate commitments on behalf of the U.S. Government, or to make determinations in accordance with other appropriate real estate authority. A RECO may exercise only that authority expressly delegated in writing through warranting procedures.

**Real property**

As used herein, real property is any interest in land, together with the improvements, structures, and fixtures located thereon, and appurtenances thereto, under the control of the Army. Relocatable buildings will be accounted for as personal property in accordance with DoDI 5000.64 when purchased as an equipment item and as real property in accordance with DoDD 4165.06 when procured using construction procedures. See DoDI 4165.56.

**Real property inventory**

A detailed inventory of each item of real property. It serves as the basic source of information for the category, status, cost, area, capacity, condition, use, construction material, and capital improvements for each item of real property as defined by category code in DA Pam 415-28/Real Property Characterization System. The real property inventory is maintained at installation level and then aggregated at HQDA.

**Reassignment**

Change of jurisdiction over real estate from one command or agency to another within DA.

**Related personal property**

Any personal property that is an integral part of real property or is related to, designed for, or specially adapted to the functional or productive capacity of the real property and which, if removed, would significantly diminish the economic value of the real property. Normally, common use items (including general purpose furniture, utensils, office machines, office supplies, or general purpose vehicles) are not considered to be related personal property that the GSA administrator determines to be related to the real property.

**Relocatable building**

A building designed for the purpose of being readily moved, erected, disassembled, stored, and reused (for example, trailer type building but not mobile trailer). Usually considered personal property but in certain instances is on the real property account.

**Reserve Components**

U.S. Army Reserve and Army National Guard of the United States.

**Reserved public lands**

See withdrawn public lands.

**Screening**

Circulating a notice of real property to determine whether it is required by another organization.

**Security interest**

An interest in personal property or fixtures which someone obtains to ensure payment owed or performance of an obligation.

**Site**

Land and the improvements thereon under the control of the DA. Sites are at a fixed location at which Army functions are or may be carried on and which has been established by directive of the DA or by an overseas command under delegated authority. Such land and improvements within a common boundary utilized as a post or camp, with functions such as command and control, training, troop housing, and airfield operations, generally will be designated as a single site. Within a common boundary, a site may include discrete parcels of land that although are not contiguous, are close enough to be considered a single site.

**Structure**

A real property facility that is classified as other than land, a building, or utility.

**Surplus real estate**

Any excess real property not required for the needs and discharge of the responsibilities of all Federal agencies, as determined by the GSA administrator.

**Tenant**

Any activity or organization that would fund facility sustainment of real property with a different Service appropriation than that of the host or main installation tenant.

**Transfer**

Change of jurisdiction over real property from one Federal agency or department to another, including MILDEPs and defense agencies.

**Utility**

A distribution system, commodity source, or commodity collection point that provides a common service or commodity to more than one building or structure, for example, water, electricity, sewage, and so forth.

**Vacated premises**

Property from which all military personnel and missions have been vacated.

**Withdrawn public lands**

An action which restricts the disposition of public lands and which holds them for specific public purposes.

**Section III****Special Abbreviations and Terms**

There are no special terms.

**UNCLASSIFIED**

**PIN 003255-000**