

**BY ORDER OF THE
SECRETARY OF THE AIR FORCE**

AIR FORCE INSTRUCTION 32-9001

28 SEPTEMBER 2017

Civil Engineering

ACQUISITION OF REAL PROPERTY



COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

ACCESSIBILITY: Publications and forms are available on the e-Publishing website at www.e-publishing.af.mil for downloading or ordering.

RELEASABILITY: There are no releasability restrictions on this publication.

OPR: AFCEC/CIT

Certified by: SAF/IEI
(Jennifer L. Miller, SES)

Supersedes: AFI32-9001, 27 July 1994

Pages: 51

This Instruction implements Department of Defense Directive (DoDD) 4165.06, *Real Property*; DoDD 5105.77, *National Guard Bureau (NGB)*; Department of Defense Instruction (DoDI) 1225.08, *Reserve Component (RC) Facilities Programs and Unit Stationing*; DoDI 4165.70, *Real Property Management*; DoDI 4165.71, *Real Property Acquisition*; and Air Force Policy Directive (AFPD) 32-90, *Real Property Asset Management*. It provides guidance for acquiring Real Property (RP) assets according to Air Force (AF) and Department of Defense (DoD) issued policies, guidance, and procedures. This Instruction does not delegate or grant authority to acquire real property assets; delegations will be made in a separate document. This Instruction applies to all Air Force including the Air National Guard (ANG) and Air Force Reserve Command (AFRC) units. This AFI does not apply to Family Housing leasing and Privatized Housing or Industrial Facilities. See AFI 32-6001, *Family Housing Management* and AFI 63-101/20-101, *Integrated Life Cycle Management*, for more information. Unless otherwise specified, the term AF will be used to encompass ANG, AFRC, and active duty. This publication may be supplemented at any level, but all direct Supplements must be routed to the Office of Primary Responsibility (OPR) of this publication for coordination prior to certification and approval. Refer recommended changes and questions regarding this publication to the OPR using the AF IMT 847, *Recommendation for Change of Publication*; route AF IMT 847s from the field through the appropriate functional chain of command. The authorities to waive wing/unit level requirements in this publication are identified with a Tier (“T-0, T-1, T-2, T-3”) number following the compliance statement. See AFI 33-360, *Publications and Forms Management*, for a description of the authorities associated with the Tier numbers. Submit requests for waivers through the chain of command to the appropriate Tier waiver approval authority, or alternately, to the Publication OPR for non-tiered compliance items. Ensure that all

records created as a result of processes prescribed in this publication are maintained in accordance with Air Force Manual (AFMAN) 33-363, *Management of Records*, and disposed of in accordance with Air Force Records Information Management System (AFRIMS) Records Disposition Schedule (RDS) located at <https://www.my.af.mil/gcss-af61a/afrims/afrims/>.

SUMMARY OF CHANGES

This document is substantially revised from the original Instruction and must be completely reviewed. This revision updates and replaces AFI 32-9001, *Acquisition of Real Property*, 27 Jul 94, in its entirety. The revision also replaces the USAFE Supplement 1 to AFI 32-9001, *Acquisition of Real Property*, 9 Aug 12, in its entirety.

Chapter 1— REAL PROPERTY ACQUISITION	6
1.1. Policy	6
1.2. Roles and Responsibilities	6
1.3. Methods of Acquisition	9
1.4. Requirements	10
1.5. Congressional Notification	13
1.6. Legislative Jurisdiction	14
1.7. Nonappropriated Funds (NAF)	14
1.8. Foreign Construction	14
1.9. Air Force Recruiting Space	14
1.10. Civil Air Patrol Offices	14
1.11. Leasing Family Housing	14
1.12. Army and Air Force Exchange Service (AAFES)	14
1.13. Title Sufficiency	14
1.14. Air Installation Compatible Use Zone (AICUZ)	15
1.15. Relocatable Conversion	15
1.16. Decision Matrix	15
Table 1.1. Decision Matrix – Instrument Type for Air Force Acquisition	15

Chapter 2— TEMPORARY, NON-EXCLUSIVE USE 16

2.1. Temporary, Non-Exclusive Use..... 16

2.2. Licenses 16

2.3. Congressional Notification. 16

2.4. Permits 16

2.5. Easements 16

Chapter 3— TEMPORARY, EXCLUSIVE USE 18

3.1. Leases..... 18

3.2. General..... 18

3.3. Lease Acquisition Authority. 18

3.4. Lease Acquisition Approval. 18

3.5. Options for Renewal. 19

3.6. Leasing..... 19

3.7. Limitations on Rents: 19

3.8. Limitations on Alteration, Improvement, and Repair of Leased Facilities (T-0): .. 19

3.9. Exceptions to Limitations. 20

3.10. Certificate of Necessity..... 20

3.11. Payment for Leases. 20

3.12. Restoration of Leased RP..... 21

3.13. Recording Leases..... 21

3.14. AAFES Leases 21

3.15. Construction on Land Not Owned by the United States..... 21

3.16. Subordination, Nondisturbance & Attornment (SNDA)..... 22

3.17. Parking Space for Privately Owned Vehicles of Military and Civilian Personnel . 22

3.18. Lease Purchase..... 22

3.19. Operating Leases and Capital Leases. 22

3.20. Scoring of Operating Leases..... 22

Chapter 4— UNIQUE ACQUISITION PROCESSES	23
4.1. Permits From Other DoD or Federal Government Agencies.....	23
4.2. Withdrawals of Public Land.	23
4.3. GSA Controlled Space:.....	24
4.4. Lease Acquisition Through USACE.....	25
4.5. Acquisition by Reversion.....	25
4.6. Acquisition by Recapture.....	25
4.7. Mineral Rights	26
Chapter 5— ACQUIRING PERMANENT INTERESTS	27
5.1. Authorization.	27
5.2. MILCON Land Requirements.	27
5.3. Land Acquisitions Under \$750,000.	27
5.4. Gifts.	28
5.5. Transfers From Another Military Department.....	28
5.6. DoD Excess RP.....	28
5.7. Non-DoD Excess RP.	29
5.8. Bombing and Gunnery Ranges.	29
5.9. Restrictions on Using Non-appropriated Funds.....	29
5.10. Perpetual Easements.	29
5.11. Easement Consent.....	30
Chapter 6— ACQUIRING RP IN TERRITORIAL AREAS AND FOREIGN COUNTRIES	31
6.1. Roles and Responsibilities	31
6.2. OCONUS Territorial Acquisition.....	32
6.3. OCONUS	32
6.4. Methods of Foreign Acquisition.	32
6.5. Acquiring Property within OCONUS Commands' Jurisdiction	32
6.6. Acquiring Property outside OCONUS Commands' Jurisdiction.	32
6.7. Acquisitions outside Foreign Government Agreements	32
6.8. Leasing.....	33

6.9.	Advance Approval.....	33
6.10.	Payment of Leases.....	33
6.11.	Leasing AAFES Facilities.....	33
6.12.	Construction on Leased Property in Foreign Countries (O&M leases or non FH leases).....	33
Attachment 1— GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION		35
Attachment 2— AFCEC/CFE (USAFE-AFAFRICA) – LEASE REQUESTS		47

Chapter 1

REAL PROPERTY ACQUISITION

1.1. Policy. For any acquisition, regardless of interest to be acquired, the Air Force shall consider the following prior to making a final decision to acquire real property (RP):

1.1.1. Maximize the use of existing Government assets prior to acquiring additional RP.

1.1.1.1. Use underutilized, non-excess RP under Air Force control.

1.1.1.2. Obtain permit from another military department or Government Agency.

1.1.1.3. Obtain RP declared excess by another military department or Government Agency.

1.1.1.4. Withdraw public lands.

1.1.2. Acquire the least amount of interest and space for the shortest term possible to conduct and sustain mission operations in the following order of preference:

1.1.2.1. Temporary, Non-exclusive use (License).

1.1.2.2. Easement (perpetual or term).

1.1.2.3. Lease.

1.1.2.4. Fee.

1.1.3. All instruments shall be to the United States of America, rather than the Department of the Air Force. **Exception:** Permits, see **Chapter 4**; Outside Continental United States (OCONUS).

1.2. Roles and Responsibilities.

1.2.1. Under Secretary of Defense for Acquisition, Technology and Logistics (USD(AT&L)). Approves waivers of moratorium on acquisition of RP at or exceeding \$1M or 1,000 acres. Reference DoDI 4165.71, *Real Property Acquisition*.

1.2.1.1. Under the authority, direction and control of the USD(AT&L), the Assistant Secretary and Defense of Energy, Installations, and Environment (ASD(EI&E)) coordinates all Reserve Components (RC) major land acquisitions waivers before final OSD coordination and approval. Reference DoDI 1225.08, *Reserve Component (RC) Facilities Programs and Unit Stationing*.

1.2.2. Secretary of the Air Force (SecAF). SecAF is authorized RP acquisition authorities by Congress.

1.2.2.1. In addition to the other available authorities, SecAF may acquire RC facilities by purchase, lease, transfer, construction, expansion, consolidation, rehabilitation, conversion, contribution to these purposes, or exchange under 10 United States Code (USC) **Chapter 1803**. Reference DoDI 1225.08, *Reserve Component (RC) Facilities Programs and Unit Stationing*.

1.2.3. Assistant Secretary of the Air Force for Installations, Environment and Energy (SAF/IE). SAF/IE has overall responsibility for installations strategy and strategic basing processes; built and natural infrastructure; facility, process and operational energy; environment, safety and occupational health; and to ensure the sustainability and operational readiness of the Department of the Air Force. SAF/IE provides guidance, direction, and oversight for all matters pertaining to the formulation, review, and execution of plans, policies, programs, and budgets to ensure the sustainment and protection of the mission from degradation and encroachment. Reference Air Force Mission Directive (AFMD) 1, *Headquarters Air Force (HAF)*; Headquarters Air Force Mission Directive (HAFMD) 1-18, *Assistant Secretary of the AF (Installations, Environment and Energy)*; and DoDI 1225.08, *Reserve Component (RC) Facilities Programs and Unit Stationing*.

1.2.4. Deputy Assistant Secretary of the Air Force, Installations (SAF/IEI). SAF/IEI has primary responsibility for long-term strategic planning regarding the future of Air Force installations, including without limitation, planning; decisions on base realignment and closure (BRAC) (BRAC or similar) including force structure basing changes; overall installations strategy; the Air Force military housing strategy, the Air Force Environmental Impact Analysis Process; the Air Force Strategic Basing process; and broadly addressing community interface matters and programs to include, for example, the community partnership program, compatible land use planning and economic adjustment, community planning and impact assistance, multiple military service operations and joint land use, public/private partnerships for installation support, the Readiness and Environmental Protection Integration (REPI) program, joint military-civil airfield usage, changes in legislative jurisdiction of Air Force real property, annexation of installations by local governments, and encroachment management. SAF/IEI is responsible for all real property transactional activity, including without limitation acquisition (to include withdrawal of public lands), allowing temporary use, and disposal of Air Force real property, privatization of multi-family housing or similar initiatives but excluding real property transactions that are part of a utility privatization transaction. SAF/IEI has re-delegated certain RP authorities to SAF/IEI as related to the above matters.

1.2.5. Deputy Assistant Secretary of the Air Force, Environment, Safety, and Infrastructure (SAF/IEE). SAF/IEE has primary responsibility for the functions related to programming, utilization, maintenance, repair and operations of installations, facilities and utilities (to include military construction and utility privatization; and installation sustainability, security, and operability. SAF/IE re-delegated authority to SAF/IEE are conditioned on SAF/IEE coordinating with SAF/IEI where an action relates to subject matter under the purview of SAF/IEI herein (e.g. force structure, encroachment, basing actions, real property transactions, community partnership programs).

1.2.6. Air Force General Counsel for Installations, Energy and Environment Law (SAF/GCN). SAF/GCN provides legal counsel for RP acquisitions.

1.2.7. Directorate of Civil Engineers (HQ AF/A4C). HQ AF/A4C establishes procedures, controls and reporting for RP accountability.

1.2.7.1. Asset Management Division HQ AF/A4CA (AF/A4CA). AF/A4CA establishes management procedures, controls, and reporting requirements for the Family Housing (FH) Leasing Program. Reviews requests for approval of FH leases and provides lease points (lease authorization). Reference AFI 32-6001, *Family Housing Management*.

1.2.8. Administrative Assistant to the Secretary of the Air Force (SAF/AA). Air Force point of contact for space acquisition or assignment within the National Capital Region (NCR). Reference AFI 32-9010, *Management and Reporting of Air Force Space and Building Services in OSD Assigned Facilities and in the Washington DC Area*.

1.2.9. Air Force Installation and Mission Support Center (AFIMSC). AFIMSC supports Air Force-wide installation and mission support activities (Integrated Data Call, Facility Sustainment Model (FSM), Plant Replacement Value (PRV), etc.) and provides funding prior to execution of family housing leases.

1.2.10. Air Force Civil Engineer Center, Installations Directorate (AFCEC/CI). AFCEC/CI executes all final acquisition actions at AFCEC/CI delegated authority level. Staffs Congressional Notifications, withdrawal of public lands, condemnation, and construction on lands not owned by United States actions for SAF/IEI approval and transmits Moratorium Land Acquisition Waivers (MLAW) for DUSD (AT&L) approval through SAF/IEI.

1.2.11. AFCEC/CI Real Property Management Division (AFCEC/CIT). AFCEC/CIT provides guidance to MAJCOMs and Installations relating to RP acquisitions and may have re-delegated authorities from AFCEC/CI.

1.2.12. AFCEC/CIT operating location for US Air Forces in Europe (USAFE) (AFCEC/CFE). AFCEC/CFE is the primary point of contact for all Air Force real estate actions in foreign countries within USAFE and Air Forces in Africa (AFAFRICA). Reference [Chapter 6](#) for specific OCONUS Roles and Responsibilities.

1.2.13. AFCEC/CIT operating location for Pacific Air Forces (PACAF) (AFCEC/CFP). AFCEC/CFP is the primary point of contact for all Air Force real estate actions in foreign countries within PACAF and also Alaska and Hawaii.

1.2.14. Major Command (MAJCOM) Civil Engineer. Provides mission compatibility and/or operational endorsement of any proposed acquisition.

1.2.14.1. Reserve Commands [Air Force Reserve Command (AFRC) and National Guard Bureau (NGB) for Air National Guard (ANG)]. Provides guidance and endorsement to Reserve/ANG Installations relating to real estate transactions. Reference AFMD 10, *Organization and Functions of National Guard Bureau* and AFMD 11, *Air Force Reserve Command (AFRC)*.

1.2.14.1.1. NGB advises Air Staff on all ANG real estate related transactions.

1.2.14.1.2. NGB Directorate of Logistics and Installations (NGB/A4) advises SAF/IE, SAF/IEE, SAF/IEI and AF/A4C on environmental; real property and facility acquisitions; procedures, controls and reporting.

1.2.14.1.3. NGB assumes all MAJCOM roles for ANG.

1.2.14.1.3.1. United States Property and Fiscal Officer (USPFO) for ANG. Provides concurrence on federal property acquisitions for ANG.

1.2.15. Installation Commanders. Approve acquisitions within delegated authority. Endorse proposed acquisitions for higher delegated authority approval. (T-1)

1.2.15.1. Installation Commanders for ANG. Acquisition authorities were retained at NGB, the installation commander will provide the endorsement for higher delegated authority approval. (T-1)

1.2.16. Base Civil Engineers (BCE). Responsible for Installation RP asset management.

1.2.17. Real Estate Office (RP Accountable Officers (RPAO) or Realty Specialist). Coordinate actions with appropriate stakeholders, MAJCOM, and other offices as necessary and engage directly with AFCEC/CIT personnel.

1.2.17.1. Maintains justification, coordination, and approval documents with the final acquisition action in a Real Property Record.

1.2.17.2. Ensure Air Force interest is accurately documented in Accountable Property System of Record (APSR).

1.2.18. ANG Real Property Managers (RPMs) coordinate actions with NGB.

1.3. Methods of Acquisition . Use the most cost-effective method to acquire additional RP. Commonly used methods are:

1.3.1. RP gifts may be accepted on behalf of the Air Force. Gifts should not be solicited and must be evaluated when offered. See **Chapter 4**. Reference AFI 51-601, *Gifts to the Department of Air Force*.

1.3.1.1. Reserve Components are authorized additional acquisitions authorities in 10 US Code **Chapter 1803**, *Facilities for Reserve Components*.

1.3.1.1.1. All real property acquisition authorities should be assessed to determine the most effective method.

1.3.2. The Air Force may acquire interest in property through negotiations with non-federal landowners (i.e., private parties, local or state governments). Certain negotiated acquisitions require advance Air Force approval. See paragraph 1.4.5. Once approved, negotiations may be conducted by:

1.3.2.1. Authorized Air Force personnel – Installation level (e.g., RPAO, Deputy Base Civil Engineer (DBCE), Base Civil Engineer (BCE));

1.3.2.2. Authorized Air Force personnel – AFCEC/CI level (e.g., CIT);

1.3.2.3. Air Force General Counsel for Installations, Energy and Environment Law (SAF/GCN);

1.3.2.4. United States Army Corps of Engineers (USACE);

1.3.2.5. General Services Administration (GSA);

1.3.2.6. Naval Facilities Engineering Command (NAVFAC); or

1.3.2.7. Bureau of Land Management (BLM).

1.3.3. The Air Force may enter into an Option to Acquire an interest in RP. An Option is typically used to secure the Air Force right to acquire the property at a later date. Payment

for an Option may not exceed 12% of the estimated fair market value (FMV) of the property. As part of the negotiations, all or a portion of the 12% payment may be applied to the price of the property. Reference Title 10 USC § 2663, *Land Acquisition Authorities*.

1.3.4. GSA may provide space to the Air Force through an Occupancy Agreement (OA) in urban areas. See **Chapter 4**.

1.3.5. Federal transfer, permit, or withdrawal may be obtained by the Air Force from other federal agencies. See **Chapter 4**.

1.3.6. The Air Force may exchange Air Force property for non-Air Force property of equal or greater value as authorized by statute or special legislation. For any proposed land exchange, notify AFCEC/CIT.

1.3.7. Condemnation is a last resort after all other procedures to acquire mission essential property have failed. The Air Force may condemn any interest as defined within this Instruction. All condemnation actions require preapproval from SAF/IEI. **(T-0)**

1.3.7.1. If a fee simple acquisition is approved through a Military Construction (MILCON) project, Congress must be notified through SAF/IEI before proceeding to condemnation. Congressional Notification will be transmitted through AFCEC/CI to SAF/IEI.

1.4. Requirements. The following requirements must be satisfied prior to acquiring any interest:

1.4.1. All acquisitions must have proper justification prior to incurring any administrative costs. Examples of proper justification are as follows:

1.4.1.1. New or changed mission requirements.

1.4.1.2. Organizational changes or temporary relocations.

1.4.1.3. Encroachment protection outside an installation's perimeter.

1.4.2. Screening Government-Owned RP. Before requesting to acquire private property, the Installation Real Estate Office (REO) must screen for the availability of Government-owned RP within a 50-mile radius. Reference Real Estate Transactions (RET) Playbook for additional guidance.

1.4.2.1. ANG is limited to screening within requesting State boundaries.

1.4.3. Facility Board (FB) Approval. All acquisitions are required to have FB approval. A copy of the FB approval minutes must be maintained in the acquisition grant file for audit purposes.

1.4.4. MAJCOM Endorsement. Installation REO shall coordinate all acquisitions with appropriate MAJCOM office for operational and/or mission impact.

1.4.4.1. Ensure sufficient documentation is provided to the MAJCOM office to evaluate operational/mission impact of the proposed acquisition. Conceptually, as a minimum, include purpose, funding source, and location maps/drawings.

1.4.4.2. Retain the endorsement in the ingrant file and provide AFCEC/CI evidence of MAJCOM endorsement.

1.4.5. Advance Approval. The following actions require approval from SAF/IEI, SAF/IEE or AFCEC/CI through AFCEC/CIT prior to obligating funds or proceeding with any steps of the following real estate actions:

1.4.5.1. Acquire a fee title, easement, or lease using the emergency construction authority. Reference 10 USC § 2803, *Emergency Construction*.

1.4.5.2. Purchase land or easements for more than the appraised value.

1.4.5.3. Lease of land on which construction is planned.

1.4.5.4. Lease of land, buildings, or space within buildings with an annual rental cost exceeding Installation delegated authority. Advanced approval is not required for ANG with an approved MILCON project or boundary adjustments less than 5 acres. **(T-2)**

1.4.5.5. Transfer of land from another military service.

1.4.5.6. Withdrawal from "excess" status RP previously reported to Congress for disposal.

1.4.5.7. Lease parking space for privately owned vehicles of military or civilian personnel not associated with a lease of a facility or space within a facility.

1.4.6. DoD Major Land Acquisition Moratorium. Pursuant to DoDI 4165.71, all major land acquisitions must have OSD approval prior to any public announcement, request for proposals, notice of intent to perform environmental analysis, request for legislative or budget line item, press release, or other official notice. **(T-0)**

1.4.6.1. A major land acquisition is defined as the purchase, withdrawal from public domain, lease or permit from individuals or government entities, or any type of use agreement involving more than 1,000 acres, or land with a purchase price or annual lease price that exceeds \$1M. Acquisitions over 1,000 acres or estimated annual cost of \$1M require a waiver from OSD. **Note:** Acquisition through MILCON is not exempt from the OSD Moratorium requirement.

1.4.6.2. Extensive information on the proposed acquisition is required. The installation prepares a Major Land Acquisition Proposal/Waiver Request using the standard DoD questionnaire. Installations submit the complete MLAW request to AFCEC/CI for continued staffing to DUSD (AT&L) for waiver approval. Waiver Requests must include MAJCOM endorsement.

1.4.7. Financial Analysis. Economic analysis (EA) or business case analysis (BCA) is required for the acquisition of any interest in RP. All long term interests (includes cumulative terms for the same property) or fee land acquisitions require a BCA. **(T-0)** Reference DoDI 7041.3, *Economic Analysis for Decision making*, AFI 65-501, *Economic Analysis*.

1.4.8. Real Estate Planning Report (REPR). Use the REPR as a decision making tool for MILCON acquisition projects that require a site selection from multiple site options. **(T-2)**

1.4.8.1. The installation REO must request a REPR from USACE to provide real estate costs associated with project programming. REPR must be provided to the MILCON programmer prior to completion of DD Form 1391, *FY__ Military Construction Project Data*. **(T-2)**

- 1.4.8.1.1. ANG acquisition projects may not require a REPR. ANG Installation Commanders must request a waiver from NGB/A4A. **(T-2)**
- 1.4.9. Environmental documentation will be submitted IAW AFI 32-7066, *Environmental Baseline Surveys in Real Property Transactions*, and 32 Code of Federal Regulations (CFR) Part 989, *Environmental Impact Analysis Process (EIAP)*. **(T-0)**
- 1.4.9.1. The REO must initiate the EIAP by submitting an AF Form 813, *Request for Environmental Impact Analysis*, to the appropriate office. **(T-1)**
- 1.4.9.1.1. NGB preforms EIAP on behalf of the ANG. The mission proponent must initiate the EIAP by submitting an AF Form 813, *Request for Environmental Impact Analysis*.
- 1.4.9.2. The installation REO is responsible to ensure that an Environmental Baseline Survey (EBS) or waiver is prepared by the appropriate office.
- 1.4.9.2.1. NGB/A4A is responsible to coordinate EBS execution for ANG.
- 1.4.10. Appraisal Value. All proposed property acquisitions must be valued prior to any negotiation action. See **Chapter 6** for foreign country requirements. **(T-0)**
- 1.4.10.1. The Government uses the standards from the *Uniform Appraisal Standards for Federal Land Acquisitions*, referred to as “the Yellow Book,” consistent with the *Uniform Standards of Professional Appraisal Practice (USPAP)*.
- 1.4.10.2. The installation REO is responsible for requesting an appraisal. Provide AFCEC/CIT a copy of the Directive sent to GSA or USACE.
- 1.4.10.2.1. ANG installation REO must coordinate request for appraisals through NGB/A4.
- 1.4.10.3. Appraisals must be prepared by a State licensed and/or certified general appraiser or a qualified Government appraiser. The appraiser would preferably hold the Member Appraisal Institute (MAI) designation and should demonstrate experience valuing similar properties and be familiar with the market where the property is situated.
- 1.4.10.4. All appraisals above \$200K must be reviewed by a Government review appraiser. All reviews shall be supported by a memorandum discussing the reviewer’s analysis, findings, and the reviewer’s qualifications to conduct the review. Reference 49 CFR 24.104(a), *Review of Appraisals*.
- 1.4.10.5. Review appraisers must be United States (US) military or civil service employees. Agencies having qualified review appraisers include DOI, GSA, NAVFAC, and USACE. (The US Air Force does not have appraisers)
- 1.4.10.6. Appraisals are valid for one year from the certification date. Contact AFCEC/CIT for guidance if an extension is required. **(T-0)**
- 1.4.10.6.1. ANG installations must contact NGB/A4A and NGB will contact AFCEC/CIT.
- 1.4.10.7. Appraisers in foreign countries must be licensed or certified to perform appraisals in their respective host country.

1.4.10.8. Appraisals are proprietary information and are for Air Force use only. Appraisals may not be released without AFCEC/CIT approval.

1.4.11. Installation REO must ensure funds are available before executing any acquisition to include leases or option for the renewal of a lease.

1.4.12. Antiterrorism. All acquisitions, regardless of the interest acquired, must be antiterrorism (AT) compliant with current Federal standards. A statement of compliance must be obtained from the appropriate office, subject to current policy. **(T-0)** Reference UFC 4-010-01, *DoD Minimum Antiterrorism Standards for Buildings*; Department of Homeland Security's Interagency Security Committee, *The Risk Management Process for Federal Facilities*.

1.4.13. Comply with AFI 32-1024, *Standard Facility Requirements*.

1.4.13.1. ANG facility requirements are defined in ANGH 32-1084, *ANG Standard Facility Requirements*.

1.4.14. Support the Air Force Comprehensive Plan. Reference AFI 32-7062, *AF Comprehensive Planning*.

1.4.15. Historic and cultural properties must be protected. **(T-0)** Reference 25 USC § 3001, et seq. (*Native American Graves Protection and Repatriation*) and the National Historic Preservation Act (NHPA), Section 106; and 36 CFR Part 800, Protection of Historic Properties.

1.4.16. Avoid flood plain hazards when practicable. Reference Executive Order 11988, *Floodplain Management*.

1.4.16.1. Consider the ability to protect against projected climate change impacts, especially in coastal areas and inland areas prone to flooding.

1.4.17. Minimize destruction or degradation of wetlands. Reference Executive Order 11990, *Protection of Wetlands*.

1.4.18. The RPAO must identify if relocation assistance will be required due to the proposed acquisition. Any potential relocation assistance requirements must be referred to AFCEC/CIT. Relocation assistance applies to fee, lease or easement acquisitions.

1.4.18.1. Relocation assistance must be provided to the owners and tenants of property that are displaced by the Air Force acquisition as defined in the Uniform Relocation Assistance and Real Property Acquisition Policies Act. **(T-0)** Reference 42 USC **Chapter 61**, *Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs* and 49 CFR Part 24, *Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs*.

1.5. Congressional Notification . When the value exceeds statutory thresholds set by 10 USC § 2662, *Real Property Transactions: Reports to Congressional Committees*, Congressional Notification is required. **(T-0)**

1.5.1. All acquisitions requiring Congressional Notification must be forwarded to AFCEC/CI.

1.5.2. Advance Congressional Notification is not required in the event of a national emergency or contingency situation or when the need is urgent as determined by SecAF.

1.5.3. For MILCON land acquisitions, the Congressional Notification requirement was satisfied upon issuance of the National Defense Authorization Act for projects approved that fiscal year. No additional notification is required unless condemnation is necessary.

1.6. Legislative Jurisdiction . After acquiring property in fee, request the legislative jurisdiction through AFCEC/CI. For a comprehensive explanation of legislative jurisdiction, see AFI 32-9002, *Use of Real Property Facilities*.

1.7. Nonappropriated Funds (NAF). NAF should only be used in accordance with current Air Force funding guidelines. Reference AFI 32-1022, *Planning and Programming Non appropriated Fund Facility Construction Projects*, and AFI 34-205, *Services Nonappropriated Fund Facility Projects*.

1.8. Foreign Construction. See [Chapter 6](#) for more information on this topic.

1.9. Air Force Recruiting Space. Contact the AFRS to process a request for space. Recruiting space is acquired and executed under DoDD 5160.58E, *Recruiting Facilities*.

1.10. Civil Air Patrol Offices. For Civil Air Patrol Liaison Offices, the Air Force may arrange for the use by the Civil Air Patrol of such facilities and services under the jurisdiction of the Secretary of the Army, the Secretary of the Navy, or the head of any other department or agency. Reference 10 USC § 9444, [*Civil Air Patrol*] *Activities Performed as Auxiliary of the Air Force*.

1.11. Leasing Family Housing. Family Housing may be leased IAW 10 USC § 2828, *Leasing of Military Family Housing*. Adhere to procedures set forth in AFI 32-6001, *Family Housing Management*.

1.12. Army and Air Force Exchange Service (AAFES). In general, Air Force appropriated funds cannot be used for AAFES for real property. However, this does not prevent Air Force exchanges from using public buildings or public transportation that, in the opinion of the SECAF, are not needed for other purposes. Reference 10 USC § 9779(b), *Use of Public Property* and AFI 65-106, *Appropriated Fund Support of Morale, Welfare, and Recreation (MWR) and Nonappropriated Fund Instrumentalities (NAFIS)*.

1.12.1. Foreign Countries. Appropriated funds are authorized for the use or possession of non-DoD lands, buildings, and their improvements and installed equipment for a specified period through contract, lease agreement, or other legal instrument for AAFES when authority is granted through appropriate channels. Reference AFI 34-201, *Use of Nonappropriated Funds (NAFS)*, and AFI 65-106.

1.13. Title Sufficiency. No money may be expended to purchase land or any interest in land that meets the requirements listed below unless the sufficiency of title to the land, for the purpose for which it is being acquired, has been approved in accordance with delegations from the Department of Justice (40 USC § 3111, *Approval of Sufficiency of Title Prior to Acquisition*). Direct USACE to initiate the title sufficiency when an acquisition meets the following criteria:

1.13.1. Fee simple.

1.13.2. Easement.

1.13.3. Lease that has a term of greater than 30 years.

1.13.4. Construction on non-fee land.

1.14. Air Installation Compatible Use Zone (AICUZ). The Air Force may need to acquire RP interests to ensure the operational integrity of military airfields in the US and in territorial areas administered by the US. Reference AFI 32-7063, *Air Installation Compatible Use Zones Program*.

1.15. Relocatable Conversion. Conversion of relocatable buildings (i.e., equipment) to RP is accomplished in accordance with AFI 32-1021, *Planning and Programming Military Construction (MILCON) Projects*.

1.16. Decision Matrix . To determine the appropriate real estate instrument and interest required to satisfy the mission needs, use the matrix provided below at Table 1.1. This matrix is intended to be a guide and provided for real estate planning purposes. This does not convey any authority to execute a real estate instrument.

Table 1.1. Decision Matrix – Instrument Type for Air Force Acquisition.

Requirements	Permit or Withdrawn Land	License	Easement	Lease	GSA Occupancy Agreement	Fee
Exclusive Use	X	-	X ¹	X	X	X
Non-Exclusive Use	X	X	X	-	-	-
<5 year Term	X	X ²	X	X ²	X	-
5-20 year Term	X	-	X	-	-	-
>20 year Term	X	X ⁷	X	X ⁷	-	X
Construction Required	X	X ³	X	X	-	X
<1 year Processing* Time	X	X	X	X	X	-
1-3 year Processing Time	-	-	X	X	-	X ⁴
>3 year Processing Time	-	-	-	-	-	X
Condemnation	-	X ⁵	X	X ⁵	-	X
Federal Agency	X	-	X ⁶	-	-	-

* Processing time begins from date of request and ends upon instrument execution.

¹ Exclusive use is atypical for easements. Contact AFCEC/CIT if exclusive use is required.

² Term may be longer with AFCEC/CI approval.

³ Only construction for monitoring wells or remediation systems is authorized under a license.

⁴ Fee acquisition under 3 years processing time is atypical but possible. Contact AFCEC/CIT for more information.

⁵ Condemnation is atypical for short term uses. Contact AFCEC/CIT for more information.

⁶ Utilities only.

⁷ Federal interest must exceed 25 years to execute ANG MILCON project on leased/licensed property.

Chapter 2

TEMPORARY, NON-EXCLUSIVE USE

2.1. Temporary, Non-Exclusive Use . When only the minimum interest in land is required, non-exclusive use should be obtained. When the Air Force has acquired non-exclusive use from a property owner, that property owner may also convey non-exclusive rights to other parties in the same area that has been acquired by the Air Force. The Air Force may pay a nominal fee.

2.2. Licenses . The License is the instrument for acquiring temporary, non-exclusive interest in non-federal property and provides the Air Force the privilege to use or pass over another party's real estate for a specific purpose. A license is typically used for training purposes, such as field training exercises and temporary drop zones. It may also be used for tree topping, construction laydown areas, and temporary access.

2.2.1. Licenses are short term, typically less than one year and not to exceed a 5-year term. Any request for more than a 5-year term must be approved by AFCEC/CI. **(T-1)**

2.2.2. Licenses for environmental monitoring have specific rules. Each instrument for continued use shall not exceed five years. However, if monitoring is required for longer durations, a new instrument must be accomplished at the end of every 5-year term. Contact AFCEC/CIT for further guidance.

2.2.3. In place of clearance easements, a license may be acquired to remove or stop natural growth protruding into aircraft glide paths.

2.2.4. If construction is required, a license cannot be used. See **Chapter 3** for rules governing exclusive use.

2.2.5. Right of Entry. A Right of Entry (ROE) is a form of license and grants the least interest available through a real estate instrument. The Air Force may obtain rights of entry for uses such as surveys, environmental sampling, and for temporary access.

2.2.6. Include all pertinent requirements found in **Chapter 1**, paragraph 1.4, and evaluate for compliance.

2.3. Congressional Notification. Regardless of the instrument issued to the Air Force, where substantial investment has been made by the Air Force, notify Congress prior to any termination or modification of the instrument. Reference 10 USC § 2662(a)(1)(F).

2.4. Permits . Permits are agreements between federal agencies and can be acquired for non-exclusive use. A permit is required if acquiring interest in another Federal property. The Permit process is discussed in **Chapter 4**.

2.5. Easements . Easements may be acquired for a term or in perpetuity. When acquired for a term (i.e., a short term right of way), these are considered temporary interests. Easements in perpetuity are the preferred interest for utilities and roadways. The Air Force may also acquire restrictive easements in perpetuity for purposes such as encroachment protection, safety arcs, or aviation. For easements required in perpetuity, see **Chapter 5**.

2.5.1. Easement Consent. A consent grants permission to the Air Force to cross over another easement, owned by anyone other than the Air Force. These are often required when acquiring linear easements. Consent is the written permission granted to the Air Force to cross all existing easements and is required prior to easement execution. A copy of the consent from the easement-holder(s) should be retained in the easement acquisition file.

2.5.2. Installation REOs are responsible to verify the need for and must request and obtain the written consent from the easement holder prior to easement execution.

2.5.2.1. Include all pertinent requirements found in **Chapter 1**, paragraph 1.4 and evaluate for compliance.

2.5.3. When acquiring a term easement, request AFCEC/CI approval prior to any construction of permanent improvements.

2.5.3.1. Construction on Land Not Owned by the United States. Requests for construction on term easements must be forwarded to AFCEC/CI for appropriate level approval.

Chapter 3

TEMPORARY, EXCLUSIVE USE

3.1. Leases. GSA is the primary leasing agent for the United States (see para 4.3); however, the Air Force may enter into leases up to 12 months using O&M funds when it is not possible to arrange lease of buildings and/or facilities through GSA.

3.2. General. The United States may enter into leases, subject to approvals and available funds. It must pay rentals when due. When proposing to lease property, an Air Force activity must:

3.2.1. Ensure that the buildings and facilities are compliant with the Americans with Disabilities Act (ADA).

3.2.2. Give preference to leasing buildings that use solar heating and cooling equipment or other renewable energy sources.

3.2.3. Ensure the lease provides for the right to terminate in whole or in part, at the option of the Government, allowing the Government the greatest flexibility to vacate the premises. Negotiate the terms of the lease so there are no penalties or costs associated with the early termination of a lease. If costs or penalties are associated with early termination, contact AFCEC/CIT Action Officer for additional information.

3.2.4. Ensure the property is compliant with occupational safety, fire, and health hazards.

3.2.5. REO must ensure funds are available before executing any lease or option to renew.

3.2.6. Include all pertinent requirements found in **Chapter 1** and evaluate for compliance.

3.3. Lease Acquisition Authority. The Air Force may acquire direct leased space for the following categorical uses as delegated by GSA in 41 CFR Part 102-73.155, *What types of space can Federal agencies acquire with a categorical space delegation?* A non-inclusive list includes:

3.3.1. Hangars and other airport operating facilities including, but not limited to, flight preparation space, aircraft storage areas, and repair shops.

3.3.2. Housing (temporary), including hotels (does not include quarters obtained pursuant to temporary duty travel or employee relocation).

3.3.2.1. Family Housing (FH) Lease. FH leases are authorized and budgeted through Military Family Housing (MFH) authorities. Adhere to procedures, controls, and reporting requirements set forth in AFI 32-6001, *Family Housing Management*.

3.3.3. Hospitals, including medical clinics.

3.4. Lease Acquisition Approval. If mission requirements determine that acquisition of leased space is necessary, the following list of actions must be approved through AFCEC/CI, prior to considering the acquisition of any lease involving **(T-1)**:

3.4.1. Leasehold condemnations.

3.4.2. RP requiring a certificate of necessity (See paragraph 3.10.).

3.4.3. Land intended for construction (See paragraph 3.15.).

- 3.4.4. Commercial (industrial-type) property.
- 3.4.5. RP on which a purchase option is required.
- 3.4.6. RP within the limits of a civil airport.
- 3.4.7. RP that is subject to recapture or reversionary clause.
- 3.4.8. Port storage facilities (land or water) affecting the transfer or interchange of cargo.
- 3.4.9. RP within the National Capital Region (NCR).
- 3.4.10. RP planned for flying activities.
- 3.4.11. GSA leased space.
- 3.4.12. Firm term leases longer than one year.

3.5. Options for Renewal. Leases are term documents. Options for renewals must be included within the conditions of the original lease. The absence of this language within the lease document may prohibit the Air Force from executing renewals under the original lease. Successive leases of the same property beyond the original term requires higher level approval through AFCEC/CI.

3.6. Leasing Unaccompanied Housing. MAJCOMs may authorize installations to lease or contract for Unaccompanied Housing (UH) facilities for Priority 1 and 2 personnel when adequate government-owned quarters are unavailable. Adhere to procedures set forth in AFI 32-6005, *Unaccompanied Housing Management*.

3.7. Limitations on Rents:

- 3.7.1. The fair market rental value will be determined by an appraisal that considers the lease term and FMV.
- 3.7.2. The present value of the minimum lease payments over the life of the lease shall not exceed 90 percent of the fair market value of the asset at the beginning of the lease term.
- 3.7.3. If the rental payments over the term of the lease or any subsequent lease at the same location approach 75 percent of the FMV, consideration must be given to purchase of the property in lieu of a lease prior to entering into a lease.

3.8. Limitations on Alteration, Improvement, and Repair of Leased Facilities (T-0):

3.8.1. This limitation applies to leases that include facilities or land with improvements. It does not apply if the lease is for unimproved land. Cost for altering, improving, and repairing a leased facility must not exceed:

- 3.8.1.1. 30% of the rent for the first year of the rental term.
- 3.8.1.2. 30% of the total rent, if the term is less than one year.
- 3.8.1.3. 30% of the term of the lease and options to renew.
- 3.8.1.4. 30% limitation above applies to leases of non-FH. For limitations on FH leases reference AFI 32-6001, *Family Housing Management*.

3.8.2. Nominal Consideration and Rent-Free Leases. The cost for altering, improving, or repairing is considered "rent" under nominal consideration leases. Spend no more than

\$2,000 or 20% of the fair market value of the leased premises, whichever is greater, each year of the rental term. Use the FMV of all the buildings included in the lease rather than the value of one building when determining the maximum amount to spend on one building. Do not split alteration or construction projects into segments that do not provide a complete and usable facility.

3.8.2.1. The limitation on nominal or rent-free leases above applies to leases of non-FH. For limitations on FH leases, see AFI 32-6001, *Family Housing Management*.

3.8.3. See **Chapter 6** for specific OCONUS leasing requirements and limitations.

3.9. Exceptions to Limitations. Spending limitations for altering, improving, or repairing leased buildings do not apply to the cost of:

3.9.1. Installed equipment and other detachable items.

3.9.2. Restoration at the end of a lease.

3.9.3. Repairs needed because of malicious mischief by Government employees or damages not covered by the lease.

3.9.4. Alterations and improvements that come under the MILCON Authorization Act.

3.10. Certificate of Necessity. A certificate of necessity is permission to exceed the limits set in paragraphs 3.7 and 3.8. Installations must send requests for a certificate of necessity to AFCEC/CI for approval. Do this before obligating funds that exceed these limitations. With your request, include **(T-1)**:

3.10.1. Completed DD Form 1391 or other approval documentation as required by the project.

3.10.2. Single-line drawing.

3.10.3. Statement of cost, scope, and type of work already done.

3.10.4. Identification of work not classified as leasehold improvements, such as movable partitions and shelving.

3.10.5. The installation must keep records of alterations, improvements, or repairs for each leased building, portion of a building, or other RP improvements. These records serve as a basis for determining the need for a certificate of necessity when the cumulative total of expenditures has reached the allowable limit.

3.10.6. Once the certificate of necessity is issued, stay within its limitations in terms of work and cost. Request a new certification to do additional unspecified work or request an amendment if costs exceed original approved amounts.

3.10.7. For OCONUS leases, a certificate of necessity will be processed through AFCEC/CFE for USAFE and AFCEC/CFP for PACAF installations.

3.11. Payment for Leases. Installations must designate a finance office to make payment for leases executed by or for the Air Force.

3.11.1. For airport property rentals, Joint Use Agreements cover costs associated with the specific jointly used flying facilities (runways, taxiways, etc.). Other costs must be covered under the lease. Reference AFPD 10-10, *Joint Use of Military and Civilian Flying Facilities*.

3.11.2. Do not pay leasehold rents in advance except in foreign countries (see [Chapter 6](#)). The Air Force may pay rent in advance to states and state agencies.

3.11.3. Support Services. Payment for utilities and other services not included in the cost of the lease rent must be paid through an appropriate agreement. Typically, this is done with a services contract or operating agreement.

3.12. Restoration of Leased RP. The Air Force pays costs associated with the restoration per conditions of the lease.

3.13. Recording Leases. Air Force does not always record its leases in public land records. Recording them may be beneficial, however, in cases where the Air Force determines that a failure to record them might prejudice Air Force rights under the lease. Reference RET Playbook.

3.13.1. If required, leases may be recorded in public land records through the use of a Memorandum of Lease. Contact AFCEC/CIT for additional information and assistance with preparing a Memorandum of Lease for purposes of recording.

3.14. AAFES Leases :

3.14.1. Do not use appropriated funds to lease property for activities of AAFES facilities in the United States and in territorial areas administered by the United States. Reference 10 USC § 9779, *Use of Public Property*.

3.14.2. In foreign countries, use appropriated funds to lease structures and related RP for AAFES facilities for five years or less. This requirement does not preclude assignment of space in Air Force-leased buildings to AAFES, even though non-appropriated funds are used for AAFES leases in the United States. For more information on AAFES leases, see AFI 34-211(I), *Army and Air Force Exchange Service General Policies*.

3.15. Construction on Land Not Owned by the United States. Installations must send requests for construction on land not owned by the United States to AFCEC/CIT for appropriate level approval. **(T-1) Exception:** On leased property for ANG, construction of facilities is allowed if the Air Force has 25 or more years remaining on the term of the lease. Reference 10 USC § 2852, *Military Construction Projects: Waiver of Certain Restrictions*. The following data must be included:

3.15.1. Summary of the lease term and conditions.

3.15.2. Map showing location of construction.

3.15.3. Rental value of the property.

3.15.4. How long the RP is needed.

3.15.5. Estimated cost of existing Government facilities and proposed new Government construction.

3.15.6. Estimated cost to restore the RP to the condition that existed when it was leased or to a condition stated in the lease document.

3.15.7. Special circumstances that SAF/IEI needs to approve.

3.15.8. Justification for special terms or conditions.

3.16. Subordination, Nondisturbance & Attornment (SNDA). SNDA is a multi-party agreement between the United States of America, property owner, and a third party in interest, typically a mortgage lienholder that has a financial interest in the leased property. When acquiring through lease in order to protect the Government's interests, an SNDA is required. This will usually be necessary when a leased property is being sold. **(T-2)** Reference RET Playbook.

3.17. Parking Space for Privately Owned Vehicles of Military and Civilian Personnel . Do not acquire parking spaces by lease unless it is associated with a lease of a facility or space within a facility. **(T-1)**

3.17.1. To request exceptions to this rule, installation commanders send requests for exceptions with justification for AFCEC/CI approval. Request exceptions for:

3.17.2. Civilian volunteer workers.

3.17.3. ADA Compliance.

3.17.4. Visitors.

3.17.5. Property in areas with local zoning ordinances that prohibit commercial parking lots.

3.17.6. Assigned personnel to whom the rule causes substantial hardship.

3.18. Lease Purchase. The Air Force may acquire certain facilities through a lease purchase when the purchase offers economic and other advantages to the Government. It must be consistent with the Government's goals and mission requirements. The Government must be the sole or major tenant of the building, and have a long term need for the property. Any lease purchase may not exceed 32 years. Reference 10 USC § 2812, *Lease-Purchase of Facilities*.

3.19. Operating Leases and Capital Leases. The Office of Management and Budget (OMB) Circular No. A-11, *Preparation, Submission, and Executing the Budget*, Appendices A and B, define the criteria for an operating lease. Operating leases must meet all the criteria listed below. If the criteria are not met, the lease will be considered to be a capital lease or a lease-purchase as appropriate and must be scored by OMB. **(T-0)**

3.19.1. Ownership of the asset remains with the lessor during the term of the lease and is not transferred to the Government at or shortly after the end of the lease term.

3.19.2. The lease does not contain a bargain-price purchase option.

3.19.3. The lease term does not exceed 75% of the estimated economic life of the asset.

3.19.4. The present value of the minimum lease payments over the life of the lease does not exceed 90% of the fair market value of the asset at the beginning of the lease term.

3.19.5. The asset is a general purpose asset rather than being for a special purpose of the Government and is not built to the unique specification of the Government as lessee.

3.19.6. There is a private sector market for the asset.

3.20. Scoring of Operating Leases. Operating leases that include termination costs should be evaluated as described by OMB Circular A-11, Appendix A. **(T-0)**

Chapter 4

UNIQUE ACQUISITION PROCESSES

4.1. Permits From Other DoD or Federal Government Agencies. The Air Force may request permits from other DoD or Federal Government agencies granting either exclusive or non-exclusive use of RP under the agencies' control.

- 4.1.1. Request approval through AFCEC/CI if construction is anticipated on the property.
- 4.1.2. Permits acquired from a DoD agency will be at no cost. A support agreement is required and typically provides reimbursable costs associated with improvements, maintenance, utilities, custodial, and other services.
- 4.1.3. Permits acquired from Non-DoD agencies may be at fair market value rent, only if required by the host agency, in addition to support services.
- 4.1.4. Include all pertinent requirements found in **Chapter 1**, paragraph 1.4, and evaluate for compliance.

4.2. Withdrawals of Public Land. Send all requests for withdrawals of public land through AFCEC/CI for SAF/IEI approval. If the proposed withdrawal is more than 5,000 acres, comply with the Federal Land Policy and Management Act of 1976, *Congressional Declaration of Policy* (43 USC § 1701); and 43 USC § 155, *Withdrawal, Reservation, or Restriction of Public Lands for Defense Purposes; "Public Lands" Defined; Exception*). The following data must be included with all requests for withdrawals:

- 4.2.1. Name and address of the applicant.
- 4.2.2. A statement of the authority delegated by the SecAF to act as a representative.
- 4.2.3. Type of withdrawal action.
- 4.2.4. Detailed description of exterior boundaries.
- 4.2.5. Color-coded map showing boundaries, public domain, and excepted areas.
- 4.2.6. Gross and net land and water acreage.
- 4.2.7. Proposed use of land (if classified, so state).
- 4.2.8. If the proposed withdrawal will overlap or add lands to another withdrawal:
 - 4.2.8.1. Identify each existing withdrawal and date of withdrawal order.
 - 4.2.8.2. Include a legal description of the area to be overlapped or added to the existing withdrawal.
- 4.2.9. Describe extent and duration of any temporary segregation (43 CFR Part 2300, *Land Withdrawals, General*), and recommend land use allowable during segregation.
- 4.2.10. Explain why the withdrawal is necessary, and why a right of way or a cooperative agreement would not serve.
- 4.2.11. State the duration of withdrawal.

4.2.12. State whether any suitable alternative sites are available as well as suitable sites for the uses the action will displace.

4.2.13. If suitable alternative sites are available, include a cost analysis.

4.2.14. Indicate whether you need to bring in water to fulfill the purpose of the withdrawal.

4.2.15. Identify the repository for records on the property.

4.3. GSA Controlled Space:

4.3.1. All requests for GSA general purpose space (GSA-owned or leased) outside the National Capital Region (ONCR) must be submitted to AFCEC/CI. Use SF Forms 81, *Request for Space*, and 81-A, *Space Requirements Worksheet*, to request approval. AFCEC/CI will approve requests as appropriate and submit to GSA for acquisition.

4.3.2. Send requests for space within the National Capital Region (NCR) to SAF/AAO safaao.workflow@pentagon.af.mil to start the fact finding process and investigate beddown options. Request should contain organization's mission, vision, UMD/positions listing and adjacency needs. Reference DoDI 5305.05, *Space Management Procedures for the National Capital Region* and AFI 32-9010, *Management and Reporting of Air Force Space and Building Services in OSD Assigned Facilities and in the Washington DC Area*.

4.3.3. Space Alterations. GSA works with the Air Force during design development to ensure that the design meets Air Force needs. GSA pays for the initial space alteration and charges this back to the user by amortizing the cost over the OA term.

4.3.4. Relocating From GSA Space. If GSA directs an ONCR Air Force activity to relocate to another GSA space, AFCEC/CI approval is not necessary, unless annual rent for the new space exceeds:

4.3.4.1. The rent of the old space; or

4.3.4.2. \$200,000 per year.

4.3.5. GSA Reimbursable Work. GSA is reimbursed for work such as alterations, guard service, and special cleaning services.

4.3.5.1. Submit work requests for GSA space outside the NCR to the GSA building manager on GSA Form 2957, *Reimbursable Work Authorization*. This form is available from the GSA building manager responsible for the space the Air Force is using.

4.3.5.2. Submit work requests for GSA within the NCR to SAF/AAO in according to AFI 32-9010.

4.3.6. Payment for GSA-Controlled Space and Services. Air Force activities using GSA-controlled space must pay for all space and services. Reference 40 USC § 586, *Charges for Space and Services*.

4.3.6.1. GSA sends annual rent bills as well as a "reconciliation" bill to:

4.3.6.1.1. AFCEC/CI, for ONCR space.

4.3.6.1.2. WHS, for NCR space.

4.3.7. AFCEC/CR or DoD, as appropriate, pays the GSA rent. However, GSA sends bills for both recurring and nonrecurring reimbursables directly to the paying office of the Air Force activity occupying the GSA-controlled space, as cited on GSA Form 2957. All Air Force activities occupying GSA-controlled space must transfer funds to AFCEC/CR who is the OPR for all Air Force GSA payments.

4.3.8. Termination of Assignment of GSA Space. Submit all notifications of intent to terminate ONCR and NCR GSA space to AFCEC/CIT or WHS, as appropriate. GSA must receive written notice 120 days before the termination date.

4.3.8.1. The OA includes the termination notice required, typically a minimum of 120 days. The Air Force activity is responsible for the rent until the OA is terminated.

4.3.9. Restoration of GSA Space. GSA pays for restoration of GSA space. The Air Force activities using GSA-controlled space must pay for damages that go beyond "fair wear and tear." Send any disagreements over restoration to AFCEC/CIT (for ONCR space) or WHS (for NCR space).

4.4. Lease Acquisition Through USACE. The USACE may obtain space on behalf of the Air Force provided that:

4.4.1. GSA grants authority to the USACE; or

4.4.2. GSA designates the space as "special purpose" suitable only for Air Force or DoD use.

4.5. Acquisition by Reversion . The Air Force may reacquire land previously disposed either through special legislation or BRAC disposal only if the quitclaim deed included specific language authorizing a reversion. AFCEC/CIT is responsible for initiating a reversionary action. Installation needs to request AFCEC/CIT support in writing and provide the appropriate information as requested.

4.6. Acquisition by Recapture . Recapture by the Air Force is limited to recapture of certain disposed properties needed for national defense. A recapture clause is a pre-negotiated, temporary condemnation of former federal property triggered by a specific condition, usually a declaration of war or national emergency. Reference RET Playbook for additional information.

4.6.1. Certain properties may have significant value to the DoD should a national emergency such as a natural disaster or proclamation of war occur. Many of the DoD properties disposed at the end of World War II contained recapture clauses.

4.6.2. Once the condition triggering the recapture has been resolved, the Government returns the property to the owner.

4.6.3. Use leases to obtain the use of RP subject to recapture.

4.6.4. Do not pay for rental of such property during a national emergency. Reference National Emergencies Act of 1976, 50 USC § 1601, *Termination of Existing Declared Emergencies*, et seq. (*National Emergencies Act*).

4.6.5. Pay for rental of such property if the owner constructed, added to, and paid for the property with non-Federal funds.

4.7. Mineral Rights . Air Force policy is to have Government ownership of the mineral rights when acquiring title to RP. Government owned mineral rights give the Air Force administrative control of mineral exploration and extraction activities on Air Force property.

4.7.1. Mineral rights are not always acquired with the acquisition of surface rights. A mineral right estate is severable from a land estate. In the event the mineral rights are severed, installation must submit a written request to AFCEC/CIT to work with SAF/GCN for a recommendation on acquisition of those mineral rights before any final decision is made on the mineral estate.

4.7.2. Acquisition of lands from the public domain through formal withdrawal grants the Air Force use of the surface rights for a specific purposes and duration. All subsurface mineral rights remain under the jurisdiction of BLM and BLM should consult with the Air Force prior to granting public access to those subsurface minerals.

4.7.3. While BLM has authority over all federal subsurface mineral rights, an out-lease for mineral exploration or extraction on an Air Force installation cannot be done without Air Force written consent.

Chapter 5

ACQUIRING PERMANENT INTERESTS

5.1. Authorization. The Air Force is authorized to acquire a permanent interest in RP under 10 USC § 2663, *Land Acquisition Authorities*; 2684a, *Agreements to Limit Encroachments and Other Constraints on Military Training, Testing, and Operations*; 2802, *Military Construction Projects*; or 2803, *Emergency Construction*.

5.1.1. All permanent interest acquisitions require AFCEC/CI notification regardless of value. At the time of AFCEC/CI notification, approval authority will be determined in accordance with current delegations.

5.1.2. Acquisitions greater than \$1M in value or 1,000 acres are not authorized, pursuant to DoDI 4165.71, *Real Property Acquisition*, without advance approval. All acquisitions meeting or exceeding this threshold must have OSD approval before any public disclosure of the proposed acquisition is made. Reference **Chapter 1**, paragraph 1.4.6. **(T-0)**

5.2. MILCON Land Requirements. MILCON programmers must notify the installation REO and identify needed land interests as part of a MILCON project. Installation MILCON submittals are done in compliance with AFI 32-1021, *Planning and Programming Military Construction (MILCON) Projects*.

5.2.1. Acquisitions with an estimated value exceeding \$750,000 require Congressional Notification through the MILCON program. Reference **Chapter 1**, paragraph 1.5.

5.2.2. MILCON programmers must include appropriate administrative costs in the cost estimate for land acquisitions.

5.2.3. The Installation REO will prepare a Directive for the USACE Engineering District to prepare a REPR. Send AFCEC/CIT a copy of the Directive.

5.2.4. The Installation REO will provide the REPR to the MILCON programmer to prepare the DD Form 1391.

5.2.5. After a MILCON project is approved, the Installation may direct USACE to acquire the RP required for the project on behalf of the Air Force. Air Force provides USACE funds from the MILCON appropriation to acquire the RP for the project.

5.2.5.1. If the approved MILCON project increases by 10% of acreage or space or by 25% of the original MILCON project cost, ensure the MILCON programmer is notified before proceeding with final action.

5.3. Land Acquisitions Under \$750,000. Reference 10 USC § 2663, *Land Acquisition Authorities*.

5.3.1. The Air Force may acquire permanent interest in un-programmed land requirements costing less than \$750,000. This amount does not include administrative costs.

5.3.2. Installations must request approval for the acquisition through AFCEC/CI prior to entering into negotiations for purchase of the RP.

5.3.2.1. ANG installations must request approval for the acquisition through NGB/A4A prior to entering into negotiations for purchase of the RP. NGB/A4A will forward to AFCEC/CI for SAF/IEI approval.

5.3.3. The Air Force may acquire permanent interest for larger requirements that cannot wait for a MILCON project because the need is urgent. The urgent acquisition must be approved by SAF/IEI through AFCEC/CI. **(T-1)**

5.3.3.1. If the urgent acquisition is approved, SAF/IEI, through AFCEC/CI, shall submit Congressional Notification containing a description of the property and interest to be acquired and the reasons for the urgent acquisition.

5.3.3.2. Notification must be submitted within 10 days of approval.

5.4. Gifts. The Air Force may accept gifts of RP for military use. Reference AFI 51-601, *Gifts to the Department of the Air Force*.

5.4.1. Send all gift offers of RP through AFCEC/CIT for AFCEC/CI or SAF/IEI acceptance.

5.4.1.1. Send all RC gift offers of RP through NGB/A4. NGB/A4 will forward to AFCEC/CIT for AFCEC/CI or SAF/IEI acceptance.

5.4.2. All gift offers involving construction should include all relevant bonds and insurance.

5.4.2.1. If the gift offer does not include bonds or insurance, the installation must state why the donor will not provide.

5.4.2.2. Upon construction completion, the donor will transfer title to the Air Force and complete a DD Form 1354 or provide equivalent information.

5.4.2.3. Maintain, on behalf of the Air Force, an accurate and complete real property inventory in accordance with DoDD 4165.06, DoDI 4165.70, and DoDI 4715.14. A complete real property inventory consists of all sites, including all lands and facilities, for which the Air Force has real property accountability, regardless of the organization using or funding the facility or land. **(T-0)**. Reference AFI 32-9005, *Real Property Accountability and Reporting*.

5.4.3. If the gift is title to land, ensure title sufficiency is provided before sending the gift offer to AFCEC/CIT. Ensure that there are no title defects or outstanding liens.

5.5. Transfers From Another Military Department. The Air Force may acquire property from other Military Departments without compensation. Request SAF/IEI approval through AFCEC/CI for all transfers of RP. Reference 10 USC § 2696, *Real Property: Transfer Between Armed Forces and Screening Requirements for Other Federal Use*.

5.6. DoD Excess RP. Installations may find property previously declared excess by the Air Force or another military service that satisfies a new or current mission requirement. Installations shall forward to AFCEC/CIT requests to recall disposal directives if property declared excess is found to be suitable for a mission requirement. All attempts will be made to acquire the DoD excess property.

5.7. Non-DoD Excess RP. To acquire RP that non-DoD agencies report as excess, follow the guidelines set in 41 CFR **Chapter 101**, *Federal Property Management Regulations*.

5.7.1. The Air Force must pay 100% of the property's appraised fair market value, unless OMB waives the requirement. **(T-0)**

5.7.2. When the Air Force wants to acquire such excess RP to meet an Air Force requirement, Installation Commander must:

5.7.2.1. Submit request to AFCEC/CIT to notify GSA within the time limit specified in the screening letter.

5.7.2.2. Explain why the acquisition is necessary.

5.7.2.3. Provide the Declaration of Excess (DE) if the acquisition replaces other RP. See AFI 32-9004, *Disposal of Real Property*, for details on preparing a DE.

5.7.3. The Installation Commander, with advance knowledge that another Government agency is to report RP as excess, may ask for a transfer. Request can occur before the other agency reports the excess to GSA's federal property resources service.

5.8. Bombing and Gunnery Ranges. To acquire land for bombing and gunnery ranges, comply with this Instruction and AFIs 13-212, *Range Planning and Operations*, and 32-7064, *Integrated Natural Resources Management*.

5.9. Restrictions on Using Non-appropriated Funds. DoDD 1015.6, *Funding of Morale, Welfare, and Recreation Programs* prohibits the purchase of RP with nonappropriated funds unless the purchase involves privately owned buildings located on Government property. **(T-0)**

5.9.1. Installation Commander must request exceptions from the Air Force Headquarters Board of Directors or the Chief of the respective central nonappropriated fund activity (examples are the Air Force Services Council; the AAFES; or the Air Force Civilian Welfare Fund) and the SecAF. **(T-1)**

5.9.2. Use nonappropriated funds according to current Air Force funding guidelines. See AFIs 32-1022, *Planning and Programming Nonappropriated Fund Facility Construction Projects* and 34-205, *Services Nonappropriated Fund Facility Projects* for more guidance.

5.10. Perpetual Easements. Easements provide the Air Force the use of another party's RP for a specified purpose in perpetuity, while the landowner continues to use the balance of the surface rights. Easement may also be acquired for a term. See **Chapter 2** for details on term easements.

5.10.1. Easements are often linear in nature (roads, utilities, pipelines) and can be called a right of way.

5.10.2. Construction on Land Not Owned by the United States. Requests for construction on perpetual easements are not required as long as the easement conveys the specific rights to construct, operate and maintain the infrastructure to be constructed.

5.10.3. Restrictive, conservation, avigation, clearance, clear zone, and safety easements are all examples of easements that should be acquired in perpetuity whenever possible to protect current and future missions at the installation.

5.10.3.1. Readiness and Environmental Protection Integration (REPI) Program. The REPI Program supports cost-sharing partnerships between the Air Force, private conservation groups, and state and local governments to preserve compatible land uses and sustain wildlife habitat near installations and ranges where the Air Force operates, tests, and trains. Reference 10 USC § 2684a, *Agreements to Limit Encroachments and Other Constraints on Military Training, Testing and Operations*.

5.10.4. Include all pertinent requirements found in **Chapter 1**, paragraph 1.4 and evaluate for compliance.

5.11. Easement Consent . Consents grant permission to the Air Force to cross over another easement, owned by other than the Air Force. These are often required when acquiring linear easements. Consent is the written permission granted to the Air Force to cross all existing easements and is required prior to easement execution. A copy of the consent from the easement-holder(s) should be retained in the easement acquisition file.

5.11.1. All consents issued by the Air Force after the easement is acquired shall be retained in the acquisition file.

5.11.2. Installation REOs are responsible to verify the need for and must request and obtain the written consent prior to easement execution.

Chapter 6

ACQUIRING RP IN TERRITORIAL AREAS AND FOREIGN COUNTRIES

6.1. Roles and Responsibilities .

6.1.1. Installation REO

6.1.1.1. The REOs will submit all known or anticipated real estate requirements for each fiscal year to the appropriate OCONUS points of contact (POC) by 15 January.

6.1.1.1.1. The requirements will be separated into existing leases that are continued, leases that are canceled and proposed new leases to include the anticipated costs for the coming fiscal year.

6.1.1.1.2. The REO will inform the installation budget office of changes to projected costs of leases.

6.1.1.2. The REO coordinate any questions or changes arising during the course of the lease with the appropriate base level agencies, as well as with the OCONUS POC for final approval and signature.

6.1.2. OCONUS POC

6.1.2.1. The OCONUS POC for all Air Force real estate actions in foreign countries are AFCEC/CFE for USAFE-AFAFRICA and AFCEC/CFP for PACAF, or the person acting in their capacity.

6.1.2.2. The OCONUS POC may lease structures and related RP within their delegated authority. This does not include "build to lease" projects.

6.1.2.3. The OCONUS POC will decide whether existing government-to-government agreements or other arrangements with the host country will meet requirements.

6.1.2.3.1. Where applicable, the Joint Committee, established by Status of Forces Agreement (SOFA) or other international agreement between the United States and the host nation, shall serve as a means for consultation in determining the facilities and areas required by the United States in the host nation for carrying out the purposes of the Treaty of Mutual Cooperation or multilateral international agreement, and security.

6.1.2.3.2. The in-theater Air Force Component Commander is the primary authority for determining facility requirements for Air Force Forces stationed in the host country.

6.1.2.4. The OCONUS POC ensures rent paid for leased property is fair, the leases are legal, and the acquisition complies with the terms of the foreign military rights agreement.

6.1.2.5. The OCONUS POC forwards a copy of the executed acquisition documents to AFCEC/CI, if applicable.

6.1.2.6. The OCONUS POC must keep records on all leased properties held overseas. The Air Force should attempt to relocate activities into no-cost host nation or US funded facilities and dispose of excess leaseholds when possible.

6.2. OCONUS Territorial Acquisition. RP acquisitions within the US territorial areas are similar to acquisitions within the Continental United States (CONUS), except the applicable Installation must first coordinate its request for government-owned RP with the local representative from one of the following agencies depending on the jurisdiction of the land involved:

6.2.1. Bureau of Land Management.

6.2.2. Department of Interior.

6.2.3. Department of the Navy.

6.2.4. The Federal Aviation Administration (FAA) regional office for RP under FAA control.

6.2.5. Other applicable agencies.

6.3. OCONUS Foreign Acquisitions. Within foreign countries, the Air Force may lease structures and RP related to structures that are needed for military purposes or for FH. Installations may also consider a lesser interest, such as a license or easement, if the Air Force does not require exclusive use of the RP. Reference 10 USC §§ 2675 *Leases: Foreign Countries* and 2828, *Leasing of Military Family Housing*.

6.4. Methods of Foreign Acquisition. There are three methods of acquisition:

6.4.1. No cost through host nation, including follow-on construction.

6.4.2. Joint use with a host nation whose construction criteria may not match US standards.

6.4.3. Lease of privately owned property.

6.5. Acquiring Property within OCONUS Commands' Jurisdiction . If the requirement falls under existing agreements, process the RP acquisition as follows:

6.5.1. The OCONUS POC obtains host country approval in accordance with existing government-to-government agreements. The OCONUS POC sends a formal acquisition request through established channels to the host country.

6.6. Acquiring Property outside OCONUS Commands' Jurisdiction. If the proposed land requirement falls outside the OCONUS Command jurisdiction or cannot be met within existing agreements, then process the RP acquisition as follows:

6.6.1. The OCONUS POC sends the proposal to AFCEC/CI. AFCEC/CI processes the requirements through DoD and the Department of State.

6.6.2. OCONUS POC must provide complete information and justification in the request, as with all requests for RP. Exercise care not to take any action that might jeopardize the transaction.

6.7. Acquisitions outside Foreign Government Agreements . Property should be acquired within the framework of any existing government-to-government and subsidiary agreements. If a RP requirement arises in a country without an agreement or if the requirement falls outside the

scope of existing agreements, the OCONUS POC will refer to the General Information Volume of DoD 4500.54-E, *DoD Foreign Clearance Program (FCP)*, Chapter Four: “Requests for USAF Foreign Operating Rights, Foreign Military Rights, and Foreign Surveys.”

6.7.1. Negotiating with foreign governments requires approval from the correct authorized entity (State Department, Ambassador, etc.). Reference AFI 51-701, *Negotiating, Concluding, Reporting, And Maintaining International Agreements*.

6.8. Leasing. AFCEC/CFE and AFCEC/CFP may lease property in the private sector, if the government-to-government agreement or foreign military agreement allows it. They may lease directly from private or corporate owners or indirectly through a government agency of the host nation.

6.8.1. USAFE-AFAFRICA Installations prepare lease packages IAW Attachment 2 and submit lease packages to AFCEC/CFE for processing.

6.8.2. Installations must prepare lease packages in Hawaii and Alaska IAW **Chapter 3** of this AFI. PACAF Installations must submit to AFCEC/CFP for processing.

6.9. Advance Approval. Approval “In Principle” (AIP) for Leases in USAFE-AFAFRICA. AFCEC/CFE approves in principle leases in foreign countries when the lease best meets Air Force requirements. Submit AIP request to AFCEC/CFE prior to taking any actions towards locating a facility or entering noncommittal negotiations.

6.9.1. Advance approval for Family Housing leases in foreign countries is required. Reference AFI 32-6001, *Family Housing Management*.

6.10. Payment of Leases. The rent for each annual period may be paid from funds appropriated to the Air Force for that year. Leases in foreign countries are paid as local customs dictate, to include payment in advance. Reference 10 USC § 2396, *Advances for Payments for Compliance With Foreign Laws, Rent in Foreign Countries, Tuition, Public Utility Services, and Pay and Supplies of Armed Forces of Friendly Foreign Countries* and DoD FMR, Volume 10, **Chapter 12**, *Contract Payment Policy and Procedure*.

6.10.1. To make advance rental payments for RP in foreign countries above the local approval level, send a justification certificate to AFCEC/CI for approval.

6.11. Leasing AAFES Facilities. If adequate facilities are not available within the confines of a base, appropriated funds may be used for leasing structures and related RP that are exclusively required for AAFES activities in foreign countries. However, the lease cannot exceed limitations as described in HAF MD 1-18 and associated delegation letters. This does not prevent assignment of space in Air Force leased buildings to AAFES. Reference 10 USC § 2675, *Leases: Foreign Countries* and AFI 65-106.

6.12. Construction on Leased Property in Foreign Countries (O&M leases or non FH leases). Where construction, alteration, or improvement of facilities is proposed on RP in foreign countries, leases (including options to renew) must be for the maximum term allowed under 10 USC § 2675, *Leases: Foreign Countries* so that the US may maximize its return on its capital improvement investment.

6.12.1. Construction, alteration, and improvement of leased property in foreign countries is allowed, provided such work is done at the lowest cost and is consistent with the US planned requirement and the maximum period of use.

6.12.2. The Installation REO will submit an approval request to the OCONUS POC for any construction, alteration, and improvement of leased property that exceeds 30% of the cost of the annual lease rent. See **Chapter 3** for specific requirements. **(T-2)**

6.12.3. The Installation REO will prepare a request for a certificate of necessity, as detailed in **Chapter 3**, paragraph 3.10, and submit to the OCONUS RE POC for processing and SAF/IEI approval. **(T-2)**

RICHARD HARTLEY, SES
Acting Asst Secretary of the AF
(Installations, Environment & Energy)

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

- AFI 13-212, *Range Planning and Operations*, 28 April 2015
- AFI 32-1021, *Planning and Programming Military Construction (MILCON) Projects*, 25 February 2016
- AFI 32-1022, *Planning and Programming Nonappropriated Fund Facility Construction Projects*, 30 December 2016
- AFI 32-1024, *Standard Facility Requirements*, 14 July 2011
- ANGH 32-1084, *ANG Standard Facility Requirements*, 27 January 2015
- AFI 32-6001, *Family Housing Management*, 21 August 2006, Certified Current 7 October 2013, Incorporated Change 5, 3 September 2015, Corrective Actions Applied on 31 May 2016
- AFI 32-6005, *Unaccompanied Housing Management*, 29 January 2016
- AFI 32-7062, *Comprehensive Planning*, 18 December 2015
- AFI 32-7063, *Air Installation Compatible Use Zones Program*, 18 December 2015
- AFI 32-7064, *Integrated Natural Resources Management*, 18 November 2014
- AFI 32-7066, *Environmental Baseline Surveys in Real Property Transactions*, 26 January 2015
- AFI 32-9002, *Use of Real Property Facilities*, 3 August 2017
- AFI 32-9004, *Disposal of Real Property*, 21 July 1994
- AFI 32-9005, *Real Property Accountability and Reporting*, 4 March 2015
- AFI 32-9010, *Management and Reporting of Air Force Space and Building Services in OSD Assigned Facilities and in the Washington DC Area*, 24 July 2012
- AFI 34-201, *Use of Nonappropriated Funds (NAFS)*, 17 June 2002
- AFI 34-205, *Services Nonappropriated Fund Facility Projects*, 5 July 2011
- AFI 34-211(I), *Army and Air Force Exchange Service General Policies*, 11 July 2017
- AFI 51-601, *Gifts to the Department of the Air Force*, 24 November 2003
- AFI 51-701, *Negotiating, Concluding, Reporting, and Maintaining International Agreements*, 16 August 2011
- AFI 63-101/20-101, *Integrated Life Cycle Management*, 9 May 2017
- AFI 65-106, *Appropriated Fund Support of Morale, Welfare, and Recreation (MWR) and Nonappropriated Fund Instrumentalities (NAFIS)*, 6 May 2009
- AFI 65-501, *Economic Analysis*, 29 August 2011
- AFMAN 33-363, *Management of Records*, 1 March 2008, Incorporated Change 2, 9 June 2016, Certified Current 21 July 2016

AFPD 10-10, *Joint Use of Military and Civilian Flying Facilities*, 25 October 2007

AFPD 32-90, *Real Property Asset Management*, 6 August 2007

AFMD 1, *Headquarters Air Force (HAF)*, 5 August 2016

AFMD 10, *Organization and Functions of National Guard Bureau*, 30 December 2001

AFMD 11, *Air Force Reserve Command (AFRC)*, 23 December 2015

HAF MD 1-18, *Assistant Secretary of the Air Force (Installations, Environment and Energy)*, 10 July 2014

DoD FMR, Volume 10, *Contract Payment Policy*, * July 2016

DoD 4500.54-E, *DoD Foreign Clearance Program (FCP)*, 28 December 2009, Incorporated Change 1, 24 May 2017

DoDD 1015.6, *Funding of Morale, Welfare, and Recreation Programs*, 3 August 1984, Incorporated Change 1, 29 November 1985

DoDD 4165.06, *Real Property*, 18 November 2008

DoDD 4715.14, *Operational Range Assessments*, 30 November 2005

DoDD 5105.77, *National Guard Bureau (NGB)*, 30 October 2015

DoDD 5160.58E, *Recruiting Facilities*, 31 August 2005

DoDI 1225.08, *Reserve Component (RC) Facilities Programs and Unit Stationing*, 10 May 2016

DoDI 4165.70, *Real Property Management*, 6 April 2005

DoDI 4165.71, *Real Property Acquisition*, 6 January 2005

DoDI 5305.5, *Space Management Procedures for the National Capital Region (NCR)*, 4 November 2015

EO 11988, *Floodplain Management*

EO 11990, *Protection of Wetlands*

10 US Code **Chapter 1803**, *Facilities for Reserve Components*

10 USC § 2396, *Advances for payments for compliance with foreign laws, rent in foreign countries, tuition, public utility services, and pay and supplies of armed forces of friendly foreign countries*

10 USC § 2662, *Real property transactions: reports to Congressional Committees*

10 USC § 2663, *Land acquisition authorities*

10 USC § 2675, *Leases: foreign countries*

10 USC § 2684a, *Agreements to Limit Encroachment and Other Constraints on Military Training, Testing, and Operations*

10 USC § 2696, *Real property: transfer between armed forces and screening requirements for other Federal use*

10 USC § 2802, *Military Construction Projects*

10 USC § 2803, *Emergency Construction*

10 USC § 2812, *Lease-purchase of facilities*

10 USC § 2828, *Leasing of military family housing*

10 USC § 2852(b), *Military Construction Projects: Waiver of Certain Restrictions*

10 USC § 9444, *[Civil Air Patrol] Activities performed as auxiliary of the AF*

10 USC § 9779, *Use of public property*

25 USC § 3001, *et seq., Native American Graves Protection and Repatriation*

31 USC § 3727, *Assignments of Claims*

40 USC § 586, *Charges for space and services*

40 USC § 3111, *Approval of sufficiency of title prior to acquisition*

41 USC § 15, *Transfers of contracts; assignments; assignee not subject to reduction or setoff*

41 USC § 7101, *et seq., Contract Disputes*

42 USC **Chapter 61**, *Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs*

43 USC § 155, *Withdrawal, reservation, or restriction of public lands for defense purposes; “public lands” defined; exception*

43 USC § 1701, *Congressional declaration of policy*

50 USC § 1601, *Termination of Existing Declared Emergencies*

32 CFR 989, *Department of the Air Force Environmental Impact Analysis Process (EIAP)*

36 CFR Part 800, *Protection of Historic Properties*

41 CFR **Chapter 101**, *Federal Property Management Regulations*

41 CFR Part 102-73.155, *What types of space can Federal agencies acquire with a categorical space delegation?*

43 CFR Part 2310, *Reclamation Manual*

49 CFR Part 24, *Uniform Relocation Assistance And Real Property Acquisition for Federal and Federally-Assisted Programs*

FAR 52.233-1, *Disputes*

FAR 52.232-23, *Assignment of Claims*

FAR 52.232-25, *Prompt Payment*

OMB Circular No. A-11, *Preparation, Submission, and Executing the Budget*

UFC 04-010-01, *DoD Minimum Antiterrorism Standards for Buildings*, 9 February 2012

Abbreviations and Acronyms

AAFES—Army and Air Force Exchange Service

ADA—Americans with Disabilities Act

AF—Air Force

AFI—Air Force Instruction

AFMAN—Air Force Manual

AFPD—Air Force Policy Directive

AFRC—Air Force Reserve Command

AFCEC—Air Force Civil Engineer Center

AFCEC/CI—Air Force Civil Engineer Center, Installations Center of Excellence, Director

AFCEC/CIT—Air Force Civil Engineer, Installations Center of Excellence, Real Estate Transactions Division

AFCEC/CR—Air Force Civil Engineer, Chief Financial Office

AFRS—Air Force Recruiting Service

AICUZ—Air Installation Compatible Use Zone

AJUA—Airfield Joint Use Agreement

ANG—Air National Guard

AT—Antiterrorism

AT&L—Acquisition Technology and Logistics

BCA—Business Case Analysis

BCE—Base Civil Engineer

BLM—Bureau of Land Management

BRAC—Base Realignment and Closure

CFR—Code of Federal Regulations

CONUS—Continental United States

DE—Declaration of Excess

DFAS—Defense Financial Accounting Service

DoD—Department of Defense

DoDD—Department of Defense Directive

DoDI—Department of Defense Instruction

DOI—Department of Interior

EA—Economic Analysis

EBS—Environmental Baseline Survey

EIAP—Environmental Impact Analysis Process
EIS—Environmental Impact Statement
EO—Executive Order
EPA—Environmental Protection Agency
FAA—Federal Aviation Administration
FAR—Federal Acquisition Regulation
FCG—Foreign Clearance Guide
FH—Family Housing (formerly Military Family Housing – MFH)
FMR—Financial Management Regulation
FMV—Fair Market Value
FONSI—Finding of No Significant Impact
GSA—General Services Administration
HAF MD—Headquarters Air Force Mission Directive
IAW—In Accordance With
ISSA—Inter-Service Support Agreement
LEPR—Lease Estate Planning Report
MAJCOM—Major Command
MILCON—Military Construction
MIPR—Military Interdepartmental Purchase Request
MWR—Morale, Welfare and Recreation
NAF—Nonappropriated Funds
NAFI—Nonappropriated Fund Instrumentalities
NAVFAC—Naval Facilities Engineering Command
NCR—National Capital Region
NGB—National Guard Bureau
NEPA—National Environmental Policy Act
OA—Occupancy Agreement
O&M—Operations and Maintenance
OCONUS—Outside Continental United States
OMB—Office of Management and Budget
ONCR—Outside the National Capital Region
OPR—Office of Primary Responsibility

OSD—Office of the Secretary of Defense

PACAF—Pacific Air Forces

RDS—Records Disposition Schedule

REO—Real Estate Office

REPR—Real Estate Planning Report

ROE—Right-of-Entry

RP—Real Property

RPAO—Real Property Accountable Officer

SAF/IEI—Deputy Assistant Secretary of the Air Force (Installations)

SDNA—Subordination, Non-disturbance & Attornment

SF—Standard Form

UFC—Unified Facilities Criteria

UH—Unaccompanied Housing

US—United States

USACE—United States Army Corps of Engineers

USAF—United States Air Force

USAFE-AFAFRICA—United States Air Forces in Europe-Air Forces in Africa

USC—United States Code

USPAP—Uniform Standards of Professional Appraisal Practice

Terms

Acquired Land—Land obtained from any private or public source other than land withdrawn from the public domain.

Amendment—An amendment is added to an existing agreement in order to modify the original conditions. The modification may be small or large, but in either case the primary purpose of the amendment is to avoid rewriting or redrafting the agreement entirely. The language of the amendment is understood to be incorporated into the document.

Annexation—Procedure by which a municipality--a city, town, or village--incorporates Air Force-owned land within its corporate limits. Procedures vary depending on state law.

Avigation Easement—An easement or right of overflight in the airspace above or in the vicinity of a particular property. It also includes the right to create such noise or other effects as may result from the lawful operation of aircraft in such airspace and the right to remove any obstructions to such overflight.

Capital Lease—A lease that meets one or more of the following criteria, meaning it is classified as a purchase by the lessee: the lease term is greater than 75% of the property's estimated economic life; the lease contains an option to purchase the property for less than fair market

value, ownership of the property is transferred to the lessee at the end of the lease term; the improvement is a unique asset constructed to Government specifications; there is no private market for the improvement; or the present value of the lease payments exceed 90% of the fair market value of the property.

Certificate of Necessity—Written statement, signed by SAF/IEI, certifying that the Air Force must exceed the cost limitations established in this Instruction, relative to annual rent or alterations, improvements, and repairs to leased buildings. The Certificate of Necessity will state what new limit is established and the specific work authorized.

Cession—Ceding or yielding by a state of its legislative jurisdiction over government-controlled RP to the Federal Government.

Clearance Easement—Right to remove or prevent obstructions rising into the airspace.

Clear Zone Easement—Right to prohibit all uses of clear zone land that are incompatible with or could impede aircraft operations. The clear zone is land within 3,000 feet of the runway threshold and extending 1,000 to 1,500 feet on each side of the runway center line.

Commercial Facilities (Industrial-Type)—Air Force owned and operated facilities housing a function that private industry could perform. Examples are motor repair shops, laundries, bakeries, and ice cream manufacturing plants. (Exceptions are base exchanges, commissaries, and other NAF activities.)

Condemnation—Judicial proceeding that the Government starts through the Department of Justice to exercise its right of "eminent domain." Condemnation results in passage of title and land to the government with or without the consent of the landowner but with "just compensation."

Consent, Easement—Written permission to cross or pass over an existing easement. Consent can only be granted by the existing easement holder.

Consideration—Compensation (such as money, materials, or services) that is given for something acquired or promised. This may be:

- Appraised fair market value of the RP, or
- Protection of the RP against loss by fire, water, or other causes, or
- Any mutually agreeable arrangement that does not conflict with governing statutory limitations.

Construction—Construction projects requiring approval are defined as those that result in permanent improvements, such as new construction or capital improvement to an existing asset. Permanent improvements are those land and improvements to land (i.e., facilities). It includes equipment affixed and built into the facility as an integral part of the facility (such as heating systems), but not movable equipment (e.g., plant equipment, industrial equipment, buoys), which cannot be removed without physical damage to the facility. Permanent construction also results in input to the authoritative RP accountable record.

Continental United States (CONUS)—The contiguous 48 states and the District of Columbia.

Declaration of Excess (DE)—Narrative description of RP that is no longer required for foreseeable Air Force missions. The declaration lists the land, type of Governmental real estate

interest, facility inventory information, recommended disposal dates, reuse rights, and services, obligations, and outgrants outstanding.

Declaration of Taking—Pleading filed with a Federal court of law in a RP condemnation proceeding whereby the Government, upon filing, deposits estimated "just compensation" in the court and acquires vested interest in the real estate.

Directive—Used to request another Federal agency (such as the USACE, GSA, or DOI) to act on a real estate matter on behalf of the Air Force.

District Engineer—One of several staff members of USACE who supervises a District office and reports to the Chief of Engineers.

Easement—An easement grants rights to use the land of another for a specific purpose for a specific term or in perpetuity. It usually cannot be withdrawn during its term. Usually, owners of the property continue in possession and can use it so long as such use does not interfere with the purpose for which easement was granted. An example is a right of way easement, which provides for the right to pass over property of another for a specific purpose. Such use could be for constructing a road or for installing pipelines, pole lines, or telephone cables. An easement differs from a license in that:

- The privilege granted usually cannot be withdrawn during its term.
- It is considered to be a "permanent" interest in the property if the term exceeds 1 year.

Eminent Domain—Right of the Government to take private property for public use upon payment of "just compensation."

Excess RP—Land or facilities 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.

Exclusive Use—The primary or dominant use of property typically conveyed through a lease. Exclusive use is also referred to as a possessory interest.

Fair market rental value—The amount that, in a competitive market, a well-informed and willing lessee would pay and that a well-informed lessor would accept for the use and occupancy of the property for a particular term. Typically determined by an appraisal.

Fair market value—The amount in cash, or in terms reasonably equivalent to cash, for which the property would be sold by an owner, willing but not obliged to sell, to a purchaser, who desires, but is not obligated to buy. Typically determined by an appraisal.

Fee Simple—Title to RP belonging to a person or the Government for which full and unconditional ownership exists. Such ownership does not necessarily include mineral rights.

Flood Plain—"100-year" flood plain is the lowland area adjoining inland and coastal waters; it includes flood-prone areas of offshore islands that would be inundated by the "base flood." The "critical actions" (or "500-year") flood plain is the area that would be inundated by a 500-year flood.

Foreign Build-to-Lease (BTL) Family Housing—BTL housing is congressionally approved and included leasing groups (typically 100 to 400 or more units) of existing privately owned units or BTL units for military members and eligible DoD civilians when adequate housing is not readily available. The BTL Program allows FH to be built specifically for leasing to the Air Force.

General Purpose Space—Space in buildings and associated land under the assignment authority of GSA. It is space that GSA considers suitable for use by Federal agencies, generally. It excludes:

- Space in any building in a foreign country.
- Space in any building on the grounds of a military or Coast Guard installation.
- Space in airports.

Grantee—One receiving a grant.

Grantor—One who grants property or property rights. A transferor of property.

GSA Reimbursable Work—Nonstandard services for which the Air Force must reimburse GSA.

GSA Rent—Rate that GSA charges for Government-owned or leased space under GSA assignment. The user charge approximates commercial charges for comparable space and services. GSA rent is the new term for standard-level user charge.

GSA Space—Space in GSA-owned or -leased buildings that is assigned to a Government activity. This space includes land incidental to the use of the space.

Industrial Facilities—Any government-owned, leased, or controlled RP used to fulfill government research, development, test, evaluation, production, maintenance or modification, or for the storage of supporting production machinery and equipment. Includes land, buildings, structures, utility systems, and improvements. Also includes equipment attached to and part of buildings and structures (such as heating systems) but not movable equipment (such as plant equipment).

Ingrants—Documents (such as licenses, leases, permits, easements, foreign base rights agreements, and treaties) that give the Air Force an interest in or control of RP in less-than-fee ownership.

Interest—Right, claim, title or legal share in something.

Lease—Grants exclusive possessory interest in the RP being leased for a specific period of time in return for payment of rent or other consideration to the owner. See definitions for capital lease and operating lease.

Leasehold Interest—The interest held by the lessee through a lease conveying the rights of use and occupancy for a stated term under certain conditions.

Leasehold Value—The dollar value to the tenant of a long-term lease where the lease payments are less than market rent for similar premises. The tenant may be compensated for loss of this value in the event of an eminent domain “taking” of the leased property. However, see *no-bonus clause*.

Lease-Purchase—An agreement to buy a particular piece of property within a certain time-frame, usually at a price determined beforehand.

Legislative Jurisdiction—Power to pass and enforce United States laws on matters that are ordinarily reserved for the states.

Lessee—One who possesses the right to occupy RP under a lease, in return for consideration.

Lesser Interests—Interests that are acquired in less than fee ownership, to include permits, licenses, easements, and withdrawn land. Lesser interests shall be considered before acquiring fee title and vary by level of interest conveyed, organization relationship, time duration, and ease of termination. Leases are also considered lesser interests, but due to their complexity, leases are addressed separately in [Chapter 3](#).

Lessor—One who holds title to, and conveys the right to use and occupy a property under a lease.

License—Grants nonexclusive use or right to pass over private property for a specific purpose. Unlike an easement, it may be revoked at will. An example is right-of-entry, which would be the temporary right to enter on RP for a specific purpose such as survey and exploration, construction or tree topping, without acquiring any estate or interest in the property. Licenses granted to federal agencies are called “permits.”

National Capital Region (NCR)—Region encompassing the District of Columbia; Montgomery and Prince George's counties in Maryland; Arlington and Fairfax counties in Virginia; and the cities of Alexandria, Fairfax, and Falls Church in Virginia.

Natural Infrastructure—All aspects of the natural environment such as air, water, energy.

Nominal Rent—Token rental consideration in money or services. Generally, it involves a rental payment of \$1.00 per year or per term. Nominal rental also means a consideration completely unrelated to the actual or fair market value of the leased property.

Non-exclusive—A non-possessory interest in RP. A right to use or a shared use of property.

Nonindustrial Facility—Unit of RP (other than DoD RP), including improvements, not used or suitable for:

- Production or maintenance of materials, munitions, equipment, and other products for military or civilian use.
- Research.
- Ocean terminals.

Nonindustrial facilities include hotels, motels, resort facilities, educational institutions, and other RP used for military purposes.

Occupancy Agreement—A written agreement from GSA to a federal tenant for use and occupancy of GSA-controlled space.

Offer of Gift—Voluntary offer to transfer or convey to the Government an interest in RP without payment or consideration of any kind by the Government.

Operating Lease—A lease for which the lessee acquires the property for only a small portion of its useful life. An operating lease is commonly used to acquire equipment on a short-term basis. Any lease that is not a capital lease, or lease-purchase, is an operating lease.

Option to Purchase—Contract whereby the owner of the RP gives the Government the right to acquire an interest in the property at a stated price during a specified period of time. An offer to buy property, unsupported by any consideration (i.e. no consideration), is not considered an option, and it may be withdrawn at any time.

Outgrants—Documents such as leases, licenses, easements, and permits that transfer interest in or control of RP from the Air Force to another Government agency, a non-Federal entity, or a private party.

Outside the Continental United States (OCONUS)—The states of Hawaii and Alaska, Commonwealths of Puerto Rico and the Northern Mariana Islands, American Samoa, Guam, Midway and Wake Islands, the U.S. Virgin Islands, any other territory or possession of the United States, and associated navigable waters, contiguous zones, and ocean waters of which the natural resources are under the exclusive management authority of the United States.

Permit—Grants right of exclusive or non-exclusive use of property of one federal agency by another. Permits may be obtained for indefinite terms from other Federal agencies.

Perpetuity—The transfer of real estate for an unlimited period of time.

Project—RP acquisition at an Air Force installation to fulfill a known requirement. Acquisition involves related RP actions; together they constitute a complete project. (For example, the acquisition of land for an ammunition storage project usually involves the acquisition of fee ownership for the land area used to construct storage facilities and restrictive easements over an adjacent safety area.)

Property Exchange—An agreement to convey RP, including any improvements thereon, to any eligible entity who agrees, in exchange for that RP, to transfer to the United States all right, title, and interest of the entity in and to another parcel of RP.

Public Domain—Land that the United States originally acquired from foreign governments and still owns. The Department of the Interior or the Department of Agriculture administers such land.

Public Lands—Any land and interest in land that the United States owns and that the Secretary of the Interior administers through the Bureau of Land Management. The term excludes:

- Lands located on the outer Continental Shelf.
- Lands held for the benefit of Indians, Aleuts, and Eskimos (43 USC § 1702[e]). (See "withdrawn land.")

Quitclaim Deed—A release or relinquishment by the Grantor of any interest the Grantor may have described in the deed. By contrast, a warranty deed promises that the Grantor owns the property with no cloud on the title.

Real Property—Lands, buildings, structures, utilities systems, improvements, and appurtenances. RP includes equipment attached to and made part of buildings and structures (such as heating systems); it does not include movable equipment (such as plant equipment).

Renewal—Keeping an existing agreement, such as a lease, license or permit, in force for an additional period of time. Renewals usually require a written agreement to evidence the new term.

Restrictive Safety Easement—Right to restrict the erection of habitable buildings, the congregation of people, or other activities within a specified safety clearance distance of munitions storage areas, armed aircraft, and explosives related facilities.

Retrocession—Act of giving back to a state all or some Federal legislative jurisdiction.

Reversion—The returning of an estate to the grantor or their heirs, by operation of law, after the grant has been terminated usually because of non-compliance with a term, or clause, in the conveyance. Reversionary clauses may also be contained in deeds held by the Air Force, which will require the Air Force to return the estate to the grantor, preventing disposal of the property through normal procedures and channels.

Right of Entry—Temporary right to enter on RP for a specified purpose without acquiring any estate or interest in it.

Right of Way—Right to pass over the land of another for a specific purpose. Such use could be for constructing a road or for installing pipelines, pole lines, or telephone cables. An easement is for a longer period than a "license," which is temporary.

"Special Purpose" Space—Space in buildings not under GSA assignment, and incidental land, that one agency uses for its special purposes. Examples of such space are computer centers, hospitals, laboratories, mints, and penal institutions.

Subordination Agreement—Agreement whereby the owner of a real estate interest (including subsurface oil, gas, and mineral rights) agrees to suspend or limit the exercise of all or part of his or her ownership rights under specified terms and conditions (usually to avoid interference with Governmental use of the surface or operations).

Supplemental Agreement—See Amendment.

United States—The several States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, American Samoa, Guam, Midway and Wake Islands, the U.S. Virgin Islands, any other territory or possession of the United States, and associated navigable waters, contiguous zones, and ocean waters of which the natural resources are under the exclusive management authority of the United States.

Urban Centers—Cities and standard metropolitan statistical areas as defined in Federal Property Management Regulation (41 CFR 101), subpart 101-18.102. GSA is the sole leasing authority for obtaining "general purpose" space in these areas.

Value (Current, Fair, and Estimated)—Current fair market value or rental value

Warranty Deed—An instrument that transfers RP from one person to another and in which the grantor promises that title is good and clear of any claims. By contrast, a quitclaim deed provides no promise or warranty of title.

Washington D.C. Area—Defined as the geographic area that falls within 100 miles of the Pentagon.

Wetlands—Areas that surface or ground water inundates often enough to support, and under normal circumstances does or would support, a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, mud flats, natural ponds, potholes, river overflows, sloughs, and wet meadows. Wetlands may be located in flood plains.

Withdrawn Land—Public land that has been set aside or designated for a specific public purpose, such as a national park, wildlife refuge, or national defense use. Withdrawal of public lands generally proscribes such land from lease, sale, settlement, or other dispositions under the public land laws.

Attachment 2

AFCEC/CFE (USAFE-AFAFRICA) – LEASE REQUESTS

A2.1. Approval In Principle for Leases in Foreign Countries. Submit AIP requests to AFCEC/CFE for action prior to locating a facility or beginning exploratory and noncommittal lease negotiations. In Germany, submit an Accommodation Program Request (IAW North Atlantic Treaty (NATO) Status of Forces Agreement (SOFA) Supplementary Agreement, Article 48 and US/Federal Republic of Germany (FRG) Technical Arrangements, 11 Mar 57) in lieu of an AIP. Reference USAREUR Regulation 405-8 and USAFE Instruction 32-9005.

A2.2. Leases versus Service Contracts.

A2.2.1. Leases should be used if the following elements are present:

A2.2.1.1. Exclusive use is required for RP by the United States;

A2.2.1.2. The right to exclude others;

A2.2.1.3. Complete control over the property by the United States;

A2.2.1.4. A continuous, but determinate, term; and,

A2.2.1.5. Consideration by the government is based on the right to use rather than actual use.

A2.2.2. Service contracts under the FAR Part 37.101 should be used if the following elements are present:

A2.2.2.1. An agreement by the other party to perform some service for the United States;

A2.2.2.2. If the use of RP is involved, the property is to remain under the control of the other party;

A2.2.2.3. If the use of RP is involved, the property to be used is not specified;

A2.2.2.4. If the use of RP is involved, others may not be excluded; and,

A2.2.2.5. If the use of RP is involved, consideration by the Government is based on actual use rather than the right to use.

A2.3. Economic Analysis. EAs must be prepared IAW AFI 65-501 and certified by the base comptroller. If the annual rent of the proposed lease exceeds the thresholds, the REO must forward the EA to the Financial Analysis Division (HQ USAFE/FMA). Lease proposals must be submitted in sufficient time to allow for coordination with MAJCOM functional offices and 6 months processing at AFCEC/CFE.

A2.4. Standard Lease Clauses. Each lease should contain clauses or provisions addressing the following:

A2.4.1. A Gratuities Clause is required by statute to be inserted in all contracts and should be included in all leases. Reference FAR 52.203-3

A2.4.1.1. Paragraph 32 of Section X of the Technical Arrangements of 11 March 1957, between Germany and the United States, contains provisions by which Germany agrees to apply the principles of the Gratuities Clause to German lease agreements.

A2.4.2. A Disputes Clause must be consistent with the Contract Disputes Act. Reference FAR 52.233-1 *Solicitation Provisions and Contract Clauses*, 41 USC §§ 7101-7112 *Contract Disputes*.

A2.4.3. Assignments of claims. Reference FAR 52.232-23 *Assignment of Claims* ; 31 USC § 3727 *Assignments of Claims*; 41 USC § 15 *Transfers of contracts; assignments; assignee not subject to reduction or setoff*.

A2.4.4. Tax treatment of US government.

A2.4.5. Immunity of US from host nation legal process.

A2.4.6. Automatic protection of US in situations of lease holdovers, or provisions securing the lessor's specific agreement to our US protective clauses which have the effect of ensuring the enforceability of those clauses in the event of litigation in the courts of the host nation, or any other provisions of host nation origin as may be appropriate and desirable under the circumstances.

A2.4.7. US law will govern disputes, unless the terms of the lease expressly state otherwise.

A2.4.8. Termination rights.

A2.4.9. The English language version of the lease controls.

A2.4.10. Maintenance responsibilities of the lessor and lessee should be specified.

A2.4.11. Rules on computation of time periods specifying whether days are measured by calendar or work days.

A2.4.12. Designation of officials authorized to execute lease and designated to administer it.

A2.4.13. Rights in the event of untenability, partial or complete destruction.

A2.4.14. Lease registration requirements.

A2.4.15. All notices must be in writing.

A2.4.16. Any modifications must be in writing.

A2.4.17. Applicable interest rate due on payments deemed to have been made late, when interest on late payment is specified by other terms of the contract. Rate will be the Renegotiation Board Interest Rate established by the Secretary of the Treasury and published in the Federal Register semi-annually on or about 1 January and 1 July. Reference FAR 52.232-25, *Prompt Payment*, for guidance.

A2.4.18. The lease should contain signature and witness statements in conformance with and enforceable under host-nation law. Ensure all signatures are dated.

A2.4.19. No failure by either party to insist upon the strict performance of any provision of this lease (license, permit, etc.), or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial rent or other performance by either party during the continuance of any such breach shall constitute a waiver of any such breach of such provision. **Note:** No exception to this requirement.

A2.5. Geographically Separated Sites. Upon execution of a lease instrument, inform AFCEC/CFEE of the associated installation code for the lease. If a lease requires a new installation code, submit an AF Form 1192, *USAF Installations Characteristics Report*, to

AFCEC/CFEE. If a new lease will be incorporated under an existing installation code, inform AFCEC/CFEE accordingly.

A2.6. Timeline for Package Submission. Submit all leasing actions and terminations to AFCEC/CFE with appropriate base-level JA review (both US and host nation) to include all supporting documents.

A2.6.1. Leasing actions and terminations shall be submitted to AFCEC/CFE at least 90 calendar days (200 calendar days if the approval authority is above AFCEC/CFE) prior to the notification period required by the lease.

A2.6.2. Ensure all renewals/terminations of leases or notices to renew/terminate are signed at the same level that the lease was executed.

A2.7. Environmental Impact Analysis Process (EIAP) . During the preliminary acquisition process, the Installation REO shall request the environmental planning function to analyze the action for its environmental impact. Reference 32 CFR Part 989.

A2.7.1. The REO shall initiate this process by completing Section 1 of AF Form 813, *Request for Environmental Impact Analysis*, and forward it to the environmental section for action.

A2.7.2. A copy of the completed AF Form 813 must be forwarded with the final lease package to AFCEC/CFE.

A2.8. Documentation . The Installation REO shall provide the following documentation comparing candidate facilities:

A2.8.1. Type of facility.

A2.8.2. Condition.

A2.8.3. Age.

A2.8.4. Location.

A2.8.5. Distance from base.

A2.8.6. Annual estimated rent broken out by total cost and by square meter/square foot cost (\$/m²/yr and \$/ft²/yr).

A2.8.7. Estimated annual utility costs broken out by total cost and by square meter/square foot. cost.

A2.8.8. Estimated annual maintenance costs broken out by total cost and by square meter/square foot cost.

A2.8.9. Estimated upgrade costs to meet minimum Air Force standards and operational requirements.

A2.8.10. Amenities, such as but not limited to, security service, janitorial service, gardening service.

A2.9. Lease Package Requirements . The REO shall prepare and maintain in its files the following documentation for all lease submittals and RP Obligation Documents (RPOD) unless waived by AFCEC/CFEE. In addition to the original lease document or RPOD, forward the following documents to the AFCEC/CFEE and the lease negotiator. **Note:** RPOD only required for Germany.

A2.9.1. Appraisal or Certificate of Fair Market Value.

A2.9.1.1. If lease value is under \$200,000 per year, a certificate of fair market value must be signed and dated by the BCE or the resources management officer. Keep background information used to determine fair market rent on file.

A2.9.2. If the lease value is over \$200,000 per year, a written appraisal by a disinterested third party is required. The appraisal must contain sufficient price and economic data to ensure the US is paying no more than the fair market rental value and no specific format is required.

A2.9.3. Certificate of advance payment, signed and dated by the BCE or resources management officer.

A2.9.4. Certificate that funds are available, signed and dated by the BCE or resources manager.

A2.9.5. Legal review by both US and host nation legal advisors.

A2.9.6. Lessor's evidence of ownership and, if appropriate, authority to sign for owners.

A2.9.7. Force protection certification signed and dated by the installation AT/FP responsible officer.

A2.9.8. Certificate stating premises meet minimum Air Force fire, safety and construction standards or conform to local building and fire protection codes and will not endanger US personnel.

A2.9.9. Negotiator report.

A2.9.10. Complete AF Form 813 and EBS IAW AFI 32-7066 *Environmental Baseline Surveys in Real Estate Transactions*.

A2.9.11. Floor plan with dimensions clearly marked.

A2.9.12. Certificate of compliance with, or exemption from, Architectural Barriers Act.

A2.9.13. Request for high cost lease, if applicable.

A2.9.14. Request for waiver of space criteria, if applicable.

A2.9.15. Capital Lease Criteria. One or more of the following statements if any of the following capital lease criteria apply:

A2.9.15.1. The lease transfers ownership of the property to the lessee by the end of the lease.

A2.9.15.2. The lease contains an option to purchase the leased property at a bargain price.

A2.9.15.3. The lease term equals or greater than 75% of the estimated economic life of the leased property.

A2.9.15.4. The present value of rental and other minimum lease payments, excluding the portion of the payments representing executory cost, equals or exceeds 90% of the fair market value (FMV) to purchase the leased property.

A2.9.16. For family housing leases, process IAW AFI 32-6001 *Family Housing Management*.

A2.9.17. Mission Compliance Statement signed by the BCE or Deputy BCE.

A2.10. Lease Package Submittal .

A2.10.1. Prepare leases, or Host Nation specific lease agreement if leased indirectly thru Host Nation, on 8 1/2 x 11 inch paper or Host Nation paper format.

A2.10.2. Upon completion of lease negotiations submit four copies of final lease or Host Nation specific lease agreement to AFCEC/CFE.

A2.10.3. Once all executed instruments for acquisition of RP have been fully authenticated, provide copies to AFCEC/CFE.

A2.11. Service Contract. In some instances, a service contract may be a viable alternative to a leasing action. See paragraph A2.2 for details on when service contracts are viable alternatives.

A2.11.1. Service contracts must be awarded by the appropriate contracting organization pursuant to the FAR.

A2.11.2. Consult the local JA office as soon as possible in all instances where a service contract is being considered as the appropriate contracting vehicle. If service contract action is selected, the user submits the completed AF Form 9, *Request for Purchase*, with supporting documentation to the base contracting office.

A2.12. Joint Inventory and Condition Report. As of the effective date of a lease, but not later than 10 work days thereafter, complete a joint inventory and condition report of all personal and RP of the lessor included in the lease. Seek assistance from CE Operations Flight, housing, services, fire department, etc., to assess the true condition of personal/RP. Use this inventory and condition report for the determination and negotiation of damages when the lease is terminated. Document by photo or video documentation of major discrepancies during this inventory and condition report inspection and maintain such documentation with the lease file.