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ACQUISITION OF REAL PROPERTY

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The instruction guides installation commanders and major commands (MAJCOM) on acquiring real property for Air Force use. It implements AFR 32-90, *Real Property Management*; Department of Defense Directives (DoDD) 4165.6 (1 September 1987), 4165.61 (9 August 1983), and 5160.63 (3 June 1986); and DoD Instruction 5030.53, 13 September 1988. Do not apply this instruction to industrial facilities, storage contracts, or contractor-owned garages for maintaining Government vehicles. See attachment1 for a glossary of terms in the instruction.

(USAFE) AFI 32-9001, *Acquisition of Real Property*, dated 27 July 1994, is supplemented to prescribe fundamental USAFE acquisition of real property procedures. This AFI may be supplemented at any level, but all supplements must be routed to HQ USAFE/A7AR for coordination prior to certification and approval. This instruction does not apply to US Air Force Reserve Command (AFRC) or Air National Guard (ANG) units. Refer recommended changes and questions about this publication to the Office of Primary Responsibility (OPR) using the Air

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SUMMARY OF CHANGES

This revision updates and streamlines procedures for acquisition of real property.

(USAFE) This Supplement has been updated to reflect current office symbols. Furthermore the Build-to-Lease process has been clarified. The threshold for the fair market value certificate has been synchronized with the AFI. The applicability of the Gratuities clause has been clarified for Germany. The requirement to annually report Real Estate Lease Requirements has been added.

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Chapter 1

ACQUIRING REAL PROPERTY

1.1. Real Property Acquisition. Consider the following methods before acquiring real property by lease or purchase:

- Using other real property under Air Force control.
- Obtaining real property excess to requirements of other military departments or other Government agencies.
- Withdrawing public land.
- Using real property with reuse or "recapture" rights.
- Acquiring real property from state or municipal governments through donations.
- Using real property under long-term, nominal, or low-cost lease.
- Exchanging Air Force real property for privately owned property of the same value.
- Acquiring title to real property by gift. (See AFI 51-601, Gifts to the Air Force.)

1.2. Methods of Acquisition. Installation commanders and MAJCOMs acquire real property by any method that meets the Air Force requirement the most economical way. (See AFI 65-501, Economic Analysis and Program Evaluation for Resource Management.) If possible, use a method that does not have a significant impact on local economy.

1.2.1. **Fee Simple Title.** Fee simple title means absolute ownership and is the most extensive ownership interest. When there is a requirement for permanent construction, acquire fee simple title to real property. This is in the best interest of the Government.

1.2.2. **Lesser Interests.** Consider the following methods if the requirement is for a limited time and fee acquisition is too expensive:

- Easement (perpetual or specified period)
- Lease
- License
- Permit

1.2.3. **Leasehold Condemnations.** Use this method of acquisition only to meet critical mission objectives. MAJCOMs must send requests to HQ AFREA/MI for SAF/MII approval.

1.3. Acquisition Standards. Installation commanders and MAJCOMs must ensure that acquisitions:

- Comply with AFI 32-1024, *Standard Facility Requirements*.
- Support the Air Force Comprehensive Plan. (See AFI 32-7062, *Base Comprehensive Planning*.)
- Protect historic and cultural properties. (See Title 25 U.S.C. Section 3001.)

- Include environmental analysis documentation and provide an environmental baseline survey (EBS). (See AFIs 32-7061, *Environmental Impact Analysis*, and 32-7066, *Cultural Resources Management*).
- Consider flood plain hazards. (See EO 11988 and AFI 32-7060, *Interagency Intergovernmental Cooperation*.)
- Minimize destruction or degradation of wetlands. (See EO 11990.)

1.4. Renewal of Leases . Request to renew leases as soon as you consider using a property beyond the date its current lease expires. On 50- and 25-year leases, you may request renewals 3 years before leases expire--and even earlier if circumstances warrant.

1.4.1. MAJCOMs must send lease renewals with annual rentals of more than \$200,000 and all lease condemnations to HQ AFREA/MI for approval. Do this at least 12 months before the lease expires. Send an environmental analysis document with each lease renewal request, as outlined in AFI 32-7061, *Environmental Impact Analysis Process*. Do not apply these requirements to real property used for industrial production and related purposes or to foreign real property cited in [Chapter 7](#).

1.4.2. The MAJCOM Director, Civil Engineering, or equivalent, approves lease renewals with an annual rental of \$200,000 or less. This does not include GSA space.

1.5. Construction on Land Not Owned by the United States. MAJCOMs must send requests for construction on land not owned by the United States to HQ AFREA/MI for SAF/MII approval. Include the following data:

- Summary of the lease or easement terms.
- Map showing location of construction.
- Rental value of the property.
- How long the real property is needed.
- Estimated cost of existing Government facilities and proposed new Government construction.
- Estimated cost to restore the real property to the condition that existed when it was leased or to a condition stated in the lease document.
- Special circumstances that SAF/MII needs to approve.
- Justification for special terms or conditions.

1.6. Constructing, Improving, or Modifying Facilities. Do not construct, improve, or modify facilities unless the Air Force has exclusive use of the real property.

1.7. Intergovernmental and Interagency Coordination for Environmental Planning (IICEP) Reporting Requirements. MAJCOMs must submit each real property acquisition project that requires congressional notification (\$200,000 or more) through the IICEP process as outlined in AFI 32-7005, *Environmental Protection Committee*.

1.8. Air Installation Compatible Use Zone (AICUZ). The Air Force may need to acquire land to ensure the operational integrity of military airfields in the United States and in territorial areas administered by the United States. (See AFI 32-7063, *Air Installation Compatible Use Zone*.)

1.9. Legislative Jurisdiction. Legislative jurisdiction is the power to pass and enforce United States laws on matters that are ordinarily reserved for the states. Examples are crime and family laws. The two statutes that concern acquiring and relinquishing legislative jurisdiction are 40 U.S.C 255 and 10 U.S.C 2683. See [Attachment 2](#) for an explanation of the four types of legislative jurisdiction.

1.9.1. After consulting with the local US attorney, installation commanders send requests to acquire or retrocede any degree of Federal legislative jurisdiction through MAJCOMs to HQ AFREA/MI for approval by SAF/MII.

1.9.2. After SAF/MII approval, HQ AFREA/MI sends the request to the appropriate District Engineer for necessary action.

1.9.3. The Air Force operates under a proprietorial interest in land unless it needs another interest to carry out the assigned mission. SAF/MII grants requests to retrocede unnecessary legislative jurisdiction to the state, particularly jurisdiction over public roads that cross or border an Air Force base or installation.

1.9.4. In requests to acquire legislative jurisdiction, include:

- Map or description of land area
- Letter to the Governor for execution in the Office of the Secretary
- Current status of legislative jurisdiction
- Background and reasons for acquiring legislative jurisdiction
- Degree of jurisdiction considered necessary, with full justification
- Statement that jurisdiction is available, if so, and copies of relevant state laws

1.9.5. In requests to retrocede legislative jurisdiction:

- Identify the installation or project and land tracts.
- Include a vicinity map and legal description.
- Include the type of legislative jurisdiction now held.
- Explain the background and circumstances.
- Recommend the degree of legislative jurisdiction to retrocede.

1.9.6. The installation commander or the Corps of Engineers (COE) must notify the Justice Department, General Litigation and Legal Advice Section of the Criminal Division, when jurisdictional changes occur. An information copy of the correspondence with the local US attorney satisfies this requirement.

- MAJCOMs must give HQ USACERE-MM, 20 Massachusetts Ave., NW, Wash DC 20314-1000, a copy of this correspondence.

1.10. Annexation of Land. Base or installation commanders must notify the MAJCOM when they receive a request or notice of annexation from a political subdivision of a state.

- The BCE, with the help of the Staff Judge Advocate, prepares an annexation and evaluation report. Submit this report through the MAJCOM to HQ AFREA/MI for SAF/MII approval. Include the following:

- Location, acquisition origin, and present use
- Degree of current legislative jurisdiction
- Color-coded map of area showing current and proposed use (with a different color showing each use)
- Source of current utilities
- Air Force benefits of annexation, such as fire protection, police services, snow removal, or utility services
- Effects of annexation, with recommendations
- Reasons for annexation

1.11. Parking Space for Privately Owned Vehicles of Military and Civilian Personnel. Do not acquire parking spaces by lease unless the property is part of a military installation. People using space to park private vehicles must pay the rental fees.

- To request exceptions to this rule, installation commanders send requests for exceptions through the MAJCOM to HQ AFREA/MI. Request exceptions for:
 - Civilian volunteer workers
 - Handicapped personnel
 - Visitors
 - Property in areas with local zoning ordinances that prohibit commercial parking lots
 - Assigned personnel to whom the rule causes substantial hardship

1.12. Acquisitions Requiring Advance Approval. Installation commanders must request approval from SAF/MII to make certain land acquisitions. Send requests through the MAJCOM to HQ AFREA/MI. This requirement applies to acquisitions in the United States, its territories, the Commonwealth of Puerto Rico, American Samoa, Guam, the Virgin Islands, and certain foreign countries.

- Get advance approval to:
 - Acquire real property in fee or easement, if the estimated cost exceeds \$200,000.
 - Acquire land costing more than \$100,000, but not more than \$200,000, excluding any administrative costs and amounts of deficiency judgments (i.e. items of expense for which insufficient appropriations were made). (MAJCOMs may approve land acquisitions costing up to \$100,000.)
 - Lease land in the United States with an annual rental cost exceeding \$200,000 (excluding any administrative costs or amounts of deficiency judgments).
 - Lease land on which you intend to build.
 - Lease real property (except family housing or build/lease projects) in foreign countries:
 - For more than 1 year, at an estimated annual rental cost of more than \$250,000.
 - For a firm term of more than 1 year (10 U.S.C. 2675), where the rental for any 12 consecutive months is more than \$150,000.

- Transfer land from another Military Service. (See 10 U.S.C. 2571[a]).
- Withdraw from "excess" status real property previously reported to Congress for disposal.
- Build on Government-owned land. (See Title 10 U.S.C. 2852 and 2239(b)).
- Acquire rights to use public lands through either a Department of Interior withdrawal or a Government agency permit.
- Exchange Government-owned real property for other real property.
- Lease relocatable buildings to fill a need under an "Interim Facility Situation," as explained in AFI 32-1021, *Planning and Programming of Facility Construction Projects*.
- Acquire a fee title, easement, or lease with a firm term of more than 1 year under the minor land acquisition authority (10 U.S.C. 2672) or emergency acquisition authority (10 U.S.C. 2672a).
- Purchase land or easements in the public interest for more than 100 percent of the appraised value.
- Acquire land measuring more than 1,000 acres or costing more than \$1 million (to lease for 1 year or to buy). Do not make any major land acquisition proposals public without advance approval of the Secretary or the Deputy Secretary of Defense.

1.13. Documentation Required:

1.13.1. In requests to purchase land, include:

- Description of the property
- Value or cost factors
- Current real property interest
- Effect of severance (for example, the impact on the remaining parcel, if the proposed acquisition involves only part of a property)
- Mineral and other interests
- Short- and long-term effect on the local economy
- Environmental baseline report (EBS), prepared according to AFI 32-7066, *Cultural Resources Management*

NOTE: You do not need an EBS to renew leases or permits for which there are no changes and use does not affect the environment or for explosive quantity distance easements.

1.13.2. A plan for use that clearly supports the acquisition.

1.13.3. Other pertinent data, including unfavorable factors:

- A real estate planning report (REPR) on all fee acquisitions that provide engineering and cost data (with location maps and any other clarifying and supporting information).
- Additional real property requirements and the estimated cost, if the proposed acquisition represents only part of total program needs.

- A description, with an estimate of the fair market value, of any real property holding that becomes excess as a result of the proposed acquisition.
- A copy of the lease instrument or a general description of the terms and conditions if the acquisition would replace or extend an existing lease.

1.13.4. In requests to lease land, also include:

- A description of the Government-owned facilities surveyed and the reasons you rejected them (for example, real property obstructs mission accomplishment, real property is too small, geographic area is unsuitable).
- Cost of rent, utilities, and services, plus an economic analysis (see AFI 65-501), if the lease is in place of new construction.

1.14. Armed Services Committees Reports. Following SAF/MII approval, HQ AFREA/MI must give the committees on Armed Services of the Senate and House of Representatives 30 days" notice before entering into acquisition transactions with an estimated fair market value of \$200,000 or more. Apply this rule to transactions in the United States, in territories administered by the United States, and in the Commonwealth of Puerto Rico. (See 10 U.S.C. 2662.)

1.15. Congressional Reporting. MAJCOMs must submit an annual summary report (RCS:SAF-MII[A]8701), *Acquisition and Disposal of Real Property*, to HQ AFREA/MI by 15 November. This report is designated emergency status code D. Discontinue reporting data requirements during emergency conditions.

1.15.1. In the report, show all real property transactions that involve an estimated price, cost, annual rental, or value of more than \$25,000 but not more than \$200,000.

1.15.2. After consolidation, HQ AFREA/MI sends this report to SAF/LLP for transmittal to congressional committees as prescribed by Title 10 U.S.C. 2662(b).

1.16. Screening Government-Owned Real Property. Before requesting to acquire private property, MAJCOMs must work with the appropriate GSA regional office to screen Government-owned real property for availability. MAJCOMs may delegate this screening authority to installation commanders.

1.16.1. In the screening process, favor current over future or mobilization requirements.

1.16.2. Commanders who perform screenings send the results to the MAJCOM with the acquisition request.

1.16.3. MAJCOMs send requests to acquire non-Federal real property to HQ AFREA/MI. In the request, they explain why they cannot use available Government-owned property located in the requirement area.

1.16.4. HQ AFREA/MI screens for availability at the departmental level.

1.17. Uniform Relocation and Real Property Acquisition Policies Act of 1970. This act established procedures for fair and equitable treatment of people displaced because of Federal programs such as real property acquisition. (See Title 42 U.S.C. 4601 and following sections.)

Chapter 2

ACQUIRING PERMANENT INTERESTS

2.1. Authorization. MAJCOMs must have authorization to acquire a permanent interest in real property. Under Title 10 U.S.C. 2676, they may acquire up to 1,000 acres of real property (except industrial real property) in fee with a cost of up to \$1 million, if authorized in a military construction program (MCP).

2.1.1. Appropriate funds for the acquisition through the Military Construction Authorization and Appropriation Act or an emergency authorization.

2.1.2. Under 10 U.S.C. 2672, installation commanders and MAJCOMs may acquire programmed and unprogrammed land costing \$200,000 or less (minor land acquisition).

2.2. Programmed Land Requirements. MAJCOMs must identify needed land interests with an estimated acquisition cost of more than \$200,000. Include these requirements in:

- Your submission to the annual military construction program (MCP), complying with AFI 32-1021 and HQ USAF/CEC guidance.
- The funded portion of your submission to the annual program objective memorandum (POM).

2.2.1. If the land cost is 30 percent or less of the total project cost, include that cost in the construction project cost.

2.2.2. If the land cost is more than 30 percent of the total project cost, submit a separate MCP project for the land.

2.3. Procedures for MCP Land Costing More Than \$200,000. MAJCOM must request approval from HQ AFREA/MI to contact the Corps of Engineers (COE). After HQ AFREA/MI approval, MAJCOMs:

- Ask the district engineer to prepare a real estate planning report (REPR).
- Send HQ AFREA/MI a copy of the request.
- Prepare DD Form 1391, *FY 19XX Military Construction Program*, after receiving REPR from the district engineer.
- Send DD Form 1391 to HQ USAF/CEC for project validation and submittal to Congress.
- Send two approved copies of the REPR with comments and maps showing the land's location to HQ AFREA/MI.
- Once Congress approves the MCP, SAF/MII must approve acreage or cost increases entered for a given fiscal year (contact HQ AFREA/MI for guidance). This includes increases of more than:
 - 10 percent of acreage or space
 - 25 percent of the original MCP project cost

2.4. Procedures for Minor and Urgent Land Acquisitions. To acquire permanent interest in unprogrammed land requirements costing more than \$100,000 but not more than \$200,000,

MAJCOMs must request approval from HQ AFREA/MI. This amount does not include administrative costs (10 U.S.C. 2672) or larger requirements that cannot wait for an MCP because the need is urgent (10 U.S.C. 2672a). Requests must include:

- Acreage
- Real estate interest needed
- Estimated cost supported by a brief real estate planning report (BREPR)
- Map (3 copies) showing location of land in relationship to installation
- Completed DD Form 1391
- Sketch of planned construction
- Source of funds
- Statement as to whether the acquisition is part of a package program or a previously approved, authorized, and funded project
- Copy of technical site concurrence letter and statement of criteria, if applicable
- Effects on mission if you don't acquire the property
- Copy of lease or summary of terms and conditions, if applicable

2.4.1. Send requests for increases in costs to HQ AFREA/MI for approval. They may issue supplemental funds through comptroller channels.

2.4.2. SAF/MII must approve requests for "urgent" land acquisitions and report them to Congress 30 days before the acquisition occurs. (See Title 10 U.S.C. 2672a.)

2.5. Options on Real Property. After SAF/MII determines that the real property is suitable and needed for mission support, installation commanders procure options on the real property. They may consider options of up to 12 percent of the appraised fair market value of the property. (See Title 10 U.S.C. 2677.)

2.6. Gifts. The Air Force may accept gifts of real property for military use. See AFI 51-601 for details.

2.6.1. Authorities for accepting gift offers are:

- MAJCOMs--real property valued at \$5,000 or less with maintenance of \$500 or less per year.
- Director of the United States Air Force Museum--real property valued at \$25,000 or less for installations in the United States Air Force Museum Memorial Park, Wright-Patterson AFB, Ohio.
- SAF/MII--All other gifts of real property.

2.6.2. If the gift offer involves construction,, send it to SAF/MII through HQ AFREA/MI. Accept the gift when construction is completed.

2.6.3. Account for structures built on Federal land as "real property" in the Air Force real property inventory (AFI 32-9005, *Establishing, Accounting and Reporting Real Property*).

2.6.4. All gift offers involving construction must state why the donor will not provide:

- Performance bonds
- Worker's compensation insurance
- Liability insurance against damages to property and injuries to persons caused by the donors, contractors, or agents
- Surety bonds covering payment for labor and materials going into the donated property

2.6.5. If the gift is title to land, do a title search before sending the gift offer to HQ AFREA/MI. Ensure that there are no title defects or outstanding liens.

2.7. Withdrawals of Public Land. Send all withdrawals of public land through HQ AFREA/MI to SAF/MII for approval. If the proposed withdrawal is more than 5,000 acres, comply with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 and following sections) and the Engle Act (43 U.S.C. 155 and following sections) Include the following:

- Name and address of the applicant.
- A statement of the authority delegated by the Secretary of the Air Force to act as a representative.
- Type of withdrawal action.
- Detailed description of exterior boundaries.
- Color-coded map showing boundaries, public domain, and excepted areas.
- Gross and net land and water acreage.
- Proposed use of land (if classified, so state).
- If the proposed withdrawal will overlap or add lands to another withdrawal:
- Identify each existing withdrawal and date of withdrawal order.
- Include a legal description of the area to be overlapped or added to the existing withdrawal.
- Describe extent and duration of any temporary segregation (see 43 CFR, chapter II, section 2310.2), and recommend land use allowable during segregation.
- Explain why the withdrawal is necessary, and why a right-of-way or a cooperative agreement would not serve.
- State the duration of withdrawal.
- State whether any suitable alternative sites are available as well as suitable sites for the uses the action will displace.
- If suitable alternative sites are available, include a cost analysis.
- Indicate whether you need to bring in water to fulfill the purpose of the withdrawal.
- Identify the repository for records on the property.

2.8. Non-DoD Excess Real Property. To transfer real property that non-DoD agencies report as excess, follow the guidelines set in the Federal Property Management Regulation, 41 CFR 101, subchapter H.

2.8.1. The acquiring party (i.e. MAJCOM) must pay 100 percent of the property's appraised fair market value, unless the office of management and budget (OMB) waives the requirement.

2.8.2. When MAJCOMs want to acquire such excess real property to meet an Air Force requirement, they must:

- Ask HQ AFREA/MI to notify GSA within the time limit specified in the screening letter.
- Explain why the acquisition is necessary.
- Provide the declaration of excess (DE) if the acquisition replaces other real property.

2.8.3. MAJCOMs, with advance knowledge that another Government agency is to report real property as excess, may ask for a transfer according to paragraph 2.8. They may do this before the other agency reports the "excess" to GSA's federal property resources service.

2.9. Transfers From Another Military Department. MAJCOMs may make such transfers without compensation. (See Title 10 U.S.C. 2571.) They must provide HQ AFREA/MI with data in paragraph 1.13 to obtain SAF/MII approval.

2.10. DoD Excess Real Property. Recall real property declared "excess" to Air Force requirements by canceling the disposal directive. Send requests to HQ AFREA/MI for SAF/MII approval and congressional notification.

2.11. Bombing and Gunnery Ranges. To acquire land for bombing and gunnery ranges, comply with this instruction and AFIs 13-212, *Training Weapons Ranges*, and 32-7064, *Airspace/Range Management*.

2.12. Restrictions on Using Nonappropriated Funds. DoDD 1015.6 prohibits the purchase of real property with nonappropriated funds unless the purchase involves privately owned buildings located on Government property.

2.12.1. 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 Morale, Welfare and Recreation Advisory Board; the Army and Air Force Exchange Service (AAFES); or the Air Force Civilian Welfare Fund) and the Secretary of the Air Force.

2.12.2. Use nonappropriated funds according to current HQ USAF/CEC funding guidelines. See AFIs 32-1022, *Planning and Programming of NAF Facility Construction Projects*, and 34-105, *MWRS Facility Requirements Programming*, for more guidance.

Chapter 3

ACQUIRING LEASEHOLD INTERESTS

3.1. Leases . The Air Force may enter into 12-month, renewable leases. It must pay rentals when due, subject to available funds. When proposing to lease a property, an Air Force activity must:

- Provide an economic analysis (see AFI 65-501), if the rental fee will exceed \$200,000 annually.
- Ensure that the buildings and facilities are accessible to the handicapped.
- Give preference to leasing buildings that use solar heating and cooling equipment or other renewable energy sources.
- Evaluate the building's occupational safety, fire, and health hazards.
- Prepare an EBS in accordance with AFI 32-7006, *Cultural Resources Management*.

NOTE: As an exception to the normal policy of 1-year renewable leases, the Air Force may enter into a firm term lease for more than 1 year if the cost does not exceed \$200,000. This cost includes rent, utilities, repairs, alterations and other expenses. SAF/MII must approve such leases.

3.1. (USAFE)Leases. The Installation Real Property Management Office (RPMO) shall forward an economic analysis (EA) to Financial Analysis Division (HQ USAFE/FMA) if the annual rental of the proposed lease exceeds \$200,000, and in cases where a firm-term lease exceeds 1 year and the annual rental exceeds \$150,000. Prepare the analysis according to AFI 65-501, *Economic Analysis*, and have it certified by the base comptroller. Lease proposals of this magnitude must be submitted in sufficient time to allow for MAJCOM coordination and 6 months processing at the Air Force Real Property Agency (AFRPA). Reference is made to paragraph **7.7.1** for submittal timelines.

3.2. Lease Acquisitions Within Command Approval Authority . MAJCOM Director, Civil Engineering may approve leases and lease renewals if the rental, estimated rental, or rental value of all space or facilities at one CONUS location is not more than \$200,000 a year or the lease term is not more than 1 year, with four options to renew.

3.2. (USAFE)Lease Acquisitions Within Command Approval Authority. IAW Headquarters Air Force Mission Directive (HAFMD) 1-18 and subsequent redelegations (AFRPA/DR memo, 10 Sep 2003), the USAFE Civil Engineer, HQ USAFE A4/7D, may approve leases and lease renewals if the rental value of all space or facilities at one location is not more than \$500,000 a year (family housing leases must include rent, utilities, maintenance and operation).

3.2.1. MAJCOMs may not delegate this approval authority to intermediate or installation commanders. However, execution authority may be delegated. Requests for US Air Force recruiting space must be sent by the MAJCOM to HQ AETC/CEPE for action.

3.2.2. MAJCOMs may negotiate, approve, and execute leases to the United States for military family housing (MFH) facilities as stated in Title 10 U.S.C. 2828. For leases of family housing:

- MAJCOMs must survey existing family housing to validate the need or have HQ USAF/CEH justify the need.
- HQ USAF/CEH must have approved "lease points" (i.e. unit authorizations) and enough funds, unit authorizations, to cover the lease requirement.
- MAJCOMs must notify Congress in advance, if lease exceeds \$500,000.
- HQ USAF/CEH must notify HQ AFREA/MI when requirement has been met.

3.2.3. MAJCOMs must determine whether a lease or service contract can meet the requirement:

- Do not use service contracts to acquire quarters for base permanent-party, unaccompanied personnel, unless the need is short-term or fluctuating (see AFI 32-6005, *Unaccompanied Housing*).
- When there is a shortage of on-base transient quarters, you may use service contracts for non-exclusive space (nonspecific quarters) to provide accommodations for transient personnel.

3.2.3. (USAFE) In some instances, a service contract may be a viable alternative to a leasing action. However, the facility requirement must be characterized as a proper service contract requirement. Clarification between leases versus service contracts is provided in the attachment to this supplement. Service contracts must be awarded by the appropriate contracting organization pursuant to the Federal Acquisition Regulation. Consult the local JA office as soon as possible in all instances where a service contract or lease 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.

3.3. Lease Acquisitions Above Command-Level Authority. If the project changes in scope or cost, MAJCOMs must request new leases and renewals. Send requests through HQ AFREA/MI to SAF/MII for:

- Space or facilities at one location whose estimated annual cost or value exceeds \$200,000
- Change in cost or scope
- Leasehold condemnations
- Real property requiring a certificate of necessity
- Land you intend to build on
- Commercial (industrial-type) property
- Real property on which you want a purchase option (see Title 10 U.S.C. 2677)
- Real property within the limits of a civil airport
- Real property that is subject to "recapture" or reverter clause

- Port storage facilities (land or water) affecting the transfer or interchange of cargo
- Real property within the National Capital Region
- Real property planned for flying activities
- GSA space
- Firm term leases longer than 1 year

NOTE:MAJCOMs must use the following procedures for lease acquisitions and renewals.

- To renew condemnations leases and leaseholds with an estimated annual cost exceeding \$200,000, submit requests at least 10 months before the lease expires.
- To renew or acquire leases whose estimated annual costs exceed \$200,000, include a lease planning report (LEPR) with your submission.
- To renew or acquire leases whose estimated annual costs are less than \$200,000, get HQ AFREA/MI approval (by letter or telephone) to direct the Corps of Engineers (COE) to prepare a brief lease planning report (BLEPR).

3.4. Acquiring and Renewing Other Leases:

3.4.1. After HQ AFREA/MI approval, submit requests for LEPRs to the appropriate district engineer at least 16 months before the lease expires. For 50-year leases, submit LEPR requests 2 years before the term expires regardless of current rental cost.

3.4.2. After approval, send the lease acquisition request to HQ AFREA/MI with four copies of the LEPR and supporting data:

- Description and location of the real property showing gross and net usable square feet
- Vicinity map showing location in relation to the parent installation
- Proposed use of the real property and justification, based on appropriate criteria
- A description of any real property currently used to meet the requirement
- Date you need possession and the estimated period of occupancy
- Estimated annual cost of the lease (distinguish between reimbursable and nonreimbursable costs)
- Citation of funds, if known, or a request that the finance officer make funds available
- Services and utilities to be provided under the lease and any associated costs
- Statement that screening has been completed
- Information to support a certificate of necessity as described in paragraph 3.9 if required.
- Condition assessment of all facilities
- Assessment of maintenance requirements.
- Technical survey of occupational safety, fire, and health hazards for buildings that contain more than 20,000 square feet (SF) of usable floor space or that accommodate at least 50 people

- Description and cost estimates of rehabilitation or alteration requirements
- Statement as to whether the facilities are in place of new construction previously requested
- Environmental impact as outlined in AFI 32-7006, *Air Installation Compatible Use Zone*
- Economic analysis, as prescribed by AFI 65-501 (for leases over \$200,000 annually)

3.5. Leasing Private Family and Unaccompanied Personnel Housing. Lease family housing units in the private sector according to the procedures in AFI 32-6001, *Housing Management*. MAJCOMs may acquire housing for unaccompanied personnel by lease if:

- Government-owned or -controlled quarters are not available.
- Adequate private rental housing is not available at rents of less than 150 percent authorized basic allowance for quarters (BAQ).
- Unaccompanied personnel quarters being considered meet standards established in AFI 32-6005.
- Local commander has sufficient base support funds to cover lease costs.

3.6. Limitations on Rents:

3.6.1. If the court sets the rental fee, this amount may not exceed the fair market rental value (as determined by an appraisal). This requirement does not apply to leaseholds acquired in condemnation proceedings.

3.6.2. In addition, if the annual rental exceeds \$2,000, this amount may not be more than 20 percent of the fair market value of the leased premises as of the lease date.

3.6.3. If you are renewing a lease, redetermine the fair market value as of the new lease date.

3.7. Limitations on Alteration, Improvement, and Repair of Leased Premises:

3.7.1. Fair Rental Consideration Leases. This limitation applies to leases that include land and improvements. It does not apply if the lease is for unimproved land. Cost for altering, improving, and repairing a leased facility must not be more than:

- 30 percent of the rent for the first year of the rental term
- 30 percent of the total rent, if the term is less than 1 year
- 30 percent of the term of the lease and options to renew

3.7.1. (USAFE) Fair Rental Consideration Leases. IAW with the HQ USAFE/CE Policy Memo, Thirty-Five Percent Cost Limitation Waivers, 17 Jul 00 (AFI 32-6001, Para 10.4.3 for family housing), the cost for altering, improving and repairing a leased facility must not be more than:

3.7.1.1. (Added-USAFE) Thirty-five percent of the rent for the first year of the rental term (25% for family housing).

3.7.1.2. (Added-USAFE) Thirty-five percent of the total rent, if the term is less than 1 year (25% for family housing).

3.7.2. 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 percent of the fair market value of the leased premises, whichever is greater, each year of the rental term. Use the fair market value 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. (See AFI 32-8001, *Planning and Programming of Facility Construction Projects*.)

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

- Installed equipment and other detachable items
- Restoration at the end of a lease
- Repairs needed because of malicious mischief by Government employees or damages not covered by the lease
- Alterations and improvements that come under the Military Construction Authorization Act.

3.9. Certificates of Necessity. MAJCOM must send requests for a certificate of necessity to HQ AFREA/MI for SAF/MII approval. Do this before obligating funds that exceed the 20 and 30 percent limitations for modification of nominal- and fair-rental leased buildings. With your request, include:

- Completed DD Form 1391, FY 19XX *Military Construction Program*
- Single-line drawing
- Statement of cost, scope, and type of work already done
- Identification of work not classified as leasehold improvements, such as movable partitions and shelving

3.9.1. A base or installation must keep records on an AF Form 1430, *Real Property Accountable Records-Buildings*, of alterations, improvements, or repairs for each leased building, portion of a building, or other real property 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.

3.9.2. Once the Certificate of Necessity is issued, stay within its limitations in terms of work and cost. Get a new certification to do additional unspecified work.

3.10. Payment for Leases. MAJCOMs must designate a finance office to make payment for leases executed by or for the Air Force. Finance offices make payments as follows.

3.10.1. Use negotiated leases to obtain the use of real property subject to "recapture."

3.10.2. Do not pay for rental of such property during a national emergency (National Emergencies Act of 1976).

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

3.10.4. For airport property rentals, pay the Air Force share of maintenance costs.

3.10.5. Do not pay leasehold rents in advance except in foreign countries (see **Chapter 7**).

3.10.6. You may pay rent in advance to states and state agencies (Comp GenDecision B-191300, 31 March 1978).

3.11. Restoration of Leased Real Property. The Army COE must restore leased property, when necessary. Air Force pays for restoration.

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

3.13. AAFES Leases :

3.13.1. 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. (See Title 10 U.S.C. 9779(c).)

3.13.2. In foreign countries, use appropriated funds to lease structures and related real property for AAFES facilities for 5 years or less. This requirement does not preclude assignment of space in Air Force leased buildings to AAFES, even though nonappropriated funds are used for AAFES leases in the United States. For more information on AAFES leases, see AFI 34-105.

Chapter 4

PREDESIGNATING NONINDUSTRIAL FACILITIES FOR EMERGENCY REQUIREMENTS

4.1. Emergency Requirements. Installation commanders must have access to the housing, training, and nonindustrial facilities needed to respond effectively to mobilization surges and other major national emergencies, and meet requirements of Executive Order 11490. Ensure this access by:

- Identifying supplemental nonindustrial facility requirements, conditions, and proposed extent of use.
- Requesting facility assignments from the Federal Emergency Management Agency (FEMA) regional director.
- Arranging for formal agreement with a facility owner or operator, after FEMA approval.
- Maintaining records on the assignment and planned use of predesignated facilities to evaluate preparedness capabilities.

Chapter 5

ACQUIRING LESSER INTERESTS

5.1. Special Licenses. MAJCOMs may obtain temporary rights of entry, licenses, or permits for uses such as surveys, field training exercises, testing sites for communications adaptability, and testing water wells.

5.1.1. MAJCOMs may use the services of the district engineer for technical services, such as property negotiations, appraisals, and lease preparation..

5.1.2. Licenses for environmental monitoring may be for longer periods, but no more than 5 years.

5.1.3. Give the COE district office a copy of all executed licenses that convey real property interest.

5.1.4. Use licenses:

- In place of clearance easements, to remove or stop natural growth protruding into aircraft glide paths.
- When the interest fulfills the requirement and a lease or greater estate is not necessary.

5.2. Delegation of Authority. MAJCOMs may delegate any or all of their special license authority to intermediate or installation commanders.

5.3. Permits and Licenses From Other Government Agencies. MAJCOMs may go to other Government agencies for permits or licenses granting the Air Force exclusive or non-exclusive use of real property under the agencies' control. MAJCOMs may use the district engineer for all or part of the acquisition. Send a copy of the executed document to HQ AFREA/MI.

5.3.1. Obtain a permit or license from another Government agency when:

- The permit or license term is not more than 5 years.
- The acquisition is not more than 100 acres or does not have an annual fair market rental value of over \$200,000, if leased to a private party. (See Title 10 U.S.C. 2662.)
- Air Force will not alter the facilities (for exceptions, contact HQ AFREA/MI).

5.3.2. To obtain permits or licenses for Government-owned property with an annual fair market rental value (if leased to a private party) exceeding \$200,000, send requests through the MAJCOM and HQ AFREA/MI to SAF/MII (10 U.S.C. 2662).

5.4. Temporary Interests Beyond Command Authority. Send requests to acquire interests that are beyond command authority to HQ AFREA/MI.

Chapter 6

ACQUIRING GSA CONTROLLED SPACE

6.1. GSA Controlled Space:

6.1.1. Send requests for GSA general purpose space (GSA-owned or -leased) outside the National Capital Region (ONCR) to HQ AFREA/MI. Use SF Forms 81, **Request for Space, and 81-A, Space Requirements Worksheet**, to request approval.

6.1.2. Send requests for space within the National Capital Region to 1100th National Capital Region Support Group, Engineering and Services Division (1100 SPTG/DOL). Use SF Forms 81 and 81-A and DD Forms 1450, **DoD Space Requirements Data, and 1450-1, DoD Space Requirements, Part II**.

6.2. Approval Authorities. Based upon the annual cost of GSA rent, Air Force activities must secure the following approval prior to acquisition of GSA space:

- Up to \$100,000, request approval from HQ AFREA/MI or 1100 NCR SPTG/DOL.
- More than \$100,000 but less than \$200,000, request approval from SAF/MII.
- More than \$200,000, report requests to the House Armed Services Committee.

6.3. Obtaining GSA Space in Urban Centers. GSA is the only leasing agency for general purpose space in urban centers.

6.3.1. Send requests for GSA space in:

- ONCR - HQ AFREA/MI sends approved requests through COE to the appropriate GSA regional office.
- NCR - 1100 NCR SPTG/DOL sends approved requests through Washington Headquarters Services (OSD), Space Plans and Acquisition Division, Pentagon to GSA's National Capital Region Office.

6.3.2. The COE may obtain the space, provided that:

- Lease is for no rental or nominal consideration, or
- GSA grants authority to the COE, or
- GSA designates the space as "special purpose" suitable only for Air Force or DoD use.

6.4. Obtaining GSA Space Outside Urban Centers. The COE obtains space outside urban centers on the direction of the Air Force..

6.5. 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.

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

- The rent of the old space

- \$200,000 per year

6.7. GSA Reimbursable Work. GSA reimburses for work such as alterations, guard service, and special cleaning services.

6.7.1. 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.

6.7.2. Submit work requests for the NCR to 1100 NCR SPTG/DOL on AFHQ Form 73.

6.8. Payment for GSA-Controlled Space and Services. Air Force activities using GSA-controlled space must pay GSA for all space and services (40 U.S.C. 490(a)(6)).

6.8.1. GSA sends quarterly rent bills as well as a "reconciliation" bill to:

- HQ AFREA/MI, for ONCR space.
- Washington Headquarters Service (OSD, Space Plans and Acquisition Division), Pentagon, for NCR space.

6.8.2. Air Force Headquarters 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, **Reimbursable Work Authorization**.

6.9. Termination of Assignment of GSA Space. Submit all notifications of intent to terminate ONCR and NCR GSA space to HQ AFREA/MI or 1100 NCR SPTG/DOL. GSA must receive written notice 120 days before the termination date.

6.10. 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 HQ AFREA/MI (for ONCR space) or 1100 NCR SPTG/DOL (for NCR space).

Chapter 7

ACQUIRING REAL PROPERTY IN TERRITORIAL AREAS AND THE COMMONWEALTH OF PUERTO RICO AND FOREIGN COUNTRIES

7.1. Acquiring Property in Territorial Areas and the Commonwealth of Puerto Rico. Procedures for acquiring property in these areas are similar to those for acquiring property in the United States. There are exceptions, however.

7.1.1. MAJCOMs must coordinate all requests for government-owned real property with the US agency's local representative from one of the following agencies: (After coordination, send requests to HQ AFREA/MI.)

- Bureau of Land Management
- Department of Interior
- Department of the Navy
- Another applicable agency

7.1.2. The Federal Aviation Administration (FAA) regional office approves requests for real property under FAA control.

7.2. Acquiring Property in Foreign Countries. Acquire real property in foreign countries through an international agreement or foreign operating right clearance, in accordance with DoD 4500.54G (DoD Foreign Clearance Guide, General Information Booklet, chapter 7).

7.2.1. There are three methods of acquisition:

- No cost, including follow-on construction
- Joint use with a host nation whose construction criteria may not match US standards
- Lease of privately owned property

7.2.2. MAJCOMs may lease property in the private sector, if the foreign military agreement allows it. They may lease directly from private or corporate owners or indirectly through a government agency of the host nation. The lease instrument must:

- Fit the local situation in each country.
- Include clauses required by US law.
- Be written in English and the language of the host nation.

7.2.3. MAJCOMs must avoid leasing directly from a foreign government.

7.2.4. **(Added-USAFE)** The Installation Real Property Management Office (RPMO) is the Office of Primary Responsibility (OPR) for all leasing actions in USAFE. The RPMO shall ensure each new, renewal or change lease request is fully supported by all applicable documents and reviews listed in para **7.17.3** of this Supplement. The RPMO is OPR for processing changes to existing leases, to include family housing maintenance fee increases and Government Rental Housing Program (GRHP) renewals. The RPMO is the subject-matter expert concerning lease agreements. The RPMO coordinates any questions or

changes arising during the course of the lease with the appropriate base level agencies, as well as with higher headquarters for final approval and signature.

7.3. Acquiring Interest in Foreign Property. Acquire interest in real property according to the foreign military rights agreement (see DoD 4500.54G and AFI 51-701, Negotiating, Concluding and Reporting).

7.3.1. The preferred method is right of use for a specified period as provided under a military rights agreement.

7.3.2. MAJCOMs may consider lesser interest, such as a license or easement, if the Air Force does not require exclusive use of the real property.

7.4. Department of State Responsibility. The Department of State conducts foreign affairs. The US ambassador or a diplomatic representative to the foreign country concerned usually, with the advice and assistance of the US military authorities, conducts or monitors negotiations for military rights for the US Forces stationed in that country.

7.4.1. Air Force activities with missions in foreign countries must understand that real estate activities are sensitive. Any unauthorized actions to acquire land could prejudice the broad interests of the United States in those countries.

7.4.1.1. The overseas points of contact for all Air Force real estate actions in foreign countries are headquarters:

- USAFE
- ACC
- AFMC
- AFSPC
- PACAF
- AMC

NOTE: The director, civil engineering, at each MAJCOM is responsible for real property actions.

7.4.1.2. For Eastern (Atlantic Missile Range) and Western (Pacific Missile Range) Ranges, AFSPC may elect to follow procedures set forth in paragraph [7.11](#).

7.4.1.3. For real estate projects outside these agencies' areas of jurisdiction, contact HQ AFREA/MI.

7.4.2. Installation commanders and MAJCOM directors, civil engineering, must avoid piecemeal acquisitions.

7.4.3. MAJCOM Directors, Civil Engineering and installation commanders must request acquisitions through proper channels and in time to meet land-need dates.

7.4.4. Overseas points of contact (see paragraph [7.4.1.1](#)) must:

- Closely monitor developments to help resolve problems without delay.
- Keep HQ AFREA/MI and participating commands informed of the approval status.

- Assist in the acquisition.

7.5. Acquisition Procedures. Acquire property within the framework of existing government-to-government and subsidiary agreements.

7.5.1. Some real property requirements arise in countries not covered by any agreement or fall outside the scope of existing agreements. For these requirements, send an acquisition request to HQ AFREA/MI (see DoD 4500.54G), with an information copy to HQ USAF/XOXI.

7.5.2. Send requests for foreign operating right clearance directly to HQ USAF/XOXI if you determine that an upcoming requirement is not covered by an agreement. Send an information copy of the request to HQ AFREA/MI and the overseas point of contact (paragraph 7.4.1.1).

7.5.3. MAJCOMs may use a certificate of fair market value in place of a formal appraisal for leases whose annual rental is less than \$200,000.

7.5.4. **(Added-USAFE)** During the preliminary acquisition process, the real property officer shall request the environmental planning function to analyze the action for its environmental impact as prescribed in Title 32, *Code of Federal Regulations*, Part 989 (32 CFR Part 989), *Environmental Impact Analysis Process (EIAP)*. The real property officer 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. A copy of the completed form must be forwarded with the final lease package to HQ USAFE/A7AR.

7.6. Approval "In Principle" for Leases in Foreign Countries. HQ AFREA/MI gives approval "in principle" to leases in foreign countries when the lease best meets the Air Force requirement.

7.6. (USAFE)Approval "In Principle" for Leases in Foreign Countries. Submit AIP requests to HQ USAFE/A7AR for action prior to finding a facility or starting exploratory and noncommittal lease negotiations. In Germany, submit an Accommodation Program Request (IAW NATO SOFA SA, Art 48 and US/FRG Technical Arrangements, 11 Mar 57) in lieu of an AIP.

7.6.1. To request approval "in principle," the overseas point of contact writes to HQ AFREA/MI. It does this before finding a facility or starting lease negotiations.

7.6.2. HQ AFREA/MI reviews the requests and obtains the necessary clearances from the DoD. At the same time, the MAJCOM may try to find suitable real property according to the foreign rights agreements. These efforts are exploratory; do not commit the United States to a lease for any real property.

7.6.3. HQ AFREA/MI tells the overseas point of contact whether it has approved or disapproved the request and directs further action.

7.6.4. To lease real property in foreign countries that have no overseas points of contact, MAJCOMs send requests to HQ AFREA/MI.

7.7. One-Year Leases. In foreign countries, overseas points of contact may lease structures and related real property for 1 year. Leases must be renewable from year to year, by notice, and

carry an annual rental of \$250,000 or less (Title 10 U.S.C. 2675). This category does not include "build or lease" projects and family housing units.

- Only the USAFE, PACAF, AFSPC, ACC, AFMC, and AMC directors, civil engineering, have this foreign leasing approval. They may delegate it to:
- Their deputy director, civil engineering.
- An official performing the same functions as the deputy director, civil engineering.

7.7. (USAFE)One-Year Leases. IAW Headquarters Air Force Mission Directive (HAFMD) 1-18 and subsequent re-delegations (AFRPA/DR memo, 10 Sep 2003), the annual rent leasing authority for overseas MAJCOMs is \$500,000.

7.7.1. **(Added-USAFE)** Submit all leasing actions and terminations to HQ USAFE/A7AR with appropriate base JA review (both U.S. and host nation) to include all supporting documents. Leasing actions and terminations shall be submitted to HQ USAFE/A7AR at least 90 calendar days (200 calendar days if the approval authority is above MAJCOM) before the notification period required by the lease.

7.8. Firm-Term Leases. In foreign countries, the director, civil engineering, of those MAJCOMs listed in paragraph 7.7.1 may approve the leasing of structures and related real property for a firm term of up to 5 years.

7.8.1. MAJCOMs may extend these leases in 5-year increments, following SAF/MII approval.

7.8.2. Send requests for leases and renewals to SAF/MII through HQ AFREA/MI, for:

- Leases with terms exceeding 1 year
- Annual rentals exceeding \$250,000
- Rentals exceeding \$150,000 for 12 consecutive months
- Family housing
- Build or lease projects

7.8.3. Use the 5-year leasing authority if:

- A firm requirement for the real property exists for the full term of the lease.
- The cost of renting for the firm term is substantially less than the total cost of renewing a lease each year.
- Negotiations confirm that the real property cannot be acquired under an annually renewable lease.

7.9. Advance Rental Payments. In foreign countries, MAJCOMs may pay rental fees in advance if that is the local custom (Title 10 U.S.C. 2396) and HQ AFREA/MI approves.

- To make advance rental payments for real property in foreign countries, send a justification certificate to HQ AFREA/MI for approval. The commander or a designated representative signs the certificate. In the certificate:
- Describe the local custom of paying rental fees in advance.

- Specify the customary time period for such advance payments.
- Include a support statement with written confirmation from local government officials or the American Embassy.

7.10. Responsibilities of Overseas Points of Contact. Overseas points of contact ensure that rentals paid for leased property are fair and that leases and other instruments are legal. Acquisitions must comply with the terms of the foreign military rights agreement.

7.11. Construction on Leased Property in Foreign Countries. If the lease proposal involves construction, alteration, or improvement of facilities, lease the property for a long enough term to meet the Air Force use requirement.

- You do not need Certificates of Necessity for lease acquisitions or for alterations, improvements, or repairs. If alterations, improvements, or repairs cost more than 30 percent of the first-year rental term, however, you must get advance approval from HQ AFREA/MI. In this case send enough information to justify the Certificate of Necessity (see paragraph 3.9).

7.11. (USAFE)Construction on Leased Property in Foreign Countries. Request written approval from HQ USAFE/A7A prior to start of all alterations, improvements and repairs to leased property (except military family housing) to be accomplished with appropriated funds which exceed 35 percent of the rent for the first year of the rental term (or for the rental term, if less than a year). Forward all thirty-five percent cost limitation (non-family housing leases) waiver packages to HQ USAFE/A7A for written approval. Document all expenditures on leased property on AF Form 1430, *Real Property Accountable Record-Buildings*, as provided under AFI 32-9005, *Real Property Accountability and Reporting*, and AFH 32-9007, *Managing Air Force Real Property*. Submit requests to exceed the 25 percent cost limitations for family housing leases to HQ USAFE/A7AR at least 30 calendar days prior to start of any alterations, improvements and repairs to leased premises. Authority from SAF/IE will be required prior to start of such work. The limitations apply to the total cost of all alterations, improvements and repairs over the life of the lease. Such work is intended to meet “make ready” requirements at the beginning of the lease (AFI 32-6001, *Family Housing Management*, Para 10.4.3.). “Life of the lease” is defined to be maximum five (5) years for non-family housing leases, and maximum ten (10) years for family housing leases.

7.11.1. **(Added-USAFE)** Establish and maintain a record of the work and costs on AF Form 1430 for each leased building or portion of a building. Maintain this record for the entire term of the lease, including all renewals.

7.11.1.1. **(Added-USAFE)** The RPMO shall establish and maintain the AF Form 1430, monitor expenditures and submit requests for waiver to exceed the alteration limitations. Submit requests for waivers to HQ USAFE/A7AR as soon as requirements are known. Waivers for emergency repair work may be provided after the fact. HQ USAFE/A7AR will approve no work order or job order on a leased building without the prior coordination of the real property accountable officer.

7.11.1.2. **(Added-USAFE)** The AF Form 1430 will show, in addition to the general description, the amount of the alteration limitation. Further, it will include the work order number, description of work, date completed, cost of work, total cost to date and remaining balance.

7.11.1.3. **(Added-USAFE)** Normal day-to-day maintenance work (as defined in AFI 32-1032, *Planning and Programming Appropriated Funded Maintenance, Repair, and Construction Projects*), the replacement of worn-out carpeting (if not covered under the terms of lease as a lessor responsibility), as well as those items included in paragraph 3.8. of the basic instruction, are not included in the alteration limitation. All other work, such as repair and minor construction as defined in AFI 32-1032, to include the costs associated with the initial laying of carpet, is included in the alteration limitation. All such approved and accomplished work will be charged against that limitation and recorded on the AF Form 1430.

7.11.1.4. **(Added-USAFE)** Discontinue the AF Form 1430 used to monitor expenditures when the lease expires, either automatically or upon notification, or after 5 years from lease start date (10 years for family housing leases), whichever is sooner. The AF Form 1430 will become a supporting document to the real property voucher that terminates real property accountability for the leased building. This also applies when a lease expires and a new lease is executed to permit continued occupancy of the same facility. Discontinue the existing AF Form 1430 used to monitor expenditures and establish a new form for the new lease term. Continuously monitor the AF Form 1430 to ensure that once the total expenditures have reached the alteration limitation, no additional work will be performed or contracted without the required advance waiver approvals.

7.11.2. **(Added-USAFE)** Prior to start of alterations, improvements and repairs exceeding the alternation/sustainment limitation, send requests to exceed the alteration/sustainment funding limitation, regardless of funding source, to HQ USAFE/A7AR for submittal to the appropriate approval authority (SAF/IE for family housing and HQ USAFE/A7A for non-family housing). Include complete details and full justification for the proposed project. Waivers must be approved prior to start of work. All requests for such waivers must contain the following information and supporting documents:

7.11.2.1. **(Added-USAFE)** First year's rent of current lease.

7.11.2.2. **(Added-USAFE)** Lease expiration date.

7.11.2.3. **(Added-USAFE)** List of previous alterations, improvements or repair projects, and their costs chargeable against this alteration limitation (AF Form 1430).

7.11.2.4. **(Added-USAFE)** AF Form 327, *Base Civil Engineer Work Order*.

7.11.2.5. **(Added-USAFE)** Certificate of funds availability.

7.12. Acquiring Overseas Property. Send all acquisition requests, except as prescribed in paragraph 1.4.1, through overseas points of contact, according to the following guidelines.

7.12.1. The requester states the real property requirement, gives the supporting documentation listed in paragraph 1.13, and requests permission to make a site selection survey.

7.12.2. The MAJCOM decides whether existing government-to-government agreements or other arrangements with the host country allow the requirement.

7.13. Acquiring Property Within Overseas Commands' Jurisdiction. If the requirement falls under existing agreements, process the real property acquisition as follows.

7.13.1. The overseas point of contact obtains host country approval for the site selection survey and notifies HQ AFREA/MI of the ongoing action. On approval of the site selection survey, the overseas point of contact notifies the requester.

7.13.2. After completing the survey, the requester notifies the overseas point of contact of the results:

- State the locations of the most satisfactory site and alternate sites.
- Include a first choice and at least one alternate choice.

7.13.3. The overseas point of contact informally discusses the site selections with the proper United States authorities in the country concerned to determine the impact of the proposed acquisition. MAJCOMs must report to HQ AFREA/MI immediately if any unusual or unfavorable problems surface during the informal discussions or site surveys.

7.13.4. When all parties reach agreement on the site selection, the MAJCOM must send a formal acquisition request through established channels (see paragraph 7.4) to the host country. Send a copy of the request to HQ AFREA/MI.

7.13.5. Missile range (HQ AFSPC) actions under this are limited to range and range-user requirements in the up-range area (north of Brazil).

7.14. Acquiring Property Outside Overseas Commands' Jurisdiction. If the proposed land requirement falls outside the overseas command's jurisdiction or cannot be met within existing agreements, the overseas point of contact sends the proposal to HQ USAF/XOXI, with a copy to HQ AFREA/MI. HQ USAF/XOXI processes the requirements through the DoD and Department of State.

7.14.1. With all requests for real property, include complete information and justification as required by DOD 4500.54G, AFI 51-701, and this instruction.

7.14.2. MAJCOMs must not take any independent action that might jeopardize procedures set by HQ AFREA/MI.

7.15. Distribution of Real Estate Instruments. Send one copy of all executed instruments for acquisition of real property in foreign countries to HQ AFREA/MI.

7.15. (USAFE)Distribution of Real Estate Instruments. Once all executed instruments for acquisition of real property have been fully authenticated, send a copy of them to HQ USAFE/A7AR.

7.16. (Added-USAFE) Joint Inventory and Condition Report. As of the effective date of a lease, but not later than 10 work days thereafter, make a joint inventory and condition report of all personal and real property of the lessor included in the lease. Seek assistance from housing, services, fire department, etc., to assess the true condition of personal/real property. Reflect the condition of military family housing on AF Form 227, *Quarters Condition Inspection Report*. Add a copy of AF Form 227 and the inventory and condition report to the initial real property lease file. Use this inventory and condition report for the determination and negotiation of damages when the lease is terminated. Make photo or video documentation of major discrepancies during this inventory and condition report inspection and keep such documentation with the lease file.

7.17. (Added-USAFE) Lease Request.

7.17.1. **(Added-USAFE) Documentation.** The RPMO shall provide the following documentation comparing candidate facilities:

7.17.1.1. **(Added-USAFE)** Type of facility.

7.17.1.2. **(Added-USAFE)** Condition.

7.17.1.3. **(Added-USAFE)** Age.

7.17.1.4. **(Added-USAFE)** Location.

7.17.1.5. **(Added-USAFE)** Distance from base.

7.17.1.6. **(Added-USAFE)** Annual estimated rent broken out by total cost and by square meter/square foot cost (\$/m2/yr and \$/ft2/yr).

7.17.1.7. **(Added-USAFE)** Estimated annual utility costs broken out by total cost and by square meter/square foot cost.

7.17.1.8. **(Added-USAFE)** Estimated annual maintenance costs broken out by total cost and by square meter/square foot cost.

7.17.1.9. **(Added-USAFE)** Estimated upgrade costs to meet minimum Air Force standards and operational requirements.

7.17.1.10. **(Added-USAFE)** Amenities, such as but not limited to, security service, janitorial service, gardening service.

7.17.2. **(Added-USAFE) Clauses.** Each lease should contain clauses or provisions addressing the following:

7.17.2.1. **(Added-USAFE)** The Gratuities Clause (FAR 52.203-3), which is required by statute to be inserted in all contracts, shall be included in all leases. While this is the only clause required by statute, numerous additional clauses are required by legal and management prudence. Paragraph 32 of Section X of the Technical Arrangements of 11 Mar 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.

7.17.2.2. **(Added-USAFE)** Disputes (FAR 52.233-1). (Verbatim not required but clause must be consistent with Contract Disputes Act, 41 U.S.C. §§ 7101-7112).

7.17.2.3. **(Added-USAFE)** Assignments of claims (FAR 52.232-23; 31 U.S.C. 3727; 41 U.S.C. 15).

7.17.2.4. **(Added-USAFE)** Tax treatment of US government.

7.17.2.5. **(Added-USAFE)** Immunity of US from host nation legal process.

7.17.2.6. **(Added-USAFE)** 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.

- 7.17.2.7. **(Added-USAFE)** US law will govern disputes (unless the terms of the lease expressly state otherwise).
- 7.17.2.8. **(Added-USAFE)** Termination rights.
- 7.17.2.9. **(Added-USAFE)** English language version of the lease controls.
- 7.17.2.10. **(Added-USAFE)** Maintenance responsibilities of the lessor and lessee.
- 7.17.2.11. **(Added-USAFE)** Rules on computation of time periods specified, specifying whether days are calendar or work days.
- 7.17.2.12. **(Added-USAFE)** Designation of officials authorized to execute lease and designated to administer it.
- 7.17.2.13. **(Added-USAFE)** Rights in the event of untenability, partial or complete destruction.
- 7.17.2.14. **(Added-USAFE)** Lease registration requirements.
- 7.17.2.15. **(Added-USAFE)** Notices must be in writing.
- 7.17.2.16. **(Added-USAFE)** Any modifications must be in writing.
- 7.17.2.17. **(Added-USAFE)** 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. See FAR 52.232-25, Prompt Payment, for guidance.
- 7.17.2.18. **(Added-USAFE)** The lease should contain signature and witness statements in conformance with and enforceable under host-nation law. Ensure all signatures are dated.
- 7.17.2.19. **(Added-USAFE)** The standardized USAFE lease format, as modified to satisfy local conditions and requirements, should be used.
- 7.17.2.20. **(Added-USAFE)** “NO WAIVER -- 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.”
- 7.17.3. **(Added-USAFE)** Submittal. The RPMO shall prepare and maintain in its files the following documentation for all lease submittals/RPODs unless waived by HQ USAFE/A7AR (forward original documents to the lease negotiator):
- 7.17.3.1. **(Added-USAFE)** Certificate of fair market value if the lease is under \$200,000 per year, signed and dated by the base civil engineer or the resources management officer. Keep background information used to determine fair market rent on file.
- 7.17.3.2. **(Added-USAFE)** Written appraisal by a disinterested third party if lease exceeds \$200,000 per year. It does not have to be in a specific format. It must contain

sufficient price and economic data to ensure the US is paying no more than the fair market rental value.

7.17.3.3. **(Added-USAFE)** Certificate of advance payment signed and dated by the base civil engineer or resources management officer.

7.17.3.4. **(Added-USAFE)** Certificate that funds are available signed and dated by the base civil engineer or resources manager.

7.17.3.5. **(Added-USAFE)** Legal review by both US and host nation legal advisors.

7.17.3.6. **(Added-USAFE)** Lessor's evidence of ownership and, if appropriate, authority to sign for owners.

7.17.3.7. **(Added-USAFE)** Force protection certification signed and dated by the installation AT/FP responsible officer.

7.17.3.8. **(Added-USAFE)** 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.

7.17.3.9. **(Added-USAFE)** Negotiator report.

7.17.3.10. **(Added-USAFE)** AF Form 813, *Request for Environmental Impact Analysis*. **Note:** An AF Form 813, *Request for Environmental Impact Analysis*, is required at the beginning and end of any lease to document the environmental condition of the leased property.

7.17.3.11. **(Added-USAFE)** Floor plan with dimensions clearly marked.

7.17.3.12. **(Added-USAFE)** Certificate of compliance with (or exemption from) Architectural Barriers Act.

7.17.3.13. **(Added-USAFE)** Request for high cost lease (if appropriate).

7.17.3.14. **(Added-USAFE)** Request for waiver of space criteria (if appropriate).

7.17.3.15. **(Added-USAFE)** One or more of the following statements if any of the following capital lease criteria apply:

7.17.3.15.1. **(Added-USAFE)** The lease transfers ownership of the property to the lessee by the end of the lease.

7.17.3.15.2. **(Added-USAFE)** The lease contains an option to purchase the leased property at a bargain price.

7.17.3.15.3. **(Added-USAFE)** The lease term equals or greater than 75 percent of the estimated economic life of the leased property.

7.17.3.15.4. **(Added-USAFE)** The present value of rental and other minimum lease payments, excluding the portion of the payments representing executory cost, equals or exceeds 90 percent of the fair market value (FMV) to purchase the leased property.

7.17.3.16. **(Added-USAFE)** For family housing leases, include a statement signed and dated by the Base Civil Engineer (BCE) to the effect that affordable adequate family housing is not locally available and leasing is the only viable option.

7.17.3.17. **(Added-USAFE)** For military family housing, a certificate signed and dated by the housing officer stating the net square footage. If the statutory limit is exceeded, a waiver request from the housing officer must be included.

7.17.3.18. **(Added-USAFE)** Prepare leases/RPOD (only required in Germany) on 8 1/2 x 11 inch paper.

7.17.3.19. **(Added-USAFE)** Upon completion of lease negotiations submit four copies of final lease/RPOD contract to HQ USAFE/A7AR.

7.17.3.20. **(Added-USAFE)** Ensure all renewals/terminations of leases or notices to renew/terminate are signed at the same level that the lease was executed.

7.17.3.21. **(Added-USAFE)** Upon execution of the lease document, inform HQ USAFE/A7AR of the associated installation code for all leases. If a lease requires a new installation code, submit an AF Form 1192, *USAF Installations Characteristics Report*, to HQ USAFE/A7AR. If a new lease will be incorporated under an existing installation code, inform HQ USAFE/A7AR accordingly.

7.18. (Added-USAFE) Annual Real Estate Lease Requirement Reporting. All RPMOs submit all known or anticipated real estate requirements for each fiscal year to reach HQ USAFE/A7AR by 15 January. Break down the list of requirements into existing leases that are continued, leases that are canceled and proposed new leases and include the anticipated costs for the coming fiscal year. Keep the local budget office informed of changes in projected costs of leases so adjustments can be made in appropriate financial plans.

RODNEY A. COLEMAN
The Assistant Secretary of the Air Force for
Manpower, Reserve Affairs, Installation, and
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(USAFE)

R. SCOTT JARVIS, Colonel, USAF
The USAFE Civil Engineer

Attachment 1**GLOSSARY OF TERMS*****Terms***

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

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

Certificate of Necessity—Written statement, signed by SAF/MII, certifying that the Air Force must exceed the cost limits established in this instruction, relative to annual rent or alterations, improvements, and repairs to leased buildings.

Cession—Ceding or yielding by a state of its legislative jurisdiction over government-controlled real property 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. (See AFI 32-7063.) 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 nonappropriated fund 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."

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

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

Declaration of Excess (DE)—Narrative description of real property 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. (See AFI 32-9004, Disposal of Real Property.)

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

Division Engineer—One of several staff members of the US Army Corps of Engineers who supervises certain District Engineers and reports to the Chief of Engineers.

Easement—Right to use the land of another for specific purpose. Usually, owners of the land continue in possession and can use it so long as such use does not interfere with the purpose for which easement was granted. An easement may be acquired for a specific term or in perpetuity. 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."

Environmental Assessment (EA)—Document, created early in the planning process, for evaluating the potential environmental impact of a proposed action. Assessment covers the same topical areas as an environmental impact statement (EIS), but with less detail. Assessment leads either to an EIS or to a finding of no significant impact (FONZI). (See AFI 32-7061.)

Environmental Impact Statement (EIS)—Detailed full-disclosure report required by the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321-4347). The EIS identifies the anticipated environmental impact of a proposed Air Force action and recommends ways to mitigate any adverse effects. It consists of:

- Draft statement that the preparer files with the Environmental Protection Agency (EPA) and makes available to the public for comment.
- Final statement that incorporates feedback on the draft statement (AFI 32-7061) and goes on file with EPA.

Fee Ownership—Title to real property 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. (See AFI 32-7003, Environmental Research and Development.)

General Purpose Space—Space in buildings and associated land under the assignment authority of the General Services Administration (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—Person receiving a grant.

Grantor—Person making the grant. A transferor of property.

Government Services Administration (GSA) Reimbursables—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 (SLUC).

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

Industrial Facility—Any Air Force-owned, -leased, or -controlled real property facility that a contractor uses to perform Government research, development, test, evaluation, production, maintenance, or modification or to store production machinery and equipment in support of such activity.

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 real property in less-than-fee ownership.

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

Lease—Conveyance of exclusive possessory interest in real property for a specified term in return for payment of rent or other consideration to the owner.

Legislative Jurisdiction—Power and authority of the Federal government to legislate and to exercise executive and judicial powers within the area.

Lessee—One who possesses the right to occupy real property under a lease.

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

License—Privilege to use or pass over a licensor's real property for a specific purpose (such as right-of-entry for survey and exploration, construction, or tree topping).. Licenses granted to other Federal agencies are called "permits."

Mobilization—Augmentation of existing military forces by the Federalization of National Guard units, activation of Reserve units, call-up of individual Reservists, or increased Selective Service induction to meet force levels approved by the Secretary of Defense.

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.

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.

Nonindustrial Facility—Unit of real property (other than DoD real property), 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 real property used for military purposes.

Offer of Gift (Donation)—Voluntary offer to transfer or convey to the Government an interest in real property without payment or consideration of any kind by the Government (AFI 51-601).

Option to Purchase—Contract whereby the owner of the real property 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 (Title 10 U.S.C. 2677).

Outgrants—Documents such as leases, licenses, easements, and joint-use agreements that transfer interest in or control of a real property from the Air Force to another Government agency, a non-Federal entity, or a private party. (See AFI 32-9003, Granting Temporary Use of Real Property.)

Permit—This term has two definitions; do not confuse the two uses of the term:

1. A nonpossessory right of exclusive or non-exclusive use of real property. When granted to a non-Federal party, it generally covers a one-time use and is called a "license."
2. An authorization to use property under the jurisdiction of one Government agency by another for a definite period.

Project—Real property acquisition at an Air Force installation to fulfill a known requirement. Acquisition involves related real property 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.)

Public Domain—Land that the United States originally acquired from foreign governments and still owns. The Department of the Interior administers this 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 U.S.C. 1702[e]). (See "withdrawn land.")

Real Estate Directive—Request to another Federal agency (such as the Office of the Chief of Engineers, the Army Corps of Engineers, or Department of the Interior) to act on a real estate matter on behalf of the Air Force.

Real Property—Lands, buildings, structures, utilities systems, improvements, and appurtenances. Real property 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).

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. (See AFI 91-409, Explosive Safety Standards.)

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

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

Right-of-Way Easement—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 momentary.

Service Contract—Contract between the Air Force and a contractor for nonpersonal services, executed under the Armed Services Procurement Act of 1947. The contracting party agrees to perform some service for the Air Force and the Air Force agrees to pay for it. In performing the service, the contractor may use real property in which he or she has an interest, even to the extent of permitting the Air Force to go on the property in a non-exclusive manner.

"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).

Suspension Agreement—Suspension by lease of individual's grazing or mineral rights in public or state-owned land.

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:

- **Fair market value** is 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.
- **Fair market rental value** of a property is 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.

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 (AFI 32-7005).

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 segregates such land from lease, sale, settlement, or other dispositions under the public land laws.

Attachment 1 (USAFE)**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

31 U.S.C. 3727, *Assignments of Claims*, 2006

41 U.S.C. 15, *Transfers of Contracts; Assignments; Assignee Not Subject to Reduction or Setoff*, 2006

41 U.S.C. 601, *Definitions*, 1994

FAR 37.101, *Definitions*, 1 Oct 2010

FAR 52.203-3, *Gratuities*, 1 Apr 1984

FAR 52.232-23, *Assignment of Claims*, Jan 1986

FAR 52.232-25, *Prompt Payment*, Oct 2008

FAR 52.233-1, *Disputes*, July 2002

32 CFR Part 989, *Environmental Impact Analysis Process (EIAP)*, 2001

AFI 32-1032, *Planning and Programming Appropriated Funded Maintenance, Repair, and Construction Projects*, 15 Oct 2003

AFI 32-6001, *Family Housing Management*, 21 Aug 2006

AFI 32-9005, *Real Property Accountability and Reporting*, 14 Aug 2008

AFH 32-9007, *Managing Air Force Real Property*, 1 May 1999

AFMAN 33-363, *Management of Records*, 1 Mar 2008

AFI 33-360, *Air Force Content Management Program Publications*, 18 May 2006

AFI 65-501, *Economic Analysis*, 29 Aug 2011

HQ USAFE/CE Policy Memo, *Thirty-Five Percent Cost Limitation Waivers*, 17 Jul 00

Headquarters Air Force Mission Directive (HAFMD) 1-18 and subsequent redelegations, 4 Mar 2009

Forms Prescribed. None

Forms Adopted.

AF Form 9, *Request for Purchase*

AF Form 227, *Quarters Condition Inspection Report*

AF Form 327, *Base Civil Engineer Work Order*

AF Form 813, *Request for Environmental Impact Analysis*

AF Form 847, *Recommendation for Change of Publication*

AF Form 1192, *USAF Installations Characteristics Report*

AF Form 1430, *Real Property Accountable Record-Buildings*.

Attachment 2

TYPES OF LEGISLATIVE JURISDICTION

A2.1. Exclusive. The Government has acquired, by state statute, all of the state's authority in an area, and the state concerned has not reserved the right to exercise any of that authority except the right to serve state civil or criminal process.

A2.2. Concurrent. The state, in granting the Government exclusive legislative jurisdiction over an area, has reserved to itself the right to exercise the same authority at the same time. This rare case currently exists in Alaska because of the special provisions in the Alaska Statehood Act.

A2.3. Partial. The state has granted the Government some of its authority to legislate but has reserved the right to exercise, alone or with the Government, some authority beyond the right to serve criminal process in the area (for example, the right to tax private property).

A2.4. Proprietary (or Proprietary). The Government has acquired some right or title to an area in a state but has not obtained any of the state's authority to legislate over the area. Because of its functions and authority under various provisions of the Constitution, the Government has many powers and immunities in acquired land area that ordinary landowners do not have. Further, it holds its properties and performs its functions in a Governmental rather than proprietary, or business, capacity.

Attachment 3

RESPONSIBILITIES

A3.1. Office of the Secretary of the Air Force:

A3.1.1. **SAF/MI** . The Assistant Secretary for Manpower, Reserve Affairs, Installations, and Environment: (See SAFO 100.1 for more details.)

- Develops policy for Air Force real property management (RPM).
- Serves as program justifier.
- Ensures that the Air Force keeps only the real property it needs to fulfill its military mission.

A3.1.2. **SAF/MII** . The Deputy Assistant Secretary of the Air Force for Installations oversees all Air Force installations. This responsibility includes comprehensive planning, programming, acquisition, utilization, and disposal of all real property facilities. See SAFO 100.1 for more detail.

A3.1.3. **SAF/MIQ** . The Deputy Assistant Secretary of the Air Force for Environment, Safety, and Occupational Health oversees Air Force programs for environmental quality and compliance. See SAFO 100.1 for more detail.

A3.1.4. **SAF/GCN** . The Assistant General Counsel for Installations and Environmental Law provides legal advice and services relating to installations and real property, environmental law, and pollution prevention. See SAFO 111.1 for more detail.

A3.2. Air Force Civil Engineering:

A3.2.1. **HQ USAF/CE**. The Civil Engineer provides specific policies, advocates resources, and oversees real property maintenance.

A3.2.2. **HQ USAF/CEV**. The Directorate of Environmental Quality develops, implements, and manages Air Force environmental policy.

A3.3. United States Army Corps of Engineers (COE). The COE:

- Acts as "real estate agent" for the Air Force.
- Provides technical services.
- Keeps custody of AF real property legal records.

Attachment 4 (Added-USAFE)**HQ USAFE TERMS**

A4.1. (Added-USAFE) Approval In Principal (AIP) – A request to HQ USAFE/A7AR by the BCE asking for authority to start exploratory and noncommittal lease negotiations.

A4.2. (USAFE) Build to Lease (BTL) – BTL is private construction project resulting in a facility to be leased by the Air Force. The build/lease program is a method of acquiring facilities when other programs such as military construction or conventional leasing are not feasible. It consists of an arrangement between the Air Force and a developer for the construction of a facility according to negotiated specifications for subsequent lease to the Air Force.

A4.2.1. **(USAFE)** A team is assembled, consisting of at least one representative from each of the following: the requestor having the new requirement, the USAFE Asset Management Office, an engineer, and a legal officer. The engineer is the Team Chief.

A4.2.2. **(USAFE)** After a competitive selection process, the successful offeror is chosen and the Air Force executes a final lease contract to be effective upon acceptance of the completed construction. The maximum firm term period for a build lease is 5 years for all facilities, except family housing, which will not exceed 10 years. Up front payments of any kind to support or subsidize the Lessor's construction costs are not authorized.

A4.2.3. **(USAFE)** Rental payment starts when the facility is completed and accepted by the US Air Force. Rental payment will generally be based on actual market value of a finished facility to be leased, not on the cost of amortizing the completed build/lease facility over the 5- or 10-year lease period, as appropriate.

A4.3. (Added-USAFE) Real Property Obligation Document (RPOD) – A form prepared by the responsible Federal Republic of Germany (FRG) authority that assigns a lease interest in real property to the US Forces. Such arrangements are made by the FRG on behalf of the US Forces. The RPOD is issued for private, municipal and certain FRG properties made available to the US Forces on a rent-payable basis. The USAFE Civil Engineer, HQ USAFE A4/7D, executes the RPOD.

A4.4. (USAFE) Clarification Between Leases Versus Service Contracts – Leases should be used if the following elements are present:

A4.4.1. **(Added-USAFE)** Exclusive possession of a specific real property by the United States;

A4.4.2. **(Added-USAFE)** The right to exclude others;

A4.4.3. **(Added-USAFE)** Complete control over the property by the United States;

A4.4.4. **(Added-USAFE)** A continuous, but determinate, term; and,

A4.4.5. **(Added-USAFE)** Consideration by the government based on right to use rather than actual use.

A4.4.6. **(Added-USAFE)** Service contracts under the Federal Acquisition Regulation Part 37.101 should be used if the following elements are present:

A4.4.6.1. **(Added-USAFE)** An agreement by the other party to perform some service for the United States;

A4.4.6.2. **(Added-USAFE)** If the use of real property is involved, the property to remain under the control of the other party;

A4.4.6.3. **(Added-USAFE)** If the use of real property is involved, the property to be used is not specified;

A4.4.6.4. **(Added-USAFE)** If the use of real property is involved, others may not be excluded; and,

A4.4.6.5. **(Added-USAFE)** If the use of real property is involved, consideration by the Government based on actual use rather than the right to use.