

OUTLEASING PROCESS
UNDER 10 U.S.C. 2667

INSTALLATION ROLES:

The following is required in order to initiate the outleasing action:

1. Activity Request – Identify property proposed for out-leasing, (i.e., for facilities identify buildings and square footage, and for land provide acreage), lease term, range of possible uses, determination of consideration (cash or in-kind services to be sought), and any other pertinent information.
2. Activity request must also include the following:
 - a. A determination of the leased premises non-requirement for public use. This statement must support the fact that the proposed area for outleasing is **non-excess** land, but is not currently required for public use (NOTE: Activity must have an underlying requirement for retention of the property).
 - b. Ensure leasing would be compatible with operational requirements.
 - c. Identify site specific base-wide concerns (e.g., security, utilities, etc.)
 - d. Furnish an assessment of the environmental impact in accordance with OPNAVINST 5090.1B. (i.e., the impact to the surrounding community in accordance with NEPA).
 - e. Complete Title V - Federal Property Information Checklist (FPIC). Required for screening for homeless use in compliance with the Stewart B. McKinney Homeless Assistance Act.
3. Request **must** have Major Claimant approval.

EFANE ROLES:

Upon EFANE receipt of Major Claimant approval, EFANE disciplines must consider and satisfy the following:

1. ***Real Estate*** –

Obtain DASN approval of lease concept.

Identify administrative costs in accordance with 10 U.S.C. 2695.

Determine that the property is not currently required for other Federal use. (This determination is made by Navy performing a screening for requirement through DOD Agencies and Coast Guard; and General Services Administration performing a Federal agency screening.)

Screening for homeless use under the Stewart B. McKinney Homeless Assistance Act.

Satisfy competition requirements.

Limitation of outleasing authority: Must comply with ASN (I&E) directive of 7 May 1997, which requires SECNAV approval for leases in excess of 5 years or for leases which allow construction of improvements valued over \$5,000 (regardless of term).

Obtain an appraisal to determine the current annual Fair Market Value. (May require independent appraisal. Activity is responsible for cost.) This evaluation, depending on the figure (property valued in excess of \$500K), will require approval from the Armed Services Committees of Congress in accordance with 10 U.S.C. 2662 (Title 10). Requests for Title 10 approval must be forwarded to NAVFAC Headquarters for submission to Congress.

Prepare Request for Proposals (RFP) and Lease (Develop with Activity lease conditions/restrictions. Possible issues include: Government liability, jurisdictional issues, safety and security concerns, restrictive use covenants, severability of parcel, and termination clauses.) Obtain necessary approvals.

Lease administration.

2. ***Shore Facilities Planning*** – Consolidation and realignment studies.
3. ***Environmental*** – Conduct an environmental audit, which may require an Environmental Baseline Study (EBS) and Finding of Suitability to Lease (FOSL). (Activity is responsible for cost).
4. ***Environmental Planning*** – Compliance with the National Environmental Policy Act (NEPA), Clean Air Act (CAA), Coastal Zone Management (CZMA), and National Historic Preservation Act (NHPA). (Activity is responsible for cost). Determine whether the proposed site contains wetlands or is located in a floodplain.
5. ***Counsel*** – Review lease terms and conditions to ensure proper protection of Government's legal interests and use of appropriate legal authority.

EASEMENT PROCESS

The Applicant must submit a formal request to the local Activity identifying its need for the use of Navy property. The request must include design drawings, and a survey map of the proposed easement area, prepared in accordance with appropriate local Courthouse filing requirements, including a written legal description. (Note: Applicant should submit design drawings at 35% design or less.)

INSTALLATION ROLES:

Activity's endorsement of the easement request must include the following. Request to be forwarded to EFANE **must** include Major Claimant approval.

- a. Determination that the granting of the easement will not materially interfere with the accomplishment of the mission of the activity nor with the Government's present or foreseeable use of the property nor with other Government activities in the area.
- b. Determination that the use will not cause any substantial expense to the Navy.
- c. Determination that the property involved is the only property which reasonably can be used for this purpose, and that the proposed easement area contains no more land than is necessary.
- d. A statement as to whether the relocation or replacement of Government-owned facilities will be necessary.
- e. Identify any benefits to be derived by the Government as a result of the granting of the easement.
- f. Furnish an assessment of the environmental impact in accordance with OPNAVINST 5090.1B. (i.e., the impact to the surrounding community in accordance with NEPA).
- g. Complete an Environmental Baseline Survey (EBS) Checklist.

EFANE ROLES:

1. Upon EFANE receipt of Major Claimant approval, EFANE must consider and satisfy the following:
 - a. ***Real Estate*** – Review of title and jurisdictional issues.
 - b. ***Shore Facilities Planning*** – Consolidation and realignment studies.
 - c. ***Environmental*** – Conduct an environmental audit, which may require an Environmental Baseline Study (EBS) and Finding of Suitability to Lease (FOSL). (Activity is responsible for cost).
 - d. ***Environmental Planning*** – Compliance with the National Environmental Policy Act (NEPA) and compliance with National Historic Preservation Act (NHPA).
 - e. ***Design*** – Review of design drawings.
2. Identify administrative costs in accordance with 10 U.S.C. 2695.
3. After completion of EFANE departmental review, and provided there are no problems associated with the easement request, an appraisal will be requested. The Real Estate Staff Appraiser must determine the current fair market value. Payment will be required from the Applicant in an amount equal to the fair market value of the easement.
4. Upon completion of the appraisal, a draft easement will be prepared in accordance with applicable laws and regulations. Additional terms and conditions may be incorporated which are specific to the Activity's requirements. Counsel will review for Government liabilities and concerns.
5. Draft easement is forwarded to the Applicant and Activity (including its chain of command) for review and approval.
6. Upon written approval from the Applicant and Activity, the easement will be prepared in final form and transmitted to the Major Claimant for final approval.
7. ASN (I&E) directive of 7 May 1997, requires SECNAV approval for easements with a term over 5 years or which allow construction of improvements over \$5,000 (regardless of term).

LICENSE PROCESS

- A license is an authorization revocable at will to an individual, organization, corporation, state or local governmental authority or another federal agency to use for specific purposes without conferring any possessory interest, real property controlled by the Department of the Navy. It confers no right or estate or vested interest in the real property.
- The authority to allow use of Government-owned real property to private entities under a license is a management privilege not specifically granted by statute. It is incident to the general authority of SECNAV to make the most effective use of property under his control.
- Policy expressly prohibits the issuance of a license in lieu of a lease as a device for avoiding any of the requirements governing the leasing of property under the authority of 10 USC 2667. This prohibition extends to the issuance of a license in anticipation of the subsequent issuance of a lease subject to approval and reporting requirements.
- Use of real property is authorized only when all the following conditions apply:
 - The proposed use will not interfere with Navy use of the property;
 - Revocation can be readily effected; and
 - Proposed use of the property should be of benefit to the Navy or will be in the public interest.
- Temporary Licensing Authority has been re delegated to Commanding Officer of an Activity; provided the following criteria apply:
 - The effective period does not exceed one-year;
 - The license does not involve any cash payment (except reimbursement for utilities and services provided);
 - The license does **not** permit any new construction or the installation of non-severable improvements.
- Approval of NAVFACHQ is required when any of the following conditions apply:
 - License permits new construction or the installation of non-severable improvements;
 - Any substantial changes to the standard license form; and
 - Annual fair market rental value exceeds \$200K.
- Consideration:
 - Rental proceeds must be deposited into the Treasury as miscellaneous receipts, in accordance with 31 USC Section 3302.
 - Exceptions from the general requirement for payment of cash consideration by a non-federal licensee include organized cooperative groups of a fraternal, civic or welfare nature.
- Insurance Requirements:
 - Required in order to protect the interest and assets of the Government.

INSTALLATION ROLES:

Activity's endorsement of the license request must include the following:
(Note: License may require Major Claimant approval)

- a. A statement that the proposed use will not interfere with Navy use of the property; revocation can be readily effected; and proposed use of the property should be of benefit to the Navy or will be in the public interest.
- b. Identify any benefits to be derived by the Government as a result of the granting of the license.
- c. Furnish an assessment of the environmental impact in accordance with OPNAVINST 5090.1B. (i.e., the impact to the surrounding community in accordance with NEPA).
- d. Complete an Environmental Baseline Survey (EBS) Checklist.

EFANE ROLES:

EFANE must consider and satisfy the following:

a. ***Real Estate*** –

Identify administrative costs required in accordance with 10 U.S.C. 2695.

Limitation of outgrant authority: Must comply with ASN (I&E) directive of 7 May 1997, which requires SECNAV approval for licenses in excess of 5 years or for licenses which allow construction of improvements valued over \$5,000 (regardless of term).

Obtain an appraisal to determine the current annual Fair Market Value. This evaluation, depending on the figure (property valued in excess of \$500K), will require approval from the Armed Services Committees of Congress in accordance with 10 U.S.C. 2662 (Title 10). Requests for Title 10 approval must be forwarded to NAVFAC Headquarters for submission to Congress.

License (Develop with Activity license conditions/restrictions. Possible issues include: Government liability, jurisdictional issues, safety and security concerns, and termination clauses.) Obtain necessary approvals.

License administration.

- b. ***Shore Facilities Planning*** – Consolidation and realignment studies.
- c. ***Environmental*** – Review EBS Checklist and determine whether additional environmental documentation is required.
- d. ***Environmental Planning*** – Compliance with the National Environmental Policy Act (NEPA), Clean Air Act (CAA), Coastal Zone Management (CZMA), and National Historic Preservation Act (NHPA). Determine whether the proposed site contains wetlands or is located in a floodplain.
- e. ***Counsel*** – Review license terms and conditions to ensure proper protection of Government’s legal interests and use of appropriate legal authority.