

**VOLUME 12, CHAPTER 14: “TRANSFERRING, DISPOSING, AND LEASING OF REAL PROPERTY AND PERSONAL PROPERTY”**

**SUMMARY OF MAJOR CHANGES**

All changes are denoted by **blue font**.

Substantive revisions are denoted by an asterisk (\*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue, and underlined font**.

The previous version dated **June 2009** is archived.

<b>PARAGRAPH</b>	<b>EXPLANATION OF CHANGE/REVISION</b>	<b>PURPOSE</b>
140102	Revised the Authoritative Guidance section.	Revision
140201	Updated conditions for leases of non-excess property under Title 10, United States Code, section 2667 (10 U.S.C. § 2667).	Revision
140202	Added clarification for leases of non-excess property. Revised and updated the use of proceeds from leases of DoD Real and Personal Property under 10 U.S.C. § 2667.	Addition
Table 14-1	Deleted the United States Department of the Treasury (Treasury) Fund Symbol 5188.097 from Table 14-1 to coincide with the most recent Treasury Federal Account Symbols and Titles Book as of June 2018.	Deletion
140205	Added guidance for receiving, reporting and accounting for In-Kind Consideration for leases.	Addition
140301	Revised guidance on Reports to Congressional Committees.	Revision
140302	Added section on reporting requirements under 10 U.S.C. § 2662.	Addition

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## CHAPTER 14

TRANSFERRING, DISPOSING, AND LEASING OF REAL PROPERTY AND  
PERSONAL PROPERTY

## 1401 GENERAL

## 140101. Purpose

This chapter provides financial policy for the disposal, transfer, and leasing of real property, and the transfer and lease of personal property. Financial policy for the disposal of personal property are addressed in Volume 11A, Chapter 5.

\*140102. [Authoritative Guidance](#)

A. Title 40, United States Code, section 572(b) ([40 U.S.C. § 572\(b\)](#)), “Real Property,” applies to real property, including any improvement on the property, that is under the control of a Military Department and that the Secretary of the Department determines is excess to the Department’s needs. [10 U.S.C. § 2667](#), “Leases: non-excess property of Military Departments and Defense Agencies,” governs leases of Department of Defense (DoD) real and personal property. Sections 572(b) and 2667 require that proceeds received from the transfer or disposition or lease of real and personal property controlled by the Military Departments must be deposited into special accounts established by the United States Department of the Treasury (Treasury) for that Secretary. [10 U.S.C. § 2687](#), “Base closures and realignments”, requires that proceeds from the lease, transfer, or disposal of any property at a military installation that is closed or realigned be deposited into accounts established by Treasury.

B. Unless otherwise stated, the provisions of this chapter do not apply to:

1. The disposition of proceeds from the sale of surplus personal property. (See Volume 11A, Chapter 5.)
2. Property at a military installation designated for closure or realignment under 10 U.S.C. § 2687. (See Volume 12, Chapter 13.)
3. Damaged or deteriorated military family housing (see [10 U.S.C. § 2854a](#), “Conveyance of damaged or deteriorated military family housing; use of proceeds”).
4. The lease of defense articles in the stocks of DoD to an eligible foreign country or international organization under [22 U.S.C. § 2796](#).
5. Transfer of defense articles to Iraq under the National Defense Authorization Act for Fiscal Year 2008 ([Public Law 110-181](#), section 1228).
6. Proceeds from the disposal of property received as gifts under [10 U.S.C. § 2601](#) (see Volume 12, Chapter 30).

## 1402 POLICY

## \*140201. Leases: Non-excess Property and Personal Property

A. The Secretary of a Military Department is allowed to lease non-excess real and personal property under its control that is not needed for a public use for the time that it is leased in accordance with 10 U.S.C. § 2667. Section 2667 provides the same authority to the Secretary of Defense (SECDEF) with respect to property under the control of a Defense Agency. Throughout this chapter, the term “Secretary concerned” will mean the Secretary of a Military Department, with respect to matters concerning that Military Department; and the SECDEF, with respect to matters concerning the Defense Agencies.

B. Leases for non-excess property may be accepted under the following conditions:

1. The lease is not more than five years, unless the Secretary concerned determines to be in the public interest.

2. The lease has a provision that it may be revoked at any time. If the lease is revoked to sell the property, the lessee may be given first option to buy.

3. The payment (in cash or In-Kind) is not less than the fair market value.

4. The lease may not provide for a leaseback payment by the Secretary concerned or DoD of more than \$500,000 per year.

5. All fees received from such leases (other than from leases of property at a military installation designated for closure or realignment) must be deposited into a special Treasury account established for that Secretary.

6. The proceeds deposited in the special account established for the Secretary concerned must be available to that Secretary and distributed by the Office of the Under Secretary of Defense (Comptroller), Program/Budget (OUSD(C)/PB) consistent with appropriation law. See paragraph 140202.

7. This section does not apply to oil, mineral, or phosphate lands.

C. Repeal of 10 U.S.C. § 2667a. The Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 repealed 10 U.S.C § 2667a, “Leases: non-excess property of Defense agencies” (see [Public Law 110-417](#), section 2812). This authority is now incorporated into 10 U.S.C. § 2667, as revised, and that section now covers leases by both military services and Defense Agencies. In addition:

1. The repeal of 10 U.S.C. § 2667a does not affect the validity or terms of any lease with respect to property of a Defense Agency entered into by the SECDEF under 10 U.S.C. § 2667a.

2. Amounts deposited in a special account established for a Defense Agency pursuant to 10 U.S.C. § 2667a before repeal and amounts that would be deposited in connection with outstanding leases:

a. Remain available until expended for the purposes specified in section 2667a, specifically, solely for the maintenance, repair, restoration, or replacement of the leased property; or

b. To the extent provided by appropriations law, must be transferred to the special account described in paragraphs 140202 and 140203.

**D. Easements for Rights-of-Way.** 10 U.S.C. § 2668 allows the Secretary of a Military Department to grant easements for rights-of-way over, in, and upon public lands under the Secretary's control. This authority is available provided the Secretary of that Military Department finds that the easement will not be against the public interest.

1. The easement may be made upon such terms as the Secretary considers advisable. The authorized purposes of the easement are listed in 10 U.S.C. § 2668(a).

2. Proceeds and In-Kind consideration received from the granting of easements will be accounted for in the manner specified for leases of DoD property in 10 U.S.C. § 2667. See paragraphs 140202 and 140203.

**E. Natural Resource Conservation.** 10 U.S.C. § 2694a allows the Secretary of a Military Department to convey certain surplus real property for purposes of natural resource conservation.

1. Surplus property that may be conveyed under this authority is limited to property that:

a. Is under the administrative control of the Secretary;

b. Is suitable and desirable for conservation purposes;

c. Has been made available for public benefit transfer for a sufficient period of time to potential claimants; and

d. Is not subject to a pending request for transfer to another Federal agency or for conveyance to any other qualified recipient for public benefit transfer under the real property disposal processes and authorities in 40 U.S.C. § 550, "Disposal of real property for certain purposes."

2. Entities eligible to receive surplus property for purposes of natural resource conservation are limited to states, political subdivisions of a state; and nonprofit organizations that exist for the primary purpose of conservation of natural resources on real property.

**\*140202.** Accounting Procedures for Leases of Real and Personal Property

**A.** Deposit of Funds. Funds received from the lease or easement of real and personal property under 10 U.S.C. § 2667 and 10 U.S.C. § 2668 (other than from leases of property at a military installation designated for closure or realignment) **must** be deposited into the special fund Treasury receipt account, net of amounts paid for utilities and services furnished to lessees.

**B.** Services Furnished to Lessees. Payments for utilities and services furnished lessees pursuant to leases **must** be treated as a normal reimbursable transaction with funds credited to the appropriation account or **working capital fund** from which the cost of furnishing the utilities and services was paid.

**C.** Designated Purposes. Funds deposited in account 5189 **must** be available to the Secretary concerned for expenditure to the extent provided for in appropriation acts, for the following:

1. Maintenance, protection, alteration, repair, improvement, or restoration (including environmental restoration) of property or facilities.

2. Construction or acquisition of new facilities.

3. Lease of facilities.

4. **Payment of utility services.**

5. **Real Property maintenance services**

**D.** Use of Proceeds

1. At least 50 percent of the funds deposited **must** be available for the designated purposes at the military installation or Defense Agency location where **the proceeds were derived.**

2. **If funds deposited for designated purposes are derived from activities associated with a military museum those proceeds must be available for that museum.**

3. The remainder of the funds deposited **must** be available to the Secretary concerned for the designated purposes **as described in subparagraph 140202.C.**

E. Agricultural and Grazing. Money rentals received related to a lease for agricultural or grazing purposes may be retained and spent by the Secretary concerned to cover the administrative expenses of agricultural or grazing leases and to cover the financing of multiple-land use management programs at any installation under the jurisdiction of the Secretary. This provision does not apply to lands acquired by the United States for flood control or navigation purposes or any related purpose, including the development of hydroelectric power.

F. Leases under 10 U.S.C. § 2667a. The provisions of this paragraph apply to the proceeds from leases of Defense Agency property under 10 U.S.C. § 2667a (repealed October 2008) only to the extent provided by appropriation law. Otherwise, such proceeds may be used only for costs related to the leased property. See subparagraph 140202.C. The repeal of this section, does not affect the validity or terms of any lease with respect to property of a Defense Agency entered into by the SECDEF before the repeal date of October 14, 2008.

G. Accounting Entries. The value of lease payments received and payments for services provided will be recognized as revenue. The accounting entries for the recognition of revenue are specified in the United States Standard General Ledger (USSGL), Standard Financial Information Structure (SFIS) Transaction Library, primarily in Category C, “Collections and Receivables.”

H. Appropriation Authority. Per section 8034 of the Fiscal Year 2005 DoD Appropriations Act, Public Law 108-287, amounts deposited in special accounts established pursuant to 40 U.S.C. § 572 and 10 U.S.C. § 2667 during fiscal year 2005 and in subsequent years remain available until transferred by the SECDEF to current applicable appropriations, at which point they are available for the same time period and the same purposes as the appropriation to which transferred.

#### 140203. Special Treasury Fund for the Proceeds of Sale and Lease

A. Requirements. The special funds are to be established and operated under the provisions of Volume 12, Chapter 1. The special funds designated by the Treasury for use in connection with 40 U.S.C. § 572 and 10 U.S.C. § 2667, are Treasury Fund Symbols 5188, “Disposal of DoD Real Property,” and 5189, “Lease of DoD Real Property.” These Federal account symbols have been established as no year accounts. These Funds and applicable point accounts are listed in Table 14-1.

\*Table 14-1. Special Treasury Funds Designated

<b>Special Funds Designated for the Proceeds of Sale and Lease of DoD Property</b>	
<b>Treasury Fund Symbol</b>	<b>Description</b>
5188.017	Disposal of Department of Defense Real Property for Navy
5188.021	Disposal of Department of Defense Real Property for Army
5188.057	Disposal of Department of Defense Real Property for Air Force
5189.017	Lease of Department of Defense Real Property for Navy
5189.021	Lease of Department of Defense Real Property for Army
5189.057	Lease of Department of Defense Real Property for Air Force

**B. Purposes**

1. 40 U.S.C. § 572. Any net proceeds (gross proceeds less expenses of transferring or disposing of the property) received from the transfer or disposal of real property under 40 U.S.C. § 572 **must** be deposited into special fund Treasury receipt account 5188, “Disposal of DoD Real Property,” with point accounts as listed in Table 14-1. See paragraph 140202 for the appropriate accounting treatment.

2. 10 U.S.C. § 2667(e)(1)(A). Funds received from leases of real property entered into pursuant to 10 U.S.C. § 2667 **must** be deposited into the special fund Treasury receipt account 5189, “Lease of DoD Real Property,” with point accounts as listed in Table 14-1. Funds received from leases of personal property **must** also be deposited into the special fund Treasury receipt account 5189, “Lease of DoD Real Property.” See paragraph 140202 for the appropriate accounting treatment.

**140204. Acceptance of Funds to Cover Administrative Expenses**

A. In connection with real property transactions with nonfederal persons or entities, 10 U.S.C. § 2695 states: “...the Secretary of a Military Department may accept amounts provided by the person or entity to cover administrative expenses incurred by the Secretary in entering into the transaction.” Acceptance of funds applies to the following transactions:

1. The exchange of real property;
2. The grant of an easement over, in or upon real property of the United States;
3. The lease or license of real property of the United States;
4. The disposal of real property of the United States for which the Secretary will be the disposal agent; or
5. The conveyance of real property under 10 U.S.C. § 2694a.



B. Amounts collected for administrative expenses **must** be credited to the appropriation, fund or account from which the expenses were paid. The amounts credited **must** be merged with funds of an identical appropriation, fund or account and **must** be available for the same purposes and subject to the same limitations as these funds.

C. Accounting Entries. Funds received to cover administrative expenses will be recognized as revenue. Standard accounting entries are specified in the USSGL SFIS Transaction Library.

\*140205. Leases: In-Kind Consideration

A. Acceptance of In-Kind Consideration. Generally, the receipt of cash is the preferred form of consideration for leases of building and property of the Federal Government per 40 U.S.C. § 1302. In some cases, under 10 U.S.C § 2667, as payment of part or all of the consideration for the lease, the terms of the lease may provide for the alteration, repair, or improvement, by the lessee, of the property leased.

B. Types of In-Kind Consideration. In-Kind consideration fall into two categories: construction or maintenance of real property, and the reduction of expenses.

1. Real Property In-Kind Consideration involves:

a. Alteration, repair, or improvement of property leased in-lieu-of rental payments.

b. Maintenance, protection, alteration, repair, improvement, or restoration (including environmental restoration) of property or facilities under the control of the Secretary concerned.

c. Construction of new facilities for the Secretary concerned.

2. Expense-type In-Kind Consideration involves:

a. Provision of facilities for use by the Secretary concerned.

b. Provision or payment of utility services for the Secretary concerned.

c. Provision of real property maintenance services for the Secretary concerned.

d. Provision of such other services relating to activities that will occur on the leased property as the Secretary concerned considers appropriate.

Expense-type In-Kind Consideration results in revenue recognition equal to the operating expenses that are avoided because of receiving the In-Kind contribution.

C. Accounting for In-Kind Consideration

1. Real Property In-Kind Consideration. SFFAS No. 7, “Accounting for Revenue and Other Financial Sources and Concepts for Reconciling Budgetary and Financial Accounting”, paragraph 36(d) states:

a. “Revenue from specific types of exchange transactions should be recognized as follows: When services are rendered continuously over time or the right to use an asset extends continuously over time, such as the use of borrowed money or the rental of space in a building, the revenue should be recognized in proportion to the passage of time or the use of the asset.”

2. Accounting Entries. The accounting entries for In-Kind revenue earned are not yet defined in the USSGL SFIS Transaction Library. The USSGL SFIS Transaction Library acknowledges that there are valid accounting events/postings not yet documented. To recognize revenue earned and capitalized assets received, the accounts detailed in Table 14-2 **must** be used:

Table 14-2. USSGL Accounts for Leases with In-Kind Consideration

Entry	Account	Account Description	Comments
Debit	101000	Fund Balance with Treasury	For cash received from lessee
Debit	131000	Accounts Receivable	For lease payments due from lessee
Debit	1xxxxx	Appropriate asset account(s)	For capitalized assets received from or constructed by lessee
Debit	679000	Other Expenses Not Requiring Budgetary Resources	For In-Kind services and non-capitalizable assets received from lessee
Credit	520000	Revenue From Services Provided	For the full value services provided

## 140206. Transfers of DoD Real Property

A. In accordance with 40 U.S.C. § 572(b) Real property and related improvements under the control of a Military Department (other than property at a military installation designated for closure or realignment) that are determined by the Secretary of the Military Department to be excess to the needs of that Department **must** be made available for transfer without reimbursement to other Military Departments. If the property is not transferred to another Military Department, the Secretary of the Military Department **must** request the Administrator of the General Services Administration (GSA) to transfer or dispose of such property in accordance with applicable laws.

B. Any proceeds generated from transfer or disposition of property will be deposited into a special account in the Treasury. Funds deposited into the special account will be distributed to the Military Department(s) by the OUSD(C)/PB consistent with applicable appropriation law to include an amount for facility maintenance and repair or environmental restoration as stated in 40 U.S.C. § 572(b).

C. If a Military Department determines that real property and related improvements under its control (other than property at a military installation designated for closure or realignment) are excess to its needs and are available for transfer to another Military Department, the transfers will be made on a non-reimbursable basis.

D. Both the losing and gaining Military Departments will recognize the transfer of real property in the accounting records. The value of the transfer is the net book value of the assets (acquisition cost of the real property plus the cost of capitalized improvements less accumulated depreciation). If the net book value of the property is not known or cannot be determined, the fair market value at the time of the transfer may be used. The same amount of the transfer must be used by both parties. Detailed explanations for property and fiscal accountability are required as supporting footnotes to the accounting entries.

E. The accounting entries for transfers between DoD components without reimbursement are standard transactions E510 and E606 specified in the USSGL SFIS Transaction Library.

F. The DoD (DD) Form 1354, "Transfer and Acceptance of DoD Real Property," is used to document the transfer of real property between DoD Components.

#### 140207. Disposal of DoD Real Property

A. Sale by GSA. If real property is not transferred to another Military Department, the SECDEF must request that the GSA Administrator dispose of such real property in accordance with the provisions of applicable laws. See [DoD Instruction 4165.72](#), "Real Property Disposal" for additional information.

B. Deposit of Proceeds. Any consideration (money) received must be deposited directly into the special fund Treasury receipt account 5188 with the point account specified in Table 14-1. The explanation for this transaction is as follows: to record the disposition of real property located at (include a full description and the Real Property Universal Identifier number). Monies received were deposited into the special fund account 5188.xxx, "Disposal of DoD Real Property," under cash voucher #\_\_\_\_\_ in accordance with 40 U.S.C. § 572.

C. Availability of amount deposited. To the extent provided in an appropriation act, an amount deposited in a special account from the disposal of property is available for facility maintenance and repair or environmental restoration as follows:

1. In the case of property located at a military installation that is closed, the amount is available for facility maintenance and repair or environmental restoration by the Military Department that had jurisdiction over the property before the closure of the military installation.

2. In the case of property located at any other military installation:

a. Fifty percent of the amount is available for facility maintenance and repair or environmental restoration at the military installation where the property was located before it was disposed of or transferred; and

b. Fifty percent of the amount is available for facility maintenance and repair and for environmental restoration by the Military Department that had jurisdiction over the property before it was disposed of or transferred.

D. Accounting Entries. The accounting entries for disposal of real property are specified in the USSGL SFIS Transaction Library, primarily in Category C, "Collections and Receivables" and Category D, "Adjustments, Write-offs and Reclassifications."

#### 1403 REPORTING REQUIREMENTS TO CONGRESS

##### \*140301. Reporting and Notification

A. 40 U.S.C. § 572(b)(6). As part of the annual request for authorization of appropriations to the Committees on Armed Services of the Senate and the House of Representatives, the Department must include an accounting of each transfer and disposal of real property made during the fiscal year proceeding the fiscal year in which the request is made. This summary must include a detailed explanation of such disposal and the use of the proceeds received.

B. 10 U.S.C. § 2662(a). includes specific reporting requirements for leases in which the Secretary of a Military Department or, with respect to a Defense Agency, the SECDEF may not enter into any transactions by or for the use of that department until the Secretary concerned submits a report to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives. These reporting requirements are discussed in detail in paragraph 140302.

C. 10 U.S.C. § 2667(h). When a proposed lease involves only personal property, the lease term exceeds one year, and the fair market value of the lease consideration exceeds \$100,000:

1. This paragraph C does not apply if the Secretary concerned determines that:

a. A public interest will be served as a result of the lease; and

b. the use of competitive procedures for the selection of certain lessees is unobtainable or not compatible with the public benefit served under item (a).

2. Not later than 45 days before entering into a lease, the Secretary concerned **must** submit to Congress written notice describing the terms of the proposed lease to include:

a. The competitive procedures used to select the lessee; or

b. in the case of a lease involving the public benefit exception authorized by 10 U.S.C. § 2667(h) (2) and the description of the public benefit to be served by the lease.

3. The reporting requirement described in this paragraph does not apply to renewal or extension of a certain leases by the Secretary of the Navy for operation of a ship within the University National Oceanographic Laboratory System. See 10 U.S.C. § 2667(h)(3) for the specific terms of this exception.

D. 10 U.S.C. § 2668. Copies of instruments granting easements over public lands **must** be furnished to the Secretary of the Interior.

\*140302. Reporting under 10 U.S.C. § 2662

A. Under 10 U.S.C. § 2662, the Secretary concerned must submit a report to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives before entering into an acquisition, lease, license, or easement of real property owned by the United States (other than a lease or license entered into under Base Closure and Realignment Property), if the estimated price or annual fair market rental value of the property is more than \$750,000.

B. Reporting notifications under 10 U.S.C. § 2662 does not apply to any new facilities whose construction is accepted as In-Kind consideration. The Secretary concerned must notify Congress of the proposed lease before (1) issuing a contract solicitation or other lease offering with regard to the transaction; and (2) providing public notice regarding any meeting to discuss a proposed contract solicitation with regard to the transaction. The contents of this public notification are specified in 10 U.S.C. § 2662(b)(2). Specifically, the notification must include the following with regard to the proposed lease:

1. A description of the proposed transaction, including the proposed duration of the lease;

2. A description of the authorities to be used in entering into the transaction;

3. A statement of the scored cost of the entire transaction, determined using the scoring criteria of the Office of Management and Budget;

4. A determination that the property involved in the transaction is not excess property, as required by 10 U.S.C. § 2667 (a)(3), including the basis for the determination;

5. A determination that the proposed transaction is directly compatible with the mission of the military installation at which the property is located and a description of the anticipated long-term use of the property at the conclusion of the lease;

6. A description of the requirements or conditions within the contract solicitation or other lease offering for the person making the offer to address taxation issues, including payments in-lieu-of taxes, and other development issues related to local municipalities; and

7. If the proposed lease involves a project related to energy production, a certification by the SECDEF that the project, as it will be specified in the contract solicitation or other lease offering, is consistent with the DoD performance goals and plan required by 10 U.S.C. § 2911.

C. 10 USC 2662 Notification. The Secretary concerned may not enter into the actual lease with respect to property for which the information required by 10 U.S.C. § 2662(b)(2) (see 140301.B) was submitted in a report to Congress unless the Secretary again complies with these notice-and-wait requirements. The subsequent report to Congress must include the following with regard to the proposed transaction:

1. A cross reference to the prior report that contained the information submitted under 10 U.S.C. § 2662(b)(2) with respect to the transaction;

2. A description of the differences between the information originally submitted under 10 U.S.C. § 2662(b)(2) and the information regarding the transaction being submitted in the subsequent report;

3. A description of the payment to be required in connection with the lease, license, or easement including a description of any In-Kind consideration that will be accepted;

4. A description of any community support facility or provision of community support services under the lease, license, or easement, regardless of whether the facility will be operated by a covered entity (as defined in 10 U.S.C. § 2667(d)) or the lessee or the services will be provided by a covered entity or the lessee; and

5. A description of the competitive procedures used to select the lessee or, in the case of a lease involving the public benefit exception authorized by 10 U.S.C. § 2667 (h)(2), a description of the public benefit to be served by the lease.