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Air Force Base Conversion Agency  
***BRAC 95 Base Conversion Process***  
***Workshop***

**Economic Development Conveyances**



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# Economic Development Conveyances [Block 7]

## OBJECTIVE

- Provide attendees with up-to-date information on procedures for Economic Development Conveyances (EDCs)

## OUTCOME

- Attendees will be familiar with the relevant requirements and provisions of an Economic Development Conveyance including:
  - > Basic contents of an EDC application
  - > Review criteria for EDCs
  - > Financing options available for EDCs



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### Quiz—Economic Development Conveyances

1. What must an application for an EDC contain?
2. What criteria will be used to determine the discount of an EDC?
3. What is the reimbursement (to the Air Force) required for Economic Development Conveyances?
4. Which of the following financing arrangements could be considered a discounted EDC?
  - a) Lump-sum payment of fair market value at property transfer
  - b) Payment of fair market value in yearly installments over 10 years
  - c) Payment of fair market value over 30 years at 2% interest
  - d) Reimbursement to the Air Force of fair market value as property is resold
5. True or false: All rural bases are eligible for a no-cost EDC.
6. Under what circumstances might a negotiated sale or a public airport conveyance be preferable to an EDC?
7. Can a private-sector property developer obtain an EDC?

## Economic Development Conveyances— Background

- **President’s Plan for Revitalizing Base Closure Communities**
  - **Jobs-Centered Property Disposal is the key**
- **Pryor Amendments (Title XXIX of NDAA 94)**
  - **Provide for conveyances to LRA at or below FMV**
    - Finding as to why other conveyance options “cannot occur”
    - Finding of Fair Market Value and why it was not obtained
  - **“Public benefit conveyance for economic development purposes”**
  - **6 April 1994 interim final rule;  
26 October 1994 interim final rule;  
20 July 1995 final rule**
  - ***Base Reuse Implementation Manual***



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*References: DBCRA 90 § 2905(b)(4); 32 CFR § 91.7(e) & (f); Base Reuse Implementation Manual, Chapter 7*

## Summary Economic Development Conveyances

- **Conveyance at or below fair market value**
- **Property valuation by Air Force**
- **LRA is only eligible recipient**
- **LRA eligibility determined via application process**
- **Specific application review criteria**
- **Ability to negotiate flexible payment terms and conditions**
- **No-cost conveyance available in certain cases**



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References: DBCRA 90 § 2905(b)(4); 32 CFR § 91.7(e) & (f); Base Reuse Implementation Manual, Chapter 7

## Economic Development Conveyances— Application

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- **Include adopted redevelopment plan**
- **Parcel size and intended uses**
- **Impact of closure on community and financial conditions**
- **Job creation strategy**
- **Market analysis and business plan (to help determine financial feasibility)**
- **Statement of why conveyance is needed and why other disposal authorities cannot be used**
- **Justification for discount, if appropriate**
- **Statement of authority to acquire property**



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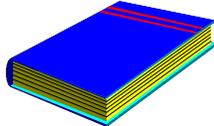
*References: DBCRA 90 § 2905(b)(4); 32 CFR § 91.7(e) & (f); Base Reuse Implementation Manual, Chapter 7*

## Economic Development Conveyances— Property Valuation



■ **Key to successful EDC**

■ **Cooperative effort  
(LRA and Air Force)**



■ **Based on uses in  
redevelopment plan**



■ **Realistic assumptions**

■ **May be range of values**



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The key to a successful EDC is a proper valuation of the property. This must be done in a cooperative fashion, with both the LRA and the Air Force using realistic valuation assumptions that are right for the local marketplace.

Title XXIX requires that the Secretary of the Air Force determine the estimated fair market value of the property before conveying property through an EDC. For an EDC, the estimated fair market value shall be based, to the extent practicable, upon the uses provided in the local redevelopment plan. The Air Force should consider using the LRA's estimation of value contained in the EDC application as a basis for its valuation analysis.

Valuation Assumptions—The LRA and the Air Force should discuss valuation assumptions as early in the process as possible and are encouraged to seek agreement on the assumptions underlying the valuation. When designing specific valuation assumptions for each installation, the following factors should be considered:

- Market absorption rates for the different types of land use in the plan
- Base rental/sale income at the base year for types and classes of property and a rate of inflation
- Cost of infrastructure improvements needed to meet state and local codes and meet market demands to arrive at the target rent/sale price
- Maintenance costs before sale/lease
- Applicable discount and capitalization rates

The estimation of value may be expressed as a range of values. A copy of the valuation assumptions and instructions given to the person(s) responsible for completion of the valuation will be provided to the LRA.

In most cases, because of the lack of comparable sales for properties the size and complexity of EDC transactions and the physical obsolescence of many military buildings, a standard real estate appraisal using the comparable or cost approach to value may not be possible or appropriate. Therefore, the income approach to valuation will probably be the preferred approach. The elements of the income approach, projecting net operating income based on market assumptions and selecting a capitalization rate, can be used as part of the process in determining value for an EDC, and will normally be a central element in the business and development plan. Fair market value should be estimated in terms of its present value, not its value after development. Therefore, the valuation process should identify current and projected market rents for the uses defined in the Redevelopment Plan or create rental income assumptions to be used in determining fair market value. The capitalization rate chosen should also be a function of rates of return in the present-day marketplace adjusted for risk. The fair market value then becomes a function of the economic value, derived from the projected net operating income and the capitalization using present-day market and absorption assumptions. The fair market value then is the economic value minus the cost to cure the physical and infrastructure obsolescence of the base to make the space and land usable in present-day market conditions.

References: DBCRA 90 § 2905(b)(4); 32 CFR § 91.7(e) & (f); Base Reuse Implementation Manual, Chapter 7

## Economic Development Conveyances— Review Factors

- **Impact of closure**
- **Job creation**
- **Consistency with redevelopment plan**
- **Feasibility of development**
- **Local investment and risk**
- **Local real estate market**
- **Federal agency interests/concerns**
- **Relationship to Air Force disposal plan**
- **Economic benefit to government (including operation and maintenance cost savings)**
- **Compliance with applicable laws**

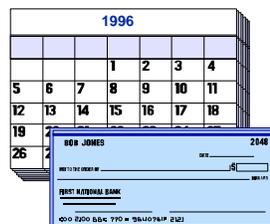


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*References: DBCRA 90 § 2905(b)(4); 32 CFR § 91.7(e) & (f); Base Reuse Implementation Manual, Chapter 7*

## Economic Development Conveyances— Flexible Terms

- **Agreement to pay FMV**
  - > **Up front or over time**
    - Mortgages, participation agreement, soft seconds
    - **Time value of money**
- **Discounted Conveyance**
  - > **If business plan shows discount is needed for economic redevelopment and job creation**
  - > **Up front or over time**
    - Mortgages, participation agreement, soft seconds
- **No cost for rural areas with substantial adverse impact**



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EDCs may be made for consideration equal to the fair market value of the property or, with sufficient justification, at a discount. Payment of the agreed-upon amount may be made either at the time of the property conveyance or over time.

If payment is to be deferred or to be made over time, the payment schedule should reflect the time value of money through the use of a realistic inflation rate. A reduction or waiver of such an inflation rate will be considered to be a discount and must be appropriately justified.

Any discount must be justified as necessary for economic development and job creation. In addition, bases in rural areas (outside a Metropolitan Statistical Area) that can demonstrate a substantial, adverse impact from the closure are eligible to receive an EDC at no cost.

Within these parameters, payment of an EDC can be made upon any terms that are mutually agreeable and acceptable to the Air Force.

*References: DBCRA 90 § 2905(b)(4); 32 CFR § 91.7(e) & (f); Base Reuse Implementation Manual, Chapter 7*

## Economic Development Conveyances— Financing Options

- **Cash at time of transfer**
- **Deferred payment**
- **Subordinated mortgages**
- **Cash-flow participation**



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Financing of an EDC can be achieved through a variety of mechanisms, including:

- Full payment in cash at the time the conveyance is executed;
- Deferral of payment, as documented in a note between the LRA and the Air Force;
- Subordinated mortgages (in which the Air Force or other mortgage holder agrees to assume a junior lienholder position in order to attract other investors/mortgage holders);
- Participation by the Air Force in the cash flow of the redevelopment, such that the Air Force receives a percentage of the LRA's income (partnership model), payment from net proceeds realized from property resale (net profit model), or payment from cash invested by other partners (syndication model).

*Reference: Base Reuse Implementation Manual, Chapter 7*

## EDCs vs. Public Airport Conveyances



Since Economic Development Conveyances (EDCs) can only be used when another conveyance method “cannot occur,” an EDC application must justify the use of the EDC based on untenable provisions of other conveyance methods. The next three pages compare the relevant terms and conditions of EDCs with those of three other conveyance methods (public airports, ports, and negotiated sales); property uses that can be accommodated through the other conveyance methods are not appropriate for an EDC.

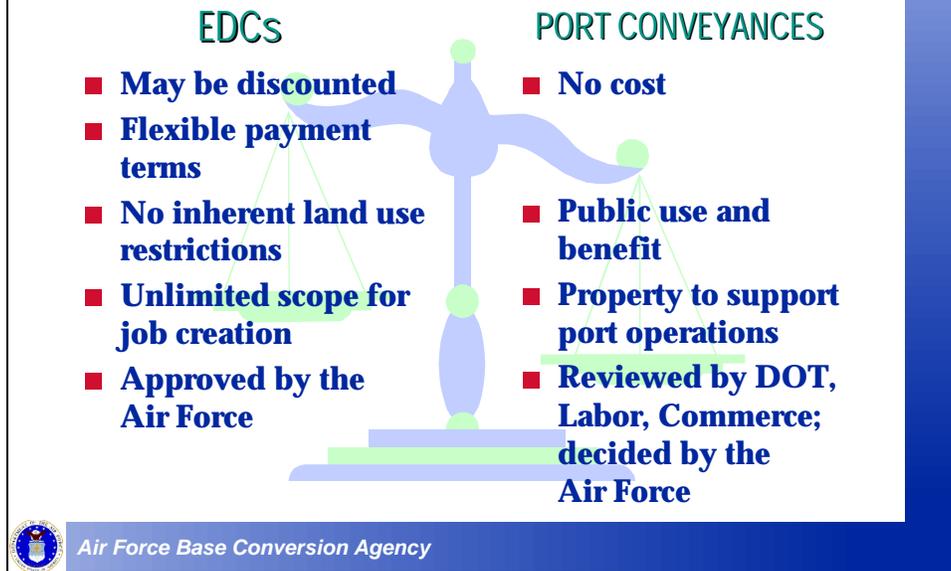
EDCs and public airport conveyances differ in several significant ways:

- EDCs may be discounted, if proper justification is provided in the application; public airport conveyances are at no cost;
- EDCs entail no use restrictions for the real property but certain use restrictions apply to the personal property; public airport conveyances require that the property continue to be used for a public airport;
- An EDC can include as much property as the LRA is able to acquire, whereas a public airport conveyance may only include the airfield and sufficient non-aviation revenue-generating property to support airfield operations;
- The Air Force has authority to approve EDCs; the Federal Aviation Administration must review the application and airport layout plan for a public airport conveyance and make a recommendation to the Air Force, which retains final authority to execute the conveyance (although a public airport conveyance cannot be made without a positive recommendation from FAA).

### **References:**

**EDCs**—DBCRA 90 § 2905(b); 32 CFR § 91.7(e) & (f); *Base Reuse Implementation Manual*, Chapter 7  
**Public Airport Conveyances**—Surplus Property Act, § 13(g) (49 U.S.C. §§ 47151–47153); 41 CFR § 101-47.308-2

## EDCs vs. Port Conveyances



Economic Development Conveyances (EDCs) and port conveyances also differ in several ways:

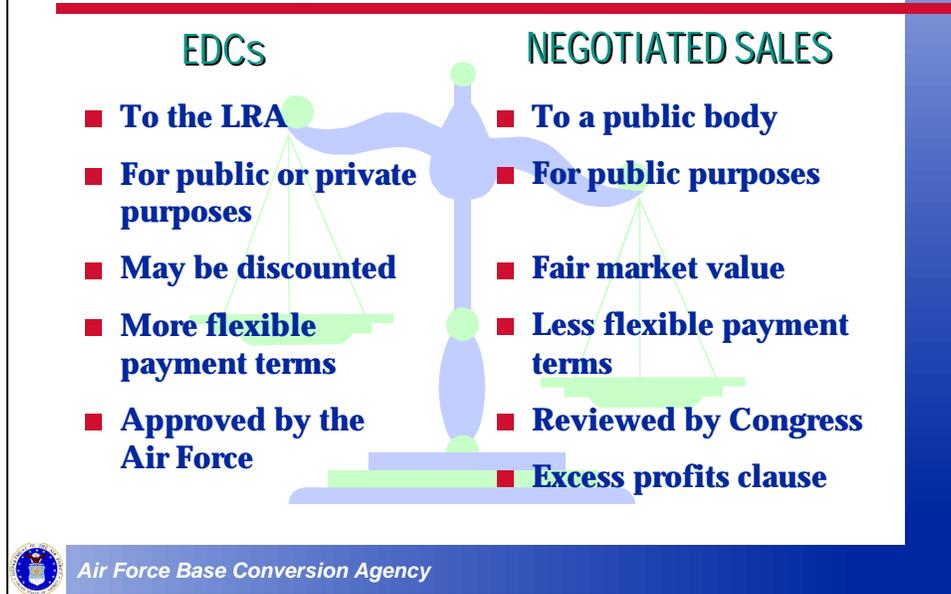
- EDCs may be discounted, if proper justification is provided in the application; port conveyances are at no cost;
- EDCs entail no use restrictions for the real property but certain use restrictions apply to the personal property; port conveyances require that the property continue to be used for public use and benefit, although commercial operations are not restricted;
- An EDC can include as much property as the LRA is able to acquire, whereas a port conveyance may only include the property needed for development or operation of the port facility;
- The Air Force has authority to approve EDCs; the Department of Transportation (DOT), in consultation with the Departments of Labor and Commerce, must review the application and port facility redevelopment plan for a port conveyance and make a recommendation to the Air Force, which retains final authority to execute the conveyance by assigning the property to DOT (although a port conveyance cannot be made without a positive recommendation from DOT).

### **References:**

**EDCs**—DBCRA 90 § 2905(b); 32 CFR § 91.7(e) & (f); *Base Reuse Implementation Manual*, Chapter 7

**Port Conveyances**—Federal Property and Administrative Services Act, § 203(q) (40 U.S.C. § 484(q)); 41 CFR § 101-47.308-10; 46 CFR 387

## EDCs vs. Negotiated Sales



There are several important differences between Economic Development Conveyances (EDCs) and negotiated sales:

- EDCs may only be granted to an LRA, while a negotiated sale can be used for any eligible public body;
- EDCs may be discounted, if proper justification is provided in the application; negotiated sales must recover the property's fair market value;
- An application for an EDC must be approved by the Air Force; terms of a negotiated sale may be determined jointly by the purchaser and the Air Force, but are subject to review by Congressional committees;
- Negotiated sales require inclusion of an excess profits clause to recover for the government any profits realized from resale of the property; EDCs require no similar provision.

**References:**

**EDCs**—DBCRA 90 § 2905(b)(4); 32 CFR § 91.7(e) & (f); *Base Reuse Implementation Manual*, Chapter 7

**Negotiated Sales**—Federal Property and Administrative Services Act, § 203 (40 U.S.C. § 484(e)(3)(H)); 41 CFR § 101-47.304

## AFBCA's EDC Process

### 1 Preliminary AFBCA planning

- > AFBCA peer review
- > Review of policy, LRA discussions
- > Strategy formulation

### 2 Concept meeting with LRA

- > Tentative schedule

### 3 LRA's draft application

- > PM presents application for corporate review (include ASD(ES)/OEA representative)
- > Letter to LRA within 30 days

### 4 Negotiation of agreement in principle on "guts of the deal"



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- 1 During the disposal planning process the expectations and interests of the LRA will become apparent. These expectations and interests, together with Air Force disposal plans, should be reviewed internally by AFBCA in light of recent EDC experience, current policy, and site-specific considerations. An overall strategy should be formulated considering value and price issues, financial terms to preserve the Government's security interest, and the properties considered for the EDC. These and other critical issues need to be openly discussed to establish direction. AFBCA specialized EDC legal and real estate support will be matrixed into the integrated Regional EDC team.
- 2 A concept meeting with the LRA should be held to discuss the optimal mix of disposal options for maximizing job-creating economic redevelopment. An EDC may be appropriate as one of the conversion tools. The criteria for approval of an EDC should be carefully explained to avoid submission of an unrealistic EDC application. You need to understand the preliminary EDC plans of the LRA and hopefully reach a consensus on its application to the specific installation. A mutual understanding of the process and timing should be reached. Most importantly, we need to point the community in the direction of an acceptable proposal. This can eliminate much frustration. You can help the LRA prepare its application by providing information and program guidance. You need to advise them of institutional sensitivities and where there are potential difficulties or they face high hurdles. The goal should be mutually established to prevent surprises. General areas of agreement or the areas requiring negotiations can be identified.
- 3 The LRA should be encouraged to submit a draft application for AFBCA review. This can save time, money, and leaves ample negotiating room before final positions are established. The EDC process calls for an application to be followed by negotiations until a proposal can be ratified and the deal struck. The Division can begin negotiations after the draft application is received and the AFBCA corporate strategy for the particular EDC is developed. This is done by the Region representing the key points of the draft EDC proposal, "the guts of the deal", to the Director in open corporate review. The briefing should be for either securing the Director's approval in principle or agreement on the negotiating strategy and any proposed counter offer. If the proposal is not firm, the technical difficulties and the areas in which AFBCA can find agreement, and any open issues, should be addressed in a letter to the LRA. In all cases AFBCA policy, based on DoD's expectations, is for a DR letter be sent within 30 days of receipt of the draft application. If the transaction is firm and close to final form SAF/MI can be briefed. Our ASD(ES) OEA representative should be invited to the SAF/MI briefing. This representative is a member of our strategy and negotiating corporate team and can provide a valuable service in consultation with our matrixed EDC Regional team and in coordinating with ASD(ES) throughout the entire process.
- 4 The results of step three should form the basis for concluding the final negotiated agreement. This is the negotiating phase. As needed, AFBCA corporate review is part of the negotiating process to develop timely and effective policies and strategies for resolving issues. It is important to understand that negotiations will occur within the AFBCA approved range or established bounds on the "guts of the deal." However, you should be cautioned not to fail to resolve the secondary issues that could delay, upset, or cause reopening of negotiations. This step would normally end when there is agreement in principle on the "guts of the deal." This can be evidenced by an exchange of letters. At this point no final decision or commitment has been made by the Government.

Source: "The EDC Process: A Step-by-Step Guide," AFBCA

## AFBCA's EDC Process (Concluded)

- 5 Internal Government coordination on EDC deal**
  - > DR endorsement
  - > Briefing to SAF/MI
  - > SAF/MI finding of estimated fair market value
  - > DUSD(IA&I) notification
- 6 LRA notified of acceptance of EDC deal**
  - > Normally within 30 days of acceptance
- 7 Completion of documents**
  - > Sales contract, deed/lease, note for unpaid price, and mortgage or deed of trust
- 8 Coordination, approval, and execution of EDC documents**



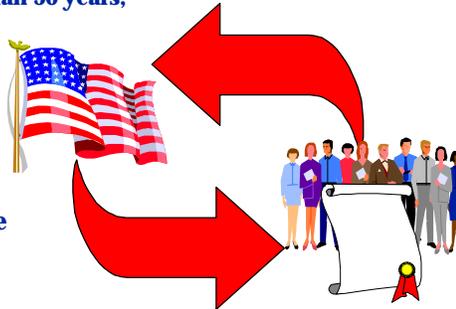
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- 5 The negotiated deal is subject to a ratification process consisting of AFBCA/DR endorsement and approval by SAF/MI, subject to an information briefing to ASD(ES). This should be a routine formality if the proposal is within the AFBCA preapproved negotiating range and you have properly included your ASD(ES) OEA representative in discussions at key points. A conditional acceptance requiring the LRA to meet specified pre-conditions can be imposed if necessary. If SAF/MI has not previously determined the estimate of fair market value it must be done before approval of the deal. This is a legal requirement.
- 6 LRA notified of acceptance of the EDC deal. Only upon SAF/MI approval and with notification to ASD(ES) can the LRA be notified of the approval of the deal. Normally, this should occur within 30 days of concluding negotiations. Again, no final decision or commitment has been made by the Government.
- 7 Legal counsel and the realty specialists who have been key participants in the process will complete the EDC documentation. These documents will probably consist of the sales contract, either a deed or a lease in furtherance of conveyance granting possession of the property not yet meeting CERCLA § 120(h) standards, a note for the unpaid purchase price, and a mortgage or purchase money deed of trust, depending on the particular State law, to secure the Government's financial interest in the property.
- 8 Coordination, approval and execution of the EDC documents. Execution of all of the EDC documents is the final decision and commitment accepting the EDC. The Division begins compliance responsibilities.

Source: "The EDC Process: A Step-by-Step Guide," AFBCA

## Lease Back of Property to DoD or Federal Agencies

- **Property for which a Federal need exists (including retained property after realignment)**
- **Transfer (Economic Development Conveyance) to LRA if LRA agrees to lease to Federal Government**
  - > Lease term no longer than 50 years, but may be renewed
  - > No rent paid by Federal Government
- **If Federal agency requirement ends, Federal Government may continue similar use**
  - > Consultation with LRA
- **Rule pending**



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### **DBCRA 90 § 2905(b)(4)(C), as amended by the National Defense Authorization Act for Fiscal Year 1996:**

(C)(i) The Secretary may transfer real property at an installation approved for closure or realignment under this part (including property at an installation approved for realignment which will be retained by the Department of Defense or another Federal agency after realignment) to the redevelopment authority for the installation if the redevelopment authority agrees to lease, directly upon transfer, one or more portions of the property transferred under this subparagraph to the Secretary or to the head of another department or agency of the Federal Government. Subparagraph (B) shall apply to a transfer under this subparagraph.

(ii) A lease under clause (i) shall be for a term of not to exceed 50 years, but may provide for options for renewal or extension of the term by the department or agency concerned.

(iii) A lease under clause (i) may not require rental payments by the United States.

(iv) A lease under clause (i) shall include a provision specifying that if the department or agency concerned ceases requiring the use of the leased property before the expiration of the term of the lease, the remainder of the lease term may be satisfied by the same or another department or agency of the Federal Government using the property for a use similar to the use under the lease. Exercise of the authority provided by this clause shall be made in consultation with the redevelopment authority concerned.

**Note: the above amendment was made to the authority for Economic Development Conveyances.**

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