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

Personal Property



*Air Force Base Conversion Agency*

# Personal Property [Block 8]

## OBJECTIVE

- **Provide attendees with information on the policy changes and issues relating to the disposal of personal property**

## OUTCOME

- **Attendees will be familiar with recent issues and DoD and Air Force policies that affect the disposition of personal property, including:**
  - **Timeframes for inventorying personal property**
  - **Types and availability of personal property**
  - **Necessity for consultation with LRA throughout redevelopment planning**
  - **Impact of the availability of EDCs and homeless assistance conveyances on disposal of personal property**

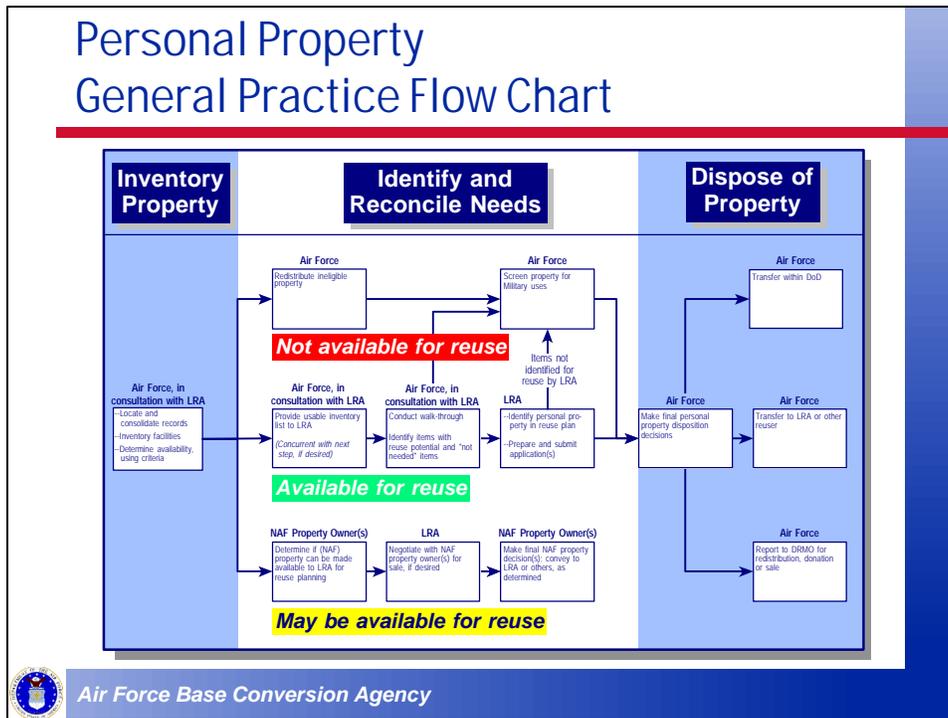


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### **Quiz—Personal Property**

1. What is NAFI property? Can it be acquired for reuse? How?
2. When must the inventory of personal property be completed? Who is responsible for conducting the inventory? In consultation with whom?
3. True or False. All personal property requested for an economic development conveyance must be related to real property similarly requested.
4. Under what authorities may personal property be conveyed?
5. Who resolves disagreements over initial categories of personal property?
6. How is personal property identified as not needed for redevelopment?
7. In which document must personal property be identified for it to be conveyed to an LRA?
8. True or False. No personal property may be removed from an installation without the LRA's consent.

# Personal Property General Practice Flow Chart



## General Practice for Personal Property at BRAC Installations

Personal property is often useful to the redevelopment of real property. This figure (4-1 in *Base Reuse Implementation Manual*) shows the general practice by which personal property is identified for reuse and subsequently disposed of at a closing base. This process can be summarized as follows:

- The installation commander will, in consultation with the LRA, inventory the personal property at the installation no later than six months after the date of closure or realignment approval, and prepare usable inventory records. This will help the LRA identify assets with reuse potential. Property items will be generally identified as either **available for reuse** or **not available for reuse**.
- LRA consultation should include a walk-through of the base so that LRA officials can view available personal property and should continue during redevelopment planning. The Air Force will be sensitive to the planning needs of the LRA and will not move ordinary fixtures and other property that is likely to be suitable for reuse during redevelopment planning. However, personal property necessary to meet specific military requirements or non-Military Department-owned property is subject to off-base relocation.
- The Air Force should advise the LRA to identify in its redevelopment plan the property necessary for the effective implementation of the plan. Personal property may be conveyed to an LRA or other recipients under various authorities, including an EDC. The LRA may separately negotiate with non-appropriated fund (NAF) instrumentalities for NAF-owned property.
- Payment for personal property may be at or below fair market value, or may be at no cost, depending on the conveyance authority used. Purchases of NAF-owned property may be negotiated between the NAF property owner(s) and the LRA.
- The basic steps in this procedure and the party(ies) principally responsible for each are shown in the above figure.

## Inventorying Personal Property



- **Definition: Property that is not—**
  - > Land and fixed-in-place buildings
  - > Naval vessels
  - > Records of the Federal Government
- **Inventory no later than 6 months after date of approval**
  - > Who? Installation Commander, in consultation with LRA
- **Identify property as available (include ordinary fixtures) or not available for reuse**
- **Prepare usable records**
- **Keep copies of all transfer records**



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### **Personal Property Inventory Requirement [32 CFR § 91.7(h)]**

The installation commander at a closing or realigning base must conduct an inventory of all property owned by the Military on the installation within six months after the approval date of closure. The goal of the inventory is to identify, as early as possible, personal property that will be made available to the LRA for reuse planning purposes, as well as property that may be relocated. To facilitate this process, the installation commander is required to identify items of personal property that are:

- Needed to support a military mission
- Needed to support the LRA's redevelopment plan
- Ordinary fixtures
- Available for redistribution within or outside of the Department of Defense

### **Procedure**

Personal property records should be assembled and made available as soon as possible after the date of approval. This activity should be followed by a physical inspection and count, where necessary, to determine the condition and quantity of personal property that will be made available to the LRA for reuse planning purposes. The personal property inventory should be performed under the direction of the installation commander, in consultation with the LRA.

The inventory should:

- Include all DoD tenant organizations including the National Guard and Reserves, if applicable
- Exclude non-DoD tenant organizations and transient property (e.g., other Federal agency offices, General Services Administration (GSA) vehicles, contractor equipment), property located on any portion of the base retained by DoD and not related to the productive capacity or minimum maintenance requirements of the installation, and NAF-owned property
- Identify personal property as **available for reuse** or **not available for reuse**. **All ordinary fixtures must be identified as available for reuse.**

If installation personal property records and inventories are not in an easily usable format, the installation commander should consider creating simplified personal property inventory summaries for use by the LRA and others.

See also Chapter 4, *Personal Property*, DoD Base Reuse Implementation Manual

## Categories of Personal Property [1]



- **Available for reuse and not available for reuse**
- **Not needed for redevelopment**
  - Available for reuse but identified by LRA as unneeded
- **Status under disagreement**
- ALL personal property is also either:**
- **Accountable**
  - Continuously updated itemized inventory is maintained
- **Non-Accountable**
  - Itemized inventory is not maintained; if available, must be inventoried



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### Categories of personal property: References: 32 CFR 91.7(g); Base Reuse Implementation Manual, Chapter 4

The following descriptions and categories of personal property are provided to facilitate LRA and Air Force dialogue during the redevelopment planning period. This information is also provided to help installation commanders determine items of personal property that will be made available to the LRA for redevelopment purposes. Personal property will be identified according to the following categories:

- **Available for reuse and not available for reuse.** Both accountable and non-accountable personal property will be initially identified as either available for reuse or not available for reuse. This identification will be made by the installation commander, in consultation with the LRA. Except for specifically exempted items, personal property may be identified by the installation commander as available for reuse at any time during the redevelopment planning process. Personal property can only be identified as being not available for reuse if it meets the criteria provided on the following page.
- **Ordinary fixtures.** This category includes items commonly referred to as fixtures in typical real estate transactions. It includes, but is not limited to such items as blackboards, sprinklers, lighting fixtures, electrical and plumbing systems, built-in furniture, and fuse boxes.
- **Not needed for redevelopment.** After the inventory and LRA consultation, the inventory list or other identification records may be updated to include items not needed for redevelopment. Items initially identified as being not available for reuse or not needed for redevelopment need not be included on a detailed inventory list. This determination can be made at any time.
- **Status under disagreement.** If the installation commander and the LRA cannot agree on an item's category, the item will be included in the detailed inventory list and identified as status under disagreement until resolved.

Additionally, all personal property is either accountable or non-accountable. This distinction affects the level of detail required for the inventory records to be provided to the LRA.

- **Accountable personal property.** Property for which a continuously updated itemized inventory is maintained. Inventorying accountable property should be straightforward, using installation inventory procedures and records.
- **Non-accountable personal property.** Property for which an updated itemized inventory is not maintained. For example, some office furnishings (e.g., desks, chairs, file cabinets) not physically attached to the buildings and consumables (e.g., paper, pencils) are non-accountable. All non-accountable personal property determined to be available for reuse should be inventoried. Consumables do not have to be included, however. The level of detail of inventory information to be provided to the LRA should be determined by the installation commander in consultation with the LRA. Non-accountable personal property may be inventoried on a gross basis by facility, and provided to the LRA in summary format, as illustrated below:
  - Bachelor Officers' Quarters (BOQ)—25 rooms and offices, furnished.
  - Administration Building—10 offices, furnished.
- **Unserviceable but repairable.** Certain items of personal property may be in unserviceable but repairable condition. These items should be specifically noted on the inventory record, including any safety precautions that apply.

Note that all personal property will be conveyed to the LRA or recipient "as is" and will not be repaired by the Air Force, regardless of condition at the time of conveyance.

## Categories of Personal Property [2]

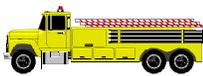


- **Available for reuse (includes fixtures)**
  - > Does not fit the categories identified below

- **Not available for reuse**



- > Required for operation of a transferring unit, function, component, weapon or weapon system
- > Required for operation of a unit, function, component, weapon or weapon system at another installation within the Air Force



- > Military unique, and likely to have no civilian use
- > Stored at the installation for distribution
- > Meets known requirements of an authorized program of another Federal department or agency
- > Belongs to non-appropriated fund instrumentalities (may be available for reuse) or other non-Defense Department entities (e.g., State-owned National Guard-used)



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### Categories of personal property not available for reuse:

- The property, other than ordinary fixtures, is required for the operation of a transferring unit, function, component, weapon, or weapon system. This category includes property belonging to a unit or activity relocating to another installation where equivalent property does not exist, and for which relocation is cost-effective. For example, a unit being transferred to another location may take with it any property it needs to function properly as soon as it arrives at its new location.
- The property is required for the operation of a unit, function, component, weapon, or weapon system at another installation within the Air Force. Property in this category can only be categorized as "not available for reuse" after the Air Force has consulted with the LRA. With respect to disputed items, the approval of SAF/MI is required.
- The property is uniquely military in character and is likely to have no civilian use (other than use for its material content or as a source of commonly used components). Such property includes classified items; nuclear, biological, chemical items, weapons and munitions; museum-owned property, military heritage property, and items of significant historic value that are maintained or displayed on loan from a museum or other entity; and similar military items.
- The property is stored at the installation for distribution. This category includes spare parts or stock items; e.g., materials or parts used in a manufacturing or repair function, but does not include maintenance spare parts for equipment that will be left in place. This category includes supplies and property stored for purposes of distribution and/or maintenance (including spare parts, consumables or stock items), except for those items needed for maintenance of equipment left in place.
- The property meets the known requirements of an authorized program of another Federal department or agency that would otherwise have to purchase similar items, and the property has been requested in writing by the head of the department or agency. If the authority to acquire personal property has been delegated, a copy of the delegation must accompany the request. The requesting Federal department or agency must pay packing, crating, handling, and transportation charges associated with such transfers of personal property.
- The property is needed elsewhere in the national security interest of the United States, as determined by the Secretary of the Air Force. This authority may not be delegated below the Assistant Secretary level. In exercising this authority, the Secretary may transfer the property to any DoD entity or other Federal agency.
- The property belongs to non-appropriated fund (NAF) instrumentalities or other non-Defense Department entities. This category includes property purchased with funds generated by Government employees and their dependents for religious; morale, welfare or recreational activities; post exchanges; ship stores; military officer or enlisted clubs; or veterans' canteens. This property is not owned by the Air Force.

References: 32 CFR 91.7(g); Base Reuse Implementation Manual, Chapter 4

## Consultation With LRA—Guidelines



- **Consult early**
- **Provide usable inventory records**
- **Offer walk-through to view property**
  - > SM/BTC should accompany
- **Identify items available for reuse**
  - > Obtain early input from LRA on property that will not be needed
- **Resolve disagreements as they arise**
- **Consult throughout drawdown**
  - > Inform LRA of what's available and what's being relocated
  - > Allow for timely Air Force disposal of personal property not needed



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**Consultation between the installation commander and the LRA** is required throughout the redevelopment planning period. The following guidelines should be used to facilitate consultation.

- **Consult early.** The installation commander or designate should coordinate personal-property-related decisions with the LRA early in the redevelopment planning process. The BTC will participate.
- **Provide a usable inventory record.** The installation commander or designate will provide a usable inventory record to the LRA. The level of detail for this record should be determined in consultation with the LRA. This record should help the LRA to identify the personal property to support its redevelopment plan. All property should be identified. However, property to accompany a realigning unit need be only broadly identified.
- **Offer a walk-through.** As part of the personal property inventory and consultation process, the installation commander or designate should invite the LRA to walk through the installation. This can take place concurrently with the personal property inventory, and will assist the LRA in determining the type(s) and condition(s) of the personal property listed on the inventories. The walk-through will also help the LRA identify items of personal property it wants to include in the redevelopment plan.
- **Identify items available for reuse.** The installation commander should identify personal property with the potential to support the redevelopment of the installation including ordinary fixtures. The identification of available items should be made to the LRA following the inventory and should be updated, as necessary.
- **Resolve disagreements as they arise.** If the LRA disagrees with an installation commander's decision regarding the personal property that will be made available for reuse, the LRA may seek to resolve its disagreement within the Air Force's chain of command.
  - The Air Force should strive to respond within 30 days to all requests by the LRA to reconsider an issue related to personal property availability or disposal decisions made by the installation commander.
  - Final authority for resolving personal property issues rests with the Military Department having jurisdiction over the property.

The installation commander or designate will continue to consult with the LRA throughout the redevelopment planning period. The objectives of further consultation are:

- To make sure the LRA knows which items of personal property are available to it for incorporation in its redevelopment plan, and which items are being relocated off-base or disposed of by other means.
- To allow for timely Air Force disposal of personal property identified by the LRA as not being needed for its redevelopment planning.

## Property Not Required for Redevelopment



- **Determination made by Air Force**
- **Must be in consultation with LRA**
- **Determination will generally not be made until:**
  - **LRA indicates it does not need the property (e.g., during walk-through)**
  - **LRA does not include property in its redevelopment plan**
  - **LRA indicates it will not submit a redevelopment plan**
- **Disputes resolved in MAJCOM/ Air Force chain of command (DR or SAF/MI if necessary)**



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Only those items of personal property meeting the following criterion, may be identified as personal property not needed for redevelopment:

- The property is not required for the reutilization or redevelopment of the installation. This determination must be made by the Air Force in consultation with the LRA. This determination will not generally be made until one of the following occurs:
  - The LRA indicates that it does not need the property (e.g., during the installation walk-through).
  - The LRA does not include the property in its redevelopment plan.
  - The LRA indicates that it will not submit a redevelopment plan.

*Reference: Chapter 4, Base Reuse Implementation Manual*

## Non-Appropriated Fund Instrumentality (NAFI) Property

- **Definition: purchased with funds generated by Government employees and their dependents**
- **Generally used for the following purposes:**



- > Religious
- > Morale, welfare, and recreational
- > Post exchanges
- > Ship stores
- > Military officer or enlisted clubs
- > Veterans' canteens

- **LRA should approach each NAF property owner early in its planning process to determine property availability and negotiate purchase terms**



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### **Non-Appropriated Fund Instrumentality personal property**

Non-Appropriated Fund Instrumentality personal property includes property purchased with funds generated by Government employees and their dependents for religious; morale, welfare or recreational activities; post exchanges; ship stores; military officer or enlisted clubs; or veterans' canteens. This property is not owned by the Air Force.

The Air Force should advise the LRA to make arrangements to purchase NAF property (including negotiating the purchase price) directly with the NAF property owner as early in the redevelopment planning process as possible.

*Reference: Base Reuse Implementation Manual, Chapter 4*

## Personal Property Transfer Methods [1]



- **Public airport**

- > Subject to FAA approval

- **Sponsored public benefit conveyances**

- > Education, public health, public park or recreation, and port facility purposes
- > Personal property is transferred by sponsoring Federal Agency in accordance with its implementing rules



- **Approved public benefit conveyances**

- > Non-Federal correctional facilities
- > Personal property terms and conditions determined by Air Force (Federal disposal agent)



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### **Personal Property Conveyance Methods. Authority: 41 CFR § 101-47.308**

(Special disposal provisions for public airports; historic monuments; education and public health uses; shrines, memorials or religious uses as part of another public benefit conveyance; public park or recreation uses; housing for displaced persons; and non-Federal correctional facility uses).

**Public airport conveyances:** Surplus personal property may be transferred as part of an airport conveyance. Personal property that is desirable for developing, improving, operating, or maintaining a public airport or is needed for developing sources of revenue from non-aviation businesses at a public airport (and the interest is not best suited for industrial use) can be transferred by the Air Force by gift. The Federal Aviation Administration (FAA) must approve all public airport transfers.

**Public benefit and similar approved, sponsored, or requested conveyances:** When personal property is required for the reuse of real property subject to a public benefit conveyance (PBC), the personal property may be related and treated as part of the real property conveyance. These transfers can be further categorized as follows:

- **Sponsored public benefit conveyances.** These include PBCs for education, public health, public park or recreation, and port facility purposes. Surplus personal property may be transferred by the sponsoring Federal agency in accordance with its rules implementing its authorized programs. The terms and conditions attached to the reuse and the value (or the discount allowed) of the personal property are determined by the Federal sponsoring agency. In this type of conveyance, the Air Force assigns the real, related, and other qualifying related personal property to the Federal sponsoring agency for transfer to the sponsored applicant.
- **Approved public benefit conveyances.** These include PBCs for non-Federal correctional facilities, historic monuments, and power transmission lines. The terms and conditions attached to the reuse are determined by the Air Force. The Air Force transfers the qualifying personal property directly to the approved recipient.

*Reference: Base Reuse Implementation Manual, Chapter 4, Personal Property*

## Personal Property Transfer Methods [2]



### ■ Homeless assistance conveyances

- Can be transferred to LRA or homeless assistance provider (“provider”)
- LRA should coordinate early with providers to identify personal property
- Incorporate terms in legally binding agreements between LRA and provider
- Identify property and its intended use in the homeless assistance portion of the redevelopment plan
- Subject to HUD approval of application
- Transferred at no cost to either LRA or provider



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**Personal Property Conveyance Methods. Authority: 32 CFR § 91.7(h)** (Homeless assistance conveyances to LRAs or homeless assistance providers).

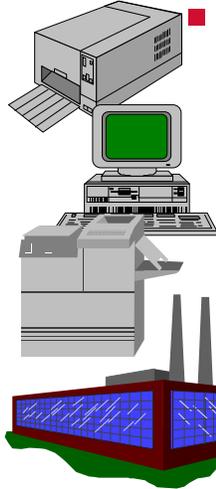
Personal property may be transferred to an LRA or to a homeless assistance provider for homeless assistance purposes if a reuse plan is submitted to and approved by the Secretary of Housing and Urban Development (HUD) under the Base Closure Community Redevelopment and Homeless Assistance Act of 1994

After providing the LRA with the personal property inventory, the installation commander or designate should recommend to the LRA that the following strategy be used for identifying and transferring personal property intended for use by homeless assistance providers:

- Coordinate with the proposed provider(s) to identify any personal property to be conveyed.
- Incorporate the agreed-to disposition of any identified personal property in any binding contract(s) negotiated between the LRA and any selected homeless provider(s).
- Include identification and intended use of the personal property in the homeless assistance portion(s) of the adopted redevelopment plan.
- After HUD approves the homeless assistance portion of the LRA’s redevelopment plan, the personal property identified (in the plan) for homeless assistance purposes will be transferred by the Air Force at no cost in compliance with the approved application (which includes the redevelopment plan)—either to the LRA or directly to the homeless assistance provider.

*Reference: Base Reuse Implementation Manual, Chapter 4, Personal Property*

## Personal Property Transfer Methods [3]



### ■ Economic Development Conveyances

- > Can be part of a real property EDC
- > Can be without real property
  - Made only to LRA, after separate EDC application
  - Explain why other authorities cannot be used
  - Subject to certain conditions and limitations, e.g.,
    - LRA must accept custody and become accountable for property within 60 days of application approval
    - Use of personal property must support base redevelopment (should be in plan)
    - Acquisition of personal property for the purpose of immediately reselling or leasing it will be restricted
    - LRA must use or hold items conveyed at less than FMV for 1 year (2 years if FMV > \$5,000)
    - Proceeds from subsequent sales must be used to pay for protection, maintenance, repair or redevelopment of the base



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**Personal Property Conveyance Methods. Authority: 32 CFR § 91.7(h)** (Personal property Economic Development Conveyances to LRAs).

The Personal Property EDC application should be comprehensive with regard to any and all property requested at the installation. It should also explain why a Personal Property EDC is necessary for economic redevelopment and job creation. It will probably be necessary for the LRA to ask the Air Force for assistance while completing the transfer order described below. If necessary, the Air Force may ask the LRA for additional information. The application should contain the following elements:

A narrative including the following:

- Identification of the personal property requested. Copies of the personal property inventories prepared for the LRA's use may be used to identify the personal property requested. This list may be amended during the redevelopment planning process, as long as the use of the additional property is consistent with the overall economic redevelopment goals described in the application package.
- A statement of how a Personal Property EDC will support the installation's redevelopment.
- A statement describing why other authorities, including sale or donation, cannot be used to acquire the personal property.
- If the transfer is requested for less than fair market value, a statement justifying why a discount should be provided. The inventory record will state the Standard Cost of the property. The Air Force will estimate the fair market value of the property for the purposes of the transaction.
- A statement of the LRA's legal authority to acquire the personal property.

After receiving the application, it will be subject to Air Force review, using criteria similar to those for real property EDCs.

Personal property EDCs will be subject to at least those conditions and limitations identified in the *Base Reuse Implementation Manual*.

*Reference: Base Reuse Implementation Manual, Chapter 4, Personal Property*

## Personal Property Transfer Methods [4]



- **Negotiated Sales (as Related Property)**
  - > Valued with realty as an economic unit
- **Public Sales, With Real Property**
  - > Sold to highest bidder at NLT FMV
- **Lease in Furtherance of Conveyance**
  - > Personal property will be typically conveyed to the recipient at lease inception
- **Non-Appropriated Fund**
  - > Owner and purchaser negotiate terms
- **Defense Business Operations Fund**
  - > Sold at FMV, unless part of an EDC, is related to real property, or meets other tests



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**Personal Property Conveyance Methods. Authority: 41 CFR § 101-47.304 (Negotiated sales and public sales).**

**Negotiated sales of related personal property to public entities:** Under a negotiated sale, related personal property should be valued with the realty as an economic unit. Negotiated sales, however, are at no less than fair market value.

**Public sales of personal property with real property:** Under a public sale, personal property is sold and conveyed as an economic unit with the realty to the highest bidder at no less than fair market value. The Federal disposal agent is not obligated to accept less than fair market value bids.

**Leases in furtherance of conveyance:** Personal property associated with a lease in furtherance of conveyance will typically be conveyed to the recipient at the inception of the lease.

**Special transfer categories:**

**Non-Appropriated Fund (NAF) personal property:** If the NAF personal property owner(s) makes personal property available for disposal, the LRA or other interested parties may negotiate purchase terms directly with the property owner.

**Defense Business Operations Fund (DBOF) equipment:** Available equipment of this type is sold at fair market value unless:

- It is included in an EDC to the LRA.
- It is determined to be related personal property and valued with the real property (e.g., shop equipment or dry dock cranes).
- The Air Force determines the DBOF equipment has an actual cash value below \$500 per item, with all like items having a total value of less than \$5,000.
- The Air Force determines a no-cost or discounted conveyance is desirable. Below-cost conveyances for DBOF equipment having an original cost of more than \$25,000 must be accompanied by a written justification approved by the Secretary of the Air Force.

*Reference: Base Reuse Implementation Manual, Chapter 4, Personal Property*

## Personal Property Transfer Methods [5]

### ■ Sale and donation of personal property



- > Property not needed by LRA can be redistributed within the Air Force
- > If not claimed, will be reported to DRMO
- > DRMO will dispose of property by donation or sale, with priority given to community
- > Property is transferred to State Agency for Surplus Property, which distributes property for public purposes to eligible recipients, e.g.,
  - Public agencies
  - Nonprofit educational and public health activities
  - Nonprofit and public programs for the elderly
  - Educational activities of interest to the Armed Forces
  - Public airports
  - Homeless assistance providers



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### Personal Property Conveyance Methods. Authorities:

**41 CFR Part 101-44** (Donation of personal property)

**41 CFR Part 101-45** (Sale, abandonment, or destruction of personal property)

**Executive Order 12821** (Donation of personal property, e.g., computers, to further math and science education)

Personal property not needed by the LRA in support of its redevelopment plan can be redistributed within the Air Force. If it is not claimed by the Air Force, it will be reported to the DRMO, the DoD personal property disposal agent.

Surplus personal property may be disposed of by the DRMO by either donation or sale. Priority for donation should be given to either the LRA or the local community.

Federal law authorizes the Federal Government to allocate Federal surplus personal property for transfer to State agencies, which in turn distribute such property for public purposes to eligible recipient agencies.

The major categories of eligible recipients are:

- Public agencies
- Nonprofit educational and public health activities
- Nonprofit and public programs for the elderly.
- Educational activities of special interest to the Armed Forces.
- Public airports.
- Homeless assistance providers.

Under this donation program, communities and LRAs may ask for personal property that did not qualify for an EDC. Such community or LRA requests for property must be made through the closing base installation commander or other authorized official to the appropriate State Agency for Surplus Property (SASP). Personal property donated under this procedure must meet the usage and control requirements of the applicable SASP. Property subsequently not needed by the LRA or community shall be disposed of as required by the SASP. The DRMO will dispose of surplus property not selected through the donation program. Under special circumstances, property may be sold by negotiation. Such sales, typically for property valued at less than \$15,000, are infrequent and must be justified in advance by the DRMO to the Secretary of Defense.

*Reference: Base Reuse Implementation Manual, Chapter 4, Personal Property*

# Air Emissions Trading Procedure at BRAC Installations

## Authority: Clean Air Act Amendments of 1990

- **Inventory all existing emissions sources**
  - Stationary and mobile sources
  - Existing air permits with expiration dates
- **Enter into discussions with LRA and AQMD**
- **Where allowed by AQMD, every effort should be made to transfer existing permits with the sources**
- **In severe or extreme areas of non-attainment, all sources are required to reduce emissions drastically**
- **GOAL: REDUCE AIR POLLUTION**



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The Clean Air Act Amendments of 1990 (CAA) require reduction in emissions by activities all over the nation, both military and civilian. These amendments introduced the marketplace into environmental regulations. The CAA also allows movement of emission rights under very specific local conditions.

**Attainment**—The CAA designates acceptable levels of emissions for selected (“criteria”) pollutants. Areas that exceed those levels are in “non-attainment” and must reduce those pollutants within a designated time. The severity of the reductions and the time required to achieve those reductions are dependent on the severity of the pollution problem.

**Economic Incentive Programs**—To encourage innovative approaches to reduce air pollution, the CAA authorized programs to trade emission rights—rights to emit specific amounts of criteria pollutants. When formally issued by the local air quality control region (AQCR), these rights are called “Emission Reduction Credits” (ERCs).

**ERCs**—ERCs must be surplus (i.e., go beyond existing CAA emission reduction requirements), enforceable, permanent (source of pollution must be permanently reduced), and quantifiable. ERCs are issued by the local AQCR only where the AQCR has established a program in the State Implementation Plan (SIP). The requirements for the establishment of ERCs and the rules for the use of ERCs are dependent on the specific program contained in an approved SIP. Generally the AQCR has the right to retain ERCs as part of a reserve bank to support future economic growth or retire ERCs to meet CAA attainment requirements. Again generally, when an owner permanently shuts down an emission source, ERCs can be created by submitting an application and a fee to the AQCR. Currently, existing programs only cover emissions from stationary sources, e.g., power plants, boilers, etc., and only allow trading within the AQCR. Because requirements differ from State to State, and because regulatory changes are frequent, consultation with experts within the Air Force is strongly encouraged.

**Permit Transfers**—Stationary sources receive permits from AQCRs to emit specific levels of criteria pollutants during a year. AQCRs usually allow the transfer of these permits with the transfer of the stationary source. Generally, AQCRs do not reduce the emission levels as a condition of transfer.

**Conformity**—Generally, the CAA requires a Federal agency to demonstrate that a Federal action will not cause deterioration of the air quality or impact attainment. Because military bases gaining units, functions, or weapons systems as a result of a BRAC action are required to make a conformity determination, the gaining facilities should determine whether the credits needed to demonstrate conformity might be available from closing or realigning bases.

### Guidance and implementation

Emission rights are important to both the military and the community. Consistent with full protection of national defense imperatives, distribution of emission rights from closing bases (if available under applicable law) should reasonably accommodate military needs, community redevelopment needs, and State and local air quality attainment goals. Decisions on the distribution of any such credits will be made by the Secretary of the Air Force only after full consultation with the LRA and local AQCR and other Military Departments with vital needs.

All DoD installations being closed should inventory all existing emission sources, including all stationary and mobile sources and existing air permits with expiration dates. The goal of the inventory is to have complete and accurate information for discussions with the LRA, the local AQCR, neighboring DoD installations, and other Federal agencies. After completing the inventory, the installation should enter into discussions with the LRA, the AQCR, and DoD and Federal agency installations. The LRA should be encouraged to identify all emission needs. Where allowed by the AQCR, transfer of existing permits with the emission source should be considered.

When a receiving installation is located in an area that could receive credits from a closing installation, the receiving installation should determine its emission needs as early as possible. Every effort should be made to reduce or spread out requirements. If additional emission rights are needed, notify the closing installation immediately with a specific request and justification. Special consideration to the receiving installation’s needs should be given in the distribution decision.

The AQCR can provide information related to local air quality conditions (attainment status), conditions for permit transfers, status of any approved trading programs, and availability of ERCs from the reserve for economic development. The AQCR’s primary goal is to improve air quality, so it will encourage everyone to reduce emissions to the maximum extent feasible. Note that in severe or extreme areas of non-attainment, all sources might be required to reduce emissions drastically.

Source: Base Reuse Implementation Manual, Chapter 4

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