



ASSISTANT SECRETARY OF DEFENSE

3500 DEFENSE PENTAGON
WASHINGTON, DC 20301-3500

SUSTAINMENT

MEMORANDUM FOR SECRETARY OF THE AIR FORCE

SEP 18 2020

SUBJECT: Guidance for Acquiring Property Pursuant to Section 344 of the National Defense Authorization Act for Fiscal Year 2020

Section 344 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2020 (Public Law 116-92) provides the Secretary of the Air Force with the discretionary authority to acquire real property “within the vicinity of an Air Force base that has shown signs of contamination from [perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS)] due to activities on the base, and which would extend the contiguous geographic footprint of the base and increase the force protection standoff near critical infrastructure and runways.” Pursuant to the authority delegated to me in Department of Defense (DoD) Instruction 4165.71, “Real Property Acquisition,” this memorandum provides the parameters for use of this authority.

Subject to my prior written approval, and only in accordance with the requirements herein, the Secretary of the Air Force may acquire real property pursuant to section 344. If approved, the authority to acquire real property includes the authority to acquire non-relocatable personal property located thereon and to provide federal financial assistance for moving costs, relocation benefits, and other expenses incurred in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (title 42, United States Code (U.S.C.), section 4601 et seq.). The acquisition of relocatable personal property is not authorized at this time.

Each package requesting approval must identify the source of unobligated military construction funds to be used for the acquisition and contain sufficient documentation to demonstrate the acquisition satisfies ALL of the following requirements:

- 1) The real property to be acquired must be “within the vicinity of an Air Force base.”
 - a) A parcel of real property is within the vicinity of an Air Force Base if its outer perimeter is within a half-mile down gradient of the outer perimeter of the Air Force Base.
 - b) An Air Force Base is any real property under the jurisdiction of the Secretary of the Air Force, including any leased facility. A State-owned Air National Guard installation is not an Air Force Base.
- 2) The real property to be acquired must show “signs of contamination from PFOA and PFOS.”

- a) Consistent with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and the Defense Environmental Restoration Program, “signs of contamination from PFOA and PFOS” means a scientifically supportable determination of a need to take action due the release of PFOS/PFOA from Air Force activities, which has resulted in an unacceptable risk to human health or the environment based on the site-specific exposure.
- 3) The contamination on the real property to be acquired must be “due to activities on the base.”
 - a) “The base” refers to the Air Force base within which vicinity the property to be acquired is located.
 - b) There must be a direct causal link between the unacceptable risk associated with contamination on the property to be acquired and specifically identified activities on the Air Force base.
 - c) The activities on the Air Force base must be the sole source of the contamination on the property to be acquired.
 - 4) The acquisition of the real property must “extend the contiguous geographic footprint of the base.”
 - 5) The acquisition of the real property must “increase the force protection standoff near critical infrastructure and runways” and will promote land use to meet the mission of the DoD and the Air Force.
 - a) The increased force protection standoff must be to both critical infrastructure and runways; increased standoff to one is not sufficient.
 - b) The term “critical infrastructure” means any systems and assets, whether physical or cyber-based, so vital to the United States that the degradation or destruction of such systems and assets would have a debilitating impact on national security, including, but not limited to, national economic security and national public health or safety. (section 4552 of title 50, U.S.C.)
 - c) The term “runway” is defined as “rectangular area on a land airport prepared for the landing and takeoff of aircraft along its length.” (Title 14, Code of Federal Regulations, Section 170.3)

All requests for approval to acquire real property pursuant to section 344 shall be in writing and submitted to the Deputy Assistant Secretary of Defense for Environment, who will be responsible for staffing the package for my approval.

This policy does not repeal, modify, or waive any law, regulation, or policy otherwise applicable to the acquisition of real property. This policy is effective immediately and will be incorporated into DoD Instruction 4165.71 at its next revision.

My points of contact for this matter is Ms. Deborah Morefield, at 703-571-9067 or deborah.a.morefield.civ@mail.mil; and Mr. Randy Wagner, at 703-571-9081 or randall.p.wagner.civ@mail.mil.



W. Jordan Gillis

cc:
Secretary of the Army
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