

CHAPTER 7. FAMILY HOUSING LEASING PROGRAM

I. INTRODUCTION

A. SCOPE

This chapter establishes policy, responsibilities and procedures for the administration and execution of the family housing leasing program. It is a complete rewrite and should be reviewed in its entirety.

B. POLICY

1. The family housing leasing program will be administered within the criteria and cost limitations established by law.

2. Domestic family housing leasing is authorized only when there is a shortage of adequate housing at or near a military installation. The program is limited to areas with large deficits of housing for military members. The use of the domestic leasing program is temporary and shall be controlled to prevent adverse effects to the local economy.

3. Section 801 Build-to-Lease is a program authorized to allow the Military Departments to enter into contracts for the lease of family housing to be constructed at locations within the United States that have a validated deficit in family housing.

4. Foreign family housing leasing is limited to situations involving undue hardship for Department of Defense (DOD) sponsored military and civilian personnel or to top Command positions where government quarters commensurate with the position are not available.

C. REFERENCES

1. NAVFAC P-73: "Real Estate Procedural Manual"
2. NAVFAC P-442: "Economic Analysis Handbook"
3. NAVFACINST 11101.85 series: "Navy Family Housing Projects, Design-Build (Turnkey) Standards"
4. OPNAVINST 11101.19 series: "Management of Flag and General Officer Quarters (F&GOQ' s)"
5. OPNAVINST 11101.28 series: "Leasing of Family Housing in Foreign Countries"
6. OPNAVINST 11101.41: "Navy Family Housing Domestic Leasing Program"
7. DOD 4165.63-M: "DOD Housing Management"

8. DOD Directive 1100.12, "Authority for Establishing Special Command Positions"

9. "Interim Technical Guidance (ITG) for Antiterrorism, Force Protection, and Physical Security of Personnel in Military Housing Facilities", dated 26 Mar 97

10. DOD Directive 2000.12, "DOD Combating Terrorism Program"

11. Title 10, U.S. Code, Section 2825, Section 2828, and Section 2834

12. Executive Order 12941, Seismic Safety of Existing Federally Owned or Leased Buildings, 1 Dec 94

D. SUMMARY

This chapter is organized into the seven topical areas summarized below:

1. Responsibilities. The Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM) administers the family housing leasing program. Engineering Field Divisions (EFDs) execute the family housing leasing program. Field activities manage the family housing leasing program. The major claimants are responsible for ensuring compliance with operating guidelines.

2. General Leasing Requirements. The Navy leases privately owned quarters for Navy families when there is a lack of adequate housing at or near an installation. Guidance applicable to each of the leasing programs is provided in this section.

3. Domestic Leasing. This section applies to the United States, Puerto Rico, and Guam and includes guidance on acquiring and executing domestic leases.

4. Section 801 Leasing. This program, applicable in the United States only, was originally designed to stimulate private development of build-to-lease family housing units where a demonstrated requirement existed. The 801 program is currently in effect at several locations but is no longer a viable acquisition method due to Office of Management and Budget (OMB) scoring requirements which stipulate all funds be available in one fiscal year for the entire term of the lease. Lease arrangements for the 801 program differ as to how maintenance is performed. Regardless of the agreement, the field activity is responsible for ensuring the units remain safe, decent, sanitary and well maintained in accordance with the terms of the lease for the entire period of the lease.

5. Foreign Leasing. Foreign leasing involves the leasing of family housing for Department of Defense (DOD) sponsored military and civilian personnel in areas outside of the United States, Puerto Rico, and Guam. Information on the acquisition and execution of foreign leases is provided in this section.

6. Financial Constraints and Reporting Requirements. Compliance with statutory limits and reporting requirements is discussed in this section.

7. Force Protection and Physical Security Against Acts of Terrorism.
Explains the requirements for protecting DOD personnel and their families from terrorist acts.

II. RESPONSIBILITIES

A. THE COMMANDER, NAVAL FACILITIES ENGINEERING COMMAND (COMNAVFACENGCOM)

COMNAVFACENGCOM administers the Department of the Navy (DoN) Family Housing Leasing Program. In fulfilling this responsibility, COMNAVFACENGCOM will:

1. Obtain resources in support of the program.
2. Establish procedures, controls, and reports for the management of the program.
3. Allocate lease points to the EFDs.

B. MAJOR CLAIMANTS

Major claimants are responsible for ensuring that field activities within their purview comply with established procedures.

C. ENGINEERING FIELD DIVISIONS (EFDs)

EFDs are responsible for the execution of the family housing leasing program within their respective areas. In fulfilling this responsibility, EFDs will:

1. Assist field activities in determining family housing lease requirements and coordinate with major claimants for support.
2. Distribute lease points among the various field activities.
3. Validate and consolidate leasing funding requests for submission to COMNAVFACENGCOM and provide leasing funds to field activities.
4. Locate, negotiate, execute, and monitor family housing leases, including renewals and renegotiations, per NAVFAC P-73.
5. Ensure that the cost for all executed Navy leases complies with statutory limits.
6. Obtain a certificate of appropriateness from the field activity for all new and succeeding family housing leases.
7. Provide information, instructions, and assistance to field activities and commands in the administration of the program.

D. FIELD ACTIVITIES

Field activities are responsible for managing the family housing leasing program. In fulfilling this responsibility, field activities will:

1. Prepare and submit requests for required leases to COMNAVFACENGCOM via the cognizant EFD.
2. Develop the leasing funding request for submission to COMNAVFACENGCOM via the cognizant EFD.
3. Ensure that all leased units are in compliance with DOD leased construction requirements, to include seismic standards, local building and housing codes and the proposed use is in compliance with the local zoning and fire codes.
4. Ensure that all leased units are safe, decent, and sanitary and are adequately maintained.
5. Counsel prospective residents regarding obligations, responsibilities, and entitlements when assigned to leased quarters.
6. Ensure that costs for executed Navy leases are, and remain, within statutory limits.

III. GENERAL LEASING REQUIREMENTS

The leasing of quarters requires congressional authorization. Leasing is a part of the acquisition process. The general guidelines applying to the acquisition of other government quarters (e.g., incorporation on the Family Housing Property Account) also apply to the acquisition of leased quarters. In addition, there are legal restrictions imposed by the Congress that provide a framework for the administration of the leasing program. All exceptions or deviations to the procedures and stipulations for the leasing program contained in this chapter require prior approval by COMNAVFACENGCOM. The authority to approve all leases or renewals will not exceed the total number allocated and/or the dollars appropriated annually.

Leased family housing units will be designated adequate public quarters, for which residents will forfeit BAH and other housing allowances (e.g., OHA). All leased quarters must be identified on the Family Housing Property Account. Family Housing, Navy (FH,N) account funds can be expended only for facilities on the property account. A facility history record must also be established. Guidance on the management of the Family Housing Property Account and the development of facility history records is contained in chapter 11.

Prior to occupancy of a newly leased property, the government will complete a condition report. This report, a copy of which is provided to the lessor, becomes a permanent part of the leasing record for use in case of dispute during lease termination.

A. ASSIGNMENT

Leased quarters will be assigned only to personnel for whom leasing has been justified. When leasing is authorized pending construction of new quarters, personnel who occupy the leased quarters, and have more than six months remaining on their current tour of duty, will be the first people assigned to the newly constructed quarters. If less than six months remain, the lease will be terminated when the resident is detached.

No agreements, financial or otherwise, between a resident of leased quarters and the lessor are permitted. The resident must be informed at the time of assignment that the lease is between the Navy and the lessor and that, in all matters concerning the quarters, the resident must deal with the family housing organization. The resident should be provided with a copy of the lease and must abide by its provisions. Residents of leased quarters have the same responsibilities as residents of Navy-owned quarters.

1. Loss or Damage. Residents are financially responsible for any loss or damage beyond normal wear and tear caused by themselves, their family members, or guests. Prior to vacating, residents must replace or repair the property, contract for repairs, or arrange to reimburse the government for the cost of replacement or repair. Collection procedures for such loss or damage are the same as for residents of Navy-owned family housing.

2. Conservation of Utilities. Residents of leased family housing should be encouraged to conserve utilities. Excessive utility consumption could result in an increase in total unit lease cost to the point where the Navy may find it necessary to cancel a domestic or foreign family housing lease to avoid violation of statutory cost limitations.

3. Check-out Procedures. Check-out procedures for occupancy termination are prescribed in chapter 18. In cases of excessive distance for the inspector, the pretermination inspection may be waived and only the termination inspection conducted. This inspection, involving the resident and a government representative, is not to be confused with the lease termination inspection involving a representative of the lessor.

4. Restoration of Damaged Facilities. The terms of a family housing lease should preclude government responsibility for costs of maintenance and repair to the property. Rather, the terms should provide that the government will return the unit in the same condition as originally leased, less normal wear and tear. That original condition is documented in the condition report. The government will be responsible for damages incident to the occupancy and negligence for which the resident is responsible. This does not eliminate the resident's obligation to maintain the unit or responsibility to the government for damage.

B. TERMINATION OF DOMESTIC OR FOREIGN FAMILY HOUSING LEASES

Domestic and foreign family housing leases that are no longer justified will be cancelled according to the terms of the lease. Lease terms should provide the government maximum flexibility of termination. Should termination of

a lease require resettlement of the current resident, the resident should be given at least 30 days notice of lease termination. Guidance on the termination of leases follows:

1. When a family housing lease cannot be revalidated for the current resident, the lease will be terminated upon departure of that resident on PCS orders unless another eligible member is available to move-in.

2. If it is anticipated that a lease will exceed statutory cost limitations, the contract must be renegotiated, or congressional approval to exceed statutory cost thresholds must be obtained prior to the occurrence. Lease termination and relocation of the resident may be required to comply with statutory cost limitations.

3. Family housing leases justified by authorized military construction or other authorized acquisition projects should be terminated coincident with the completion of construction. Termination under this circumstance should be phased with occupancy of the newly constructed housing.

4. A lease may require termination when eligibility for occupancy of leased family quarters changes as a result of actions such as PCS orders.

a. When a resident receives PCS orders out of the area or moves to Navy-owned quarters, the lease will be terminated within 30 days.

b. If the current resident receives PCS orders to another command in the same commuting area, assignment to leased quarters will be terminated unless the same housing authority serves both present and prospective commands. If another eligible member is not available for assignment to the unit within 30 days, the lease shall be terminated unless the receiving command of the resident has a validated requirement and an unused lease allocation. In this case, the lease allocation must be transferred from the receiving command to the losing command.

c. If the resident of leased quarters in the contiguous United States (CONUS) or Hawaii receives PCS orders for an unaccompanied hardship overseas tour, the family may be authorized continued occupancy until the sponsor reports to the next permanent duty station not considered an unaccompanied overseas tour. If housing for which a lease was justified becomes available, the family will be given notice that the lease will be terminated in 30 days, and the family will be required to move into the new quarters, provided at least six months remain on the sponsor's unaccompanied tour.

d. When utilities are not included in the basic lease contract but are paid separately by the Navy, and basic rent and maintenance plus utilities exceed the statutory lease cost, the lease must be renegotiated or terminated.

5. Upon termination of a lease, a representative of the EFD will meet with a representative of the lessor to conduct a lease termination inspection or final inspection in accordance with NAVFAC P-73.

IV. DOMESTIC LEASING

The Navy leases privately owned quarters for Navy families when there is a lack of adequate housing at or near an installation. The provisions of this section apply to the United States, Puerto Rico, and Guam.

A. CRITERIA

1. The leasing of quarters can be justified when a determination has been made that there is a large deficit of adequate housing at or near a military installation. This determination is based on the results of the family housing requirements determination process. In addition, the following criteria must apply to the situation:

a. Leased units will be used primarily to provide housing for lower ranking military personnel and their dependents.

b. The requirement for such housing is temporary.

c. Construction of family housing has been authorized but is not yet completed, or a family housing authorization request is in a military construction authorization bill pending in Congress. Units leased under this criterion cannot exceed the number of units authorized for construction; should be the same or one bedroom less than the bedroom composition authorized for construction; and must be assigned to personnel for whom the construction was justified. Inclusion in a proposed authorization bill not introduced in Congress, in an OSD-approved program or in a DON-proposed program, does not constitute justification for leasing.

2. The use of the domestic leasing program shall be controlled to prevent adverse effects to the local economy. It shall be used only until government housing is constructed or until the local economy can provide sufficient housing at a reasonable cost.

B. ACQUISITION

The acquisition of quarters by leasing is a two-step process requiring both the determination of a need and the authorization to negotiate a lease. Quarters acquired through the execution of a lease become government-controlled quarters and must be administered within the policies and constraints applicable to government-owned quarters.

1. The justification for leasing is based on the results of a complete family housing requirements determination process. Requests for more leases shall be made at the time of the annual program recommendation submittal. At locations where a request for more than 25 leases is made, all documents required to support an acquisition project are required to support the request. In all cases, leasing requests will be submitted by the field activity to COMNAVFACECOM via the EFD. Guidance on family housing acquisition procedures is contained in chapter 5.

2. Quarters available for leasing by the Navy may be identified in a variety of ways. The housing referral service at a military installation is the primary source of information regarding the availability of units. Preference shall be given to the leasing of quarters repossessed by the Federal Housing Administration (FHA) or the Veterans Administration (VA). If the FHA or the VA has included any Navy leased units in a sales program, the leases will be terminated at the conclusion of the assignment to the current resident. Privately owned quarters may be leased by the Navy only after a statement is obtained ensuring that the unit is available to all personnel regardless of race, color, creed, national origin, religion, gender, age, or disability. The following limits and considerations apply to the leasing of specific units.

a. Family housing leasing will be limited to existing properties or to those in the final stages of construction. When leasing unfinished properties, care must be taken to ensure that landlords or other interested individuals do not, subsequent to completion of construction, allege that properties were specifically designed, equipped, or constructed for the Navy.

b. Family housing leasing may be considered when the number of military personnel assigned to a field activity is so small as to make the construction of family housing uneconomical. Considered under this criterion are the requirements for reserve activities, recruiters, and commands in remote areas not within a 1-hour, one-way, rush-hour commuting time by privately operated vehicle (POV) of a major military installation.

c. Family housing leasing may also be considered when personnel on PCS orders, more than 22 weeks, attending academic courses at service schools require family housing. This provision applies to students only, not to school staff or other personnel attached or assigned to the field activity.

d. Housing for which owners, mortgagees, or individuals receive any government subsidies (e.g., Section 221(d)(3), Section 236, or Section 8 housing) will not be leased by the Navy.

e. Multiple source leasing provides owners of rental units who may want to lease family housing to the government an equitable opportunity in competitive areas. Further, should the requirement to lease family housing be reduced, the effects of lease cancellation, of all or a portion of family housing leases, are more easily absorbed if multiple source leasing is practiced. Generally, an EFD will not execute a field activity's total lease allocation from a single source. When single source family housing leasing is warranted due to lack of other community assets or for economic reasons, the EFD will document the justification and circumstances and retain the documentation in its files.

f. The execution of a single lease contract for two or more family housing units in single ownership may be executed provided that:

(1) The lease specifically identifies each individual unit and the monthly rental thereof.

(2) The lease reserves to the government the right to terminate any one or more of the units, with a corresponding reduction in the amount of the

total monthly rent payable under the contract. Additional units may also be added to an existing lease by amendment of the lease subject to the same conditions.

g. Leasing of a house owned by a military member for occupancy by that same member is prohibited. However, ownership of a house by a military member or a Federal civilian employee shall not preclude it from being leased unless it is determined that such leasing will create the possibility or appearance of a conflict of interest.

h. A unit not leased by the government but occupied by a military member may be leased to the Navy provided that all of the following conditions are met.

(1) The occupant is eligible for government quarters and the field activity has been assigned the necessary family housing lease points.

(2) The dwelling is suitable with regard to such factors as bedrooms, environment, and condition.

(3) The dwelling unit can be leased within statutory limitations.

3. A prospective resident will not identify or select a unit to be leased for his personal occupancy unless there is no military member of equal or senior rank assigned within 1 hour's commute of the prospective resident's place of duty.

4. The guidelines set forth below will apply to the selection of quarters for leasing:

a. Quarters selected must be the most economical to the Navy. Comparisons with the costs of a variety of types of units (e.g., single family dwellings, townhouses, and apartments) should be made to ensure the propriety of a specific unit. Comparisons to costs for existing leases and fair market values identified by the Department of Housing and Urban Development (HUD) are also appropriate.

b. Quarters selected must meet the established criteria for suitability described by chapter 5. The bedroom composition should meet the requirement of the resident except when a higher bedroom composition can be leased at a lower cost, when a unit with the required bedroom composition cannot be located, when local law or custom dictates a different bedroom composition, or when the individual elects in writing to accept one bedroom less than the requirement.

V. SECTION 801 BUILD-TO-LEASE HOUSING

Section 801 of Public Law 98-115 amended Title 10, United States Code, Section 2828 to allow the Secretary of a Military Department to enter into a contract with a private developer for the lease of family housing units to be constructed

or rehabilitated to residential use on or near a military installation within the United States. This program is commonly referred to as Section 801 and was initiated as an alternative to military construction of family housing. Although the Navy still maintains several leases under 801 authority, OMB scoring requirements prevent new acquisition under this program because all funds must be obligated at the start of the lease for the entire lease term.

VI. FOREIGN LEASING

Foreign leasing involves the leasing of family housing for DOD-sponsored military and civilian personnel in areas outside of the United States, Puerto Rico, and Guam. It is Navy policy to rely on the local community as the primary source of family housing to meet Navy's needs. Personnel overseas will obtain family housing by making private rental arrangements through utilization of housing referral services, whenever possible.

A. CRITERIA

Leasing of foreign family housing must be for the benefit of the government and is limited to senior command positions where government quarters commensurate with the position are not available, or to situations involving undue hardship for the military member. Further guidance is provided in OPNAVINST 11101.28 series. Foreign family housing leasing is limited to situations where one or more of the following criteria apply:

1. Housing requirements determinations, see chapter 5, reflect deficits associated only with distance or condition, not associated with cost factors, and economic analyses conducted per NAVFAC P-442 indicate leasing to be the most economical option available to satisfy a requirement.
2. The leased unit is for an incumbent of a special command position in accordance with DOD Directive 1100.12 or the ranking Navy member within a country.
3. Excessive costs of housing or other lease terms would cause undue hardship (e.g., security deposits plus advance rental payments).
4. Local restrictions prohibit leases by individual military or civilian personnel of the United States.
5. In cases involving intelligence or classified missions individually stipulated by the Office of the Secretary of Defense (OSD).
6. A construction project at a location has been authorized by law but is not yet completed; or a family housing authorization request is in a military construction authorization bill pending in Congress.

B. ACQUISITION

To minimize the cost to the government, every effort will be made to obtain economical housing that is not too costly, ostentatious, or large for the

intended resident. Leased units should be comparable in size, cost, and amenities to those in the area occupied by other U.S. Government personnel of similar pay and status. Housing leases in foreign countries will provide, as nearly as practicable considering local conditions and customs, accommodations comparable to public quarters in CONUS assigned to personnel of similar rank and family composition with similar duty requirements.

1. Requests for Foreign Leasing. Field activities may submit requests to lease housing in foreign areas when it can be clearly determined that the housing requirements meet the criteria delineated above. Requests will be submitted via the cognizant EFD to COMNAVFACENGCOM and must be supported by complete family housing requirements documentation. Each leasing program will be rejustified annually and can be supported only if it is determined the need still exists.

2. Lease Construction. The concept behind foreign lease construction is that developers will construct family housing on the basis of an agreement with the U.S. Government to lease such housing when it is completed. Lease construction of family housing will be pursued only when it is determined that there is no other housing, existing or being developed, that is available for use as government quarters. Lease construction is limited to locations where a validated requirement exists that cannot be satisfied by existing government-controlled or suitable economy housing and that necessitates the construction for the benefit of the United States.

Title 10, United States Code, Chapter 169, Section 2828, specifies that a lease construction proposal with an estimated annual collective rental of more than \$500,000 may not be accepted until the Secretary concerned provides the appropriate congressional committees written notification of the facts concerning the proposal. After notification is received by the committees, 21 days must pass without objection before execution authority may be granted. Proposals must be substantiated by a current requirements determination, which indicates a validated family housing deficit, and by an economic analysis, prepared per NAVFAC P-442, that supports leasing in lieu of military construction. Buy out clauses must be included in all lease documents for newly constructed facilities of 10 units or more.

Requirements determinations and procedural limitations for lease construct housing are the same as for leasing existing quarters in foreign areas. Execution differs for lease construction in that nonavailability of family housing on the local economy requires new construction. Accordingly, exploratory actions are necessary to develop information on the potential for lease construction as a basis for recommending such a program. Care must be taken to ensure that developers do not construe such exploratory action as being based on an approved project, to the point that the housing development is started solely in anticipation of authority for the U.S. Government to lease the resulting family housing. Leased housing must meet the standards of adequacy prescribed in Chapter 5. For this reason, current maximum space criteria for military construction should be prescribed as a requirement for lease construction. Deviations from these criteria should be limited to locations where housing of such size is unavailable due to indigenous construction patterns.

3. High Cost Leases. When the annual costs (shelter rent, utilities, maintenance, services) of an individual lease exceed statutory cost thresholds, the lease cannot be executed until the Secretary concerned provides to the appropriate congressional committees written notification of the facts concerning the lease. A period of 21 days must elapse after the notification is received by those committees. If the high cost lease is approved, renewal options negotiated within the terms of the lease may be exercised without renotification. However, after all renewal options have been exercised, congressional approval is required for succeeding lease of the same property, assuming statutory thresholds are still exceeded. Requests for new or succeeding high cost foreign leases must be initiated at least 90 days prior to lease execution to allow sufficient time for pre-approvals and submission to congressional committees. A completed high cost foreign lease data sheet, figure 7-1, must be submitted to the EFD to initiate this process. Changes in data elements occurring over time will be reported immediately by the field activity to the cognizant EFD and a complete, updated sheet submitted annually on each lease anniversary.

4. Department of State (DoS) Leases. The DoS administers housing pools in some foreign countries. DoS (not the agency whose personnel occupy the units) leases, manages, and operates all units in the housing pool. Housing and related services are provided by DoS on a reimbursable basis. Title 10, United States Code, Section 2834 authorizes the Military Departments' participation in DoS housing pools. Because participation in such pools results in loss of Navy control over costs, location of units, terms, and type of units that are occupied, valid reasons must exist for that participation. Those reasons are usually shortage of adequate housing or lack of adequate security measures.

Although DoS leases generally are in the high cost range, they are not included in the allocation for Navy high cost lease points. However, they are included in the total lease point allocation. Congressional notification procedures followed for high cost leases are not required for DoS leases that exceed statutory limitations.

C. EXECUTION

1. All multi-year leases should contain a statement that payments due under the lease cannot exceed the amount of appropriations available at the time the payments are due.

2. Leases should contain a statement that the total maximum annual expenditure, including shelter rent, maintenance, utilities, and services may not exceed the statutory ceiling established for each year, or subsequent years of renewal, of the lease term.

3. A certification of appropriateness and comparability, confirmed by the Administrative Officer of the American Embassy, is required prior to executing all foreign family housing leases. The format illustrated in Figure 7-2 shall be used by the initiating officer in obtaining certification of an initial lease request.

4. The cumulative cost over the lease term (including all renewals) of any alterations, additions or make-ready work to foreign leased family housing

units may not exceed 25 percent of the first year's annual shelter rent without the prior approval of COMNAVFACENGCOM via the appropriate EFD. Such work shall be limited to that necessary to provide adequate living accommodations. The field activity will submit waiver requests to the EFD with an information copy to the Real Estate Contracting Officer (RECO). The request will identify the proposed work and the estimated costs and include a make-ready cost analysis, see figure 7-3. Upon validation, the EFD will request the necessary COMNAVFACENGCOM approval. Alteration work may not proceed until such approval is granted.

5. Initial provision, renovation, and repair of draperies, carpeting, furniture, or equipment for all leased foreign housing, including those leased for Flag and General Officers, is charged to the furnishings account, BP-14. Such amenities are provided exactly as they are in government-owned quarters, keeping in mind that the house is leased and the furnishings and equipment may need to be relocated. OPNAVINST 11101.19 series applies for F&GOQ.

6. Advance rental payments may be made when it is in the best interest of the United States.

7. Reallocation of foreign lease points requires the prior approval of COMNAVFACENGCOM.

VII. FINANCIAL CONSTRAINTS AND REPORTING REQUIREMENTS

Costs for family housing leasing, with the exception of those for furnishings and equipment, which are charged to BP-14, will be charged to the Family Housing, Navy (FH,N) Account, BP-15, Operations subaccount.

A. COSTING

The Title 10, United States Code, Chapter 169, Section 2828 establishes expenditure limits for leased family housing units in foreign countries and within CONUS. This statute also provides for annual adjustments to cost thresholds based on foreign currency fluctuations and changes in the U.S. Consumer Price Index (CPI). COMNAVFACENGCOM is responsible for distributing guidance containing domestic and foreign expenditure caps at the beginning of each fiscal year. The EFD and field activity are responsible for complying with the statutory lease thresholds for all Navy leases administered.

Costs which are included within the statutory limits are basic shelter rent, maintenance costs, and operational costs (such as utilities and services).

Costs which are excluded from the statutory limits are make-ready costs; costs of government-owned furnishings and equipment; pro-rata share of the costs for community services (such as garbage disposal or police and fire protection); field activity administration costs (such as costs for assignment, travel, and inspection by field activity personnel); costs incurred above the field activity level (such as costs attributable to public works officer and other activity levels, including headquarters) for personnel, travel, inspection, and so forth; reimbursements to the Department of State for shared administrative support; and payments for loss or damage claims.

Prior to signing any multi-year lease, it is necessary to forecast annual costs for each year of the contract to ensure the Navy can reasonably expect to pay the agreed rental and procure maintenance services and utilities without violating the annual expenditure limits. Costs should be monitored continuously to assure statutory cost thresholds are not exceeded.

B. CURRENCY FLUCTUATIONS

Most foreign lease contracts are written in the currency of the host country. Thus, a situation could arise where, at the time the contract is written the unit or the program is within the cost limitation, but later, due to revaluation of a currency or fluctuations in the exchange rate of the currency, a Military Department or Defense Agency could be in involuntary violation of the cost limitations.

The Fiscal Year 1987 Department of Defense Appropriations Act, Public Law 99-500, dated 18 October 1986, reestablished the Foreign Currency Fluctuations, Construction, Defense account applicable to Military Construction and Family Housing Appropriations. The purpose of the legislation is to maintain the budgeted level of operations for such appropriations by offsetting the effects of gains and losses occurring after the budget submission. Obligations will be established and computed on promulgated budgeted rates. The charge, or expenditure, recorded against the lease obligation, will be at the budget rate of exchange with the difference between the budget and actual rate (plus or minus) being charged or deposited to the Navy's Foreign Currency Fluctuations account. This accounting action is accomplished by the Navy disbursing officer making the actual payment. If the currency is not included in the fund (e.g., Swiss Franc), the fund cannot be used. Currency fluctuation, in that case, could cause total costs to exceed statutory limits. Every effort must be made to avoid executing a lease with a currency that is not in the Foreign Currency Fluctuations, Construction, Defense account.

C. IMPROVEMENTS

There is a general DOD prohibition on the placement of improvements of permanent type on property in which the government owns less than fee title or a permanent easement. However, exceptions to the prohibition exist. Any improvement to leased quarters will be considered an exception to DOD policy. Title 10, United States Code, Section 2825 limits the cost per unit for improvements to \$40,000 multiplied by the area construction cost index as developed by DOD for the location concerned at the time of contract award. Improvements to leased property should be avoided whenever possible. Therefore, requests for improvements will be considered on a case-by-case basis and should be submitted to COMNAVFACENGCOM via the appropriate EFD for approval.

D. REPORTING REQUIREMENTS

All leases are subject to reporting requirements as set forth in the Title 10 U.S. Code, Chapter 169, Section 2828 and the current year Congressional language. Separate job order numbers must be established for each lease in order to monitor all costs incurred. State Department lease reporting requirements are

identified in Title 10 U.S. Code, Chapter 169, Section 2834. Figure 7-4 identifies the approval and notification requirements for each type of leasing action.

E. FORCE PROTECTION AND PHYSICAL SECURITY AGAINST ACTS OF TERRORISM

DOD Directive 2000.12, "DOD Combating Terrorism Program," states that Commanders of the Combatant Commands shall be responsible for antiterrorism (AT) force protection of all military activities within their geographic area of responsibility. The Combatant Commander for the region, based on intelligence information and the mission of the customer, must determine the active short, medium and long term terrorist threat and identify the "design basis threat" for each facility. AT security surveys must be conducted to make recommendations for mitigating threats to family housing and bachelor quarters. The Commander is responsible for budgeting resources for antiterrorism as part of the facility planning cost for each installation. The family housing, Navy appropriation (FH,N) is not to be used for this purpose.

All new construction projects (including lease construct) must be reviewed for compliance with antiterrorism standards. When planning a project, performance concepts, outlined in the "Interim Technical Guidance for Antiterrorism, Force protection, and Physical Security of Personnel in Military Family Housing Facilities," should be considered. Activity security personnel should review and approve the plans and specifications as part of the project or lease review process.

Unit: _____
Lease Number: _____
Today's Date: _____

HIGH COST FOREIGN LEASE DATA SHEET (Sample)

I. **Executive Agent for Lease:** LANTNAVFACENGCOM

II. **Location:** NSA Overseas

III. **Property Description:**

A. **Address:** Street Address _____
City _____
Country _____

B. **Description:**

Gross Square Footage:	6,652
Net Square Footage:	4,765
No. of Bedrooms:	4
No. of Full Baths:	4
No. of Half Baths:	0
Approx. Land Area sf:	21,000

C. **Distance to Work:** 3 miles, 10 minutes

IV. **Lease Terms:**

A. **From:** 01 May 1996 **To:** 30 April 2000

B. **Option to Renew:**
3 year firm term with 3 option years, with 90 day notification prior to each option.

C. **Termination Clause:**
90 day termination rights at any time during option years; only in times of conflict during firm term.

D. **Statutory Costs:**

1. Shelter Rent:	\$39,700 per annum
2. Est. Utilities:	12,000 per annum
3. Est. Maintenance:	22,900 per annum
4. Services:	700 per annum
5. TOTAL:	\$75,300

E. **Initial Costs:** (excluded from statutory)

1. Change of Occupancy/Make-Ready:	\$15,250
2. Furniture:	12,400
3. Other:	0

Figure 7-1
7-16

HIGH COST FOREIGN LEASE DATA SHEET (continued) page 2 of 2

F. Provision for Automatic Cost Increase:

Rent for years 2 through 6 adjusted by 75% Cost of Living Index not to exceed 10% per year.

G. Type of Currency:

H. Current Budget Rate of Exchange (BROE): _____ = \$1.00

V. Monetary Compensation to Member:

No rent, forfeiture of BAH and OHA

VI. Position Data:

- A. Name: John Smith**
- B. Dependents: Sue (spouse), Robert (son, age 9)**
- C. Position Assigned to Unit: Chief of Staff, Southern Anywhere**
- D. Grade/Branch of Service: 09/USN**
- E. Organizational Assignment: CINCANYWHERE**
- F. End of Tour: March 1998**

VII. Reason for Leasing:

Three months advance rent required and security requirements of the position.

VIII. Justification:

ADM Smith is assigned to CINCANYWHERE representing the U.S. and NATO. He is required to entertain high-ranking NATO and foreign officials. The requirement for family housing to support this position remains. Continued use of these quarters reflects favorably on the U.S. and NATO. This is a succeeding lease.

IX. Certification of Appropriateness and Comparability.

This is to certify that I have personally determined that the leased quarters for occupancy by CINCANYWHERE are neither ostentatious nor too large. Also I have determined that:

1. These quarters will be comparable in size and cost to those occupied by NATO military personnel of equal or similar status.
2. Members of U.S. Armed Forces of equal or comparable status are occupying government-owned or leased quarters.
3. The annual rental cost of the unit compares favorably with the costs of other Flag, General, and Senior Officer leased quarters in the area.
4. Recurring advance rental is required by the custom of the country.

Signed _____
(Officer Initiating Request)

Figure 7-1 (Continued)

Certificate of Appropriateness and Comparability for Initial Lease Request

This is to certify that I have personally determined that the leased quarters at (address or appropriate description) intended for occupancy by (name and rank of prospective resident) are neither ostentatious nor too large and that this determination has been confirmed by _____(Administrative Officer, U.S. Embassy or Consulate)_____

Also, I have determined that:

(1) These quarters are comparable in size and cost to those occupied by Embassy personnel of equal or similar status;

(2) Members of Embassy staff of equal or comparable status (are) (are not) occupying government owned or leased quarters.

(3) If not comparable, the deviation is because housing of such size is not available due to indigenous construction patterns; and

(4) (Initial)(Recurring) advance rental for (number) months (is)(is not) required by custom of the country.

**Signed: _____
(Officer Initiating Request)**

Figure 7-2

Make-Ready Costs Analysis Worksheet \$ thousands (constant dollars)												
		Year 0	1	2	3	4	5	6	7	8	9	10
	# units*	NET PRESENT VALUE	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Option 1												
Pay Make-Ready up front												
Up front Make-Ready Costs (per unit)												
Annual Rent (per unit)*												
Total												
Option 2												
Include Make-Ready Costs in Lease												
Up front make – ready costs												
Annual Rent (per unit)*												
Total												

Figure 7-3

* Fill in per unit and number of unit fields before making extensions

LEASING APPROVAL MATRIX

	DOCUMENTATION						COORDINATION			APPROVAL			NOTIFICATION			
	Letter	Economic Analysis Required	Life Cycle Cost Analysis (for Make Ready Costs Only)	High Cost Lease Data Sheet	Certification		Major Claimant	EFD	NAVFAC	NAVFAC	N44	DASN (I&F)	HNCS	HAC	SASC	SAC
					Less Expensive Hsg Not Available	Security										
1. New/Renewal Domestic Leases																
a. >\$12K per unit/year	X	X				X		X	X	X	X			X		X
2. New/Renewal Foreign Leases																
a. >\$20K per unit/year (adjusted by FC rate)	X			X		X		X	X	X	X			X		X
b. >\$500K per year	X	X				X		X	X	X	X			X		
c. >25 units	X	X				X										
3. Make Ready Costs																
a. < 25% of first year cost	X							X								
b. > 25% of first year cost	X		X					X	X							
4. State Department Leases																
	X							X	X							

Figure 7-4