AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

§ 643.40 Policy—Young Men's Christian Association (YMCA).

Title 10 U.S.C. 4778, authorizes the SA to grant revocable licenses pemitting the erection and maintenance by the YMCA on military reservations, of such buildings as their work for the promotion of the social, physical, intellectual, and moral welfare of the garrisons may require.

§ 643.41 Policy—National Guard use.

Pursuant to the authority contained in 32 U.S.C. 503, the SA is authorized to grant revocable licenses to the States and territories for the use and occupancy of installations or portions thereof by the National Guard. A license may not be granted for the erection of a permanent National Guard Armory without specific congressional authority.

§ 643.42 Policy—Consents for crossing of rights-of-ways and similar interests owned by the United States.

Under the various easement authorities or under the administrative power in cases outside the purview of those authorities, the SA may consent to the granting of an easement by the owner of the servient estate, subject to such conditions as may be required to protect the Government's interest.

Subpart C—Leases

§ 643.51 Additional items concerning leasing.

In addition to the general and policy matters covered in Chapters I and II of Title 32, the following also apply with respect to the leasing of Army real estate.

§ 643.52 Term.

Each lease will be for a period not exceeding five years unless the SA determines that a longer period will promote the national defense or will be in the public interest.

§ 643.53 Consideration.

(a) Unless otherwise authorized by this regulation or directed by the SA, the consideration for a lease of real estate will be the appraised fair market rental value. However, the value of the maintenance, protection, repair, or restoration by the lessee of the property leased, or of the entire unit or installation where a substantial part of it is leased, may be accepted as all or part of the consideration. The value of the maintenance, protection, repair or restoration, when added to the amount of the monetary payment to be made by the lessee, must equal the appraised fair market rental value of the property leased.

(b) Buildings and space may be leased to a State or political subdivision thereof for public school purposes, limited to use for classrooms and closely related academic instructions, through high school level, at no monetary consideration. Where bare land is leased for construction of a school through high school level, the acreage will not exceed criteria established by the appropriate State authority or the Department of Health, Education, and Welfare (HEW), the rental will be $1 for the term of the lease and any renewal thereof. Leases of bare land will be for a term of 25 years, with an option on tenant's part to renew for another term of 25 years. Real estate may also be leased for educational purposes to public educational institutions at a reduced rental, after consultation with the HEW, and taking into account any benefits accruing to the United States through the use of such property. In any event, the lessee will be required to assume the cost of maintenance, protection, repair, or restoration of the property leased and the administrative costs incident thereto.

(c) Lease granted for agricultural, grazing, or haying purposes will have attached thereto the land-use regulations furnished by the installation commander specifying the items required to be performed by the lessee as part of the lease obligations. It is the policy of the DA that land leased for agricultural, grazing or haying purposes be returned to the Government in as good or better condition than when initially leased. The land-use regulations will include those activities of maintenance, protection, repair, or restoration of the property leased which the lessee will be required to perform as part or all of the consideration for

the lease. Generally, an activity will qualify as an offset from rental if it is:

(1) Performed on the leased premises, or when it constitutes a substantial part of the entire rental unit or installation,

(2) Of direct benefit to the installation in its authorized current or mobilization mission, as distinguished from desired programs, or in furtherance of the Army's leasing program,

(3) Generally related to the lessee's use of the leased property. Where all of the above criteria are met, the following activities may be authorized: Control of erosion, conservation of natural resources, and maintenance of the viability of the land for continuing leasing, such as mowing, weed control, seeding, fertilizing, mulching, crop rotation, selected cutting, and soil conservation measures such as terraces, check dams, wells, springs, ponds, title, or open channels or culverts for drainage, firebreaks, inside fencing and cattle guards. Maintenance, protection, repair or restoration of buildings, roads, perimeter fencing, and similar improvements are not authorized as offsets from rental unless the property is leased to and beneficially used by the lessee, or on a rental unit or installation in which the leased premises constitutes a substantial part or as otherwise approved by HQDA (DAEN-REM), Washington, DC 20314. Also, lessee may be required to perform activities in support of recreation and welfare, fish and wildlife, beautification, and esthetic programs and the cost of establishing and maintaining recreation, swimming and fishing areas, wildlife habitats, food plots, and similar activities when the following conditions have been met:

(1) The activities to be offset are in furtherance of the installation natural resources plan as approved by the MACOM.

(2) The overall plan for the term of the lease, has been approved by ASA (IL & FM).

(3) MACOM approval has been obtained for each lease when any activity to be offset exceeds $1,000.

Total of the offsets in any year will never exceed the annual rental.

§ 643.54 Receipts.

Receipts will be deposited into the Treasury as miscellaneous receipts.

§ 643.55 Mandatory revocation clause in lease.

Each lease will contain a provision permitting the SA to revoke the lease at any time, unless it is determined that the omission of such provision from the lease will promote the national defense or will be in the public interest. In any event, the lease will be revocable by the SA during a national emergency.

§ 643.56 Taxation of lessee's interest.

The lessee's interest in leased property may be taxed by State or local governments as provided in 10 U.S.C. 2667(e). Each lease will contain a provision that if and to the extent that the property owned by the Government and included in the lease, as opposed to the leasehold interest of the lessee therein, is later made taxable by State or local governments under an act of Congress, the lease will be renegotiated.

§ 643.57 Sublease or assignment.

A lease of real estate will not be subleased or assigned for direct or indirect use by another Federal agency. Except as specifically provided in the lease, a sublease or assignment of the lease will not be authorized without prior approval of HQDA (DAEN-REM), Washington, DC 20314.

Subpart D—Licenses

§ 643.71 Additional items concerning licenses.

In addition to the general and policy matters covered in subparts A and B, the following also apply with respect to the granting of licenses.

§ 643.72 License.

A license is a bare authority to do a specified act upon the property of the licensor without acquiring any estate therein. The principal effect of a license is to authorize an act which in the absence of the licensee would constitute a trespass.