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which the Army does not currently need but which is retained for future use will be made available to others for use either exclusively or concurrently with the Army. When an installation is in an inactive status, the presumption is that it is available for other military or Federal use or for leasing unless there are cogent reasons that such action should not be taken. The purpose of this rule is to put to beneficial use Federal property, which is not for the time required for its basic use, for the benefit of other Federal agencies, the local economy, or for the benefits accruing to the United States from the income and/or savings of maintenance, protection, repair, or restoration.

§ 643.22 Policy—Public safety: Requirement for early identification of lands containing dangerous materials.

(a) DA will not make available to others any real estate which is contaminated with explosives or with toxic materials or other innately or potentially harmful elements until such elements have been removed or have been rendered harmless, unless the proposed user of the area is aware of the condition of the area and is technically qualified and certified to make use of the area in its contaminated state.

(b) It is imperative that commanders keep records on and have a continuing awareness of the state of contamination of lands by explosives, military chemical or other dangerous materials.

(c) Procedures with respect to action to neutralize or decontaminate the area are set forth in AR 405–90.

§ 643.23 Policy—Preference.

Army real estate under the control of DA which is made available for use for other than Army purposes will be made available for use by other military departments or DOD activities and agencies, other Federal departments, activities or agencies, State or local governmental bodies and other private parties, in that order.

§ 643.24 Policy—Competition.

The use of real estate under the control of DA for private purposes will be granted only after reasonable efforts have been made to obtain competition for its use, through advertising. Advertising is any method of public announcement intended to aid directly or indirectly in obtaining offers on a competitive basis. Advertising may be accomplished by circulating and posting notices and by paid advertising in newspapers and trade journals. The purpose of seeking competition is to afford all qualified persons equal opportunity to bid for the use of the property, to secure for the Government the benefits which flow from competition, and to prevent criticism that favoritism has been shown by officers or employees of the Government in making public property available for private use. Although the lease of Government real estate to civilians employed by the military departments or officers or enlisted personnel of the Armed Forces is not prohibited by law, it is essential that extreme care be exercised to avoid favoritism or the appearance of favoritism. Generally leases to Federal Government personnel will be granted only after competitive bid under the sealed bid method. The provisions of this paragraph do not affect the authority contained in AR 210–10 and 210–50 for furnishing quarters to civilian employees of DA. Also the provisions of this paragraph do not affect the use of Federal facilities by uniformed personnel as may be otherwise provided for. Other exceptions to the advertising policy are as follows:

(a) Granting easements, leases and licenses to public agencies and public utilities.

(b) Granting permits to other Federal agencies.

(c) Leasing cable pairs.

(d) Leases or licenses to utility companies having an exclusive franchise in the area, for space on Government-owned poles for attaching their electric transmission communication lines.

(e) COE is authorized to grant a waiver of competition upon a determination that it will promote the national defense or will be in the public interest or upon a determination that competition is impracticable.