

115TH CONGRESS
2D SESSION

H. R. 5328

To authorize the return of surplus property, including Federal land, to the government of Guam, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 2018

Ms. BORDALLO introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Oversight and Government Reform, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To authorize the return of surplus property, including Federal land, to the government of Guam, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Guam Land Return
5 Act of 2018”.

1 **SEC. 2. RETURN OF SURPLUS PROPERTY, INCLUDING FED-**
2 **ERAL LAND, TO GUAM.**

3 (a) IN GENERAL.—The Administrator of General
4 Services is authorized to transfer to the government of
5 Guam all right, title, and interest of the United States
6 in and to surplus property located on Guam by quitclaim
7 deed and without reimbursement, to compensate for unre-
8 imbursed impact expenses claimed on behalf of Guam pur-
9 suant to section 104(e)(9) of the Compact of Free Asso-
10 ciation Amendments Act of 2003 (48 U.S.C. 1921c(e)(9)).
11 Such transfers of surplus property shall be in accordance
12 with—

13 (1) subtitle I of title 40, United States Code;

14 (2) Public Law 103–339 (commonly known as
15 the “Guam Excess Lands Act”); and

16 (3) Public Law 106–504 (commonly known as
17 the “Guam Omnibus Opportunities Act”), except
18 paragraphs (1) and (2)(D) of section 1(b) of such
19 Act.

20 (b) TERRITORIAL NOTIFICATION.—The Adminis-
21 trator shall notify the Governor of Guam when any surplus
22 property becomes available under this section.

23 (c) TRANSFER.—If within 90 days after receiving no-
24 tification under subsection (b) the Governor notifies the
25 Administrator that the territorial government intends to

1 acquire the surplus property, the Administrator shall
2 transfer such property pursuant to this section.

3 (d) TERMS AND CONDITIONS.—

4 (1) REQUIREMENTS FOR TRANSFER.—Trans-
5 fers of surplus property authorized by this section
6 shall take place after—

7 (A) the Administrator completes an ap-
8 praisal determining the estimated fair-market
9 value of the surplus property, the cost of which
10 shall be paid for in accordance with section
11 571(b) of title 40, United States Code; and

12 (B) the Governor submits to the Adminis-
13 trator and the Delegate to the House of Rep-
14 resentatives from Guam a detailed plan for the
15 future use of such surplus property and makes
16 such plan available on a public government
17 website.

18 (2) NAVIGABLE AIRSPACE.—The conveyance
19 document for any surplus property that is real prop-
20 erty transferred under this section located in a 6-
21 mile radius of an airport shall contain a provision
22 that requires a determination by the Federal Avia-
23 tion Administration that no interference to air navi-
24 gation exists in accordance with regulations set forth
25 in subparts I and III of part A of subtitle VII of

1 title 49, United States Code, in order for construc-
2 tion or alteration on the property to be permitted.

3 (e) SEVERE CONTAMINATION.—Notwithstanding any
4 other provision of this Act, the Administrator may choose
5 not to transfer any surplus property under this section on
6 which there is severe contamination, the remedy of which
7 would require the United States to incur extraordinary
8 costs.

9 (f) SUPPLEMENT, NOT SUPPLANT.—The fair-market
10 value, appraised or otherwise estimated, of any surplus
11 property transferred to the government of Guam under
12 this section shall be used to supplement and not supplant
13 other Federal funds provided to the government of Guam
14 as compensation or reimbursement for costs or impact ex-
15 penses incurred by that affected jurisdiction pursuant
16 to—

17 (1) section 104(e)(6) of the Compact of Free
18 Association Act of 1985 (48 U.S.C. 1904(e)(6));

19 (2) section 104(e)(3) and section 104(e)(6) of
20 the Compact of Free Association Amendments Act
21 of 2003; and

22 (3) any other impact aid provided to the gov-
23 ernment of Guam under any other authority.

24 (g) NET-NEGATIVE LAND TRANSFERS.—Land par-
25 cels (or the value thereof) included in the inventory under

1 section (3) and transferred by the Secretary of Defense
2 to the government of Guam shall not be counted—

3 (1) as compensation or reimbursement by the
4 Federal Government for costs or impact expenses in-
5 curred by the territorial government; or

6 (2) for compensation by the Federal Govern-
7 ment for unreimbursed impact expenses pursuant to
8 subsection (a).

9 **SEC. 3. DOD NET-NEGATIVE INVENTORY OF GUAM LAND**
10 **PARCELS.**

11 (a) NET-NEGATIVE INVENTORY OF LAND PAR-
12 CELS.—The Secretary of Defense shall maintain and up-
13 date regularly an inventory of all land parcels located on
14 Guam currently owned by the United States Government
15 and administered by the Department of Defense which the
16 Secretary expects to transfer to the territorial government,
17 specifying for each parcel—

18 (1) the approximate size of the parcel;

19 (2) an estimate of the fair market value of the
20 parcel, if available or as practicable;

21 (3) the branch of the armed forces with juris-
22 diction or operational control over the parcel;

23 (4) the specific legal authority under which the
24 Secretary will transfer the parcel to the territorial
25 government; and

(5) the date by which the Secretary expects to transfer the parcel to the territorial government, lease the parcel to the territorial government prior to final transfer, or otherwise designate the parcel as excess property or surplus property and then transfer to the territorial government.

(b) PARCELS REQUIRED TO BE INCLUDED.—

(1) PARCELS INCLUDED IN 2017 NET NEGATIVE REPORT.—The Secretary shall include in the inventory under this section each of the following parcels, as described in the 2017 Net Negative Report:

(A) The Tanguisson Power Plant (5 acres), listed as Site 14 in the Report.

(B) The Harmon Substation Annex (9.9 acres), listed as Site 15 in the Report.

(C) The Piti Power Plant and Substation (15.5 acres), listed as Site 38 in the Report.

(D) Apra Heights Lot 403–1 (0.5 acres), listed as Site 55 in the Report.

(E) The Agana Power Plant and Substation (5.9 acres), listed as Site 54 in the Report.

(F) The ACEORP Maui Tunnel-Tamuning Route 1 behind Old Telex (3.7 acres), listed as Site 23 in the Report.

1 (G) The Parcel South of Camp Covington,
2 Parcel 7 (60.8 acres), listed as Site 49 in the
3 Report.

4 (H) The NCTS Beach Lot, adjacent to the
5 Tanguisson Power Plant (13.3 acres), listed as
6 Site 13 in the Report.

7 (I) The Hoover Park Annex (also known
8 as “Old USO Beach”; 6 acres), listed as Site
9 37 in the Report.

10 (J) Parcel “C” Marbo Cave Annex (5
11 acres), listed as Site 12 in the Report.

12 (2) OTHER PARCELS.—In addition to the par-
13 cels specified in paragraph (1), the Secretary shall
14 include in the inventory under this section each of
15 the following parcels:

16 (A) The Marbo school site (80 acres), cur-
17 rently under reversion to the Department of
18 Education but expected to be transferred to the
19 Department of the Navy (within Andersen
20 South Annex).

21 (B) The Dandan property (159.12 acres),
22 formerly the Apollo Tracking Station operated
23 by the National Aeronautics and Space Admin-
24 istration.

1 (C) The Urunao property (69.19 acres) at
2 Andersen Air Force Base (Northwest Field),
3 from the west side of Route 3A to the cliff line.

4 (D) The Naval Water Treatment Plant
5 (8.79 acres) and associated water and waste-
6 water treatment utility systems at Naval Base
7 Guam (Ordnance Annex/Naval Magazine).

8 (E) The following future photovoltaic sites
9 along Route 1, currently under lease to the
10 Guam Power Authority:

11 (i) The Harmon Annex (4 acres).

12 (ii) The Harmon Booster Station
13 (5.59 acres), listed as Site 16 in the 2017
14 Net Negative Report.

15 (iii) The former Tumon Tank Farm
16 (23.77 acres), listed as Site 17 in the 2017
17 Net Negative Report.

18 (3) DEFINITION.—In this section, the term
19 “2017 Net Negative Report” means the report sub-
20 mitted by the Secretary of the Navy, on behalf of
21 the Secretary of Defense, under section 2208 of the
22 National Defense Authorization Act for Fiscal Year
23 2017 (Public Law 114–328; 130 Stat. 2695) regard-
24 ing the status of the implementation of the “net
25 negative” policy regarding the total number of acres

1 of the real property controlled by the Department of
2 the Navy or the Department of Defense on Guam.

3 (c) PETITION FOR PLACEMENT OF ADDITIONAL PAR-
4 CELS IN INVENTORY.—

5 (1) MECHANISM FOR PETITION.—The Secretary
6 shall establish a formal mechanism under which the
7 Governor of Guam may petition the Secretary to add
8 parcels to the inventory maintained under this sec-
9 tion.

10 (2) SPECIFICATION OF PUBLIC BENEFIT
11 USES.—The Governor shall specify in any petition
12 under this subsection any public benefit uses pro-
13 posed by the Governor for the parcel involved.

14 (d) EXCLUSION OF PARCELS.—The Secretary shall
15 not include in the inventory maintained under this section
16 any parcel transferred to the government of Guam prior
17 to the date of the enactment of this Act, without regard
18 to whether or not the parcel is included in paragraph (1)
19 or paragraph (2) of subsection (b).

20 (e) PUBLIC NOTIFICATION.—The Secretary shall
21 publish and update on a public website of the Department
22 of Defense the following information:

23 (1) The inventory maintained under subsection
24 (a), including the parcels required to be included in
25 such inventory under subsection (b).

1 (2) All petitions filed by the Governor under the
 2 mechanism established under subsection (c) (includ-
 3 ing any proposed public benefit use specified in any
 4 such petition).

5 (3) A description of each parcel of land trans-
 6 ferred by the Secretary to the territorial government
 7 after January 20, 2011, including the following:

8 (A) The approximate size of the parcel.

9 (B) An estimate of the fair market value
 10 of the parcel, if available or as practicable.

11 (C) The specific legal authority under
 12 which the Secretary transferred the parcel to
 13 the territorial government.

14 (D) The date the transfer of the parcel
 15 was completed.

16 **SEC. 4. REPEAL OF CONDITIONS ON CONVEYANCE OF CER-**
 17 **TAIN LANDS BY GUAM.**

18 (a) IN GENERAL.—Section 818(b)(2) of the Military
 19 Construction Authorization Act, 1981 (Public Law 96–
 20 418; 94 Stat. 1782) is hereby repealed and shall have no
 21 force or effect.

22 (b) EXECUTION OF INSTRUMENTS.—The Adminis-
 23 trator and the Secretary shall execute all instruments nec-
 24 essary to implement this section.

1 **SEC. 5. DEFINITIONS.**

2 In this Act:

3 (1) ADMINISTRATOR.—The term “Adminis-
4 trator” means the Administrator of General Serv-
5 ices.

6 (2) GOVERNOR.—The term “Governor” means
7 the Governor of the territory of Guam.

8 (3) SECRETARY.—The term “Secretary” means
9 the Secretary of Defense.

10 (4) SURPLUS PROPERTY.—The term “surplus
11 property” has the meaning given that term in sec-
12 tion 102 of title 40, United States Code.

13 (5) TERRITORIAL GOVERNMENT.—The term
14 “territorial government” means the government of
15 Guam established under the Organic Act of Guam
16 (48 U.S.C. 1421 et seq.).

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