

## An Introduction to the Disposal of DoD Property

Major Jose A. Cora  
Professor  
Contract and Fiscal Law Department  
The Judge Advocate General School, U.S. Army  
Charlottesville, Virginia

In the 2010 State of the Union Address, President Obama stated that “[the Department of Defense] will have all of our combat troops *out of Iraq by the end of August [2010].*”<sup>1</sup> The mission to retrograde, or redeploy, Department of Defense (DoD) combat units from Iraq<sup>2</sup> by August 2010 led to a flurry of planning at all levels of command. One of the most challenging implied tasks generated from the President’s retrograde order is the proper disposal of DoD property located in Iraq.<sup>3</sup> The DoD property that requires disposal includes not only property that is currently owned and managed by DoD units in theater, but also property that is owned by DoD but managed by DoD contractors in theater, like the Logistics Civil Augmentation Program (LOGCAP).<sup>4</sup> Under LOGCAP, for example, DoD must dispose of 3.1 million pieces of equipment worth over \$3.3 billion in Iraq alone.<sup>5</sup> As a result, the disposal of DoD property presents a monumental task for all units retrograding from Iraq, and their advising judge advocates (JA), in a constrained timeline. The fact that most JAs have a limited understanding of the legal framework for the disposal of DoD property complicates this monumental task further.

The two articles that follow—*Herding Cats I: Disposal of DoD Real Property and Contractor Inventory in Contingency Operations*, by Captain Lyndsey Olson,<sup>6</sup> and *Herding Cats II: Disposal of DoD Personal Property*, by Major Kathryn Navin<sup>7</sup>—seek to provide JAs with the legal framework related to the disposal of all DoD property overseas. Captain Olson created, and Major Navin adopted, the metaphor of “herding cats” to describe the legal

framework of property disposal. In effect, each disposal mechanism is like an “unruly cat” that JAs must fully understand, and simultaneously employ, in order to successfully execute the disposal of property mission in Iraq. To fully understand the disposal of property legal framework, JAs must read and understand both of the articles, since each focuses on different aspects of the disposal of property and their respective disposal mechanisms.

The availability of a property disposal mechanism ultimately depends on the classification of property. Department of Defense property overseas may be classified in one of three ways: (1) DoD real property, (2) DoD personal property, and (3) DoD contractor inventory (property owned by DoD but used by a contractor to execute its contract).<sup>8</sup> The chart on the following page summarizes the major property classifications and their sub-classifications.<sup>9</sup>

Ultimately, the classification of property determines the proper disposal mechanism. The different property disposal mechanisms include Foreign Excess Real Property (FERP) disposal,<sup>10</sup> or Contractor Inventory disposal,<sup>11</sup> which Captain Olson addresses in *Herding Cats I*. They also include Defense Reutilization and Marketing Service (DRMS) disposal,<sup>12</sup> Foreign Excess Personal Property (FEPP) disposal,<sup>13</sup> and the disposal of military-type property by transfer to the Government of Iraq (GoI) or the Government of the Islamic Republic of Afghanistan (GIROA),<sup>14</sup> which Major Navin addresses in *Herding Cats II*.

Together, the two articles provide a full understanding of the law and policy related to disposal of property in one location, providing an invaluable tool for deployed JAs advising their units and commanders on disposal of property matters. The Department hopes that they assist deployed JAs to provide technically competent legal advice to units retrograding—and disposing of property—in Iraq and Afghanistan.

---

<sup>1</sup> President Barack Obama, State of the Union Address (Jan. 27, 2010), available at <http://www.whitehouse.gov/the-press-office/remarks-president-state-union-address> (emphasis added); see also Captain Lyndsey MD Olson, *Herding Cats I: Disposal of DoD Real Property and Contractor Inventory in Contingency Operations*, ARMY LAW., Apr. 2010, at 5.

<sup>2</sup> For a full discussion of retrograde, see Olson, *supra* note 1, at 5; see also Kathryn M. Navin, *Herding Cats II: Disposal of DoD Personal Property*, ARMY LAW., Apr. 2010, at 27.

<sup>3</sup> Although the current focus of retrograde operations is Iraq, DoD will also retrograde from Afghanistan at a future point in time. The law governing the disposal of property is currently the same in Iraq and Afghanistan, and will apply in a similar manner in Afghanistan when we begin to retrograde from Afghanistan.

<sup>4</sup> See Olson, *supra* note 1, at 13.

<sup>5</sup> *Id.* at 1, 13.

<sup>6</sup> *Id.*

<sup>7</sup> Navin, *supra* note 2, at 26.

---

<sup>8</sup> Olson, *supra* note 1, at 8.

<sup>9</sup> See Olson, *supra* note 1, app. B; see also Navin, *supra* note 2, app. A.

<sup>10</sup> Olson, *supra* note 1, at 8–12.

<sup>11</sup> *Id.* at 12–15.

<sup>12</sup> Navin, *supra* note 2, at 21–29.

<sup>13</sup> *Id.* at 33–37.

<sup>14</sup> *Id.* at 37–38.

