



USMC ENCROACHMENT PARTNERING OVERVIEW



ENCROACHMENT



“Encroachment is any non-DOD action or constraint that causes or may cause the loss of, or restriction to, the use of land, air, frequency and sea maneuver areas required or planned by the Marine Corps to maintain readiness. Encroachment is not limited to the immediate civilian community. Although physical development in conflict with military operations is the most often cited source of encroachment, the actions of more removed entities, such as counties, states, and other federal agencies which determine land use and occupancy, are equal potential sources.” Marine Corps Order 11011.22a,
“Encroachment Control,”



Encroachment Partnering



- Encroachment partnering is a cooperative, multi-party, real estate-based program authorized by Congress to help mitigate the impacts of off-base land uses that are potentially incompatible with military operations. It is based on a military service “partnering” with a public agency or a private conservator to acquire real estate interests in the vicinity of a military installation to prevent incompatible development or the loss of habitat that ultimately could limit military operations on base.
- Encroachment partnering projects are based on the premise that the Marine Corps and its partners have a common interest in protecting land from incompatible development, although sometimes for different reasons. Encroachment partnering also implies that the Marine Corps and its partners are both willing and able to contribute to the cost and effort of acquiring these interests.



Authorization



- **The military EP program is authorized under Title 10, U.S. Code Section 2684a, “Agreements to Limit Encroachments and Other Constraints on Military Training, Testing and Operations,” which Congress passed in FY-03 and amended in FY-06.**

- **The law authorizes military departments to enter into EP agreements with states, their political subdivisions and private conservators to acquire real estate interests “in the vicinity of, or ecologically related to, a military installation or military airspace” for the purposes of:**
 - **Limiting development or property uses that are incompatible with the installation’s mission,**

 - or**

 - **Preserving habitat off-base to eliminate or relieve current or anticipated environmental restrictions on base.**



Authorization



- **The partners (who acquire the interests in land) must agree to transfer to the United States “all or a portion of the property or interest acquired under the agreement” as requested by the Secretary of the military department.**
- **The military department can share the real estate acquisition costs with its partners, but this amount may not exceed the fair market value of the property or real estate interest to be transferred to the United States.**
- **The partners’ contribution can consist of any one or combination of funds provided by another Federal agency or a State or local government, in-kind services, and the exchange or donation of real property or interest in real property; or any combination thereof.**



Authorization



- **The real estate interest requested by the military department must be the least restrictive one necessary to protect the military mission (i.e., a restrictive easement).**
- **There can be no threat or use of condemnation (i.e., willing sellers only).**
- **EP projects are to be funded by military department O&M or Research, Development, Test & Evaluation (RDT&E) funds.**



CONDITIONS and LIMITATIONS



- **Require the Marine Corps to use scarce Operations & Maintenance (O&M) funds to acquire real estate interests.**
- **Compete for limited funds or Installation commanders may be required to contribute their own installation funds to EP projects.**
- **Require the Marine Corps' financial contribution, and that of its partner(s), to be based on the appraised value of the real estate interests to be acquired.**
- **Must demonstrate a benefit to the Marine Corps in reducing a current or potential encroachment concern of incompatible development or loss of off-base habitat that could affect current or future military readiness requirements.**



CONDITIONS and LIMITATIONS



- **Require a “willing seller” (i.e., no threat of condemnation).**
- **Are *not* authorized to provide land for military training or other operational uses.**
- **Must serve a purpose that benefits our conservation partners to convince them to invest their resources in these sites rather than others.**
- **Should conserve open space and promote natural resources in addition to preventing encroachment.**



Business Relationships with Conservation Partners



- **The EP Program is unique for the flexibility that it gives the Marine Corps to negotiate the legal and financial terms of agreements with its conservation partners. The Marine Corps can offer to contribute whatever amount of funds it is willing and capable of providing to an EP project, limited to the appraised value of the real estate interest it is acquiring. As a rule, HQMC is interested in establishing partnerships where cost share responsibilities are evenly divided. The fair market value will be determined by an appraisal that complies with the uniform appraisal standards for federal land acquisitions. NAVFAC real estate appraisers can explain these requirements.**



Marine Corps Prioritization



- The five criteria used by HQMC to prioritize proposed EP projects within established funding limits are:
 - Mission Importance
 - Ecological Value
 - Acquisition Cost
 - Public Perception (Project Support)
 - Buffer Effectiveness



Process



- **Requirements and potential projects identified.**
- **Concept Approval submitted HQMC.**
- **EP project partnership agreement, including financial contributions and roles, developed in a Memorandum of Agreement.**
- **Partner works with land owner.**
- **Site specific documentation developed.**
- **Final approval and funding obtained.**
- **Partner completes acquisition of land.**
- **Escrow is completed.**