Subject: NAVFAC Implementation of 179D Tax Policy

References:  
(a) 26 U.S.C. § 179D, Energy Efficient Commercial Buildings Deduction  
(b) DASN (E,I&E) Policy on Energy Efficient Commercial Buildings Tax Deduction, dtd 19 March 2012  
(c) The Emergency Economic Stabilization Act of 2008 (P.L. 110-343)  
(d) Internal Revenue Bulletin 2008-14, Notice 2008-40, Amplification of Notice 2006-52; Deduction for Energy Efficient Commercial Buildings

Enclosures: (1) 179D Allocation Guidance Letter and 179D Request Form

1. Purpose

Provide policy and guidance on NAVFAC roles and responsibilities for the tax deduction referenced in (a) through (d).

2. Background

26 U.S.C. § 179D allows a tax deduction for energy efficient property installed in buildings after the beneficial occupancy date (BOD). Navy policy for the allocations of the tax deduction is provided in reference (b).

3. Applicability

This ECB is effective immediately and shall be followed when a 179D tax deduction allocation request is received for a DON owned facility.

This ECB applies to energy efficient property placed in service within the United States after 31 December 2005 and prior to 1 January 2015. The Internal Revenue Code §179D applies to buildings and property within the scope of ASHRAE 90.1-2001, Energy Standards for Buildings Except Low-Rise Residential Buildings. Therefore this ECB does not apply to buildings three stories or less in height above grade that include sleeping accommodations where occupants are primarily permanent in nature (30 days or more).

4. Policy

a. DASN policy recognizes NAVFAC as the agent to verify the 179D tax deduction requests for DON facilities.

b. A NAVFAC employee who has knowledge of the project will verify the tax deduction. This individual can be the Project Manager, Design Manager, Construction Manager, FEC...
PWD, or ROICC Engineer. This person is the “DON Authorized Individual” identified on the 179D Request Form.

c. Per DASN Policy, only a party with a direct contractual relationship with DON may request a 179D allocation from DON. This party is the “Designer” and can only be the prime contractor awarded the design-build contract/task order, or in the case of design-bid-build, can only be the A/E firm that completed the design.

d. Upon request from the “Designer”, NAVFAC will send the “Designer” the 179D Allocation Guidance Letter (Enclosure (1)) within 30 days. The guidance letter explains the “Designer’s” requirements for submitting the completed 179D Request Form and necessary supporting documentation to process the request.

Note: Per DASN Policy, NAVFAC is not responsible for review or endorsement of a “Designer’s” certifying documents or energy savings modeling data. NAVFAC is not responsible for the certification required of a “Designer” by the Internal Revenue Service. The “Designer” claiming a deduction is solely responsible for the accuracy of any representations made to the IRS.

e. Upon receipt of the completed 179D Request Form and supporting documentation, NAVFAC shall:

1) Verify the following prior to signing the 179D Request Form:

   a) Contract documentation identifies the “Designer” IAW 4.c.

   b) Block 1: The DON Authorized Individual listed is IAW 4.b.

   c) Block 2: Identifies the “Designer” IAW 4.c, or in the case where the “Designer” has requested multiple allocations:

      i) Verify there was a contractual tie between the allocated party and the “Designer” on the building contract/task order.

      ii) Verify the percent breakouts total 100%.

   Note: If a discrepancy occurs, make adjustments to the percentages as deemed accurate or return the 179D Request Form unsigned to the “Designer” along with brief explanation.

   d) Block 3: This is the address of the government owned property where the energy efficient property or component is installed.

   e) Block 4: Verify the total cost of the energy efficient property or component:

      i) Does not exceed the total building contract/task order price.

      ii) Does not exceed the sum of the component costs.

      iii) That all components listed have a contractual tie to the building contract/task order.
Note: If discrepancies are identified, return the 179D Request Form unsigned to the “Designer” along with brief explanation.

f) Block 5: Verify the date matches the BOD acceptance date and it falls between 31 Dec 2005 and 1 Jan 2015.

g) Block 6: This must total 100%.

Note: Only one completed 179D Request Form totaling 100% will be accepted per building contract/task order. Partial requests (<100%) will not be accepted.

h) Verify the “Designer” signed the 179D Request Form.

2) Sign and return the completed 179D Request Form to the “Designer” with copies to the contract file and the Public Works Officer. Archive the supporting documentation in the contract file.

Note: Once NAVFAC has signed the 179D Request Form, no further submittals will be accepted for that building contract/task order.

5. Point of Contact: The point of contact for this ECB is Mr. Scott Mauro, 202-685-9280.

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for
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