



## **1.0 Authorization:**

The Merchant Ship Sales Act of 1946 established the National Defense Reserve Fleet (NDRF) to maintain ships to support national emergencies. The NDRF was upgraded in 1976 with the creation of the Ready Reserve Force (RRF) to support the rapid deployment of military cargo during defense related contingencies. The Maritime Administration (MARAD) is the federal government's disposal agent for federally owned merchant type vessels of 1500 gross tons or more. Vessels received from other federal agencies enter the NDRF program and are either kept for a specific purpose or are listed for disposal.

Section 3512 of Public Law 108-136 (the National Defense Authorization Act for Fiscal Year 2004) provides the Secretary of Transportation with the authority to convey obsolete NDRF vessels to non-profit and governmental organizations for other than commercial transportation uses. This authorization replaces the previous practice of obtaining special legislation for the donation of ships and is stated as follows.

"Section 508 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1158) is amended--

(1) by inserting '(a) AUTHORITY TO SCRAP OR SELL OBSOLETE VESSELS-' before 'If'; and

(2) by adding at the end the following:

(b) AUTHORITY TO CONVEY VESSELS-

(1) IN GENERAL- Notwithstanding section 510(j) of this Act, the Secretary of Transportation may convey the right, title, and interest of the United States Government in any vessel of the National Defense Reserve Fleet that has been identified by the Secretary as an obsolete vessel of insufficient value to warrant its further preservation, if--

(A) the recipient is a non-profit organization, a State, Commonwealth, or possession of the United States or any municipal corporation or political subdivision thereof, or the District of Columbia;

(B) the recipient agrees not to use, or allow others to use, the vessel for commercial transportation purposes;

(C) the recipient agrees to make the vessel available to the Government whenever the Secretary indicates that it is needed by the Government;

(D) the recipient agrees to hold the Government harmless for any claims arising from exposure to asbestos, polychlorinated biphenyls, lead paint, or other hazardous substances after conveyance of the vessel, except for claims arising from use of the vessel by the Government;

(E) the recipient has a conveyance plan and a business plan that describes the intended use of the vessel, each of which have been submitted to and approved by the Secretary;

(F) the recipient has provided proof, as determined by the Secretary, of resources sufficient to accomplish the transfer, necessary repairs and modifications, and initiation of the intended use of the vessel; and

(G) the recipient agrees that when the recipient no longer requires the vessel for use as described in the business plan required under subparagraph (E)--

(i) the recipient will, at the discretion of the Secretary, reconvey the vessel to the Government in good condition except for ordinary wear and tear; or

(ii) if the Board of Trustees of the recipient has decided to dissolve the recipient

according to the laws of the State in which the recipient is incorporated, then--

(I) the recipient shall distribute the vessel, as an asset of the recipient, to a person that has been determined exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code, or to the Federal Government or a State or local government for a public purpose; and

(II) the vessel shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the recipient is located, for such purposes as the court shall determine, or to such organizations as the court shall determine are organized exclusively for public purposes.

(2) OTHER EQUIPMENT- At the Secretary's discretion, additional equipment from other obsolete vessels of the National Defense Reserve Fleet may be conveyed to assist the recipient with maintenance, repairs, or modifications.

(3) ADDITIONAL TERMS- The Secretary may require any additional terms the Secretary considers appropriate.

(4) DELIVERY OF VESSEL- If conveyance is made under this subsection the vessel shall be delivered to the recipient at a time and place to be determined by the Secretary. The vessel shall be conveyed in an 'as is' condition.

(5) LIMITATIONS- If at any time prior to delivery of the vessel to the recipient, the Secretary determines that a different disposition of a vessel would better serve the interests of the Government, the Secretary shall pursue the more favorable disposition of the obsolete vessel and shall not be liable for any damages that may result from an intended recipient's reliance upon a proposed transfer.

(6) REVERSION- The Secretary shall include in any conveyance under this subsection terms under which all right, title, and interest conveyed by the Secretary shall revert to the United States if the Secretary determines the vessel has been used other than as described in the business plan required under paragraph (1)(E)."

## **2.0 Program Objectives:**

The donation program will provide qualified organizations with the opportunity to develop, implement and conclude plans for the reutilization of obsolete ships that are excess to the NDRF. This reutilization includes the historic restoration of ships as memorials and museums and the operational restoration of ships to support non-profit humanitarian missions. The program will also augment NDRF ship disposal activities by permanently removing obsolete ships at no cost to the Government.

## **3.0 Documentation:**

All required documents shall be provided in Adobe Acrobat PDF format for ease of copying to a computer workstation with a Microsoft operating system unless special permission is provided for using a different document format. Documents larger than two megabytes are to be provided on CD. Evaluation and approval of submitted documents will take less time if clear and concise language is used and sufficient detail is provided. Dialogue with MARAD is encouraged to be sure documents convey the desired understanding.

## **4.0 Donation Request:**

**4.1 Eligible Ships:** A document on the internet web-page, <http://www.marad.dot.gov>, is updated periodically to indicate the status of ships that are eligible for donation and to indicate any plans for downgrading ships so they will become eligible in the near future. All vessels indicated are subject to disposal actions until put in Donation Hold status; therefore, prospective donation organizations are advised to meet the requirements in this document to achieve Donation Hold status as soon as possible. NDRF ships that are not eligible for donation include RRF ships, Retention ships and Non-retention ships classified in the web-page document as hull condition #2 or less.

**4.2 Concept and Non-profit or Governmental Status:** A prospective applicant shall provide a letter naming the vessel or vessels of interest and a description of the use concept that explains the intended use of each ship, its expected location and a description of the requesting organization. The concept letter should also briefly address the anticipated funding sources and financial requirements of the project. If the use concept changes later, the applicant shall provide an updated description in a timely manner. Proof of an organization's non-profit or governmental status shall be provided before any activity involving NDRF ships will be allowed since ships will only be donated to public organizations or to private organizations that are registered as non-profit business. Private organizations are required to document their non-profit status by providing a copy of their IRS 501(c) authorization and a copy of the latest IRS form 990PF. Public organizations, such as those associated with States and municipalities, are required to provide official correspondence explaining their governmental affiliation.

**4.3 Preliminary Visits:** After a group provides proof of non-profit or governmental status, it may visit a desired vessel to gain a better understanding of the vessel's condition. Early inspection and engaging the services of a professional marine surveyor are recommended to prevent unnecessary effort if the vessel's condition can not cost effectively support the intended use.

**4.4 Donation Interest Status:** MARAD will respond to proof of non-profit or governmental status and an acceptable concept description by assigning Donation Interest status. Placing a vessel in Donation Interest status indicates that a qualified group is interested in that particular ship. Further documentation will be required from the group regarding the specifics of the vessel's proposed use and the group's financial wherewithal to complete its concept. A vessel in Donation Interest status may be disposed by MARAD if a different disposition would better serve the interests of the government. Multiple ships can be requested, and multiple groups can be involved in the Donation Interest status for the same ship.

## **5.0 Business Plan:**

The plan should describe the expected operations, identify the organization's structure and funding sources, and provide budget estimates to implement and sustain the proposed use of the ship(s). The plan document is representative of the operation that will be undertaken and is substantiated by the Business Plan submittals provided in the Conveyance Plan. The Business Plan should elaborate on the use concept previously submitted and explain any concept changes that were not previously provided. If multiple organizations are interested in the same ship, MARAD will choose to work with a single organization based on the best and most timely Business Plan received. The following describes the specific details that shall be addressed in the Business Plan.

**5.1 Detailed Condition Survey:** The Business Plan shall provide a detailed condition survey report that was developed by a qualified independent marine surveyor. The report should show an extensive survey of the hull steel and topside steel structures. If the use concept includes the operation of machinery and controllers, the report shall also include the condition of and repairs needed to that equipment. The plan shall include a description of the surveyor's qualified experience and a statement declaring independence from the donation effort at the time of the survey.

**5.2 Funding Requirements:** For each item below, the Business Plan shall identify the anticipated funds needed for the implementation and sustained success of the planned operation. It shall also provide a cost summary showing anticipated funding for start-up and continuous operations with costs differentiated between labor, materials, capitalized expenses and services.

**5.2.1 Restoration:** The Business Plan shall describe the restoration work needed. Depending on the intended use of a ship, permanent repairs may be necessary to make the vessel safe for volunteers, employees and

public visitors, and to restore the vessel so it will support the intended operations. This may include cleaning, painting, metalwork, U.S. Coast Guard required repairs, and other federal or state and local regulatory repairs such as handicapped access and asbestos remediation. Older vessels may require complete fabrication of missing equipment that is no longer available. The plan shall include relocation of the vessel as part of the restoration cost.

- 5.2.2** Mooring Facility: The Business Plan shall describe the permanent or long-term homeport location; include the method of acquiring the use of real estate and the expected cost. It shall also provide a drawing of the ship's intended location and other related land based structures and improvements. The plan shall indicate where support facilities would be located such as shore-side access, public parking of cars or busses, vessel maintenance support, and access for delivery trucks and emergency vehicles. If the vessel is to remain afloat at a permanent or long-term homeport location, the plan shall provide a Heavy Weather Mooring analysis of mooring equipment and structures that will provide a secure mooring in the event that winds from a 50-year storm are experienced. The analysis shall clearly show the safety factors used for equipment and structures. The analysis shall show the source of climatological data that provides the 50-year storm wind speed. An acceptable analysis will be similar to reports generated from software such as "Optimore" or its equivalent. The plan shall provide a list of permits that are required to use the permanent or long-term homeport location along with the names of the associated organizations that provide each permit and indicate the expected lead-time for obtaining the permits. Some common permitting agencies are the local Port Authority, the U.S. Coast Guard Captain of the Port (COTP), the U.S. Army Corps of Engineers District Office, and the local Chamber of Commerce.
- 5.2.3** Maintenance: The Business Plan shall describe the maintenance that supports the expected operation after restoration and start-up efforts are completed.
- 5.2.3.1** Utilities: The Business Plan shall list the expected quantity and cost of mooring site utilities that will be needed such as electricity, water, heat, phone, and trash and hazardous material removal.
- 5.2.3.2** Safety Management and Emergency Response: The Plan shall explain and provide the cost of the proactive measures that will be taken to lessen the probability of experiencing emergencies. If necessary, the Plan should include the process for handling and disposing of hazardous waste, air monitoring for contaminants, and the use of personal protection measures and equipment. The Plan shall include an explanation of mooring site security services

and security systems such as intrusion alarms, fire alarms, flood alarms, and fencing. Maintaining the previously described Heavy Weather Mooring system is part of safety management. The Plan shall list the expected potential emergencies that could occur because of the operation being undertaken, provide a description on how each emergency would be handled and provide the expected cost of remediation for each emergency. The Plan shall indicate the cost of insurance and contracts that will be initiated to provide readiness for countering the effects of emergency situations such as personal public liability, property liability, property theft, workman's (volunteer's) compensation, and oil spill remediation contracts.

**5.2.3.3** Operations Staff: The Plan shall list the positions, with a description of skills and costs, needed to staff and administer the intended operation on a regular annual basis. Each position's proposed salary cost shall include all employee benefits to show a fully burdened cost. The plan shall explain the supervisory controls that will be in place and the handling of the additional challenges posed if there is a strong dependency on volunteers.

**5.2.3.4** Operations Supplies and Equipment: The Plan shall list the types and quantities of materials that will be consumed on an annual basis and the resulting cost. It shall also list the types and quantities of equipment that will be used to maintain operations and the cost of periodic replacement, leases, or maintenance contracts. Administrative equipment may include computers. Ship operations may include a shipboard allowance list (SAL), which is the equipment, materials and consumables needed to support the operation.

**5.2.3.5** Operations Services: The Plan shall describe the anticipated services needed to support operations. It shall also provide the expected cost of contracts for maintenance services if equipment, vessel, and grounds maintenance is not accomplished by staff. If marketing services are involved, the plan shall also include the cost of marketing initiatives such as printed materials, television time, radio time, internet pages, and billboards.

**5.3 Funding Sources:** The Business Plan shall itemize the sources of funding that will support the use concept, and indicate the average level of volunteer labor that will be available showing when the average level changes. It shall describe the support pledges expected from business organizations and from state, municipalities, or other public sources. If income is from user fees, the Plan shall explain the marketing strategy that will be utilized with a marketing analysis showing visitor projections and local demographics and a market share

analysis to compare the effect of other attractions at or near to the proposed location. The Plan shall include the pricing strategy of ticket prices, expected discounts and the volume generating full price and discounted revenue. The Plan shall explain how cash flow will be maintained by the organization's debt structure in support of initial start-up requirements and continued operations if receiving the necessary funding lags the ability to cover costs. It shall also describe the expected affiliation with financial institutions and collateral that will be used for loans. The Plan shall address the support needed to smooth spiked costs such as changes expected from start-up activities and the beginning of long-term operations.

#### **5.4 Schedules:**

- 5.4.1** Restoration Schedule: The Plan shall provide a time-phased schedule, by elapsed time - not by date, of all significant repair activities, upgrades, conversions and relocation activities with an indication of the schedule's critical path.
- 5.4.2** Maintenance Schedule: The Plan shall provide a maintenance schedule that itemizes the maintenance activities required on the vessel to be donated, equipment and real estate at daily, weekly, monthly and annual intervals and those at intervals greater than annually. Greater than annual maintenance may include a drydock interval especially if the ship is being operated under its own power. The schedule shall also include other non-ship related facilities and maintenance of mooring equipment and structures. The schedule shall indicate the items that will be performed by staff and the items that will be performed by contract.
- 5.4.3** Funding Schedule: The Plan shall provide a time-phased schedule that demonstrates, for the Restoration Schedule's critical path and the first ten years of operations, the sources of funds that will support all the expected operations costs rolled-up for the chosen milestones. Among other items, it shall indicate the timing of receiving pledged funds, the cost of contract maintenance and where funds are received from lines of credit so cash flow coverage is maintained.

**5.5 Management Approach:** The Business Plan shall provide a description of the organization's approach to management, its past performance, and a description of the key persons behind the effort to acquire the ship and maintain operations. The Plan shall provide policy and advertising documents, which may include charter, by-laws, certificate of good standing, mission statement, management philosophy or other similar literature. The Plan shall show the organizational structure and describe the relationships within the organization that ensure operations will succeed, explain the background and qualifications of personnel filling these positions and explain if the organization has or if it will obtain the necessary accounting skills, operational controls, technical skills,

production control procedures, property control systems, quality assurance measures and safety programs. The Plan shall identify the key personnel in the organization who will be responsible for each of these functional elements, indicate for each of the key personnel whether they will be full, part-time and direct or contract employees and indicate experience related to past performance of business operations including examples of integrity and business ethics.

**5.6 Vessel Disposal:** A donated vessel shall be disposed in accordance with all laws and regulations as opposed to being abandoned or returned to MARAD. Even though the donation authorization provides for returning a vessel to MARAD, at MARAD's option under certain circumstances, it is not often that MARAD's intends to exercise that option. It is MARAD's intention to ensure that disposal responsibility rests with the recipient donation organization. The Business Plan shall explain how the organization will dispose of the ship, including preparations, if the organization no longer has the desire or ability to maintain it. The Plan shall also provide a cost estimate for the disposal.

**5.7 Evaluation:** Each Business Plan that is received will be evaluated to determine if it is acceptable, which normally takes less than 60 days. Once the evaluation of the whole plan is completed, correspondence will be provided to indicate acceptance or to indicate deficiencies. The web page supporting ship donations will indicate the status of donation progress.

**5.8 Donation Hold:** Upon acceptance of the Business Plan, a Donation Hold period is initiated with an expiration date of one year from the approval date. If MARAD determines that sufficient progress has been made toward finishing the Conveyance Plan requirements at the one-year point, MARAD may give a six-month extension upon the receipt of written justification and demonstration that significant progress toward finishing the Conveyance Plan items has been achieved. Any requests for extensions to the donation hold period must be accompanied by updated schedules that show how revised critical path items support the extension request. The maximum number of six-month extensions is two. The ship(s) will be taken off Donation Hold at the close of business on the date of expiration if the organization has not progressed to the point where all Conveyance Plan requirements are satisfied or an extension is requested. Donation Hold status will ensure that a desired vessel is not committed to disposal actions during the hold period unless the vessel's condition requires its disposal or a more favorable disposition would better serve the interests of the government. Disposal can be expedited at any time should deterioration pose an increased threat to the environment or cause a situation where future disposal will become more costly. If the Business Plan involves multiple ships, the initial one-year Donation Hold period will not be increased.

**5.8.1 Preparation Visits:** After a vessel is given Donation Hold Status, visits to the desired ship(s) at a MARAD facility for the purpose of working to

prepare for towing or to gather spare equipment and parts may be approved. Visits to survey the vessel prior to approval are encouraged and may occur at any point during the donation process at MARAD's convenience. All visitors must sign liability release forms. It is possible that MARAD cannot support the desired work activity especially if it is substantial or driven by near deadlines. Permission may be given for augmentation of support activities such as the use of additional watercraft and security with contractors or volunteers. Additional support workers must have credentials that prove their skill competency in the specific capacity they will be used. Visits will be arranged in accordance with MARAD policy. Contact the Division of Reserve Fleet to request a visit.

**5.8.2** Preservation Systems: During preparation visits, additional preservation systems may be installed or existing systems may be increased. MARAD will provide the additionally required electrical power, but may request reimbursement if the cost of additional power is substantial. All vessels are under cathodic protection; however, this system can be made more effective by the prospective recipient. Non-retention ships do not have dehumidification systems operating, so this system can be added by the prospective recipient.

**5.8.3** Quarterly Report: After a vessel is placed in Donation Hold Status, quarterly reports shall be provided to verify that cost estimates remain valid, all schedules are being followed, and that progress is being made toward providing Conveyance Plan items. The report shall indicate if any cost estimates or schedules have deviated from the original baseline schedule. If the schedules show deviations that are later than the original baseline schedule, the report shall describe the recovery process for accomplishing activities that are behind schedule.

## **6.0 Conveyance Plan:**

A Conveyance Plan shall be submitted within the one-year or extended Donation Hold period to show the cost and expected preparations needed to remove the ship from its location, transfer it to a new location and secure it at its new venue. This includes providing the supporting documents described in the Business Plan. Approval is required before vessel conveyance can occur.

**6.1 Business Plan Submittals:** The Conveyance Plan shall provide all the documentation necessary to support the approved business plan, including the following items.

**6.1.1** Funding Pledges: The Plan shall provide copies of commitment documents from reputable private and public organizations showing the funding amounts they have pledged and the points of contacts that can verify the information.



the new location and provide documentation showing the underwriter being used. The Plan shall provide a separate summary of the costs associated with all expected expenses such as towing, insurance, pilotage, waterway charges and drydocking. The Plan shall provide a Trip-in-Tow survey by an independent professional marine surveyor. The Plan shall provide a signed price estimate from a licensed and insured tow company for the cost of the expected passages.

**6.3 Towing Preparations:** The Conveyance Plan shall provide a description of the nature of the work that is necessary prior to the ship(s) leaving the MARAD facility and provide a separate cost summary of the work. This shall include installing towing apparatus and may include increasing topside weathertightness and hull watertightness. The plan shall indicate the time needed for this work and the number of volunteers or contractors that will be performing the work.

### **7.0 Waivers:**

Upon application in writing by a potential ship recipient, MARAD, in its sole discretion, may waive the requirements of any provision above or any part thereof. A valid waiver may only be granted in writing from MARAD by the Chief, Division of Reserve Fleet. A waiver with respect to a potential ship recipient shall constitute a waiver only with respect to that particular recipient and that particular ship, unless expressly otherwise noted in the approval.

### **8.0 Ship Transfer Agreement:**

Upon acceptance of the Conveyance Plan, a proforma agreement is adapted for use in the transfer of the ship to the organization. The agreement will rely on and incorporate by reference the provisions of the approved Conveyance and Business Plans.

Conveyance of title will occur when the agreement is signed by both parties even while the donated vessel is located at a MARAD facility. The agreement specifies the latest removal date from the fleet site, usually within 90 days, and that vessels are delivered in "as-is" condition. The agreement must be signed by both parties before the donation hold period expires. Requests for extension of the donation hold period must be made before the donation period expires.