Real Property Desk Guide

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Chapter 1: *Purpose of the Desk Guide*

PURPOSE

Over the past few years, Federal agencies have come to realize the importance of managing their real property assets so that optimum usage is attained, and maximum return/benefit accrues to the holding agency, the Government at large, and the public. This has led to increased reliance on long-range planning as the key determiner of what actions need to be taken with respect to acquiring and/or disposing of real property. The aim of this Desk Guide is to place in perspective the day-to-day activities of the DOE realty specialists as they relate to this overall focus on real estate asset management. From this basic-level perspective, the realty specialist should be able to see where a particular action fits into the real estate process spectrum, and better perceive the interrelationship of the various real estate tasks, and their impact on future planning and management.

The Desk Guide provides an overview of the essential functions in the real estate process, demonstrates how considerations of proper asset management are an integral part of real estate decision-making, and furnishes reference to more detailed guidance on specific activities and responsibilities. It is structured to reflect the normal sequence of events in the real estate process: planning, through acquisition and management, to disposal. Particular emphasis is placed on comprehensive land-use planning as a principal tool in effective asset management, and on the necessity of maintaining accurate real estate data in the Facilities Information Management System (FIMS).

RECOMMENDED USE

This Desk Guide is not intended as a prescriptive document outlining mandatory steps in the real estate process. Rather, it should be viewed and used as a means of quickly identifying material addressing matters or problems encountered in the course of real estate projects. Essentially, it provides the "what?" by identifying the central actions and procedures of the DOE real estate process. The "how?”, the detailed approaches and methodologies, are contained in the various documents and forms referenced in the desk guide, the majority of which are in the guide's appendices.

The Guide also serves as an educational tool by covering the entire real estate process. It provides current realty specialists with a general familiarization of the process, and new personnel with a concise description of the responsibilities and considerations they will face as realty specialists. While the guide cannot address the numerous courses of action that might be pursued by realty specialists in carrying out their duties, it should enable them to view possible actions in light of the standard procedures and steps which are outlined.

STRUCTURE

The chapters in the Desk Guide are arranged to follow the normal sequence of events in the "cradle (planning/acquisition) to grave" (management/disposal) real estate process. Each chapter opens with an explanation of the processes and procedures encompassed by the chapter title. Within each chapter, the process for the various types of actions within a given category are briefly explained. In addition, each chapter identifies responsibilities and legal obligations, and indicates what forms and documents should be employed in completing an activity.

The Desk Guide does not attempt to explain the processes in detail. That is not its purpose. It identifies the key steps normally encountered in such activities as providing space and facilities or disposing of property, and then provides references to material which covers the topic in more detail. The citation will generally be to documents which are included in the appendices to the Desk Guide.

The Desk Guide's loose-leaf format is designed to allow necessary changes to the text resulting from legislative changes, Federal Management Regulation, etc. Additionally, this format will permit users to insert additional information concerning a particular subject.

Referenced Documents

With the institution of the new DOE Order 430.1B, **Real Property Asset Management** (RPAM) initiatives (see DOE Order 430.1B, Appendix 1-1), the previous existing orders and directives addressing the various real estate operations were phased out. Much of the information, processes, and procedures contained in these orders and directives remains usable as a basis for developing courses of action. This is particularly true of former order DOE Order 4300.1C, (Appendix 5-1) **Real Property Management and the United States Department of Energy Leasing Handbook (1990)**. They describe in useful detail the elements that should be considered in the execution of real estate project tasks.

In addition, a number of Good Practice Guides covering real estate-related subjects, such as site selection and comprehensive land-use planning, have been issued prior to the initiation of the RPAM process and can be found in the Appendix. Again, these are not policy directives, but tools to assist field office personnel and contractors in performing their duties.

Thus, while no longer mandatory for real estate operations, these documents, as well as others, provide useful information, guidance and insight, and are referred to frequently in this Desk Guide.

Chapter 2: *Introduction*

BASIS FOR THE DOE REAL ESTATE PROCESS

The generic legislation under which the Department of Energy has real property holding authority is the Department of Energy Organization Act (PL 95-91). Generally, departments and agencies with such authority may exercise the full range of real estate activities. Section 647 of the Act specifically addresses the property holding responsibilities of DOE. Under this section, the Secretary of Energy is "authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain laboratories, research and testing sites and facilities, quarters, and related accommodations… "

In addition to these responsibilities, which are directly related to the accomplishment of DOE's technical missions, DOE may acquire general-purpose office and related space and certain special purpose space by virtue of delegated lease acquisition authority from the General Services Administration. DOE also may authorize its contractors to procure space needed in connection with DOE programs and projects. These latter authorities stem from the Federal Property and Administrative Services Act of 1949 (63. Stat. 471) which permits GSA to delegate to other Federal agencies its authority to procure leased space. In exercising its delegated authority, DOE is subject to the rules and requirements of the Federal Management Regulations (FMR, sections 101-17 and 101-18), the FMR section 102-72 (Delegation of Authority) and the Federal Acquisition Regulation (FAR) as incorporated into the General Services Acquisition Regulation (GSAR) for leasing.

Within the parameters of the enabling legislation and the delegated authority, DOE has established policies and procedures for the operation of its real estate function. The overall direction for the Department of Energy's real estate program is contained in DOE Order 430.1B, *Real Property Asset Management* (RPAM), issued September 24, 2003. The order establishes a corporate, holistic, and performance-based approach to real property life-cycle asset management that links real property asset planning, programming, budgeting, and evaluation to program mission projections and performance outcomes. To accomplish the objective, this Order identifies requirements and establishes reporting mechanisms and responsibilities for real property asset management. This Order implements Department of Energy (DOE) P 580.1 *Management Policy for Planning, Programming, Budgeting, Operations, Maintenance and Disposal of Real Property*, dated May 20, 2002.

Although certain real estate directives including DOE O 4300.1C, *Real Property Management* and DOE O 430.1A , *Life-Cycle Asset Management*, were cancelled as official policy documents by this new Order, their use as reference material is encouraged. They continue to serve a useful purpose as guides or roadmaps for the initiation and completion of real estate projects.

Documents that have proven particularly helpful in outlining the fundamental real estate processes are DOE Order 4300.1 C, *Real Property Management*, and the *Department of Energy Leasing Handbook*. These two documents, coupled with the Good Practice Guides on Site Selection (No. 024) and Comprehensive Land-use Planning (No. 033) provide an overall view of the essential matters that a Realty Specialist must address in performing his/her role. This Desk Guide brings together these documents, as well as others addressing capital asset management, GSA leasing procedures, outgrants, etc., in a single, quickly accessible form. It broadens coverage of the real estate process by presenting the common steps Real Estate personnel will generally follow to complete either routine or complex real estate actions. A major goal of the Desk Guide is to identify the role of Real Estate in the planning and asset management areas of the process, and to focus on the necessity for close interaction between Real Estate and the other field elements with responsibility for meeting the RPAM requirements (see specifically, Chapters 3, 4, and 9)

To understand the roles of the offices involved in the real estate process, this Introduction includes brief explanations of the functions of these offices as they relate to the management of real property assets. These explanations are meant to be short general overviews of each office's role in the real estate process; they are not intended to describe all of the functions these offices perform.

ROLE OF REALTY SPECIALIST

The Realty Specialists are responsible for managing the real estate program for their respective Operations Offices. They play the central role in the housing of DOE employees, whether through developing requirements for a GSA space acquisition, satisfying a property need themselves, or overseeing and approving a contractor leased space acquisition. Realty Specialists are charged with implementing the RPAM directive and other real estate/asset management policies, procedures, and initiatives developed by Headquarters. They participate directly in land-use planning for the site and are key players in plan implementation. The major tasks they perform include acquiring interests in real property; managing the site's real estate inventory, including the outgranting of owned or leased property; identifying excess property and arranging for its disposition; and assuring that data covering the site's real property assets is maintained in the Facilities Information Management System. Pursuant to RPAM and formal delegations of authority from NA-1 and MB-1, Certified Realty Specialists (CRS) have been delegated unlimited real estate authority (except for acceptance of donations or the institution of condemnation actions) and only with a CRS's approval may DOE site managers authorize or contract for real estate actions. (The box at the end of this chapter identifies the central areas of responsibility of the Realty Specialist.)

Interaction of Real Estate and Field Planning Activities

The development of a comprehensive land-use plan and a Ten Year Site Plan requires close, integrated action between Real Estate and other key planning processes in the field, including NEPA, utility planning, asset management, and project planning. This interaction and joint plan formulation can facilitate implementation of land-use decisions, and make Real Estate better able to determine the necessary real property rights to be acquired to perform the mission, establish the appropriate space parameter requirements, assure the optimum usage of real property and space, and dispose of rights no longer needed to support the mission. (See Chapter 3 on Comprehensive Planning and the Land-use Planning and Management Processes.)

ROLE OF THE OPERATIONS OFFICES

The DOE Field Elements are responsible for preparation of budget requests and planning for physical assets, including real property. They have responsibility for identifying excess real property that has significant remaining useful life, and for notifying the Office of Field Management of its existence, when appropriate. The offices are charged with assuring that inactive and surplus facilities are managed adequately until a reuse is found or the property is disposed of. They also must assure the establishment of an efficient, economic approach to asset management in conjunction with program offices and the Office of Engineering and Construction Management (ME-90). These offices are accountable to the program offices and the Landlord program office for contractor performance, and coordinate all review and external oversight activities of the contractors.

ROLE OF HEADQUARTERS

Secretary of Energy or Designee

The Secretary of Energy, or NA-1 for NNSA sites, authorizes the acquisition of interests in real estate by condemnation; accepts real property donations; and approves critical strategic planning decisions. See Section 5a in RPAM for other rules and responsibilities.

Office of Engineering and Construction Management

OECM serves as the point-of-contact for external activities and issues relating to real property life-cycle asset management. They provide technical assistance to program offices, landlord programs, and field elements. See Section 5a in RPAM for other rules and responsibilities.

Program Office

The program office is responsible for defining, planning, and budgeting for program needs, including operations, facilities, and projects. It oversees field element program and project implementation, and field elements to assure an efficient, economic approach to asset management. See Section 5a in RPAM for other rules and responsibilities.

Program Office Designated as Landlord

The Landlord program offices are responsible for establishing policies and procedures and funding for the site's implementation of programs and projects relative to the management of site infrastructure. For multi-program sites, the Landlord coordinates funding requirements with other program offices. The Landlord also reviews field element infrastructure activities in conjunction with the program offices and the Office of Field Management.

Real Estate

Real Estate Officers in the Office of Engineering and Construction Management (OECM) are the Department of Energy's official point of contact for real estate matters outside the Washington D.C. National Capitol Region. OECM's Realty Officers provides guidance and assistance to the field in the entire range of real property activities including comprehensive land-use planning, acquisition (including condemnation and leasing), management (including outleasing), disposal, and data collection and reporting as part of the Facilities Information Management System (FIMS).

ROLE OF CONTRACTORS

Contractors or subcontractors may be authorized to perform real estate work for DOE, which may involve the acquisition, lease or disposal of real estate or interests therein, and reimbursement of the contractor for the cost. DOE Realty Specialists review contractor practices and transactions relating to the lease, acquisition and management of real property to make sure that their actions are in accordance with the same laws, regulations, policies and standards as applicable to DOE for leasing such as competition in contracting, fair market appraisals and other pertinent requirement, and that proper consideration is given to economy, efficiency, and programmatic need.

Key Areas of Responsibility for Realty Specialists

- FIMS corporate real estate database
- Acquisition *of* real estate
- Withdrawal from public domain
- Donation of real estate to DOE by others. Condemnation of real estate
- Exchange of real estate
- CERCLA/RCRA real estate requirements. Transfer *of* DOE real estate to Community Re-Use Organizations
- Sale of DOE real estate
- Transfers of real estate to other government agencies
- Disposal of DOE real estate through GSA
- Leasing of real estate owned by others
- Leasing DOE real estate to others
- GSA assigned space
- DOE's Management and Operations Contractor's Leasing Program
- Utilization of real estate
- Demolition of buildings
- Land Use Plan (see Chapter 3 & Attactment 3-1)
- Relinquishment of DOE withdrawn land to the Department of Interior

Chapter 3: *Department of Energy Planning Policy*

As covered in the DOE Order DOE O 430.1B (Real Property Asset Management), planning is the overarching function within real property asset management that integrates the other functions of acquisition, real property utilization, maintenance, recapitalization, disposition, and Long Term Stewardship (LTS) into a coordinated effort to ensure that current and future mission needs are met. Planning is dependent on clear objectives, sound data, and effective communication between all parties at a site.

(1) Site planning for real property assets must be consistent with DOE P 430.1, Land and Facility Use Planning, dated 7-9-96, EO 13327 and be based on GSA real estate principles and industry wide practices. Following are the GSA cited Government Asset Management Principles:

GOVERNMENT ASSET MANAGEMENT PRINCIPLES

1. USE WHAT YOU HAVE FIRST
Real property assets under the custody and control of the Federal Government should be considered first when accommodating Federal agency mission requirements.

2. BUY ONLY WHAT YOU NEED
The amount of interest in Federal real property assets should be the minimum necessary to effectively support a Federal agency's mission.

3. USE INDUSTRY-LIKE INSTRUMENTS OF AGREEMENT
Real property assets of the Federal Government should be utilized among agencies with the use of instruments of agreement that follow the best practices of the industry,

4. REINVESTMENT IS ESSENTIAL
Reinvestment in a real property asset is essential to maintain its fair market value, its ability to benefit from advancements in business practices and technologies, and to support the Federal mission and enhance employee productivity.

5. INCOME/EXPENSES COMPARABLE TO THE MARKET
Any income realized by a real property asset during its useful life should approximate that generated by a comparable commercial property; while any expense by such an asset during its life cycle should approximate that incurred by a comparable commercial property.

6. MAXIMIZE USE AMONG AGENCIES
The maximum utility of a real property asset can be realized if it is continuously transferred among agencies having mission needs while it is under the control of the Federal Government.

7. TIMELY DISPOSAL
A Federal real property asset that has no further mission support use by the Federal Government should be disposed of timely and in a manner that best serves the public interest.

8. RETAIN PROCEEDS FROM DISPOSAL AND OUTLEASING
The proceeds gained from the disposal of a Federal real property asset, or from outleasing, should be available for use by the agency having custody, control and use of the asset.

9. PROFESSIONAL TRAINING
Federal employees should be given the training needed to perform their jobs at the highest level of professionalism, and in order to utilize models and other analytical tools for optimizing their real property asset management decisions.

(2) For each nonclosure site, results of real property asset site planning and performance must be documented in a Ten-Year Site Plan (TYSP) that is kept current and covers a 10-year planning horizon. For closure sites, disposition plans must be developed.

(a) The TYSP will be consistent with and support development of the Integrated Facilities and Infrastructure (IFI) Crosscut Budget, identifying the resource requirements associated with TYSP implementation. (Figure 1 represents the relationship between the TYSP and IFI Crosscut Budget.)

(b) The TYSP will be integral to and support the DOE Planning, Programming, Budgeting, and Evaluation System (PPBES).

(c) The TYSP will result in a consolidated and integrated plan replacing multiple reports. It will use the Facilities Information Management System (FIMS), DOE's corporate real property asset database, for real property asset information.

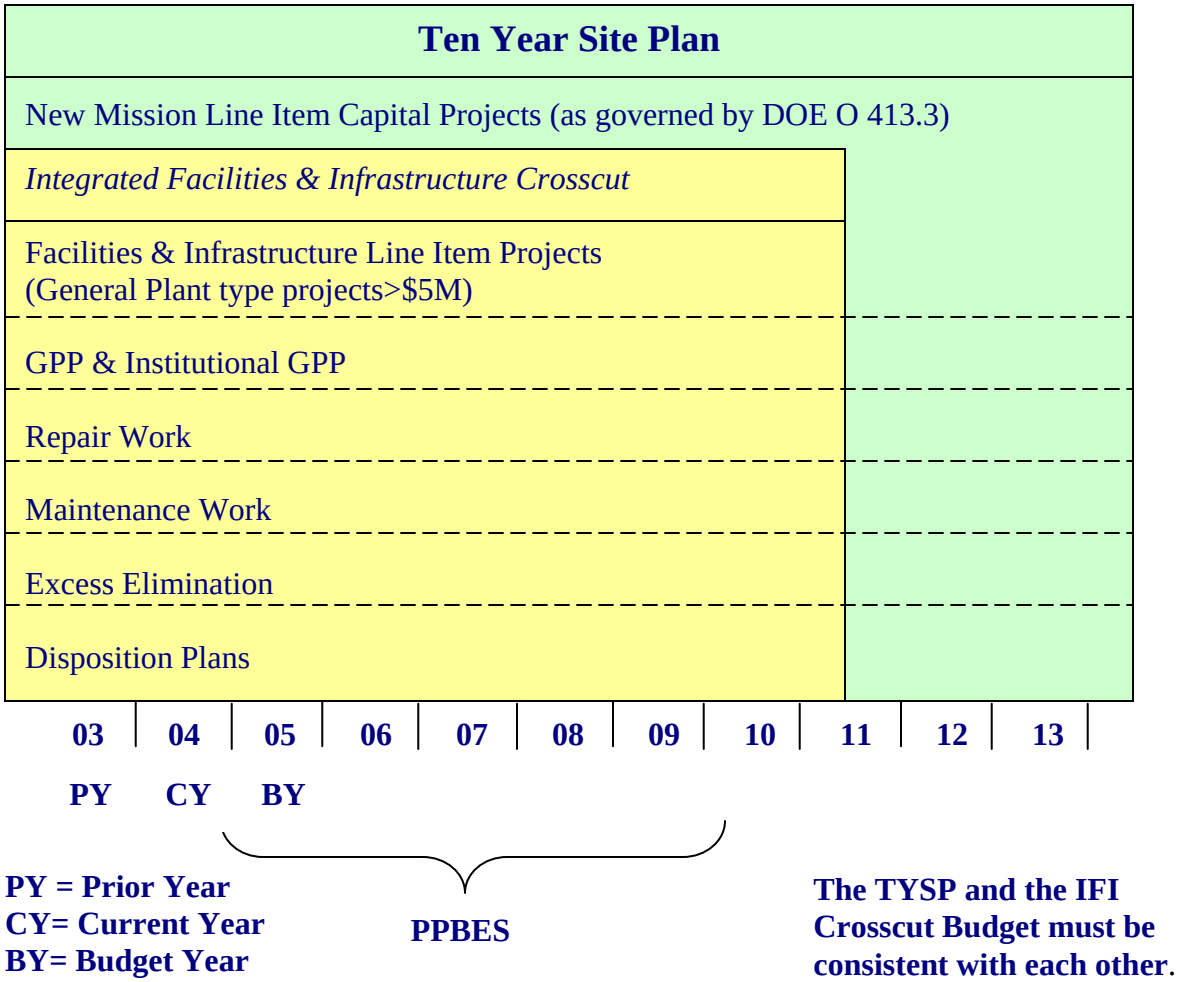

Figure 1. Ten-Year Site Plan (TYSP);
Integrated Facilities and Infrastructure (IFI) Crosscut Budget; and Planning, Programming, Budgeting, and Evaluation System (PPBES)

(3) The content of the TYSP must address how the site's real property assets will support the Department's strategic plan, the Secretary's 5-year planning guidance, and appropriate program guidance. It must be a comprehensive site-wide plan encompassing the needs of tenant activities. The format of the TYSP should be consistent within a program in accordance with program direction and guidance. Sections of the TYSP can be rearranged to meet the unique requirements of a site. As a minimum, TYSPs must address the following.

(a) The site's plan to meet program missions, budgets, planning estimates, and performance outcomes within the program's budgetary and out-year fiscal projections.

(b) An assessment of the current status of the site real property assets against delineated program missions including discussions of condition assessments, maintenance and recapitalization plans, space utilization, real estate, excess facilities disposition, LTS, and unique site issues.

(c) The prioritized real property asset projects and activities required to meet program missions, budgets, and planning estimates. These include acquisition projects, elimination of excess property projects and activities, maintenance and recapitalization plans, disposition projects, and LTS requirements.

(d) The prior year (PY) plus ten (10) additional fiscal years of activities, planned in accordance with Lead Program Secretarial Office (LPSO), Cognizant Secretarial Office (CSO), and Program Secretarial Office (PSO) annual program direction and guidance for mission projections and fiscal projections. It will be consistent with the Department's PPBES and the field budget call.

(e) A report on past performance and projected future outcomes, including the results from real property asset corporate and program performance measures (see paragraph 4g of DOE O 430.1B [RPAM] for corporate performance goals and measures). The report must compare the budget authority against the actual expenditures and the performance outcomes achieved at the site for the fiscal year that precedes the PY.

(f) Space utilization activities and land-use that stabilize then reduce the costs by consolidating operations where practicable and eliminating excess facilities.

(4) The TYSP must be submitted either concurrently with responses to the field budget call, or as directed by the LPSOs/CSOs/PSOs to be consistent with the PPBES cycle.

Chapter 4: *Real Estate Function*

The Real Property Asset Management (RPAM) Order (DOE O 430.1B) directs that an integrated, systematic approach be used in managing the real estate function of DOE.

The real estate function encompasses several key activities over the life cycle of real property assets. These activities involve acquisition by lease or purchase; planning and management, including taking inventory, making assignments, conducting utilization surveys, and tracking assets; screening for excess real property assets; and disposal of real property assets.

(1) The Secretary's authority to acquire, manage, and dispose of real property can be redelegated, with the exception of accepting donations and initiations on condemnation actions or executions of declarations of takings. In exercising the delegated authority, all real estate actions to acquire, manage, and dispose of real property assets must be reviewed and approved by a DOE Certified Realty Specialist (CRS) before executing the action. The senior realty officer in OECM will provide the review and approval for those offices without a CRS.

(2) A CRS must be involved in planning, acquisitions, utilization surveys, excess declarations, and disposal by demolition or sale of real property assets. These actions are to be performed in accordance with requirements in 41 CFR, Chapters 101 and 102, Federal Property Management Regulation and DOE real property authorities. The DOE *Real Estate Process-Desk Guide for Real Estate Personnel* provides detailed guidance and procedures for completing real estate actions. These actions will be reflected in the Ten Year Site Plans (TYSP).

(3) Land-use planning and management integrates land uses at each site and examines multiple land-use options. Land-use planning must be consistent with DOE P 430.1. The land-use plan must provide a clear view of the land-use issues, capabilities, opportunities, and limitations of the site. It will identify all land that is needed to support the site mission through annual utilization surveys. The plan must be kept current and support development identified in the site TYSP. At cleanup and closure sites, identified uses must be consistent with a Record of Decision's anticipated future or end-point use.

Land-use plans should be tailored based on local site condition and must consider the National Environmental Policy Act, site planning and asset management, Long Term Stewardship (LTS) plans, institutional control plans, stakeholder public participation, economic development under community reuse organizations, privatization of assets, environmental law, cultural asset management, historic preservation, and natural resource management.

Land-use planning and management must be established through one or more of the following, as approved by the Lead Program Secretarial Office (LPSO) responsible for the site.

(a) Disposition plans, and LTS plans at cleanup or closure sites.

(b) Implementation of a site-wide National Environmental Policy Act document that addresses land-use or resource management.

(c) A Land-Use Control Action Plan under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

(d) Administrative mechanisms to assign use to areas that support implementation of the TYSP.

(4) Real property assets not fully utilized or excess to mission needs must be identified to facilitate reuse or disposal as follows.

(a) Lead Program Secretarial Offices/Cognizant Secretarial Offices/ Program Secretarial Offices (LPSOs/CSOs/PSOs) must annually identify all project/program mission terminations to site/field managers. This is normally accomplished in program planning documents.

(b) Except for environmental closure sites, site/field managers must annually report to responsible LPSOs/CSOs/PSOs any real property identified as not utilized through utilization surveys. This may be accomplished through updates to TYSPs to reflect planned excess facilities and disposition schedules: Utilization status will be recorded in FIMS.

(c) LPSOs/CSOs must annually declare as excess the real property reported to them as not utilized and not needed to support their program missions. These formal declarations must be transmitted to the Office of Engineering and Construction Management (OECM) no later than December 31st of each year.

(d) OECM will screen all LPSO/CSO declared excess real property with remaining useful life with all other LPSOs/CSOs/lPSOs to determine whether the property is excess to all programs in the Department.

(e) If not accepted for transfer by another program, the responsible LPSOs/CSOs/PSOs must plan and program the elimination of excess real property through reuse, demolition, disposal, transfer, or sale based on reducing risks and minimizing life-cycle costs. The report must compare the budget authority against the actual expenditures and the performance outcomes achieved in the last full fiscal year of execution.

(5) Excess real property assets that are appropriate for economic-development transfer must be identified and disposed of in accordance with 10 CFR 770, Transfer of Real Property at Defense Nuclear Facilities for Economic Development.

(6) Real estate actions for out-grant must be performed in accordance with the Joint DOE/EPA interim Policy Statement on Leasing Under the Hall Amendment, dated June 30 1998, and applicable DOE directives. Clear definition of roles, responsibilities, and liabilities must be developed to ensure safety and protection of the workers, the public, and the environment in accordance with Guidance on Protection of Workers Utilizing DOE Leased Facilities for all stakeholders of Departmental real property assets that are leased to private parties.

(7) Headquarters (Office of General Counsel; Office of Management, Budget and Evaluation; and LPSOs/CSOs) must be notified 90 days before all disposals by sale or lease under DOE authorities. Notification must be accomplished as follows:

(a) For non-economic-development leases, e-mail notifications are acceptable.

(b) For economic-development-related leases and sales, a notification package must be submitted to Congress, 30 days before transfer by sale or lease.

(c) For sales of land that do not use the standard Federal practices of 41 CFR, Chapters 101 and 102, a notification to the Energy and Water Appropriations Committee is required 60 days before any proposed sale of land. The notification is to provide a detailed explanation for the waiver of Federal practices for the sale of property.

(8) Real Estate Records and Reports.

(a) FIMS is the Department's real property asset inventory system and fulfills the requirement in 41 CFR, Chapters 101 and 102, for each Agency to have a real property inventory system. FIMS data will be used to meet routine reporting requirements.

1. FIMS data must be maintained as complete and current throughout the life cycle of real property assets, including real property related institutional controls.

2. FIMS data must be archived after disposal *of* real property assets. Those necessary for Long Term Stewardship (LTS) must be identified, reviewed, and retained.

3. Site/field managers will ensure that FIMS data is verified annually as complete and accurate using a quality control process.

(b) Real property asset inventory reports must be provided as specified in the DOE *Real Estate Process-Desk Guide for Real Estate Personnel.*

On February 4, 2004 the President of the United States signed Executive Order 13327 – Federal Real Property Asset Management. The policy related in this Executive Order is to promote the efficient and economical use of America's real property assets and to assure management accountability for implementing Federal real property management reforms. Based on this policy, executive branch departments and agencies shall recognize the importance of real property resources through increased management attention, the establishment of clear goals and objectives, improved policies and levels of accountability, and other appropriate action. A copy of this EO may be found in the appendix.

A summary of the major elements of the EO are as follows:

Purpose:

1. To promote the efficient and economical use of America's real property assets.
2. To assure management accountability for implementing Federal real property management reforms.
3. Directs executive branch departments and agencies to recognize importance of real property resources through increased management attention, the establishment of clear goals and objectives, improved policies and levels of accountability, and other appropriate action.
4. In short, to improve the overall management of Federal real property assets on a Government-wide level.

Summary of Major Provisions:

1. Establishes position of a Senior Real Property Officer at all major executive agencies.
2. Senior Real Property Officers to develop and implement agency asset management plans.
3. Creates interagency Federal Real Property Council.
4. Development of single and descriptive database of Federal real properties.

Senior Real Property Officer:

1. Designates a senior official in each major Federal landholding agency to develop and implement an agency asset management plan.
2. Asset management plan will identify and categorize real property inventory owned, leased, or otherwise managed by agency; prioritize actions to be taken to improve operational management of inventory; identify and pursue goals with appropriate deadlines; and measure progress against such goals and deadlines.
3. Serves on Federal Real Property Council.
4. Submits asset management plan to OMB.
5. Makes annual reports regarding agency real property inventory data to OMB and GSA.

Federal Real Property Council:

1. Established by the order.
2. Develops guidance for and facilitates implementation of agency asset management plans.
3. Establishes appropriate asset management performance measures.
4. Composed exclusively of all agency Senior Real Property Officers, Controller of The Office of Management and Budget and Administrator of General Services.
5. OMB Deputy Director for Management serves as member and chairs the Council.

Public Lands:

1. Order also maintains the Public Lands section of the Reagan order, which directs the Departments of **A**griculture and the Interior to take such steps as are necessary to improve the management of public lands.

Revoke 1985 Executive Order:

1. The order revokes Executive Order 12512 (signed into law by President Reagan on April 29, 1985).
2. Maintains many of the same concepts and ideals of the Reagan order, but provides for a more specific and detailed plan for improving Federal real property asset management.

PMA Initiative:

1. This order is in conjunction with and accompanies a new Program Initiative to the President's Management Agenda, "Federal Real Property Asset Management".

Chapter 5: Acquisition of Interests in Real Property

ESTABLISHING THE NEED

When newly authorized programs or expansion needs produce a requirement for additional real property, the responsible program office should develop the necessary justification for the project. Such justification should include a detailed explanation of the purpose, the estimated land area required and the square footage for any improvements, the location, and the estimated time period for the need. Development of the justification is a collaborative effort by the program office, counsel, and the fiscal/budgetary offices, along with the realty representative. The realty specialist is responsible for assuring that pertinent information is obtained from all involved offices. In developing the need, information of the type outlined in former DOE Order 4300.1C, Real Property Management, Chapter I, paragraph I.e. (See Appendix 5-1) should be included.

If the program need can be satisfied on Government-owned property, it must be utilized. Property in the DOE inventory must be screened first. If none is available, the General Services Administration (GSA) and other Federal property holding agencies should be contacted. Reasons for not using available Government-owned property must be documented in the project file.

If office space is needed to house Federal employees, it will normally be provided by GSA, unless the location falls within the area in which DOE has been delegated lease acquisition authority by GSA. (See Chapters 6 and 7 on leasing).

A temporary need for space may be solvable with relocatable personal property; however, it should be noted that the DOE Strategic Plan has a goal of eliminating all trailers currently being used by DOE to house personnel or other program needs by 2009.

PRELIMINARY REAL ESTATE PLAN

Prior to initiating action to acquire real property by fee acquisition, lease (where term exceeds 5 years and total rent exceeds $500,000 per annum), construction (line item projects exceeding $5 million), or transfer of excess property or withdrawal from the public domain, a real estate plan should be developed. The plan will serve as the basis for subsequent site selection activity and should reflect the agreement of all concerned DOE elements, including program, budget, procurement, and real estate. Chapter I, paragraph 2.e. of Order 4300.1 C (Appendix 5-1) describes the information that should be included in such a plan.

SITE INVESTIGATION AND SELECTION

The determination to acquire privately owned property for a project triggers a request for the necessary appropriated funds. Pending approval, site acquisition planning should continue. If it is determined that only one site can satisfy the project need, a sole source justification should be prepared.

When more than one site will be considered, a site investigation team should be formed. The Good Practice Guide, "Site-Selection Process" (GPG-FM-024), describes the process for team formation (see Section 2.1). GPG-FM-024 is included in this Desk Guide as Appendix 5-2.

When acquisition of real property interests is involved in a site selection, the realty specialist from the acquiring field office must be a member of the team. The team's primary role is to develop information and provide advice on possible sites. In preparing its recommendations, the team will make sure that its actions are in compliance with the Rural Development Act of 1972 which gives first priority to the location of new offices and other facilities in rural areas, Executive Order 12372 (Intergovernmental Review of Federal Programs), and will arrange for public notice of the site investigation. Information that should be included in an advertisement of the proposed site review is outlined in Chapter 1, paragraph 3.e. (2) of Order 4300.1C (Appendix 5-1).

Inspection of Sites and Site Evaluation

The team members will contact owners of potential sites that were not offered in response to the ad to determine their interest in selling their property, will thoroughly inspect all offered sites, will collect and evaluate information on the sites, and prepare a site evaluation report.

A central element of the documentation developed for the recommendation of a specific site is information and data on environmental impacts. DOE site selection decisions must be supported by the National Environmental Policy Act (NEPA) assessment process. The DOE NEPA guidance manual and 10 CFR 1021 provide information on the appropriate level of documentation for various levels of actions within the site-selection process. Considerations regarding toxic and hazardous substances at potential sites are covered in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). A thorough investigation of properties being considered for acquisition should be made to assure that no contamination exists. (See 4300.1C, Chapter I, paragraph 3.f (2) and (3), Appendix 5-1.)

The documentation will also include a description of the parcels and the estate(s) to be acquired, a list of the owners, the current use being made of the parcels, and an indication of the degree of compliance with seismic standards. If subsurface rights exist on any of the parcels, they should be clearly identified, as well as any submerged areas adjacent to high lands, and any easements, licenses, leases or other third-party rights affecting the property. Detailed maps indicating the property to be acquired, and its general vicinity, should be included in the documentation, along with an indication of any significant features that might affect the acquisition.

Cost Estimates

The realty specialist should develop an estimated acquisition cost for the proposed site. The estimate would include both the total property cost and any charges or fees for related obligations and services such as appraisals, relocation (pursuant to Public Law 91646), title search, and moving costs. If leasing is being considered, a market survey of the area to determine prices per square foot would be required. Information on local taxes, including the assessed value of the property to be acquired, should also be obtained.

Use of the Army Corps of Engineers

In instances where DOE realty expertise is not available, the services of another Federal agency, such as the Corps of Engineers or GSA, may be sought. Generally, reliance will be placed on the assistance of the Corps of Engineers, since that agency has historically provided real estate service to DOE and its predecessor activities. The Corps can perform major acquisitions or small, single-action services such as an appraisal. It can also provide service in other real estate functional areas such as out granting and disposal.

In accordance with a Memorandum of Understanding (MOU) between DOE and the Corps (see Appendix 5-3), each Field Office of DOE can work directly with each Corps Field Office, without Headquarters involvement, whenever needed. Only very large projects, such as the acquisition of property for the Strategic Petroleum Reserve, require Headquarters approval of both DOE and the Corps.

Figure 5-1 is a generic Task Order that can be utilized to request the Corps, under the MOU, to perform a specific real estate service.

Site Selection

Once the site evaluation report, along with the team's recommendation, is completed, it is forwarded to the site selection official for decision. After a site has been selected, the acquiring office may proceed with acquisition of title.

U. S. DEPARTMENT OF ENERGY	
1. Work Order No. **2. MOU No.**	**3. Date Prepared**
4. Name of Project Manager Location and Telephone No.	**5. DOE Office** (Office of Primary Technical Responsibility)
6. Description of Acquisition (use reverse side or additional sheet if necessary)	
7. Performance:	Start Date:_____ Completion Date: _____
8. Estimated Cost and Fund Citations	
9. Remarks	**10. DOE Field Office Approval Date** Requiring Office_____ Administrative Office_____

Approvals and Acceptance	
For the Corps of Engineers	**For the Department of Energy**
Name_____	Name_____
Title_____	Title_____
Date_____	Date_____

Figure 5-1
Generic Task Order for Requesting Corps of Engineers Real Estate Services

ACQUISITION OF SELECTED SITE

Necessary Data for Acquisition of Property

Once a site has been selected, the acquiring office initiates the purchase of the property. **Ownership information**, including a complete legal description for each parcel, should be assembled, if not already obtained during the selection stage. The services of a title service company should be secured early in the acquisition process. A **preliminary title report** should be obtained for use by the appraiser and the negotiator.

Appraisals are necessary for all acquisitions of real property. Procurement of appraisal service is discussed in more detail on page 9 of this chapter. Finally, a **boundary survey** may be needed to identify individual parcels and land rights, and to verify the legal description contained in the title evidence.

Negotiation

Pursuant to PL 91-646, the owner(s) of the property to be acquired must be furnished a written statement of, and summary of the basis for, the amount established by DOE as just compensation (see Appendix 5-4). An **Offer to Sell** should accompany the **Statement of Just Compensation**. In advance of initiating negotiations with the property owner(s), the negotiator should be thoroughly familiar with the Federal project, and should review the appraisal, title evidence, and preliminary title report in detail. The negotiator should be sure that all matters that could affect title or property value have been addressed. (Copies of an ownership disclaimer, an Affidavit of Heirship, and a Certificate of NonInterference are included in Appendix 5-5.)

Negotiations should be conducted in a businesslike and courteous manner, and the owner(s)' right to relocation assistance, if applicable, should be fully explained. An offer, in writing, should be made to the owner(s) for the amount determined to be just compensation. Normally, it should take no more than three negotiating sessions to either produce an acceptable agreement or establish there is an insurmountable impasse.

A written report of negotiations on each parcel must be prepared by the negotiator (see Appendix 5-6). It should set forth the chronological history of the discussions, and document the basis for the negotiator's conclusions for acceptance or rejection.

Purchase options for real estate needed in connection to a DOE project may be obtained only at no cost to the Government (see Option Agreement, Appendix 5-7). Contractors may not acquire options if the cost is to be ultimately paid by DOE under contract.

Conditions or Exceptions in Contract to Sell

Reservations for crops, timber, or improvements will be allowed if determined to be in the best interest of the Government. Generally, all **subsurface rights** to minerals, oil, coal, and gas should be obtained. Following acquisition, the property may, if circumstances permit, be **outleased** to former owners or tenants pending need for Government purposes.

Deed Preparation

The deed to the property acquired should be prepared in accordance with the Department of Justice (DOJ) requirements. Once executed, it should be promptly recorded in the local jurisdiction. When an acceptable title document has been received, it should be forwarded to DOJ for approval. Property may not be acquired until DOJ has approved title.

Closing

Closing of the fee acquisition takes place following DOJ title approval. When the closing attorney determines that the title is clear, the owner may be paid for the property. At the same time, DOE takes possession of the property. As soon as DOE assumes possession, a DOE employee should inspect the acquired property, and prepare a "**Certificate of Inspection and Possession," (**Appendix 5-8).

Following closing, a final title assembly is submitted to the Attorney General with a request for a preliminary and final title opinion. The Attorney General's title opinion and related documents will be made part of the DOE official property file maintained by the acquiring office.

ACQUISITION BY TRANSFER

The General Services Administration (GSA), pursuant to Section 202(a) of the Federal Property and Administrative Services Act of 1949 is authorized to transfer excess real property among Federal agencies. Notices regarding available excess property are issued frequently by GSA. A request for transfer of property, for which the receiving agency pays fair market value, should be submitted to the GSA together with a completed GSA Form 1334, "Request for Transfer of Excess Real Property and Related Personal Property" (see Appendix 5-9).

ACQUISITION BY WITHDRAWAL FROM THE PUBLIC DOMAIN

The Department of the Interior (DOI) is delegated responsibility for withdrawing and reserving public domain land. Pursuant to PL 95-91, DOE may request that DOI withdraw public domain land for DOE usage. The program office, in conjunction with the real property representative, develops the requirements. The field element prepares an application in accordance with the requirements in 43 CFR 2310, and submits it to the appropriate Bureau of Land Management (BLM) office. See DOE Order 4300.1C, paragraph 5.b.(2) for information on preparation of the justification for withdrawal.

If the request for withdrawal exceeds 5,000 acres, the Secretary of the Interior must notify both houses of Congress. Congress has a minimum of 90 days in which to respond or take no action.

When approved by DOI, a public land order, to be published in the Federal Register, is issued by that Department, withdrawing the property for DOE use. New withdrawals are for a maximum of 20 years, at which time they must be rejustified and reapproved by DOI (see Section 204(e) of PL 94-579 (90 Stat. 2743». Needs exceeding 20 years must be approved by Congress.

ACQUISITION BY EXCHANGE OR DONATION

Like other acquisitions, exchanges and donations require programmatic justification. The procedure for acquiring properties through these means are the same as for fee purchase. Appraisals must be obtained on all properties involved, and the owner conveying property to the Government must receive full value unless a written waiver is signed. Donated property must be approved by the Secretary of Energy, and a formal agreement signed which sets forth the terms and conditions.

ACQUISITION BY LEASE

Often, budgetary and management considerations will lead to the conclusion that acquisition of a leasehold interest in real property is more beneficial to the Government than fee ownership.

The Department of Energy has authority to lease certain types of property pursuant to PL 95-91 (91 Stat. 565). The Department may also authorize its contractors to acquire leased space to house contractor personnel, but DOE is responsible for overseeing the lease procurement of its contractor when the rental is directly reimbursed under the DOE contract; however the contractor may procure such space under its own corporate authority which is not reimbursed under the DOE contract without DOE approval. The General Services Administration is generally responsible for the acquisition of general-purpose office and related space needed by DOE (See Chapter 6 of this Guide), but has delegated to DOE authority to lease certain types of space. These various authorities are examined in detail in DOE Order 4300.1C, paragraph 7(a-f). Specific guidance on the lease acquisition process is contained in the United States Department of Energy Leasing Handbook (June 1990), as revised. (See Chapter 7 and Appendix 7 of this Guide.)

ACQUISITION OF OTHER INTERESTS IN REAL PROPERTY

In some instances, a real property interest less than fee or leasehold will satisfy a particular requirement. In such cases, the need may be met by procurement of an easement (permanent or temporary), a permit or license, or through acceptance of gift property.

Easements

Easements give the grantee the right to make limited use of the grantor's property. Property

owners may grant permanent easements permitting rights-of-way over or through their property, or they may issue temporary easements for short-term needs, such as access to a property. If the cost of the easement exceeds $10,000, an appraisal is required. In some cases, it will be necessary to acquire permanent easements by condemnation. (See DOE Order 4300.1C, paragraph 8.a.)

Licenses and Permits

Temporary use of real property may also be obtained through permits or licenses. "Permits" normally refer to use of federally controlled property, while "license" applies to the use of privately owned property. No permanent improvements may be placed on property being used under these temporary interests. Licenses and permits must be approved as to form and content by legal counsel. Contractors may obtain temporary use of property through licenses and permits. (See DOE Order 4300.1 C, paragraph 8.b.)

ACQUISITION BY CONDEMNATION

If the Government is unable to negotiate an acceptable agreement for the acquisition of the needed property, DOE may, as a last resort, request the institution of condemnation action by the Department of Justice under the Government's right of eminent domain. DOE Order 4300.1C, chapter IV, paragraph 2, outlines circumstances where condemnation may be necessary.

Recommendations for condemnation are approved by the Office of Counsel of the appropriate field element, and submitted to Headquarters Real Estate for review. A condemnation assembly is prepared in accordance with the Department of Justice's "**Procedural Guide for the Acquisition of Real Property by Government Agencies**." Owners should be notified that the Government intends to pursue condemnation, and be given sufficient time to accept the final offer.

Upon the filing of the Declaration of Taking (see examples, Appendix 5-10), a check for the estimated just compensation is deposited into the Registry of the Court, and the court establishes a time and the terms on which the property will be surrendered, and issues an appropriate Order of Possession or right of entry. Property owners may be allowed to remain on the property under an outlease agreement pending need by the Government.

Following filing of the Declaration of Taking, the field organization acquiring the property should: post the property to indicate Government ownership; inspect the property and complete a "**Certificate of Inspection and Possession**;" and update the title evidence and appraisals to the date of taking.

If a **settlement agreement** on the amount of just compensation can be reached with the former owner(s), a stipulation, approved by the U. S. Attorney involved, may be executed. If a **court award** results in an amount in excess of the deposit, the U. S. Attorney will request a deficiency check be deposited by DOE into the Registry of the Court. Should the U. S. Attorney consider the award unreasonable, he will contact DOE regarding possible appeal.

All legal documents related to the condemnation action should be maintained in the real property files at the installation.

APPRAISALS

The procurement of appraisal service is a necessity in virtually all real estate transactions. Independently prepared estimates of property value are needed in connection with planning decisions, and are an essential element in acquiring, leasing, and disposing of real estate. Appraisals are also mandatory for property being acquired in accordance with the requirements of Public Law 91-646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894), and pursuant to certain acquisition and disposal sections of the Federal Property Management Regulations (d. section 101-18; section 101-47).

PROCUREMENT OF APPRAISAL SERVICE

Qualified appraisers, preferably with an MAI (Member of the Appraisal Institute) designation, should be obtained to prepare appraisals for DOE. Specialists in certain areas of appraisal may be needed for unique or complex property acquisitions or disposals.

Appraisals are generally used to establish:

Fair Market Value - needed for the acquisition and disposal of fee ownerships and permanent easements.

Fair Rental Value - needed for the leasehold acquisition and outleasing of real property.

Value for Offsite Removal- needed in cases where real property is acquired or disposed of without the underlying fee, and must be moved from the site.

The above terms are defined in more detail in DOE Order 4300.1C, Chapter III, paragraph l.d.-g.

Usually, appraisal service may be obtained through the Corps of Engineers pursuant to the DOE-USACE Memorandum of Understanding (see Appendix 5-3). This service may also be secured through the General Services Administration or by DOE itself through informal solicitation. In an informal solicitation, at least three qualified appraisers should be asked to submit letters outlining their proposals. If the appraisal fee will exceed $10,000, formal procurement procedures must be followed.

Appraisals must be consistent with the "Uniform Appraisal Standards for Federal Land Acquisition of 1973", and other professional standards. A professionally prepared appraisal should thoroughly explain and fully document the basis for the appraised value.

REVIEW OF APPRAISAL

The appraisal must be reviewed before the proposed real estate action is undertaken, and before the appraisal fee is authorized. Appraisals may be reviewed by Certified Realty Specialists or, if necessary, by other agency appraisers, a fee review appraiser, or by Headquarters Real Estate. An Appraisal Checklist (Appendix 5-11) may be used in the appraisal review.

PUBLIC LAW 91-646

Acquisition of property from private individuals must be in accordance with PL 91646, Title III, which requires full disclosure by the acquiring agency of information bearing on its valuation of the owner's property. Paragraph 2.e. of DOE Order 4300.1C, Chapter III, lists the requirements under PL 91-646, Title III.

Chapter 6: *Acquisition of Leased Space Through the General Services Administration*

Federal agencies generally seek leased space *to* house their activities only when their requirements cannot be satisfied in government-controlled space. If general purpose office and related space is needed by an agency for its employees/contractors, such space is normally provided by the General Services Administration (GSA). Under a GSA program entitled, "Can't Beat GSA Leasing," agencies are given the option of leasing space themselves, obtaining space through GSA or other Federal agencies with real property acquisition/management capability, or through the private sector. If agencies opt to acquire space using their delegation of authority they must notify GSA of their intent to do so and determine if suitable government-controlled space is available. The requirement that Agencies give priority consideration to government-controlled space includes space(s) under the custody and control of the U. S. Postal Service. Though in many cases DOE acquires space using delegated authority, DOE continues to use GSA as the primary source to meet its general purpose housing requirements.

All government agencies having authority to acquire leasehold interests in real property must adhere to a number of federal laws, regulations, policies, and procedures. The authority by which GSA acquires space for agencies is the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(h)(1) and Reorganization Plan No. 18 of 1950 (40 U.S.C. 490 Note). The principal regulations under which leasing is conducted are the Federal Management Regulations (FMR) and the Federal Acquisition Regulation (FAR) which has been applied to leasing in certain circumstances through the General Services Administration Acquisition Manual (GSAM). The FMR focuses on the management of space, while the FAR/GSAM address procurement and contracting. (Attachment 6-1 lists the relevant statutes and Executive Orders impacting GSA's lease acquisition program.)

The General Services Administration has authority to lease space for terms of up to 20 years, but may delegate its authority to other federal agencies when deemed appropriate. Agencies given such authority are subject to the same statutory and regulatory restrictions as GSA, and to GSA oversight of their leasing activities. DOE has been delegated authority by GSA to lease special purpose space for up to 20 years firm, and to lease general purpose space in certain small urban communities for up to 5 years. (See Appendix 5-1: DOE Order 4300.1C, Chapter 1, Attachment I-I for documents relating to DOE's delegated authority. See also Appendix 6-2, FPMR Amendment D-92 (2/23/96) covering delegated leasing authority, both generic and specific, applicable to various Federal agencies, including DOE (Sec. 101-18.104))

When GSA provides the leased space, the tenant agency participates in the process by providing information on its space requirements and taking part in the market survey. Developing a comprehensive program of requirements is essential for the efficient and timely acquisition of space. (See chart, Figure 6-1, outlining the steps in the GSA lease acquisition process.)

GSA Lease Procurement Principal Steps

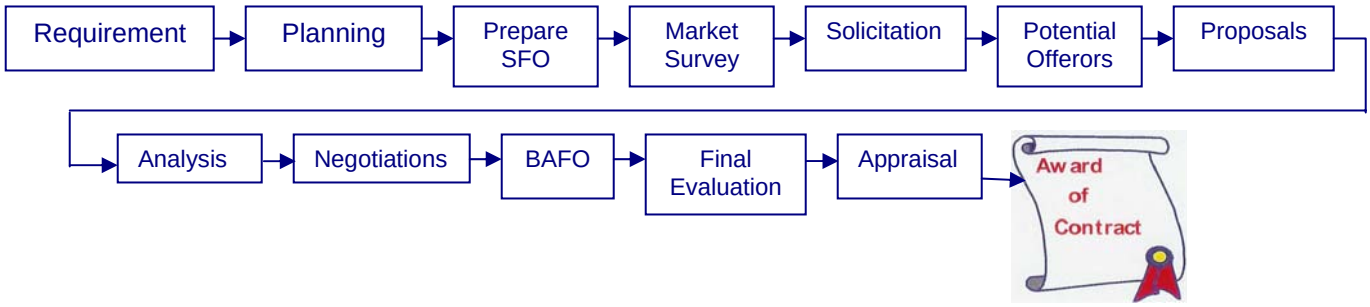

Figure 6-1

REQUIREMENTS DEVELOPMENT

DOE makes known its space need by contacting the appropriate GSA regional office (see listing, Attachment 6-2). The contact may be by telephone, letter or through a meeting with GSA Real Estate personnel. Although, pursuant to a GSA decision in October 1996, the Standard Form 81 (Request for Space) and its associated documents are no longer mandatory in establishing an agency's space requirements, they remain useful tools in identifying and explaining space needs, and may continue to be used for that purpose. (Copies of the SF-81 and SF81A, Parts 1 & 2 are in Appendix 6-4.) The preparation of a requirements package involves detailed analysis of the agency's functions, and focuses on the determination of optimum space usage for the activity. If desired, GSA will work closely with DOE in establishing and, when necessary, customizing DOE's requirements. An acquisition schedule will be developed between the GSA Realty Specialist or GSA assigned broker and the DOE contact. (A prospectus must be submitted to and approved by Congress for any proposed lease with an annual net rent of more than $2,290,700 as of fiscal year 2004. This figure is indexed each year. Net rent is the sum of fully services rent, including taxes and insurance, less operating expenses.)

Once the requirements package is complete, it will be closely reviewed by a GSA Realty Specialist and/or Space Planner to assure there is full understanding of the need. The DOE Realty Specialist should identify the delineated area in which the space is to be located (see 41 CFR 102-79.65 through 102-79.85), and concur in the requirements package before any necessary DOE approvals are obtained. GSA and the DOE Realty Specialist will establish a mutually agreed upon schedule for delivery of the needed space.

The completed requirements package includes the total amount of tenant improvement dollars available to be amortized into the rent DOE will pay. The tenant improvement has two components: *general* and *customization*. The general allowance should be sufficient to bring space from “shell” to “vanilla”. The customization allowance provides finishes which are not typical to all office spaces but are necessary to customize the space to meet a particular agency need. If tenant improvements exceed these allowances the overage must be pre-paid in a lump sum. Agencies have the option of reducing their rent by not using all of their allowance or by pre-paying all or portions of the customization allowance. Agency must make tenant improvement allowance decisions before the issuance of an Occupancy Agreement (OA).

INITIATING LEASING ACTION

Once the space requirements have been determined, the collection of market information begins. If no suitable government-controlled space is available, advertisements are placed in local newspapers or on the Federal Business Opportunities web page (www.fedbizopps.gov) (all leasing actions over 10,000 square feet must be advertised). The advertisement seeks expressions on interest from the real estate community and is the basis of the market survey. The market survey is an inspection of, or review of, available data on properties within the delineated area that have the potential for satisfying the space need. No negotiations are conducted during the market survey. It should be noted that government leases, unlike most private sector leases, are developed by the lessee (tenant) rather than the lessor, and often contain restrictions or requirements not applicable to the private sector.

GSAM 570.2 provides for a simplified leasing procedure for small space actions. This procedure applies to leasing actions in which the average annual net rent, including options, is not expected to exceed the simplified lease acquisition threshold (SLAT) of $100,000, annual rent, net of expenses. It is a less formal process, and permits on-site solicitation, telephonic negotiation, and the use of market data to demonstrate fair price. Generally, this procedure has been found to be most effective on the leasing process when there are few special requirements and when the agency contact in the field has authorization to accept space for consideration and to make requirement adjustments. (See DOE Leasing Handbook, this Guide, Appendix 7-1, Chapter IV, Simplified Lease Procedures.)

A DOE representative (preferably a Realty Specialist) should participate in all market surveys regardless of the size of the requirement. Walk-throughs should be made of each potential offeror's building. The DOE representative is free to ask questions of potential offerors during the market survey (although he/she should refrain from expressing opinions about the space in their presence), and will be asked by GSA to submit comments for inclusion in the final Market Survey report.

SOLICITATION OF OFFERS

Because individual blocks of general-purpose office space are unique, acquiring leased space through a sealed bid procedure (under which precise specifications are given to each potential bidder) is generally impractical. The usual method for government acquisition of leased space is by negotiation. Under the Competition in Contracting Act of 1984, full and open competition is the goal of all solicitations for offers and awarding of government contracts.

Upon completion of the market survey GSA prepares a Solicitation for Offers (SFO). An SFO is issued to all potential offerors deemed capable of timely providing the necessary type and quality of space.

> The SFO is a statement of the government's minimum requirements and includes:
>
> - A description of the needed space;
> - Performance specifications
> - Information on offer submission;
> - Information on award factors;
> - Information on price evaluation; and
> - Prescribed forms.

The appendices in the DOE Leasing Handbook (Appendix 7-1 of this Guide) contains copies of a standard Solicitation for Offers, and Form 3516, "Solicitation Provisions"; Form 3517, "General Clauses"; Form 3517a, the short form of the General Clauses; Form 3518, Lessor

"Representations and Certifications"; and Form 3518a, the short form of Representations and Certifications.

DOE will be given an opportunity to review and approve the SFO prior to issuance. When the solicitation is issued to all potential offerors, a deadline is established for receipt of offers.

Evaluation of the proposals is based on analysis of both price and technical factors. The technical evaluation determines whether an offer meets the minimum specifications in the SFO. The evaluation of price may focus on analysis of comparative rents (price approach) or a review of each element in the offeror's cost estimate (cost approach). Cost analysis is important in determining the impact services, utilities, and taxes will have on the total cost to the government.

All offers adjudged qualified for award of a contract are said to be in the" competitive range." Determining which offers fall within the competitive range and which do not is often a difficult task for the contracting officer (See FAR 15.305, Proposal evaluation. Once determined, negotiations are initiated with the responsive offerors. The selection of the most responsive offer is made following the call for "final revised proposals" formerly known as "best and final offers". The offers are analyzed using present value analysis and the contracting officer decides which one provides "best value" to the government. The Contracting Officer notifies the successful offeror of the government's acceptance of the offer. The formal lease document (Standard Form 2, along with all material relating to the contract. See Appendix 6-7) is then prepared for submission to the Offeror/Lessor. Depending upon the dollar amount involved and/or the size of the acquisition, certain internal GSA clearances may be required before the lease is presented to the successful offeror. GSA signs the lease after the Lessor and only when the Agency has executed an Occupancy Agreement.

OCCUPANCY

As soon as the lease is executed, the final layout process begins. Typically in leased space, the Lessor's Architect/Engineer works with the agency to develop Design Intent Drawings (DID's). Once the government approves the DID's, the Lessor prepares Construction Drawings (CD's) for pricing and permits. The government reviews the CD's and the pricing and issues a "Notice to Proceed with Construction". For average size requirements it generally takes 75 to 120 days after award before construction begins. DOE should make every effort to approve space layouts as quickly as possible to avoid requirements changes or delays which could result in additional costs to the government. Costs for changes made after SFO issuance, or caused by agency delay in the approval process, are reimbursable to GSA. GSA, working with the DOE Realty Specialist, can coordinate equipment (e.g., telecommunications; new furniture, etc.) delivery, make arrangements for the agency's relocation, and contact the current lessor (if applicable) to discuss a termination date or negotiate an extension, if needed.

Build Out

GSA monitors the progress of the construction work to assure that the schedule is being met, and that high work standards are being maintained. Any problems are immediately brought to the Lessor's attention. When the space is near completion, GSA arranges with DOE and the Lessor to do a walk through of the space. During the inspection, a list of deficiencies ("punch list") is prepared by GSA. DOE will be asked to promptly review and agree on the list of items

needing correction in order to avoid occupancy problems. Minor problems can be easily remedied and may not interfere with the scheduled occupancy. More significant items could cause delay and the need for GSA to make contingency arrangements.

When the space is accepted for occupancy, GSA notifies the Lessor of the Government's acceptance and prepares a Condition Survey Report (GSA Form 1024) required by GSAM 570.111. Also See General Clauses (GSA Form3715B), Acceptance of Space. GSA will prepare a final Occupancy Agreement memorializing the terms and conditions of DOE's occupancy of the space with the final financial terms including any revisions to the build out price. Rent billings are based on the information agreed to in the Occupancy Agreement. Rent is composed of various components based on the type of space. In leased space the categories of costs included in the OA are:

- Shell Rent
- Tenant Improvements (General and Customization)
- Operating Costs (usually escalated annually based on a Consumer Price Index)
- Real Estate Taxes
- GSA/PBS Installed Leasehold Improvements
- Security Charges
- Extra Services
- Parking
- Rental Charges for Other Space
- Joint Use
- GSA Fee

Following occupancy GSA will provide DOE with a copy of the fully executed lease as well as the as-built plans on CAD (Computer-Aided Design) if requested.

Lease Administration and Management

Once leased space has been acquired, it becomes the responsibility of the lease administrator (Realty Specialist) to see that the requirements of the lease are carried out. The lease describes the Lessor's obligation with respect to specifications, schedules, and service work. Interpretation of the lease is primarily the responsibility of the contracting officer. In the course of occupancy, certain actions may be taken by the contracting officer that might affect the current lease.

- Replacement of the existing lease with a superseding lease
- Lease renewal
- Negotiation of a succeeding lease
- Termination

Amendment of the existing lease through a supplemental lease agreement (SLA). An SLA (GSA Form 276) is commonly used to add or release space, revise term or rental payments,

provide overtime services, and may be used as the contract document for alterations or repairs.

Disputes arising out of the interpretation of the terms and conditions of the lease contract are settled in accordance with the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613) and Clause 36 of the General Clauses (GSA Form 3517B).

Alterations and Repairs During Occupancy

Necessary alterations and repairs to space leased by the Government may be performed as part of the rental consideration, by lump-sum payment, or by separate contract. The estimated costs for the repair and alterations project are carefully analyzed and negotiations are held to reach agreement on the scope of the work and price. (A prospectus must be submitted to and approved by Congress for any proposed repair and alterations project exceeding $1,145,000 as of fiscal year 2004. This figure is indexed each year).

In the administration of alteration projects, the contracting officer will often appoint a contracting officer's representative (COR), usually a Realty Specialist in the occupying agency, to oversee performance of the work. Close monitoring of the lessor's contract performance helps assure timely accomplishment of the work. The project administrator (Contracting Officer or COR) will:

- be thoroughly conversant with the contract;
- monitor accomplishment of the work; and
- take enforcement action, where necessary.

When the final inspection of the alteration work is completed, an official list of defects is presented to the lessor. The COR is responsible for seeing that all defects are corrected. Acceptance of the alteration work must be documented on appropriate forms. (GSA Forms 184 or 220 may be helpful in documenting inspections.) When government-furnished property is to be installed by the lessor, the COR is responsible for ensuring timely delivery and proper installation.

Attachment 6-1

Federal Statutes and Executive Orders Applicable to the GSA Leasing Program

I. Federal Statutes

1. Reorganization Plan No. 18 of 1950 (40 U.S.C. 490 note)

Transferred all functions with respect to acquiring space in buildings by lease, and all functions with respect to assigning and reassigning space in buildings, to GSA.

2. Federal Property and Administrative Services Act of 1949 (40 U.S.C. § 490(h»

Provides GSA with 20 year leasing authority.

3. Public Buildings Act of 1959 (40 U.S.C. § 606)

Section 7 of this Act requires Congressional committee approval of leases with annual rental, excluding services and utilities, in excess of $1,740,000. Further requires Congressional committee approval for lease alteration projects in excess of $870,000. The numbers above are applicable for Fiscal Year 1997 and are indexed annually.

4. Competition in Contracting Act of 1984 (41 U.S.C. § 251 et seq.)

GSA acquires leased space through the use of full and open competitive procedures mandated by this Act.

5. Public Buildings Cooperative Use Act of 1976 (40 U.S.C. §§ 601a 612a)

Requires GSA to afford a preference to historic properties in the leasing process. Also provides for the outleasing to the public of vacant Federal space when no Federal tenancy needs are present.

6. The Small Business Act (15 U.S.C. §§ 631-647)

Requires a positive effort by Federal contractors to place subcontracts with small and small disadvantaged business concerns. The Act also requires publication of Federal procurement requirements, requires large businesses to submit small business subcontracting plans, and provides for liquidated damages for failure to meet subcontracting plan goals.

7. Rural Development Act of 1972 (42 U.S.C. § 3122)

Requires Federal agencies to give first priority to rural areas in locating facilities. See also Executive Order 12072 regarding the location of Federal facilities in urban areas.

8. Contract Disputes Act of 1978 (41 U.S.C. §§ 601-613)

Requires disputes arising from federal contracts to be adjudicated by established process and procedures.

9. Prompt Payment Act (31 U.S.C. §§ 3901-3907)

Requires Federal payments to contractors to be made in an expeditious manner, provides penalties for late payment by the Government, and requires that the Government be entitled to discounts for early payment.

10. Assignment of Claims Act of 1940 (31 U.S.C. §3727)

Allows contractors to assign rights to payment, including rent, to established financing institutions.

11. The Architectural Barriers Act of 1968 (42 U.S.C. §§ 4151-4152)

Requires that public buildings be made accessible to the physically handicapped through construction and alterations to provide for suitable accessibility, restrooms, plumbing, water fountains, elevators, etc. The requirements of this Act are implemented through the Uniform Federal Accessibility Standards.

12. Fire Administration Authorization Act of 1992 (15 U.S.C. § 2227)

Requires that an entire building be sprinklered or provide an equivalent level of life safety when Federal funds are used to lease 35,000 square feet or more of space in a building (under 1 or more leases) and some portion of the leased space is on or above the 6th floor. Also requires that all hazardous areas be sprinklered in all Government leases.

13. Earthquake Hazards Reduction Act of 1977 (42 U.S.C. § 7705b)

Required adoption of standards for assessing the seismic safety of existing buildings constructed for or leased by the Government which were designed and constructed without adequate seismic design and construction standards.

14. Energy Policy Act of 1992 (42 U.S.C. § 8253)

Requires the Federal Government to meet 20 percent energy reduction targets by the year 2000. This includes Federally leased space.

15. Occupational Safety and Health Act of 1970 (29 U.S.C. §§ 651-678)

Requires GSA to ensure that space leased and assigned to agencies provides safe, healthful working conditions, including building features such as lighting, guard rails, indoor air quality, fire safety, emergency elevator requirements, etc.

16. The National Environmental Policy Act of 1969 (42 U.S.C. §4321 et seq.)

Requires an assessment of the environmental impacts associated with major Federal actions, including Government leasing.

17. National Historic Preservation Act of 1966 (16 U.S.C. §§ 470 - 470w-6)

Requires listed historical properties to be protected from harm as a result of Federal actions, including leasing.

18. Randolph-Sheppard Act (20 U.S.C. § 107)

Requires that licensed blind vendors be authorized to operate vending facilities on any Federal property, including leased buildings. The Act imposes a positive obligation on GSA to acquire space in buildings which have suitable sites for vending facilities.

19. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 et seq.)

Requires the payment of relocation benefits to persons displaced as a result *of* Federal actions. This Act is potentially applicable to persons displaced as a result of GSA lease-construction projects on sites designated by the Government.

20. Intergovernmental Cooperation Act of 1968 (40 U.S.C. §§ 531-535)

Requires GSA to consult with planning agencies and local elected officials and to coordinate federal projects (i.e., usually large projects requiring Congressional prospectus approval) with development plans and programs of the state, region, and locality where the project is to be located.

21. Drug-Free Workplace Act *of* 1988 (41 U.S.C. §§ 701-707)

Requires contractors to make certifications regarding actions to reduce the possibility of drug use at the site of the performance of work. The requirements of the Act do not apply to contracts below the simplified acquisition threshold for leasing.

22. Prohibitions Against Payments to Influence (31 U.S.C. § 1352»)

Requires certifications from contractors that funds have not and will not be paid to any person to influence the award of a Federal contract.

23. Officials Not To Benefit (41 U.S.C. § 22)

Prohibits any member of Congress from receiving any benefit arising from a Federal contract.

24. Covenant Against Contingent Fees (41 U.S.C. § 254(a)

Requires that no individuals other than full-time bona fide employees or established bona fide agents maintained by the contractor have been retained to solicit or obtain a Federal contract. This requirement is not applicable to contracts below the simplified acquisition threshold for leasing.

25. Anti-Kickback Act of 1986 (41 U.S.C. § 51)

Prohibits a contractor from soliciting or receiving kickbacks from subcontractors in return for subcontract awards. The requirements of this Act are not applicable to contracts below the simplified acquisition threshold for leasing.

26. Anti-Lobbying (18 *U*.S.C. § 1913)

Prohibits the use of appropriated funds to lobby Congress.

27. Examination of Records (P.L. 103-355, § 2251)

Authorizes the head of an agency and the Comptroller General to inspect records *of* Federal contractors. This authority is not applicable to contracts below the simplified acquisition threshold for leasing.

28. Davis-Bacon Act of 1931 (40 U.S.C. §§ 276a-276a-7)

Provides for payment of prevailing wages to laborers on Federal construction projects. This Act is potentially applicable to lease acquisitions when an offeror proposes to construct a building or completely reconstruct or rehabilitate an existing building for the predominant use of the Government.

29. Contract Work Hours and Safety Standards Act of 1962 (40 U.S.C. §§ 327-333)

Imposes 40-hour workweek and time and a half overtime requirements on certain contracts. This Act is potentially applicable to lease acquisitions when an offeror proposes to construct a building or completely reconstruct or rehabilitate an existing building for the predominant use of the Government. The Act does not apply to contracts below the simplified acquisition threshold.

30. Copeland Act of 1934 (18 U.S.C. § 874; 40 U.S.C. § 276c)

This Act makes it unlawful for a contractor to force a kickback from any person employed in the construction or repair of a public building or public work. The Act also requires contractors and subcontractors to furnish compliance statement with respect to wages paid to employees. This Act is potentially applicable to lease acquisitions when an offeror proposes to construct a building or completely reconstruct or rehabilitate an existing building for the predominant use of the Government.

II. Executive Orders

1. **Executive Order 11246** –
   Equal Employment Opportunity
   (1965. 30 Fed. Reg. 12319)
   Prevents Federal contractors from discriminating against any employee or applicant for employment because of race, color, religion, sex, or national origin.

2. **Executive Order 11988** –
   Floodplain Management
   (1977. 42 Fed. Reg. 26951)
   Precludes GSA from leasing space in buildings located within floodplains unless there are no practicable alternatives.

3. **Executive Order 11990** –
   Protection of Wetlands
   (1977, 42 Fed. Reg. 26961)
   Precludes GSA from leasing space in wetland areas unless there are no practicable alternatives.

4. **Executive Order 12072** –
   Federal Space Management
   (1978, 43 Fed. Reg. 36869)
   Requires that first consideration be given to locating Federal facilities in urban areas within central business districts.

5. **Executive Order 12699** - Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction (1990, 55 Fed. Reg. 835) Requires that new buildings constructed for lease to the Government are designed and constructed in accord with appropriate seismic design and construction standards.

6. **Executive Order 12902** - Energy Efficiency and Water Conservation at Federal Facilities
   (1994, 59 Fed. Reg. 11463)
   Requires that appropriate consideration be given to efficient buildings in the leasing process. Increases Federal energy reduction goals to 30 percent by the year 2005.

7. **Executive Order 12941** - Seismic Safety of Existing Federally Owned or Leased Buildings (1994, 59 Fed. Reg. 62545)
   Adopted standards of the Interagency Committee on Seismic Safety in Construction (ICSSC) as the minimum level acceptable for use by Federal departments and agencies in assessing the seismic safety of their owned and leased buildings and in mitigating unacceptable seismic risks in those buildings.

8. **Executive Order 13006** - Locating Federal Facilities on Historic Properties in Our Nations Central Cities (1996, 61 Fed. Reg. 26071)
   Subject to the Rural Development Act and Executive Order 12072, directs that Executive agencies give first consideration to locating Federal facilities in historic properties within historic districts when operationally appropriate and economically prudent.

9. **Executive Order 13327**
   - Federal Real Property Asset Management

This EO Require:

Appoimtment of a senior management official as a Senior Real Property Officer (SRPO) by the Agencies as of March 4, 2004.

Establishment of a Federal Real Property Council chaired by the Deputy Director for Management of OMB and comprised of all agency Senior Real Property Officers, OMB Controller, and the Administrator of General Services.

Development and implementation of a agency asset management plan.

Development of real property management performances indicators to measure effectives of acquiring, repairing, disposing, and utilizing real property.

Attachment 6-2

GSA Central Office and Regional Offices

Public Building Service (PBS)

GSA Central Office
18th & F Streets, NW Washington, DC 20405
(202) 501-1025

National Capital Region
Washington, DC, and the metropolitan area of Maryland and Virginia
301 7th Street, SW
Washington, DC 20407
(202) 708-5721

New England Region
Vermont, New Hampshire, Massachusetts, Maine, Connecticut, and Rhode Island
10 Causeway Street Boston, MA 02222
(617) 565-5860

Northeast & Caribbean Region
New York, Northern New Jersey, Puerto Rico, and the US Virgin Islands
26 Federal Plaza New York, NY 10278
(212) 264-4209

Mid-Atlantic Region
Delaware, Maryland, Southern New Jersey, Pennsylvania, Virginia, and West Virginia
9th and Market Streets Philadelphia, PA 19107
(215) 597-1237

Southeast Sunbelt Region
Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee
75 Spring Street, SW
Atlanta, GA 30303
(404) 331-3200

Great Lakes Region
Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin
230 South Dearborn Street Chicago, IL 60604
(312) 353-5630

Heartland Region
Iowa, Kansas, Missouri, and Nebraska
1500 E. Bannister Road Kansas City, MO 64131-3088
(816) 926-7311

Greater Southwest Region
Arkansas, Louisiana, New Mexico, Oklahoma, and Texas
819 Taylor Street Fort Worth, TX 76102
(817) 334-2526

Rocky Mountain Region
Colorado, Montana, Wyoming, Utah, North Dakota, and South Dakota

Denver Federal Center
Bldg. 41 Denver, CO 80225-0546
(303) 236-7250

Pacific Rim Region
Arizona, California, Nevada, Hawaii, Guam, and the US Trust Territory of the Pacific
525 Market Street
San Francisco, CA 94105
(415) 947-9147

Northwest/Arctic Region
Alaska, Idaho, Oregon and Washington
400 15th Street, SW
Auburn, WA 98001
(253) 931-7000

Chapter 7: *DOE Acquisition of Leased Space*

While the predominant amount of leased space occupied by the Department of Energy is furnished by the General Services Administration, DOE does exercise its statutory authority to procure certain types of mission-related leased space, and has, in recent years, begun to make greater use of its delegated leasing authority from GSA to obtain general purpose space. In addition, DOE is responsible for overseeing the lease procurements of its contractors when the rental is directly reimbursed under the DOE contract. Thus, it is important to understand not only how GSA provides leased space to Federal agencies (Chapter 6), but to have knowledge of the DOE leasing process to plan, acquire, and manage leasehold workspace to meet DOE needs.

In June 1990, DOE issued the *United States Department of Energy Leasing Handbook.* Its purpose was to provide DOE real estate personnel with information and guidance in their execution of the Department's leasing program. This handbook has proven to be a very useful tool to those in the field responsible for lease contracting; it has provided an easily followed procedure for establishing space requirements and procuring the needed space. Although the handbook is comparatively new, recent modifications in leasing procedure by the General Services Administration and policy clarifications by DOE (e.g., contractor oversight responsibilities) have made it somewhat out of date. Therefore, as part of the development of this Desk Guide, the *Leasing Handbook* has been revised to reflect the current (as of early calendar 1997) policies and practices in leasehold acquisition. The new Handbook may be found in Appendix 7. It should be noted that further revisions are planned

The essential changes have occurred as a result of actions by the General Services Administration to streamline the leasing process. In response to assertions from its customer agencies and oversight authorities that the process had become cumbersome and inefficient, GSA has taken action to simplify procedures and modify complicated forms, eliminate duplicative management reviews, and initiate new market survey, cost analysis and negotiation practices. While the basic elements of leasing (requirements development, advertising/market survey, solicitation issuance, negotiation, award, and occupancy) remain the same, the methods and procedures have been greatly simplified and should produce a more efficient, private sector-like lease procurement process. The new policies and procedures are covered in Chapter 6 and in the new DOE Leasing Handbook. Any deviations from the Handbook require the approval of the Certificated Realty Specialist.

Chapter 8: Management and Disposal of Real Estate

The identification and utilization of excess real and related property is prescribed in Federal Property Management Regulations (FPMR) 101-47. All agencies are directed to maintain their real property inventories at the minimum level needed for mission accomplishment, and to promptly report to the General Services Administration (GSA) property identified as excess. While the Department of Energy has limited authority to handle certain disposals, most of the real property controlled by DOE must be disposed of through GSA.

UTILIZATION SURVEYS

Pursuant to Executive Order 12512 (Federal Real Property Management), utilization surveys to identify property that can be identified as excess are to be conducted by Federal agencies on a five-year cycle. The order affects all DOE sites except those withdrawn from the public domain. Survey results are reported to GSA in accordance with a format developed by that agency (see Appendix 8-1). (Currently, GSA is in the process of modifying this survey requirement. Eventually, agencies will be able to baseline their survey of a particular site, and then indicate on the Annual World-Wide Inventory Report whether any changes have occurred.)

In addition to the surveys, annual reviews of all real property holdings, including leases (see Appendix 8-2), are required by FPMR 101-47.2. The initial review should be an onsite inspection; subsequent reviews may be desk evaluations. The survey findings should be kept on file in the field office.

DETERMINATION OF EXCESS

Based on the annual utilization surveyor E.O. 12512 review, a determination is made by the program office or designee that a property is excess to the program needs for which it was acquired or withdrawn.

For fee simple ownership, the Field Office's Certified Realty Specialist will prepare a memorandum, coordinated with the program office, declaring the property excess (see DOE 4300.1C, Chapter II, paragraph 2.g. for information and certification to be included in the memorandum), and will complete a **Standard Form 118 (Report of Excess Real Property,"** Appendix 8-3. See FPMR 101-47.202 for specific details of the SF 118 reporting requirements.) If the determination of excess is approved, the Field Office's Certified Realty Specialist will screen the property locally to determine if it is excess to the needs of DOE at the site. Then the Certified Realty Specialist will ask Headquarters (ME-90) to screen the property with Headquarters programs. If no other program can use the property to satisfy a new requirement, the Field Office will then report the property directly to GSA for screening with other Federal agencies. (See FPMR 101-47.203 for details of the GSA notification, screening, and transfer requirements.)

For real property withdrawn from the public domain, see FPMR 101-47.202-6 for additional process steps.

GSA REVIEW

GSA reviews the report of excess for completeness and marketability of the property. If accepted, the field office will be notified of the acceptance date. In accordance with FPMR 101-47.402-2, DOE is responsible for maintenance and safety of the property for 5 fiscal quarters following acceptance.

A report of excess may be withdrawn or corrected any time prior to disposal by filing an amended SF 118 with the GSA regional office. Interim use of excess property is permitted under the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471). GSA has oversight responsibility for interim use pending the property's disposition. Interim use may be by outlease, license or permit, and will generally be for a period of less than one year.

HAZARDOUS SUBSTANCES ON DISPOSAL PROPERTY

In any sale or transfer of property on which hazardous substances were stored for a year or more, the contract must include notice of such storage. (See Comprehensive Environmental Response, Compensation and Liability Act, Section 120(h) (1-2) and 40 CFR 373.) In addition, the deed transferring such property must contain information on the nature of the substance(s) and a covenant warranting remedial action.

DISPOSAL OF DOE-OWNED IMPROVEMENTS

Real and related personal property that is to be disposed of without the underlying fee must be reported as excess real property for offsite removal. The process is the same as for disposals of land, except that, if abandonment or demolition of the property is involved, FPMR 101-47.5 applies. If there is no DOE need, and GSA is unable to identify purchasers, the responsible office in DOE may proceed with disposal under authority delegated by GSA (FPMR 101-47). As soon as notification is received from GSA that there is no interest in the property, financial and administrative responsibility devolve to DOE.

Pending transfer or disposal of excess property, the field office will retain all legal documents relating to the real property. These documents will be transferred to GSA when there is a final disposition.

DOE Order 4300.1C, Chapter II, paragraph 2.e., outlines those situations in which excess property does not have to be reported to GSA. Two exceptions are identified in paragraph 2.f.

DOE AUTHORITY FOR DISPOSAL OF REAL PROPERTY

Under certain statutes, DOE has limited authority to dispose of real and related personal property.

Atomic Energy Act of 1954

Section 161g of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2201(g), authorizes DOE to sell, lease, grant, and dispose of such real and personal property" as provided in this Act." Thus, authority is limited to those functions under jurisdiction of the Act.

Power Marketing Administration

Under the Bonneville Project Act of 1937 (50 Stat. 731, 16 U.S.C. 832 et seq.), the Administrator of the Bonneville Power Administration has authority "to sell, lease, or otherwise dispose of... such real property and interests in land acquired in connection with construction or operation of electric transmission lines or substations as in his judgment are not required for the purposes of this Chapter..." (16 U.S.C. 832a (e)).

Energy Reorganization Act of 1974

Section 111(b) of this Act (42 U.S.C. 5821(B) provides that for facilities constructed from funds provided to DOE under authority of the Act, fee title to facilities and equipment will vest in the United States unless the Administrator or his designee determines that the research, development, and demonstration authorized by the Act should be implemented by permitting fee title or other property interest to vest in an entity other than the United States. This determination is subject to congressional consultation.

Atomic Energy Community Act of 1955

Under the Atomic Energy Community Act of 1995 (42 U.S.C. 2301 et seq.), DOE has authority to dispose of real property within the atomic energy communities of Oak Ridge, TN; Richland, WA; and Los Alamos, NM.

Naval Petroleum Reserves

Authority "to alienate from the United States the use, control, or possession of any part of the Naval Petroleum Reserves" or to exchange land is subject to consultation with the Senate and House Committees on Armed Services and the approval of the President, pursuant to 10 U.S.C. 7431(a).

Oil Shale Conversion Facilities

Section 19 of the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended, 42 U.S.C. 5919, authorizes DOE to enter into cooperative agreements for the conversion of oil shale into alternative fuels and to share with the other party the cost of a modular facility for conversion.

Energy Policy Conservation Act

Section 159 (f) of this Act (PL 93-163) authorizes the Secretary of Energy to sell storage and related facilities acquired to carry out the Strategic Petroleum Reserve Plan.

SALE

When DOE is authorized to sell property pursuant to statute or delegation from GSA, the sale will normally be effected through competitive bidding. No formerly contaminated property will be offered for sale until there has been full compliance with DOE decontamination procedures.

Conveyance of the property to the purchaser is done by means of a Quitclaim Deed (see Appendix 8-4) which transfers title without warranty, either expressed or implied.

All receipts from DOE property sales will be deposited into Miscellaneous Receipts of the Treasury unless otherwise authorized by statute.

DISPOSAL OF OTHER INTERESTS IN REAL PROPERTY

Property which DOE has identified as underutilized may be temporarily outgranted to others pending a DOE need. DOE Order 4300.1C, chapter II, paragraph 4.a. outlines the order of preference for outgrants when more than one party is interested, and paragraph 4.b. specifies the use of competitive bids in outleases, except in certain described situations.

Outleases

Property for which DOE has no present need may be outleased for periods of up to 5 years in accordance with Section 649 of the DOE Organization Act, Public Law 95-91 (91 Stat. 565). Appraisals shall be obtained, and the rental shall be no less than the appraised fair rental value, except if deemed to be in the Government's interest to accept less. DOE 4300.1C , Chapter II, paragraph 4.c.(2) and (3) summarize the terms and conditions that must be included in an outlease agreement. Examples of outlease agreements are included in Appendix 8-5.

Section 3154 of the National Defense Authorization Act of 1994, the "Hall Amendment," authorizes DOE to lease excess or temporarily unneeded real property, subject to the following requirements:

- Must obtain the concurrence of the Environmental Protection Agency or the State
- Must be acquired real property as opposed to property withdrawn from the Public Domain
- Must be at weapons production facilities that are being closed or reconfigured
- The term of the outlease may be for 10 years. The lease can include an option to renew for more than 10 years if the field organization determines that the renewal promotes national security or is in the public interest. Including the initial term and all options, the total term of the lease may not exceed 40 years.

Detailed guidance on the use of this authority is contained in a document issued in June 1996 by DOE's Office of Worker and Community Transition entitled, "Interim Guidance for Community Transition Activities." The portion of that document that pertains to the outleasing authority is included in this Desk Guide at Appendix 8-6.

Easements

Easements may be granted in, across, over, and upon DOE land for such purposes as roads, pipelines, and utility lines. They should be granted only when there is no conflict with DOE use of the property, or when the outgrant will be of benefit to DOE. Fair market value will be charged for the easement. DOE Order *4300.1C,* Chapter II, paragraph 4.d.(2) (a), (b), and (c) outline the circumstances under which DOE may grant easements. Paragraph 4.d.(3) outlines the terms and conditions applicable to easements. Examples of road and utility easement documents are included in Appendix 8-7.

Licenses and Permits

Licenses (to non-Federal entities) or Permits (to Federal entities), revocable on 30-days notice, may be granted for temporary use of DOE property. The basis for these outgrants and the applicable conditions for their exercise is summarized in DOE Order *4300.1C,* Chapter II, paragraph 4.e. Examples of revocable licenses and permits are included in Appendix 8-'8.

Credit Union and Automatic Teller Machines (ATMs)

DOE Order *4300.1C,* chapter II, paragraph 4.f. outlines the authority and conditions for assigning space in DOE Federal facilities to credit unions. Paragraph 4.g. discusses the DOE policy for permitting installation of A TMs in DOE-controlled facilities.

Annexation

DOE generally does not oppose the annexation of its property into the corporate limits of the local community, unless it believes such action would not be in the best interest of the Government.

DISPOSAL UNDER GRANTS

Disposal of property furnished by the Government under grant is governed by the requirements set forth in OMB Circular A-11 and 10 CFR 600.431.

RELINQUISHMENT OF WITHDRAWALS

Relinquishments must comply with procedures prescribed in 43 CFR 2372.1.

DISPOSAL OF PROPERTY ACQUIRED THROUGH FORFEITURE

On a few occasions, the Department of Energy has guaranteed loans that were made in connection with research and demonstration projects. An example is a company borrowing money from a bank to construct and operate an ethanol plant, with DOE promising to repay the loan in case of company default. Under the terms of the guarantee, title to the real estate comprising the plant passes to DOE if the company defaults on the loan. DOE may subsequently dispose of the real estate and, theoretically, recoup the amount it paid the bank.

Property acquired by DOE in this manner is neither "acquired land" nor "withdrawn land"

as those terms are normally used in government. However, such property is real estate, and, therefore, its disposal is subject to all of DOE's real estate rules and procedures. The disposal cannot be conducted without the review and approval of a Certified Realty Specialist.

PAYMENT IN LIEU OF TAXES (PILT)

Local governments are compensated for certain Federal lands within their borders under the Payments in Lieu of Taxes (PILT) program established in accordance with Section 168 of the Atomic Energy Act of 1954 (42 U.S.C. 2208). The program is applicable only to properties acquired by DOE or one of its predecessor organizations, which were previously subject to state or local taxation, and on which the Department carries on activities authorized by the Atomic Energy Act of 1954. For such properties, Section 168 authorizes the Atomic Energy Commission (now DOE) "to make payments to State and local governments in lieu of property taxes." Such payments are to be "in the amounts, at the times, and upon such terms as the [Department] deems appropriate, but the [Department] shall be guided by the policy of not making payments in excess of the taxes which would have been payable for such property in the condition in which it was acquired, except in cases where special burdens have been cast upon the State or local government by activities of [DOE]."

The policy and procedures for carrying out the PILT program are contained in DOE Order 2100.12A, *Payments for Special Burdens and In Lieu of Taxes* (see Appendix 8-9). This Order is issued by the Office of the Chief Financial Officer, which is responsible for authorizing new and revised payments in lieu of taxes; developing policies and procedures relating to such payments; assuring that funding for approved payments, as requested by the program offices, is included in DOE's budget submission; and making sure that appropriated and apportioned funds for payments in lieu of taxes are properly allotted. It is the responsibility of the field Realty Specialist to provide support to the payments program by identifying specific properties and acreage subject to payment in lieu of taxes calculations.

memorandum

FUNDING PUBLIC ROAD WORK OFF DOE-OWNED SITES

DOE has no authority to make payments for developing, improving, and maintaining public roads (collectively, "road work") unless provided by specific legislation or included in the Budget Request for the appropriate fiscal year. If DOE or any of its components are to pay for road work, funds must be appropriated as a construction line item in the annual Budget Request to Congress to satisfy 41 U.S.C. 12, which provides that no contract can be issued for any public work in excess of funds appropriated for that specific purpose.

State and local highway agencies have the same responsibility for developing, improving, and maintaining adequate roads and highways (collectively, “road work”) to serve DOE-owned sites as they do for roads and highways serving private industrial establishments or any other traffic generators. Roadwork in the vicinity of DOE-owned sites should receive the same consideration and priority as is given to other roadwork.

Whether the taxing entity intends to fund the road work by special assessment or by general revenue funding, DOE will consider a request for payment only if the amount requested of DOE is equitable in comparison to the amount requested of the other property owners who will also benefit from the road work and if the funding approach is consistent with the way the taxing entity normally funds such road work.

On a case-by-case basis, and as a one-time event, DOE may consider approval of a special request from a local taxing entity for payment by DOE for work to be performed on a specific road. If approved by DOE, funds for the project will either be requested in specific legislation or included in the Budget Request for the appropriate Fiscal Year. The request will be considered only if the road abuts a DOE owned site, and the road is a public road that provides primary access to the DOE site, and the current condition of the road creates a security or safety concern. An exception would be funding for roadwork off DOE-owned sites that is an essential part of a broader benefits package negotiated pursuant to authorization by law.

Requests for such payments will be considered only if the request is accompanied by thorough and detailed information from the taxing entity making the request, including the following:

- The estimated total cost of the work to be performed on the road in question and the method of calculating that cost.

- The criteria used to determine the universe of all property owners who will contribute to the cost of the roadwork.

- The calculation of each property owner's contribution to the cost of the roadwork to be performed, including DOE's contribution.

DOE will make no payments for roadwork that has already been completed, is already under construction, or for which construction has already been funded by the local taxing entity

at the time of the request to DOE.

When there already exists specific legislation, as mentioned above, for road work, the procedure to follow should be consistent with the legislation. In all other cases, when the local DOE official responsible for a DOE site determines that a request from a local taxing entity conforms to this policy, that official will submit the request, together with an analysis of the request and a recommendation, to the appropriate Assistant Secretary or Office Director. The Assistant Secretary or Office Director, in consultation with the Associate Deputy Secretary for Field Management, the Chief Financial Officer and the General Counsel, will consider whether the recommendation is consistent with this policy statement, determine DOE's funding capability, and render a decision on whether or not DOE will seek funding for implementing the road work.

If the Assistant Secretary or Office Director approves the recommendation, the recommendation will then be transmitted to the Secretary and, upon Secretarial approval, the Office of the Assistant Secretary for Congressional and Intergovernmental and International Affairs and/ or the Office of the Chief Financial Officer will take appropriate action.

PROCEDURES FOR PROCESSING REQUESTS FROM TELECOMMUNCATION SERVICE PROVIDERS FOR THE SITING OF TELECOMMUNICATION FACILITIES ON DEPARTMENT OF ENERGY LAND

Section I – Purpose:

To establish Department of Energy (DOE) procedures for processing telecommunications site and facility requests for siting on DOE land. This procedure for processing requests for the siting of telecommunications facilities is not intended to apply to lands held by the UNITED STATES in trust for individual or Native American tribal governments.

Section II – Authorities:

1. Telecommunications Act of 1996, Section 704(c), Public Law 104-104 (February 8, 1996)

2. GSA Bulletin FPMR D-242, procedures implementing section 704(c), June 11, 1997.

Section III – Background

1. On February 8, 1996, the President approved the Telecommunications Act of 1996 (PL 104-104), which included a provision for making Federal property available for placement of telecommunications equipment by duly authorized providers.

2. On March 29, 1996, GSA published a Notice in the Federal Register outlining the guiding principles and actions necessary for Federal agencies to implement the antenna siting program promulgated by the Telecommunications Act of 1996.

3. In response to inquiries from the wireless telecommunications industry regarding the Federal Government's progress in this program, GSA held three Antenna Siting Forums in 1997. Issues raised from these forums were:

    a. Development of a uniform evaluation process, including timely response and an appeals process, to facilitate and explain the basic application process;

    b. Site pricing to enable Federal agencies to retain flexibility in establishing the antenna rates;

    c. Site competition to provide timely response to requests and, where feasible, encourage industry collocation;

    d. Fee reimbursement to provide payment to the Federal Government for services and resources provided as part of the siting request process;

e. Site security, access, and rights-of-way to identify roles and responsibilities of both the Federal Government and the wireless telecommunications service provider; and

f. Site request denial tracking to enable GSA and the wireless telecommunications industry to track antenna requests and denials.

4. GSA subsequently identified environmental and historic resource implications.

5. The collaborative effort fostered a better understanding of the process and procedures required between Federal agencies and the telecommunications industry and facilitated the implementation of the Telecommunications Act of 1996 and development of the following Procedures for Processing Telecommunications Site and Facility Requests by DOE.

Section IV – Procedures for Processing Telecommunication Site and Facility Requests:

1. Submission of a Proposal Letter by Lease/License Applicant.

   a. This is the first step in the process and is crucial to a timely, comprehensive review of the proposal. The initial request can never contain too much information, as more details make it easier to conduct a preliminary review of the proposed antenna site. Failure to provide sufficient information will delay the initial review process.

   b. Elements of information that should be included with the submission of a proposal are shown in the Application Form (Appendix 1-A).

2. Preliminary Review.

   a. The DOE Site Office (the "Site Office") will review the proposal to determine if it contains sufficient information. If so, the Site Office will determine the extent and any programmatic impact of placing commercially owned antennas on their property. The results of this determination will be sent to OECM along with the Site Office decision to approve or deny the siting request and any justification for a denial action.

   b. If the proposal contains insufficient information, it will be returned to the applicant with a request for additional information.

3. Review Response

   a. A written response will be provided by OECM to the potential lessee not later than 60 days after receipt of the initial request. This response will provide either a preliminary acceptance of the request, or a denial. If the proposal is denied, the potential lessee will be provided with an explanation as to why the proposal was unacceptable. A preliminary acceptance, however, represents only an indication that the proposed lease is acceptable in concept, but further analysis and coordination will be required before a final approval of the project may be given. A copy of the Site Office decision to approve or deny the siting request should be forwarded to OECM.

b. The evaluation of these applications is concerned with any potential interference with the Federal mission, both at the site and on adjacent Federal locations. In general, the proposal will be initially evaluated to ensure that it does not create any of the following problems:

(1) Impair, interfere or degrade the Federal mission of the site or its operations.

(2) Affect the security of the site in any manner.

(3) Interfere with other radio frequency (RF) activities used by the site or any organizations on or adjacent to the site.

(4) Create an obstruction to aircraft operations or cause other safety concerns.

(5) Create a visual nuisance or present a negative aesthetic appearance.

(6) Negatively impact sensitive environmental habitat, endangered species, or other natural and cultural resources.

(7) Affect the quality of life of employees or visitors.

(8) Disrupt any site transportation, circulation, or utility infrastructure system.

(9) Prevent or interfere with future development of additional site facilities that may be necessary to meet new, emerging mission requirements.

c. Other issues which must be resolved before a final approval of the proposed action can be granted include the determination of required environmental documentation, legal description, appraised value of the site, form and value of compensation to be received, form and length of term of the real estate agreement to be executed, and negotiation of any special terms/conditions. Each of these issues is addressed below in more detail.

(1) Environmental Documentation

(a.) Requirements for Environmental Documentation

i. Appropriate environmental documentation (i.e., an Environmental Baseline Survey (EBS) for a lease or Preliminary Assessment Screening (PAS) for a license or permit) must be completed in order to satisfy the National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA) responsibilities. The more complicated or potentially environmentally damaging a proposed project may be, the more sophisticated the level of environmental documentation that will be required. There are three potential levels of environmental documentation required. They include a Record of Environmental Consideration (REC) for a

Categorical Exclusion, an Environmental Assessment (EA), or an Environmental Impact Statement (EIS), listed in order of least to most complex.

ii. If applicable, the applicant will be required to provide all necessary cultural resource documentation required by Section 106 of the NHPA, including conducting of surveys and site evaluations, determining eligibility for National Register listing, determining mitigation or monitoring requirements, and drafting a finding of effect. Any required cultural resource documentation will first be reviewed and approved by DOE, then forwarded to the State Historic Preservation Officer (SHPO) and Advisory Council for concurrence.

iii. Once completed, all environmental documentation must be reviewed and approved, by DOE, including approval of any required mitigation measures. All mitigation costs will be borne by the applicant. Completion of the environmental review process is mandatory before final approval of the proposed project can be granted.

(b.) Reasonable precautions are necessary in locating and operating transmitting antennas because of potential adverse radio frequency biological effects. In light of the numerous variables regarding power and frequency levels for each installation, electromagnetic radiation impacts will have to be evaluated on a site-specific basis taking into account any existing nearby emission sources.

(c.) A statement that the proposed antenna installation meets all American National Standards Institute's (ANSI) time averaged radio frequency exposure standards should be made part of the environmental assessment.

(d) All expenses related to completion of the environmental documentation process are borne by the applicant.

(e) It is the applicant's responsibility to provide appropriate environmental documentation acceptable to DOE for project approval. Advance coordination with the Site Office is required before starting the environmental documentation process. This early coordination will provide valuable insight on any sensitive environmental issues which could be affected by the antenna and a determination as to the probable form of environmental documentation needed (CatEx, EA, or EIS) in support of the antenna site.

(2) Form of Land Use Agreement.

(a) A lease will be used for construction of towers

(b) A license or permit will be used where only an antenna placement is needed.

(3) Term of Agreement.

Federal laws and policies limit the authority as to the length of the term of such agreements. Under current guidelines, the term cannot be longer than five years if mobile service antennas are to be installed on existing structures or up to twenty years if the construction of a new structure is required.

(4) Preference of Siting Locations

(a) DOE prefers to site new telecommunication facilities on or near existing structures or building(s) in order to avoid encumbering land that may eventually be required to meet federal missions. However, should DOE agree with construction of a new facility on available land, the applicant may be required to construct the facility in a manner that would enable the future accommodation of equipment belonging to other wireless service carriers. Once approved, a project facility may only be used for installation, operation, maintenance, and removal of antenna(s) and communication equipment in conjunction with the applicant's primary business of mobile communication services.

(b) Schedule a site visit and survey to determine that the site meets the telecommunications provider's requirements.

(5) Appraisal Process

Applicable Federal laws, regulations, and policies require that fair market value be obtained. The DOE site office will contract out for the appraisal. Expenses related to the appraisal process will be borne solely by the applicant. Once an appraisal report has been completed it must be reviewed and approved by a DOE certified realty specialist.

(6) Form and Value of Compensation.

(a) The total value of compensation received by the Government is based on two criteria:

(1) the fair market rental (appraisal) value, as determined by an DOE Realty Officer, for the facility being proposed and the desired location of the facility and

(2) the length of term for siting of the facility.

(b) After a final agreement has been reached between the parties as to the value of compensation to be received, this information will be incorporated in the real estate document.

(7) Legal Description.

In addition to agreement on compensation issues, the real estate document must include an adequate legal description identifying the specific portion of the legal description of the facility itself, legal descriptions will also be required to define any additional easement(s) on the project which may be needed to access supporting utility requirements, such as electrical power or telephone line hook-ups. Any expenses associated with obtaining these legal descriptions are the sole responsibility of the applicant.

4. Correspondence.

Applicant should provide a copy of any project related correspondence to/from any other government agency to: Department Of Energy, Attn: Realty Officer, 1000 Independence Avenue, SW/MA-50, Washington, DC 20585.

5. Federal Aviation Administration Concurrence.

The applicant must coordinate with the Federal Aviation Administration (FAA) and obtain FAA siting approval for any commercial telecommunication facility that is proposed to be located in proximity to an existing FAA facility. FAA approval of the proposed project site will be required before final approval of the project may be granted. Any commercial telecommunication facility that is proposed for location within a five nautical mile radius of any military airfield must be coordinated with and approved by that installation's air traffic control authorities. Siting of such facilities in vicinity of an air station must comply with FAA and military airfield siting criteria.

6. Resolution of Interference Issues.

The applicant must understand and acknowledge that resolution of any communication interference issues becomes the applicant's sole responsibility. Should such interference issues arise, as a result of the applicant's impact on the site, other tenant facilities, or any previously existing commercial telecommunication facilities on the site, the applicant shall be required to eliminate such interference at their sole cost and expense.

a. The lessee shall incur all costs associated with resolution of such problems, including any required surveys. In the event that a Government emitter should interfere with the communication system, the applicant shall have sole responsibility to resolve the problem at their expense.

b. Prior to granting final approval of the real estate document, DOE must receive written verification that the proposed project will not interfere with other military or commercial telecommunication facilities located in proximity to the new site. The lessee should initially provide this verification,

7. Use of Joint Spectrum Center (JSC) on Interference Issues.

When the Realty Officer deems it required, an Electromagnetic Compatibility (EMC) analysis must also be completed by the Department of Defense's Joint Spectrum Center (JSC) in Annapolis, Maryland. This analysis by the JSC will normally be completed at the lessees' expense and may require an on-site review by JSC personnel. Once the electromagnetic compatibility analysis is completed, a report of its findings will be provided to the project applicant.

a. History: The JSC has been supporting the Federal Government in EMC and spectrum management matters for over 30 years. They store and maintain the frequency assignment, technical characteristics, and topographic databases necessary to do EMC analyses on military and civilian equipment. Many of these databases do not exist elsewhere and most are not available to the civil sector. They have developed the automated models to analyze the potential for EMC problems quickly and efficiently, even where the number of transmitters and receivers in the electromagnetic environment (EME) is huge. Further, they work on a day to day basis with the intelligence community and have a procedure in place for determining whether proposed equipment could pose any interference to highly classified systems that may exist on Federal property. A typical analysis can be done and results delivered in six to eight weeks.

b. Procedures for Initiating a Joint Spectrum Center (JSC) Review:

(1) The Telecommunication Service Provider (TSP) discusses their proposal with the facilities and frequency management personnel. They come to a tentative agreement on location, tower height, etc. This needs to be done first because the TSP should not pay for an EMC/EMI/RADHAZ analysis if the site is not acceptable for other reasons.

(2) The TSP needs to have their equipment/site design completed. A change in tower location, height, output power, antenna gain, etc. during the analysis could cause the JSC to have to restart the analysis at additional time and cost.

(3) The JSC and the TSP personnel make contact and discuss the analysis in general terms. The TSP provides the JSC with a letter requesting support and the needed technical data.

(4) The JSC prepares a Project Plan describing what will be done, for how much, and in what time frame. JSC attaches it to a Memorandum of Agreement (MOA) and forwards it to the TSP for signature.

(5) The TSP returns the signed MOA with a check to start the official support. A copy of the fully executed MOA will be provided DOE prior to the start of any support activities.

(6) JSC personnel will travel to the base to do a site survey, compare base records to the JSC database, and determines what future systems are planned for that site. JSC personnel will meet with the TSP technical personnel at the proposed site to verify the technical data on the site and proposed equipment.

(7) JSC then performs the analysis. If JSC identifies EMC problems during the analysis, JSC will inform the TSP and Project personnel. If necessary, the JSC, TSP and Project personnel will meet on site to discuss options available. If none are available, JSC will stop the analysis and return unused funds to the TSP. If the problems can be solved, JSC will fold the changes into the analysis and work will continue.

(8) When the analysis is complete, JSC will provide the results to the TSP, DOE and the Project Manager by e-mail, with a follow up letter and a JSC Consulting Report. The JSC e-mail address for this work is: msp@jsc.mil. The specific point of contact is: Mr. Frank Tushoph, Deputy Director for Marine Corps, DOD JSC, 120 Worthington Basin, Annapolis, MD 21402-5064. Phone: 410-293-2555; Fax: 410-293-2631, E-mail: tushoph@jsc.mil

(9) JSC will return any unused funds to the TSP.

(10) If DOE receives a screening request, it will pass the request to: Joint Spectrum Center (JSC-J8M), 120 Worthington Basin, Annapolis, MD 21402-5064.

(11) The JSC will evaluate the proposed antenna siting telecommunication service for potential electromagnetic interference to the existing or planned telecommunications operations of the affected government facility.

(12) The commercial vendor is required to reimburse the JSC for the costs of this evaluation.

(13) The JSC shall inform the DOE Site Manager at the Subject Site and the Director, Office of Engineering and Construction Management, U. S. Department of Energy/MA-50, 1000 Independence Ave., SW, Washington, DC 20585 of the results of the assessment in order to assist in making the decision as to grant or deny the request.

8. Review of Final Construction Plan.

Prior to the Site Office review of the real estate document, the applicant must provide the Site Office with three complete copies of the project's "final" construction plans. Should any issues of concern arise during review of the final construction plans, the project applicant will be advised and requested to resolve the issue(s) prior to final approval of the proposal.

a. The final construction plans must also illustrate the applicant's desired path for access to utility connections, if applicable. If desired utility connections are not readily available, an additional and separate easement must be negotiated for linking the applicant's facility to the closest point of connection for the utility service(s). Any fees or service charges associated with use of such supporting utilities will be born solely by the applicant and paid directly to the utility company.

b. If that it is not practical for the project applicant to contract for such services directly, and project utility connections are readily available (as may be the case for an antenna installed on an existing facility), a determination will be made by the Site Office as to the capability to furnish such service. If available, such utility services will be separately metered, installed at the applicant's expense, and payment made to the US Department of Energy.

9. Requirement for Pre-Construction Meeting.

After final approval for the project has been granted through execution of the required real estate instrument, the project applicant and the applicant's construction contractor (if a contractor is used to construct the project) must participate in a pre-construction meeting before construction on the project may begin. This meeting is normally held at the Site Office and is used as a final opportunity to review construction safety issues, to review any entry procedures into a secure area, to provide information on sensitive environmental areas of the project, and to confirm the envisioned project construction timeline. This requirement to participate in a pre-construction meeting is mandatory and will be incorporated into the real estate agreement.

10. Construction Guidelines.

Regardless of the siting location (i.e., whether installed on an existing building/structure or constructed as a new structure) any installed equipment visible from the exterior of the building/structure will normally be required to be painted or camouflaged to blend with the surrounding terrain or the existing background of other equipment, structures, or fixtures. No signs or billboards containing any advertising will be authorized on the facility. The applicant will be required to fence any newly constructed facility/structure to prohibit unauthorized access and to landscape the facility to help it blend with its surroundings. The installation of appropriate safety features, such as aircraft obstruction lighting, may be required of the applicant as a condition of approval. Finally, construction of the facility must comply with, and be subject to, all environmental constraints as identified in the appropriate environmental documentation. Such requirements as fencing, camouflaging, landscaping,

and installing of safety devices at the facility must be accomplished to the satisfaction of the Site Office.

a. Other general construction guidelines include such matters as antenna size and overall height of any structure that may be erected. The proposed height of any structure or associated antenna device above ground level (AGL) will be closely scrutinized. Any proposed facility of a height in excess of the height of existing terrain and/or lighted structures in the vicinity poses a potential aircraft obstruction hazard, and thus, a safety concern to low altitude vehicles. Installation of antenna(s), pole(s), tower(s), cabling and related equipment shall be done in accordance with existing Federal, state, and local codes, including the National Electrical Code and other codes that directly relate to the construction, installation, operation and maintenance of communication equipment. If codes differ, the most stringent code will prevail.

b. In the event the applicant constructs a facility capable of accommodating additional antenna apparatus belonging to other commercial carriers, the applicant's real estate instrument with DOE will prevail.

11. Final Decision.

a. Final decisions should be rendered in writing and in a timely manner after completion of all necessary reviews, evaluations and assessments. Denial of a request will provide a written explanation of the reason for the denial.

b. A real estate instrument, such as, a license, lease, permit, or other legal instrument will be created and executed to document the terms, conditions, and responsibilities of both the Federal Government and the telecommunications service antenna provider.

c. Once the real estate instrument has been executed by a DOE Certified Realty Specialist, the applicant is authorized to proceed with the pre-construction meeting (Section 9) and development of the project.

12. Point of Contact.

a. The following individuals are designated as the points of contact at DOE: Director, Office of Engineering and Construction Management/MA-50, Forrestal Building, US Department of Energy, 1000 Independence Ave., SW, Washington, DC 20585. Office telephone number: (202) 586-1784 and the Site Manager at the Subject Site.

b. A point of contact for the telecommunications service provider including name, address and telephone number will be provided to the Site Office and the DOE initial point of contact as soon as available.

c. Either party may change their point of contact by providing the other party with written notification to that effect.

Appendix 1-A. Application Form for Telecommunication Request

Applicants should, as a minimum, provide the following information:

A. Background

1. General Information: Provide:
   a. Name of the applicant.

   b. Address of the applicant.

   c. Telephone number of the applicant.

   d. if applicable, provide:

      (1) Name,
      (2) Address,
      (3) Telephone number of a representative authorized to act on behalf of the applicant during the course of the project.

2. Written acknowledgement
   That the applicant intends to pay Fair Market Value for siting of the proposed facility.

3. Experience and Background
   Provide copies of instruments establishing the applicant as an entity with the legal capacity to enter into leases and other binding contractual obligations.
   a. Corporations should provide the name and address of an authorized representative and evidence of current corporate status.

   b. Partnerships/joint ventures should provide the name and address of an authorized representative and evidence of current partnership/joint venture status.

   c. A sole proprietor should provide current address and summary of business activity.

4. Signing of Application
   An official authorized to act on behalf of the potential Lessee must sign the application. If the lessee is a corporate or governmental entity, then the signature must show the official capacity of the signer.

B. Intended Use

1. Subleasing
   State whether the applicant intends to use the property or sublease the property to a third party. If subleasing, identify the prospective sublessee(s).

2. Effective Date
   State when the applicant wants the lease to begin.

3. Lease Term
   State the requested duration of the lease.

4. Property Description
   a. If using an existing structure, specific building (or structure) name or building number and address (or longitude and latitude), or other site specific property identifier.

   b. If proposing a new building or structure, desired location of the facility (including a map with sufficient detail to easily identify the area of the project or installation where this facility is being proposed).

   c. General conceptual drawing of the site plan.

   d. General description of the facility (including photos if possible) clearly depicting its physical appearance along with any utility requirements and any supporting ancillary equipment such as equipment shelters, power boxes, antenna poles, etc. that may be required. If the antenna is located on an existing building, include any special modifications required.

   e. Identification of any buildings or other improvements requested.

   f. Type and size of the antenna installation, to include the description of the overall dimensions of the facility, including maximum height above ground, footprint size, and estimated square-footage of land needed to construct and operate the facility.

   g. Right-of-ways and access required.

5. Specific Submission Requirements
   The following materials shall be submitted with each antenna installation proposal:

   a. Statement of need, including justification for the size of the antenna, justification for multiple antenna installations, and other appropriate data regarding the installation of the antenna equipment.

   b. Site plan and building elevations (for antennas mounted on a building) showing the form, dimensions, and location of the proposed antenna(s), any existing-to-remain antennas, and proposed screening elements.

   c. Construction drawings showing the proposed method of installation to include the ft/lb capacity required.

   d. Description of the texture and color of antenna materials to be used.

e. Screening plan, where antenna can be seen by the public, including proposed materials, color and texture of screening elements for rooftop and ground-level installations. For ground-level installations only, the number, species, and sizes of trees and shrubs to be used as a screen.

f. Sight line studies of the proposed installation and alternatives considered, illustrating the extent to which the proposed antenna(s) will be visible from the surrounding streets, public open spaces, and nearby residential areas.

g. Description of alternatives considered meeting the telecommunication needs of the submitting applicant.

h. Whether exclusive use of the proposed facility/site is required or desired, or if collocation with a similar (or previously established) facility is feasible.

6. Environmental Information

a. Reasonable precautions are necessary in locating and operating transmitting antennas because of potential adverse radio frequency biological effects. In light of the numerous variables regarding power and frequency levels for each installation, electromagnetic radiation impacts will have to be evaluated on a site-specific basis taking into account any existing nearby emission sources.

b. All applications for a transmitting antenna should be accompanied by an environmental assessment. The environmental assessment shall include an estimate of the electromagnetic radiation levels at 10, 50, 100, 500, 1,000 and 2,000 feet from the installation in milliwatts per square centimeter and the safeguards proposed to protect the public from any potential adverse biological effects.

c. A manufacturer's certification as to electromagnetic radiation at the above distances and a statement that the proposed antenna installation meets all American National Standards Institute (ANSI) time averaged radio frequency exposure standards should be made part of the environmental assessment.

7. Radio Frequency Issues

a. Identification of the RF (radio frequency) ranges, output power levels antenna gain, and antenna polarization to be utilized during operation of the facility.

b. A copy of the Federal Communications Commission (FCC) license which authorizes the applicant to provide this type of service in the project area.

8. Payment

Rent must be for fair market value.

C. Operational Requirements

1. Identify the approximate amount and the expected provider of electricity required;

2. Identify the type, approximate amount required and the expected provider(s)of fuels, e.g., natural gas, propane, heating oil, required;

3. Identify the amount and the expected provider of potable water required;

4. Identify any other requirements required and the expected provider of such service for utility services (the grantee will pay for installation of any utility meters if they plan to tap into DOE provided utilities);

5. Describe any construction, improvements or other alterations to the property required enabling any of the services described in response to the preceding requests to be delivered or provided to the property;

6. Describe any construction, improvements or other alterations to the property proposed to carry out applicant activities on the property;

7. Identify the organization that will construct the antenna site, if different from the applicant;

8. Identify typical facility maintenance requirements (e.g., projected number and frequency of site maintenance visits required per month, type of vehicles required to perform maintenance, on-base access route to be used, and average time required per maintenance visit);

9. Identify how the antenna connects with the telephone system (microwave, landline, other).

10. Identify how, in case of termination, the facility/installation will be removed from its location and how restoration of the existing premises will be accomplished.

11. As appropriate, the proposed method of achieving environmental and historic sensitivity compliance.

AGENCY CONTACT POINTS FOR THE PLACEMENT OF ANTENNAS ON FEDERAL BUILDINGS

Bonneville Power Administration, Office of General Counsel, 905 Northeast 11th Avenue, Portland, OR, 97232, (503) 230-5904

Federal Communications Commission, Operations Management and Service Division (1110B), 1919 M St., NW, Room 404, Washington, DC 50554, (202) 418-1950

National Academy of Science, National Research Council, 2101 Constitution Avenue, NW, Mail Stop (HA-274), Washington, DC 20418, (202) 334-3384

National Aeronautics & Space Administration, Facilities Engineering Division, NASA Headquarters, Code JX, 300 E Street, SW, Washington, DC 20546-0001, (202) 358-1090

National Archives & Records Administration (NAFM), 8601 Adelphi Road, Room 2320, College Park, MD 20740-6001, (301) 713-6470

National Science Foundation, Property Administrator, 4201 Wilson Blvd., Room 295, Arlington, VA 22230, (703) 306-1123

Tennessee Valley Authority, Facilities Services--Asset Management, 1101 Market Street, Mail Stop: (WR4A-C), Chattanooga, TN 37402-2801, (423) 751-2127

U. S. Army Corps of Engineers, Management and Disposal Division in the Real Estate Directorate, 20 Massachusetts Ave., NW, Room 4224, Washington, DC 20314-1000, (202) 761-0511

U. S. Department of Agriculture, Property Management Division, AG Box 9840, Washington, DC 20250, (202) 720-5225

U. S. Department of Commerce, Office of Real Estate, 14th & Constitution Ave., NW, Room 1040, Washington, DC 20230, (202) 482-3580

U. S. Department of Defense: Commercial companies who wish to place antennas on DOD property should first contact that property's Installation Commander. If unknown, please contact the following office. Deputy Assistant Secretary of Defense (Installations), Attention: Director, Installations Management, 3300 Defense Pentagon, Washington, DC 20301-3340, (703) 604-4616

U. S. Department of Education, Office of the Director for Management, 600 Independence Ave., SW, Room 2164, Washington, DC 20202, (202) 401-0470

U. S. Department of Energy, Engineering & Space Management Branch, 1000 Independence Ave., SW, Mail Stop: HR211, Room IF-039, Washington, DC 20585, (202) 586-1557

U. S. Department of Health & Human Services, Division of Policy Coordination, 300 Independence Ave., SW, Room 421, Washington, DC 20201, (202) 619-2018

U. S. Department of Interior, Bureau of Land Management, 1849C Street, NW, Room 1O00-LS, Washington, DC 20240-9998, (202) 452-7777

U. S. Department of Interior, National Park Service, Radio Frequency Manager, Field Operations, 12795 W. Alameda Parkway, PO Box 25287, Denver, CO 80225-0287, (303) 969-2084

U. S. Department of Justice, Real Property Management Services, Suite 1060, National Place Building, Washington, DC 20530, (202) 616-2266

U. S. Department of Labor, Office of Facility Management, 200 Constitution Avenue, NW, Room S 1521/0FM, Washington, DC 20210, (202) 219-6434

U S. Department of State, Office of Real Property, 2201 C Street, NW, Room 1878, Washington, DC 20520, (202) 647-2810

U. S. Department of Transportation, Office of the Secretary, 400 7th Street, SW, Mail Stop: M72, Room 2318, Washington, DC 20590, (202) 366-9724

U S. Department of Treasury, Office of Real and Personal Property Management, Office of the Deputy Assistant Secretary for Departmental Finance and Management, 1500 Pennsylvania Ave., NW, Room 6140--ANX, Washington, DC 20220, (202) 622-0500

U S. Department of Veterans Affairs, Land Management Service, 811 Vermont Ave., NW, Mail Stop: 184A, Washington, DC 20005, (202)565-5026

U. S. Environmental Protection Agency, Architecture, Engineering and Real Estate Branch, Facilities Management and Services Division, 401 M Street, SW, Room 3204, Washington, DC 20460, (202) 260-2160

U. S. General Services Administration: Commercial companies who wish to place antennas on GSA property should first contact the appropriate Regional Office of the Public Buildings Service. If unknown, please contact the Public Buildings Service, 1800 F St., NW, Washington, DC 20405, (202) 501-1100

U S. Government Printing Office, Office of Administrative Support, 710 North Capitol St., NW, Mail Stop: OA, Washington, DC 20401-0501, (202) 512-1074

U S. Information Agency, Office of Administration--B/A, Cohen Building, 330 Independence Ave., SW, Washington, DC 20547, (202) 619-3988

U. S. Postal Service, Realty Asset Management, 475 L'Enfant Plaza West, SW, Washington, DC 20260-6433, (202) 268-5765

Chapter 9: *Facilities Information Management System (FIMS)*

The Real Property Asset Management Order, DOE O *430.1B*, paragraph 4 b (8) (a) states that FIMS is the Department's real property asset inventory system and fulfills the requirement in 41 CFR 101 and 102 (reference d) for each Agency to have a real property inventory system. FIMS data will be used to meet routine reporting requirements. Therefore the following are required:

1. FIMS data must be maintained as complete and current throughout the life cycle of real property assets, including real property related institutional controls.

2. FIMS data must be archived after disposal of real property assets. Those necessary for Long Term Stewardship (LTS) must be identified, reviewed, and retained.

3. Site/field managers will ensure that FIMS data is verified annually as complete and accurate using a quality control process.

BACKGROUND

FIMS is the culmination of efforts begun in 1983 to establish a DOE real property database system. Since that time, modifications and improvements have been made to DOE's system, with the most recent system (RPIS2) having real-time updating and reporting capabilities. In June 1992, an effort was initiated to develop a "corporate" database that would consolidate common data elements from real property systems utilized by DP, EH, ER, and FM. This database developed into the Facilities Information Management System. Data from RPIS2 was migrated to FIMS prior to system implementation. FIMS became fully operational on July 10, 1995.

FIMS is a Department-wide system that is managed by the office of the Engineering and Construction Management for the office of Management, Budget, and Evaluation. The governing body of FIMS is the Facilities Data Development Committee (FDDC), composed primarily of DOE Headquarters FIMS stakeholders. FIMS Advisory Committee (FAC), comprised of DOE and contractor personnel, was established in 1993 to improve FIMS data integrity, and provide a mechanism for continuous improvement. The FAC evaluates problems or issues regarding development, operation, or administration of FIMS, makes recommendations to the FDDC, and implements FDDC-approved changes. The FAC has authored the *FIMS Administrative Guide*, which is now a part of the *FIMS User's* Guide.

USE OF FIMS

FIMS provides direct access to current verified real property information through ad hoc queries and standard reports. It provides an accurate inventory and management tool that is used to assist Headquarters and all DOE field offices and sites with planning and efficiently managing their assets. This system produces departmental annual statistical reports via the FIMS website, fiscal year real estate summary of real property holdings, Deferred maintenance reports,

congressional energy management reports, excess elimination reports, and automates the preparation of the annual worldwide inventory of Government-owned and -leased real property for submission to the General Services Administration as required by FPMR 101-3 (41 CFR 101-3). FIMS was also used to electronically submit data to FEMA in accordance with Executive Order 12941 (Seismic Safety of Existing Federally Owned or Leased Buildings).

The system allows users to manage all real property including land and its natural resources, any man-made additions and alterations-buildings, trailers/modulars, permanent fixtures and equipment. The information provided by FIMS addresses the condition of property, identifies dimensions and potential hazard categories associated with the property, indicates the replacement value and the cost of maintenance expenditures, occupancy information, and the amount of land acreage. It also provides details on leased property, including lease terms and rental, institutional control property, outgrants and permits. It is designed to provide users with verified information, and assist managers in decisions regarding real property assets. Guidance on accessing the database, data entry, maintenance, reporting, uploading and downloading FIMS data is contained in the *FIMS User's* Guide and *FIMS Reporting* Guide. Copies of these documents may be obtained from the FIMS web site (***http://fims.hr.doe.gov***).

INPUT RESPONSIBILITY

FIMS must be updated regularly so that reliable and current data is consistently available and system integrity is maintained. It is essential that information be obtained from the site function with the most direct knowledge of the specific areas covered by the FIMS data elements. Each site assigns responsibility to individuals with applicable information. The Real Estate representative is the source for a substantial amount of the basic site information. This includes key data on property reported to GSA as excess and on GSA-assigned space, land information (including acquisition method, date and acreage), and leasing information (including location, terms, square footage and rental). The *FIMS Administrative Guide*, from the *FIMS User's Guide*, provides detailed information on FIMS participants, their roles and responsibilities, the overall operation of the system, and the development of quality assurance plans. A copy of the Guide is in Appendix 9.

QUALITY ASSURANCE

In order to assure a high degree of data accuracy and thoroughness in FIMS the field manager is the responsible element for a quality assurance process. A FIMS Quality Assurance Plan prepared by the Field/Operations Offices should address the methods to be used in overseeing the site FIMS programs. It should provide for current verification of site data accuracy, oversight of contractor performance, and confirmation that site QA processes are operational. The site QA Plans should cover the internal organization established to manage FIMS, the processes to assure timely updates, the site's verification processes, role of the DOE and contractor and method of problem correction. Essential to the plan's success is the provision of accurate, thorough and timely data by the site elements (Real Estate officer, Building Manager, etc.).

Chapter 10: *Real Estate Certification Program*

DOE Order 430.1B (Real Property Asset Management), prescribes "the use of a DOE Certified Realty Specialist (CRS) for the execution of real estate acquisitions" and to "execute the disposal of real estate, including the disposal of DOE improvements without the underlying land." A Certified Realty Specialist is defined in the Order as a DOE employee that is certified in one or more of the four specialty realty areas: acquisition, non-GSA leasing, GSA leasing, and land management and disposal. Employees so certified are authorized to prepare, approve and execute real estate actions within certified specialty areas." To assure that DOE real estate actions are conducted and approved by professional, properly trained, and adequately experienced personnel, DOE requires that these individuals meet the qualifications described below. Page 10-8 lists approved real estate training courses by Certification Levels.

DELEGATIONS THROUGH THE CERTIFICATION PROGRAM

The Director, Office of Engineering and Construction Management, with NA-50, or his designee, countersigning for NNSA employees, will issue Certifications to qualified DOE individuals in four distinct areas of specialty: (1) acquisition by other than lease (acquisition), (2) leasing except for leases executed under the delegation of lease acquisition authority from GSA (non-GSA leasing), (3) leasing under the delegation from GSA (GSA leasing), and (4) land management and disposal.

To qualify for Certification an individual must meet the experience and education criteria outlined below.

Certification Committee

The Certification Committee has five members; three Certified Realty Specialists, the NNSA Senior Realty Officer and the OECM Senior Realty Officer. The NNSA co-chair is appointed by NA-50, or his designee, and the other three committee members serve by invitation of the Committee.

Applications are submitted to the Committee by the applicant, with a cover letter requesting Certification from the Site Manager or equivalent. Within thirty (30) days after receipt, the Committee must make a decision to approve, disapprove or request additional information. If the applicant's application package demonstrates he or she possesses the skill set and experience

required for the requested Certification, the Committee will recommend approval on a written form, See Attachment A. The Committee's evaluation will include both education and experience and be documented on Attached Forms 1 and 2. If, however, the applicant fails to fully meet the required levels and skills the Committee will return the request to the applicant with an explanation as to the deficiencies.

Certification requests to the Committee must contain the following:

- A cover letter, as noted above
- A resume showing the applicant's background
- What area(s) of specialty are being requested
- Educational training outlined, as noted in the Level 1 or Level 2 requirements.
- Discussion of specific personal experience as noted in the Level 1 or Level 2 requirements.

Committee actions require a unanimous vote. If the Committee cannot obtain a unanimous vote within thirty (30) days of an initial vote, both Senior Realty Officers will discuss and attempt to overcome any objection(s). If they are unable to reach agreement, the matter will be forwarded up the proper channel(s) with, "No unanimous vote obtained" annotated for a decision at higher levels. Committee actions involving NNSA require the NNSA co-chair to be in attendance. Actions by the committee are subject to review and override by the Director, Office of Engineering and Construction Management, or by NA-50, or his designee, for actions involving NNSA.

Certification Levels

Level 1 Certification is for the beginning through intermediate Realty Specialist. Level 1 Certification is available for each of the four specialty realty areas. Level 1 Certification is limited to a maximum of $250,000 for each individual real estate action as shown in the section, "Authority Levels for Certified Realty Specialists" on page 10-6.

Level 2 Certification is for the experienced Realty Specialist with the authorities given in the section, "Authority Levels for Certified Realty Specialists". Experience and educational requirements are provided in the section following. Courses identified in the, "Approved Real Estate Training Courses" list are immediately acceptable. Training classes completed under a prior Approved Real Estate Training Course list can be substituted for another similar course under any revised Course list. Other courses may be substituted with the approval of the Certification Committee.

Experience and educational requirements are provided in the section following.

LEVEL 1 CERTIFICATION

Experience

A minimum of three (3) years of creditable experience in the real estate field, at least one (1) year of which is Federal (GS-1170) at the journeyman level (GS-12 or above) with two (2) other creditable years total real estate experience in the requested area of delegation. Creditable years are years of experience as a Federal GS-1170 Realty Specialist (1 year's credit for each year of experience) or number of years experience as an Active State Licensed Real Estate Salesperson or Broker (1 year's credit for every two years of experience). Other experience, such as state and/or local government experience will be evaluated for its applicability to the realty specialist field and credited on a full or partial basis as determined by the Certification Committee operating under the rules noted on page 10-1. Specific training requirements for Certification in the GSA Leasing specialty area are identified in the General Services Administration Acquisition Manual 501.603-2 Selection, Figure 501-1 Warrant Course Requirements.

Education

Education may be substituted for creditable years of experience but not for journeyman level experience. Completion of any six (6) approved classes as listed within Chapter 10, "Approved Real Estate Training Courses", or State certified or college real estate courses, will be the equivalent of one (1) year of experience towards the requested specialty area. Waiver of any educational course will be approved by the Certification Committee operating under the rules noted on page 10-1. A list of courses will be maintained by the DOE Senior Realty Officer, updated by the Certification Committee and available in Chapter 10 of DOE's, "A Desk Guide for Real Estate Personnel", or upon request. These courses will be credited toward fulfillment of experience in appropriate specialty areas. The courses will be annotated to indicate the type of experience they will be credited toward; e.g., acquisition, leasing, or land management and disposal. Experience and educational requirements are provided in the section following. Courses may be nominated to become an "approved training course" by submitting adequate information about the nominated course to the Certification Committee who will determine the appropriate credit and appropriate specialty area.

LEVEL 2 CERTIFICATION

Experience

A minimum of six (6) years of creditable experience in the real estate field, at least two (2) years of which is Federal (GS-1170) and at least one (1) year at the journeyman level (GS-13 or above) with four (4) other creditable years total real estate experience in the requested specialty area of delegation. Creditable years are years of experience as a Federal GS-1170 Realty Specialist (1 year's credit for each year of experience) or number of years experience as an Active State Licensed Real Estate Salesperson or Broker (1 year's credit for every two years of experience).

Other experience, such as state and/or local government experience will be evaluated for its applicability to the realty specialist field and credited on a full or partial basis as determined by the Certification Committee operating under the rules noted on page 10-1. Specific training requirements for Certification in the GSA Leasing specialty area are identified in the General Services Administration Acquisition Manual 501.603-2 Selection, Figure 501-1 Warrant Course Requirements.

Education

Education may be substituted for creditable years experience but not for journeyman level experience. Completion of any six (6) approved classes as listed within Chapter 10, "Approved Real Estate Training Courses", or State certified or college real estate courses, will be the equivalent of one (1) year of experience towards the requested specialty area. Waiver of any educational course will be approved by the Certification Committee operating under the rules noted on page 10-1. A list of courses will be maintained by the DOE Senior Realty Officer, updated by the Certification Committee and available in Chapter 10 of the DOE "A Desk Guide for Real Estate Personnel", or upon request. These courses will be credited toward fulfillment of experience in appropriate specialty areas. The courses will be annotated to indicate the type of experience they will be credited toward; e.g., acquisition, leasing or land management and disposal. Experience and educational requirements are provided in the section following. Courses may be nominated to become an "approved training course" by submitting adequate information about the nominated course to the Certification Committee who will determine the appropriate credit and appropriate specialty area.

CERTIFICATION PROCESS

Issuance

Certificates will be issued to Federal employees of the Department meeting the qualification requirements in any or all of the four specialty areas of real estate activity after review of a request for such Certification from the appropriate organization. While Certification is designed to meet field requirements for real property actions, Certification may also be requested for Headquarters employees meeting the requirements and having the demonstrated need for the Certification. Requests should include adequate information on training and experience to permit review and evaluation. Employees so certified may prepare, approve and execute real estate actions within that specialty. The Senior Realty Officer or Certificate holder, however, may re-delegate to others but must review and approve, in writing, the action being taken.

The qualification requirements of this document can only be waived, for DOE employees, by the Senior Real Property Officer, or the Director, Office of Engineering and Construction Management. For NNSA employees, the Associate Administrator for Infrastructure and Environment (NA-50), or his designee reserves sole authority for waiving any qualification requirements.

Term

Certificates are permanent but Currency must be maintained. Certificates will automatically terminate upon the resignation, retirement, or transfer of the Certificate holder from a GS-1170 position or to another position that has no organizational responsibility for real estate. In addition, for DOE employees, the Director, Office of Engineering and Construction Management can withdraw Certification at any time for justifiable cause. The withdrawal of a Certification involving an NNSA employee requires the concurrence of NA-50, or his designee. Certificates are issued to individuals, not positions.

Currency

In order to maintain currency for all Certifications issued, the individual must attend three real estate related or approved courses during a consecutive five-year period and must complete the annual agency required Ethics Training Program. Attendance at a DOE sponsored Real Estate Conference may be substituted for one of the real estate related approved courses during the five year period. Every five-years from the date of issuance of each Certification, the Certified Realty Specialist will provide a list showing completion of these currency requirements to the Certification Committee. Failure to maintain Currency will result in a suspension of all Certificates held by that Certified Realty Specialist until all Currency requirements have been met. With written justification, the Director, Office of Engineering and Construction Management, can waive any, or all, of the Currency requirements for DOE Certified Realty Specialist. With the concurrence of NA-50, or his designee, such waivers can be granted to NNSA employees, again with written justification.

AUTHORITY LEVELS FOR CERTIFIED REALTY SPECIALISTS

LIMITATIONS:

LEVEL 1: Subject to a maximum of $250,000 for each individual real estate transaction in each specialty as shown below

LEVEL 2: No limitations except as indicated below in Authorities Retained in Headquarters

SPECIALTY AREAS:

Subject to full compliance with the requirements of this document and policy directives issued pursuant hereto, individuals certified in the appropriate specialty area are authorized to contract for or approve with any limitations noted above, all real estate actions except acquisition by condemnation or donation. This includes the following real estate actions:

Acquisition to include fee, except donations and condemnation actions; permanent and temporary lesser interests (easements, licenses, leases [other than building space], permits, rights-of-entry, mineral rights, water rights, timber rights); exchanges, transfers from other Federal agencies; withdrawals from the public domain; settlements after condemnation proceedings are instituted; approval of appraisals.

Non-GSA Leasing lease acquisition using DOE authorities; contractor and DOE leases; lease options; approval of appraisals.

GSA Leasing includes lease acquisitions using GSA's delegation of authority issued to Federal agencies on September 25, 1996. GSA's delegation of authority requires that all re-delegation be to Realty Specialists meeting the specific training requirements of the GSA Acquisition Manual. Those training courses required will be annotated on the listing of courses maintained by the DOE Senior Realty Officer.

Land Management and Disposal to include disposal of fee, permanent and temporary lesser interests (easements, licenses, leases, permits, rights-of-entry, mineral rights, water rights, timber rights); exchanges, transfers to other Federal agencies; approval of utilization surveys; annexation decisions; legislative jurisdiction; approval of appraisals, relinquishment of withdrawals; abrogation of restrictions within DOE disposal documents.

AUTHORITIES RETAINED IN HEADQUARTERS

a. Approval of all donations to DOE.

b. Signature authority for Declarations of Taking, Complaints in Condemnation or any other directive which institutes a condemnation action.

c. Submission of lease prospectuses to Congress or to GSA for submission to Congress.

AUTHORITY LEVELS IN HEADQUARTERS

The OECM Senior Realty Officer and the NNSA Senior Realty Officer are delegated authority to authorize actions or sign real estate contracts for DOE the same as a Certified Realty Specialist in addition to approving:

Prospectuses for submission to Congress or to GSA.

All real estate actions may be approved by any of the following individuals:

Director, Office of Management, Budget and Evaluation (except for PMAs & NNSA)

Administrator for NNSA (for NNSA sites); Administrators of PMAs (for PMA sites)

Exceptions to this delegation are as follows:

Only the Secretary or the Administrator for NNSA (for NNSA sites) or the Under Secretary for Energy, Science and Environment may sign Declarations of Taking or Complaints in Condemnation or any other directive which institutes a condemnation action.

Only the Secretary or the Administrator for NNSA (for NNSA sites) may authorize acceptance of a donation of real property.

Only individuals meeting GSA's experience and training requirements will be delegated authority to sign leases under GSA's delegation of authority to the Department of Energy. Such delegations within Headquarters will be by letter delegation to qualified individuals.

APPROVED REAL ESTATE TRAINING COURSES

Vendor	Credit Area	Course Title (Course Number)
Level 1:		
MCI	L(2)	Federal Real Property Leasing (#1049)
MCI	L(2)	Federal Real Property Lease Law (#1050)
MCI	L(2)	Techniques of Negotiation Federal Property Leases (#1081)
MCI	L(2)	Cost & Price Analysis of Lease Proposals (#1031)
MCI	L	Lease Administration (#1028)
COE	D	Real Estate Management and Disposal 101 (#7)
COE	A	Real Estate Acquisition 101 (#79)
COE	A, L, D (1)	Environmental Laws and Regulations (#170)
IRWA	A, L, D (1)	Understanding Environmental Contamination in Real Estate (#603)
IRWA	A, L, D (1) (2)	Appraisal Theory & Principles (#404)
Appraisal Institute	A, L, D (1)	Appraisal Principles (#110)
Level 2:		
COE	A	Real Estate Acquisition 201 (#121)
COE	D	Real Estate Management and Disposal 201 (#73)
COE	A, D	Real Estate Condemnation (#133)
COE	A	Real Estate Relocation Assistance (#193)
COE	L	Space Utilization (#214)
COE	A, D (1)	Real Estate Planning & Control (#144)
COE	A, L, D (1)	Historic Structures I (#392)
IRWA	A, D, (1)	Legal Aspects of Easements (#802)
IRWA	A, D (1)	Property Descriptions (#902)
Appraisal Institute	A, L, D (1)	Appraisal Procedures (#120)
Appraisal Institute	A	Basic Income Capitalization (#310)
Appraisal Institute	A, L, D (1)	Appraisal Review: General
Appraisal Institute	A, L, D (1)	Uniform Standards of Professional Appraisal Practice (#410)

A= Acquisition

L= Leasing

L(2)= GSA Leasing

D= Land Management & Disposal

(1) Counts in all of the specialty areas indicated.

(2) Required for GSA Leasing Certification

Courses shown above that are no longer offered can be waived for DOE employees with the approval of the Senior Real Estate Officer, or NA-50 or his designee for NNSA employees, if no other course is substitutable or no course has been DOE approved from another Vendor.

ATTACHMENT A

THE CERTIFICATION BOARD REPORT

Applicant:_____ Office:_____ Date:_____

Specialty Areas Requested: ____ Acquisition ____ Non-GSA Leasing
____ GSA Leasing ____ Land Management & Disposal

Experience: Using the experience requirements of Section 10, Pages 10-2 and 10-3, evaluate the applicants experience in Federal and Private Sector practice and write your summary on the attached page (Form 1) considering exact and substitutable experience for the Level of Certification requested/approved.

Education: Using the list of Approved Real Estate Training Courses, compare the applicants training courses completed and any applicant supplied substitutable courses for merit and consideration towards the completion of the training courses required for the Level of Certification requested. Attach your comparison (Form 2) to this report.

Evaluation:
Does the applicant meet the Experience requirements? ___ Yes ___ No-explain:

Does the applicant meet the Education requirements? ___ Yes ___ No-explain:

RECOMMENDATION: ____ for Approval ____ for Disapproval

Evaluator:_____
Signature

CONCURRENCE: ____ for Approval ____ for Disapproval

Co-Chair:_____ Co-Chair:_____
For DOE For NNSA

APPROVAL:

_____ _____
Robert L. McMullan. (MA-50) Bruce Scott (NA-50)

REAL ESTATE EXPERIENCE EVALUATION FOR THE CERTIFICATION BOARD REPORT

Federal Experience:

Requirements:

Level 1 – 3 years creditable experience with at least 1 year at GS-1170-11, or above:

Level 2 – 6 years creditable experience with at least 1 year at GS-1170-12, or above:

Private Sector Experience (1 year federal experience for each 2 years as Licensed Private Sector Broker/Salesperson):

Level 1 -

Level 2 -

Other Experience Considerations (if any):

REAL ESTATE TRAINING COURSE COMPARISON FOR THE CERTIFICATION BOARD REPORT

Vendor	Course Title	Course Completion Date/ or Comparable Substitution/ or Comments
Level 1:		
MCI	Federal Real Property Leasing (#1049)	
MCI	Federal Real Property Lease Law (#1050)	
MCI	Techniques of Negotiation Federal Property Leases (#1081)	
MCI	Cost & Price Analysis of Lease Proposals (#1031)	
MCI	Lease Administration (#1028)	
COE	Real Estate Management and Disposal 101 (#7)	
COE	Real Estate Acquisition 101 (#79)	
COE	Environmental Laws and Regulations (#170)	
IRWA	Understanding Environmental Contamination in Real Estate (#603)	
IRWA	Appraisal Theory & Principles (#404)	
Appraisal Institute	Appraisal Principles (#110)	
Level 2:		
COE	Real Estate Acquisition 201 (#121)	
COE	Real Estate Management and Disposal 201 (#73)	
COE	Real Estate Condemnation (#133)	
COE	Real Estate Relocation Assistance (#193)	
COE	Space Utilization (#214)	
COE	Real Estate Planning & Control (#144)	
COE	Historic Structures I (#392)	
IRWA	Legal Aspects of Easements (#802)	
IRWA	Property Descriptions (#902)	
Appraisal Institute	Appraisal Procedures (#120)	
Appraisal Institute	Basic Income Capitalization (#310)	
Appraisal Institute	Appraisal Review: General	
Appraisal Institute	Uniform Standards of Professional Appraisal Practice (#410)	

Attachment B