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United States Government | Department of Energy

memorandum

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DATE: November 24, 1987

REPLY TO ATTN OF: MA-222.1

SUBJECT: Memorandum of Understanding with the Corps of Engineers

TO: Distribution

The Department of Energy has entered into a Memorandum of Understanding (MOU) with the Corps of Engineers (COE) establishing the responsibilities and procedures for those projects in which the COE will provide real estate services. This MOU is attached for your information and use.

Requests for assistance by the field offices must be directed to this office in the general format of the work order attached to the MOU as Appendix 1. This office, after review and approval, will forward the work order to COE Headquarters for their action.

Once the COE responds with an estimated cost and time of performance, that information will be furnished to your office for a decision. If the COE proposal is acceptable, the requesting office should sign the work order and provide the necessary funds to the office designated by the COE in their response.

When the scope of work and cost of services have been agreed to, your office will then deal directly with the COE office performing the work.

If you have any questions, please call Mr. Thomas W. Knox, of my staff, on FTS 896-1191, or locally on 586-1191.

Harry L. Peebles
Director of Administration

Attachment

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MEMORANDUM OF UNDERSTANDING
BETWEEN THE
U.S. DEPARTMENT OF ENERGY
AND THE
U.S. DEPARTMENT OF THE ARMY

I. INTRODUCTION.

a. Background.

The Department of Energy (DOE) is responsible for the acquisition and management of real estate needed for the programmatic mission of that Department, pursuant to the provisions of section 647 of the Department of Energy Organization Act (42 U.S.C. 7257, P.L. 95-91, 91 STAT 565) and other statutes. The U.S. Department of the Army, acting through the U.S. Army Corps of Engineers (Corps), is willing to assist DOE in all facets of work involved in the acquisition of real estate that may be required by DOE, and such other services as may, from time to time, be required to accomplish DOE's programmatic mission.

b. Authority.

(1) Section 646 of the Department of Energy Organization Act (42 U.S.C. 7256).

(2) Section 219 of P.L. 89-298 (79 STAT 1073 (1965)).

(3) The Economy Act of 1932 (40 U.S.C. 278a).

c. Purpose.

The purpose of this Memorandum of Understanding (MOU) is to provide DOE and the Corps with procedural guidance for the orderly and timely accomplishing of real estate actions by the Corps on behalf of DOE.

d. Policy.

The Corps will provide real estate services when requested by the DOE, subject to availability of manpower and necessary funds. Nothing in this MOU shall be construed to require DOE to use the services of the Corps, nor to require the Corps to accept the work from DOE. However, both agencies shall cooperate to the extent possible in furtherance of DOE's programmatic mission.

2. MANAGEMENT AND PROGRAM GUIDELINES.

a. General.

(1) The Corps will acquire land and interests therein on behalf of DOE in accordance with normal Corps procedures and with all applicable generic Federal laws and regulations, including the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646, 84 STAT 1894, 42 U.S.C. 4601).

2.

(2) Any instructions, constraints, or conditions unique to a specific project or program will be set forth in the Task Order Statement for that project or program.

(3) In any situation traditionally dictated by specific Agency policy rather than generic Federal legislation or policy, a mutually agreeable policy shall be determined between DOE and the Corps.

(4) The Corps will also be guided by the policies of the Department of Justice (DOJ) as specifically defined in the following publications:

(a) "A Procedural Guide for the Acquisition of Real Property by Government Agencies," Department of Justice, Land and Natural Resources Division, 1972;

(b) "Uniform Appraisal Standards for Federal Land Acquisition," Interagency Conference, 1973;

(c) "Standards for the Preparation of Title Evidence in Land Acquisition by the United States," Department of Justice, Land and Natural Resources Division, 1970; and

(d) Any other publication or Attorney General opinion as appropriate, or amendment or revision to the standards listed above.

b. Requesting Real Estate Acquisition Services.

(1) New Requests.

(a) New requests for real estate services, whether on a one time basis or for a multiphase project or program, shall be initiated by the DOE Chief, Real Property Branch, Office of Project and Facilities Management and forwarded to the Corps' Director of Real Estate, Office of the Chief of Engineers. Requests for services may be divided into planning and acquisition phases and DOE may request the Corps to provide planning/analysis reports or appraisals without any obligation to retain the Corps to acquire the real estate interests.

(b Planning services may include the location, analysis, estimate of costs, both administrative and acquisition related, and comparison of alternative sites as requested by and in conformance with criteria specified by the DOE Chief.

(c) Activities related to real estate acquisition including, but not limited to, appraisals, title examination, negotiation of the terms of easements, leases, acquisitions, settlements, closings, and preparation of condemnation papers. also, all matters relating to relocation assistance under P. L. 91-646, including determinations on appeals and decisions with respect to

last resort housing will, if requested by the DOE Chief, be the responsibility of the Corps. These services shall be performed in accordance with the terms of this MOU and any other guidance that the DOE Chief shall provide to the Corps.

(d) Site selection and condemnation decisions shall be the responsibility of DOE.

(e) The request for real estate services shall include sufficient information on the tasks and duration of the project to permit the Corps to determine if it can provide the requested services.

(f) Upon agreement between the DOE Chief and the Corps' Director of Real Estate on a Statement of Work and time of performance, the DOE Chief will provide this information to the appropriate DOE Field Organization.

(g) As the DOE Field Organization will provide the funding, the Head of the DOE Field Organization will review and, if in agreement, authorize the DOE Field Organization Contracting Officer (DOE Contracting Officer) to sign the Task Order. The Task Order will be the obligating document once it is signed by the DOE Contracting Officer.

(h) The DOE Chief will provide the Corps' Director of Real Estate with the name of the DOE Field Organization requesting the real estate services, and the Corps' Director of Real Estate will provide the name of the District or Division Office of the Corps that will perform the requested services.

(i) Thereafter, the DOE Field Organization will provide any necessary additional information.

(2) Amendment of Requests.

(a) The DOE Contracting Officer may, during the course of the project, make reasonable revisions in the Statement of Work or the costs set forth in the Task Order, except as limited below:

1 When there is a proposal to acquire interests different than those specified in the original Statement of Work.

2 When the original cost is exceeded by more than 25 percent for projects of $1,000,000 or less or 15 percent for projects of more than $1,000,000.

3 When the number of acres to be acquired is exceeded by more than 25 percent for projects of 1,000 acres or less and 15 percent for projects of more than 1,000 acres.

4 When the original administrative cost paid by DOE for services provided by the Corps is exceeded by more than 25 percent.

(b) It will be the responsibility of the DOE Field Organization to advise the DOE Chief of any change in the Statement of Work or costs.

(c) Any amendments which exceed the above-noted limitations to the authority of the DOE Contracting Officer, shall be approved by the DOE Director of Administration (the DOE Director).

(d) Amendments which require the approval of the DOE Director will be forwarded by the DOE Chief to the Corps' Director of Real Estate for continuance of action. Those amendments which are done under the authority of the DOE Field Organization may be forwarded by the DOE Field Organization directly to the appropriate Corps District Office.

(3) Other Real Estate Services.

From time to time, DOE may request the Corps to perform some real estate functions not related to acquisition, such as, assistance in the disposal of real property, outgranting and inleasing of real property, related general appraisal services, etc. In these circumstances, DOE may request the Corps to provide such services and the procedures outlined above will be followed.

c. Special Conditions.

While the Corps procedures will generally be followed to accomplish the required work, the following special conditions will apply to all projects undertaken by the Corps for DOE:

(1) Rights-of-Entry. When necessary, reasonable fees for rights-of-entry will be paid.

(2) Delegation of Authority to Acquire by Condemnation. In some instances, individuals at DOE Field Organizations have been delegated limited authority to acquire by condemnation. Where applicable, DOE shall advise the Corps accordingly. Wherever the word DOE appears in paragraphs 3 and 4 below, it shall mean the DOE employee with the authority to acquire by condemnation. However, whenever the Corps' Director of Real Estate corresponds directly with a DOE Field Organization, courtesy copies of such correspondence shall be furnished to the DOE Chief.

(3) Condemnation Because of Disagreement Over Value. No "final and best offer" letter will be sent without the prior approval of DOE . If, after review of the record of negotiation, DOE determines that it is in the best interest of the Government to accept an offer from a landowner, DOE will so notify the Corps in writing, and the Corps will conclude the

acquisition. If the landowner does not accept the "final and best offer," the Corps shall take such actions as necessary to initiate condemnation proceedings including preparation of necessary condemnation papers. Although general information on condemnation procedures may be provided during acquisition negotiations, landowners will not be informed of any intent to condemn without the prior approval of DOE.

(4) Settlement After Condemnations are Filed. The Corps will provide to the DOJ information related to any acquisition negotiations that preceded the DOE decision to initiate condemnation proceedings, and will assist DOE and DOJ in any subsequent negotiations conducted in an attempt to settle a condemnation case. Any recommendations for settlement by stipulation must be approved by DOE. The Corps will submit their recommendation to DOE. DOE's decision will be transmitted to DOJ and the Corps advised accordingly.

(5) Records Maintenance and Disposition. The Corps will maintain, at the appropriate office, all records of work undertaken for DOE which will be available for inspection by DOE personnel at any reasonable time. Upon completion of the actions requested by DOE, the Corps will forward all project files to the appropriate DOE Field Organization for final retention.

(6) Program Funding. Details of the scope of work will be incorporated in the Statement of Work for the specific request. The request or Task Order will also set forth the approved funding and any limitations on the use of such funds. Funding will generally be provided in advance. For the work under major Task Orders, funding transfer will be accomplished by Standard Form 1151, Nonexpenditure Transfer Authorization, pursuant to the Treasury Fiscal Requirement Manual, Volume 1, Section 2060, and OMB Circular A-34, Paragraph 81.2b. For work under small value Task Orders, funding will be provided in advance or on a reimbursable basis by use of Standard Form 1080 with funds furnished directly to the appropriate Corps District Office. The Corps District Office will provide the appropraite DOE Field Organization with a monthly accounting of funds expended and, when requested by DOE, will allow review of pertinent records documenting the basis for the charges to DOE. The general format for the Statement of Work is attached as Appendix I to this MOU.

(7) Appraisals. The Corps will review and approve all appraisals. A copy of all appraisals which require review by the Corps' Director of Real Estate will be sent to the DOE Chief who will have 10 working days after receipt to furnish any comments to the Corps. The Corps will consider any comments furnished prior to completing review of the appraisal. All other appraisals will be held in the Corps' District Offices and copies will be made available to DOE upon request. It is the policy of the Corps, DOE, and DOJ not to release appraisal reports to landowners or any other party prior to the completion of the acquisition.

(8) Status Reports. A quarterly report shall be submitted to the appropriate DOE Field Organization by the appropriate Corps District Office showing the status of each project. It will be the responsibility of the appropriate field offices to determine the contents and format of the report. This report may be included in the monthly accounting of funds.

3. ADMINISTRATION.

a. Public Information Coordinator.

(1) Consistent with the Freedom of Information Act (FOIA) (5 U.S.C. 552), procedures for timely release of information to the public regarding projects and programs implemented under this MOU will be by mutual agreement between DOE and the Corps.

(2) Consistent with the exemptions provisions of FOIA, appraisal reports will not be released during negotiations or condemnation proceedings.

b. Amendment and Termination.

This MOU may be modified or amended by written agreement between DOE and the Corps and terminated by either party upon 90 days prior written notice. DOE reserves the right to unilaterally change those portions of this MOU that concern its internal administrative procedures.

c. Effective Date.

This MOU is effective immediately upon signature by authorized personnel of both agencies. Any similar MOU currently in effect is cancelled concurrently.

U.S. Department of Energy	U.S. Department of the Army
Director of Administration	Acting Assistant Secretary of the Army (Civil Works)
Date: Aug 26, 1987	Date: June 26, 1987

DEPARTMENT OF ENERGY

1. WORK ORDER NO.

3. DATE PREPARED

2. MOU NO.

4. NAME OF PROJECT MANAGER
LOCATION & 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 _____
T _____	TITLE _____
DATE _____	DATE _____