

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/IPSOS 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 Agriculture 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".