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## ***Chapter 8: Management and Disposal of Real Estate***

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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 The order affects all DOE sites except those withdrawn from the public domain.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is made by the program office or designee that a property is excess to the program needs for which it was acquired or withdrawn.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 1955 (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.IC*, 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.IC*, 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.IC*, 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  
TELECOMMUNICATION 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](mailto: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](mailto: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 1000-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

