

Management System Description: Real Property Management

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1.0 Purpose

The purpose of the Real Property Management System Description (MSD) is to provide a consistent approach for all real property transactions throughout the Department of Energy (DOE), Environmental Management Consolidated Business Center (EMCBC). This MSD will ensure that real property transactions and management systems comply with applicable statutes, regulations, directives, terms, and conditions of the contract, and good business practices. This MSD will help ensure that Government real property in the custody, possession or purview of the Department, or assigned to Department of Energy (DOE) is managed appropriately.

2.0 Responsibilities

The table below represents roles and responsibilities specific to this Management System. For a detailed description of CBC MS roles and responsibilities, please see the CBC MS Function Responsibilities and Authorities (FRA).

Roles	Key Areas of Responsibility
Secretary of Energy or Designee	<ul style="list-style-type: none"> • Establishes the Departmental policy for real property asset management. • Authorizes the acquisition of interests in real estate by condemnations and accepts real property donations.
Director, Office of Property Management and Senior Real Property Officer (SRPO)	<ul style="list-style-type: none"> • Designated as the Head of Contracting Activity (HCA) for Real Property Management, develop, issue, maintain and revise policy, procedures and guidance for contracting actions; establish, monitor and maintain a certification program for real property personnel; and issue warrants for acquisition, leasing, management and disposal of real property.
Environmental	<ul style="list-style-type: none"> • Provides annual program direction for real property

Management (EM) Program Office(s)	assets.
EM Consolidated Business Center (EMCBC) Director	<ul style="list-style-type: none"> • Is granted certain delegated authorities related to real property by the EM HQs Secretarial level. • Re-delegates authorities for real property actions to Certified Realty Specialists at the EMCBC. • Director and Assistant Directors are accountable to EM HQs for proper stewardship of real property assets at EM non-laboratory sites. • Provides specific direction for real property assets at sites under their authority.
Site Office Managers and Federal Project Directors	<ul style="list-style-type: none"> • Accountable to the EM HQs for the proper stewardship of real property assets at their sites. • Do not have delegated authority for real property actions at their sites. • Must work with Certified Realty Specialists or Real Estate Contracting Officers at EMCBC.
Real Estate Contracting Officers (RECO)	<ul style="list-style-type: none"> • Comply with requirements in statutes, regulations, Executive orders, and policy letters of the Office of Federal Procurement Policy; DOE acquisition letters, financial assistance letters, and DOE directives; and other Federal agencies' applicable procurement policies and procedures. • Acquire real property in accordance with level of appointment. • Lease real property in accordance with level of appointment. • Manage real property in accordance with level of appointment. • Dispose of real property in accordance with level of appointment. • All CRS responsibilities
Certified Realty Specialists (CRS)	<ul style="list-style-type: none"> • DOE employees who are certified in one or more of the three realty areas: (1) acquisition, (2) federal leasing (regardless of authority), and (3) land management and disposal. These certified employees are authorized to prepare real property actions within certified realty areas and at authorized levels.

	<ul style="list-style-type: none"> • All Realty Specialist Responsibilities.
<p>Realty Specialists</p>	<ul style="list-style-type: none"> • Manage real property. • FIMS corporate real estate database. • CERCLA/RCRA real estate requirements. • 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) • Relinquishment of DOE withdrawn land to the Department of Interior • Interface with Department of Justice on title questions.

3.0 Management System Operation

3.1 Overview

Realty Specialists conduct the real property functions, which are inherent Federal activities. The real property functions encompass several key activities over the lifecycle 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.

When the contractor assists in these actions, the Realty Specialists monitor any such contractor realty actions and approves the action. The Realty Specialists is responsible for assuring consistency, uniformity, compliance, and quality of his or her real estate documents and the policies implemented.

3.2 Key Functions/Services and Processes

3.2.1 Acquisition of Real Property

3.2.1.1 Acquisition

Acquisition is the acquiring of an interest in real property for use by DOE or a DOE contractor whether the space is already in existence or must be constructed and requires appropriated funds. Acquisition begins when DOE or a DOE contractor needs are established and includes the description of requirements to satisfy DOE and/or DOE contractor needs, market survey, solicitation, award, and technical and management functions directly related to the process of fulfilling DOE and/or DOE contractor needs by contract.

3.2.1.2 Fee Ownership

Fee ownership is the maximum possible estate or right of ownership of real property continuing until the rights of the owner(s) are relinquished, which is sometimes referred to as “*title in fee simple*.” This means that subject to any legal restrictions with that property, the holder of the fee is the owner of the entirety of the property, without limitations as to time or usage.

3.2.1.3 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. A lease conveys the right to use property belonging to another for a period in return for consideration under the term set out in the lease agreement. When leasing building space, all leased space must be acquired, designed, and occupied in a manner that meets all legal and regulatory requirements. The most common leases for EM DOE are signed by:

- DOE under the Atomic Energy Act;
- DOE under the Department of Energy Organizational Act;
- A DOE contractor as authorized under the contract with DOE;
- A DOE contractor under its own corporate authority;
- General Services Administration GSA for space assigned for use by DOE; and
- DOE under a specific delegation of authority from GSA.

3.2.1.4 Easements

An easement is a right to use the land or property of another for a special or particular purpose. An easement may be of limited duration; however, it can be perpetual and/or indefinite in nature, and even though the fee ownership of the land itself is conveyed to another, the easement holder (i.e., the owner of the easement right) may continue to use the land in the manner expressed in the easement agreement.

3.2.1.5 Licenses/Permits

This type of instrument is obtained when land use is required for a limited time and purpose. Usually, the term “*permit*” applies only when one Government agency grants the use of its property to another Government agency. A license is typically not a real property interest but is a contractual right to enter or use another’s property.

3.2.1.6 Transfer from another Government Agency

Section 202(a) of the Federal Property and Administrative Services Act of 1949 authorizes the GSA to transfer excess real property among Federal agencies. GSA frequently issues notices regarding available excess property.

3.2.1.7 Withdrawal of Public Domain Lands

The Department of Interior (DOI) is delegated responsibility for withdrawing and reserving public domain land. Pursuant to the Department of Energy Organizational Act of 1977, DOE may request that DOI withdraw public domain land for DOE usage.

3.2.1.8 Acquisition by Exchange or Donation

On rare occasions, DOE acquires real property through exchange or donation. Like other acquisitions, exchanges and donations require programmatic justification. The procedure for acquiring properties through these means is 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. The Secretary of Energy must approve donated property, and a formal agreement signed which sets forth the terms and conditions. Donated property also requires the concurrence/approval from the Department of Justice (DOJ).

3.2.1.9 Condemnation

The term "*condemnation*" is often reserved to describe an acquisition accomplished through formal court action. As a last resort, if the Government is unable to negotiate an acceptable agreement for the acquisition of the needed property, DOE may request the initiation of condemnation proceedings by the DOJ under the Government's right of eminent domain.

3.2.1.10 Alterations or Other Improvements

As a matter of policy, using appropriated funds for alterations to buildings or improvements to land that is not owned by the government are generally precluded by decision of the Comptroller General.

3.2.2 Land Management and Disposal

The Department has limited authority to dispose of property under its own authority. Disposal authorities are listed in Chapter 8 of the DOE Guide, titled "*DOE Real Estate Process – Desk Guide for Real Estate Personnel*" (DOE Real Property Desk Guide). All agencies are directed to maintain their real property assets at the minimum level needed to accomplish its mission and to promptly report to GSA any property identified as excess. If the disposal involves improvements the property must also be submitted to the Department of Housing and Urban Development for review for possible use by the homeless in compliance with the Stewart McKinney Homeless Assistant Act). In general, Federal Agencies do not typically dispose of un-remediated real

property (see requirements for Federal Facilities per the Comprehensive Environmental Response, Compensation, and Liability [CERCLA]).

3.2.2.1 Outgrant

When property is temporarily underutilized, the Department may outgrant the property pending a particular entity's need. Procedures for outgrants are provided in the EMCBC section titled, *Other Interest of Real Property*. Outgranting procedures may also be found in the DOE Real Property Desk Guide.

3.2.2.2 Disposal by Demolition

Disposal by Demolition is the disposal of real property improvements without the underlying land. All such disposal actions must be submitted to the EMCBC for review and authorization by a CRS.

3.2.2.3 Economic Development

The National Defense Authorization Act for Fiscal Year 1998 directs DOE to prescribe regulations that describe procedures for the transfer by sale or lease of real property at defense nuclear facilities (10 CFR Part 770). Transfers of real property under these regulations are intended to offset negative impacts on communities caused by unemployment from related DOE downsizing, facility closeouts, and work force restructuring at these facilities. The Community Reuse Organizations were established with a primary mission to determine and sponsor actions the community may take to offset the local consequences of DOE downsizing.

3.2.2.4 Economic Development under 10 CFR 770.2

DOE may transfer DOE-owned real property by sale or lease at defense nuclear facilities, for the purpose of permitting economic development.

DOE may transfer, by lease only, improvements at defense nuclear facilities on land withdrawn from the public domain, that are unneeded, temporarily underutilized, or underutilized, for the purpose of permitting economic development.

3.2.3 Other Interest in Real Property (Granting the use of Government Property [outgrant] and Acquiring the use of Private Property [ingrant])

DOE's interest in real property may be satisfied by an outgrant of government property or an ingrant of private property via agreements such as: lease, easement, license, permit or right of entry.

3.2.4 Payment in Lieu of Taxes (PILT)

Local governments are compensated for certain Federal lands within their borders under the PILT Program established and in accordance with Section 168 of the Atomic Energy Act of

1954. 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 procedure for processing a Payment in Lieu of Taxes is found in the EMCBC Office of Financial Management MSD.

EMCBC RECORD OF REVISION

DOCUMENT TITLE: MSD Real Property Management

If there are changes to the controlled document before the two-year review cycle, the revision number stays the same; one of the following will indicate the change:

I Placing a vertical black line in the left margin adjacent to sentence or paragraph that was revised; or

I Placing the words GENERAL REVISION at the beginning of the text. This statement is used when entire sections of the document are revised.

If changes and updates occur at the two-year review cycle, the revision number increases by one.

Rev. No.	Description of Changes	Revision on Pages	Date
0	Initial Document		8/17/12
1	Revised Version	1-10	3/3/15