

**NASA Overview of Policy for Real Property Management:
Use of Authorities for Out-Grant and Disposition
of Underutilized NASA Real Property Assets**

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Responsible Office: NASA Office of Strategic Infrastructure
Facilities and Real Estate Division

Introduction

NASA has developed this document to provide a summary overview of the comprehensive body of existing NASA policy that guides the Agency’s management of its real property assets, specifically for the use of authorities to out-grant and effect the disposition of underutilized facilities and infrastructure. This overview summarizes NASA authorities to out-grant, lease, demolish, transfer, and dispose of real property and facilities. It is intended to serve as a reference to existing NASA policy in this area of real property management, and responds to direction from Congress included at Section 837(d) of the NASA Transition Authorization Act of 2017 (NTAA). As reflected in these policies, NASA has sufficient policies and criteria in place in all respects to govern its management of real property assets, consistent with its mission.

1. Background

Section 837(d) of the NTAA of 2017 directs NASA to establish policy guiding the use of authorities for managing property, facilities, and infrastructure. The specific direction follows:

SEC. 837. FACILITIES AND INFRASTRUCTURE.

(a) Sense of Congress.—It is the sense of Congress that—

- (1) the Administration must address, mitigate, and reverse, where possible, the deterioration of its facilities and infrastructure, as their condition is hampering the effectiveness and efficiency of research performed by both the Administration and industry participants making use of Administration facilities, thus harming the competitiveness of the United States aerospace industry;
- (2) the Administration has a role in providing laboratory capabilities to industry participants that are not economically viable as commercial entities and thus are not available elsewhere;
- (3) to ensure continued access to reliable and efficient world-class facilities by researchers, the Administration should establish strategic partnerships with other Federal agencies, State agencies, FAA-licensed spaceports, institutions of higher education, and industry, as appropriate; and
- (4) decisions on whether to dispose of, maintain, or modernize existing facilities must be made in the context of meeting Administration and other needs, including those required to meet the activities supporting the human exploration roadmap under Section 432 of this Act, considering other national laboratory needs as the Administration deems appropriate.

(d) REQUIREMENT TO ESTABLISH POLICY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall establish and make publicly available a policy that guides the Administration’s use of existing authorities to out-grant, lease, excess to the General Services Administration, sell, decommission, demolish, or otherwise transfer property, facilities, or infrastructure.

(2) CRITERIA.—The policy shall include criteria for the use of authorities, best practices, standardized procedures, and guidelines for how to appropriately manage property, facilities, and infrastructure.

NASA manages and implements policy and procedures through its organizational structure. The Assistant Administrator for Office of Strategic Infrastructure (OSI) serves as NASA's Senior Real Property Officer. Under the direction of the OSI Assistant Administrator, the Director of the Facilities and Real Estate Division (FRED) serves as the principal point of contact for real property activities and provides NASA-wide policies for real property management to NASA Centers. The FRED provides functional leadership for the Agency’s facilities management and planning workforce, including oversight and consulting on the development and execution of partnering agreements that leverage NASA’s real estate. The FRED has assembled NASA’s policy resources and created guidance and online tools to assist the NASA real property management community in their implementation and practice. This complete portfolio of information and tools is accessible to NASA users at the FRED website (*fred.hq.nasa.gov*).

Center Directors and the Director of the NASA Management Office are responsible for real property associated with their Center and for:

- Appointing a Center real property accountable officer (RPAO) and ensuring that their work is performed in accordance with established policies and procedures,
- Assessing real property needs with respect to mission requirements,
- Approving all requests relating to the acquisition of real property,
- Disposing of real property not required currently or in the foreseeable future, and
- Leveraging the value of Center real property through initiatives and actions such as out-granting underutilized real property.

As prudent Federal stewards of its real property assets, NASA often partners with the General Services Administration (GSA) to assist the Agency in achieving the best value and strategically sustainable outcomes in its real property management goals. In accordance with its existing authorities, NASA utilizes the services of GSA to dispose of excess assets, gain assistance and expertise in performing certain real property transactions, engage GSA as its agent in executing those transactions, and acquire real property leases.

The following sections explain NASA’s use of existing authorities and established policy for managing real property that is under its authority and control. They also cover one new policy area.

2.0 NASA Authorities and Regulations

NASA has several authorities available to support its real property and infrastructure management goals.

Space Act Authority

The National Aeronautics and Space Act (P.L. 111-314, 51 U.S.C. Sections 10101-71302) is NASA's authorizing legislation. Referred to as the "Space Act," it authorizes NASA to conduct a number of activities to help support and carry out NASA's missions. The Space Act covers the acquisition, ownership, legal agreements and disposition of real property assets. While the Space Act provides additional authorities not covered here, the authorities that support NASA's efforts to disposition property, facilities and infrastructure are described below.

Space Act Section 20113 (c), Powers of the Administration in Performance of Functions

In furtherance and support of its missions, NASA utilizes the authorities provided in the Space Act to manage its real property. The Space Act, under Section 20113(c), authorizes NASA to out-grant to others real property under NASA's control. This is a temporary transfer of NASA property rights to others by means of leases, licenses, permits, easements, Memoranda of Agreement (MOA), Memoranda of Understanding (MOU), and other forms of agreement. Cash payments received for out-grants of NASA real property are delivered to the U.S. Treasury as miscellaneous receipts, with a special exception for Enhanced Use Leasing. (See below.)

Space Act Section 20113 (e), Other Transaction Authority

NASA has promulgated an Advisory Implementing Instruction to support the use of Space Act Agreements (SAAs), NAII 1050-1C Space Act Agreements Guide (https://nodis3.gsfc.nasa.gov/NPD_attachments/N_All_1050_001D.pdf). The Space Act Agreement Guide is intended to explain NASA agreement practice and provide assistance to those involved in formation and execution of SAAs.

Reimbursable Space Act Agreement (RSAA). RSAA's may include out-grants of real property. Under an RSAA out-grant, NASA's costs associated with a tenant activity are reimbursed by the tenant to NASA. An RSAA permits the tenant to use NASA facilities, land, and associated personnel, expertise, or equipment. Under an RSAA, use of real property is non-possessory and non-exclusive. As detailed in NASA's Space Act Agreement Guide, RSAA's must meet one of three conditions to be allowed: (1) sustain or enhance facilities and lower operational costs for current and future needs of NASA's missions; (2) sustain or enhance skills that are expected to be needed to support NASA's missions; or (3) sustain or enhance a functional area not adequately funded by NASA programs but required for current or future support of NASA's missions.

Non Reimbursable Space Act Agreement (NRSAA). NASA may also permit partners to use real property assets to support collaborative activities. Therefore, NRSAA's may also include out-grants of real property. NRSAA's involve NASA and one or more partners in a mutually beneficial activity that furthers NASA's mission, where each party bears the cost of its participation and no funds are exchanged between the parties. As noted above, a Federal entity may be a partner, as NASA does participate with other Federal agencies in no-funds-exchanged mutually beneficial activities. NRSAA's allow NASA to contribute time and effort of personnel, support services, equipment, expertise, information, or facilities

for a collaborative activity where the end result is in the interest of both parties. It is appropriate to use an NRSAA where NASA and the other party are performing activities collaboratively for which each is particularly suited and for which the end results are of interest to both parties. Just as with an RSAA, use of real property is non-possessory and non-exclusive. Therefore, the tenant is unlikely to make significant investment in the asset infrastructure. Essentially, a NASA Center and a tenant share the cost of participating when the proposed contribution of the partner is fair and reasonable compared to the NASA resources to be committed, NASA program risks, and corresponding benefits to NASA.

Space Act Section 20117, Disposal of Excess Land

Section 20117 provides direction for NASA's disposition of excess land with a value greater than \$50,000. The Space Act requires NASA to report the land as excess to the appropriate Congressional committees and to provide information on the proposed disposal action. Following receipt of NASA's report to the Congressional committees and after a period of 30 days, and if there are no objections from the committees, NASA may report the land as excess to GSA for disposition under the Title 40 process, as detailed further below.

Space Act Section 20145, Lease of Non-Excess Property

Enhanced Use Leasing (EUL) enables NASA to effectively utilize non-excess property that may be needed for future missions. Section 20145 provides authority to NASA to out-lease any such non-excess property for fair market value. This authority allows NASA to lease property to the private sector and retain lease revenues. Section (b)(2) of the statute stipulates Agency utilization of the lease revenues. NASA guidance, included under Chapter 6 of NPD 8800.15, (detailed further below) further details the appropriate allocation and use of such funds. EUL proceeds are used to cover the full costs to NASA in connection with the leases. Remaining (net) EUL proceeds may also be used for maintenance, capital revitalization, and improvements to any NASA real property assets including collateral equipment at NASA Centers.

EUL agreements may only be for cash consideration at fair market value. NASA's EUL authority allows for cash proceeds only; no in-kind consideration, such as building renovation or construction, is allowed, with the exception of development of renewable energy production facilities. EUL authority cannot be used for property that the Agency has declared excess. NASA's present EUL authority is extended until December 31, 2018, pursuant to Section 832 of the NTAA (P.L. 115-10).

To increase understanding of EULs, the FRED has created an EUL Desk Guide that serves as an internal resource to Agency real property staff with responsibility for managing NASA assets under an EUL agreement. The EUL Desk Guide is available to NASA users as part of the Agency's publicly available online Real Estate Desk Guide, detailed further below. The EUL Desk Guide is not intended to be a policy document; its primary purpose is to supplement and support existing NASA procedural requirements noted above.

3.0 Other Federal Authorities and Regulations

NASA's authority related to real property assets is not only provided under the Space Act. Other authorities exist that authorize NASA to enter into agreements with other people or entities for specific activities and real property types.

General Services Administration

GSA is the Federal steward for Federal property (40 U.S.C. 121(c)) and has established regulations and procedures, as well as a versatile portfolio of authorities that may be available to NASA if GSA chooses to delegate its authority to NASA to accomplish specific property disposition objectives. GSA's Federal Management Regulations (FMR), which addresses Federal real property disposal, is contained in 41 CFR Chapter 102 Subchapter C, Parts 71, 72, 75 and 78. NASA gets guidance from and follows the FMR for some real property actions. For example, depending upon the desired outcome for a property, NASA can dispose of excess property through the GSA excess process or NASA can demolish excess facilities through delegated authority from GSA. Disposal methods such as GSA's Public Benefit Conveyance, addressed in Part 75, offer additional avenues for disposing of excess properties. The FMR is noted further below.

National Historic Preservation Act (54 U.S.C. 300101 et seq.)

The National Historic Preservation Act (NHPA), 54 U.S.C. 306121 (a), provides the authority for Federal agencies to enter into leases for the use of their historic real property. The Act permits NASA to out-grant historic property not needed for current or projected agency purposes. NHPA lease proceeds are used to cover the full costs to NASA in connection with the lease, and remaining (net) proceeds can be invested in the preservation of NASA's historic property. NHPA leases also allow for a tenant to make improvements at the tenant's expense. This type of out-grant requires close coordination with the State Historic Preservation Officer (SHPO). Under this authority, NASA may enter into an out-grant of historic real property that is either eligible or listed on the National Register of Historic Places (NRHP). Leases of NASA-controlled historic real property leverage these assets into more productive assets, maximizing utilization and efficiency.

The Economy Act (31 U.S.C. 1535)

The Economy Act provides authorization for Federal agencies to request and perform reimbursable work for other Federal agencies. Out-grants that NASA enters into under the authority of the Economy Act, also referred to as interagency agreements, are used to document the utilization of NASA real property and services by another Federal agency. These interagency agreements are based on the condition that NASA real property is available for use and the use of the real property by the other agency is in the best interest of the U.S. Government. The Federal tenant is required to pay their proportionate share of the costs of operating the asset and for any special services requested or capabilities used.

Commercial Space Launch Act (51 U.S.C. 50913)

One purpose of the Commercial Space Launch Act (CSLA), 51 U.S.C. 50901(b)(4), is "to facilitate the strengthening and expansion of the United States space transportation infrastructure, including the enhancement of U.S. launch sites and launch-site support facilities, and development of reentry sites, with government, state, and private sector involvement, to support the full range of U.S. space-related

activities.” The Act governs out-grants of space launch assets. NASA generally uses this authority to engage in such out-grants pursuant to 51 U.S.C. 50913. The scope of a CSLA agreement is limited to the use of Federal real property and services which may include, for example, facilities, equipment, and personnel under NASA's jurisdiction to support a partner's commercial launch or re-entry efforts. A commercial launch or re-entry is any activity that is anticipated to be subject to a license or permit by the Federal Aviation Administration.

Code of Federal Regulations

Sections 1204.501,503, and 504 of Title 14 of the Code of Federal Regulations provide for the delegation and redelegation of authority to carry out certain activities relating to the management of real property, including the authority to make out-grants, to Center Directors and designated Center senior managers within NASA.

The NASA Assistant Administrator for Strategic Infrastructure and the Director of the FRED are delegated authority to prescribe Agency real estate policies, procedures, and regulations as well as take actions that include the ability to:

- Grant easements, leaseholds, licenses, permits, or other interests controlled by NASA;
- Grant the use of NASA-controlled real property and approve the acquisition and use of nongovernment owned real property for any NASA-related, non-appropriated fund activity purpose with the concurrence of the NASA Comptroller;
- Sell and otherwise dispose of real property in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471, et seq.);
- Exercise control over the acquisition, utilization, and disposal of movable/ relocatable structures including prefabricated buildings, commercial packaged accommodations, trailers, and other like items used as facility substitutes; and
- Request other government agencies to act as real estate agent for NASA.

4.0 NASA Procedures and Use

Publicly accessible in NASA's Online Directives Library (NODIS, <https://nodis3.gsfc.nasa.gov/>), NASA issues NASA Policy Directives (NPDs) and NASA Procedural Requirements (NPRs) to provide guidance, establish procedures, and state principles for the Agency. NASA policies related to real property are as follows:

NPD 8800.14, Policy for Real Estate Management

NPD 8800.14 establishes the principles of stewardship of real property owned, leased, or otherwise managed by NASA, as follows:

- (1) Steward only the assets NASA needs by acquiring assets only when necessary, by utilizing assets well, and by divesting assets for which the Agency has no future need.

- (2) Ensure reliable service to occupants via effective asset stewardship, including fiscally and environmentally sustainable management practices which include considering flooding risks when planning investments, assigning land uses, and entering into agreements with partners.
- (3) Continually assess adherence to these principles by collecting and managing relevant data in a timely, accurate, and complete fashion and in accordance with applicable laws and standards.

Its purpose is to ensure that NASA is utilizing its real property assets in an efficient and economical manner. This includes ensuring that real property assets are appropriate to NASA's mission in size and type as well as being environmentally sound and affordable.

NPR 8800.15, Real Estate Management Program

NPR 8800.15 provides procedural requirements for how NASA uses its authorities to acquire, manage, and dispose of real property assets. NPR 8800.15 provides NASA real property managers with a common set of requirements and uniform, orderly processes for meeting NASA's real property requirements. Each chapter has a focus on a specific real estate action and core requirement, including required documentation.

Further, NASA has established online real estate desk guidance to support the work of the Agency-wide community of real property management staff. The NASA Real Estate Desk Guide was prepared as an overview and step-by-step description of the processes used in implementing real property actions at NASA. The Desk Guide is intended to assist in compliance with policy, Federal Laws and regulations, and to assist in coordinating with applicable agencies and private sector entities regarding real property. The NASA Real Estate Desk Guide augments but does not replace NASA policy and requirements documents. Designed to be used electronically, the NASA Real Estate Desk Guide is accessible to NASA users and the public via link at NASA's Facilities and Real Estate Division website: <https://fred.hq.nasa.gov/>.

Real property standardized procedures from NPR 8800.15 are described as follows.

Out-Grants:

Out-grants of NASA real property, including EULs, are pursued only for Agency assets that have been determined to be less than fully utilized by the Agency for activities in support of meeting its mission requirements. The Center where the property is located must affirm that the proposed out-grant partnership (1) is aligned with Agency policy, strategic plan, and mission and (2) will not negatively impact NASA's mission. Additionally, the Center must certify the asset to be out-granted is required to support current or future NASA missions. If the asset does not have a known current or expected future use -in support of NASA's mission requirements, and the asset is also underutilized, the Center will consider disposal of the facility.

Out-Grant with Other Federal Entities. Out-grant agreements with other Federal entities include non-permanent granting by NASA of the use of NASA real property assets to other Federal agencies by means of lease, easement, permit, license, SAA, or MOU/MOA. The NASA real property asset is not transferred but is retained in NASA's real property inventory. The purpose is to satisfy another Federal entity's requirement to use an existing NASA-owned building or structure.

Out-Grant with Private Sector and Public Sector. A Public-Private/Public-Public Venture (PPV) is an out-grant agreement through which NASA furnishes real property for a specified period of years, and the private or public entity invests its own capital to construct, renovate, or improve that real property and to operate the asset in a manner consistent with the agreement. State and local governments are examples of public entities that may enter into PPVs with NASA. NASA is authorized to retain monetary proceeds for the use of its real property in an out-grant agreement such as an EUL or NHPA lease. NASA may not retain monetary proceeds for out-grants when it enters into an easement, license, permit, SAAs, MOUs, and MOAs. However, these arrangements generally provide for NASA to be reimbursed for its costs. Any remaining proceeds are deposited into the U.S. Treasury as miscellaneous receipts once NASA's costs are reimbursed.

Lease/develop/operate arrangements are the most common PPVs for NASA. PPVs generally are not applicable to lesser interests in real estate such as easements and rights-of-way, although out-grants with private sector and public sector entities may include any transactions or agreements such as easements, leases (including EULs), licenses, concession agreements, permits, SAAs, MOU/MOA, rights-of-way or other transactions that are authorized by the Space Act, CSLA, or NHPA. All uses of NASA real property assets by the private sector and public sector are covered by an out-grant. The out-grant allows a Center to enter into an agreement with a private sector or public sector entity to use an underutilized asset, which leverages the asset into a more productive asset, maximizing asset utilization and efficiency.

Disposal

Demolition. Demolition is the disposition/disposal of real property assets by demolishing, destroying or deconstructing of a real property asset when NASA no longer requires the property. NASA Headquarters has entered into a Memorandum of Understanding (MOU) with GSA granting GSA's concurrence, as required by FMR Subpart E 102-75.1035, on proposed demolitions of real property assets in accordance with the requirements of the MOU. As required in the MOU, the Director of FRED must submit a report annually to GSA detailing demolitions in the preceding fiscal year and a list of proposed demolitions for the current fiscal year.

Report of Excess to General Services Administration. If the real property NASA wants to dispose of is "excess," NASA makes that request through GSA. NASA does not have the authority to dispose of real property by sale or transfer. The authority to sell or transfer real property has been delegated to NASA by GSA in the past for specific properties, but without specific authorization, all sale and transfer of NASA property is accomplished through GSA.

Transfer of Real Property to Another Federal Agency. Disposal by transfer to another Federal agency is accomplished via the same process as excessing real property. NASA does not have the authority to transfer real property to another Federal entity. GSA is the transfer agent. NASA reports the real property asset as excess to its needs. In the past, Congress has given NASA the authority to sell or transfer specific properties. However, without specific authorization, transfer of NASA property to another Federal agency is accomplished through GSA.

Decommissioning

Decommissioning is the formal process for changing the status of a real property asset from "active" to "inactive." Assets are decommissioned when they are not currently needed to support a NASA mission

or function, but serve a planned need in the future. A decommissioned facility is further categorized by three potential states of readiness: “standby,” “mothballed,” or “abandoned.”

The following conditions characterize all inactive/decommissioned facilities or parts of facilities:

- (1) No personnel occupy the facility;
- (2) Maintenance and utilities are curtailed, other than as required to prevent unauthorized access and injury to personnel and to ensure fire, security, safety protection, or if the property is a National Historic Landmark; and,
- (3) The facility does not receive funding for deferred maintenance, renewal or other significant improvement.

How the Agency uses its complement of authorities depends upon the status of a given property’s utilization within the real property portfolio, for instance, whether the property has been determined to be excess to NASA’s mission needs, or not excess but underutilized.

5.0 Conclusion

Effective management of NASA real property is integral to NASA’s mission. NASA’s approach to asset management links planning, programming, budgeting, and evaluation (PPBE) to mission requirements and life-cycle performance outcomes. NASA will balance acquisition, sustainment, modernization, and disposal to ensure that real property assets are available, utilized, and in a suitable condition to meet mission requirements.

NASA real property managers are guided by policies stated in this document. Assets are aligned with mission requirements in accordance with the following principles:

- Steward only the assets NASA needs by acquiring assets only when necessary, by utilizing assets well, and by divesting assets for which the Agency has no future need.
- Ensure reliable service to occupants via effective asset stewardship, including fiscally and environmentally sustainable management practices which include considering flooding risks when planning investments, assigning land uses, and entering into agreements with partners.