

Department of the Interior Departmental Manual

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Series: Federal Assistance Programs

Part 505: Grants Administration

Chapter 6: Infrastructure Privatization

Originating Office: Office of Acquisition and Property Management

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6.1 **Purpose.** This chapter establishes policies and assigns responsibilities for the Department of the Interior's implementation of Executive Order (E.O.) 12803, "Infrastructure Privatization," April 30, 1992.

6.2 **Policy.** Consistent with the order, to the extent permitted by law, the Department of the Interior shall undertake the privatization initiatives identified in section 3 of the order.

6.3 **Applicability.** To the extent permitted by law, these policies apply to grant programs administered by the bureaus and offices of the Department which provide for disposition of infrastructure assets financed in whole or part by the Federal Government and needed for the functioning of the economy. Infrastructure assets acquired through procurements under grants are covered. The order excludes from coverage, infrastructure assets financed through a procurement contract governed by the Federal Acquisition Regulation.

6.4 **Authority.** On April 30, 1992, E.O. 12803, "Infrastructure Privatization," was signed. The objective of the order is to allow the private sector to provide for infrastructure modernization and expansion. The order is based on the principles that an adequate and well-maintained infrastructure is critical to economic growth, and State and local governments should have greater freedom to privatize infrastructure assets. This is consistent with the principles of federalism as stated in E.O. No. 13132.

6.5 Responsibilities.

A. The Assistant Secretary - Policy, Management and Budget (A/S-PMB). The A/S-PMB is responsible for implementing the privatization initiatives identified in section 3 of the order.

B. Assistant Secretaries. Assistant Secretaries are responsible for ensuring that these initiatives are implemented within the applicable bureaus and offices.

C. Heads of Bureaus and Offices. Heads of bureaus and offices are responsible for:

(1) Ensuring that procedures are established for the handling of requests received from a State or local government and that these requests include the requirements in section 4 of the order.

(2) Ensuring that requests for concurrence with the determined appraised value of the infrastructure by the Office of Management and Budget (OMB) are appropriately forwarded to the Office of Acquisition and Property Management.

(3) Ensuring that a file is established to include appropriate documentation of the process used.

D. Office for Equal Opportunity (PEO). PEO is responsible for assuring that, in accordance with section 2(c) of the order, the State or local government will continue compliance with Federal requirements that public use will be on reasonable and nondiscriminatory terms.

E. Office of the Solicitor (SOL). SOL is responsible for reviewing the market mechanism, legally enforceable agreement or regulatory mechanism required in section 4(b) of the order.

F. Office of Acquisition and Property Management (PAM). PAM is responsible for the following:

(1) Serving as the focal point of contact for the Departmental implementation of the order.

(2) Coordinating implementation of the order.

(3) Coordinating the handling of requests from bureaus and offices requiring approval by the A/S-PMB prior to submittal to OMB.

(4) Collecting, as required, bureau/office input needed for the annual report to OMB on those privatization activities performed during the preceding year, and preparing the Departmental report for the A/S-PMB.

6.6 **Definitions.** Those definitions included in section 1 of the order shall apply.

6.7 **Criteria for Privatization.** A request to privatize an infrastructure asset will be consistent with the criteria in section 4 of the order. Use Department of the Interior Form DI 1996, "Checklist for Consistency with Criteria" and place in the file. This form should also include concurrence by SOL concerning the adequacy of the agreement or regulatory mechanism.

6.8 **Exceptions to Disposition.** If required, bureaus/offices will ensure an exception to the disposition requirements of the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" common rule at 43 CFR Part 12, Subpart C, has been granted.

6.9 Procedures for Review of Request.

A. A determination of the transfer price of the infrastructure will be made in accordance with section 1(d) of the order. Complete Department of the Interior Form DI 1994, "Distribution of Transfer Price," and include in the file.

(1) If the appraised value of the asset is determined by a competitive bidding process, appropriate documentation on this process should be included in the file.

(2) If the asset is not being transferred as a result of competitive bidding, the appraised value of an infrastructure asset will be determined by the bureau/office awarding official.

B. Once a determination of the transfer price is made by the bureau/office awarding office, concurrence by OMB will be obtained as follows:

(1) A request for concurrence by the Director of OMB will be submitted by heads of bureaus and offices through the appropriate program Assistant Secretary to PAM.

(2) The request to PAM should provide the name of the grantee organization; the name and brief description of the infrastructure asset being appraised; and a brief description of how the determination of the appraised value of the infrastructure asset was made by the bureau/office awarding office.

(3) PAM will prepare and submit the request through the AS/PMB to the Director, OMB.

C. After OMB's review, PAM will notify the bureau/office awarding official in writing of its decision, so that the transfer can proceed, if appropriate.

6.10 Distribution and Payment of Transfer Price. The transfer price will be distributed and paid in accordance with section 3(c) of the order. A DI 1994, "Distribution of Transfer Price," will be prepared and included in the file.

6.11 Reporting Requirement. Bureaus/offices will forward a copy of the Interior Form DI 1995, "Summary of Request From State or Local Government to Privatize an Infrastructure Asset," to PAM for each approved or denied request. This information will be used to prepare the report to OMB as required by section 5 of the order.

6.12 Availability of Forms. Bureaus and offices having primary responsibility for the handling of requests received from State and local governments will maintain a supply of forms for their use to document this process. PAM will provide a camera-ready copy of each form for local reproduction.

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