



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

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In reply, refer to:
1600/2700(P)CA 930

July 25, 2003

EMS Transmission: 07/25/03
Instruction Memorandum No. 2003-051
Expires: 03/30/2004

To: All California Field Managers

From: State Director

Subject: Additional Funding for Acquisitions

DD: 09/02/2003

Proposed FY 2004 Baca Sales

The State Director is required to submit proposed FY 2004 FLPMA sales to Washington at the close of FY 2003. Therefore, we need the field office proposed FY 2004 sales submitted to Nancy Alex, CA-930, by September 2, 2003. The required format for the report is attached.

With this memo, we are transmitting Washington Office I.M. 2003-213. It includes the national memorandum of understanding on using Baca Bill funding for land acquisition. The BLM land sale program (especially potential receipts to the "Baca Bill" account) is of considerable interest to the Director and the Department and will clearly be a priority through FY 2004. In addition, a Real Estate Portfolio Strategy is being prepared at the request of the Director that will focus on a greater balance between land sales (especially competitive sales) and land exchanges. It is also anticipated that a BLM Land Tenure Policy will be issued in the near future by the Director that will provide some additional policy direction on criteria for lands identified for retention, lands identified for disposal, and lands identified for acquisition in BLM land use planning.

Baca Background

As referenced in I.M. 2003-213, the Baca Bill allows BLM to utilize funds from land sales and exchange equalization payments to acquire lands BLM wants. The national Memorandum of Understanding was recently completed, setting aside at least 60% of the funds for BLM use. The California State Office is ready to negotiate a statewide Memorandum of Agreement with other affected Interior and Agriculture Department agencies on prioritizing lands to acquire with the proceeds from Baca sales or exchange equalizations. We will be asking field offices for their input during this process, but additionally, field offices need to be preparing to utilize this additional funding source. For decades, BLM staff wanted the ability to use our sale proceeds to acquire the lands. Now, we have that capability. In light of reduced funding trends in the Land and Water Conservation Fund, and the increased complexity of the exchange program, it is timely to bring increased focus on the Baca Bill to accomplish land tenure adjustments.

Land Use Planning

A primary component of the Baca disposal and acquisition process is land use planning. The Federal Land Policy and Management Act (FLPMA) requires BLM to identify lands in land use planning for both disposal and acquisition, thereby giving the public and other governmental agencies input on our planned activities. In the Baca Bill, Congress again emphasized the role of land use planning in disposals by specifically limiting the applicability of the act to lands identified for disposal in land use planning prior to July 26, 2000. The recent General Accounting Office (GAO) audits on exchanges and sales found BLM to be out of compliance with land use planning, thus preventing the public input required by Congress. GAO examined our land use plans, and found that many of our disposals and acquisitions were not identified in our plans. As a result, BLM tightened procedures to re-emphasize the necessity of planning prior to disposal in the Land Use Planning Handbook, H-1601-1 and W.O. I.M. 2002-143.

Recently, the public has challenged California BLM on some controversial disposal actions, and we have found they were not appropriately addressed in land use planning. The exchange program taught us that repeated failures to follow the law will result in much greater management oversight of our programs. As this has proven extremely burdensome in the exchange program, we would prefer to address these problems at the local level. Since we are certain to be audited in the near future on our exchanges, sales, and Baca procedures, it is essential that we are clearly in compliance with law and BLM policy. Therefore, we need to focus our attention to both ongoing land use planning efforts and existing land use plans (LUPs).

The requirements in H-1601-1 for both FLPMA sales and exchanges is as follows: “It must be clear to the public that all lands within areas covered by any disposal criteria may be transferred out of Federal ownership based on the application of such criteria. To accomplish this, the land use plan must be explicit as to: (1) the location of the lands involved, illustrated either on a map of sufficient detail and scale to be clearly understood by the public, or by legal description; (2) the disposal authorities under which the lands may be conveyed (the land use plan may identify lands for disposal under several authorities, pending the application of disposal criteria during plan implementation); (3) the criteria that must be met in order to allow conveyance; and (4) the management objectives must be served by the disposal action.”

All field offices are instructed to evaluate existing LUPs to see if amendments are needed for current and future land tenure adjustments. Evaluate the consistency with land use planning on all land tenure adjustments presently existing, as well as for new proposals. Does the existing plan support the proposed actions in range, scope, and level of detail? If so, please identify the specific pages of the supporting LUP in your exchange feasibility reports and sale or classification NORAs sent to CA-930 to expedite review. Where the planned disposal or acquisition is not supported in the plan with the required specificity, or is completely contrary to the LUP, a plan amendment is required to proceed with the action. Since many ongoing efforts have been caught up in the change of policy and guidance, uncertainty may exist on which way to go. Please contact the State planning lead, Jack Mills at (916) 978-4636 for recommendations.

New land use plans, including RMP revisions or amendments should provide for anticipated sales and other potential disposals utilizing the handbook guidance given above. Legislation is proposed to Congress amending the Baca Bill to allow the deposit of sale proceeds on lands identified for sale and disposal in post-July 2000 land use planning. Assume that this amendment will be successful, and proceed to identify lands suitable for sale through land use planning.

In many cases where the existing land use plan does not identify a parcel or parcels, an EA-level plan amendment will ensure compliance with these requirements. EA-level amendments can be easily incorporated into the normal realty review process without adding substantial time or duplication of effort.

Competitive Sales

The GAO audit on sales also spotlighted another issue pertaining to Baca funding. GAO found that BLM received significantly more revenue on competitive sales than on direct sales, and recommended that we adhere more strictly to the statutory criteria for direct sales. The BLM Washington Office issued I.M. 2002-143 (attached), reiterating the FLPMA direct sale requirements, and we are abiding by them. Competitive sales are the rule, not the exception, and the justification for a direct sale must be documented and signed by field office managers. Now that we can use the sales revenue for acquisitions, we have more incentive than ever to maximize that revenue through competitive sales.

Signed
James Wesley Abbott
Associate State Director

Authenticated
Louise Tichy
Records Management

3 Attachments

- 1 - Report Format
- 2 - WO IM 2003-213
- 3 - WO IM 2002-143