



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

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In Reply Refer To:
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EMS TRANSMISSION: 1/11/06
Instruction Memorandum **No. CA-2006-016**
Expires: 09/30/2007

To: All Field Managers
District Manager – CDD

From: State Director

Subject: Implementation of the Federal Land Transaction Facilitation Act
(Title II of Public Law 106-248)

The Federal Land Transaction Facilitation Act (FLTFA), also referred to as the Baca Bill, was enacted on July 25, 2000. FLTFA gave the Secretary of the Interior and Secretary of Agriculture the authority to use receipts from the sale of public land to fund qualifying acquisitions and expenses associated with land disposal actions. The California Statewide Interagency Implementation Agreement for FLTFA (FLTFA Agreement) was recently signed by the BLM, National Park Service, U.S. Fish and Wildlife Service, and the U.S. Forest Service. The FLTFA Agreement establishes the procedures the four agencies will use to complete land acquisitions funded by FLTFA within the State of California.

While FLTFA provides a new source of funding for land acquisition and land disposals qualifying under FLTFA, these funds are currently very limited, amounting to approximately \$742,000 for land acquisition (by all four agencies) and \$115,000 for processing land disposal actions. In order to ensure equitable use and distribution of these funds on a statewide basis, this memorandum outlines the policies and procedures that are to be followed for both land acquisition and land disposal actions utilizing funding from the FLTFA accounts. Procedural requirements for land sale actions will be addressed in a separate instruction memorandum.

Attachment 1 outlines the procedures for Field Offices to follow in submitting acquisition proposals, and includes the forms that will need to be utilized. Also outlined is the process that the State Office will use to assess and prioritize the proposals on a statewide basis. These procedures are supplemental to those outlined in the FLTFA Agreement, a copy of which is available on BLM's FLTFA website at www.ca.blm.gov/pa/lands/fltfa. Attachment 2 outlines the policies and procedures that will be implemented for processing land disposal actions and for the distribution of funds to support land sales.

For both land acquisition and land sale actions, I highly encourage all Field Offices to coordinate closely with their local County Boards of Supervisors and to ensure that all actions are consistent with approved land use plans. Joy Wehking has been designated as the FLTFA

Coordinator. Questions regarding the policies and procedures outlined herein and requests for assistance with FLTFA related actions may be directed to her at 916-978-4647.

Signed by:
Mike Pool
State Director

Authenticated by:
Richard A. Erickson
Records Management

2 Attachments:

- 1 - FLTFA Land Acquisition Policies and Procedures (8 pp)
- 2 - FLTFA Land Disposal Policies and Procedures (4 pp)

LAND ACQUISITION

Federal Land Transaction Facilitation Act

General Information: Of the total receipts deposited into the FLTFA Account (less 4 percent to be distributed to the State), 80 percent is available for land acquisition by the BLM, USFS, NPS and USFWS. These funds may only be used to acquire lands that are within or adjacent to federally designated areas that were established on or before enactment of the Act. Lands that are adjacent must also contain exceptional resources as defined in the Act. In the California Statewide Interagency Implementation Agreement for FLTFA (FLTFA Agreement), the four agencies agreed to generally adhere to the agency allocation of funding in the National Memorandum of Understanding. Thus, in California, FLTFA acquisition funds will be allocated as follows: 60 percent to BLM, 20 percent to USFS, 10 percent to NPS, and 10 percent to USFWS.

The National Interagency MOU provides authority to the Secretaries of the Interior and Agriculture to mutually decide to allocate funds to a specific acquisition project, notwithstanding the allocations of funds to each agency set forth the MOU. Requests for Secretarial approval to dedicate FLTFA funding to a specific acquisition project should be made sparingly and only where extenuating circumstances justify deviating from the procedures the four agencies agreed to in the National MOU and State FLTFA Agreement. Any proposals to seek Secretarial approval to allocate funds to a specific project will require concurrence by the other federal agencies and should be discussed in advance with the State Director.

The information provided below is supplemental to the FLTFA Agreement, and specific to the prioritization of BLM acquisition proposals, so it is important to refer to the FLTFA Agreement for a full understanding of the process.

Policy for the Selection of Statewide Priorities: The State Director will approve statewide priorities for BLM FLTFA-funded acquisitions that will be reviewed by the FLTFA Team and then forwarded for Secretarial approval. In establishing statewide priorities the following criteria will be considered:

1. **Area of Acquisition:** Priority will be given to federal designated areas defined by FLTFA, in the following order:
 1. National Monuments, National Conservation Areas, and National Recreation Areas
 2. Designated Wilderness Areas
 3. Areas of Critical Environmental Concern
 4. Components of the Wild and Scenic River or National Trail Systems
 5. National Outstanding Natural Areas and National Natural Landmarks
 6. Wilderness Study Areas
 7. Research Natural Areas
 8. Lands adjacent to the areas identified above, with exceptional resources as defined by FLTFA

2. **Funding Availability:** Acquisitions that can be entirely completed with funds that are currently available to the BLM in the FLTFA Account will be given priority. Proposals that exceed the amount of available funding can be submitted, but they will be held for future consideration as additional funding becomes available.

3. **Contributions to the FLTFA Account from Land Disposal Actions:** Consideration will be given to funding land acquisitions in Field Offices that have contributed to the FLTFA Account through past land disposal actions and to those that have committed to complete competitive sales that will generate additional receipts for deposit into the FLTFA Account.
4. **Local, Regional, Statewide Support:** Acquisition proposals with support (or at least no stated opposition) from local County Boards of Supervisors will be given strong consideration. Other demonstrated support from or local, regional or statewide public and private entities, such as donated or matching funds, etc. will also be given strong consideration.
5. **Resource Values/Threats to Resources:** Known significant or critical resource values associated with the proposed acquisition parcel and imminent threats to the resources (i.e., sale for development, etc.), as identified in the Land Acquisition Project Description Package, will be considered in prioritizing proposals.

Procedures for Submitting Acquisition Proposals: The following process will be utilized for the submission of acquisition proposals by the Field Offices:

Nominations: Through the Federal Register Notice and BLM's FLTFA website (www.ca.blm.gov/pa/lands/fltfa), the public is invited to submit nominations at any time to the BLM FLTFA Coordinator (CA-930). All nominations received at the State Office will be logged in and forwarded immediately to the appropriate Field Office Managers for review, response to the nominating party, and possible submission for funding consideration. If the nomination packages are not complete, it is the responsibility of the Field Office to obtain the additional information needed or to return the nomination to the submitting party. The Field Office should respond in writing to all nominations, indicating the status of the proposal (i.e., forwarded for further consideration and approval, held until sufficient funding is available, rejected for ineligibility, etc.). A copy of the responses should be sent to the FLTFA Coordinator so that we can gauge how many active nominations are being held for consideration on a statewide basis.

Call for Proposals: The FLTFA Agreement does not establish rigid timeframes for the submission of agency project proposals. Depending on the availability of funds, we expect to request proposals on an annual basis. However, Field Offices may submit proposals at any time. Prior to a formal call to the agencies for proposals, Field Offices will be given at least 30-days notice to submit project proposals to the BLM FLTFA Coordinator. The notice will be sent by email to all Field Office Managers and all Realty Specialists and will include the amount of funding that is currently available in the FLTFA Account.

Submission of Proposals: Proposals must be submitted on the Land Acquisition – Project Description Form (copy attached), and shall include parcel maps and a breakdown of the estimated costs to complete the acquisition. All proposals must also be accompanied by the Nomination Package that was submitted by the landowner(s) or party nominating the property for sale, and any additional information deemed appropriate by the Field Office.

Review of Proposals: The projects will be reviewed for completeness and assessed based on the criteria outlined above for selecting Statewide priorities.

Recommendations will be forwarded to the State Director for approval, subject to further review by the FLTFA Team and Secretarial approval.

Selection of BLM Priority Projects: Notice of the BLM projects selected by the State Director will be provided by email to all Field Offices that submitted proposals. Subsequent actions on the BLM approved projects, including any changes resulting from the FLTFA Team review and Secretarial approval process will be provided in writing to the appropriate Field Office Manager.

Once a project has been approved by the Secretaries, the Field Office will need to submit a Land Acquisition Schedule for Completion to establish a project account, and should plan to complete the acquisition within one year.

LAND ACQUISITION PROJECT DESCRIPTION

Acquiring Agency:

Name of Federal Designated Area:

Inholding or Adjacent (w/ exceptional resources)

Owner(s) Name:

Estimated Value:

Parcel Acreage:

Estate Offered:

Legal Description:

County:

APN(s):

Township/Range/Section:

Date Inholding was Established¹:

Name and Approval Date of Land Use/Management Area Plan:

Describe how acquisition conforms to the plan:

Describe resource values associated with property and threats to resources if land is not acquired:

If property is adjacent, describe exceptional resource(s) for which there is a compelling need to conserve and protect:

Describe management issues that acquisition would help alleviate:

Describe title encumbrances, reserved interests, and other title issues, including survey needs:

Describe support for acquisition by State, local governments, other agencies, community and interested parties:

Describe involvement of other parties that may assist with this acquisition:

Describe other funding sources that will contribute towards acquisition:

Attachments:

- Map of parcel(s) and Federal Designated Area Boundary
- Nomination Package
- Land Acquisition - Estimated Costs

¹ The later of: 1) date inholding was acquired by the current owner or 2) date when land was withdrawn from public domain or when area was designated for special management

NOMINATION PACKAGE
Proposed Acquisition of Land under the Federal Land Transfer Facilitation Act

Name of the federal designated area the property is within or adjacent to :

Federal Agency that has jurisdiction over the federal designated area:

Bureau of Land Management

U.S. Fish and Wildlife Service

National Park Service

U.S. Forest Service

Property owner(s); if there are multiple owners, list all and indicate primary contact person or authorized representative:

Name: _____

Address: _____

City/State/Zip: _____

Phone: _____

Date property was acquired by current owner(s): _____

Legal description of offered property (can be attached, if lengthy):

Assessor Parcel Numbers: _____

Total acreage of property: _____

List the estate and interests being offered: _____

List any interests to be retained: _____

List of any improvements, tenants or occupants on the property: _____

Anticipated selling price of property: _____

Basis for asking price (appraisal of property or of similar property; assessed value; recent sales of similar property; etc.): _____

Attachments:

- Title policy or other document of ownership and existing encumbrances
- Legal description of property if not included above
- Maps of offered property
- Assessor parcel maps of offered property
- Photographs (including aerial photos if available)
- Disclaimer of hazardous materials and/or other liabilities associated with the property

Note: If title information is not attached, it must be provided to the agency before the acquisition is funded.

In submitting this nomination and by signing below, I/we hereby acknowledge the following:

I/we have read the document entitled "Federal Acquisition Process" and understand the basic process required for a federal agency to acquire property.

I/we understand that the purchase price of the property will be based on an agency-approved appraisal completed by a qualified appraiser, and that I/we have the right to accept or reject the value established by that appraisal.

I/we understand that nominating the property for sale does not create an obligation to sell the property, nor does it obligate the agency to purchase the property, unless the terms and conditions for the sale/purchase are mutually agreed to by both parties.

Signature

Date

Print Name

[Add additional signature blocks as necessary]

[If the nomination is being made by a party other than the landowner(s), include contact information for nominating party below.]

LAND ACQUISITION – ESTIMATED COSTS

1. Land (purchase price not to exceed fair market value)	\$ _____
2. Appraisal	\$ _____
3. Land/Boundary Survey	\$ _____
4. Environmental Site Assessment	\$ _____
5. NEPA Documentation	\$ _____
6. Certificate of Inspection and Possession	\$ _____
7. Title Report, Escrow Fees, Recording Fees, Misc. Closing Costs	\$ _____
8. Pro-rata share of any pre-paid property taxes or assessments	\$ _____
9. Penalty costs and other charges for prepayment of pre-existing recorded mortgage, deeds of trust or other security instrument that encumbers the real property	\$ _____
10. Relocation assessment/payments to eligible tenants	\$ _____
11. Case management direct labor or contracted labor costs including, but not limited to, title records management; review of title documents (land, water, mineral, etc.) as well as legal description verification; preparation and review of appraisals, environmental and hazardous substance reports, water rights analyses, mineral rights analyses for title purposes, and surveys; and preparation of requests for preliminary and final title opinion, conveyance documents, and escrow closing instructions; payroll for agency personnel to procure and administer acquisition contracts (e.g., contracting officer and COR)	\$ _____
12. Travel including per diem, when official travel status is required for agency personnel to perform case management (e.g., experts to review contracted appraisals, etc.)	\$ _____
13. Official Vehicle Use (pro rata cost for use of Official Vehicles when required to carry out case management)	\$ _____
14. Other Necessary Expenses (specify and attach justification)	\$ _____
 Total	 \$ _____
 Additional 10% Contingency Funding	 \$ _____
 TOTAL FUNDING REQUESTED	 \$ _____

Comments:

LAND ACQUISITION – SCHEDULE FOR COMPLETION¹

Project Name: _____
 Agency: _____
 Agency Contact: _____

BLM Serial No.: _____
 Phone No.: _____

Tasks, Activities and Documentation	Estimated Completion Date	Comments
Obtain Title Evidence		
Evaluate Title Encumbrances		
Examine Adequacy of Legal Description		
Obtain Property Survey		
Request Transfer of Funds		
Obtain Owner Permission to Enter Certificate of Inspection & Possession		
Relocation Assessment		
Conduct Pre-Acquisition Environmental Site Assessment/Land Transaction Screening		
Prepare NEPA Document		
Request Appraisal		
Appraisal Review/Approval		
Request Preliminary Title Opinion		
Prepare Acquisition Deed		
Prepare Conservation Easement Baseline Document Report		
Prepare Offer Letter/Option to Purchase		
Negotiations		
Prepare/Execute Purchase Agreement		
Obtain Title Insurance Commitment		
Prepare Escrow Closing Instructions		
Deposit Documents/Funds into Escrow		
Final Certificate of Inspection & Possession		
Final ESA, if first report is dated or conditions have changed		
Close Escrow/Record Deed		
Obtain Final Title Evidence		
Request Final Title Opinion		
Complete Final Actual Cost and Expenses Report		
Submit Final Documents to BLM		
Transfer remaining funds to BLM FTLFA Account		

¹ Form may be modified as necessary to meet agency specific procedures or requirements.

LAND DISPOSAL

Federal Land Transaction Facilitation Act

General Information: FLTFA provides authority to utilize receipts from disposal actions under the Federal Land Policy and Management Act (FLPMA) to fund acquisitions meeting the FLTFA criteria and to cover administrative expenses in carrying out the land disposal program. Only the receipts from the sale or exchange (equalization payments) of lands identified as suitable for disposal in land use plans approved on or before July 25, 2000 can be deposited into the FLTFA Account. Of the total receipts (less four percent distributed to the State), 20 percent is deposited into the 5870 Account and is available to cover costs associated with land disposal actions.

Policy for Processing Sale Actions: All disposal actions must be processed consistent with the applicable regulatory requirements, and with Bureau policy, guidance and direction as provided in the applicable BLM Manuals, Handbooks and Instruction Memoranda. All planned disposal actions must also be closely coordinated with the local governmental agencies.

Method of Sale: Consistent with the provisions of FLPMA, FLTFA, and the 43 CFR 2710 regulations, the sale of public lands should be conducted under competitive bidding procedures. Field Offices planning modified competitive sales or direct sales must request State Director approval prior to taking further action. Requests must document the rationale for not offering the parcel(s) through competitive bidding procedures, consistent with the guidance provided in WO IMs 2002-143 and 2003-259.

Use of Contributed Funding: While BLM can expect to be reimbursed for some costs associated with direct sale actions and possibly modified competitive sale actions, depending on the circumstances, the use of contributed funds for processing competitive sales is discouraged. If funds contributed by an individual or entity are used to assist in processing a competitive sale action, the contributing party must be informed that the contribution will not entitle them to a preference right or competitive advantage in the sale of the parcel.

Notices of Realty Action: All proposed Notices of Realty Action for FLTFA disposals must make reference to the land use plan and approval date of the plan that identified the lands as suitable for disposal. All NORAs should be sent through the State Office FLTFA Coordinator (CA-930) for review and processing, to ensure consistency and for Public Land Statistics reporting purposes. Copies of all NORAs should also be provided to the California State Lands Commission to ensure compliance with Section 707(c) of the California Desert Protection Act.

Notice of Upcoming Competitive Land Sales: The State Office will maintain a FLTFA website to notify the public of planned competitive land sales. Information taken from the NORAs will be posted to this site (www.ca.blm.gov/pa/lands/fltfa). Field Offices are encouraged to maintain websites that will provide the public with more specific information on the parcels being offered for competitive sale, and should work with the State Office FLTFA Coordinator to ensure that the appropriate links to the State Office website are established.

Policy and Procedures for the Distribution and Use of 5870 Funds: The State Office Division of Natural Resources, Branch of Lands Management (CA-930) will have overall management responsibility for the FLTFA program and for the disbursement of funds in the

5870 Account. In order to maximize the use of the limited funds available in the account, and to ensure the expenditure of funds is consistent with provisions of FLTFA, the following policies and procedures will be implemented:

Use of Funds: Initially, FLTFA 5870 Account funds can be used by Field Offices to process only competitive land sale actions, where the land or interest to be sold meets the FLTFA planning requirement. The 5870 funds should be used in combination with 1430 funding and other subactivities as appropriate for processing land disposal actions. Until the 5870 Account balance increases significantly, these funds will be used primarily for contracting services such as appraisals and environmental studies.

Requests for Funding: Requests to utilize 5870 funds should be submitted in a format similar to the attached Disposal Nomination Form (copy attached). Requests should be submitted during development of the annual work plan, if possible, so statewide efforts can be assessed and plans to regionalize land sale efforts can be considered if appropriate.

Prioritization of Requests: Highest priority for the use of 5870 funds will be given to proposed competitive sales that are expected to provide the greatest return of receipts to the 5870 Account. Priority will then be established through assessment of the information provided in the nomination package, known competitive interest in the parcel(s); support of the local County Board of Supervisors (or at least no opposition); lack of other significant public opposition; costs for completing the disposal in comparison to the value of the parcel; and the ability of the Field Office to complete the action within a reasonable timeframe.

Approval of Requests: The Field Office will be notified in writing if its request is approved, and the funds will be transferred to a project account for the uses specified in the Field Office's request. Requests for funding that are not approved will be kept and considered as additional 5870 funding is made available, or returned to the Field Office for reasons that will be specified in writing.

NOMINATION PACKAGE
For the Disposal of Land under the Federal Land Transaction Facilitation Act
(Competitive Sales Only)

Field Office: _____ Field Office Contact: _____

Project Name: _____

Proposed method of disposal (sealed bidding, oral auction, etc.): _____

County where land is located and parcel's proximity to nearest community: _____

Land Use Plan in which the land was identified for disposal and date of plan approval (include plan citation, page reference, and map): _____

Legal description, acreage, and encumbrances of parcel(s):

Parcel #	Legal Description	Acres	Encumbrances

Reason for nomination of parcel(s), including known willing buyer(s) and likelihood of sale:

Known or anticipated support and/or opposition by State/local government, interest groups, public, adjacent landowners, authorized users, etc.: _____

Potential conflicts or issues: _____

Costs and timeframes for completing disposal:

Task	BLM	Contract	N/A	Estimated Cost	Estimated Completion Date	Funding Source (5870, 1430, 7122, or other subactivity)
Status Review						
Appraisal						
Environmental Site Asmt.						
Cultural Clearances						
SHPO Consultation						
Biological Clearances						
FWS Consultation						
Mineral Report						
Cadastral Survey						
EA/NEPA Compliance						
Public Review/Comment						
NORA Publication						

