

**MEMORANDUM**

**OF**

**AGREEMENT**

**by and between**

**the**

**UNITED STATES DEPARTMENT OF**

**ENERGY**

**MIAMISBURG ENVIRONMENTAL**

**MANAGEMENT PROJECT**

**and the**

**MIAMISBURG MOUND COMMUNITY**

**IMPROVEMENT CORPORATION**

**January 23, 1998**

**Memorandum of Agreement Between the United States Department of Energy and The  
Miamisburg Mound Community Improvement Corporation effective this 23rd day of January,  
1998.**

**I. Preamble**

**A. Purpose**

The purpose of this Memorandum of Agreement (MOA) between the United States Department of Energy (DOE) and the Miamisburg Mound Community Improvement Corporation (MMCIC) is to establish a working relationship between the parties in order to transition the Mound Facility. The parties will proceed in good faith to carry out the purposes of this MOA and use their best efforts to pursue the tasks described herein.

While the legal relationship of the parties is established through the Sales Contract for the Mound Facility (Sales Contract), the parties wish to execute this document to demonstrate their strong desire to see the transition of the Mound Facility from weapons production to commercial use become a reality. The MMCIC is a not-for-profit, community improvement corporation organized under Chapters 1724 and 1702 of the Ohio Revised Code. It has been designated as an agent of the City of Miamisburg for economic, commercial and industrial development of the Mound Site. The Mound Reuse Partnership Council, consisting of representatives from DOE, Babcock and Wilcox of Ohio (B&W), and the MMCIC, will serve as the body for addressing and resolving specific transition and/or transfer issues.

**B. Statements**

1. **DOE/MMCIC Shared Vision.** Work together creatively, to achieve the transfer of an environmentally clean facility that is economically viable.
2. **Mound Reuse Partnership Council Mission Statement.** The DOE, B&W, and the MMCIC commit to achieve for the community and all taxpayers an environmentally clean Mound Site that is economically viable, and we will do this as safely, cost effectively and quickly as possible.
3. **Mound Reuse Partnership Council Vision Statement.** At the time of DOE exit, community consensus and regulatory agreement will have been achieved on the environmental cleanup and availability of the Mound Site for industrial use..

**C. Background**

**WHEREAS,**

1. DOE and MMCIC have entered into a Sales Contract;
2. the industrial use cleanup standard for the Mound Site has been accepted;
3. the City of Miamisburg has delegated authority to the MMCIC for redevelopment and reuse of the Mound Site;
4. DOE and MMCIC believe that transitioning the Mound Site to the private sector through the MMCIC affords an opportunity to reduce the impact of closing the Mound Site on the community;
5. DOE and MMCIC commit to transitioning the Mound Site within the constraints of applicable laws and regulations;
6. DOE has contracted for a "Facility Exit Plan" with the site operating contractor (the

Exit Plan) as the vehicle for implementing cleanup of the Mound Site;

7. DOE recognizes the rapid cleanup and transfer of its properties are essential to achieving the Exit Plan;

8. DOE desires to create a collaborative relationship between its regulators and stakeholders;

9. the MMCIC has prepared a Comprehensive Reuse Plan (the CRP) that establishes a reasonably anticipated future land use based on the industrial use standard; and

10. the MMCIC and DOE have committed to jointly seek ways of avoiding costs associated with cleanup of the site, while maintaining the integrity of the environment.

In recognition of the above, this MOA between DOE and the MMCIC has been entered into by DOE and MMCIC.

#### D. Constraints

The parties recognize that there are various constraints associated with the transition of the property. The entire site will not be available for transfer until cleanup is complete. There is a need for the integration of the Exit Plan with the CRP and their implementation processes without negatively affecting cost and schedule of the Exit Plan.

The CRP describes the resources necessary for building and site alterations to achieve an economically viable site. To that end, the MMCIC has committed to seeking \$16M in funding from both private and public sources, including the community. The DOE Office of Community and Worker Transition has committed to seeking a total of \$15M

for economic development, to be made available in three \$5M increments in fiscal years 1999-2001.

The DOE funding is contingent upon: availability of sufficient appropriated funds, the Anti-Deficiency Act, 31 U.S.C. §§1341 and 1517, MMCIC's securing matching funds, and MMCIC's acceptance of transfer of the whole Site as provided for in the Sales Contract. DOE and the MMCIC have agreed to jointly seek ways of reducing the costs associated with implementing the CRP through the integration of cleanup and reuse activities. Furthermore, both parties acknowledge that no DOE Environmental Management funding is to be used for purposes of economic development and that the anticipated funding and efficiencies described above may not be achieved. The determination of what activities are considered economic development will rest solely at the discretion of the Miamisburg Environmental Management Project Director or authorized designee.

## **II. Transition Activities**

In conjunction with the Sales Contract which establishes the parties' legal obligations, the DOE and MMCIC have agreed to jointly seek methods of reducing the costs associated with implementing the CRP through the integration of cleanup and reuse activities.

DOE and MMCIC will work to integrate the CRP with the Exit Plan through the Mound Reuse Partnership Council. The role of the Mound Reuse Partnership Council is to consider and discuss operational issues such as integration of these plans. The Council members will work together in good faith to: (1) revisit building end-states, i.e.

disposition and condition; (2) revisit infrastructure end-states; (3) develop a parcel transfer plan; (4) develop a facilities demolition schedule; and (5) formalize the current process between DOE, Ohio Environmental Protection Agency (OEPA), United States Environmental Protection Agency (USEPA) and MMCIC for the identification of deed and other use restrictions to be imposed on the parcel(s).

During the transition period there will be ongoing dialogue in which DOE and MMCIC will jointly determine and seek to agree upon the disposition of specific buildings that may need to be altered as a result of new conditions or information that may arise affecting the cost effectiveness of retaining the buildings. The site locations of buildings that are removed will be restored to a graded level. Whenever possible, building alterations, removal and site restoration will be coordinated jointly between DOE and the MMCIC through leveraging cleanup opportunities, and where that is not possible, the work will be performed by MMCIC.

To facilitate transitioning the site to the private sector, DOE will grant MMCIC the option to purchase specific DOE personal property pursuant to DOE Ohio Field Office Protocol for Economic Development Personal Property and DOE Acquisition Letter, Number 95-06, June 28, 1995. In the event MMCIC elects to purchase any such personal property, its price will be established in accordance with the DOE Ohio Field Office pricing methodology, as referenced in the letter from G.R. Gartrell to M. Grauwelman, dated November 30, 1996, recognizing its marketable condition and depreciated value at the time of sale. (Exhibit A: Ohio Field Office Protocol for Economic Development;

Typo:  
Gartrell  
memo  
written in  
1995.

58

Acquisition Letter No. 95-06, June 28, 1995; and Letter from G. Gartrell, DOE to M. Grauwelman, MMCIC, dated November 30, 1996)

*Typo:  
memo  
written in  
1995. JS*

A. Environmental

The site will be cleaned to an "industrial use" standard as set forth in the Sales Contract. The cleanup will be conducted on a schedule established through the Federal Facilities Agreement and the Exit Plan. Consistent with the "industrial use" standard, the MMCIC has developed its CRP in order to facilitate reuse of the site. In accordance with the Comprehensive Environmental Response, Compensation and Liabilities Act (CERCLA) section 120(h), a process will be developed for verification of the results of the cleanup and remediation activities for discrete parcels prior to transfer. Documentation of remedial activities required by CERCLA will be provided to MMCIC. As required by CERCLA, provisions for storage, retrieval and maintenance of the approved USEPA administrative record will be made, including retention of computer files and databases.

B. Landlord Agreements and Transition of Landlord Responsibilities

Both parties mutually agree that during the period of time leading up to the complete transfer of the site, responsibility for utility and site services may transition from DOE to MMCIC. During that time, plans for providing utility and site services will be developed jointly by the parties.

C. Use Restrictions

The deeds transferring ownership from DOE to MMCIC are anticipated to be one of the vehicles for attaching certain limiting conditions to the property resulting from the

industrial standard which has been applied to clean up the site. Prior to transfer of the discrete parcels, DOE, USEPA, OEPA and MMCIC will establish a process for formalizing the use restriction(s) to be imposed on the property.

D. Lease

It is recognized that leasing of facilities is an option available during the transition period that would be beneficial to both parties. Therefore, during the transition period the parties may mutually agree to lease facilities. Such leasing shall be subject to applicable provisions of law and shall not extend beyond the date when the requirements of CERCLA 120(h) have been satisfied as to the entire site. The terms of the existing General Purpose Lease (as amended) between DOE and MMCIC, executed under Section 649 of the Department of Energy Organizational Act (Public Law 95-91) and Section 3154 of the National Defense Authorization Act of 1994 (Public Law 103-160), will be used as the basis for lease of facilities to the MMCIC.

The parties will work together in good faith to: (1) coordinate leasing of designated buildings and parking areas in accordance with mutually agreed upon delivery schedules; (2) deliver facilities accepted for lease in accordance with applicable procedures; (3) coordinate any interruption of utility services on a timely basis; (4) evaluate whether all buildings and facilities made available for lease meet all applicable federal environmental, safety and health standards; and (5) assure an appropriate cost recovery to DOE for utilities and services provided for leased facilities.

**III. Conditions and Additional Provisions**

It is understood and agreed upon that the parties to this MOA may mutually elect to change, modify or add to the provisions herein by means of appropriate written addenda and/or additional agreements.

It is also understood that this MOA does not, and shall not, be used to obligate or commit funds, or as the basis for the transfer of funds.

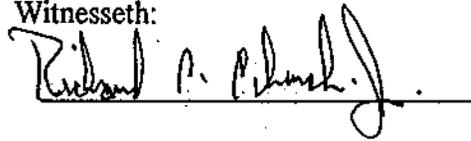
**IN WITNESS WHEREOF**, the parties have signed the foregoing Memorandum of Agreement effective the date first set forth above.

Miamisburg Mound Community Improvement Corporation



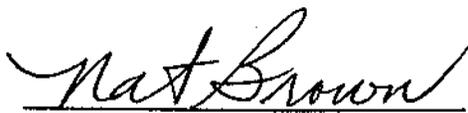
Michael J. Grauwelman, President

Witnesseth:



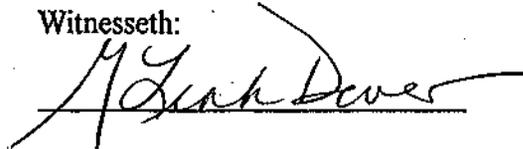
Richard C. Church, Jr.

Department of Energy, Miamisburg Environmental Management Project



Nat Brown, Director

Witnesseth:



G. Leah Dever

**EXHIBIT A**

**1) ACQUISITION LETTER NO. 95-06**



# ACQUISITION LETTER

To All  
PPL  
File  
by  
6/28/95

## AUTHORITY

This Acquisition Letter (AL) is issued by the Procurement Executive pursuant to a delegation from the Secretary and under the authority of the Department of Energy Acquisition Regulation (DEAR) 901.301-70.

## CONTENTS

### CITATION

### TITLE

DEAR 945.6

Reporting, Redistribution, and  
Disposal of Contractor Inventory  
Property

DEAR 970.5204-21

DEAR 970.0801

Excess personal property

- I. Purpose. The purpose of this AL is to establish the development of a "Personal Property Letter" (PPL) as a mechanism for providing guidance to contracting activities concerning implementation of the above cited regulations. The PPL will be amended from time to time to provide guidance and implementation direction to those contracting activities having implementation responsibility for the above.
- II. Background. Several initiatives have occurred during the past year regarding the contractor's personal property management system in the Department. These initiatives include:
  - (1) The Contract Reform Report which stated that the Department should improve its contracting practices and contract management techniques. One of the recommendations was to develop a matrix of criteria and performance measurements for real and personal property management. A Quality Improvement Team developed a report entitled "Matrix of Criteria and Performance Measurements for Real and Personal Property Management," dated July 15, 1994, in response to this request. The report should be used as a tool to support continuous improvement in personal property management. The performance measurements are intended to provide quantitative evaluation of the level of performance trending toward a goal of continuous improvement.

(2) A six-point plan to improve DOE contractor's personal property management systems was presented by the Assistant Secretary for Human Resources and Administration before the Subcommittee of Environment, Energy, and National Resources Committee of Government Operations. As part of this six-point plan, the Department is currently including a standard property clause for those management and operating (M&O) contracts which are amended or renewed. The six points presented by the Assistant Secretary were: (1) comprehensive coverage from the requirement identification through its life cycle to final disposition; (2) employee personal responsibility for Government-owned property; (3) establishment of baseline inventories covering all items of property furnished by the Government; (4) full integration with the contractor's other administrative and financial systems; (5) maintenance of a reliable method for implementing continuous improvements established by "best in class performers; and (6) incorporation of performance goals and measures in contracts.

(3) In a memorandum, dated November 10, 1994, the Under Secretary issued the "Interim Guidelines on Export Control and Nonproliferation" and in a memorandum dated February 7, 1995, the Deputy Assistant Secretary for Procurement and Assistance Management issued revised "Interim Policies for Control of High Risk Personal Property." To implement this new policy, the Department is developing regulatory coverage to provide for comprehensive protection of Government-owned high risk property and comprehensive procedures related to the release of that property.

III. Guidance. The PPL established by this AL will be designated PPL Issue Number 970-1. Updates and additions will be issued from time to time, and the PPL republished as a complete, continuous document. Reissues adding new information and guidance will be consecutively numbered for such issuance. For example, the first reissue will be PPL Issue Number 970-2.

All changes and additions will be in bold print as in this sentence.

IV. Effective Date. This AL and the system it implements are effective immediately upon their release.

V. Expiration Date. This AL and the system it implements will remain in effect until rescinded or amended.



## PERSONAL PROPERTY LETTER

ISSUE NUMBER 970-1

Date June 28, 1995



This Personal Property Letter (PPL) is issued by the Deputy Assistant Secretary for Procurement and Assistance Management, to provide assistance in the implementation of the property clause of the Department of Energy Acquisition Regulations.

### CITATION

Public Law 103-160

### TITLE

National Defense Authorization  
Act for Fiscal Year 1994

### ECONOMIC DEVELOPMENT PROPERTY

- I. Purpose. The purpose of this initial PPL, Number PPL 970-1, is to provide guidance concerning the transfer of Department of Energy (DOE) personal property identified as necessary for economic development and located at DOE sites and facilities that are undergoing reconfiguration or closure, or are expected to be scheduled for termination or other significant transition due to the downsizing of the Department's nuclear weapons production mission.
- II. Background. Section 3155 of Public Law 103-160, the National Defense Authorization Act for Fiscal Year 1994, authorizes the Secretary of Energy to transfer, for consideration, all rights, title, and interest of the United States in and to excess, and under certain circumstances, non-excess personal property and equipment if the Secretary determines that such transfers will mitigate the adverse economic consequences that might otherwise arise from the closure of the DOE facility.
- III. Effective Date. This guidance is effective immediately upon its release.
- IV. Expiration Date. This guidance will remain in effect until rescinded or amended.
- V. Guidance. This attached guidance is provided concerning the transfer of DOE personal property for economic development.

PERSONAL PROPERTY GUIDANCE

SUBJECT

ECONOMIC DEVELOPMENT PROPERTY

Delay in the transfer of DOE personal property and equipment to the commercial market place could result in reduced business opportunities and contribute to the loss of the highly skilled work force located at DOE's facilities undergoing changes and downsizing. Delay will also likely decrease the value and marketability of the property itself. Therefore, all such property located at DOE sites and facilities that are undergoing downsizing, reconfiguration, or closure, because of changing national security requirements and shifts in the Departmental mission, is subject to expedited reutilization procedures for the transfer of personal property for economic development. In carrying out the economic development program, it is required that the decision matrix reflected in Table 4 be used. The following guidance is also provided to assist in carrying out the reutilization determination.

Since community involvement is essential to successful local economic development, the Department will require communities affected by the reconfiguration or closure of nearby DOE facilities to establish a Community Reuse Organization (CRO) with a primary mission to determine and sponsor the actions the community may take to offset the local consequences of DOE downsizing. It is the Department's intention to only work with the CRO as the community's single voice for economic development issues.

\* Exempted from this initiative are weapons, nuclear ordnance, ammunition and explosives, guided missiles, aircraft and aircraft components, ships and marine equipment, and space vehicles.

1. GENERAL

All personal property will be subject to the DOE High Risk screening process, as specified in "Interim Policies For Control of "High Risk" Personal Property" dated February 7, 1995, before conveyance to internal or external users.

The screening process will review the property for export restrictions, proliferation concerns, public and worker health and safety, and environmental issues.

All equipment identified as necessary for non-nuclear reconfiguration will be shipped to other DOE sites to reestablish key technologies for National Defense programs. Such equipment will not be available for local economic development.

The Operations Offices, Field Offices, or Area Offices are expected to assist the local CRO in the development of a local economic development program plan. The plan should describe any personal property needed for specific economic development projects to be accomplished.

## 2. EXCESS DETERMINATION

An inventory of personal property identified for local economic impact will be provided to the CRO, however, no transfer of possession or conveyance of title to such equipment will occur until the property is determined to be excess to the needs of DOE.

The decision requiring the excess determination for personal property items identified with those Federal Supply Classification groups, listed as Group 1 (Table 1), and having an acquisition cost of less than \$5,000 may be made by the local activity where the property is located. Property in this Group 1 will not be subject to Departmental screening through the DOE Reportable Excess Automated Property System (REAPS).

Personal property items identified with those Federal Supply Classification Groups, identified as Group 2, (Table 2), are only occasionally reutilized in the Department and, therefore, items in this group with an acquisition cost of less than \$5,000 must be reported in REAPS but for only 15 days.

All other items of property not identified in either Group 1 or Group 2 will undergo REAPS screening for 30 days. REAPS procedures for processing personal property identified for economic development are at Attachment 3.

All personal property which has been: 1) determined to be excess to DOE needs and 2) has been identified as having possible application to local economic development projects will be so identified in a local personal property inventory database.

## 3. TRANSFER OF EXCESS

When it is concluded that there are no other DOE requirements, in exchange for reasonable consideration, the Department may offer the property to the CRO for the purpose of economic development.

If the CRO and DOE agree on the amount of consideration, the DOE will transfer the property to the CRO and move it to an area controlled by the CRO.

All rights, title, and interests of the United States in personal property that is transferred under this initiative will convey at the time of transfer.

The amount of consideration received by the United States for a transfer of excess property to a CRO of Federal personal property will be determined by the Heads of Contracting Activities (HCA). The amount received may be less than the fair market value of the property transferred if the HCA, acting on behalf of the Secretary, determines that the receipt of such lesser amount by the United States is in accordance with the purpose of such transfer under P.L. 103-160.

#### 4. TRANSFER OF NON-EXCESS

Personal property at a site to be closed or reconfigured which is not excess, as determined by the property manager, and for which the replacement cost does not exceed an amount equal to 110 percent of the costs of relocating the property to another DOE facility, may also be transferred to a CRO for consideration. Relocation costs include storage, protection, removal, transportation, insurance if any, and other associated costs.

#### 5. OTHER

When there is an item which has been identified for both economic development and DOE program need, a program need determination to claim such property for program needs may be made by the cognizant Manager of the Operations or Field Office. Government property will not be transferred until it has been determined that it is no longer needed by DOE and declared excess, except as provided in the paragraph above. If the Manager elects not to make a determination to resolve the competing claims for property, the issue will be forwarded to the Associate Deputy Secretary for Field Management and the Deputy Assistant Secretary for Procurement and Assistance Management for a coordinated final decision.

When the CRO declines to accept property offered to it by the DOE, the Department will proceed with disposal in accordance with the Federal Property Management Regulations and the Department of Energy Property Management Regulations.

Expedited Reutilization Procedures

These procedures only apply to excess personal property located at DOE sites which will be closed or reconfigured.

Group 1 - Local DOE Screening

Property which falls in the following Federal Supply Classification Groups, when the acquisition cost is less than \$5,000, may be determined to be excess by local DOE authority and transferred for economic development after completion of local screening. This property will not be subject to Departmental screening under the DOE Reportable Excess Automated Property System (REAPS).

<u>Group Number</u>	<u>Title</u>
25	Vehicular Equipment Components
26	Tires and Tubes
28	Engines, Turbines, and Components
29	Engine Accessories
31	Bearings
32	Woodworking Machinery and Equipment
40	Rope, Cable, Chain, and Fittings
43	Pumps and Compressors
47	Pipe, Tubing, Hose, and Fittings
48	Valves
51	Hand Tools
52	Measuring Tools
53	Hardware and Abrasives
54	Prefabricated Structures and Scaffolding
55	Lumber, Millwork, Plywood, and Veneer
56	Construction and Building Materials
59	Electrical and Electronic Equipment Components
60	Fiber Optics Materials, Components, Assemblies, and Accessories
61	Electric Wire, and Power and Distribution Equipment
62	Lighting Fixtures and Lamps
67	Photographic Equipment
69	Training Aids and Devices
72	Household and Commercial Furnishings and Appliances
73	Food Preparations and Serving Equipment
75	Office Supplies and Devices
76	Books, Maps, and Other Publications
77	Musical Instruments, Phonographs, and Home-Type Radios
78	Recreational and Athletic Equipment
79	Cleaning Equipment and Supplies
80	Brushes, Paints, Sealers, and Adhesives
81	Containers, Packaging, and Packing Supplies
83	Textiles, Leather, Furs, Apparel and Shoe Findings, Tents and Flags
84	Clothing, Individual Equipment and Insignia

Group  
Number

Title

85	Toiletries
87	Agricultural Supplies
88	Live Animals
89	Subsistence
91	Fuels, Lubricants, Oils, and Waxes
93	Nonmetallic Fabricated Materials
94	Nonmetallic Crude Materials

Group 2 - Expedited DOE Screening

Property which falls in the following Federal Supply Classification Groups, when the acquisition cost is less than \$5,000, require a 15-day Departmental reutilization screening period before becoming eligible for transfer for economic development. These items will be entered in the REAPS for 15 calendar days. All property considered for transfer for economic development will be in condition code 4 or better.

<u>Group Number</u>	<u>Title</u>
19	Small Craft, Pontoons, and Floating Docks ( <u>Does not include Ships</u> )
23	Ground Effect Vehicles, Motor Vehicles, Trailers, and Cycles
24	Tractors
30	Mechanical Power Transmission Equipment
34	Metalworking Equipment
35	Service and Trade Equipment
36	Special Industry Machinery
37	Agricultural Machinery and Equipment
38	Construction, Mining, Excavating, and Highway Maintenance Equipment
39	Materials Handling Equipment
41	Refrigeration, Air Conditioning, and Air Circulating Equipment
42	Fire Fighting, Rescue, and Safety Equipment
44	Furnace, Steam Plant, and Drying Equipment ( <u>Does not include Nuclear Reactors</u> )
45	Plumbing, Heating, and Sanitation Equipment
46	Water Purification and Sewage Treatment Equipment
47	Pipe, Tubing, Hose, and Fittings
48	Valves
49	Maintenance and Repair Shop Equipment
54	Prefabricated Structures and Scaffolding
56	Construction and Building Materials
63	Alarm, Signal, and Security Detection Systems
65	Medical, Dental and Veterinary Equipment and Supplies
68	Chemicals and Chemical Products
70	General Purpose Automatic Data Processing Equipment (Including Firmware), Software, Supplies and Support Equipment
71	Furniture
72	Household and Commercial Furnishings and Appliances
73	Food Preparation and Serving Equipment
74	Office Machines, Text Processing Systems and Visible Record Equipment
95	Metal Bars, Sheets, and Shapes
99	Miscellaneous

REAPS Procedures for Economic Development Property

"(ED)" will be entered at the end of the description of the property entered into REAPS. This will identify the item as property desired for economic development. All requests to freeze items for reutilization during the REAPS screening will be honored. The requirement must be identified. The first request will place the freeze, subsequent request will be placed on a "wait list" in Format 903. The freeze will remain up to 60 days pending determination by the Manager of the DOE Operations or Field Office.

Freezing Property - Data Collection Format 903

For each item identified as "(ED)", the holding activity user will record the freezes as follows:

- Transaction ID Code (TIC) - "B" Frozen for a DOE Activity
- DOE Activity Address Code - 89 \_\_\_\_\_

Freeze will remain up to 60 days.

Multiple Freezes for Same Property - Data Collection Format 903

If more than one DOE activity requested the same property, the holding activity user will record the freezes as follows:

- Transaction ID Code (TIC) - "S" Put on Waiting List
- DOE Activity Address Code - 89 \_\_\_\_\_

Transfer of Property - Data Collection Format 903

For each item identified as "(ED)", the holding activity users will record the transfers as follows:

1. For transfer at the holding activity:
  - Transaction ID Code (TIC) - "A" Withdrawn for Use
2. For transfer to another DOE activity:
  - Transaction ID Code (TIC) - "H" Transfer to Another DOE Activity
  - DOE Activity Address Code - 89 \_\_\_\_\_

All other (ED) items which have no requests for DOE reutilization should be reflected as a "Change" with Transaction Identifier Code "A" to withdraw the items for further screening by the economic development entity.

For items remaining after Departmental and economic development screening, update Format 903 to cancel the withdrawal by selecting the Action Code D=DEL. This will cause the items returned to automatically complete the rest of the screening cycle. These items will not be screened again within the Department.

#### Normal Departmental Screening

Items identified for economic development (ED) and items listed in Groups 1 and 2 having an acquisition cost greater than \$5,000 will undergo the complete REAPS screening cycle for Departmental reutilization. Also included in the normal departmental screening is all property not covered in either of the lists above. These items will be screened in accordance with the Federal Property Management Regulations and the Department of Energy Property Management Regulations.

# EXPEDITED REUTILIZATION PROCEDURES FOR THE TRANSFER OF PERSONAL PROPERTY FOR ECONOMIC DEVELOPMENT

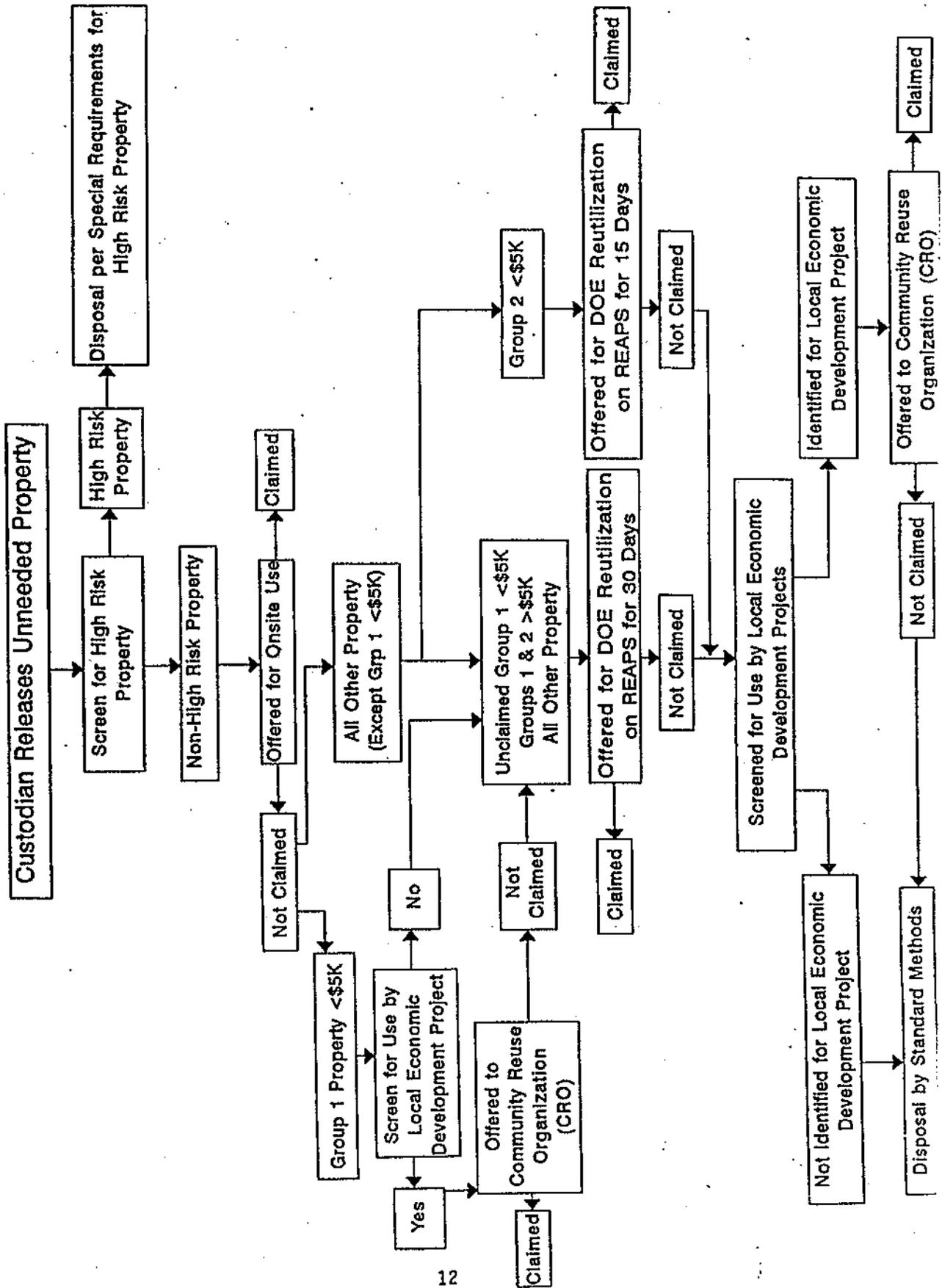


Table 4

**EXHIBIT A**

**2) DOE OHIO FIELD OFFICE PRICING METHODOLOGY**



Department of Energy

Ohio Field Office  
Miamisburg Area Office  
P.O. Box 66  
Miamisburg, Ohio 45343-0066



NOV 30 1995

Mr. Mike Grauwelman, President  
Miamisburg Mound Community  
Improvement Corporation (MMCIC)  
P. O. Box 232  
Miamisburg, Ohio 45343-0232

Dear Mike,

As you know, the U. S. Department of Energy (DOE) has spent the last two months developing a methodology for determining the selling price of excess personal property. This methodology, approved by our Field Office Manager, will be applied to all excess personal property sales to the Miamisburg Mound Community Improvement Corporation (MMCIC).

As a result, the DOE is prepared to offer you the enclosed COS Basement personal property. In exchange for a consideration payment of \$46,466.21, you may obtain title to and possession of the enclosed personal property. Payment shall be made to the U. S. Department of Energy, and shall be submitted to Pete Greenwalt, Acting Chief Financial Officer, with copies of proof of payment to Irma Brown, DOE Ohio Field Office and David Porco, DOE Miamisburg Area Office.

If you should have any questions regarding this offer, please contact David Porco of my staff at extension 3984, or Irma Brown, Ohio Field Office, at extension 3030.

  
George R. Gartrell (for)  
Director

Enclosure

cc w/enclosure:  
Irma Brown, OH  
Pete Greenwalt, OH  
David Porco, MB  
David Gonsior, MMCIC

cc w/o enclosure:  
Phil Hamric, OH  
Randy Tormey, OH  
Kevin Rorer, OH  
Warren Sherard, MB

COMPLETED

Distributed 12/5/95

MEMORANDUM

DATE: November 16, 1995

FROM: Site Disposition Steering Committee

THRU: G. R. Gartrell, Director  
Miamisburg Area Office

TO: J. Phil Hamric, Manager  
Ohio Field Office

SUBJECT: DISPOSITION OF PERSONAL PROPERTY TO THE MIAMISBURG MOUND  
COMMUNITY IMPROVEMENT CORPORATION (MMCIC)

Attached is the decision paper formulated by the Site Disposition Steering Committee concerning the consideration for personal property provided to the MCIC.

This committee consists of the following personnel; George Gartrell, Warren Sherard, Randy Tormey, Ken Sprankle, Sam Cheng, Tim Sullivan, Irma Brown, Dave Porco and Kevin Rorer.

The committee is requesting your concurrence on the methodology used to determine the fair market value of personal property and on the appropriate amount of consideration to be paid to the government for excess personal property. The Committee recommends that the amount of the consideration be 25% of fair market value plus DOE's cost to make excess personal property available to the MMCIC.

The sampling was \$18 million acquisition value, \$9 million true book value, \$4.5 million fair market value, \$3.375 million consideration value, and with the addition of DOE costs to make available; \$1.485 million. See attached.

As the HCA you may determine that an additional percentage be made to the fair market value. The committee is recommending a 75% discount from the fair market value; however, you may determine an additional discount thereby reducing the total selling price to the MMCIC. Please see the attached documentation for further details.

If you should have any comments or questions, please contact me at extension 3252.

Attachment

HCA Recommendation:

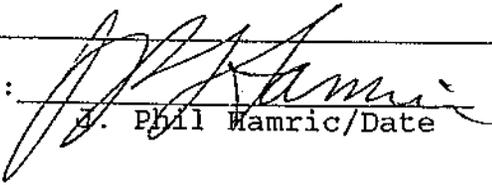
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Concur:

  
Phil Hamric/Date

MOUND PLANT  
PERSONAL PROPERTY CALCULATIONS

**OUTLINE**

Section I	Sample Calculation
Section II	Documented Book Value
Section III	Adjusted Book Value
Section IV	Fair Market Value
Section V	Other Consideration
Section VI	DOE Costs
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Appendix C	Methodology

MOUND PLANT  
METHODOLOGY FOR PERSONAL PROPERTY CALCULATIONS  
SAMPLE CALCULATION

**EG&G BOOK** 18,000,000

**ADJUSTED BOOK** 9,000,000  
(50% of EG&G Book)

**FAIR MARKET VALUE** 4,500,000

**CONSIDERATION** 3,375,000  
(75% of Fair Market Value, HCA  
Determination of Appropriate \$)

**SELLING PRICE** 1,125,000

**BUT ADD IN DOE COSTS TO MAKE  
PROPERTY AVAILABLE** 360,000  
*(4% of adjusted book)*

**TOTAL SELLING PRICE  
OF THE PERSONAL PROPERTY** \$1,485,000

## II. DOCUMENTED BOOK VALUE

EG&G calculates property book value in a manner that does not reflect today's true value. If EG&G used expense money to purchase a piece of property, that specific piece would not be depreciated based on its useful life. If it was purchased for \$20,000 five years ago, its current book would be \$20,000. It is not depreciated over its useful life. Equipment that was purchased with capital equipment funds is depreciated over its useful life. Therefore, the property that EG&G currently carries on its books does not reflect its true book value.

## III. ADJUSTED BOOK VALUE

DOE determined the adjusted book value of each piece of property by using DOE Order 2200.6A, Financial Accounting, Attachment VI-1, Standard Service Lives. DOE Ohio Field Office property personnel referred to this attachment in determining adjusted book values of the inventories supplied to them by the DOE Miamisburg Area Office. These inventories reflect actual personal property planned to be sold to the local community in FY96.

This adjusted book value was determined by taking the EG&G Book Value, dividing it by the service life of the property, and multiplying this number by the remaining life of the property. The average adjusted book value of the property calculated was routinely about 50% of EG&G book value (see Appendix B).

## IV. FAIR MARKET VALUE (FMV)

Fair market value is defined by the price, on a certain date, at which a knowledgeable buyer is willing to buy and a knowledgeable seller is willing to sell. The methodology used by the US DOE in determining fair market value is described in appendix C. Fair market value was determined to be about 50% of adjusted book value.

## V. OTHER CONSIDERATION

As the Head of Contracting Activities (HCA), the Field Office Manager has the authority to determine the appropriate amount of consideration to be received by the government for the transfer of excess personal property to the local community. This amount may be less than the fair market value of the personal property.

In order to mitigate the adverse economic consequences (substantial decrease in wage taxes received) on the City of Miamisburg due to the downsizing of the Mound Plant, the Site Disposition Steering Committee recommends that a 75 % discount of fair market value be considered for personal property sold to the local community. This discount recognizes the intent to mitigate the adverse impacts to the workers and the local community from the end of the defense mission, the downsizing of the plant, and the ultimate completion of all DOE work at the site. DOE intends to offer excess personal property for sale to the local community on a building by building basis.

Also attached (Appendix A) is a legal opinion given by the Ohio Field Office Senior Attorney, Randy Tormey.

#### VI. DOE COSTS TO MAKE PROPERTY AVAILABLE

DOE will add to the selling price of the personal property the costs it incurs in making the excess personal property available to the local community. This would include inventories conducted, high-risk and nonproliferation reviews, etc. This is estimated, on average, to cost about 4% of adjusted book value.

#### VII. AUTHORITIES

There are currently two (2) regulations that allow DOE to sell personal property at less than fair market value to the local community, the Hall Amendment (Public Law 103-160) and DEAR Acquisition Letter Number 95-06 (Personal Property Issue Letter Number 970-1). Section 3155 of Public Law 103-160, the National Defense Authorization Act for Fiscal Year 1994 allows the transfer of title for consideration to mitigate the adverse economic consequences that might otherwise arise from the closure of DOE facilities. DEAR Acquisition Letter Number 95-06 allows for the transfer of excess property at an amount that may be less than fair market value.

APPENDIX A

PERSONAL PROPERTY  
OHIO FIELD OFFICE SENIOR ATTORNEY LEGAL OPINION

From: Randolph Tormey 11/13/95 11:24AM (3834 bytes: 57 ln)  
: David Porco, Kenneth Sprankle, Irma Brown, Kevin Rorer, Tim Sullivan,  
Sam Cheng, Warren Sherard  
Subject: "Consideration" for personal property

----- Message Contents -----

I was requested to perform a legal analysis to determine what consideration should be received for the sale of personal property at the Mound for economic development purposes. There are settled statutes and regulations which direct the processes and procedures for the sale of property by the Federal government. However, Section 3155 of the National Defense Authorization Act of 1994 states that "notwithstanding any other provision of law" the Secretary of the DOE may transfer personal property and equipment to any person to mitigate the adverse economic consequences of a base closure or reconfiguration. The property must be "excess" or its replacement cost <110% of relocation cost. It may be transferred for an amount less than fair market value. Section 3155 does not state the minimum that must be recovered.

I interpret this language to mean that regardless what the general guidelines say, for property in the category described in 3155, that provision applies. Since 3155 was in the 1994 Act and not apparently restated in later Bills, there was a question whether it was "permanent" legislation. Because 3155 was passed in an authorization act rather than in an appropriation act, the presumption against permanency, which applies to general appropriations language, does not apply to 3155. Thus it remains in effect. 65 Comp. Gen. 588 (1986)

The next issue is DOE policy as a result of 3155. Acquisition Letter 95-06 (June 28, 1995) established a Personal Property Letter (PPL) based upon 3155. The guidance in Section 3 of the PPL states that, in exchange for "reasonable" consideration, DOE may offer property to the CRO. The actual amount is ultimately decided by the Head of Contracting Activity. Thus Mr. Hamric will make the final call on this issue. From a legal standpoint, virtually any amount of money or service can serve as the legal amount of "consideration" so long as the money or service was not otherwise due. In other words, fulfilling a legal duty or paying a prior obligation cannot serve as consideration. It must be a new "legal detriment."

Finally, an issue remains as to the effect of a \$4 mil addition to the AL budget to resolve an equipment issue at Mound and Pinellas. I have reviewed the language of the appropriation request and the guidance received from HQ. I see nothing to indicate that this money was directed to AL for any purpose other than to allow MB to declare certain pieces of equipment "excess" in order for 3155 to apply to that equipment. At the time of the budget request the particular equipment was desired by other DOE sites. Therefore 3155 did not apply to that equipment since it was neither excess nor was its replacement cost less than 110% of the relocation cost. To make it excess and thereby available for economic development purposes AL received money to buy alternate equipment. No language anywhere suggests that the particular equipment was therefore bought for Miamisburg nor that Miamisburg got a "credit" for purchases of equipment from the Mound. Thus this

particular equipment should be rolled into the same decision-making exercise as the balance of the "economic development" personal property.

APPENDIX B

MOUND PLANT  
PERSONAL PROPERTY CALCULATIONS  
ADJUSTED BOOK VALUES

<u>FACILITY</u>	<u>EG&amp;G BOOK</u>	<u>ADJUSTED BOOK VALUE</u>	<u>% OF EG&amp;G BOOK</u>
BLDG 105	1,512,958	905,843	60.0%
COS TAPE	327,914	166,584	50.8%
BLDG 3	269,979	123,047	45.6%
BLDG 27	236,755	102,042	43.1%
BLDG 49	<u>629,994</u>	<u>184,419</u>	29.3%
	2,977,600	1,481,935	

ADJUSTED BOOK VALUE AS A % OF EG&G BOOK 49.77%

NOTE: The above personal property represents about 39% of the personal property leased or to be sold to the MMCIC.

## APPENDIX C

### METHODOLOGY

It would be extremely burdensome for the DOE to calculate adjusted book values for each individual piece of personal property planned for sell to the local community. About 1,500 - 2,500 pieces of personal property will eventually be sold to the local community over the next 3 -5 years. It would be costly for the government to expend the resources required to determine individual adjusted book values. Therefore, we concluded that we would calculate property adjusted book values using random statistical sampling, i.e., using the inventory from the three areas currently under lease or about to be leased (from a total of 6 areas). These results of these calculations would then be used in all future personal property sales to the local community. The total EG&G book value of property reviewed was approximately \$3,000,000. This represented about 39% of the total EG&G book value of property available to be used for these calculations (total book about \$7.6M).

The adjusted book value of the specific property calculated was about 49.8% of the EG&G stated book value. DOE has decided to round up that number to 50% of EG&G book value. DOE has determined that this is the percentage to be used in determining the adjusted book value of all future personal property sales to the local community.

[Based somewhat on historical sales] In all likelihood, DOE would not be able to receive adjusted book value if it were to attempt to sell this property on the open market. Some of the property would be able to command selling prices somewhat close to 60-75% of adjusted book value. Examples of this kind of property would include CNC lathes, surface finishing machines, etc.

However, there is property included in our inventory that is somewhat specialized or costly to disassemble and sell and therefore, does not have an "active secondary market" for sale purposes. DOE might be able to receive 25-35% of the adjusted book value for this property. This would include such property as thermomechanical analyzers, tools for sealing high pressure cups, etc., and larger equipment anchored in place and costly to remove.

And then there is miscellaneous property, such as balances, testers, microscopes, office furniture, etc., that if sold on an individual or lot sale basis, would be worth very little, either because of it being of older technology or because it has very little commercial use/value as is. DOE might be able to get 5-15% of adjusted book value for these items.

For example, in the COS Tape Lab, it is estimated that about 54 out of 104 pieces of personal property fall in the first category, i.e., DOE should be able to sale this property for 60-75% of the adjusted book value. However, there are 50 pieces that fall in either the 2nd (specialized) or 3rd (miscellaneous) category.

There appears to be a few more pieces that fall in the 3rd category (miscellaneous value) than in the 2nd category (specialized). However, on average, we would expect this property to be almost evenly spread among these latter 2 categories.

Below is the calculation for determining, on average, what percentage of adjusted book value DOE should be able to receive for excess personal property the local community is interested in purchasing. The calculations take into account low and high estimates of \$\$ to be received, and averages these optimistic and pessimistic estimates to determine a final dollar value.

It is assumed that on average, 60% of the property available to the local community falls in the first category of being able to receive 60-75% of adjusted book value, and 20% of the property falls within each of the last 2 categories (specialized and miscellaneous). This is closely in line with the COS Tape Lab, whereas for a machine shop the categories might be represented by 65%-10%-25%, but for a specialized company like Star City, the categories are more represented by 45%-30%-25%.

HIGH ESTIMATE

<u>Selling Price as a % of ABV</u>	<u>% of property in this category</u>	<u>average</u>
75%	60%	45%
35%	20%	7%
15%	20%	<u>3%</u>
TOTAL OF THE AVERAGE OF THE HIGH ESTIMATE		55%

LOW ESTIMATE

<u>Selling Price as a % of ABV</u>	<u>% of property in this category</u>	<u>average</u>
60%	60%	36%
25%	20%	5%
5%	20%	<u>1%</u>
TOTAL OF THE AVERAGE OF THE LOW ESTIMATE		42%
AVERAGE OF THE HIGH AND LOW ESTIMATES		48.5%

Using the above calculations, the DOE should receive about 48.5% of adjusted book value if this property were sold on the open market.

DOE will assume that it would receive approximately 50% of this adjusted book value if it were to sell, in the open market, the personal property the local community has an interest in purchasing from DOE.

It should also be noted that all the excess personal property located in the COS Tape Lab has been input into REAPS, and out of 104 pieces, only 5 were claimed by other DOE sites. Apparently, there is not much of a need or interest in this excess equipment from within the Department of Energy. As a result, we would not expect too much more, if any more, of an interest from the commercial world.

**EXHIBIT A**

**3) DOE OHIO FIELD OFFICE PROTOCOL FOR ECONOMIC  
DEVELOPMENT PERSONAL PROPERTY**

# OHIO FIELD OFFICE PROTOCOL FOR ECONOMIC DEVELOPMENT PERSONAL PROPERTY

**Purpose:** For personal property marked as "ED", the preference is to provide excess personal property to the Community Reuse Organization (CRO) for economic development, absent compelling justification from a DOE activity. In accordance with Acquisition Letter 95-06, Economic Development Property, the DOE activity must show a program need and provide justification to claim "ED" marked property.

There are three categories of ED marked personal property:

- ED1 - The CRO has a commitment from a business to locate on-site.
- ED2 - The CRO has a potential business with no commitment.
- ED3 - The CRO desires property for possible future use.

Categories will be marked on each item of property when requested by the CRO. The CRO will only receive government personal property after consideration in accordance with the site methodology.

If personal property is claimed by a DOE activity on the Reportable Excess Automated Property System (REAPS):

1. Requests must be made during the 15 or 30 day advertisement period in the REAPS. Later requests will not be considered. The requests must state specific details and supporting documentation which demonstrate compelling need such as:
  - A. Affects the immediate health or safety of workers.
  - B. Critical to program/project completion.
  - C. Actually budgeted in DOE request.
2. Upon timely request, DOE-OH will provide the DOE activity a Personal Property Request Form to be completed and returned. The Personal Property Request Form provides for:
  - A. Clear and convincing evidence of DOE programmatic need.
  - B. Approval of cognizant DOE Field/Operations Manager or designee.
  - C. Forward completed request within 5 working days of request.
3. Upon receipt of completed request, DOE-MB will review and evaluate the request on the basis of DOE programmatic need and the impact to the CRO.
4. In accordance with the Acquisition Letter 95-06, the Head of Contracting Activity (HCA) will make the final decision.
5. Upon HCA decision, the DOE Activity/CRO will be notified within 10 working days.