

ARS CSREES ERS NASS

Bulletin

Title: Enhanced Use Leasing Authority (EUL)

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National Agricultural Library.

This bulletin provides agency guidance on the implementation of a EUL pilot program at the Beltsville Agricultural Research Center and the National Agricultural Library.

Background

Section 7409 of the Food, Conservation and Energy Act of 2008, Public Law 110-246 (112 Stat. 1651), commonly referred to as the 2008 Farm Bill, grants the Secretary of the Department of Agriculture (USDA) the authority to establish a pilot program at the Beltsville Agricultural Research Center (BARC) and the National Agricultural Library (NAL) to lease nonexcess property to any individual or entity, including agencies or instrumentalities of State or local governments under the terms and conditions as set forth in this Bulletin.

This Enhanced Use Leasing (EUL) authority is delegated to the Administrator, Agricultural Research Service (ARS).

The purpose of this Bulletin is to provide agency guidance for implementing EUL under the 2008 Farm Bill authorization.

Requirements

The Agricultural Research Service may lease nonexcess property at BARC and NAL with an individual or entity under the following terms and conditions. The lease:

- Must be consistent with, and not adversely affect, the mission of ARS;
- Must enhance the use of the property;
- Must not involve public retail or wholesale sale of merchandise or residential development;
- Must not permit the construction or modification of facilities financed by non-Federal sources to be used by an agency, except for incidental use; and
- Must not include any property or facility required for ARS use without prior consideration of the needs of the agency.

Terms

Leases shall be for a term not to exceed 20 years, subject to renewal.

Consideration

Consideration for a lease shall be in cash in an amount equal to the fair market value, as determined by ARS.

Use of Funds

Funds generated from a lease shall be deposited in a capital asset account to be established by the Administrator, ARS. The law permits those funds to be made available, without further appropriation, for maintenance, capital revitalization, and improvements of the properties and facilities at the BARC and NAL.

Costs

The lessee shall be required to pay for all costs associated with a lease, including:

- The project construction and activities to be carried out by the lessee;
- The direct costs to ARS for administration of the lease;
- Utilities; and
- Any other facility cost normally associated with the operation of a leased facility.

ARS will not use any funds appropriated to the Agency for the construction or operating costs associated with any space covered by a lease.

Construction Standards

The lessee shall be required to comply with all applicable state and local regulations, building codes and other requirements in the construction, alternation, repair, and remodeling of any leasehold property, and will otherwise comply with ARS construction standards.

Implementation Process

In implementing the EUL authority, ARS will follow the following steps:

- Project Identification and Development
- Marketing the Project
- Receive and Evaluation of Proposals
- Business and Lease Planning
- Lease Execution
- Project Management

Project Identification and Development:

In order to ascertain properties which are suitable for EUL, ARS will:

- Interview key personnel such as Area/NAL Director, DAD, Area Manager, Realty Specialist, Safety, Health and Environmental Manager and Security Personnel to review existing inventory and identify potential development opportunities.
- Conduct physical inspection of facilities.
- Determine whether assets are historic and/or have specific development requirements.
- Develop a Project Concept Plan.
 - Determine market demands and conditions.
 - Determine highest and best use for each asset identified.
 - Conduct economic analysis.
 - Identify and evaluate internal and external private sector considerations. Internal considerations include location, security, and environmental concerns. External private sector considerations include financial attractiveness, market interest, investment risk level and condition and size of the property.
- Estimate the potential revenues to be derived under the concept plan based on estimated market value of the leasehold.

Marketing the Project:

Once a Concept Plan is prepared, ARS will:

- Develop solicitation strategy and documents.
- Develop selection criteria and assessment process for the project based on project concept plan.
- Select effective advertising media including local media outlets, specialized real estate development sources, and national publications. (FEDBIZZOPPS)
- Issue a draft Request for Proposals (RFP). (Appendix A)
- Conduct an Industry Forum to provide project information to prospective developers, assess private sector interest, and allow networking amongst participants. Provide an opportunity to tour properties.
- Develop a Web site on which to post and view critical solicitation documents and compile questions and answers throughout the development process.
- Issue final RFP.

Receive and Evaluate Proposals:

In evaluating responses to Requests for Proposals, ARS will:

- Create evaluation templates detailing selection criteria such as (potential tenant's) financial strength, past performance, demonstrated construction and development capabilities, community relations, team abilities, etc.

- Assemble a Source Selection Board (SSB) consisting of members with relevant and diverse professional expertise.
- Use oral interviews as an opportunity to clarify potential tenant's vision for the project.
- Use evaluation templates as well as verbal deliberation to assess each developer team.
- Make selection.

Developing the Business & Leasing Plan:

Upon selection of a Lessee/tenant, ARS will meet with the potential tenant to:

- Hold a kick-off session.
- Develop protocols and lines of communication.
- Understand Office of Management and Budget (OMB) scoring implications.
- Develop a conflict resolution process to quickly resolve issues.
- Develop and communicate reporting structures and formats.
- Create a Development and Leasing Strategy that will guide the potential tenant's preliminary design, construction management, and historic preservation plans as well as the development schedule. (Appendix B)
- Create a financing strategy.

Lease Execution Process:

The lease will constitute the principal legal instrument defining the relationship between ARS and the Lessee/tenant. Entering into a leasehold involves these two steps:

- Develop, negotiate, and execute the Lease Agreement. (Appendix C)
- Ensure all specifics negotiated during the Business and Leasing Plan are accurate and recorded in the Lease.

Project Management:

After execution of the lease, ARS and the lessee will:

- Establish a project management team.
- Establish protocols to oversee and monitor projects.
- Establish regular reporting requirements.

Expiration

The authority for the Administrator, ARS, to enter into EUL Lease Agreements under this Bulletin expires on June 18, 2013.

Roles and Responsibilities

AD BARC and Director NAL

- Recommends projects to the Administrator for consideration under the EUL authority.
- Identifies property(s) available for use under EUL program.
- Assures compliance with the terms and condition of any Lease Agreement entered into under this authority.
- Appoints a Program Manager for the project.

Program Manager

- Identifies potential use of property at BARC/NAL to promote the mission of ARS.
- Develops criteria for commercial entities whose activities are consistent with the mission of ARS.
- Identifies activities that show a demonstrated benefit to ARS.
- Makes recommendation to AD for program to be utilized under EUL authority.
- Develops business case plan and recommends to AD program to be utilized under EUL authority.

Facilities Division/AFM/ARS

- Manages EUL Authority in accordance with Section 7409 of the Food, Conservation and Energy Act of 2008.
- Assures compliance with this Bulletin in the implementation of the EUL process.
- Appoints a Project Manager for the EUL Lease Agreements.

Project Manager

- Is responsible for the development and implementation of the EUL Lease Agreement.
- Develops RFP and Lease Agreements in coordination with the Program Manager.
- Establishes and chairs the Source Selection Board.
- Recommends to the ARS Administrator execution of Lease Agreement with the selected potential tenant.
- Oversees lease administration.

Point of Contact

The ARS Point of Contact for requests to lease land and facilities under the EUL authority will be:

Facilities Division
5601 Sunnyside Avenue
Mail stop 5126
Beltsville, MD 20705-5123

For further information, please contact Terry Rupe, Branch Chief, FD, on 301-504-1224.

PATRICK G. BARRY
Director
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Appendix A Request for Proposals:

ARS will issue a draft and final Request for Proposals (RFP) based on the following criteria:

Executive Summary

1. Authority
2. EUL Goals and Objectives
3. Proposal Submittals and Selection of Lessee
4. Small Business Requirements
5. Project Documentation

Existing Conditions and Site Development

1. Location
2. Asset Descriptions
 - Land
 - Improvements
 - Natural Infrastructure
 - Transportation and Access
 - Infrastructure and Utilities
 - Community Services
3. Development Considerations
 - Security
 - Environmental Considerations
 - Historical, Cultural, and Archeological Resources
 - Regulatory Issues
 - Legislative Jurisdiction
 - Easements and Encumbrances
4. Project Requirements
 - Strategy
 - Business and Leasing Plan (Appendix B)
 - Environmental Compliance

Instruction for Offerers

1. Submission of Offers
 - Mail, Digital, telegraphic, and/or facsimile Offers
 - Submission Due dates
 - Proposal Packaging

2. Submission Requirements
 - Mandatory Clauses
 - Applicable Wage Rates (Davis Bacon)
 - Proposals Presentation
 - RFP Number
 - Volume Sections
 - Incomplete Submission
3. Execution of Proposal
4. Late Submissions, Modifications, and Withdrawals of Proposals
5. Evidence Dates and Times of Mailing Receipts
6. General Information
7. Digital Copies
8. Submission Requirements for all Offerors
9. Project Concept Submission Requirements
 - Business Plan (Summary)
 - Project Financing Strategy and Approach
 - Project Financial Viability and Sustainability
 - Development Plan (Summary)
 - Development Management Approach
 - Project Concept Approach
 - Property Management Plan (Summary)
 - Property Management Approach
 - Property Operations and Maintenance Strategy
10. Qualifications Submission Requirements
 - Financial Capability
 - Organizational Capability
11. Past Performance Submittal Requirements
 - General
 - Project Experience Narrative
 - Specific Project Information
 - Relevance
 - Significant Achievement/Past Problems
 - Past Performance Questionnaire

Basis for Selection

1. Strategy
2. Evaluation Factors and Sub factors and their Relative Order of Importance
3. Project Proposal Rating
4. Qualification Ratings
5. Past Performance Confidence Assessment
6. Factors (Business Plan, Development Plan, Property Management Plan, Qualifications, Past Performance, etc.)

Appendix B Business and Lease Plan

Business Plan

1. Rent Considerations
2. Lease duration
3. Expiration of lease agreement
4. Related Party Fees
5. Property Taxes
6. Transaction Expenses
7. Books, Records, Accounts, and Reports

Development Plan

1. Site Development Plan
2. Design and Construction Plan
3. Construction Management Plan
4. Certificate of Compliance
5. Certifications, Zoning and Permit Requirements
6. Controlling Provisions

Property Management Plan

1. Property Operations and Management Plan
2. Leasing and Marketing Plan
3. Severability Plan
4. Facilities Maintenance Plan
5. Capital Repair and Replacement Plan
6. Environmental Management Plan
7. Community Relations Plan
8. Historic Preservation Plan

Appendix C EUL LEASE AGREEMENT

The EUL Lease Agreement will contain, at minimum, the following terms and conditions:

1. Term And Delivery Of Possession
2. Access
3. Condition Of Leased Premises, including potential existence of hazardous materials
4. Rent
5. Use Of Leased Premises
6. Default, Remedies, And Termination
7. Taxes
8. Restoration And Surrender
9. Environmental Protection
10. Maintenance Of Leased Premises
11. Compliance With Applicable Laws
12. Access And Inspection
13. General Indemnification By Lessee
14. Insurance
15. Construction Of Leased Premises Improvements And Alterations
16. Utilities And Services
17. Operation And Management Of The Property
18. Notices
19. Assignment, Subleases, And Licenses
20. Liens And Mortgages
21. Disputes and remedies
22. General Provisions
23. Special Provisions
24. Reporting Provisions
25. Rights Not Impaired
26. Renewal Of The Lease
27. Government Representatives And Their Successors
28. Amendments
29. Reporting To Congress
30. Option To Purchase And Realignment
31. Defined Terms
32. Exhibits

LIST OF EXHIBITS

- Exhibit A - Description and Map of Leased Premises
- Exhibit B - Physical Condition Report
- Exhibit C - Environmental Site Assessment
- Exhibit D - Rent Schedule
- Exhibit E - Building Codes and Standards