



PUBLIC/PRIVATE PARTNERSHIP GUIDE FOR INDIANA MILITARY FACILITIES



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J U L Y 2 0 1 5



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Indiana has the honor of being home to a number of important military installations. In addition to serving a vital role in our National Defense, these facilities are a major employers and assets to their host communities and our State.

A successful way to further leverage the physical and intellectual capital of these military assets for local economic development is through the use of public/private partnerships. They have been successfully utilized at a wide variety of military bases throughout the country with diverse missions and attributes.

Our State and local communities can benefit greatly from the synergy and strength that is possible through an extensive network of public and private sector partnerships. When well constructed, these partnerships can benefit the local communities as well as enhance the value of each installation for its mission in the Department of Defense.

The Indiana Office of Defense Development has developed this *Indiana Partnership Guide for Military Facilities* to provide insight into the opportunities available in with public/private partnerships. This guide describes the tools and techniques that have been successfully utilized at military facilities throughout the country. The tools have their foundation in Congressional legislation and are supplemented by Army, Navy, and Air Force implementing regulations and instructions. The use of these tools can be of high value to our installations and mission commanders and beneficial to our local communities.

The State of Indiana is proud to be a partner with our military installations and not simply a landlord. Together we want to explore ways that we can add value to military operations in Indiana and how their specialized missions can interface with our economic development initiatives.

Sincerely,

A handwritten signature in black ink, appearing to read "Sue Ellspermann".

Sue Ellspermann
Lieutenant Governor

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LIST OF ACRONYMS

AR	Acquisition Regulation
CRADA	Cooperative Research and Development Agreement
DFAR	Defense Federal Acquisition Regulation
DoD	Department of Defense
EA	Environmental Assessment
EFI	Efficient Facilities Initiative
FAR	Federal Acquisition Regulation
FY	Fiscal Year
IODD	Indiana Office of Defense Development
IPA	Intergovernmental Personnel Act
IPT	Integrated Project Team
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
MWR	Morale, Welfare, and Recreation
NAICS	North American Industrial Classification System
NSWC	Naval Surface Warfare Center
PIA	Partnership Intermediary Agreement
P3	Public/Private Partnership
ROA	Report of Availability
TSA	Test Services Agreement
U.S.C.	United States Code

LIST OF ATTACHMENTS

Importance of Privatization

Public-Private Collaboration in the Department of Defense, Report FY12-04
Public-Private Partnering Guide for Sustainment Guidebook, February 1, 2012

Indiana Business Tax Credits and Financing Incentives

Economic Development for a Growing Economy Tax Credit
Growth Alliance Greater Evansville Economic Development Possible Incentives
Hoosier Business Investment Tax Credit
Patent Income Tax Exemption
State Taxes Overview
Tax Credits and Exemptions
Tax Incentives for Research and Development Engagements

Partnership Tools

Contracts

31 U.S.C. 6303
FAR Contract Clauses Covering IP and Data

Cooperative Agreement

15 U.S.C. 3706 - Grants and Cooperative Agreements
31 U.S.C. 6305 - Using Cooperative Agreements

Example

Cooperative Agreement between U.S. Army Tank-Automotive and Armaments
Command Armament Research, Development, and Engineering Center and
Various Partners

Cooperative Research and Development Agreement

15 U.S.C. 3710a
Navy Standard CRADA Template

Educational Partnership Agreement

10 U.S.C. 2194 - Education Partnerships

Example

Sample Air Force Research Laboratory Information Directorate EPA

Enhanced Use Lease

10 U.S.C. 2667 - Leases: non-excess property of military departments
General Accounting Office Report, Defense Infrastructure, Greater Emphasis Needed to
Increase the Services' Use of Expanded Leasing Authority, June 2002

Examples

Army Enhanced Use Lease Template
Fort Leonard Wood Technology Park
Lease (Fort. Sam Houston Army)
NAS Patuxent River Potential EUL Project Fact Sheet
NRC Solomons Potential EUL Project Fact Sheet
Request for Approval to Lease (Army)

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LIST OF ATTACHMENTS (continued)

Facility Use Agreement

Federal Acquisition Regulation 45.3, Providing Government Property to Contractors

Examples

Joliet Army Ammunition Plant Development Act (State of Illinois)

Oak Ridge National Lab Facilities Use Agreement (DOE)

Watervliet Arsenal Partnership – Example 1

Historic Property Lease

16 U.S.C. 470h 2 and 3

36 CFR 800 805

Interagency Support Agreement

DoD Instruction 4000 19

Legislative Outgrant

Brooks AFB – Example 1

Brooks AFB – Example 2

Brooks AFB – Example 3

Brooks AFB – Example 4

Los Angeles Airport

Pine Bluff Arsenal

Memorandum of Agreement

Example

Watervliet Partnership MOA

Memoranda of Understanding

Examples

ARDEC Picatinny and FAA MOU

ARDEC Picatinny and NJ Commission on Science and Technology MOU

No-Cost Contractor Provided Conference Services

Contract Acquisition Management Office No Cost Contractor Provided Conference Services

Other Transactions

Other Transactions for Prototypes

Section 845 of 1997 Defense Authorization Act

Other Transactions for Research

10 U.S.C. 2358

10 U.S.C. 2371

Partnership Intermediary Agreement

15 U.S.C. 3715

Examples

Air Force PIA Template

Army PIA Template

Montgomery County, Maryland and NSWC Carderock PIA

Navy PIA Template

Wright Patterson Air Force Research Laboratory PIA

Patent License Agreement

10 U.S.C. 200 Et seq

Examples

Army Patent License Agreement

Navy Patent License Agreement

LIST OF ATTACHMENTS (continued)

Personnel Exchanges

- 5 U.S.C. 3371
Intergovernmental Personnel Act Program

Technology Information Exchanges

- USJFCOM Technology Information Exchange

Test Services Agreements

- 10 U.S.C. 2474b – P3s for Depots
- 10 U.S.C. 2539b – Availability of Samples, Drawings, Information, Equipment, Materials, and Certain Services
- 10 U.S.C. 2563 – Articles and Services of Industrial Facilities: Sale to Persons Outside the Department of Defense
- 10 U.S.C. 2681 – Major Range and Test Facilities
- DoD Instruction 5535.11 – Availability of Samples, Drawings, Information, Equipment, Materials, and Certain Services

Examples

- 10 U.S.C. 2539b Bailment Agreement
- Model Test Services Agreement
- Naval Research Laboratory Multi-Use Sample Agreement

Additional Useful Statutes

- 10 U.S.C. 18233 – Exchange Agreement Authority
- 10 U.S.C. 2391 – Military Base Reuse Studies and Community Planning Assistance
- 10 U.S.C. 2391 (note) - Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990
- 10 U.S.C. 2474 – Center of Industrial and Technical Excellence
- 10 U.S.C. 2556 – Shelter for Homeless, Department of Defense Shelter Program
- 10 U.S.C. 2688 – Utility Systems: Conveyance Authority
- 16 U.S.C. 470-1 – National Historical Preservation
- 16 U.S.C. 470aa-mm – Archeological Resources Protection
- 22 U.S.C. 2770 – Allows a U.S. company to buy items that will be incorporated into an end item to be sold to friendly foreign countries and/or friendly foreign countries' military
- 23 U.S.C. 107 – Acquisition of Rights-of-Way - Interstate System
- 23 U.S.C. 317 - Appropriation For Highway Purposes of Lands or Interests in Lands Owned by the United States
- 31 U.S.C. 1535 - Economy Act of 1932, as amended
- 40 U.S.C. 345c - Conveyance or Transfer of Federal Property to States or Political Subdivisions
- 40 U.S.C 484 - Federal Property and Administrative Services Act of 1949, as amended
- 40 U.S.C 485 - Federal Property and Administrative Services Act of 1949, as amended
- 42 U.S.C. 11411 - McKinney-Vento Homeless Assistance Act: Public Health and Welfare; Use of Unutilized and Underutilized Public Buildings and Real Property to Assist the Homeless
- 49 U.S.C. 47125 – Federal Airport Act; Conveyance of Airport Land or Airspace
- 50 App. U.S.C. 1622- Surplus Property Act of 1944; Disposal to Local Governments and Nonprofit Institutions
- Pub. L. No. 107-107, 115 Stat 1012 (2001) - Section 2813 of the National Defense Authorization Act for Fiscal Year 2002; Pilot Program to Provide Additional Tools for Efficient Operation of Military Installations

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LIST OF ATTACHMENTS (continued)

Additional Useful Regulations

- 14 C.F.R. 151 – Federal Aid to Airports
- 24 C.F.R. 586 – Community Redevelopment and Homeless Assistance
- 32 C.F.R. 226 – Shelter for the Homeless
- 34 C.F.R. 12 – Property for Education
- 45 C.F.R. 12 – Property for Public Health
- 45 C.F.R. 12a – Real Property to Assist the Homeless
- 46 C.F.R. 387 – Utilization and Disposal of Surplus Federal Property

Special or Unique Indiana Authorities

- Indiana Code 34-30-21 Chapter 21. Military Bases: Immunity for Noise Pollution and Telecommunications Interference
- Indiana Code 36-7-30.1, Planning and Zoning Affecting Military Bases
- Indiana Code 4-3-21, Chapter 21. Military Base Planning Council

Step 2 References

- AR 405-80, Management of Title and Granting Use of Real Property
Base Redevelopment and Realignment Manual

Step 3 References

- Army Tenant Approval Process
- [GAO Report, Defense Infrastructure, Greater Management Emphases Needed to Increase the Services' Use of Expanded Lease Authority, June 2002](#)
- Leasing Military Property

Step 5 References

- 2015 Indiana Manufacturers Directory® and Industrial Database
- Federal Laboratory Consortium Members
- Google Search 50 Companies
- Standard Industrial Code (SIC) to North American Industrial Classification System (NAICS) Conversion
- Technology Partner Search LexisNexis
- Top 100 Contractors of the U.S. Federal Government

INTRODUCTION

There are a number of recent economic, political, budgetary and organizational cross-currents that present a considerable challenge for those commanding large military installations. The pressure to increase mission capability and reduce costs in the face of significant increases in operational tempo and constrained budgets require considerable planning and assessment of viable options and transformation initiatives utilizing partnerships with both public and private entities.

Public/private partnerships (P3s) can be used as a highly effective tool to leverage the physical and intellectual capital among the partners and stimulate economic growth. They represent an emerging business model that benefits both the public and private interests at a reduced cost and risk while enhancing each of the participant's missions. For Indiana's military installations, P3s can increase the military value of the bases by reducing the costs to operate, maintain and grow the infrastructure, and/or enhance mission capability and capacity. At the same time, partnerships with military installations can provide the business community with access to world class facilities, knowledge, and expertise to advance private sector projects. Further, growth of Indiana's defense sector through the use of Indiana military facilities, equipment, and personnel enhances economic development and job growth in the State.

Indiana institutions can and should benefit from the synergy and strength that can result from an extensive network of public and private sector assets that enhance the value of each installation and contribute to the Services and stakeholders at the local, state and federal levels. The future success and increasing value of military installations to the U.S. and Indiana will, in part, be determined by leadership prepared to engage and leverage partnerships that pool assets and resources in novel arrangements that are mutually beneficial.

This Indiana Partnership Guide for Military Facilities has been developed on behalf of the Indiana Office of Defense Development (IODD) to provide insight and awareness of the opportunities and authorities (federal, state, and local) associated with P3s. The IODD was established by Executive Order 13-6 in January of 2013 and Senate Bill 529 with the full backing of both the Indiana House and Senate membership. The IODD falls under the Lieutenant Governor's family of businesses and plans to capitalize on the rich heritage Indiana has of serving our nation in the area of defense. The IODD's mission is to focus on growing Indiana's defense sector by leveraging the defense assets located in Indiana for the benefit of both the public and private sectors. It intends to create new opportunities that will preserve and grow Indiana's military installations as well as attract companies, both currently in Indiana and those interested in relocating, to retain and grow defense-related and other businesses in Indiana. Likewise, the IODD plans to leverage Department of Defense (DoD) and other federal intellectual property to assist in their commercialization to create additional high quality jobs for Indiana.

Below are a few examples where P3s have been successfully instituted and are in place in a wide variety of military bases throughout the country with diverse missions and attributes.

- U.S. Army Armament Research, Development and Engineering Center in Picatinny, NJ, assessed its mission needs against the assets and expertise it could provide and used the cooperative research and development agreement (CRADA) process to bridge mission-related capability gaps and increase mission-related work. Over 120 active CRADAs with numerous defense industry partners including BAE Systems, Raytheon, General Dynamics, L-3, Textron, and Lockheed-Martin increased base utilization of existing government personnel and facilities. Results were \$108M in mission-related private funding over a five-year period.

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- Air Force Research Laboratory Information Directorate, Rome, NY, used a partnership intermediary agreement (PIA) with the Griffis Institute to establish a Commercialization Academy. The goal of the Academy is to develop student entrepreneurs who can contribute meaningfully to startups and industry. Students are paired with the Directorate's intellectual property portfolio and inventors to develop investor-grade commercialization plans. After evaluation by subject matter experts, venture capitalists and angel investors, winning teams received a license for their intellectual property from the Directorate and seed funding from a pot of \$50,000, which was sponsored by a private business.
- Naval Surface Warfare Center (NSWC) Crane has been able to partner with leading research universities through Educational Partnership Agreements, CRADAs, PIAs, and Patent License Agreements so that students and faculty can partner and leverage NSWC Crane expertise and patent portfolios, while also allowing NSWC Crane employees to learn and collaborate with leading researchers and students to expand the government's capability and decrease "brain-drain" in the U.S. and in Indiana. This also allows for NSWC Crane and Academia to partner in economic development activities for existing small businesses, and to create new small businesses and give them the tools to succeed in today's tough economic environment.

More examples of the various types of partnership agreements discussed in this guide are provided as attachments to this guide. In addition, synopses of successful P3s can be found throughout.

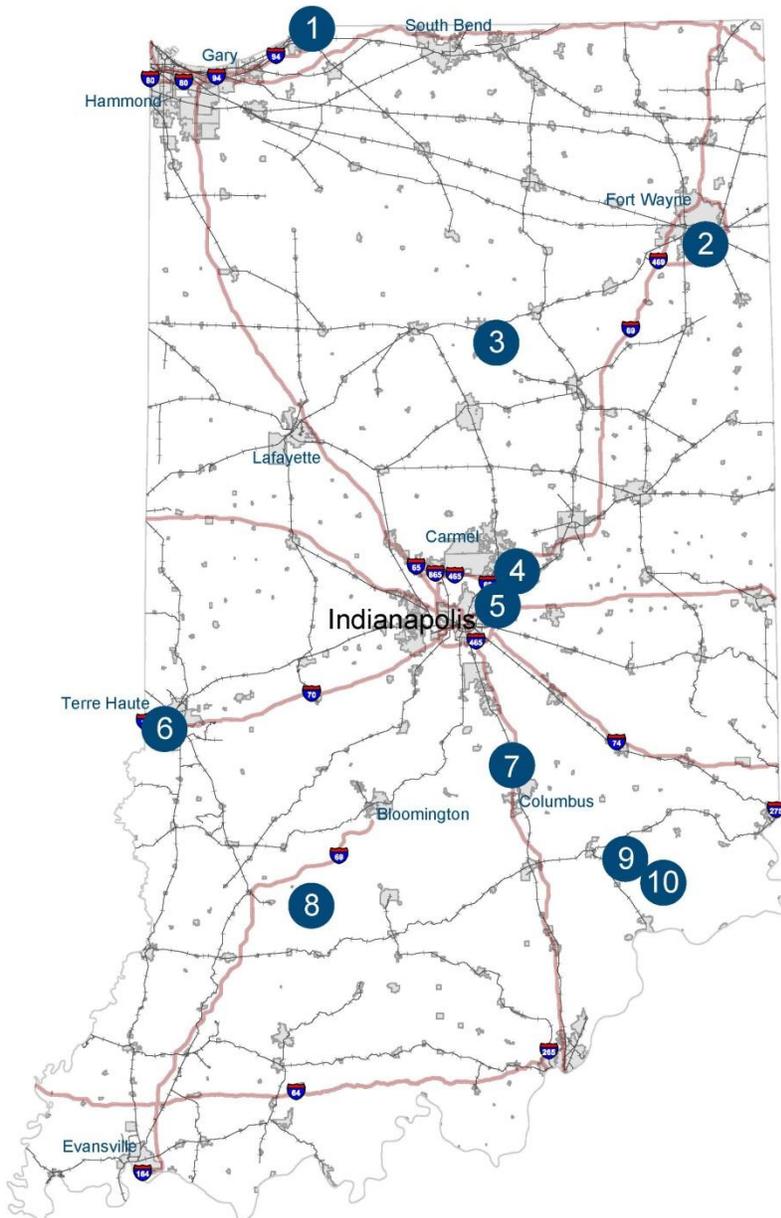
The map on the following page depicts the military facilities hosted by the State of Indiana. In addition to serving a vital role in our national defense, these facilities are a major employer and asset to our communities.

While each installation will clearly have a different set of dynamics and prospects, how they package their facilities, organization, personnel and other assets, will determine how potential partners can be identified, utilized and secured. In addition, each installation must begin to see itself in the role of a potential partner. Clearly, some Indiana installations are farther along in the planning process than others. However, the ins and outs of all these new tools and opportunities should be investigated to benefit from the experience of others and to gain insight about recent changes in the pertinent laws and regulations.

This guide is intended to provide military base commanders in Indiana, organizational leaders, and their staff, with a way to approach partnerships with Federal, State, and local Government organizations as well as not-for profit and for-profit entities for future economic development efforts. A step-by-step approach is included that can be followed by Base Commanders and their tenant organizations as well as an extensive listing, provided as attachments, of primary P3 statutory authorities, special or unique authorities relevant to each Indiana facility, and best-practice examples. Thus, commanders can identify authorities that will facilitate strengthening mission capability and reducing costs. The authors urge review of these attachments and request that anything that is not found but considered useful by the readers be sent to the IOOD for inclusion in a future version of this guide.

In brief, this guide shows a way to collect, quantify, and present assets existing on each facility that are available for partnering. It also discusses an installation wide approach to identifying and ranking its real property and mission capability needs. Last, it describes the multiple tools available for military organizations to receive and retain mission and installation benefits from private sector partners without violating stringent rules on the acceptance of assistance from the private sector. This guide will also help businesses as well as state and local governments understand how each can utilize Federal land, buildings, equipment, personnel expertise, and intellectual property for state and local government or private sector use.

Indiana Installation Assets



- 1 U.S. Coast Guard Station
- 2 122nd Fighter Wing of the Indiana Air National Guard
- 3 434th Air Refueling Wing (Grissom)
- 4 Major General Emmett J. Bean Federal Center
- 5 Defense Finance and Accounting Service (DFAS)
- 6 U.S. Air Force 181st Intelligence Wing, and the Indiana Air National Guard 113th Air Support Operations Squadron (ASOS)
- 7 Camp Atterbury Joint Maneuver Training Center
- 8 NSA Crane/NSWC Crane/CAAA
- 9 Muscatatuck Urban Training Center
- 10 Jefferson Proving Ground

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STEP 1 – ASSEMBLING THE PLANNING TEAM

The process and planning for entering into P3 relationships at each Indiana installation should be led by a Steering Committee made up of senior leadership representing all interested parties. The Steering Committee is responsible for establishing appropriate time lines for implementation of the plan. It will gather information from two Integrated Project Teams (IPTs) representing Base Operations and Mission Operations. The goal of Step 1 is to provide a charter for the overall effort and for the base and mission operations IPTs. These charters should include a list of the members of each IPT as well as all relevant due dates.

Base Operations IPT

The task of this group is to review the ways in which the installation will enter into partnership agreements (the process) so that all issues involving the various regulatory constituencies are resolved in advance. This group will provide the pre-approved partnership process. Do not presume that this is an easy task. It will be difficult; but will allow all parties, once an agreement has been reached, to move to partnership; avoiding deal-killing delays.

- Public works – Has operational authority over real property, environmental considerations, transportation, and maintenance
- Security
- Safety, fire, and police
- Financial and resource management
- Legal
- Environmental
- Contracts
- Technology transfer
- Public affairs

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Mission Operations IPT

This group, representing the mission-oriented organizations at the installation, must identify and prioritize mission-related needs that represent the entire installation now and into the future. The starting point should be a clear indication from the Steering Committee on the current and future facility, personnel, and equipment needs of the installation and how these will serve its customers (current and projected) five years hence (See Step 4). Such needs traditionally include the major commands on the bases as well as the requirements of tenant organizations.

- Efficiencies that may result from combining operations of one department or agency with those at another installation, Service, or Governmental unit;
- Savings from consolidation of activities;
- Savings from privatization of non-core mission activities;
- Savings from privatization of under-utilized facilities;
- Savings that might result from collocating activities with those of another Federal agency;
- Savings that might result from sharing contractors with Federal, state, or local body;
- Savings from elimination or reduction in leased space and relocation to property owned and operated by the Federal Government;
- Possible future accommodation of increased military usage;
- Expanded mission capability through partnering.

While there are many variables and “what ifs” in making such assessments, the planning team should be able to quantify, from each individual perspective, the various options in terms of service needs, conditions of facilities (repair and expansion), value to different users and infrastructure operating costs. Certainly efficiencies can be dictated from higher headquarters, or by external policy decisions. However, there are always cost cutting and cost saving measures that can evolve from restricting overhead and operational costs. Many military installations have found such efficiencies by merely taking a zero-based look at various provisions and services for which there is a lesser need, or which may be duplicative. Outside interests, potential partners and private (or contact) users will, more than likely, spot such opportunities in examining budgets and costs.

PARTNERSHIP THROUGH MEMORANDUM OF AGREEMENT

Water Reclamation Project between Fort George G. Meade Public Works and Howard County Department of Public Works

- Addresses National Security Agency’s requirement for treated waste water to cooling towers at a reduced price in comparison with other possible alternatives.
- Uses third party funding for construction of effluent diversion structure, pump station, elevated water storage tank, and interconnected pipe distribution system.

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As the work of the planning team progresses, it is critical to include substantive contact with the many departments and managers who have the ability and authority to say “no.” These are the organizations listed in the base operations focus planning group. Their fears must be allayed, their concerns addressed, and their ideas incorporated. When this is done, what will be achieved is a wide menu of choices – acceptable choices from among what were once competing interests.

Consider these choices as “pre-partnering” planning. While the overall goal for the installation should be to improve the ability of the organization to meet its mission and to serve its clients at the lowest reasonable cost, now and into the future, it must be done with an eye towards attracting and providing for possible partners and/or outside users. This will position the team to approach the next step.

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STEP 2 – LISTING THE SHAREABLE ASSETS

The goal of this part of the effort is to identify those installation assets that might be of interest to a partner. Partnerships are all about sharing capabilities that make both partners stronger. As the search for partners goes forward, it is essential to firmly grasp what is available for use by a partner and the relative value of shareable assets.

Experience has shown that when an installation's assets are critically analyzed, there are some that are clearly under-utilized. There are also some assets which are not utilized or needed on a full time basis, and thus can be shared in some sort of dual use fashion. This would apply to personnel (and expertise), equipment, land, buildings and other facilities or capabilities, but availability for use by others is not enough. Dual use will probably be most likely, and this will involve critical scheduling provisions. There are all kinds of software that have been developed that will provide options for handling such scheduling issues. These should be investigated, adapted, and instituted as part of any presentation package.

When examining any asset that might be shared, clearly consider any disadvantages, or "warts," that may become apparent to anyone interested in the sharing (as a user). If not addressed up front, such disadvantages may become a stumbling block to a potential partnership, and thus could result in a lot of wasted time and missed opportunities. The types of hurdles that may be endemic in such assets relate to their status, time of availability, need for repair or modification, specialized requirements, access and other logistical or cost structure problems.

As the asset list is prepared and disadvantages noted, be sure to cover the following categories:

- Knowledge – Such as intellectual property, existing or pending patents (or other protection), data and databases, plus unprotected software and inventions.
- People – Know how and expertise, skill level, training, status (retirement schedule). Do not forget your retired workforce that might be delighted to work several days per week.
- Equipment – General and specialized, useful as is or with adaptation, tied to specific processes or coupled with particular expertise, maintenance and use requirements, relocation possibilities.
- Facilities – Buildings, installed equipment, defined capabilities (such as docks, landing strips, test tracks), parking, past and present plans for use and/or modification.
- Land – Near road or rail, utilities provided or available, services available, constraints on use (such as environmental, historic, zoning).
- Specialized combinations of people, equipment, and buildings

Note that access is a very important issue for most of these items. Relocation of "the fence" could easily provide ease of access to a building by private sector personnel who may be foreign nationals.

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If the assets in question are Federal (DoD land or buildings), nongovernmental organizations may use DoD assets for private sector purposes via an enhanced use lease (10 United States Code (U.S.C.) 2667), a CRADA (15 U.S.C. 3710a), or a Test Services Agreement (TSA) (10 U.S.C. 2539b). Facilities Use Agreements, Educational Partnerships, Partnership Intermediaries, and Out-Grants are other mechanisms that may also be used.

A good instruction on how to position an installation for these kinds of decisions and choices is the Army's Report of Availability (ROA) process (see Acquisition Regulation (AR) 405-80). Other services have a similar process. This checklist of applicable laws, regulations, and areas that should be addressed as DoD land and Federal facilities are prepared for utilization by others. The applicable sections of AR 405-80 are included in this guide. A sample checklist for a ROA is on the next page. While the ROA sample checklist is unique to the Army, the issues must be considered by any military organization wishing to out lease land or facilities.

The ROA process is an excellent way of identifying real property problems that might represent a stumbling block to potential users. From such considerations as the practicality of using individual buildings or parcels of land, you can see how some long tolerated conditions may impact the planned utilization of assets. Buildings that use steam heat, the lack of separate utility metering, deferred repair of maintenance problems, constrained clearances inside of buildings, asbestos, lead paint or radon environmental problems, land use restrictions, and safety arcs could all be considerations for future development.

It should be understood that before the Federal Government may use land in a way different from the way it is presently being used, a review of the environmental consequences of that use and a consideration of all the ways to lessen any identified adverse environmental impact must be considered. If the land use is identical to or close to prior use, an Environmental Assessment (EA) may be all that is necessary. If significantly divergent and environmentally harmful use is intended, an Environmental Impact Statement must be undertaken. The information taken from the ROA can be used as the basis for making a decision about the kind of evaluation undertaken. It is very important that environmental baseline investigations begin as soon as possible. They are the most time consuming and cannot be avoided. Your team members can provide guidance on these issues.

The information gathered during the ROA process, together with other information, will be the basis for the environmental baseline that any future user of the land will be required to identify to the State of the land when possession is granted. Any "pollution" or hazard not identified in this baseline that is later found on or in the leased premises becomes the responsibility of the lessee and is therefore critical information. The removal or treatment of all "pollution" identified in the baseline is the responsibility of the Federal Government until the lease is signed.

PARTNERSHIP THROUGH ENHANCED USE LEASE

Hot Weather Test Track Desert Proving Ground, Yuma, AZ

- GM leased the parcel of land to develop a desert proving ground testing facility for all classes of vehicles.
- General Motors operates and maintains the facilities; has provided in-kind consideration to the Army equal to the fair market value of the leased assets.
- Competitive selection process.

ROA PROCESS CHECKLIST

Preliminary Approval Information

- General description of property
- Map of property showing improvements
- List of buildings, type, sq. ft.
- Reason property is underutilized/not excess
- Available utilities from public and private sources
- Need for changes to the buildings, costs, source of funds
- Safety issues
- Airfields and Air Space issues
- Impact on mission
- Estimated costs to further the process of out-grant
- Availability of funds



Other Preliminary Information Required

- McKinney Homeless Act considerations
- Inventory and condition of buildings
- Expected consideration
- COE Fair Market Valuation
- Waiver of Competition
- Special provisions



Environmental and Cultural Considerations

- Impact upon Coastal Zone Management
- Impact upon Clean Water Act
- Impact upon wetlands
- Impact upon floodplains
- Impact upon Endangered Species Act
- Impact upon Fish and Wildlife Coordination Act
- Impact upon the cultural environment

- Impact upon SHPO program
- Impact upon Native American Graves Protection and Repatriation Act
- Impact upon Archaeological Resources Protection Act
- Impact upon FIFRA
- Impact upon Scenic Rivers Act
- Impact upon TSCA
- Impact upon NEPA
 - Record of environmental consideration
 - Categorical exclusion
 - EA with FONSI – no significant impact
 - Environmental Impact Statement
- Impact upon CERCLA
 - Environmental Base Line study attached
 - HTRW substances released, stored, disposed of in threshold quantities
 - Remedial action underway, complete, not been taken
- Ammunition/explosives contamination
- Impact upon Resource Conservation and Recovery Act
- Impact of LUST
- Impact of asbestos
- Impact of lead based paints
- Impact upon Clean Air Act
- Environmental information falls within Federal guidelines

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As all these things are taken into account, the best presentation tool is a land use planning map on which all those buildings, facilities, and land available for partnership opportunities are shown. The map should specifically delineate all land use restrictions, which include safety arcs, security zones, wetlands, contaminated soils (show specifically by symbols), wildlife refuge or other existing uses. An overlay should be added which would show roads, utility lines, sewer, rail, and power. The end result will be an easy-to-grasp picture of available property that will guide the installation to a quick decision on the zoning of partnership areas. Included on the next pages are sample land use maps showing potential and present activities as well as constraints (such as environmental). Once the general map is completed, individual building or land parcel plots may be prepared.

PARTNERSHIP THROUGH MEMORANDUM OF AGREEMENT

Atterbury-Muscatatuck Center for Complex Operations (AMCCO) and Indiana State University (ISU)

- ISU will use restricted air space, runway, and other resources at AMCCO.
- Allows ISU to obtain certificate of authorization from FAA to teach students to fly unmanned aircraft.
- ISU also listed as coordinating agency for other nongovernmental organizations that want to use restricted AMCCO airspace.
- Access to AMCCO resources including educational buildings, tunnels, a hospital and power plant on over 1,000 acres.

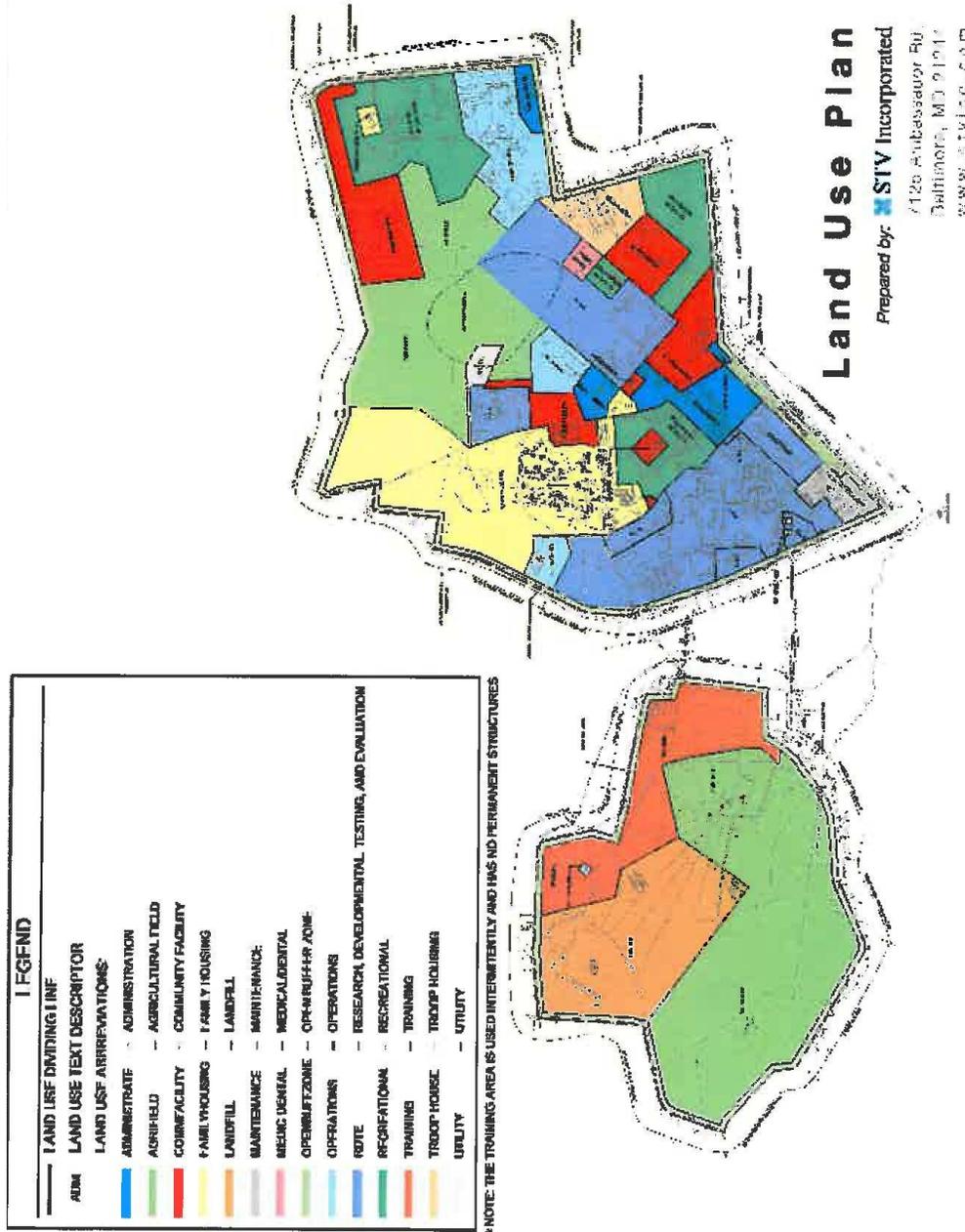
In those cases where the assets are equipment and/or technology, the process is a little different. The technical descriptions of such assets do not lend themselves to presentation to lay people who may be brokers or representatives for outside interests. Some installations have approached this problem by preparing one page brochures grouping asset by function or use. These should be written in non-technical language so an initial decision can be made as to their applicability to the intended target. Such presentations should include:

- Specific equipment and a list of its possible uses
 - Condition and date of acquisition
 - Any modifications instituted or possible
 - Schedule of availability
- Cost of use and maintenance
- Knowledge and Specific Skills. To ascertain these, it may be helpful to check with specialized equipment operators. Additionally, since it is important to express mission capabilities in non-military language, work with university partners who will use academic descriptors and business partners who will use trade descriptions.
- Intellectual Property (includes data, patents and federally owned copyrights). A complete description of the intellectual property is important. Patent status, such as filing dates, prosecution status, and fees paid, is just as important as the patent abstract and number. Here description is important and cannot be just the patent abstract and number. Consider partnering with universities and businesses again to secure definitions that likely users would understand. Group this information by subject matter to help others understand the magnitude of your capabilities available for partnering.

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Note that as with the ROA checklist above, identifying all the issues surrounding the existence and availability of mission-related assets makes clear to the organization and potential partners the value of partnering with you. It is very hard to negotiate an exchange when you are not sure of the value of your trading material. Your output will be a list of sharable assets, whether things, people, or intangibles like data and patents. This listing (with any use restrictions identified) will be valued in Step 3.

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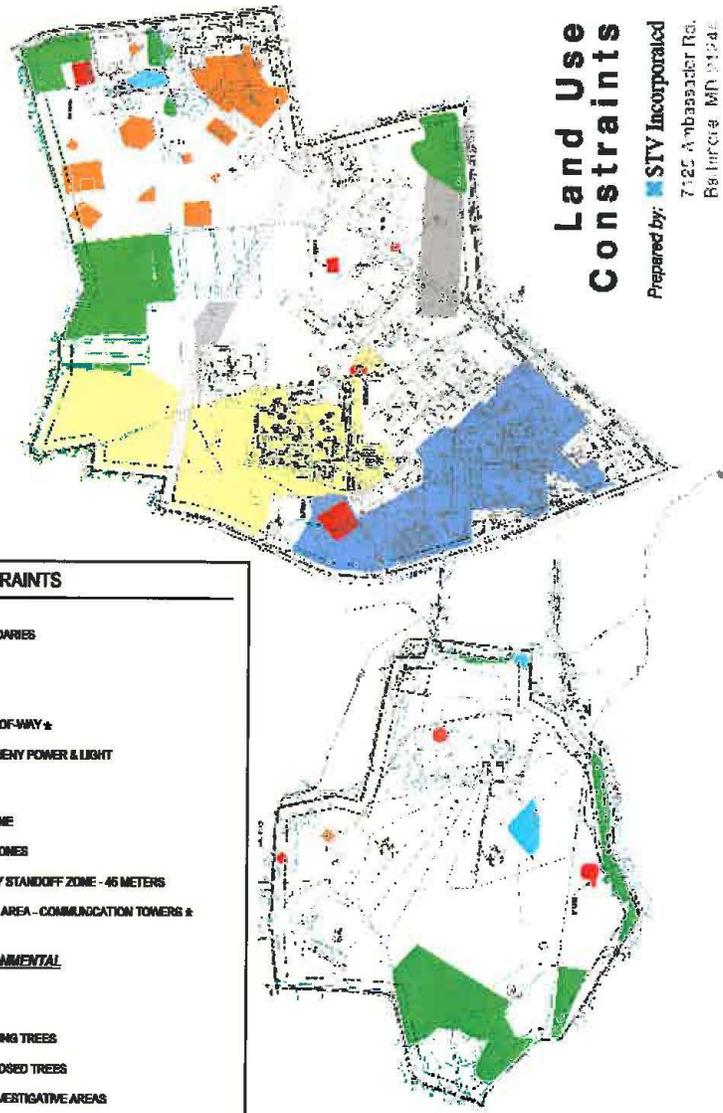
Land Use Plan

Prepared by: STV Incorporated
 7126 Ambassador Rd.
 Beltsville, MD 20717
 www.stvinc.com

Public/Private Partnership Guide For Indiana Military Facilities

Land Use Constraints

Prepared by: **STV Incorporated**
 7125 Ambassador Rd.
 Baltimore, MD 21242
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CONSTRAINTS	
LEGAL	
	INSTALLATION BOUNDARIES
	OUTLEASES - MCI
	OUTLEASES - RCI
	POWER LINE RIGHTS-OF-WAY *
	EASEMENTS - ALLEGHENY POWER & LIGHT
OPERATIONAL	
	HELIPAD/LANDING ZONE
	EXPLOSIVE SAFETY ZONES
	PERIMETER SECURITY STANDOFF ZONE - 46 METERS
	RESTRICTED ACCESS AREA - COMMUNICATION TOWERS *
PHYSICAL/ENVIRONMENTAL	
	WATER BODIES
	WETLANDS
	FORESTATION - EXISTING TREES
	FORESTATION - PROPOSED TREES
	HAZMAT REMEDIAL INVESTIGATIVE AREAS
HISTORIC & CULTURAL	
	HISTORIC AND ARCHEOLOGICAL SITES
	MEMORIALS AND MONUMENTS
* POSSIBLE SOURCES OF ELECTROMAGNETIC RADIATION	

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STEP 3 – CALCULATING THE COST AND THE VALUE

This step provides an approach to value the people, equipment, and facilities that your team has identified as assets available for non-service use. Armed with this data, your exchanges of value with a private sector partner are more reasonable and an agreement can be more easily reached. This section describes available approaches to value what you have to offer others, ways to identify the costs of what you want, different ways to receive value from your partners, and the impact of these choices.

Calculating Cost and Value

At this point, the Base Operations Planning Group is establishing the rules for partnering for your installation and the Mission Operations Planning Group is identifying what is required to meet customer needs into the future and what can be shared from your organization. As you prepare to enter into negotiation with outside organizations for use of facilities and property, you need to understand the value of what you have to offer, as well as the costs associated with the maintenance of these assets.

When you are about to receive and review a proposal for use of a building by a specific company, you need to be able to turn to an information source that will provide a reasonably good description of the value of that property in the private sector. You will also need to know the cost of operating and maintaining that building and/or equipment as well as any restrictions on its use (see ROA) and problems that would require expenditure by any private sector user. Without all this information, you are unable to fairly represent the taxpayers' interest in the use of the property for private sector use. Using the procurement code as an example, developing an independent government estimate of the services to be provided is usually required before negotiations begin.

The chart on the next page is an example of a way to identify operating costs for the installation and for a similar property outside the fence. You will recognize this chart as a listing you use when providing to another government entity the use of land and buildings on your installation. It will, when complete, provide an important bargaining tool for you and your possible partners and also will identify where you might seek partners for trading of services. These items also represent services that the installation may provide to a private partner using land, buildings and/or equipment as another way to spread the cost of those services across a more broad number of users.

The cost of an appraisal of all of the property on an installation would be very expensive. However, there are several ways in which the installation can collect information on the private sector value of its property and prepare for negotiations. First, it would be advantageous to create a database describing existing buildings, by number, and, for some, the current use. This database needs to be expanded to include land parcels also available for use. Each commander will recognize that such a database exists and probably recognizes that it is likely out of date and not very discriminating in its evaluation of building status. However, it is a great place to begin.

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COST/VALUE COMPARISON CHART

	INSTALLATION	PRIVATE SECTOR	STATE/LOCAL GOVERNMENT
UTILITIES			
✓ Potable water per gallon			
✓ Sewage, per gallon			
✓ Service water (if available)			
✓ Electric power			
✓ Gas			
✓ Telephone cabling and cable repair service			
✓ Hook up costs, timing, and deposits			
MUNICIPAL SERVICES			
✓ Police			
✓ Fire			
✓ Fire prevention			
✓ Safety (internal OSHA)			
✓ Safety training			
✓ Other types of training			
✓ Ambulance service			
✓ Health screening			
✓ Plowing of roads (per mile)			
✓ Maintenance of roads (per mile)			
✓ Trash removal and schedule			
✓ Pest control			
✓ Child care facility use			
✓ Use of health clinic			
✓ Use of fitness center/gym			
✓ Use of library			
✓ Disaster preparedness and support			
✓ Environmental services			
✓ Roof repair (per sq. ft.)			
✓ Building demolition and removal (per sq. ft.)			
✓ Miscellaneous			
SITE SPECIFIC SERVICES			
✓ Installation and maintenance of signage			
✓ Custodial services and schedules			
✓ Facilities planning			
✓ Provision of maintenance and repair			
✓ Pest control			
✓ Building construction			

Such a database is usually organized by building number. In an effort to avoid analysis of the whole facilities, work with those buildings and parcels that appear to have the least problems (see ROA), are close to transportation, can be isolated for security purposes, etc. Make a list of the buildings and equipment that can be shared. This information should be combined with the information on environmental problems now known, and the information to be collected during the ROA process. The local economic development office and/or chamber of commerce could create a committee of professional commercial leasing agents to advise you. Such a committee can provide a property listing sheet used by professionals to identify the aspects of a building or land available for use. It will list all the information professionals want to know about your property and in a form they are used to working with. It is now much easier to look at real estate listings outside the gate to identify what might be good estimates of the value of your buildings, equipment, and land.

This advisory group can also provide valuable information on local cost of operation, rental cost, comparable prices, and other localized expenses. This group could be supplemented by volunteers from the State board of realtors, and from real property managers who manage the billions of dollars of real property owned or controlled by any large multi-national firms in the local area. This group can, and will, suggest methodologies for negotiating for real property use by others that can help you drive a fair deal each time.

The effort of identifying land and property values is a continual one. Maintaining good relations with private sector organizations that can assist in this effort should be an installation's goal throughout the partnering process. Understanding the value of land and buildings by itself is not sufficient information to begin bargaining with private sector organizations for use of your land and buildings. You must also know what you want and how much that will cost (see Step 4).

PARTNERSHIP THROUGH CRADA AND FACILITY USE AGREEMENT

Arsenal Business and Technology Partnership and the

Army Watervliet Arsenal/Benet Labs

- CRADA and Facility Use Agreement established Arsenal Partnership to address Army and community desire to create new jobs and rehabilitate facilities.
- Arsenal currently hosts 10 companies.
- Over 350 new jobs created and \$150 million received for construction and renovation improvements.
- CRADA with Vistec Corporation addressed Army and Defense Industrial Base need for ultra-lithography applications. Funding for building renovation and equipment provided by Vistec Corporation and New York State.
- Under a Facility Use Agreement signed in 2015, Veterans Entrepreneurial Activity (located at the Arsenal) initiated "Boots to Business." Assists veterans in establishing and growing business, serves as an incubator and can provide business and technical assistance.

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The best way to present the value and cost data to any potential user or partner is in a clear, allocated, reproducible, and easily manipulated cost model. This is what most potential lessees, lenders, and insurance underwriters are accustomed to and expect. There are several significant aspects to the construction of such a model:

1. Cost categorization should not be limited to standard military cost models currently used by the Department of Public Works. Rather, a widely accepted private sector cost model should be considered, such as that used by the Real Estate Managers Association. This model is available in pre-built, Excel-type spreadsheets ranging from simple to very complex. These models are well known to those who negotiate lease arrangements.
2. The local county may be home to a number of corporate headquarters or major facilities where real property managers with large property portfolios can be found. The local chamber of commerce could agree to assemble a group of property managers to advise and suggest appropriate cost models.
3. Allocation of costs may be a problem as the operation costs of particular buildings (or infrastructure components) are determined. Historic cost data have generally been collected and aggregated on a yearly basis, then divided among all users to determine allocable costs. This approach masks variations and makes difficult the identification of cost differences between and among different buildings and different uses of the same building. For example, a much older administrative-use-only building with little insulation and an aging air conditioning system might utilize much less electricity, water heating and cooling, than a newer, smaller, intensely utilized lab building. The costs of operation are the same for these buildings, but the realities of their cost consumption are very different. The variable cost differences may not be important from a central funding perspective that relies on operation and maintenance authorizations and appropriations, but the identification of cost by building and use becomes important when reimbursement of costs by private sector users is possible.
4. The solution to this issue lies in the identification of costs in a particular building perhaps through movable metering that collects costs for a set period of time, and then can be used to monitor another building for a period. (This might be an excellent service to request from a county or State governmental entity.) Extrapolation will, unfortunately, be necessary, but this is a much better predictor of costs than the aggregation of all costs divided by total square footage under roof. If this is not a possibility, consider adjustments based on known usage differences. The cost model selected should be one that can be easily manipulated to do forecasting and “what if” forms of projection. Not only will you need to identify and calculate service and maintenance costs that might be provided in lieu of cash rent, but potential lessees need to be able to predict current and future costs of operation, maintenance, and capital improvements.

5. Cost groupings, based upon the suggested property management categories, should include the allocable cost of everyday maintenance for the installation's infrastructure — including roads, sewers and treatment facilities, power, water and heat generation, and distribution. Also, consider and include the costs of deferred and planned maintenance into the future, perhaps as much as 20 years. The costs of deferred and planned capital improvements should also be quantified and related to any planned operational cost reductions. For instance, building use should contain an infrastructure, the cost of day-to-day maintenance of all significant buildings (including deferred and planned maintenance) should be calculated and included in the model. The cost of planned and deferred capital improvements, as well as the cost of janitorial and other operating costs and consumables, must also be identified and included.

Receiving Consideration Using Different Partnership Mechanisms

When a private sector party utilizes a military facility for private sector purposes, how will the income be accounted for and how will it be spent? This two-part question implies that an installation can receive several kinds of income, that it can retain that income, and that it can decide how to spend that income. The problems to be avoided are a supplementation of appropriation or an unauthorized expenditure of funds (an anti-deficiency act violation). Congress, jealous of its authority, does not allow the executive branch to supplement the funds Congress provides for the operation of any particular activity or spend funds provided for one use on another without permission. Violations are both a felony and illustrate how carefully Congress protects the power of the purse. The choice of partnering instrument dictates what may be received and how it can be used.

CRADA (15 U.S.C 3710a). If a CRADA is used, the private sector partner may provide to the installation for its use (without violation) the use of materials, intellectual property, equipment, facilities, and funding. These have been broadly defined. The funding remains with the installation (divided as the command determines) and can be used within 2.5 years for relatively broad purposes involving research and development, personnel, equipment, and training. Understanding fully loaded and avoidable costs as well as rights to technical data and innovation is important here.

Test Service and Similar Agreements (10 U.S.C. 2539b, 10 U.S.C. 2563, 10 U.S.C. 2681, and 10 U.S.C. 2474). If a test service and similar agreement is used (note specific rules for when each may be used), funds received remain with the installation and are, like a CRADA, credited to the appropriations accounts used to provide the services. Understanding fully loaded and avoidable costs is important here.

Facilities Use Agreements (Federal Acquisition Regulation (FAR) Part 45). Used when a Government procurement is or will be in place, usually the value received by the private sector company for the use of equipment and/or facilities to be used for private sector purpose will reduce the amount of funding to be provided to the Government for work to be performed under the contract.

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Enhanced Use Lease (10 U.S.C. 2667). This contractual form allows a private sector organization (State, municipality, company, etc.) to lease for up to 40 years real property and equipment. The lease may provide, in return for use of the property, money rent or in-kind services such as maintenance, protection, alteration, repair, improvement, or restoration (including environmental restoration) of property or facilities, construction of new facilities, provision of facilities, facilities operations, and/or provision of such other services relating to activities that will occur on the leased property as the Secretary concerned consider appropriate. As can be expected, with the degree of latitude, navigating the rules here will take great care.

If this sounds confusing, you have correctly assessed the situation. The complexity springs from the efforts by military leadership to lay down rules for private sector use of people, equipment and facilities originally trained, procured and used for military purpose. It takes care in selecting the instrument most easy to use and over time helping all concerned to stay within the rules.

Review the section entitled Partnership Tools – Summary to identify the approaches that best suit your partnership plan and use the appendix to give you the citations you need to work with your two teams to bring mission strengthening capabilities to your organization.

Impact of Local Jurisdictions and Taxation

The last element of establishing a current and potential value for your installation concerns planning for the impact of laws and regulations of the local jurisdictions, specifically any that would apply to the non-Federal use of land and buildings. Principal among these categories is property taxation and building/zoning codes.

Recall that land and buildings being used by the Federal Government for governmental purposes are exempt from State and local property taxation. However, once land is used for non-Federal purposes that are otherwise not exempt from taxation, that portion of the land and buildings not used for Federal purpose is taxable by State or local governmental bodies. This position was established by the U.S. Supreme Court. While it is unlikely that any taxing authority, whether State or local, would impose a property tax less than that currently charged by the local jurisdictions (county and municipal), it is important to seek to benefit your installation as much as possible in the imposition and use of tax revenue derived from private sector use of installation property.

Note that the statute that allows for the leasing of DoD land and buildings for private sector purposes allows for taxation of land by State and local governments. All of the real property taxes that apply outside the fence can apply to leased property inside the fence:

"e) The interest of a lessee of property leased under this section may be taxed by State or local governments. A lease under this section shall provide that, if and to the extent that the leased property is later made taxable by State or local governments under an Act of Congress, the lease shall be renegotiated." (10 U.S.C. 2667, section (e))

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When federally owned land is no longer used for governmental purposes, generally that portion of the land and buildings used for private sector purposes become taxable by State or local taxing authorities. Where the land is provided to a private sector organization through the use of a 10 U.S.C. 2667 lease, taxation by either the State or the local government becomes the rule. Note that the entire value of the land and buildings being used for private sector purposes will not be taxed unless all of the title to the land and building leaves the U.S. Government and is passed to a non-governmental and non-exempt organization. Where another uses Federal property for private sector use under a lease, only the use value of the land and building is taxed.

In most areas, the State has a preemptive role as far as the taxing of property. If a State decided to tax the value of the land and buildings being used for private purposes, then neither the municipal nor the county jurisdictions could tax the value of the private sector use.

The State would decide the rate of taxation, what buildings and land would be taxable, and what value to assign to the use of different parcels of land and/or buildings. The State could also decide what portion of such tax is to be spent improving the property, road access into and exiting, and/or environmental clean-up, and what portion would be shared with the local jurisdictions to make up for any local revenue loss created by providing services to installation land and buildings that were previously provided by Federal funds.

If, however, the local jurisdictions become the taxing authorities, several significant issues arise. First, note that different jurisdictions may have the right to tax property on different parts of an installation. Thus, it may be that each local jurisdiction treats different classes and uses of buildings and land differently for taxation purposes making differing tax rates on similar property on different parts of the installation. Such differences may include different times of tax payment, different rates of tax, different places of payment, and different tax abatement rules. Second, there will be significant pressure for sharing tax revenue with other close, but not necessarily abutting, jurisdictions. One jurisdiction may want a portion of the tax levied by another. Third, other jurisdictions within a local county could view the installation property as competition for land and buildings within their own jurisdiction, and could try and impose a more stringent taxation on installation land and buildings to be leased. You should consider teaming with your county officials to work out the options well in advance, to avoid arguments that can stop a partnership in its tracks.

The same reasoning the subjects land and buildings in private sector use to taxation might also cause local jurisdictions to attempt to subject private sector uses of a building local land use, fire, occupancy, and building codes. Noting that there is no alternative language in the leasing statute (10 U.S.C. 2667) concerning building, fire, occupancy and land use codes, local influence on these issues is to be expected but should not prevail. Nonetheless, the impact of different codes of different jurisdictions can be a significant problem. Overlapping land use and building codes can significantly affect what might be done or planned by private sector organizations.

Early and definitive discussions need to be held with heads of local jurisdictions to identify the intent and statutory authorities so that problems can be anticipated and solved.

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The pervasive impact of these codes and regulations on day to day activities can be significant. It may be that major differences might be created between the buildings that are used partly for private sector purposes and partly for Federal purposes. Such differences might involve occupancy certificates that require sprinklers, access ramps, and emergency lighting. Fire code exit route requirements and fire lane clearance rules might conflict with other planned improvements. Building code mandated improvements might be required whenever improvements of a certain dollar value are undertaken.

Land use requirements (zoning) must also be considered. Such land use requirements were most likely created at a time when private sector use of installation property was never considered. Master plans involving sewer and water, transportation, utilities, recreational land use and the like must also be reviewed to ensure that local rules do not unduly hinder private sector use, nor prevent use of land in ways that will benefit the installation. This issue is especially important to ensure that local plans and codes do not inhibit any use of installation land and/or facilities.

All these components and categories must be assessed and quantified when establishing the value (and thus the marketability) of installation land and buildings.

STEP 4 – DEFINING THE NEEDS OF YOUR ORGANIZATION

Before any attempt at partnering or searching for an appropriate user can be properly organized, each installation must be clear as to what it needs today and into the future. There must be a clear vision as to what core components will make up the installation as it faces the future and works to service the needs of its current and future clients. Representatives of installation organizations, tenants, and the administrative units that can prevent action must be present with a meaningful voice. The base and mission operation IPTs must review the needs of each organization to develop a unified plan and priority list of needs. The following questions must be considered as they relate to the present and five years into the future:

1. What are the organizational priorities, institutional priorities, and unit priorities (these may be different, conflicting, or overlapping)?
2. What will those priorities cost and from where will funds come?
3. What is the likely availability of funds to pay for what I want?
4. Which services are needed, required, or are dispensable?
5. What are the costs of the things and services that I want or need?
6. What are the unfunded needs that I presently have?
7. What can I live with; what can I live without?
8. What is the personnel impact? Consider training needs.
9. Are there security or mission requirements that can't be overcome?
10. What are the liabilities that must be faced?

Each identified need will have an extended impact on facilities, equipment, expertise, and personnel, and all will have a cost impact. The IPT may very well end up with a collection of trade-offs, what-ifs, or a matrix of options. In any event, this will provide the basis for the choices that the planning group will have to deal with.

Any potential user or partner will ask what the installation wants in return for the use of its land, people, and/or buildings. Unless you are prepared with a rational, reasonable, and well-priced presentation and description of your vision, an opportunity to meet those needs will be lost. Many private sector interests have a built-in wariness about depending on the government. A comprehensive description of how a business arrangement will be structured to give a clear signal of how fruitful negotiations might be.

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Certainly it is fair for any installation to look to a P3 as a way to improve mission capability and the workplace while attempting to reduce operating costs. But it is essential that the mission operations IPT specifically identify what physical manifestations of mission capability and workplace improvements are desired, as well as what operational costs are to be reduced and how. The list of benefits that are expected from such a partnership, whether they be buildings, capabilities, equipment, or cost reduction, must be clearly identified, defined, and priced.

Once needs have been identified, mission IPT members should be asking, in each area, “who has what I want and how much will it cost?” The IPT members must also ask, of those who have what is needed, “what do they want/need and how much will it cost?” Combined with the results of earlier sections identifying “what I have that is available for exchange and its value”, the task of matching this information set against the appropriate partnering agreements available will provide senior leadership with a set of choices with methods of implementation ready for deciding priorities for action.

A Comprehensive Approach

This activity should be divided into several parts: the first requires a number of small groups of fact gathering facilitators visiting each major subdivision of the military organization to identify and define mission business unit needs. This needs assessment should include both short- and long-term needs measured in five-year increments. The real property, equipment, and support levels that these business unit managers envision must be defined with reasonable precision and then discussed with related business unit managers to avoid duplication. The other essential part involves needed improvements — both to the infrastructure and the working life of installation personnel.

Combining the needs of all parties, discussions must proceed up the chain to the central leadership where a single vision must be produced. That single vision should be defined in terms of installation needs for more Federal employees and support contractor personnel, skill levels, equipment, facilities and expected operating costs. These items should be shown in priority order by major category.

If this is done right, then what will be achieved is an ordered approach to considering both needs and possible issues involved with the combined needs of all mission units. Without this, duplication of desired capabilities is likely. More importantly, requirements needed by all will be overlooked and opportunities lost.

PARTNERSHIP THROUGH PARTNERSHIP INTERMEDIARY AGREEMENT

*Naval Surface Warfare Center,
Carderock Division
and
Montgomery County Public Schools*

- Leverages businesses’ ability to identify Navy developed technologies available for licensing.
- Allows businesses to participate in technology showcases, have better access to programs and resources to develop R&D collaborations with NSWC Carderock, and participate in one-on-one or small group meetings with the Carderock Technology Transfer Office.

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Now, let's look at the need for improvements. The first part of this effort involves the gathering and analysis of information to identify, in priority order, significant deferred maintenance issues, unfunded ongoing costs, plus those expenditures that would have a real impact on the reduction of operating costs. These will enable the determination of priorities in the acquisition of things, people, and facilities necessary to improve the infrastructure in ways that will maintain needed services, reduce operating costs, and improve the quality of services.

When this is done, the mission and base operation IPTs should be prepared to brief Senior Leadership. The base operation IPT should brief on current garrison infrastructure spending plans and priorities, deferred maintenance issues, and recommendations to reduce operating costs while, at a minimum, maintaining existing services. This will include current garrison costs of operation along with identification of targets that provide the best opportunities to reduce costs. Along with this information should be a matrix of categories showing the current State, improvement plans, and privatization potential. Such categories might include:

- Facilities
- Water and sewer
- Power
- Regulations impacting operations
- Environment
- Security
- Safety

The other part of the list of improvements should cover those components that affect the working life of installation personnel over the next five years. This should consist of recommendations with priorities for acquiring the capabilities needed to significantly improve the working life of Federal employees, military service members, and new partners. This should cover, among other things, the following:

- Higher building standards throughout
- On-post gas station, auto repair, dry cleaner, pharmacy, barbershop, and florist available to all
- Several levels of restaurants
- On-post conference center with guest house
- Better parking
- Convenience store complex

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The mission IPT should present the likely customer set five or ten years into the future and what will be needed to meet that future mission.

Both teams should consider the capabilities of others, both public and private, and their plans, plus the income potential and cost requirements of these lifestyle improvements. Note that most of these additions to the quality of working life will be self-funding and produce an income stream (see morale, welfare, and recreation (MWR) regulations).

At the end of the day, what will be produced is a menu, in priority order, of wants and needs that will allow the potential public/private partners to pick those parts of the vision they might wish to provide. The key is that the production and review of this plan, or list of needs and wants must be continuous and yet sensitive to changing political and economic circumstances. The managers and leaders involved must dedicate personal and official time to this effort.

The Need for Relentless Communications

There should be a designated spokesperson who will be responsible for developing a communication plan. This plan will present appropriate details to base personnel, contractors, political neighbors, as well as State, local, and Federal officials.

As the whole planning process goes forward, internal and external communications of progress, problems and intent, will become more and more important to the long-term success of the plan. Different stakeholders (military and DoD leaders, Federal and State officials, Federal and State legislators, Federal and State administrative leaders, local planners and service providers, mayors, taxation authorities, and citizens) will have varying interests, constituencies, and concerns over time. Each must be addressed, considered, recognized, and incorporated. Without the understanding and support of such stakeholders, the plan will flounder.

A communications plan must be constructed early on which both informs others and collects support as well as opposition to the plan internally and externally. Remember that there are many more people who can say “no” than there are those who can approve. Adjusting to meet and solve such opposition is the key to success. Once drafted, the communications plan must be rigorously followed, reviewed, and updated to insure that a simple “failure to communicate” will not doom the plan.

An IPT, aimed at the immediate development of an internal and external communications plan, should describe and evaluate all elements of communications capabilities (print, video, e-mail, social media, and personal contacts). It should list the principal communicators, such as the commander, technical director, public affairs representative, plan spokesperson, as well as the installation communications facilitators (press officers, PowerPoint, and web page writers), and include the target audiences. With all this information in hand, an outreach plan describing the communicator, audience, message, time lines, and feedback loops, will be created and presented to the IPT. Once approved, its operation will begin immediately and be the subject of monthly information briefings to leadership.

The bottom line is to develop a uniform message that can be delivered by knowledgeable and persuasive people chosen with the perspective of the target (and their organization) in mind. A straightforward, short PowerPoint leave-behind should be crafted and given to spokespersons — sized to the listener’s interest and need for information.

STEP 5 – IDENTIFYING AND TARGETING A POTENTIAL PARTNER

As you approach the point of positioning yourself for “partnering,” it is important to put yourself in a partner’s position. It has already been mentioned that a private sector partner may have bias and hesitancy about dealing with, or even depending upon, a relationship with the government. Some may have experience with this and others may not. Private sector firms are not often sensitive to the demands of Mission and its supremacy in the military world. You will have to be sensitive to such anxieties, and your presentation should be crafted in such a way so as not to magnify or confirm such fears.

Ask yourself what type of partner might be interested in what your installation has available. A Government agency? An educational institution? A non-profit organization? A research activity? A small business or large corporation? A Government contractor?

An excellent place to start is with defense contractors. Obviously, these entities know all about dealing with the government and have a comfort level upon which you can build. Your own procurement network will help, but there are also many web sources that can target companies that may be compatible with your installation’s capabilities. You can think of the issue in a different way. What Federal agencies use what you have? Look for contractors that supply the needs of that organization and then look for a connection. Last, remember to take a hard look at the list of companies that supply the needs of your organization and consider talking with them about using some of your available expertise and/or equipment.

The nearly 750 Federal “laboratories” which are members of the Federal Laboratory Consortium are also excellent potential sources. Look for organizations that may have an interest in your capabilities and companies that may supply those labs. These organizations and companies are very familiar with the many tools of partnering (CRADA, Test Services Agreement (TSA), Patent License Agreement, Facilities Use Agreements and other agreement platforms). Attached is a list of these labs and information about how to locate and target their capabilities. You should look to identify those opportunities where you might augment the facilities of another lab or combine forces to provide more capability to both.

Another angle of approach is to search for companies by industry category. One can first search by the North American Industrial Classification System (NAICS) Code. This vast database of industrial categories that can then be targeted through the Harris and Hoover Directories of firms in various codes by geographical area. You can search for firms that might be interested in your capabilities by specific areas. Remember that companies are a lot more comfortable when a visit to your facility is only an hour or two away. All of these databases and lists are accessible through web sites, and the attached pages will give a rough idea of how to do this. A Harris Directory lists the same information for Indiana only (see the Harris Directory home page for the same material in other States).

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From a research and development perspective, there are other sources beyond the Federal Laboratory Consortium. The web can bring you schools (community colleges, colleges, and universities) with a strong interest in your capabilities. Consider looking at your patent portfolio and in your areas of strength, look for universities and companies who hold patents in the same area. Consider also the knowledge of your own scientists and engineers. They will also know what companies and schools are interested in your areas of expertise. . Last, the Small Business Administration provides a nationwide database of manufacturing companies, sorted by SIC and NAICS codes.

Now, knowing what you want, who might want it, and what you have to trade, consider what are your priorities? What is most needed, who has it, what might they want, who in your organization may have a contact into their leadership group? Make a list, prepare for each target, and send your own leadership to begin the process.

PARTNERSHIP TOOLS — SUMMARY

Partnership Tools

Partnerships will take many forms, driven by the corporate form of the partner, the things to be shared, and the business terms involved. What follows are most of the possible partnering authorities and examples of how they might be utilized. The CD-ROM contains the applicable statutes and one or more examples of each kind of agreement. Do not expect any one agreement to meet the needs of any one partnership. Always consider multiple agreements.

Memorandum of Understanding (MOU) Memorandum of Agreement (MOA)

This non-binding form of agreement is used to memorialize the intentions of Federal and non-Federal parties. The usual MOU — MOA describes the goals of an intended relationship, the skills of the parties, the contribution of the parties, and what each party hopes to achieve. Generally signed by a senior official, this is a generally informal agreement that is often used as a precursor to the formal agreements. While the time of individuals and information is often exchanged within the framework of the activity intended under MOU, this is not the vehicle to exchange things of value. Several forms of this agreement are attached.

Bailment

10 U.S.C. 2539b

A Bailment is an agreement between the owner and another that governs the use of personal property such as equipment no matter where the equipment is located. The agreement sets the rules about how the property will be used, cared for, and returned. Locally approved, a bailment is not a vehicle under which money may be exchanged. Often bailment language will be included in a CRADA to provide usage rules for the equipment where the authority for use of equipment is provided by the CRADA legislation.

Contracts

31 U.S.C. 6303

FAR Contract Clauses Covering Intellectual Property and Data

Contracts describe large and sometimes dissimilar group formal agreements from credit card transactions through five year or more multi-million dollar contracts, "cooperative agreements and other transactions". The contract form of agreement requires competition unless an exemption is approved. Usually a contract does not involve joint activity, and usually provides money to the contractor in return for goods and/or services described in a scope of work. In furtherance of a contract, the government may provide the use of Federal equipment and facilities (usually under a facilities use agreement described later). Intellectual property created under a contract usually is the property of the contractor but the government always receives the right to use invention, data, software, copyright, and the like produced under a contract for government purposes. Graduating in complexity (complexity based upon dollar volume), contracts are usually locally approved by a contracting officer with a warrant equal to or greater than the value of the contract after a review by the local legal department. The FARs and the Defense Supplement to the FAR, controls, in detail, the activities leading up to contract formation.

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Cooperative Agreement

15 U.S.C. 3706

31 U.S.C. 6305

Cooperative Agreements are a variant of a contract where both the government and the contractor both contribute to a defined goal and both have enforceable duties. All information provided about contracts (approval authority, legal review, facilities use opportunities, and intellectual property) also applies to Cooperative Agreements. These contracts are used when the parties wish to work together on the same project, sharing each party's expertise, and perhaps facilities and equipment. While funds may be passed from the government to the contractor, the contractor must also provide contribution to the joint effort, generally at least half of the cost of the total cooperative agreement effort. The government may provide the use of government personnel, equipment, materials, and facilities (please see facilities use agreements). The benefit provided by the contractor can include research performed, facilities and materials utilized, or other in-kind services. The contractor may not provide money to the Federal partner. While locally reviewed and approved, it is generally more complex than the normal contract and therefore requires more time to completion.

Other Transactions

Other Transactions for Research

10 U.S.C. 2371

10 U.S.C. 2358

Other Transaction for Prototypes

Section 845 of The 1997 Defense Authorization Act

"Other Transactions", very much like Cooperative Agreements described above, are federal contracts but are generally exempt from many of the provisions of the FARs and the Defense Federal Acquisition Regulation (DFAR) with the intent that more flexibility is needed to meet unique situations where the parties work jointly toward a common goal. Like the cooperative agreement, the non-federal party must contribute to the joint effort but may provide less than 50-percent of the cost of the effort by making in-kind contributions to the effort including the use of researchers and other contractor employees, intellectual property, material, equipment, and facilities (cash may not be transferred to the government using an "other transaction"). Most other Federal contracting rules do not apply to this contract vehicle but are often used as guides. While locally reviewed and approved, these agreements must be individually negotiated so time for this must be planned. This contract form may also be used with a facilities use agreement. Please note that this form of agreement is currently favored.

CRADA

31 U.S.C. 6305

10 U.S.C. 2371

15 U.S.C. 3710a

Example:

CRADA

A CRADA is an agreement exempt from FAR and DFAR. Although locally reviewed and approved, Agency level oversight is possible. Under a CRADA, the government may, for the purpose of joint research, development, engineering, and testing, but not manufacture, give to a non-Federal government organization (public and private), the use of Federal personnel, materials, intellectual property, facilities and equipment; but not money. The non-Federal government party(s) may give to the Federal party(s) the use of personnel, material, intellectual property, facilities and equipment, and money. The money, which is retained locally, may only be used for additional research and development, training, and activities that foster technology transfer. These agreements are rapidly made, usually for five years but have sometimes been approved for 20 years and are terminable at will. They can be used as a precursor to other agreements. These agreements cannot be used to circumvent the procurement code or to allow competition with private sector organizations.

Patent License Agreements

35 U.S.C. 200 Et seq.

Example:

Navy Patent License Application

Federal laboratory directors are empowered to license exclusively or non-exclusively to private organizations the right to prevent others from the manufacture, use or sale of products and services that contain or utilize patented Federal technology. The terms of the license follow commercial practice and can include initial payments, progress payments, running royalties, minimum royalties, and pass-through royalties on sublicense income. Performance milestones are often required. Federal patent licenses are often limited to specific fields of use for a portion or the full term of U.S. patent protection. Occasionally Federal laboratories will protect the Federal patent in foreign jurisdictions; but, this is most often accomplished by the licensee. Locally reviewed and approved, the funds received from a patent license agreement are shared with the inventor and the laboratory where the invention was made.

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Educational Partnership Agreement

10 U.S.C. 2194

Example:

Army Research Laboratory

Educational Partnership Agreements allow the transfer of material and equipment (and the use of equipment) by DoD organizations to educational institutions (defined as a local educational agency, elementary and secondary schools and administrative units up to the State level [*20 U.S.C. 8801*], colleges, universities, and any other nonprofit institutions that are dedicated to improving science, mathematics, and engineering education (only U.S. locations)).

This agreement, locally reviewed and approved by the lab director, allows the loan of lab equipment, the transfer of surplus equipment, students and faculty access to defense labs for research purposes, and the use of lab personnel to teach and/or develop science courses and material. Note carefully the combination of CRADA, Intergovernmental Personnel Act (IPA), and EA and a private sector partner as a way for use of Federal facilities and equipment might be used for private commercial purpose.

PIA

15 U.S.C. 3715

Examples:

Wright-Patterson Agreement

Air Force Blank

PIAs can take the form of an MOU or contract and are authorized under a different title and section of the Federal statutes. FAR and DFAR are often utilized as guides to these transactions. Because these are contracts, use of Federal facilities may be provided to the contractor if used in furtherance of the effort (see facilities use agreements). The Federal party may enter into an agreement with an agency of State or local governments, other entities chartered and/or funded by State or local government, and educational institutions (educational agency, college, university, or other non-profit institution dedicated to improving science, mathematics, and engineering education). The intent of the partnership is any activities that are "likely to increase the likelihood of success in the conduct of cooperative or joint activities for the lab with small business firms. The use of real property under a PIA would be controlled by the service owning the property. This is an unusual agreement for the Army; but is very familiar to the Air Force. The Navy is in the middle. The agreement is easy to draft because it is not subject to the FAR/DFAR, but because it is not regular; the legal office will carefully review it. Note that while the intermediary cannot provide money to the government under this agreement, it can, for the Federal Government, provide activities that are likely to increase the likelihood of success in the conduct of cooperative or joint activities for the lab with small business firms.

TSA

also called Work for Others

also called Commercial Services Agreements

10 U.S.C. 2474b – P3s for Depots

10 U.S.C. 2539b – Availability of Samples, Drawings, Information, Equipment, Materials, and Certain Services

10 U.S.C. 2563 – Articles and Services of Industrial Facilities: Sale to Persons Outside the Department of Defense

10 U.S.C. 2681 - Major Range and Test Facilities

DoD Instruction 5535.11 – Availability of Samples, Drawings, Information, Equipment, Materials, and Certain Services

Examples:

10 U.S.C. 2539b Bailment Agreement

Model Test Services Agreement

Naval Research Laboratory Multi-Use Sample Agreement

Available only to DoD organizations, these locally reviewed and approved agreements are very quickly established agreements under an authority different than the FAR/DFAR. While identified by different names by different DoD agencies, each example of this kind of agreement is different from the others in scope of allowable activity but share many attributes. Not available where competition with the private sector is created, the income received from these efforts will remain with the organization that performed the work. Generally, all intellectual property created (including data) will belong to the private party with no right to use any of it remaining in the Federal Government. It is important to review service specific rules for these agreements because there are some critically different interpretations of the statutes by the different services. What follows is a brief description of each:

DoD Instruction 5535.11

Newly delegated authority to make available to any person or entity, through leases, contracts, or other appropriate arrangements, facilities, services, and equipment of any government laboratory, research center, or range, if the facilities, services, and equipment provided will not be in direct competition with the domestic private sector. Funds received by the laboratories and centers (broadly interpreted) will remain at the installation for its use.

A Laboratory, Center or Range (broadly defined) can make its facilities, equipment, and personnel available, at a fully loaded price, for use by public and private sector organizations for public or private purpose. This is a new way to spur economic development and provide a revenue source to maintain equipment, staff, and facilities.

The DoD implementing instruction that delegated this existing statutory authority to laboratory, center, and range directors and commanders was issued to the Service Secretaries in March of 2012 but delegation of this authority to laboratory, center and range commanders and directors has not yet occurred. The DoD instructions are very detailed and could be utilized now.

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10 U.S.C. 2474b

This authority can be used by depots to enter into P3s.

10 U.S.C. 2563

Available to industrially funded (working capital funded) DoD organizations only, this authority can be used to sell non-commercially available items except cannon, ammunition, and their major parts at a cost at least equal to the avoidable cost plus depreciation.

10 U.S.C. 2681

This authority can be used to conduct commercial test and evaluation activities at a Major Range and Test Facility Installation only. The amount charged for the services must include at least all direct costs of rendering test or evaluation.

10 U.S.C. 2539b — Availability of Samples, Drawings, Information, Equipment, Materials, and Certain Services

Interagency Support Agreement

DoD Instruction 4000.19

The Interagency Support Agreement is the agreement between the Federal organization controlling real property and the organization using that property covering the payment to the former of operational cost of the former caused by the use of the property by the latter. It is an agreement that allows the controlling party to receive money from the using party to pay for utilities, guard services, fire protection, and support services. It would be used in any of the above agreements where a party other than the one controlling the property uses property. The rates to be paid for facilities use will be determined by the local installation and are subject to some negotiations. Note that this is a locally approved agreement that is rapidly established.

Enhanced Use Lease

also called Non-Excess Property Lease

10 U.S.C. 2667 — GAO Report

Examples:

- Fort Leonard Wood Technology Park Lease (Fort. Sam Houston Army)
- NAS Patuxent River Potential EUL Project Fact Sheet
- NRC Solomons Potential EUL Project Fact Sheet
- Request for Approval to Lease (Army)
- Sample NASA EUL
- Sample VA EUL

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This statute allows DoD organizations to lease non-excess property for five years (longer term with service Secretary approval) for non-defense uses in return for cash or in-kind payment equal to the fair market value or less if in the public interest. Cash received in return for services will remain with the organization providing the same. Cash income will be divided between the service Secretary and the organization leasing the property.

In-kind services include the construction, provision and operation of facilities as well as the maintenance, protection, alteration, repair, improvement, or restoration (including environmental restoration) of property or facilities (including those leased) under the control of the military branch. Last, in-kind payments may also include other services relating to activities that will occur on the leased property, as the service Secretary considers appropriate. Agricultural lease income is treated differently.

Before entering into any lease that has a value exceeding \$500,000.00, the Armed Services Committees of Congress must receive 30 days notice. Please note that *10 U.S.C. 2667* leases are used for MWR activities.

The Fort Leonard Wood Project involves a 33-year lease of 62 acres to the University of Missouri for construction of up to 17 buildings, operation of a branch of the University, and lease of space to private companies. The cost, about \$4M, of the Tech Park layout and first buildings is being split between the State government and the University. The Missouri University System and State Department of Economic Development will be the master lessee with the property being developed by a developer hired by the University. Fair market value rent will be paid in either services or cash.

Fort Sam Houston, after a competition to select the development partner, negotiated for about 18 months with a local developer and a national remediation company to lease out the former Brooke Army Hospital and two other large single story structures, totaling over 500,000 square feet. A copy of the lease in its current state and the request for approval is found in the *10 U.S.C. 2667* area.

Facilities Use Agreement

FAR 45.3

Examples:

- Watervliet Lease to the Arsenal Partnership, Example 1
- Watervliet Lease to the Arsenal Partnership, Example 2
- Oak Ridge National Lab Facilities Use Agreement
- Joliet Army Ammunition Plant Development Act (State of Illinois)

A contracting officer may provide government production and research property on an "as is" basis for performing fixed-price, time and material, and labor-hour contracts. It may also be furnished under a facilities contract, in which case the contract shall state that the contractor will not be reimbursed for modifying, repairing, or otherwise making the property ready for use. Use of the property will not provide a competitive advantage from the use of the property.

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Historic Property Lease

16 U.S.C. 470h

36 CFR 800, 805

A Federal agency may lease a historic property to any person or organization or exchange any property owned if the action will adequately ensure the preservation of the historic property. The proceeds of the lease may, notwithstanding any other provision of law, be retained by the agency and used to defray the costs of administration, maintenance, repair, and related expenses incurred with respect to such property or other National Register property belonging to that agency. Surplus funds will go back to the National Treasury. The agency may also enter into contracts for the management of the historic property.

Facility License

AR 405-80

Commander may grant short-term revocable licenses for the use of property:

- To document facility use agreement FAR, but not construction contracts, for the same term as the contract.
- For short-term revocable licenses of land and facilities for regular, occasional, or nonrecurring use of Federal property to State or local governments, youth, civic, community, or non-profit organizations.

Personnel Exchanges

IPA Program

5 U.S.C. 3371

The IPA Mobility Program allows employees (full-time for the last 90 days) of the Federal Government, a State or local government, educational institution, or a non-profit organization which has as one of its principal functions the offering of professional advisory, research, educational, or development services, or related services, to governments or universities concerned with public management; or a Federally-funded research and development center to be located in the others organization. Funding is based upon an agreement of the parties. This transfer for a fixed term (up to four years for Federal employees; but, unlimited for non-Federal employees) will achieve objectives such as:

- Strengthening the management capabilities of Federal, state, local, or tribal governments
- Assisting in the transfer and use of new technologies and approaches to solving governmental problems
- Providing the means of involving state and local officials in developing and implementing Federal policies and programs, or
- Providing program and developmental experience for the employee

Legislative Outgrant

Pine Bluff Arsenal

Los Angeles Airport

Brooks Air Force Base, Example 1

Special legislation is a discrete legislative action aimed at directing the Executive Branch to transfer specific real property to a specific party on directed terms. Attached are three different directed transfers, each with larger authority and complexity.

The Pine Bluff Arsenal transfer involved a legislative direction to the Secretary of the Army to transfer 1,500 acres of Pine Bluff Arsenal with a reversion to the Secretary of the Army after 25 years if certain events did not occur is the most straightforward example. Note that all of the terms of the transfer are to be set by the Army Secretary. While not required, the language giving the Secretary authority over the terms is recently more common and gives the Secretary great discretion on approving the sale or not, by controlling the terms.

The Los Angeles Airport transfer involves as consideration the construction and operation of a building in a form agreeable to the Air Force Secretary for a long span of years in return for title to land at the Los Angeles Airport. This bargain avoids complete discretion in the service Secretary while providing a very valuable long-term benefit to the Air Force.

The Brooks Air Force Base transfer, directed in two statutes, intends to pass title to the Brooks Air Force Base to the city of San Antonio. The city will then be responsible for the operation of the base, shifting operations and maintenance costs from the Air Force. The Air Force is empowered to lease from the city all the buildings it wants as well as utility and municipal services, at an agreed upon market value less negotiated concessions.

This agreement is very far reaching in that only the property needed by the Air Force will be leased back. (Note that the statute directs that this long-term lease will be scored by the Office of Management and Budget as an operating lease, thus removing the scoring problem from the table).

Additional Information can be found in the attachments included in this guide.

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