

## **POLICY CLARIFICATION UPDATE FOR PRIVATIZATION OF AIR FORCE UTILITY SYSTEMS**

### **1. PURPOSE:**

This document provides clarification to the Air Force utilities privatization strategy, procedures, and special issues presented in *the Clarification of Policies and Procedures for Privatizing Air Force Utility Systems*, Jul 99.

### **2. REFERENCES:**

- a. Defense Reform Initiative Report, 10 Nov 97
- b. Air Force Utilities Privatization Policy and Guidance Manual, Oct 98
- c. SAF/MIQ Memo to ALMAJCOM/CV, Environmental Policy, 12 Nov 98
- d. HQ USAF/ILE Memo to ALMAJCOM/CE, Call for Statements of Work, 22 Dec 98
- e. Defense Reform Initiative Directive #49, Dec 98
- f. OSD Policy, Privatization of Defense Utility Systems, Dec 98
- g. HQ USAF/ILEV Memo to ALMAJCOM/CEV, Environmental Requirements, 26 Jan 99
- h. HQ USAF/CC Memo to ALMAJCOM/CC, Update of Utilities Privatization, 8 Feb 99
- i. SAF/AQC Memo to ALMAJCOM Contracting Offices, 18 Feb 99
- j. Air Force Utilities Privatization Implementation Plan, 22 Feb 99
- k. Clarification of Policies and Procedures for Privatizing Air Force Utility Systems, Jul 99.
- l. SAF/AQC Memo to ALMAJCOM Contracting Offices, 10 Jan 00
- m. Environmental Studies to Support AF Utilities Privatization, 20 Jan 00
- n. OSD/GC Memo to Army/Navy/Air Force GC, State Laws & Regs in UP, 24 Feb 00
- o. SAF/MI Memo to SAF/MII, Re-delegation of Authorities Pursuant to SAFO 700, 30 Mar 00

### **3. AIR FORCE UTILITIES PRIVATIZATION GOALS:**

- a. Utilities Privatization Goal: Divest the Air Force of, and privatize all utility systems, by 30 Sep 03, where they prove economical and do not degrade the security/readiness mission of Air Force installations.
- b. Interim Utilities Privatization Goals: Complete determinations of feasibility (“go/no-go” decision) to privatize for all utility systems by 30 Sep 00. Solicit requests for proposals for all utility systems by 30 Sep 01.

### **4. AF UTILITIES PRIVATIZATION POLICY CLARIFICATION UPDATE:**

The following section revises the Clarification of Policies and Procedures for Privatizing Air Force Utility Systems, 9 July 1999:

#### **a. PROCEDURES:** a.(2) (a) Lines 4-9,

Delete: “The point of entry may normally be considered to be that point where a meter would be installed on a similar, commercial facility. For housing, transition at the meter of the residence. If no meter exists, transition at shut-off valve at residence. If no shut-off valve exists, install a meter and transition at that point. For commercial and industrial

facilities, transition at the meter to the building. If no meter exists, install a meter and transition at that point.”

Add: “Requirements for New Secondary Meters are specified in paragraph J1.5.2 of the RFP. Points of demarcation are specified in Attachment J41 of the RFP. An optimum number of secondary meters may be installed under the contract to provide energy and/or commodity management through the isolation of key system service areas or components; however, 100% metering is not recommended or supported.”

**b. PROCEDURES:** a.(2) (c) Line 8,

Add: “Points of demarcation are specified in Attachment J41 of the RFP.”

**c. PROCEDURES:** a.(2) (d) Line 4,

Delete: “For housing, the point of entry may normally be considered to be that point where a meter would be installed on a similar, commercial facility. If a meter does not exist, transition at the meter sockets. If a meter or meter socket does not exist, transition at the weatherhead. If a weatherhead does not exist, transition at the main panel disconnect. For commercial and industrial facilities, transition at main lugs on panel board or disconnect switch for situations where meter and/or transformer serves a building but is greater than 5 feet from the building. Transition at the transformer if it is less than 5 feet from the building, to include the transformer. Transition at primary side of the transformer if the transformer is inside the building, to include the transformer. Transition at the meter on the facility if one exists. Install a meter at the building if none exists.”

Add: “Requirements for New Secondary Meters are specified in paragraph J3.5.2 of the RFP. Points of demarcation are specified in Attachment J41 of the RFP.”

**d. PROCEDURES:** a.(2) (d) Line 18,

Add: “Lighting systems may be privatized where each individual fixture is tapped directly off a high voltage distribution line, up to and including the light fixture.”

**5. ISSUES UNDER REVIEW:**

**a. Bill of sale and Rights-of-Way:**

Delete item. The approved Bill of sale and Right of Way documents are included in the 13 June 2000 RFP Template.

**b. Contract Length:**

Delete item. Legislation has been enacted approving a service period of up to 50 years.

**c. Delegation of Authority:**

Delete all and replace with the following:

- d. Delegation of Conveyance Authority:** Title 10, Chapter 159, USC Section 2688, granted conveyance authority to the “Secretary of a military department.” This conveyance authority was delegated from the Secretary of the Air Force to the Assistant Secretary of the Air Force (Manpower, Reserve Affairs, Installations, and Environment) (SAF/MI) by Secretary of the Air Force Order (SAFO) 700.7, *Real Property Use and Disposal* (18 Mar 00). SAF/MI subsequently issued a memo (30 Mar 00) re-delegating conveyance authority to the Deputy Assistant Secretary of the Air Force (Installations), SAF/MII. This conveyance authority for utility systems under the Air Force Utilities Privatization Program has not been re-delegated from SAF/MII to a level lower.
- e. Delegation of Source Selection Authority (SSA):** SAF/AQC released a 10 Jan 00 memo entitled, “*Interim Revision of Air Force Federal Acquisition Regulation Supplement (AFFARS), 5315-3, Table A-B, Source Selection Authority* ) stating: To provide MAJCOMs the flexibility to designate SSA for specific “Other Contracting” acquisitions at levels other than those prescribed in AFFARS 5315-3 Tables A and B, these Tables are changed effective immediately as shown in the attachment. This contracting Policy Memorandum will remain in effect until the change is included in a subsequent Air Force Acquisition Circular (AFAC).” AFFARS 5315-3, Tables A-B, now state the AFMC/CC and MAJCOM/CC may designate a SSA at a level other than those listed for a specific “Other Contracting” acquisition of less than \$500 Million. Those SSA levels previously listed include:

Contracting Officers for actions under \$10M;  
MAJCOM/DRU/FOA Commanders (non-AFMC) for actions from \$10M to \$500M;  
AFMC Single Managers for actions from \$10M to \$50M;  
AFMC Program Execution Officers (PEO) and Designated Acquisition Commanders (DAC)/Center Commanders for actions from \$50M to \$500M;  
and Principal Deputy Assistant Secretary of the Air Force (Acquisition & Management) for acquisitions greater than or equal to \$500M.

**f. Land Conveyance Authority:**

Delete all and replace with the following:

**Land Conveyance Authority:** The definition of utility system is expanded to include the conveyance of associated real property (land), in addition to easements and rights-of-way, if such property is required to further the privatization of a utility system. As a general rule, the Air Force is not conveying land as part of its utility privatization efforts. In such cases where the conveyance of land is warranted and requested by the MAJCOM, review of the request will be accomplished by the Air Force Utilities Privatization Integrated Process Team.

**g. Changes to Installation Utility Bills:**

Delete all and replace with the following:

**Changes to Installation Utility Bills:** Air Force policy governing utility bills for MWR category “C”, AAFES, and DeCA activities is under review.

**h. Environmental Requirements:**

Delete all and replace with the following:

**Conducting Environmental Baseline Surveys in Exclusive Use Areas** - Current practice is to use a right-of-way for the entire utility system in place of any long-term leases. Those areas that are subject to exclusive use under the standard right-of-way (such as plants or significant substations) an EBS may be required. These EBSs will be conducted after the sale and managed as negotiated between the Air Force and the purchaser.

**Conducting Environmental Baseline Surveys in Non-Exclusive Use Areas:** For those areas that are subject to non-exclusive use under the standard right-of-way, an EBS is not required.

**Environmental Impact Analysis Process (EIAP):** Each installation will annotate the categorical exclusion (CATEX) on an AF Form 813 to document completion of the EIAP. Air Staff requested each MAJCOM submit a listing of all projects not eligible for a CATEX, with a brief explanation why a CATEX does not apply. Each MAJCOM has indicated that a CATEX will be used for their utility systems. This applies to FY 99 and FY00 base per ILE memo dated 20 Jan 00.

**i. Economic Exemption Considerations:**

Delete all. Economic exemption considerations are discussed in paragraph 6.a. of this clarification document.

**j. Economic Analysis:**

Delete all. Economic analysis guidance is included in Appendix J of this clarification document.

**6. ADDITIONAL INFORMATION:**

- a. Economic Exemption Considerations - “20% Rule”:** The preliminary economic analysis is considered to have at least an 80 percent confidence rate as it uses best available industry information and engineering judgment. However, it cannot reflect the strategic business value of these systems that can only be determined through the solicitation of binding proposals. Economic feasibility will be determined on a system-by-system basis. Unless the *preliminary* economic analysis indicates that estimated privatization costs are greater than the government’s adjusted status quo costs by 20 percent or more, MAJCOMs should proceed on to Phase II (comprehensive analysis phase) obtaining binding proposals from industry for development of a certified economic analysis. The “20% rule” applies only to the *preliminary* economic analyses--*actual*

privatization costs indicated by the proposal must not exceed the government's adjusted status quo cost to be determined economically feasible.

- b. Funds to Facilitate Privatization:** In lieu of carrying out a military construction project to construct, repair, or replace a utility system, the Secretary of the Air Force may use funds authorized and appropriated for the project to facilitate the conveyance of the utility system. These funds shall be a contribution toward the cost of construction, repair, or replacement of the utility system by the entity to which the utility system is being conveyed. Any such contribution must be included in the economic analysis.
- c. Source Selection Costs - Center of Excellence:** A proposal was made for a second center of excellence to complement and be co-located with the technical center of excellence at the Air Force Civil Engineer Support Agency (AFCESA), Tyndall AFB, FL. Together, they could provide centralized technical and contracting expertise for program execution. The AF Utilities Privatization Integrated Process Team (AF IPT) reviewed the proposal. Rather than funding this initiative, five alternative options are offered to the MAJCOMs to be funded internally:

  - (1) MAJCOMs conduct the acquisition with base and MAJCOM personnel as currently defined in the Policy and Guidance;
  - (2) MAJCOMs conduct the acquisition with DESC as their contracting service agent (under this approach, travel for base personnel is limited and eliminates most of the AF, MAJCOM, and base TDY support costs);
  - (3) MAJCOMs execute using AF Reserve personnel. AF/RE indicates that Reserve personnel are available to support this effort;
  - (4) MAJCOM fund their proposal with MAJCOM resources
- d. Source Selection Evaluation Factors Guide:** AFCESA worked with a team that included representation from HQ AETC/LGC, HQ AETC/CEOG, 325 CONS, DESC, and HQ ACC/CE to create an extensive Source Selection Evaluation Factors Guide. This Guide was developed to assist Source Selection Evaluation Team (SSET) members evaluate offerors' proposals submitted in response to Requests for Proposal (RFP) for Utility Privatization. The Guide closely parallels Section M, Evaluation Factors for Award, of the Air Force Utilities Privatization standard competitive RFP template, which outlines the basis for contract award.
- e. Electronic Source Selection Tool:** DESC will use electronic source selection software as a web-based software application service for automating and streamlining DESC's Utility Privatization Program Office acquisition and source selection processes. In addition to an application service access, support also includes application set-up and configuration, review and validation of all supporting acquisition-related documentation, user training, maintenance, and help-desk support. DESC has approximately 30 source selections to accomplish, with a high end estimate of \$20,000 per acquisition, which

would equate to roughly \$600,000 total support. This software is optional for non-DESC contracted actions if Air Force or MAJCOM Contracting directorates approve.

- f. RFP Template Deviations:** SAF/AQCO has approved a standard Request For Proposal (RFP) Template to streamline the review process for Air Force contract actions under utilities privatization. A separate template has also been approved for DESC managed utilities privatization actions. Substantive changes to an approved template must be identified in a cover letter and addressed to SAF/AQCO. The definition of an RFP template deviation is as follows:

“Any substantive changes (i.e., changes other than filling in the blanks, formatting, corrections, and incorporation of base/utility system specific information in section J Attachments) to the SAF approved RFP template, ROW Instrument, and/or Bill of Sale.”

Requests shall be forwarded to the Air Force Utilities Privatization IPT for review and approval prior to issuance of any final RFP.

- g. Life Cycle Cost Analysis:** The preliminary cost analysis will consist of a 25 year cash flow of both the status quo and privatization alternatives and comparison of the present value of each. Status quo costs will include capital costs and annual operating costs such as operations and maintenance (O&M) and general and administration (G&A) costs. Capital costs cover deficiency correction costs and renewals and replacements. Privatized costs will include the rate charged to the Air Force for utility service by the new owner plus the Air Force’s own management costs (contract administration) to oversee the new owner’s operation.
- h. A-76 Deconfliction:** As a result of DRID #49, the Air Force’s accelerated privatization program now overlaps current and future Air Force A-76 actions. AF/XPMS memorandum, dated 7 Jan 99, recommended ALMAJCOM/XP/CE to cancel or hold in abeyance specific A-76 actions regarding utility systems pending the results of privatization feasibility analysis. Due to the current timeline of utilities privatization, A-76 studies should include utilities infrastructure O&M responsibilities. In addition, language should be used to make the work easily severable from A-76 once utilities privatization is awarded.
- i. Bundling:** The solicitation will allow various options by offerors to obtain the best value for the Air Force, such as allowing offers for independent systems or, conversely, bundled utility systems. Regardless of the offeror’s proposal, each utility system must stand alone on its own economic merit for purposes of the statutorily required economic analysis. To be a viable proposal, the economic analysis for each utility system must indicate that the privatization cost of each utility system is less than the adjusted status quo cost of the Government.
- j. Back Up Generators:** The Air Force will retain backup generators on our facilities. We will not retain a backup generator that is an intrinsic asset to the system we are conveying

(for example, backup generator to a wastewater treatment plant or lift station). Utility providers have disaster response plans and our subsequent service contracts must include an agreement on emergency response and mutual support in cases of national disaster. Included in the Utility Provider plans should be a program of regular maintenance and operation of the utility provider's backup generators.

- k. Contractor Involvement in Exercise Scenarios:** From the RFP, C.9.8 Exercises and Crisis Situations Requiring Utility Support, the Contractor shall respond to installation emergency and crisis situations (i.e., hostage situations, bomb threats, etc.) and exercises for emergency and crisis situations that require utility support. The Contractor shall respond to these events as emergency service calls and respond to the emergency situation with qualified personnel and equipment as soon as possible after notification (given a goal of 15 minutes) during normal duty hours. In no case will response be longer than those requirements listed in paragraph C.8.2, *Emergency Service Requests*. The Contractor shall advise and assist the on-scene commander until the event is terminated.
- l. Resale of Utilities in Housing Areas:** For installations with privatized military family housing (MFH) or where an announced MFH privatization initiative is underway, modifications to the points of demarcation, and billing/metering strategies may have to be made. In these cases, deconfliction of the housing privatization Statement of Need (SON), and the utilities privatization Statement of Work (SOW) scopes will be necessary. The identification of costs associated with the systems is spelled out in the RFP. The costs identified are to be paid, as stated in the RFP, by the government on a monthly basis.
- m. Integrating Utility Privatization with Housing Privatization:** Where there is both MFH and Utilities Privatization, the base and MAJCOM IPT need to coordinate with AFCEE for MFH Privatization issues and AFCESA for Utilities Privatization issues. Depending on which program is initiated at the installation, the POC for the foremost project shall establish contact with the other program POC to insure the language in the RFP's and solicitation process is consistent so favorable economics can be achieved for both the MFH Privatization and utilities privatization projects.
- n. POM Guidance:** Refer to the ILE memorandum, dated 17 Feb 00, Programming and Funding Policy for Utilities Privatization.
- o. Joint Project Process:** For projects that include joint efforts (for example, the Texas Regional Demonstration), the approval package paperwork will be largely the same whether we work jointly or separately. Because the land is under the jurisdiction of the Secretary concerned, each utility system divested should use the real estate document or documents of the Military Department that has real property accountability for the land. The owner of the utility system is not determinative; the "owner" of the land is the controlling factor. Since the ROW can not be separated from the conveyance authority, the owner of the real property (pipes & wires) must first transfer the real property to the Agency which "owns" the real estate (land) and is executing the conveyance under 10 USC 2688.

Per 10 USC 2688, each Military Department will have to provide its own report to Congress for any system it is selling, even if the action is a joint one. The statute doesn't provide for a joint program, nor is one necessary; joint efforts are OSD initiatives. The reporting requirement is specific to each utility system, not to groups of utility systems. In lieu of reporting directly to Congress, OSD has requested that all reports be routed through them.

The area where there is a real need for interface is during the solicitation/evaluation process. It is at that time that we need to ensure there is a single activity doing the work, although the effort should certainly include representatives from each participating service. It is recommend that the participating Services simply agree that the solicitation/evaluation process be performed with representatives of each party participating. It must be clearly understood that the value of one Service's utility system is not going to be traded off to compensate for another Service's system and that the actual source selection decision for a particular Service must be approved by that Service.