OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
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ENERGY,
INSTALLATIONS,
AND ENVIRONMENT

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MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (INSTALLATIONS, ENERGY AND ENVIRONMENT)
ASSISTANT SECRETARY OF THE NAVY (ENERGY, INSTALLATIONS AND ENVIRONMENT)
ASSISTANT SECRETARY OF THE AIR FORCE (INSTALLATIONS, ENVIRONMENT AND ENERGY)

SUBJECT: Guidance on Development of Energy Projects

This guidance supersedes the policy dated November 9, 2012, *Financing of Renewable Energy Projects Policy*, hereby canceled, and provides the process for submitting energy projects for approval by the Office of the Secretary of Defense.

Developing renewable energy projects using non-governmental financing and with private sector partners will increasingly become a central element of the Department's energy strategy. With this in mind, it is imperative for the Department to develop basic policy on how to interpret and apply current authorities relating to renewable energy project development using such financing.

The attached guidance addresses both outgrants provided for in title 10, United States Code, Sections 2667 and 2668, and special agreement authority provided by title 10 United States Code, Section 2922a. These types of projects can be complicated and require submission of a project package to my office for approval. The guidance, which outlines specific provisions that are needed for project review, will be used by the Office of the Secretary of Defense during the formal evaluation process. It should be used as a roadmap to ensure submitted projects are consistent with the outlined requirements. Doing so will streamline the approval process and decrease overall project timelines. Situations not covered in this guidance may be considered on a case-by-case basis.

My point of contact for this policy is Ms. Sara Streff, at 571-372-6843, sara.l.streff.civ@mail.mil.

Peter Potochney
Principal Deputy Assistant Secretary of Defense
(Energy, Installations, and Environment)
Performing the Duties of the Assistant Secretary of Defense
(Energy, Installations, and Environment)

Attachment:
As stated

GUIDANCE

ON

DEVELOPMENT OF ENERGY PROJECTS

November 3, 2016

I. References

(a) Department of Defense Directive (DoDD) 5134.01, *Under Secretary of Defense for Acquisition, Technology and Logistics (USD(AT&L))*
(b) Federal Acquisition Regulation (FAR) Clause 52.241-5, *Contractor's Facilities*
(c) Title 10, United States Code (U.S.C.), Section 2662, *Real property transactions: Reports to Congressional Committees*
(d) Title 10, U.S.C., Section 2667, *Leases: Non-excess Property of Military Departments and Defense Agencies*
(e) Title 10, U.S.C., Section 2668, *Easements for Rights-of-Way*
(f) Title 10, U.S.C., Section 2911, *Energy Performance Goals and Master Plan for the Department of Defense*
(g) Title 10, U.S.C., Section 2916, *Sale of Electricity from Alternate Energy and Cogeneration Production Facilities*
(h) Title 10, U.S.C., Section 2917, *Development of Geothermal Energy on Military Lands*
(i) Title 10, U.S.C., Section 2922a, *Contracts for Energy or Fuel for Military Installations*
(j) Title 40, U.S.C., Section 591, *Purchase of Electricity*
(k) Title 40, U.S.C., Section 501, *Services for Executive Agencies*
(l) Department of Defense Instruction (DoDI) 4170.11, *Installation Energy Management*
(m) DoDI 4165.70, *Real Property Management*
(n) FAR Part 41, *Acquisition of Utility Services*
(o) Section 846 of the National Defense Authorization Act for Fiscal Year 2011
(p) Section 858 of the National Defense Authorization Act for Fiscal Year 2015
(q) Defense Federal Acquisition Regulation Supplement (DFARS) 225.7017 *Utilization of Domestic Photovoltaic Devices*, 225.7017-1 *Definitions*
(r) Policy Memorandum dated June 11, 2014, *Glint/Glare Issues on or near Department of Defense (DoD) Aviation Operations*
(s) DoD Manual 6055.09-M, *DoD Ammunition and Explosives Safety Standards*

II. Purpose

This memorandum provides guidance to the DoD Components on developing energy projects, including the authorities and mechanisms used to cover initial capital costs for energy projects utilizing private (sometimes referred to as 'third-party') financing. The following guidance addresses the certification of energy related outgrants and the special agreement authority (SAA) found in title 10, U.S.C., Section 2922a. The discussion that follows does not address all applicable statutory requirements; the user should carefully read the applicable statutes.

III. Policy

The DoD addresses energy needs and energy security as a fundamental part of military planning. The development and operation of renewable energy projects on DoD installations provides energy security which supports the DoD mission. As it works to comply with a variety of energy mandates and goals, DoD anticipates that, through its Components, it will need to make significant investments in both large and small scale renewable energy projects. Due to significant capital requirements needed to fund large-scale renewable energy projects, DoD has relied upon and will continue to rely upon financing mechanisms that allow initial capital costs to be paid by a party other than DoD. When financially sound and supportive of DoD energy security, such mechanisms should be pursued through the use of existing authorities. Such financing mechanisms may include a SAA, such as the acquisition authority found in title 10, U.S.C., Section 2922a. The following provides an overview of the authorities supporting some of these financing mechanisms and guidance on coordination requirements for use of such mechanisms.

A. Special Agreement Authority

Under Section 2922a, the Military Department may enter into a contract for up to 30 years for the provision of an energy production facility on DoD real property or on private property and purchase the energy produced by the facility. Such a contract allows the Military Department to contract for the provision of the facility without providing the capital costs at the time of construction. Under Section 2922a, a developer may install an energy production facility on DoD or private property under an agreement pursuant to which the Military Department would purchase energy generated by the facility. The Military Department pays for some or all of the facility through these power payments over the life of the contract, the same as a normal rate-payer does. After installation, the developer would own, operate, and maintain the facility.

1. Such contracts must be approved in advance of award by the Secretary of Defense. The DoD approval authority has been re-delegated to the Assistant Secretary of Defense for Energy, Installations, and Environment (ASD(EI&E)).

2. While the authority under Section 2922a applies to a facility on DoD or private land, it does not apply to a facility on non-DoD Federal property, *e.g.*, public domain lands not withdrawn for military uses or Indian tribal lands held in trust by the United States, or on non-Federal public property, *e.g.*, state or local government property.

3. The authority must be exercised on lands under the administrative jurisdiction of the Military Department secretary pursuing the project, not on lands under the administrative jurisdiction of another Military Department secretary (e.g., Navy project on Army land). However, lands may be transferred at no cost between the armed forces pursuant to title 10, U.S.C., Section 2696 and another Military Department may purchase power using any available authority.

4. Section 2922a applies to any type of energy production facility, not just geothermal or renewable energy.

5. Section 2922a contracts cannot extend beyond 30 years. In calculating the 30-year limit, the contract must include all periods of performance, including time required to remove or demolish the facility at contract termination.

6. Section 2922a contracts and the outgrant that is part of the contract if the project is located on DoD property must be with the same developer/contractor.

7. When a Section 2922a project is being located on DoD real property, it is essential that the contracting office ensure that the terms of the real property instruments and the statement of work and contract clauses are consistent, and, to the maximum extent possible, do not overlap. For instance, if the real property instruments cover environmental compliance, safety, and access, the contract can simply refer to the real property instrument on those issues, and vice versa.

8. The purpose of Section 2922a is to allow long-term financing of new energy production facilities. Using Section 2922a for an unaltered facility that already exists is contrary to its purpose. A standard utility services agreement not to exceed 10 years should be used for existing facilities.

9. However, in situations where a Section 2922a contract finances the modernization or fuel source modification of an existing facility, the Military Department must separately identify, in the economic analysis of the Section 2922a contract approval package, the cost and financing of the modernization or fuel source modification of the existing facility and explain its relationship to the power purchase costs.

10. The FAR 52.241-5, *Contractor's Facilities*, clause includes, in its subsection (b), the statement "The Government hereby grants to the Contractor, free of any rental or similar charge, but subject to the limitations specified in this contract, a revocable permit or license to enter the service location for any proper purpose under this contract." Consequently, the FAR clause requires a deviation. Section 2922a facilities located on DoD installations generally require an outgrant of real property, typically a lease. When property is leased, title 10, U.S.C., Section 2667 requires obtaining fair market value (FMV); the property cannot be provided free of charge under a lease. The Military Services should seek a deviation through the normal FAR deviation process to ensure FMV is received or dispense with the clause if its other substantive provisions are already contained elsewhere in the contract or lease.

11. Components are required to seek preliminary review by ASD(EI&E) (preliminary review will also include the Defense Procurement and Acquisition Policy (DPAP) and the Office of the Secretary of Defense (OSD) for Comptroller) of the draft RFP and lease and other contract documents, to avoid major issues during the final formal review of the proposed contract. Seeking preliminary reviews will greatly expedite the final OSD review process and reduce significantly the possibility of an unfavorable final review. Notify OSD, in the approval request, if there is a specific timeline for the project (e.g., expiring tax incentives). When requesting OSD preliminary review of an RFP and lease, the review is most effective before issuance of the RFP but must occur before selection of an offeror. All draft

documents submitted for preliminary review must be in Word, not PDF. If using the contract template that this office will issue, mark all changes using redline/strikeout when submitting to expedite the review process.

B. Section 2922a Contract Outgrants

Contracts under Section 2922a, if performance takes place on a DoD installation, will require additional supporting real property documentation to address real property rights. To the extent that a contract under Section 2922a provides for the exclusive possession of DoD real property by the contractor (which is normally the case when an area of land is provided for use), or authorizes use of DoD real property that effectively precludes any other concurrent on-site use, the contract must also include a lease (outgrant) in accordance with title 10 U.S.C., Section 2667 and DoDI 4165.70, *Real Property Management*. If the contract provides that the energy production facility will be installed on an existing structure where there is not exclusive possession of that structure by the contractor, such as solar panels being installed on rooftops, the real property document may be a license or other non-possessory instrument. The distinguishing characteristic is that a rooftop still functions primarily as a roof, and the solar panels are a secondary use to the primary use—there is no exclusive possession. If the contract requires the installation of transmission lines, an easement for a right-of-way may be used for the transmission lines. Neither an easement for a right-of-way nor any instrument which provides a non-possessory interest is appropriate where the grantee has full possession, use, and control over the land or facilities made available for the project. A single Section 2922a contract may include more than one type of real estate instrument to accommodate multiple types of property uses.

1. To the extent an outgrant under Section 2922a includes a lease reportable to Congress under title 10, U.S.C., Section 2662(a)(1)(C), the lease must also comply with the requirements of title 10, U.S.C., Section 2662(b)(2)(G) relating to certification that the project is consistent with the DoD energy performance goals and master plan. The Section 2662 certification requirement applies to a contract solicitation or other lease offering while the Section 2922a contract approval applies to a ready-to-award contract. The Section 2662 certification is made during the preliminary stage of a proposed lease before a solicitation has even been issued while the Section 2922a contract approval is made at the end of the contract solicitation/negotiation process. Since they are divided in time, they cannot be submitted concurrently.

2. Any such outgrant must clearly provide that the outgrant cannot be transferred without the consent of the Government. Contracting and real estate agents should be careful to ensure that the *order of precedence* clauses in the outgrant and associated contract do not provide otherwise and are consistent. A typical Section 2922a contract contains provisions allowing an assignment of the contract without Government consent or with reasonable consent. In order to maintain control of the installation, however, it is inappropriate to allow assignment of access to and use of real property without the Government's unconstrained consent. Consequently, the order of precedence clause should explicitly state that the restriction on assignment of the real property rights normally contained in a lease is not overcome by any conflicting provision of the contract.

3. An outgrant contained in a Section 2922a contract shall be limited to the lesser of the useful life of the energy production facility or 30 years. It shall not extend beyond that to allow installation of follow-on or upgraded facilities. The outgrant is part of the contract performance.

4. Because Section 2922a requires, as a predicate, the provision of an energy production facility, if the facility is located on DoD property, the contract must include the necessary outgrants as a part of the contract. The outgrants cannot be separate, independent documents.

In accordance with title 10, U.S.C., Section 2662(a)(1)(H), any transaction or contract action for the provision and operation of an energy production facility on DoD real property made pursuant to Section 2922a requires congressional notification if the term of the transaction or contract exceeds 20 years.

Reports under title 10, U.S.C., Section 2662(a)(1) can be provided at any time when the predicate action is ready; i.e., there is no need to wait until the contract package has been submitted to ASD(EI&E) to provide congressional notification if the report can be accurately made prior to that submittal. Such reports are generally made on the first day of the month while submittals to ASD(EI&E) may take place at any time during the month. Submitting Section 2662(a)(1) reports only after submitting the contract package to ASD(EI&E) for approval may result in up to a month's delay in being able to make award for projects that are particularly time-sensitive. Since contracts may have performance periods that are shorter than the contract itself, i.e., the contract is awarded but the actual performance period begins at a later date (e.g., a task order under a multiple award contract), or a contract may have follow-on periods for demolition, the Military Department should be cautious in not making congressional notification simply because the base contract appears to be for 20 years exactly. The reliance on what could be viewed as a one-second difference in timing to bypass congressional notification should be avoided.

The FMV (e.g., reduction of utility rates) received from an outgrant should be clearly identified in the approval package sent to ASD(EI&E).

C. Other Power Acquisition Authorities

1. Title 40, U.S.C., Section 501

Under title 40, U.S.C., Section 501, the DoD may contract for public utility services for a period of not more than 10 years. Such contracts do not require ASD(EI&E) review and approval as is the case with Section 2922a contracts.

2. 40 U.S.C. § 591

Under title 40, U.S.C., Section 591, DoD may not purchase electricity in a manner inconsistent with state law governing the provision of electric utility service. This applies to purchase of the commodity, not to acquiring transmission services. Typically, this means that

DoD is only allowed to use authorized electric providers for electricity purchases unless the purchase is in a state with a competitive electricity market. Section 591 does not preclude:

a) Entering into an Energy Savings Performance Contract (ESPC).

b) The Secretary of a Military Department from—

1) entering into a contract under Section 2922a; or

2) purchasing electricity from any provider if the Secretary finds that the utility having the applicable state-approved franchise (or other service authorization) is unwilling or unable to meet unusual standards of service reliability that are necessary for purposes of national defense.

3. Title 10, U.S.C., Section 2916

Pursuant to title 10, U.S.C., Section 2916, a Military Department may sell, contract to sell, or authorize the sale by a contractor to a public or private utility company the electrical energy generated from an alternate energy or co-generation type production facility under the jurisdiction (or produced on land which is under the jurisdiction) of the Military Department. Proceeds from such sales may be used to purchase electrical energy and to carry out military construction projects under the DoD energy performance goals and master plan, including minor military construction projects designed to increase energy conservation.

D. Leases: Title 10, U.S.C., Sections 2662 and 2667

The general leasing statute, title 10, U.S.C., Section 2667, authorizes a Military Department to lease non-excess property when the Department determines that the property is not currently needed for public use, that the lease is advantageous to the United States, and that the lease will promote the national defense. Such a lease can be contracted for longer than five years if the Secretary concerned determines that a lease for a longer period will promote the national defense or be in the public interest. A lease can be used for renewable energy projects but must include payment (in cash or in-kind) by the lessee of consideration in an amount not less than the FMV of the leasehold.

A lease shall be limited in term to the useful life of the energy production facility or, in the case of a Section 2922a contract, the lesser of the useful life of the facility or 30 years. It shall not extend beyond that to allow installation of follow-on or upgraded facilities. Leases that encumber DoD properties for lengthy periods of time can be detrimental to the long-term ability of the DoD to manage its property portfolio for mission support.

In accordance with title 10, U.S.C., Section 2662, if a lease involves a project that is related to energy production and is reportable to Congress under title 10, U.S.C., Section 2662(b), the Secretary of Defense must certify that the project as it will be specified in the contract solicitation or other lease offering is consistent with the DoD energy performance goals and master plan required by title 10, U.S.C., Section 2911. The authority for such certifications has been delegated to the ASD(EI&E) and is required prior to issuing a contract solicitation or other lease offering. Lease packages submitted for Secretary of Defense certification under

Section 2662(b)(2)(G) must contain data supporting the FMV of the leasehold and specify the anticipated useful life of the facility.

E. DFARS 225.7017, 225.7017-1

Section 846 of the National Defense Authorization Act for Fiscal Year 2011 and Section 858 of the National Defense Authorization Act for Fiscal Year 2015 implemented restrictions on DoD procurements for solar panels. This requirement applies even if the acquisition is performed by another Federal agency not subject to the DFARS acting on the Military Department's behalf, such as an assisted acquisition. If a non-DoD agency is performing the acquisition, the proponent should ensure the agency is aware of this requirement and includes it in the contract.

F. Glint/Glare Issues on or near DoD Aviation Operations

In accordance with the glint/glare policy (Reference (r)), DoD Components are strongly encouraged to expand mission compatibility evaluations to include the potential impact of glint/glare from non-residential photovoltaic and glass-enclosed solar-hot water systems. Solar renewable energy projects that are within two nautical miles of military airfield control towers, center of the airfields (Air Traffic Areas), or helicopter landing zones may require the Component's consideration. The Components may wish to extend the analysis to the full extent of the land surface under the Class D airspace. Careful consideration should also be given to the glint/glare from concentrating solar power towers within 10 nautical miles of DoD flight operations.

G. Explosive Safety Arcs on or near DoD Installations

Consistent with the DoD Ammunition and Explosives Safety Standards (Reference (s)), DoD Components should expand mission compatibility evaluations to include validation that the proposed project is not within defined explosives safety arcs or within estimated arcs in the proximity of non-sited munitions storage or operational areas.

H. Production or Procurement Under title 10, U.S.C., Section 2911(e)

For renewable energy projects used to meet facility energy needs, subsection (e) of section 2911 specifies that:

> "(1) It shall be the goal of the Department of Defense—
>
> "(A) to produce or procure not less than 25 percent of the total quantity of facility energy it consumes within its facilities during fiscal year 2025 and each fiscal year thereafter from renewable energy sources; and
>
> "(B) to produce or procure facility energy from renewable energy sources whenever the use of such renewable energy sources is consistent with the energy performance goals and energy performance master plan for the Department and supported by the special considerations specified in subsection (c)."

Section 2911(e) requires that the DoD either produce or procure renewable facility energy. For renewable energy projects that apply leasing authority found under title 10, U.S.C., Section 2667, the Military Department must demonstrate more than a mere passive activity (i.e., having no meaningful involvement in the activity on the leased land other than as the lessor) to receive credit under section 2911(e)(1). For production or procurement of facility energy to qualify as being consistent with the DoD energy performance goals and master plan (and also to qualify for an energy certification when applicable), DoD must do one of the following—

1. Have consumption by the DoD Component of some or all of the facility energy from the project;

2. Structure the project to provide energy security for the installation by, e.g., retaining the right to divert to the installation the energy produced by the project in times of emergency;

3. Reinvest in renewable facility energy, energy security, or energy conservation measures a minimum of 50 percent of proceeds (including both in-kind and cash) from any outgrant.

These requirements apply whether or not the outgrant is reportable to Congress under section 2662.

I. Required Submissions for Coordination

1. Concept Briefings: The DoD Components are required to provide the ASD(EI&E) a concept briefing, prior to issuing an RFP, for renewable energy projects that will be submitted to ASD(EI&E) for OSD approval. The concept briefing will include participation from the following OSD organizations: Installation Energy; DPAP;OSD Comptroller; DoD General Counsel; Environment Safety and Occupational Health; Business Systems and Integration; Siting Clearinghouse; Basing; Personnel and Readiness; Operational Test and Evaluation; Natural Resources; and Explosives Safety Board. The supporting contracting office (e.g., Defense Logistics Agency (DLA), United States Army Corps of Engineers (USACE), Naval Facilities Engineering Command (NAVFAC), Air Force Civil Engineer Center (AFCEC)), should also attend. Concept briefings should include the following, as available:

   a. Type of contract the Component is planning to use.

   b. A discussion about the type of real estate outgrants to be used.

   c. Anticipated terms of the contract/real estate outgrants.

   d. Discussion about how the contract and real estate transaction will interact, e.g., order of precedence.

   e. Estimated FMV of the land.

f. How the cash or in-kind consideration for the FMV will be applied to the project.

g. Project details.

h. Site map.

i. Land status (non-excess, withdrawn, not needed for public use, etc.).

j. National Environmental Policy Act (NEPA) analysis status.

k. Estimated economics of the project (business case analysis).

l. Anticipated contributions to all applicable energy goals.

m. Anticipated applicability of section 2822 of the National Defense Authorization Act for Fiscal Year 2012 (energy security) to the proposed project.

n. Glint/Glare - how the analysis will be addressed.

o. Project timeline/path forward.

2. Submissions pursuant to title 10, U.S.C., Section 2922a: When submitting a package to ASD(EI&E) for approval of a project pursuant to Section 2922a, the Military Department shall ensure the package contains the following:

a. Ready to award contract (a contract that has been signed by the contractor but has not yet been awarded); where there is a master award contract with subordinate task orders under it, each task order shall also be treated as a separate contract for purposes of these requirements. Both the overarching master award contract and the task order shall each be submitted. This office will issue a contract template for use by the Services. If using the template for a project, the Services must identify all changes to the template contract in redline/strikeout.

b. If located on DoD property:

1) Appropriate real property outgrant documentation consistent with title 10, U.S.C., Sections 2667 and 2668 and DoDI 4165.70 (the outgrant would normally be a lease unless, e.g., for rooftop installation where a license might be appropriate or for transmission lines where an easement for a right-of-way may be appropriate).

2) A statement of the FMV of the outgrant. If the FMV meets any of the reporting requirements of title 10, U.S.C., Section 2662, how and when the required reports were or will be made. How the FMV will be addressed in the project.

3) An explanation why the property is not currently needed for public use.

c. Appropriate NEPA documentation.

d. Memorandum for Record (MFR) addressing whether the renewable energy project is on withdrawn lands (include Public Land Orders/Executive Orders, as appropriate). The MFR should include the type of withdrawal (Public Land Order/Executive Order, etc.), the term of the withdrawal, and whether the energy project is consistent with the withdrawal language.

e. Economic/Business Case Analysis Summary (energy project cash flow display for each fiscal year included within the contract and an accompanying narrative). This narrative should include applicable federal, state, local, and utility incentives. In addition, where appropriate, the analysis should include an investigation into the financial feasibility of the project using other financing options.

f. Summary of Contribution to Energy Goals (e.g., section 2911 goals, Energy Policy Act goals, National Energy Conservation Policy Act goals (as amended by the Energy Independence and Security Act of 2007), and greenhouse gas reductions goals, where applicable) and the Executive Order 13693 renewable electric energy and alternative energy goal of 25 percent by 2025.

g. Glint/Glare analysis.

h. Memorandum for Record explaining that the renewable energy project will not harm the mission at the installation or other DoD installations nearby.

i. Component Comptroller certification of the funding stream for the 2922a project (e.g., Working Capital Fund, Operations and Maintenance, etc.). The Comptroller certification should include the Component Comptroller points of contact.

j. Pursuant to Section 2822 of the National Defense Authorization Act for Fiscal Year 2012, a justification and cost-benefit-analysis of any decision to exclude the pursuit of energy security on the grounds that the inclusion of energy security is cost prohibitive.

3. If being accomplished as an assisted acquisition under the Economy Act, the same briefing and submission processes shall be used as would be the case if the contracting were performed directly by the Military Department.

4. Submissions pursuant to title 10, U.S.C., Sections 2662(b)(2)(G) and 2667 for OSD certification: When submitting a package to ASD(EI&E) for a project that includes an outgrant pursuant to Section 2667 subject to Section 2662(b)(2)(G), the DoD Component should ensure the package contains the following (if the transaction is only a lease under Section 2667 and not associated with energy production):

a. A statement of the FMV of the outgrant and, if the FMV meets any of the reporting requirements of title 10, U.S.C., Section 2262, when the required reports were made.

b. A written explanation describing the property and how it qualifies under the lease authority found in title 10, U.S.C., Section 2667:

   1) Is the real property under the control of the Secretary concerned;

   2) Is the real property not for the time needed for public use; and

   3) Is the property not excess property, as defined by Section 102 of title 40.

c. An explanation as to how the proposal is consistent with the requirements of title 10, U.S.C., Section 2911, and specifically Section 2911(e)(1), or DoD's energy performance goals and master plan pursuant to Section 2911.

d. If the proposal involves a passive lease, how and when the Military Department will meet the requirements of paragraph 2f, above.

e. Pursuant to Section 2822 of the National Defense Authorization Act for Fiscal Year 2012, a justification and cost-benefit-analysis of any decision to exclude the pursuit of energy security on the grounds that the inclusion of energy security is cost prohibitive.

Title 10, U.S.C., Section 2662 Reporting Requirements for Energy Production Projects

The following energy production real property transactions are subject to reporting requirements under Section 2662 of title 10, United States Code. The contents of the reports, which are to be delivered to the House and Senate Committees on Armed Services, are described in subsections 2662(b)(2) and (b)(3) of title 10.

Covered Transaction	Statutory Authority	Timing of Report	Notice and Wait Period	Notifying Entity
Lease, license, or easement of real property owned by United States; estimated annual rental value above $750,000 and involving a project related to energy production.	10 U.S.C. § 2662(a)(1)(C) and (b)(2)(G).	Prior to 1) contract solicitation or other lease offering, or 2) public notice of meeting to discuss proposed solicitation (10 U.S.C. § 2662(b)(1)).	14 days after first day of month, if report submitted electronically on or before first day of month (10 U.S.C. § 2662(a)(3)).	Secretary of the military department (with ASD(EI&E) certification that energy production project is consistent with DoD energy performance goals and master plan (10 U.S.C. § 2662(b)(2)(G))).
Lease, license, or easement of real property owned by United States; estimated annual rental value above $750,000.	10 U.S.C. § 2662(a)(1)(C).	Prior to entry into lease or license (10 U.S.C. § 2662(b)(3)).	14 days after first day of month, if report submitted electronically on or before first day of month (10 U.S.C. § 2662(a)(3)).	Secretary of the military department.
Transaction or contract action for provision and operation of energy production facilities on real property under jurisdiction of the secretary of a military department, under 10 U.S.C. § 2922a, if term exceeds 20 years.	10 U.S.C. §2662(a)(1)(H).	Prior to entry into transaction or contract action (10 U.S.C. § 2662(a)(1)).	14 days after first day of month, if report submitted electronically on or before first day of month (10 U.S.C. § 2662(a)(3)).	Secretary of the military department.