NID 9091 Real Property Out-Grant Agreements – Financial Requirements

Responsible Office: Office of the Chief Financial Officer

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Chapter 1. General Overview

1.1 Overview

1.1.1 This interim document provides particular financial requirements for the out-grant of real property agreements (RP agreements) not covered in NASA Procedural Requirement (NPR) 9090.1 Partnership Agreements – Financial Requirements. Financial requirements include the many facets of finance and accounting, such as required reviews and approvals, application of proper costing and pricing, and agreement execution through recording of accounting transactions and their reporting.

1.1.2 Applicability.

a. This NID is applicable to an out-grant RP agreement when NASA is the owner or landlord and the activity is considered a disposition or a non-permanent transfer of NASA's property.

b. Use of real property permits that are loans of property and are zero dollars or contain only a gratuitous amount are not subject to this NID's financial requirements.[1]

c. The references to finance and accounting requirements within this NID are subject to change based on implementation of SFFAS 54 Leases: An Amendment of SFFAS 5, Accounting for Liabilities of the Federal Government and SFFAS 6, Accounting for Property, Plant, and Equipment, which will become effective for periods after September 30, 2020.

1.1.3 A Center CFO approved EPR is required for a RP agreement or a related services agreement (e.g., separate demand services agreement) in accordance with NPR 9090.1.

a. The EPR will include NASA's estimated full cost of resources (facility, land, lease costs for the building or land, services, and other costs) to be incurred or provided by NASA as defined in the agreement; any pricing adjustments, to include, in-kind consideration; and the estimated price to the partner.

(1) The estimated partner price of a reimbursable RP agreement will be calculated using fair market value (FMV) (i.e., market-based pricing), except where statutory authority provides for otherwise, or no comparable market equivalent basis exists.

(2) The estimated pricing adjustment for in-kind consideration on a RP agreement will be calculated using the known factors for the proposed activity to be performed or provided.

b. An approved EPR is required regardless of whether a business case is required per Office of Strategic Infrastructure (OSI) policy and procedures, unless an exception exists per NPR 9090.

1.1.4 This guidance is not meant as a standalone policy document. It supplements and clarifies existing requirements applicable to RP agreements found in relevant NASA Policy Directives (NPDs) and NPRs. NASA may execute an RP agreement through various authorities. Although not all authorities are discussed in this guidance, the general requirements for estimating NASA's full cost and providing an estimated partner price through the use of an EPR should be followed unless an exception exists within the authority. For example, NASA may provide support for commercial launch or reentry efforts and use of its space-related property and facilities through the Commercial Space Launch Act, 51 U.S.C. § 50913. Although NASA's full cost would be estimated as outlined in this guidance, the

[1] Use of real property permits are also listed as an exception to NPR 9090.1 requirements.

price to the partner is calculated on the NASA's direct cost of the activity rather than the FMV. For additional guidance on CSLA pricing, refer to NPR 9090.1. The most commonly used policy is:

a. NPR 9090.1 contains the general financial requirements applicable to partnership agreements where NASA is the seller or performing agency. RP agreements are also subject to NPR 9090.1 requirements.

b. NPD 8800.14 Policy for Real Estate, and NPR 8800.15 Real Estate Management Program, provides real estate management policy and procedures.

c. NPD 1050.1 Authority to Enter into Space Act Agreements, and its implementing instructions NASA Advisory Implementing Instruction (NAII) 1050-1, Space Act Agreements Guide (SAAG), and NAII 1050-3, Partnerships Guide, provide general agreement policy and procedural requirements, such as abstract and agreement reviews, baseline agreement templates, and other considerations.

d. NPD 1370.1, Reimbursable Utilization of NASA Facilities by Foreign Entities and Foreign-Sponsored Research, provides general policy and principles to NASA officials for the reimbursable use of NASA facilities by foreign entities.

1.2 Roles and Responsibilities.

1.2.1 The Office of the Chief Financial Officer (OCFO), or designated Division is responsible for:

a. Preparing and submitting estimated budget request to the Office of Management and Budget (OMB) and distributing anticipated reimbursable budget authority (to the Center OCFO).

b. Establishing and maintaining required accounting structures in the core accounting system at a level that will maintain compliance for financial reporting requirements of RP agreements.

c. Preparing and submitting required quarterly and annual reports in accordance with laws and other regulatory guidance, e.g., FASAB, OMB.

1.2.1 The OSI Facilities and Real Estate Division (FRED) is responsible for providing guidance and oversight on the development and execution of RP out-grant agreements.

1.2.2 Center Directors and the Director, NASA Management Office/JPL are responsible for:

a. Developing a business case to support their concept for an RP out-grant agreement. Refer to the NASA Business Case Guide for Real Property and Facilities Project Investments or NPR 8800.15.

b. Ensuring adherence to other policy and procedural requirements, to include NPR 8800.15 and NPR 9090.1 regarding agreements.

1.2.3 The Center CFO or their designee is responsible for reviewing and approving EPRs for RP agreements. Center CFO for purposes of this NID is the Center Chief Financial Officer (CFO); or equivalent positions in the Mission Support Directorate (MSD) Resource Performance Management Office (RPMO), and the Director, NASA Management Office (NMO) organizations; or their designee.

1.2.4 The Center OCFO is responsible for

a. Ensuring costs, revenues, and associated liabilities for RP agreements are recorded in accordance with regulatory guidance, such as FASAB accounting standards and the U.S. Standard General Ledger accounts.

b. Providing RP agreement financial data to the OCFO for required quarterly and annual reports.

1.3 Full Cost of RP Agreements

1.3.1 In accordance with NASA policy, RP agreements (for cash and in-kind consideration) require estimating NASA's full cost as the baseline. The estimated full cost describes NASA's estimated cost to carry out the activity and includes establishing a facility rate cost; and, as appropriate, other direct and indirect costs such as site preparation; appraisals; RP agreement management and administration; and building maintenance and repairs. The following are in addition to the minimum cost elements in the EPR template:

1.3.1.1 Facility[2] Cost. Each Center is responsible for preparing an estimate of the cost to the Center per unit of space (e.g., cost per square foot) of the property or other similar measure derived from an objective and systematic analysis of the type of property being used (e.g., office space and undeveloped land). The facility cost is then calculated by multiplying the cost per unit of space (facility rate) to the amount of space used by the partner and is included as part of the regular recurring lease payment by the lessee.

a. When setting the facility rate, Centers may include indirect support costs for the general use of facility services or they may calculate indirect support services as a separate cost (similar to CMO). Refer to section 1.3.1.2 for indirect support cost.

(1) When the facility cost includes indirect support services, the resulting facility cost represents the estimated full cost of facility and an indirect cost is not reflected as a separate line on the EPR.

(2) When the facility cost does not include indirect support services, the resulting facility cost and indirect support services costs are shown on separate lines of the EPR.

b. Centers may set different facility rates for each facility or they may set a standard rate for the common uses of facilities or buildings, e.g., calculation of a standard cost rate for general office space use in a variety of buildings across the Center. Rates will be used, as determined appropriate.

c. Centers are responsible for reviewing their facility or other rates periodically and for recalculating and validating the rates biennially. In accordance with the CFO Act, Center CFOs are responsible for reviewing and approving rates biennially.

d. Centers that execute an occasional RP agreement may determine in conjunction with the Center CFO that it is not cost-effective to derive facility rates if they have a reasonable basis for estimating the costs through a prior recent out-grant of a similar facility. These prior estimating activities may include, but are not limited to, appraisals, consultant studies, surveys, use of cost finding techniques, etc. The Center should be able to show that the cost estimates were intended to reflect cost data rather than a market value for the facility.

1.3.1.2 Indirect Support Services. These services should include lease management and administration NPR 9090.1B, paragraph 3.3.1.2 costs incurred by the Center for legal, financial, and other administrative services related to administering the lease. Indirect support services may be estimated using the center management and operations (CMO) rate. The indirect support services costs also include institutional support services for security, first responder, and other safety services and building maintenance and repairs (routine and major) when these costs are incidental to the RP agreement. Where security or other safety services, or building maintenance and repairs are provided solely for the benefit of the tenant, the costs should not be included as indirect support services. Refer to 1.3.2 for demand services.

[2] Facility for this policy purposes is representative of the real property identified in the RP agreement.

1.3.1.3 Appraisals or Market Surveys. The estimated cost or known cost for an appraisal or market survey (appraisal) to determine the FMV of a property for pricing purposes will be included when estimating the full cost of the agreement and identified as a separate line item on the EPR. Unless a provision exists in the agreement indicating that the appraisal cost will be billed separately from the lease payment, the appraisal cost will be included in the full price of the agreement.

1.3.1.4 Site Preparation. Site preparation costs may include, but are not limited to, basic upgrades and building modifications or customizations so that a property can be considered viable for leasing. Site preparation costs do not include routine building maintenance or building repairs.

a. Generally, costs associated with site preparation, including, facilities upgrades to make a property usable, are borne by the lessee and reflected as an adjustment to the FMV of the RP out-grant.

b. When NASA arranges for site preparation activities, the full cost of providing the services will be billed to the lessee in addition to the regular recurring agreement payments. If the lessee is a non-Federal entity, NASA must receive an advance or obtain an advance payment waiver in accordance with NPR 9090.1.

c. When site preparations result in capital improvements to existing NASA PP&E, Centers are responsible for working with Agency Office of General Counsel (OGC)/Center Office of Chief Counsel (OCC) to ensure appropriate language is contained in the RP agreement for the disposition upon termination or expiration of the agreement.

1.3.1.5 Other Incremental Costs. Other incremental costs may include extraordinary administrative, legal costs, or other costs not normally included or described above, but are in accordance with the contractual terms of the lease. FRED in coordination with the Center OCFO is responsible for determining the validity of the costs. When deemed appropriate, a determination will be made on how the costs will be identified on the EPR, either as a separate cost element or as other direct cost (ODC).

1.3.2 Demand Services. Costs for demand services represent services provided by the Center based on lessee usage or request for services and benefit the tenant. Costs or rates for demand services should be pre-determined and identified to the partner. Demand services may include utilities; safety and security services; engineering or technical support; and other services that are related to the RP agreement.

a. Demand services cost should not result in net proceeds to NASA and are not included in the FMV of the RP agreement.

b. Demand services cost are in addition to the facility cost and are based on usage or as outlined in the RP agreement or EUL demand services agreement.

c. Demand services provided under a separate agreement are subject to NPR 9090.1 requirements, to include containing a Center CFO approved EPR.

1.4 Pricing of RP Agreements

1.4.1 FMV should be used to establish the pricing (market-based pricing) of RP agreements, unless provided for otherwise by authority (e.g., CSLA). The RP agreement price may be in excess of NASA’s estimated full costs but should not be below the FMV. Pricing differences from the estimated cost should be shown as a pricing adjustment on the EPR.

1.4.2 FMV of RP agreements must be supportable and be established using market surveys, as discussed in NPR 9090.1 Appendix E, or through use of an appraisal service. A recent market survey or appraisal for a different property can be referenced if the properties are similar and comparable in nature.

1.4.2.1 RP agreements will be priced to reflect the FMVs over the life of the agreement. For future agreement years, FMV should be based on reasonable projections of future values at the time the lease is executed and periodically adjusted based on reappraisals or similar estimates of valuation. Determinations to perform reappraisals and adjustments to FMV will be provided for in the terms of the lease and based on an analysis of cost effectiveness, changes in market conditions, or other factors so that lease terms reasonably reflect FMV in periods in which lease payments become due.

1.4.2.2 Generally, the FMV of the property should exclude the value of any upgrades or improvements made by the partner.

1.4.2.3 Pricing to a partner that is below NASA's estimated full cost for the RP agreement requires the sponsoring organization of the identified direct funding source to concur on the EPR prior to Center CFO approval in accordance with NPR 9090.1.

1.5 RP Agreement Financial Requirements

1.5.1 Center OCFOs will record RP agreements and resulting transactions in accordance with Agency OCFO policy and SFFAS 54, Leases: An Amendment of SFFAS 5, Accounting for Liabilities of the Federal Government, and SFFAS 6, Accounting for Property, Plant, and Equipment.

1.5.2 Receipts from reimbursable work may be retained based on the principle that actual costs were incurred as a result of the reimbursable work, except where law prohibits their retention. For purposes of this policy, proceeds, net proceeds, and surplus proceeds for cash consideration are defined, as follows:

a. Proceeds refers to the full amount received (receipts) for the RP agreement.

b. Net proceeds refer to the amount of receipts in excess of the full cost of the RP agreement.

c. Surplus proceeds (currently, NHPA only) refers to the amount of net proceeds that are not obligated within the period of availability.[3]

1.5.3 Under most authorities, NASA may not retain net proceeds in excess of the identified full cost of an RP agreement. In those situations, the amount billed and received that exceeds full cost will be deposited to the Treasury Miscellaneous Receipts Account.

1.5.4 Exceptions to this rule are found in 51 U.S.C. § 20145 (EUL) and 54 U.S.C. § 306121 (NHPA) - lease proceeds. Under these authorities, NASA may also retain the net proceeds (receipts in excess of the NASA's full cost). Refer to Chapter 2 and 3 for additional information related to these proceeds.

1.5.5 Proceeds, including in-kind consideration where authorized, are recognized and recorded as revenue in NASA's core accounting system in the period that reasonably corresponds to the period of occupancy of the property or benefit derived by the partner (FMV derived) and results in an amount owed to NASA.[4] Generally, this will be when lease payments become due according to the provisions of the lease agreement.

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[3] Currently only applies to NHPA; period of availability is the end of the 2nd fiscal year in which the proceeds are received.
[4] Revenue recognition in accordance with SFFAS 7, Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting.

a. Revenue will be recognized on an accrual basis, but not less than annually, so that fiscal year end data will reflect revenue recognized based on the FMV of the property in the period just ended for proper reporting in Agency financial statements.

b. Revenue will be recorded against advance payments received for the RP agreement. Although revenue should generally be recognized based on when the partner derived FMV from the property, the amounts may not coincide with collections received as consideration under the lease agreements. However, revenue will be reconcilable with collections, whether those collections consist of cash or in-kind consideration.

c. Generally, consideration should be received to reflect FMV of the leases not later than the accounting period following a period of occupancy covered by the lease payment. Lease agreement consideration which are past the period of occupancy (by more than one accounting period), must be authorized in advance by the Center CFO.

1.5.6 Funds received in connection with an RP agreement, but executed as a separate agreement (e.g., demand or other services), will be deposited into an appropriate reimbursable account in accordance with the relevant authority.

1.5.7 Upon termination of the RP agreement and after relevant charges have been reconciled and settled with the lessee, any outstanding cash advance balances are deposited to Treasury Miscellaneous Receipts or returned to the lessee unless an exception exists in the authority used.

Chapter 2. Enhanced Use Lease (EUL) Financial Requirements

2.1 Overview

2.1.1 This chapter establishes the financial requirements particular to EUL RP agreements (EUL agreements), such as the full cost estimate, pricing, and use of proceeds derived from EUL agreements. EUL agreements represent contractual agreements entered into by NASA to lease property under EUL authority and to provide related support services associated with those leases. In accordance with Agency policy and guidance, EUL authority may not be used to enter into RP agreements with other Federal agencies. Refer to Appendix D for additional background information on NASA's EUL authority. Refer also to NPD 8800.14, NPR 8800.15, and policy and procedures related to the overall out-grant agreement, such as the terms, business case preparation and analysis, and other activities subject to oversight by FRED

2.1.2 Since NASA was initially granted EUL authority, Congress has enacted legislative changes that have affected the overall authority, in-kind considerations, and the retention of lease proceeds.

a. Cash considerations:

(1) Amounts derived from cash collections prior to FY 2010 will remain available until expended. That includes amounts collected to cover the full cost of leases as well as the FY 2009 year-end balance of the capital asset accounts.

(2) Amounts derived from cash collections up to the full costs of EUL agreements in FY 2010 and thereafter will remain available until expended or terms of the agreement.

(3) Amounts derived from cash collections for the net proceeds (amount after deducting for the full cost) of EUL agreements in FY 2010 and thereafter will be deposited to the capital asset account and remain available for a period of five years.[5] Net proceeds may not contain collections for indirect support services calculated as part of the full cost of the EUL agreement. The capital asset account may not be used for daily operating costs, such as agreement administration and financial management or other indirect civil service labor costs.

b. In-kind consideration:

(1) Consideration in lieu of cash for rent may be accepted by Ames Research Center and Kennedy Space Center for EUL agreements entered into prior to December 31, 2008.

(2) Consideration in lieu of cash may be accepted for agreements at each Center executed for the purpose of developing renewable energy production facilities.

2.2 Full Cost and Pricing

2.2.1 EUL agreements will be estimated at NASA's full cost. EUL authority provides that the cost of the agreement will be calculated "to cover the full cost to the Administration." This includes indirect support costs defined in section 1.3.

2.2.2 EUL agreements will provide for consideration (pricing) at not less than FMV. EUL agreements will be based on the FMV of the property appraised, and generally, exclude the value of improvements funded by the lessee. Consideration may take one or a combination of the following forms:

a. Cash Consideration. Pricing will be based on the FMV of the EUL agreement.

[5] Promulgated by reference in the annual appropriation acts, e.g., Pub.L. 116-6, div C, title III, Feb 15, 2019, 133 Stat. 123.

b. In-kind Consideration. In-kind consideration are those activities provided by the partner on quid pro quo basis against the FMV. Examples are proposed expenses for property repairs, upgrades, and/or capital improvements that extend the useful life of NASA properties and where the lessee assumes responsibility; contributed materials, supplies, facilities, property, and/or utility services, if significant in amount, and the fair value is measurable and objective; maintenance, construction, modification, or improvement of NASA's real property; provision of services to NASA, including launch or reentry services and payload processing services

(1) If the value of the partner's contribution or property cannot reasonably be determined, the contribution should not be recorded as in-kind consideration.

(2) The value of in-kind consideration must be approved in advance by both the Center and FRED; otherwise, the value cannot be recognized as in-kind consideration.

2.3 Financial Requirements

2.3.1 The Center, in coordination with the Center OCFO, will prepare estimates of collections for amounts owed to NASA under this authority and submit estimates to the Agency OCFO for use in the apportionment request to the OMB. Estimated collections will be distinguished from anticipated reimbursements.

a. The estimated collections for EUL agreements should represent cash collections expected in the coming year for amounts that will have become due under the respective EUL agreements. Estimated collections should include the EUL agreement payments, as well as an estimate of other billable charges (e.g., demand services) in the coming year that are expected; and amounts billed to the lessee or partner in a prior year or where the property was occupied and benefitted the partner, but where cash collections for the amounts are expected to occur in the upcoming year.

b. Budgetary resources derived from EUL authority will include the unobligated balance brought forward into the new fiscal year (i.e., carryover).

2.3.2 EUL agreements will be recorded in the Agency accounting system under a five-year account, as directed by the OCFO, and executed in accordance with a program/management structure developed by FRED in coordination with OCFO and affected Centers.

a. Amounts received will initially be applied to cover NASA's full cost for the EUL agreement.

b. Any net proceeds (amounts received in excess of NASA's full cost) will be deposited, at least annually, into the capital asset account(s) and managed in accordance with a program/management structure developed by FRED in coordination with OCFO and affected Centers.

2.3.3 Net proceeds derived from EUL agreements entered into after December 31, 2008, or are collected after this date will be deposited into the capital asset account(s). Amounts deposited to the capital asset accounts may not be utilized for daily operating costs and will be maintained in separate accounts to differentiate their varying periods of availability: (1) Amounts derived from collections prior to FY 2010 will remain available until expended; and (2) Amounts derived from collections in FY 2010 and thereafter will remain available for a period of five years.

a. Thirty-five percent (35%) will be deposited to an Agency account and will be available for maintenance, capital revitalization, and improvements of real property assets and related personal property under NASA's jurisdiction. FRED manages the capital asset accounts on behalf of the Agency.

b. Sixty-five percent (65%) will be deposited to an account for the Center responsible for the respective property in the EUL agreement and will be available for maintenance, capital revitalization, and improvements of the Center's real property assets and related personal property. The Center projects funded by the account will be coordinated with FRED on behalf of the Agency.

2.3.4 Amounts deposited into the capital asset account may include cash amounts collected but owed to NASA in prior periods. Amounts deposited into the capital asset account may not reflect in-kind consideration received by NASA.

2.3.5 Amounts deposited into the capital asset accounts is not necessarily limited to acquisitions of capitalized assets or improvements/betterments that are to be capitalized in accordance with NASA capitalization policies. The amounts may be used for other costs where the purpose is to support maintenance, capital revitalization, and improvements of the real property assets (other than civil service costs), as described above.

2.3.6 Demand services for EUL agreements will be executed in a separate fully reimbursable agreement. Because costs for demand services should be billed to the lessee on a cost reimbursement basis, no net proceeds are derived from the demand services and do not contribute to the capital asset accounts. Collections for demand services may only be used to reimburse the respective appropriations used for the services.

2.3.7 EUL Agreement Reporting. The Administrator is responsible for providing an annual report to Congress by January 31 for the fiscal year ended (e.g., FY2019 by January 31, 2020). OSI FRED, in coordination with OCFO, will prepare the report to the Administrator for submission. The EUL report will contain beginning and ending revenue and other balances affecting the capital asset accounts derived from the EUL activity and traceable to EUL agreements.

a. Collections will be shown separately as cash and in-kind consideration.

b. Costs directly associated with each lease in order to derive the full cost of each lease agreement.

c. Use of proceeds in accordance with provisions in EUL authority and as described above. Data will be traceable to source documents recorded in the Agency accounting system.

Chapter 3. National Historic Preservation Act (NHPA)

3.1 Overview

3.1.1 The National Historic Preservation Act (NHPA) (54 U.S.C. § 306121) provides authority for Federal agencies to lease historic property owned by the agency to a person or organization, or exchange a property owned by the agency with comparable historic property, if the agency determines that the lease or exchange will adequately ensure the preservation of the historic property. Historic properties that are either listed on, or eligible for listing on, the National Register of Historic Places (NRHP) may be leased or exchanged under the NHPA authority. Along with authorizing Federal agencies to lease historic property to others, the NHPA also provides for agencies to retain the resulting proceeds for the preservation of the agency's historic properties.

a. Proceeds may be retained and obligated for up to two years following receipt. Any surplus proceeds are required to be deposited in the Treasury Miscellaneous Receipts Account at the end of the second fiscal year following the fiscal year in which the proceeds are received.

b. Proceeds may be used to defray direct costs for historic properties that are: (1) the leased asset for which payments are being collected; (2) the property or properties contributing to the historic district where the leased property is located; or (3) other NASA NRHP-listed properties in accordance with the requirements of 54 U.S.C. § 306108.

c. The following sections provide financial requirements related to an RP agreement executed under NHPA and the subsequent lease proceeds. Refer to Appendix D for additional information on the act; NPR 8800.15 for additional information on leasing using NHPA; and NID 8800.114, National Historic Preservation Act (NHPA) Leases, for additional FRED agreement [non-financial] requirements.

3.2 Roles and Responsibilities.

Note: The following roles and responsibilities provide are in addition to section 1.2.

3.2.1 The Director of FRED, or the designee, is responsible for:

a. Approving NHPA RP out-grant agreements and reviewing for the following financial related information:

(1) A business case that demonstrates that the lease is the best economic value to the Government (i.e., supports the preservation of historic properties); will compare the NHPA lease to other options, including the status quo; and will identify the property is not required for a NASA program.

(2) An agreement package that contains a Center CFO approved EPR. An approved EPR is required regardless of whether the information is incorporated into the business case.

(3) A separate agreement and Center CFO approved EPR where additional services or demand services (section 1.3.2) are needed by the lessee in support of the RP agreement.

b. Reprioritizing revenue for urgent repair projects of NRHP- listed properties in order to meet mission or Agency needs.

3.2.2 The Agency OCFO, or designated Division, is responsible for:

a. Ensuring that capital assets and multi-use heritage assets are recorded, depreciated, and appropriately disclosed in accordance with NPR 9250.1 and other regulatory policy and procedures, e.g., SFFAS 29-Heritage Assets and Stewardship Land.

b. Establishing and maintaining a hierarchal financial process that provides for NHPA program activity to be readily identified, monitored, and reconciled within NASA's core financial system for internal control and reporting purposes.

3.2.1 The Center Director, or designated office, is responsible for:

a. Submitting project proposal requests and RP agreement proposals as required by OSI and other NASA policy and procedures. The project proposal cost estimate may include a contingency amount for up to ten percent (10%) and remain unobligated until six (6) months of the agreement's expiration date.

b. Preparing a business case in accordance with the OSI's NASA Business Case Guide for Real Property and Facilities Project Investments. Centers may not proceed on NHPA RP agreements or proposals without concurrence from FRED.

c. Working to obligate the funds or, in conjunction with FRED, to return them for reallocation to another Center.

d. Annually submitting an NHPA Lease Proceeds Usage Plan (LPUP) to FRED that identifies how the Center receiving NHPA proceeds plans to use their identified proceeds.

e. Submitting project proposals that can be obligated within a three-month period timeframe to FRED for repair of NRHP-listed or contributing properties using NHPA lease proceeds at their Center when they do not directly receive NHPA proceeds. Proposals may not proceed without FRED concurrence.

f. Maintaining NHPA-related agreement and project's detail information in accordance with NASA policy and guidance to assist the Agency OCFO and OSI recording and reporting requirements.

3.2.4 The Center CFO, or designee, is responsible for approving the EPR in accordance with NPR 9090.1 and ensuring that it includes ongoing maintenance and repair of historic properties and uses market-based pricing to show FMV is received by NASA. The EPR will reflect NASA's estimated full costs, pricing adjustments, and partner pricing. Demand services or other related agreement will contain a separate CFO approved EPR.

3.2.5 The Center OCFO, or designee, is responsible establishing the RP agreement in the official accounting system and processing accounting transactions, to include lease net proceeds, in accordance with NASA policy and other regulatory requirements.

3.3 Financial Requirements

3.3.1 Center CFOs will follow internal NASA accounting classification conventions for supporting the identification of accounting transactions related to each NHPA lease (e.g., Work Breakdown Structure (WBS) codes). Financial records will be maintained by the WBS assigned to each lease. Financial records are subject to review by the Agency OCFO and FRED.

3.3.2 Centers receiving NHPA proceeds have authority to use the lease proceeds up to the full cost recovery of allowable expenses that are directly related to the respective lease, such as lease administration, maintenance, and repair of leased assets.

3.3.2.1 Use of NHPA net proceeds will be coordinated with HQ OCFO and approved by FRED.

3.3.2.2 Proceeds that remain unobligated as of March 31 of their final year of availability will be returned to FRED for reapportionment to other priority NRHP-listed historic preservation projects. Centers may request an extension to the Director of FRED.

3.3.3 The Agency OCFO will deposit NHPA surplus proceeds not obligated within the period of availability (i.e., the end of the second fiscal year following the fiscal year in which the proceeds are earned) to the Treasury Miscellaneous Receipts Account.

3.3.4 Quarterly Reporting Requirements. Centers will report the following information to the Agency OCFO for each active NHPA lease by WBS for the current quarter and cumulative to-date totals:

a. Base (cash) rent received.

b. Additional payments received, e.g., demand services.

c. Value of in-kind consideration, as appropriate, received in the preceding calendar year.

d. Indirect support costs incurred in connection with the NHPA lease and methodology for allocation.

e. Calculation of NHPA net proceeds (amount above the full cost) earned to date.

f. Expenditures incurred on NHPA projects, including the name and identifying number of the project, a description of the project.

g. Copy of the general ledger accounts that support all allowable expenses incurred with regard to the NHPA lease to date for expenses for which the Center is seeking funds for the quarter.

3.3.5 Annual Reporting Requirements. The Agency OCFO will issue a data call for annual reporting requirements by November 15 for the preceding fiscal year.

3.3.5.1 The data call will include a request for NHPA lease revenues and expenses forecast that provides necessary data for an apportionment request as part of the annual budget process.

3.3.5.2 The data call will include a request for NHPA lease revenue and expense actuals that provide accountability for the NHPA lease program. Reporting elements include a detailed description of:

a. Revenues received in the preceding fiscal year, separately detailing rent revenues subject to NHPA and other revenues (e.g., for demand services also part of the lease agreement).

b. Benefit collections in the preceding fiscal year.

c. Expenditures to cover the direct lease costs.

d. Expenditures of net proceeds (from the capital asset account).

e. Expenditures for demand services.

Chapter 4. Charges for Rental Quarters and Related Facilities

4.1 Overview and Responsibilities.

4.1.1 Charges for Rental Quarters and Related Facilities. 5 U.S.C. § 5911, Quarters and Facilities, Employees on the United States provides authority for agencies to charge rent for quarter or related facilities.

4.1.1.1 Rental quarters include housing supplied under specific Government direction as an incidental service in support of Government programs. "Public Quarters" designated for occupancy by members of the uniformed services with loss of allowances and sleeping facilities furnished on a temporary basis are excluded. Otherwise, quarters owned by or leased to the Government are included whether occupied by Government employees, contractors, contractors' employees, or any other person to whom housing is provided as incidental to the performance of a Government activity.

a. Housekeeping and non-housekeeping units, including trailers but not tents, furnished and unfurnished are included.

b. Related facilities include, but are not limited to, utilities, services, furniture, and appliances.

4.1.1.2 Rental rates for quarters and charges for related facilities will be based upon reasonable value in the circumstances under which they are provided, occupied, or made available. Rental rates will not be used as an incentive for recruitment or retention of employees or to encourage occupancy of existing Government housing. Refer to OMB Circular A-45, Rental and Construction of Government Quarters, for additional information.

4.1.2 Responsibilities

4.1.2.1 OSI is responsible for:

a. Advising the Center CFO and Mission Support Directorate of significant events concerning the use of and charges for NASA rental quarters.

b. Managing an appeals process to include receipt, administrative reviews, and approval process in accordance with the provisions of Rental and Construction of Government Quarters, Revised.

c. Amending the lease or rental agreements for the general rates and charges adjustments.

d. Ensuring charges are collected.

e. Providing qualified appraisers to Center Directors to perform the necessary reviews. Appraisers from the Federal Housing Administration, the Army Corps of Engineers, the Naval Facilities Engineering Command, or the General Services Administration should be used.

4.1.2.2 The Center Director is responsible for:

a. Monitoring the use of rental quarters and determining annually, in conjunction with the Center CFO, whether an adjustment to the basic rental rate is required.

b. Advising OSI of needed adjustments to basic rental rates and requesting periodic appraisal reviews be provided.

Appendix A. Acronyms

CFO	Chief Financial Officer
EPR	Estimated Price Report
EUL	Enhanced Use Lease
FRED	Facilities and Real Estate Division
LPUP	Lease Proceeds Usage Plan
NHPA	National Historic Preservation Act
OCC	Office of Chief Counsel (Center level)
OCFO	Office of the Chief Financial Officer
OGC	Office of General Counsel (Agency level)
OSI	Office of Strategic Infrastructure

Appendix B. Definitions

Cost Element. The categorical subdivisions of direct and indirect costs used in estimating NASA resources for an agreement activity. Examples of categorized cost elements are civil service labor, civil service travel, contractor costs, costs associated with office space or facilities, and utilities used to support the activity.

Contributing Properties. Contributing properties are those properties identified through historic property surveys and for which the State Historic Preservation Officer has concurred to as contributing to the historic district.

Cost Estimate. The calculation of NASA's planned commitment of resources to perform an activity outlined in an agreement. Costs should be identified by direct and indirect cost elements and in enough detail that reviewing and approving officials are aware of and agree to the resources being used to perform the activity.

Direct Cost. The cost that can be specifically identified with an output. All direct costs should be included in the full cost of outputs. Typical direct costs in the production of an output include: (a) salaries and other benefits for employees who work directly on the output; (b) materials and supplies used in the work; (c) various costs associated with office space, equipment, facilities, and utilities that are used exclusively to produce the output; (d) costs of goods or services received from other segments or entities that are used to produce the output; and (e) other costs related to the production of the output (e.g., travel).

Estimated Price Report. The supporting financial document used to capture NASA's estimated costs, pricing adjustments, and estimated price to the partner for work to be performed by NASA as defined in a reimbursable agreement. The template in NPR 9090.1 Appendix C outlines the minimum requirements for an EPR.

Full Cost. The full cost of an output produced by a responsible segment is the sum of (1) the costs of resources consumed by the segment that directly or indirectly contributes to the output and (2) the costs of identifiable supporting services provided by other responsible segments within the reporting entity and by other reporting entities. For purposes of determining estimated cost, full cost means the direct and indirect resources used to provide the specific work.

Indirect Costs. Indirect costs are costs of resources that are jointly or commonly used to produce two or more types of outputs but are not specifically identifiable with any of the outputs. Typical examples of indirect costs include costs of general and administrative services, general research and technical support, employee health and recreation facilities, and operating and maintenance costs.

Proceeds. The full amount received (receipts) for cash or in-kind consideration of the RP agreement.

Lessee. One that holds real or personal property under a lease, also known as the "tenant." Ownership of the property is not transferred to the lessee.

Maintenance. The recurring day-to-day work that is required to maintain and preserve property, plant, and equipment in a condition suitable for it to be utilized for its designated purpose.

Market-Based Pricing. The price for a good, resource, or service that is based on competition in open markets, and creates neither a shortage nor a surplus of the good, resource, or service (OMB A-25). It is the estimated amount that can be realized by disposing of an item through arm's length transactions in the marketplace; the price (usually representative) at which bona fide sales have been consummated for products of like kind, quality, and quantity in a particular market at any moment of time.

Net proceeds. The amount of receipts in excess of the full cost of the RP agreement.

Nonreimbursable Agreements. Agreements where NASA and the partner participate in a mutually beneficial activity that furthers NASA's mission, each party bears the cost of its participation, and no funds are exchanged between the parties. (Refer to NPD 1050.1.)

Partner. The entity receiving property or a derived benefit of property from NASA in accordance with an executed real property agreement.

Price. The term is used in this document to represent the level of reimbursement the partner is required to provide in return for a specified benefit received.

Pricing Adjustments. Adjustments to the estimated full cost based on laws and other regulations, allowable market-based pricing methodologies, or waived costs.

Reimbursable Agreements. Agreements where NASA provides goods or services to a partner, for the partner's primary benefit, and NASA's costs associated with the activity are reimbursed in full or in part by the partner. (Refer to NPD 1050.1.)

Surplus Proceeds. The amount of net proceeds that are not obligated within the period of availability (currently, NHPA only).

Waived Costs. The costs incurred by NASA, but not charged to a partner, and based on benefit received by NASA.

Appendix C. Reference Information

Advisory Council on Historic Preservation legal opinion, January 28, 2014.

Chief Financial Officers Act of 1990, 31 U.S.C. § 901-903.

Commercial Space Launch Act, as amended (CSLA), 51 U.S.C. §§ 50901-50923.

Deposit of Proceeds, 51 U.S.C. § 20145 Note.

Federal Real Property Asset Management, Executive Order 13327, 69 Federal Register 5897 (February 6, 2004).

Lease of Non-Excess Property, 51 U.S.C. § 20145.

National Aeronautics and Space Act.51 U.S.C. § 20101 et seq.

NAII 1050-1B, Space Act Agreements Guide.

NAII 1050-3, Partnership Guide.

NASA Business Case Guide for Real Property and Facilities Project Investments.

NPD 1050.1, Authority to Enter into Space Act Agreements.

NPD 9010.2, Financial Management.

NPD 9080.1H, Review, Approval, and Imposition of User Charges.

NPD 8800.14, Policy for Real Estate Management Program.

NPD 1370.1, Reimbursable Utilization of NASA Facilities by Foreign Entities and Foreign-Sponsored Research.

NPR 8800.15, Real Estate Management Program.

NPR 8831.2, Facilities Maintenance and Operations Management.

NPR 9060.1, Accrual Accounting - Revenues, Expenses, and Program Costs.

NPR 9250.1, Property, Plant, and Equipment and Operating Materials and Supplies.

NPR 9610.1, Accounts Receivable, Billing, and Collection.

NPR 9630.1, Accounts Payable and Disbursements.

NASA Transition Authorization Act of 2017, Pub. L. 115–10, title VIII, § 841, Mar. 21, 2017, 131 Stat. 72.

National Historic Preservation Act, 54 U.S.C. § 306121 and § 306122.

Office of Management and Budget (OMB) Circular A-11, Preparation, Submission and Execution of the Budget.

OMB Circular.A-25, User Charges.

OMB Circular A-45, Rental and Construction of Government Quarters.

OMB Circular A-94, Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs.

Protection of Historic Properties, 36 C.F.R. Part 800.

Quarters and Facilities; Employees in the United States, 5 U.S.C. § 5911.

Title V of the Independent Offices Appropriations Act of 1952, Fees and Charges for Government Services and Things of Value, 31 U.S.C. § 9701.

Standard Form (SF) 132, Apportionment and Reapportionment Schedule.

SF 133, Report on Budget Execution and Budgetary Resources.

Statement of Federal Financial Accounting Standards (SFFAS) 4: Managerial Cost Accounting Standards and Concepts.

SFFAS 7: Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting.

SFFAS 29: Heritage Assets and Stewardship Land.

SFFAS 54: Leases: An Amendment of SFFAS 5, Accounting for Liabilities of the Federal Government and SFFAS 6, Accounting for Property, Plant, and Equipment.

SFFAS 55: Amending Inter-Entity Cost Provisions.

SFFAS 54: Leases: An Amendment of SFFAS 5, Accounting for Liabilities of the Federal Government and SFFAS 6, Accounting for Property, Plant, and Equipment (effective for periods beginning after September 30, 2020).

Treasury Financial Manual, Volume 1, Part 2, Chapter 4700, Agency Reporting Requirements for the Financial Report of the United States Government, Appendix 6, Intragovernmental Business Rules (TFM Vol I Pt 2 Ch. 4700, App 6 Intragovernmental Business Rules).

NASA Form (NF) 1509, Facility Project - Brief Project Document.

Appendix D. Authorities

Note: NASA may execute agreements under several statutory authorities. The following authorities listed are not intended to be all-inclusive. Consult with the Agency OGC/Center OCC for appropriate authority when performing activities with a partner or for assistance where questions arise.

C.1 Space Act, 51 U.S.C. § 20101 et seq. The Space Act provides NASA several specific authorities it uses to work with partners depending on the circumstances of the activity. One is 51 U.S.C. § 20113(e) or "other transaction authority" (OTA). Refer to NPD 1050.1 and its implementing instructions regarding use of the authority. A pricing adjustment for waived cost may be appropriate when requested and approved in accordance with this NPR.

C.2 Enhanced Use Lease (EUL), 51 U.S.C. § 31505, and Lease of Non-Excess Property, 51 U.S.C. § 20145. Refer to NPD 8800.14, NPR 8800.15, and NID 9091.1 for related property management policy and procedure requirements. The EUL authority provides that the Administrator may enter into lease agreements with regard to any non-excess real property and related personal property under the jurisdiction of the Administrator to: (1) lease such NASA property at FMV; (2) use the amounts collected to cover the full costs to NASA in connection with the lease; and (3) use the net proceeds of the lease (i.e., collections received in excess of the full cost of lease) for maintenance, capital revitalization, and improvements of the real property assets and related personal property of the Agency as detailed in the statute. NASA is not authorized to lease back property under this authority.

C.2.1 Lease of Non-Excess Property gives the Administrator authority to lease non-excess NASA real property at FMV, to use the amounts collected to cover the full costs to NASA in connection with the lease, and to use the net proceeds of the lease (i.e., cash collections received in excess of the full cost of leases) for maintenance, capital revitalization, and improvements of the real property assets and related personal property under the jurisdiction of the Administrator.

C.2.2 Current EUL authority stipulates that cash collections representative of the net proceeds of the RP agreement may not be used in the daily operating cost of managing the RP agreement. Although the full cost may include daily operating elements, collections representative of the full cost may not be deposited into the capital asset accounts with net proceeds.

C.2.3 Under authority initially enacted, the statute applied to real property under the jurisdiction of the Administrator at no more than two NASA Centers. The Ames Research Center and Kennedy Space Center have been NASA's EUL demonstration sites. Cash amounts received under that authority in excess of costs associated with the leases shall be available for maintenance, capital revitalization, and improvements of the real property assets of the Centers selected for this demonstration program.

C.2.4 EUL authority was modified by the Consolidated Appropriations Act of 2008, under which applicable provisions became effective on December 31, 2008. The revised statute applies to any non-excess real property and related personal property (i.e., collateral equipment) under the jurisdiction of the Administrator and extends the EUL authority to all NASA Centers. That authority removed in-kind consideration as a means of payment to NASA by a lessee. However, in-kind consideration can be accepted, where authorized, in connection with EUL agreements entered into prior to December 31, 2008, at Ames Research Center and Kennedy Space Center and subject to the terms of those lease agreements.

C.2.5 Beginning with the Consolidated Appropriations Act of 2010, language was inserted into the appropriation act to limit retention of lease net proceeds derived from cash consideration collected in FY 2010 and thereafter to a period of five years. This continues to be carried forward in subsequent appropriation acts.

C.2.6 EUL authority was subsequently modified by the Consolidated and Further Continuing Appropriations Act, 2012 to allow in-kind consideration for leases entered into for the purpose of developing renewable energy production facilities.

C.2.7 Authority to enter into EUL agreements will expire on December 31, 2019. The expiration of EUL authority to enter into leases will not affect the validity or terms of leases, availability of amounts derived from cash collections to cover the full cost of leases, or NASA's retention of net proceeds (as described in Section 5.6) from leases entered into under EUL authority before the date of the expiration of such authority.

D.3 National Historic Preservation Act (NHPA), 54 U.S.C. § 306121. The NHPA provides authority for Federal agencies to lease its historic property to any person or organization or exchange its property with comparable historic property, if determined that the lease or exchange will adequately ensure the preservation of the historic property. NHPA provides for the retention and use of lease proceeds for historic properties in 54 U.S.C. §306121(b) Proceeds of Lease, "Notwithstanding any other provision of law, the proceeds of a lease under subsection (a) may be retained by the agency entering into the lease and used to defray the costs of administration, maintenance, repair, and related expenses incurred by the agency with respect to that property or other property that is on the National Register that is owned by, or are under the jurisdiction or control of, the agency. Any surplus proceeds from the leases shall be deposited in the Treasury at the end of the 2d fiscal year following the fiscal year in which the proceeds are received."

D.3.1 NHPA lease proceeds may be used:

a. To defray direct costs—such as administrative costs, maintenance and repair costs, code upgrades, and other directly related lease expenses incurred by the Agency—for the following types of historic properties:

(1) The leased asset for which the payments are being collected.

(2) The properties contributing to the historic district where the leased property is located.

(3) Other NASA NRHP-listed properties.

b. Lease proceeds may not be spent on noncontributing properties or other elements within the historic district boundaries.

c. All actions undertaken in accordance with this section are subject to the requirements of 54 U.S.C. §306108.

C.2 Economy Act, 31 U.S.C. § 1535. The Economy Act provides specific authority for Federal agencies to engage in interagency reimbursable activity under certain circumstances. Because the Economy Act requires actual cost reimbursement, it should not be cited in a nonreimbursable agreement with another Federal agency.

C.3 Commercial Space Launch Act (CSLA), 51 U.S.C. § 50913. The CSLA provides authority for the acquisition by the private sector and State governments of: (1) launch or reentry property of the United States Government (U.S.) that is excess or otherwise not needed for public use; and (2) launch services and reentry services, including utilities, of the U.S. otherwise not needed for public use. CSLA requires for the use of such property and services to be priced (charge to the partner) at direct cost. Refer to NPR 9090.1 Appendix F for CSLA pricing guidance.