



# American Broadband Initiative

**Recommendations Report on Laws, Regulations, and Policies Governing the  
Use of Federal Assets for Broadband**

*March 2020*

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## American Broadband Initiative Leveraging Federal Assets (LFA) Workstream

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### I. Executive Summary

The Federal Government has actively sought to improve broadband and expand communication installations across multiple administrations. The American Broadband Initiative (Initiative) consists of three interagency workstreams that further this goal by removing regulatory barriers and expanding opportunities for private-sector investment. This report provides no recommendations for changes in laws; however, it does provide recommendations for consideration to agency regulations and policies governing the use of federal assets for broadband infrastructure in order to facilitate the increased private use of federal assets for telecommunications. This report is a required deliverable per the Initiative's *Milestones Report February 2019* for the Leveraging Federal Assets (LFA) workstream.

Based on the information gathered and its review of the laws, regulations, and policies, the LFA workstream has produced the following report, which outlines the workstream's methodology, discusses government-wide laws governing the use of federal assets, summarizes agency specific findings, and sets forth the following recommendations:

- Agencies should annually review lands excluded from reporting to determine if any classifications can be revised so that lands may be included in future real property asset reporting.
- When applicable, insert specific provisions into the relevant regulations and policies that allow for the use of excluded lands in limited circumstances for infrastructure intended to expand rural broadband.
- Update policies to require agencies to post points-of-contact (or organizational workflow mailboxes) for requests to deploy broadband infrastructure on federal assets.
- To the extent possible, incorporate provisions into agency regulations, policy, or guidance that allow lessees to sublease space in and/or on privately owned communications infrastructure without a separate authorization.
- To the extent possible, agencies should authorize the occupancy and use of federal real property assets for broadband uses and seek efficiencies to streamline the approval process.
- When applicable, enhance agency directives and handbooks to include policies specific to the deployment of broadband infrastructure. Consider publishing industry facing handbooks as guides to facilitate vendor's expectations and navigation of the process.

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### II. Introduction

#### A. Background

The Federal Government has actively sought to improve broadband and expand communication installations across multiple administrations. In February of 2019, the American Broadband Initiative (Initiative), which seeks to promote broadband connectivity by removing regulatory barriers and expanding opportunities for private-sector investment, released its *Milestones Report*.<sup>1</sup> The report outlined the Initiative's mission, core principles, goals, and proposed actions through three interagency workstreams focused on: 1) streamlining the federal permitting processes to expedite broadband deployment; 2) leveraging federal assets to lower the cost of broadband buildouts; and 3) maximizing the impact of federal funding. The Initiative, and corresponding interagency workstreams, is comprised of officials from the General Services Administration (GSA), Executive Office of the President (EOP), National Telecommunications and Information Administration (NTIA), United States Department of Agriculture (USDA), Department of the Interior (DOI), and more than 20 other federal agencies. This report will address certain actions identified in the *Milestones Report* for the Leveraging Federal Assets (LFA) workstream.

#### B. Leveraging Federal Assets (LFA) Workstream

The objective of the LFA workstream is to increase the visibility of federal assets, such as tower facilities, poles, buildings, and land, capable of supporting broadband equipment or infrastructure, thereby lowering the cost of broadband buildouts and encouraging private-sector companies to expand telecommunications infrastructure, especially in rural America. GSA and DOI are co-chairs of the LFA workstream, which has active participation from more than 11 federal agencies. A few of the major activities underway for the LFA workstream, include:

- Making DOI-managed towers available for broadband, including publishing a map of DOI towers available for commercial use (i.e., the Joint Overview-Established Locations (JOEL) map);
- Identifying laws, regulations, and policies that govern the commercial use of assets and recommending changes to facilitate increased private use of federal assets; and
- Working with federal agencies to create an inventory of federal assets potentially available for use and making that data publicly available.

Only four bureaus manage about 95% of all federal land in the United States. These four bureaus are within DOI and USDA: the Bureau of Land Management (BLM), the Fish and Wildlife

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<sup>1</sup> American Broadband Initiative Milestone Report, February 2019.

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Service (FWS), and the National Park Service (NPS) within DOI; and the Forest Service within USDA.<sup>2</sup> The primary management and administration of these lands relate to preservation, conservation, recreation, and development of natural resources. In August 2018, the LFA workstream surveyed these agencies, as well as the other landholding agencies in the LFA working group, to collect information regarding current and potential federal real property assets available for broadband deployment (see Appendix A for a summary of the survey results). The goal of the LFA workstream is to make the federal real property assets identified and managed by these agencies more accessible for broadband. Throughout this report, the term “federal real property assets” refers to lands, buildings, and/or structures owned by federal agencies.

### C. Scope of this Report

The Initiative’s *Milestones Report* indicates that by August of 2019, the LFA workstream will recommend any rule, regulation, and/or policy changes that facilitate increased private use of federal assets for telecommunications, including those assets managed by GSA, DOI, USDA, Department of Defense (DoD), National Aeronautics and Space Administration (NASA), Department of Energy (DOE), Department of Homeland Security (DHS), and Department of Veteran Affairs (VA).

This report outlines the LFA workstream’s process for identifying and reviewing the laws, regulations, and policies that govern the commercial use of federal assets, and provides recommendations for modifying the laws, regulations, and policies that inhibit public and/or commercial use of those assets.

## III. Review of Laws, Regulations & Policies

### A. Methodology

In order to identify the laws, regulations, and policies that govern each agency’s commercial use of assets, the workstream developed a survey and distributed it to the landholding agencies in the LFA working group, including: USDA, DoD, DOE, DHS, VA, GSA, NASA, DOI’s Bureau of Indian Affairs (BIA), BLM, FWS, NPS, Bureau of Reclamation, and the U.S. Geological Survey. The survey included the following questions in order to identify the laws, regulations, and/or policies that govern each agency’s commercial use of assets and the installation of broadband infrastructure:

- What laws, regulations and policies facilitate the use of your agency’s real property assets for the deployment of broadband infrastructure?

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<sup>2</sup> U.S. Congressional Research Service, “Federal Land Ownership: Overview and Data”, by Carol Hardy Vincent, et. al., R42346 (2017), <https://fas.org/sgp/crs/misc/R42346.pdf>, p. 1.

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- What laws, regulations and policies hinder or constrain the use of your agency’s real property assets for the deployment of broadband infrastructure?
- For those real property assets that do not currently have broadband infrastructure installed, are there any specific policy or regulation changes that your agency could make or would like to see made that would allow/facilitate their potential use?
- List any other restrictions on the use of your real property assets for broadband infrastructure and the types of real property assets affected.
- Are there any national security implications to the public disclosure of information about your agency’s policies or regulations relating to broadband facilities?
- Are there any national security concerns or policies that would prohibit making information about your agency’s real property assets accessible by the public?

Based on the agency’s responses to these questions, the workstream consolidated the identified laws, regulations, and policies and reviewed each of them in detail. In its review, the workstream looked for commonalities, differences, and synergies across the various laws, regulations, and policies, and summarized its findings below. The workstream also reviewed in detail each agency’s responses to these questions and incorporated the input throughout this report.

## B. Laws and Applicable Guidance Governing the Use of Federal Assets

### *1. Laws and Applicable Guidance Authorizing and/or Facilitating the Deployment of Broadband Infrastructure on Federal Assets*

The following laws and guidance authorize federal agencies to permit rights-of-way on their real property assets. These also provide the criteria and procedures agencies should follow when issuing rights-of-way to third parties for telecommunication sites, including those for broadband infrastructure.

- ***National Historic Preservation Act (NHPA) of 1966:*** Establishes a program for the preservation of historic properties across the nation. Section 111 authorizes any federal agency to “lease a historic property owned by the agency to any person or organization, or exchange any property owned by the agency with comparable historic property, if the agency head determines that the lease or exchange will adequately ensure the preservation of the historic property.” The proceeds from these leases may be retained by the agency for the “administration, maintenance, repair, and related expenses incurred by the agency with respect to such property or other properties which are on the National Register.”
- ***Presidential Memorandum of August 10, 1995, “Facilitating Access to Federal Property for the Siting of Mobile Services Antennas”:*** Directs GSA, in consultation with the heads of other federal agencies, to develop procedures

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necessary to facilitate access to federal property for the siting of “mobile services antennas” (i.e., telecommunications service provider equipment).

- **Telecommunications Act of 1996:** Section 704(c) requires federal agencies to facilitate the development and placement of telecommunications equipment on buildings and land they manage when placement does not conflict with the agency’s mission or current or planned use of property. Specifically, it states “requests for the use of property, rights-of-way, and easements by duly authorized providers should be granted absent unavoidable direct conflict with the department or agency’s mission, or the current or planned use of the property, rights-of-way, and easements in question.”
- **GSA Bulletin, FMR 2007-B2, Placement of Commercial Antennas on Federal Property:**<sup>3</sup> Provides all federal agencies with the general guidelines and procedures for implementing the antenna siting program set forth by the Presidential Memorandum of August 10, 1995, “Facilitating Access to Federal Property for the Siting of Mobile Services Antennas” and Section 704(c) of the Telecommunications Act of 1996. Among other items, the directive requires executive departments to:
  - Provide a preliminary written response to any antenna siting request within 60 days of receipt of the request;
  - Maintain open communication with requesting wireless telecommunications providers; and
  - Provide the agency’s point of contact for placing commercial telecommunications service antennas on federal properties;
  - Make antenna sites available on a fair, reasonable and nondiscriminatory basis. Collocation of antennas should be encouraged where there are multiple antenna siting requests for the same location. In cases where this is not feasible and space availability precludes accommodating all antenna siting applicants, competitive procedures may be used; and
  - Provide a fully explained, written denial of the request in cases where the antenna siting request has been denied. Service providers can appeal the decision to a higher level of authority for review.
- **Middle Class Tax Relief and Job Creation Act of 2012:** Section 6409 indicates that, notwithstanding section 704 of the Telecommunications Act of 1996, NHPA, NEPA, or any other provision of law, “a State or local government may not deny,

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<sup>3</sup> Note this bulletin replaced the previously applicable guidance in FPMR D-242.

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and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station. Section 6409(b)(2) states that GSA shall develop a common form for facility siting request applications and Section 6409(c) indicates that GSA must develop one or more master contracts to govern the placement of wireless service antenna structures on federal property. Section 6409 was amended by Section 606(a) Division P of the Consolidated Appropriations Act, 2018 (see below).

- **Executive Order 13616 of June 14, 2012, “Accelerating Broadband Infrastructure Deployment”:** Established a *Broadband Deployment on Federal Property Working Group* to ensure a coordinated and consistent approach in implementing agency procedures, requirements and policies related to access to federal property. The working group included representatives from agencies with significant responsibility for managing federal property (i.e., DoD, DOI, USDA, VA, Department of Commerce, Department of Transportation, and the United States Postal Service) and was required to: 1) develop and implement a strategy to facilitate the timely and efficient deployment of broadband facilities on federal property; and 2) provide comprehensive and current information on accessing federal property for the deployment of broadband facilities, and develop strategies to increase the usefulness and accessibility of this information, including ensuring such information is available online and in a format that is compatible with appropriate Government websites. The order also required that, to the extent not already addressed by section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, each working group member agency was to develop and use one or more templates for uniform contract, application, and permit terms to facilitate nongovernment entities’ use of federal property for the deployment of broadband facilities. Lastly, the order also required agencies to review and update their dig-once policies.
- **Consolidated Appropriations Act, 2018:** Section 606 amends Section 6409 of the aforementioned Middle Class Tax Relief and Job Creation Act of 2012, striking subsections (b), (c), and (d) and inserting new language. Some of the significant changes include: changes references to “wireless antenna structures” to “communications facilities installations”; requires NTIA, in coordination with other agencies, to submit a report within two years on recommendations to streamline the process for considering permit applications; includes a “timely consideration of applications” clause that requires executive agencies to grant or deny an application within 270 days of the date an application.

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### **2. *Laws and Applicable Guidance Hindering the Deployment of Broadband Infrastructure on Federal Assets***

The following laws and guidance generally hinder the private use of federal assets, as they implement additional requirements and preclude the installation of communications facilities infrastructure in certain instances.

- ***National Historic Preservation Act (NHPA) of 1966:*** While Section 111 of this law facilities antenna siting on federal property, Section 106 indicates that prior to the issuance of any license, an agency must “take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register.” The agency must also consult with the Advisory Council on Historic Preservation regarding any siting request and must ultimately determine that any proposed use will not adversely affect the historic property.
- ***National Environmental Policy Act of 1969 (NEPA):*** NEPA requires federal agencies to consider and provide detailed disclosures on the environmental impacts of any proposed action. It outlines varying levels of review depending upon the potential for environmental impact: 1) Categorical Exclusions apply for actions with minimal or no impact on the environment; 2) for actions that may have a significant effect on the environment, Environmental Assessments (EAs) determine the extent of the impact; and 3) for major actions with the potential for significant impact on the environment, Environmental Impact Statements (EISs) provide detailed analysis of actions and alternatives. The installation of any new telecommunications equipment on federal property must comply with the requirements set forth by NEPA.
- ***GSA Bulletin, FMR 2007-B2, Placement of Commercial Antennas on Federal Property:*** As discussed above, the guidance outlined in this bulletin generally promotes the citing of broadband infrastructure on federal assets, but there are several provisions in the directive that also limit siting requests. For example, the evaluation of siting requests must include consideration of environmental and historic preservation issues, including, but not limited to: public health and safety, aesthetics, effects on historic districts, protection of natural and cultural resources, compliance with NEPA, and compliance with FCC’s guidelines for radiofrequency exposure. In considering a request, it allows executive departments and agencies to “retain discretion to reject inappropriate siting requests and assure adequate protection of public property” and states that the “siting of telecommunications service provider antennas should not be given priority over other authorized uses of federal buildings or land.”

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### **C. Summary of Agency Specific Findings**

The aforementioned laws and applicable guidance govern the use of federal assets regardless of agency. The following section provides a summary of the primary agency specific laws, regulations, policies and relevant considerations pertaining to the use of each agency and/or bureau's real property assets. Detailed descriptions for each agency's laws, regulations, and policies are included in Appendix C.

In general, as long as a right-of-way permit request aligns with the mission of the agency in question and does not conflict with a specific project's purpose, the installation of broadband facilities infrastructure is typically allowed on federal real property assets. However, due to the nature of certain agency missions, large portions of federal real property assets, particularly in rural areas, are excluded from third party use or not available for the installation of broadband infrastructure (see Appendix B for a description of each landholding agency's mission).

Most of the landholding agencies have well-defined application processes for right-of-way requests and have specific guidelines pertaining to telecommunications sites and broadband infrastructure included in their regulations and policies. Recommendations regarding the changes to the permitting process itself in order to facilitate broadband expansion are outside of the scope of this report, as they are specific to another Initiative workstream, the Streamline Federal Permitting (SFP) workstream. The SFP's objective is to make it easier for network builders and service providers to access federal assets and rights-of-way, reducing the regulatory burden and simplifying the deployment of broadband networks.

#### ***1. U.S. Department of Agriculture (USDA), Forest Service***

The Forest Service manages over 1,500 communications sites and administers approximately 4,000 individual authorizations (leases or permits) on National Forest System (NFS) lands for communications uses. The laws, regulations, policies, and other applicable guidance related to siting communications infrastructure on NFS lands are clearly outlined on the Forest Service's website for potential applicants.<sup>4</sup> The Federal Land Policy and Management Act of 1976 and Section 7 of the Granger-Thye Act authorize the Forest Service to issue special use authorizations (Special Use Permit or Communications Use Lease) for rights-of-way for telecommunication purposes on NFS lands or in and/or on structures or improvements under the

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<sup>4</sup> "Special Uses - Communications Uses," USDA Forest Service, accessed July 15, 2019, [https://www.fs.fed.us/specialuses/special\\_comm.shtml](https://www.fs.fed.us/specialuses/special_comm.shtml).

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administrative control of the Forest Service, as long as the proposed use meets the minimum requirements found at 36 CFR 251.54(e). In accordance with 36 CFR Part 251 and associated Forest Service policies, proponents who wish to occupy and use NFS lands or Forest Service structures or other improvements must submit detailed proposals for consideration. If the request for a proposed use meets the criteria of both the initial and second-level screening processes, the proponent is notified that the agency is prepared to accept a formal application. An applicant must, unless exempt or waived, pay a cost recovery fee for processing their application and monitoring fee to ensure compliance with the authorization during construction or reconstruction of the authorized facilities and an annual land use fee upon issuance of an authorization.

The Forest Service encourages the use of existing communications sites and co-location in and/or on existing facilities. The Forest Service's communications use lease allows the holder to sublease space in and/or on existing facilities without a separate authorization. All uses must comply with NEPA, be consistent with the applicable land management plan and communications site management plan, and be compatible with existing uses.

While the laws, regulations, and policies governing the occupancy and use of NFS lands are generally amenable to permitting for broadband infrastructure, the availability of assets may be restricted due to access issues, administrative needs, structure capacity, and structure conditions.

### ***2. Department of the Interior (DOI)***

DOI lands are managed by several DOI agencies, including the BLM, NPS, FWS, and Bureau of Reclamation. Each agency is discussed separately below.

#### ***a. Bureau of Land Management (BLM)***

The BLM administers over 3,600 communications use facilities on approximately 1,500 sites across the eleven western states and Alaska, ranging from television and radio broadcasters to cellular and wireless broadband providers. The BLM administers these communications sites under regulations contained in 43 CFR 2800, as well as policies established by BLM to supplement the regulations.<sup>5</sup> Current regulations support the use of BLM assets for broadband infrastructure by

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<sup>5</sup> “Communication Sites,” DOI Bureau of Land Management, accessed July 15, 2019, <https://www.blm.gov/programs/lands-and-realty/communication-sites>.

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containing a subleasing provision, which allows lessee's to sublease space to other wireless providers without the need for additional authorizations from BLM.<sup>6</sup>

For the installation of new broadband infrastructure, tower evaluations must be completed to determine if the tower and its foundations are strong enough to support the additional wind and ice loads from putting additional antennas or dishes on them, and radio shelters may lack room to allow broadband equipment to be installed in them. Further, because BLM law enforcement and fire personnel use the BLM's radio infrastructure, and other federal agencies are many times co-located on BLM radio facilities, this may prohibit the use of certain assets for commercial broadband purposes.

#### ***b. Bureau of Reclamation***

Bureau of Reclamation projects, located in the 17 western U.S. states, exist to promote the economic development of the West and currently include 492 dams, 338 reservoirs, and 78 hydroelectric powerplants. None of the identified laws, regulations, or policies governing the use of Reclamation's real property assets directly hinder or constrain the deployment of broadband infrastructure on those assets. Reclamation's real property assets facilitate project-specific functions tied to the mission of the organization. Further, much of Reclamation's real property assets include land, land interests, buildings, and structures, including telecommunication sites behind security zones, on critical infrastructure, and/or are adjacent to projects for water or power generation. Development of third-party broadband or telecommunication sites associated with Reclamation's real property assets is determined at the local office level by the delegated authority. The authorization process outlined in 43 CFR Part 429 must be followed to approve applications for all use authorizations including those for third-party broadband or telecommunications infrastructure. As delegated authority lies with the local office, use authorizations are reviewed for compatibility with Reclamation's authorized project purposes and project operations, safety, or security to determine if the use is appropriate and in the best interest of the United States. Reclamation maintains a public-facing website that provides information on applying for and the issuance of use authorizations associated with Reclamation land, facilities, and waterbodies.<sup>7</sup>

#### ***c. Fish and Wildlife Service (FWS)***

FWS lands are those identified for conservation purposes and are a part of the National Wildlife Refuge System. As such, allowed commercial uses on FWS real

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<sup>6</sup> 43 CFR § 2806.36.

<sup>7</sup> "Use of Reclamation Land, Facilities, and Waterbodies," accessed July 15, 2019, Reclamation <https://www.usbr.gov/lands/>.

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property assets are limited and subject to complex and comprehensive “compatibility determinations.” FWS can grant permits, easements, and rights-of-way, but only for uses deemed compatible with the mission of the lands (i.e., conservation). Compatible uses are primarily related to recreational or public, rather than commercial use. Further, long-term easements are discouraged and are generally only approved for public utilities.

Despite these challenges, the application process for a right-of-way permit, including the requirements and necessary actions for both the applicant and agency official reviewing the application, is clearly outlined in the current laws, regulations, and policies governing the process for broadband installations on existing assets, such as radio or water towers.

#### *d. National Park Service (NPS)*

By legislative mandate (Organic Act of 1916 and the General Authorities Act of 1970), NPS preserves unimpaired the natural and cultural resources and values of the National Park System for this and future generations. The impairment of park resources and services is not allowed unless directly and specifically provided for by legislation or proclamation. The authority for a utility right-of-way through park lands can be found at 16 U.S.C. § 5 for communication transmitting and receiving structures, facilities, and antennas (including cellular sites), and 36 CFR Part 14 directly authorizes NPS to provide rights-of-way permits on National Park System lands. The Telecommunications Act of 1996 and subsequent NPS policies allow NPS to consider telecommunications permits so long as they fall below the threshold for unacceptable impact or impairment and comply with NPS policies. Even so, permits are generally only “issued under certain, stringent circumstances”,<sup>8</sup> as special park uses are only encouraged if they support the mission of NPS, add to the public understanding and enjoyment of the park, promote a sense of ownership and stewardship for the park and its resources, enhance the protection of park resources and values, or provide for an increased level of visitor safety.<sup>9</sup> In addition to overall NPS policies governing the use of assets, there are 417 NPS units, each with park-specific authority that differs from the general statute and influences the decision-making process for determining if an asset is available for the installation of broadband infrastructure.

Further, because NPS manages numerous assets that are located in remote areas with little or no permanent population nearby, broadband infrastructure is often uncommon due to the lack of demand or cost-effectiveness of constructing facilities

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<sup>8</sup> National Park Service, Reference Manual 53, Appendix 5.

<sup>9</sup> National Park Service, Director’s Order #53.

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for telecommunications providers. NPS is currently in the process of updating its Reference Manual to reflect the current process for gaining right-of-way approval, which will be helpful to both the agency and future permit applicants. Information regarding NPS's permitting process is available on its website.<sup>10</sup>

### **3. Department of Defense (DoD)**

The majority of DoD laws and policies related to DoD's real property assets are not primarily related to siting of telecommunication facilities. Due to national security concerns, a close review by the Office of the Under Secretary of Defense for Intelligence and the DHS Interagency Security Council has determined the public release of DoD's real property information at the asset level compromises national security. Because real property data at the asset level provides sensitive information on critical infrastructure, DoD generally does not release this type of information to the public and has strict policy regarding the release of DoD information (DOD Instruction 5230.29).

Even so, DoD has implemented specific policies to encourage the deployment of broadband infrastructure, though environmental and extensive operational and safety requirements must be cleared before broadband related infrastructure may be deployed. For example, a June 2016 Department of the Navy Memorandum established a streamlined process to facilitate the deployment and expansion of commercial broadband services on Navy and Marine Corps real property assets in fewer days than the 270 day mandate required by the Consolidated Appropriations Act, 2018. To address broadband coverage and capacity at underserved Navy and Marine Corps installations, this memorandum also set a goal for Navy installations to meet or exceed national averages for broadband coverage and capacity. The memorandum also states that easements are the preferred real estate instrument for supporting commercial broadband providers on Navy installations, but a lease may be awarded when an easement is not appropriate. This policy guidance was developed with input from the Wireless Industry Association. The Department of the Navy is updating this policy guidance to accommodate "small cell" networks. The Air Force has encouraged industry to compete on base-wide requirements using the full spectrum of broadband capabilities using longer-term leasing arrangements under authorities not available to the installation commanders. The Army receives broadband application requests at the local installation level and is now looking into its internal process to streamline and shorten the review and approval decision timelines.

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<sup>10</sup> "Right-of-Way Permit," National Park Service, accessed July 15, 2019, <https://www.nps.gov/aboutus/right-of-way-permit.htm>.

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### **4. Department of Homeland Security (DHS)**

There are currently no laws, policies, regulations, or guidance specifically related to the deployment of broadband infrastructure on DHS real property assets. DHS' Real Property Manual establishes the agency's policy regarding its real property management program and requires DHS organizational elements to establish their own internal policies and systems of accountability to ensure effective use of real property assets in support of mission-related activities. Therefore, each organizational element would need to review the individual policies in place at the component level to determine if they are amenable to broadband.

In general, DHS limits the release of information regarding its real property assets due to national security concerns and the sensitive nature of any information related critical infrastructure. Further, DHS operations require secure communications – therefore, providing asset information to the public or allowing private infrastructure to be installed on DHS assets could compromise missions, agents, and overall national security.

### **5. Department of Energy (DOE)**

The laws governing real property asset use under DOE's custody and control do not specifically address broadband infrastructure, but provide for various uses by other parties in limited circumstances. Proposed uses must be consistent with DOE mission requirements, security, and public safety and are evaluated on a case-by-case basis for consistency with these requirements as they pertain to the specific asset in question. While some information regarding DOE's assets is already publicly available, certain information cannot be made available to the public on real property assets due to national security concerns. As such, DOE real property assets may be used for the deployment of broadband infrastructure in limited circumstances.

### **6. General Services Administration (GSA)**

GSA policies generally encourage the commercial use of federal real property assets and are accommodating to broadband infrastructure projects. As long as a lease or permit does not interfere with the preservation of historic property, has adequately considered public safety, environmental issues and aesthetics, and has not been given priority over other authorized uses of federal buildings or land, commercial use (and therefore antenna sitings) are encouraged. Information regarding the forms and

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applications process for wireless telecommunications installations is available on GSA's website.<sup>11</sup>

### **7. National Aeronautics and Space Administration (NASA)**

NASA policy aligns with the GSA directive *FMR 2007-B2, Placement of Commercial Antennas on Federal Property* and incorporates much of the same language authorizing commercial antenna sitings. As such, permits for the installation of broadband infrastructure are generally encouraged so long as they do not interfere with agency mission and comply with relevant laws and requirements.

### **8. Veteran Affairs (VA)**

In general, the laws and policies identified as specifically related to VA's real property assets are not directly related to telecommunications facility sitings. Instead, they are primarily focused on leasing property to improve the utilization of space and better serve VA's mission of providing medical services to its veterans. For example, the Office of Capital Asset Management Engineering and Support (OCAMES) has implemented a program for sharing use of space agreements, which could help facilitate the use of VA real property assets for the deployment of broadband infrastructure, but is currently not specific to right-of-way permits for facility sitings. Directives and handbooks would need to be enhanced to include policies specific to the deployment of telecommunications infrastructure.

## **IV. Recommendations**

Based on its review of the identified laws, regulations, and policies, the LFA workstream developed the following recommendations to promote better access to federal assets and facilitate increased private use of federal assets for telecommunications. These recommendations pertain to making federal assets more available, but do not attempt to address changes related to permitting:

- Agencies should annually review the lands excluded from reporting to determine if any classifications can be revised so that the lands may be included in future real property asset reporting.
- When applicable, insert specific provisions into the relevant regulations and policies that allow for the use of excluded lands in limited circumstances for infrastructure intended to expand rural broadband.

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<sup>11</sup> "Wireless Telecommunications Installation, GSA, accessed July 15, 2019, <https://www.gsa.gov/real-estate/real-estate-services/for-businesses-seeking-opportunities/wireless-telecommunications-installation>.

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- Update policies to require agencies to post points-of-contact (or organizational workflow mailboxes) for requests to deploy broadband infrastructure on federal assets, thereby making it easier for providers to contact the relevant personnel for permit requests.
- To the extent possible, incorporate provisions into agency regulations, policy, or guidance that allow lessees to sublease space in and/or on privately owned communications infrastructure without the need for a separate authorization. For example, BLM and Forest Service allow lessee's to sublease space in and/or on existing facilities to other wireless providers without applying for a separate authorization, if the proposed use is consistent with management objectives and compatible with existing uses. The Department of the Navy regulations also allow lessee's to sublease space to other wireless providers, but sublees must complete spectrum analyses to ensure compatibility with other spectrum users.
- To the extent possible, agencies should authorize the occupancy and use of federal real property assets for broadband uses and seek efficiencies to streamline the approval process.
- When applicable, enhance agency directives and handbooks to include policies specific to the deployment of broadband infrastructure. This could include publishing industry facing handbooks as guides to facilitate vendor's expectations and navigation of the process. Agencies should also update agency directives, policies and handbooks to accommodate new technology, such as small cell systems.

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*Appendix A: 2018 Leveraging Federal Assets (LFA) Working Group Agency Survey Results and Analysis - August 6, 2018*



The logo of the General Services Administration (GSA) is located in the top-left corner of the slide. It consists of the letters "GSA" in white, bold, sans-serif font, enclosed within a dark blue rectangular box.

**General Services Administration**  
2018 Leveraging Federal Assets (LFA) Working Group  
Agency Survey Results and Analysis

August 6, 2018

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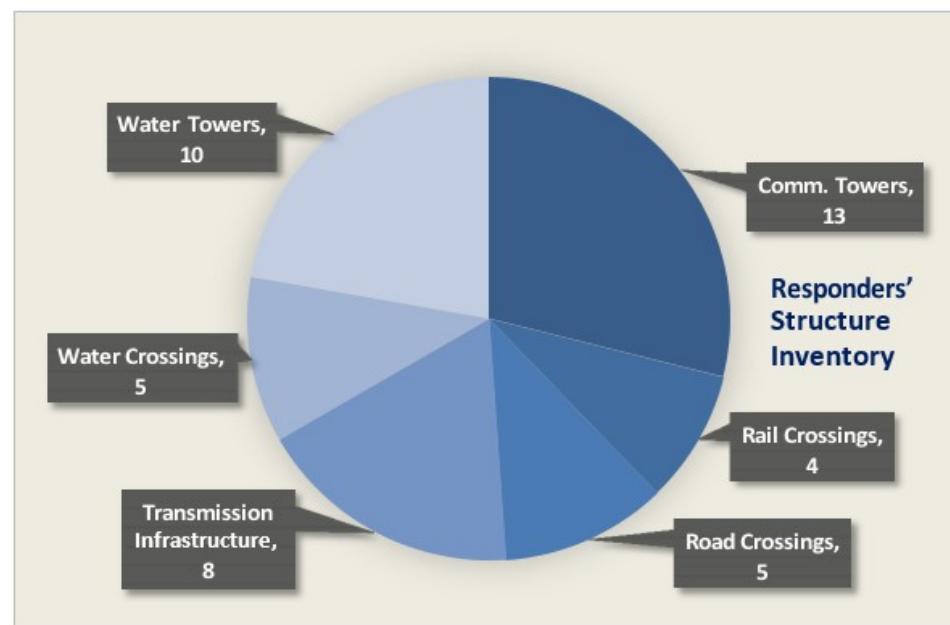
## Agencies Surveyed

- Department of Agriculture
- Department of Defense
- Department of Energy
- Department of Homeland Security
- Department of the Interior
  - Bureau of Indian Affairs
  - Bureau of Land Management
  - Bureau of Reclamation
  - Fish and Wildlife Service
  - National Park Service
  - US Geological Survey
- Department of Veterans Affairs
- General Services Administration
- National Aeronautics and Space Administration



## Question 2 – Federal Real Property Assets

- 100% of responders have buildings and structures in their real property inventory (owned or leased)
- 12 of the 13 include land on their real property inventory
  - The Bureau of Indian Affairs does not own land



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## Question 3 – Additional Federal Real Property Assets

Agency/ Bureau	Assets
Department of Agriculture	Roads, dams and bridges
Department of Defense	Bridges and Trestles, Parking Garages, Piers and Wharfs, Light/Utility/Equipment Poles, Observation Towers, Covered facilities other than buildings (e.g., covered maintenance or storage facility)
Department of Interior	
Bureau of Indian Affairs	Radio shelters
Bureau of Reclamation	Dams, power plants, pumping plants, canals, wells, drains, and recreation areas. Building inventory includes: offices, warehouses, laboratories, housing, industrial and shop buildings, and communications buildings that support the mission
Department of Veterans Affairs	The National Cemetery Administration (NCA) operates 136 national cemeteries and 33 soldiers' lots and monument sites in 40 states and Puerto Rico



## Question 4 – Assets That Currently Have Broadband Infrastructure Installed

- 10 of the respondents have assets that currently have Broadband Infrastructure installed
- Only three agencies reported having no broadband service installed in any of their real estate assets:
  - (DOI) Fish and Wildlife Service
  - (DOI) US Geological Survey
  - NASA

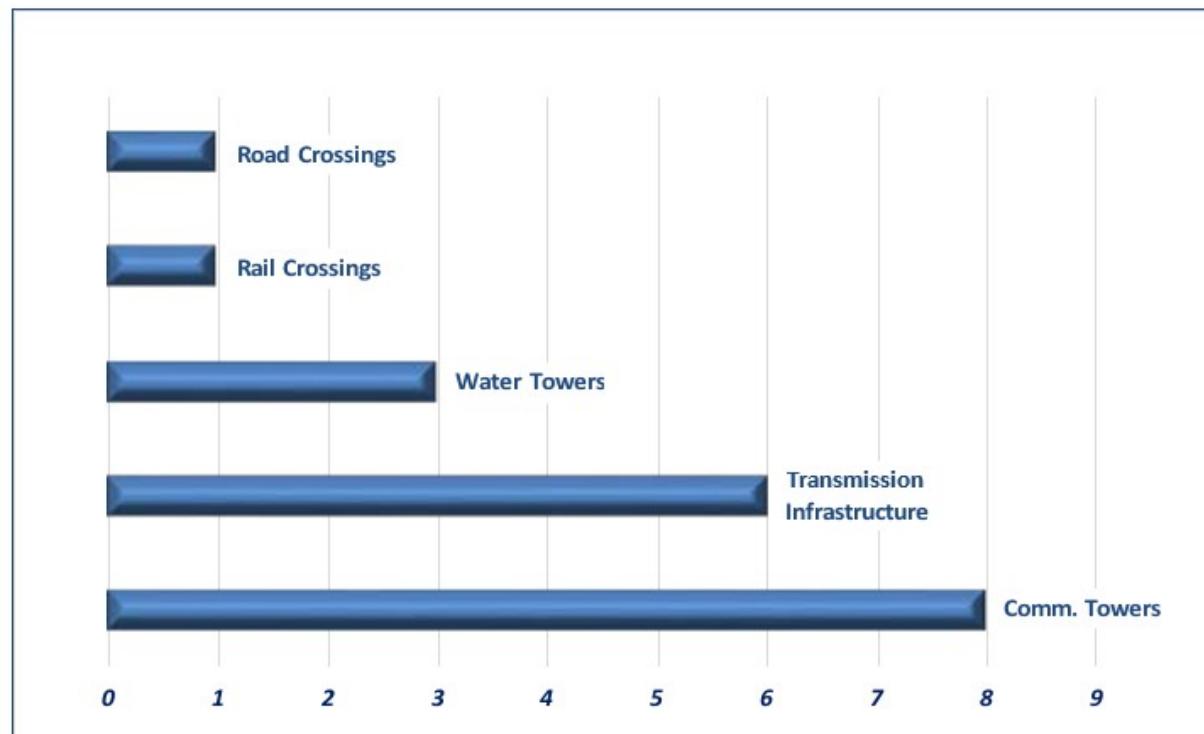
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## Question 4 – Assets That Currently Have Broadband Infrastructure Installed – Continued

Agency	Buildings	Land	Structure
Department of Agriculture	✓	✓	✓
Department of Defense	✓	✓	✓
Department of Energy		✓	
Department of Homeland Security	✓	✓	✓
Department of the Interior			
Bureau of Indian Affairs	✓		✓
Bureau of Land Management	✓	✓	✓
Bureau of Reclamation	✓	✓	✓
Department of Veteran Affairs	✓	✓	✓
General Services Administration	✓	✓	✓
National Park Service	✓	✓	✓

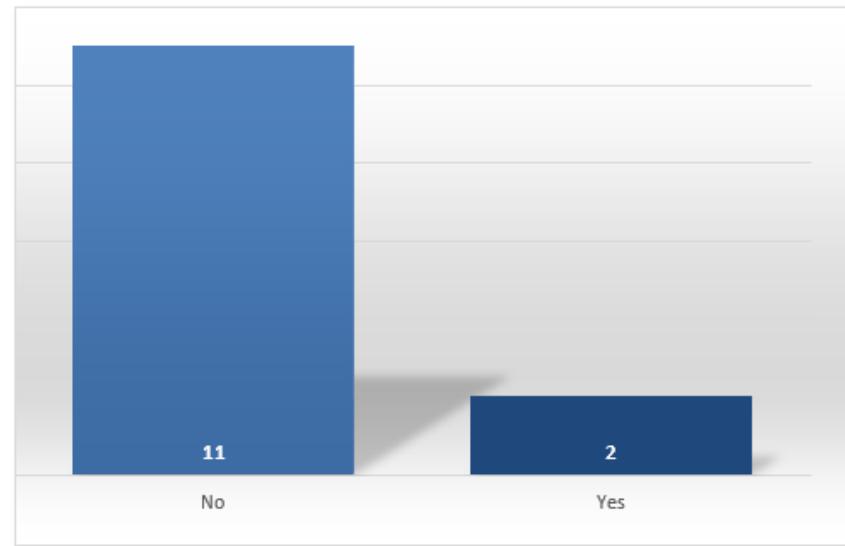


## Question 4 – Assets That Currently Have Broadband Infrastructure Installed - Continued

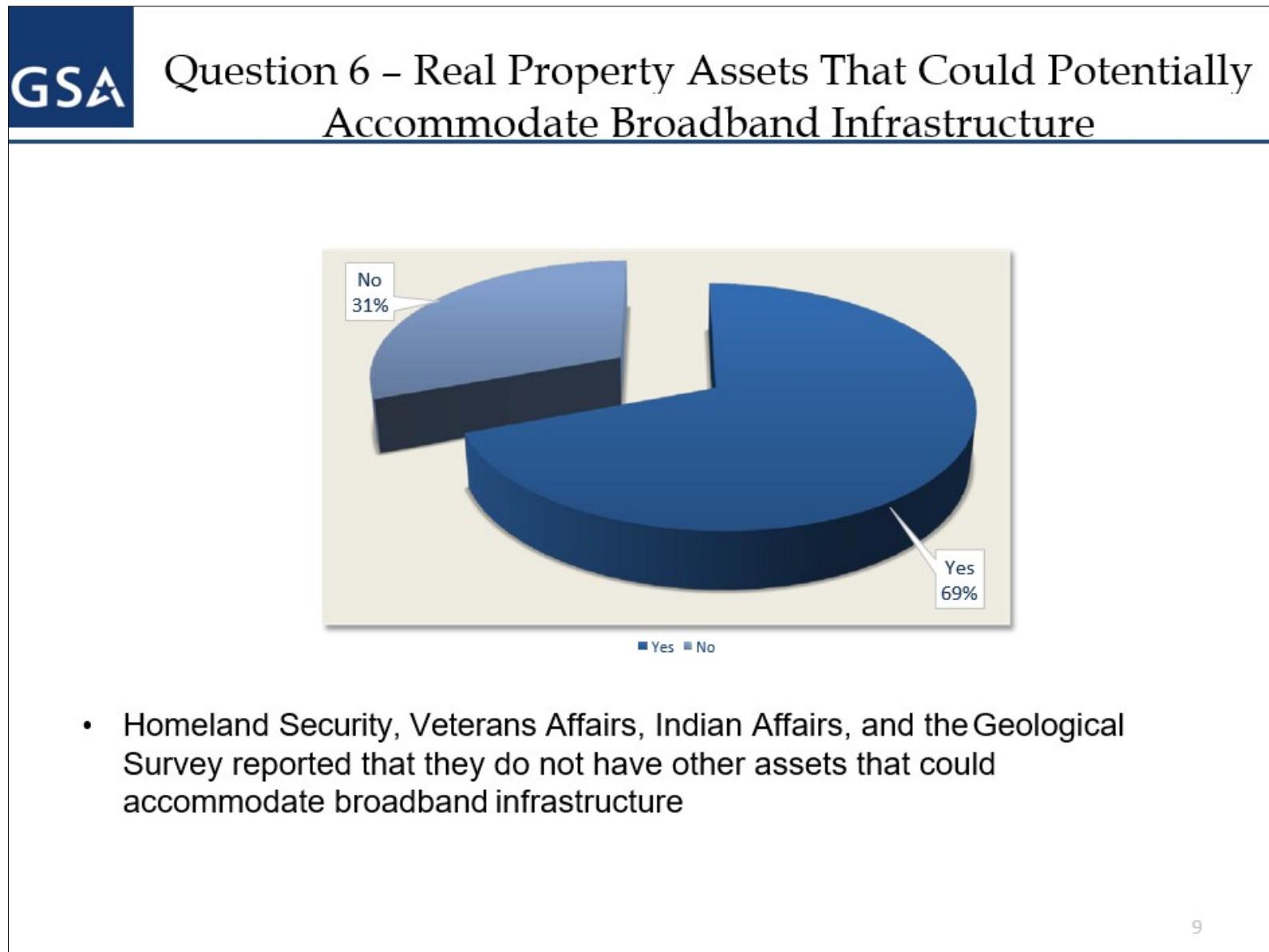




## Question 5 – Broadband Infrastructure Installed on other Types of Real Property Assets

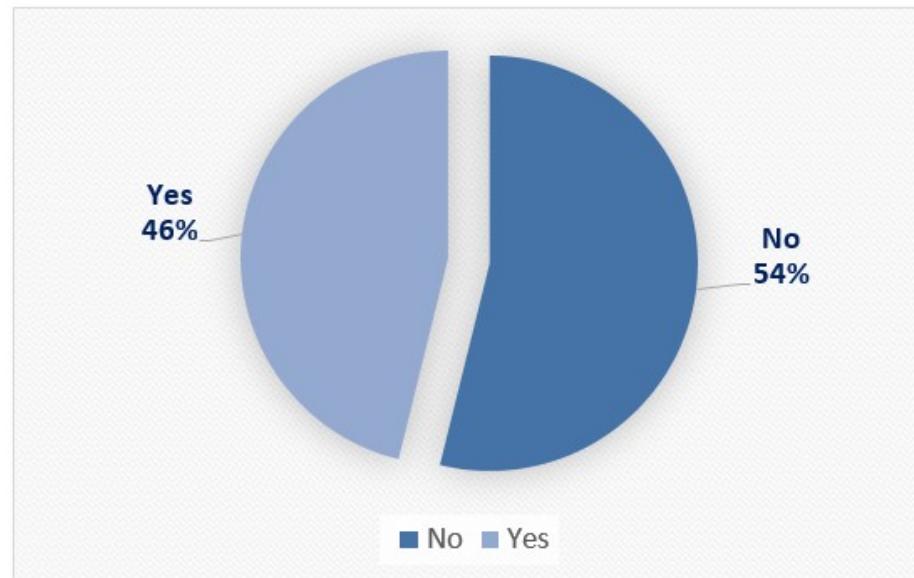


- Only the Bureau of Indian Affairs and the Bureau of Reclamation reported broadband Infrastructure on other real property asset types
- However, Reclamation cannot determine these assets because the information is not maintained at the Bureau-level





## Question 7 – Easements or Right-of-way Potentially Available for Broadband Infrastructure



- Six of the 13 agencies reported easements or rights-of-way available for broadband infrastructure deployment

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### Question 7 – Easements or Right-of-way Potentially Available for Broadband Infrastructure (continued)

Agency / Bureau	Easements / Right-of-Way
Department of Agriculture	<ul style="list-style-type: none"><li>Road rights-of-way may potentially accommodate broadband infrastructure</li></ul>
Department of Defense	<ul style="list-style-type: none"><li>Requester must provide specific requirements due to environmental and extensive operational and safety restrictions</li></ul>
Department of the Interior	
Bureau of Land Management	<ul style="list-style-type: none"><li>Rights-of-way corridors may be used for telephone and fiber optic.</li><li>Agency has management plans for many of its mountain tops</li></ul>
Bureau of Reclamation	<ul style="list-style-type: none"><li>Usually, agency is not authorized to grant rights-of-way. However, may coordinate additional use for existing rights-of-way</li><li>Local Reclamation offices are responsible for determining availability and compatibility for facilities under their jurisdiction</li></ul>
General Services Administration	<ul style="list-style-type: none"><li>Easement and rights of way may be available as long as they are not in a high security building, or interfere with existing antennas, wind, or solar projects</li></ul>
Department of Veteran Affairs	<ul style="list-style-type: none"><li>Easements may be granted on a permanent or semi-permanent basis for VA facilities and land</li><li>The Office of Construction and Facilities Management (CFM) is responsible for negotiating easement agreements</li></ul>

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## Questions 8 & 9 – Laws, Regulations, and Policies That Impact Use of Property for Broadband

Agency / Bureau	Facilitate	Hinder or Constrain
<b><i>Applicable to All Agencies</i></b>	<b>7</b>	<b>3</b>
<b><i>Agency Specific</i></b>	<b>39</b>	<b>3</b>
Department of Agriculture	4	1
Department of Defense	11	-
Department of Energy	2	-
Department of Homeland Security	1	-
Department of the Interior	14	2
Bureau of Land Management	2	-
Bureau of Reclamation	5	-
Federal Wildlife Service	2	2
National Park Service	5	-
Department of Veteran Affairs	4	-
General Services Administration	2	-
National Aeronautics and Space Administration	1	-

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## Questions 10 & 11 – Law, Regulation, and Policy Changes; and Other Restrictions That Limit Use

- Responses to question 10 - are there any specific policy or regulation changes that would allow/facilitate asset use – can be broken into three categories
  - No/none identified
  - Sufficient policies and regulations exist to facilitate broadband infrastructure installation
  - One agency was unsure
- Two agencies did not respond to question 11, four agencies responded that there were no other restrictions that limited use

Agency/Bureau	Other Restrictions
Department of the Interior	
Bureau of Indian Affairs	Tower evaluations, lack of room/space, Funding to implement the corrective actions identified in the (RI CASHE) inspections
Bureau of Reclamation	If it does not conflict with project purposes; assets are in security zones, on critical infrastructure, or are adjacent to project purpose delivery of water or power generation
Federal Wildlife Service	Adequate size and height
National Park Service	Depends on the resources that the NPS was designated to protect
Department of Veteran Affairs	Specific requirements to share space; VA and Federal Historic Preservation Law and regulation; special telecommunications system design requirements

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Questions 12 & 13 – Quick (within 90 days) Inventory Availability and Geospatial Information			
Agency/Bureau	Quick Inventory	Total Number of Days	Geospatial Info
Department of Agriculture	No	>120	No
Department of Defense	No	Unknown	No
Department of Energy	No	Unknown	No
Department of Homeland Security	No	>240	No
Department of the Interior			
Bureau of Indian Affairs	Yes		No
Bureau of Land Management	Yes		Yes
Bureau of Reclamation	Yes		Yes
Fish and Wildlife Service	Yes		Yes
National Park Service	No	>365	No
United States Geological Survey	Yes		Yes
Department of Veteran Affairs	No	>120	No
General Services Administration	Yes		Yes
National Aeronautics and Space Administration	Yes		Yes

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## Question 15 – Agencies Providing Real Estate Property Available for Broadband Infrastructure

Agency/Bureau	Provide Info to the Public
Department of Agriculture	Yes
Department of Defense	No
Department of Energy	No
Department of Homeland Security	Yes
Department of the Interior	
Bureau of Indian Affairs	No
Bureau of Land Management	Yes
Bureau of Reclamation	Yes
Fish and Wildlife Service	No
National Park Service	Yes
United States Geological Survey	Yes
Department of Veteran Affairs	Yes
General Services Administration	Yes
National Aeronautics and Space Administration	No



## Question 16 – National Security Implications to the Public Disclosure of Policies or Regulations

- Ten of the respondents answered “No” in relation to having concerns with the public release of their agency policies or regulations regarding broadband facilities
- Three agencies noted national security implications to the release of agency policy or regulations regarding broadband facilities, specifically:
  - **DHS** states that having information on broadband infrastructure open to the public could compromise missions & agents that conduct them
  - **BLM** law enforcement and fire personnel use the BLM's radio infrastructure in addition to its employees
  - **Veteran Affairs** has published physical security standards in the Physical Security Design Manual for improving the protection of mission critical facilities. Mission critical requirements shall extend to all permanent operational support structures at the facility or medical center

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## Question 17 – National Security Concerns or Policies Prohibiting Release of Real Property Assets

Agency / Bureau	Explanation
Department of Defense	DoD has strict policy regarding the release of DoD information to the general public. Release of DoD real property information at the asset level, without significant and rigorous review could be harmful to national security
Department of Energy	Certain information cannot be made available to the public on real property assets due to national security concerns
Department of Homeland Security	DHS has a mission that requires broadband traffic to be secure to conduct operations. Having this open to the public could compromise missions and agents that conduct them
Department of the Interior	
Bureau of Indian Affairs	BLM law enforcement and fire personnel, as well as other Federal agency personnel use BLM's radio infrastructure
Bureau of Reclamation	Reclamation's lands, facilities, and waterbodies contain or are adjacent to National Critical Infrastructure sites. Suitability is responsibility of the local Reclamation office
Fish and Wildlife Service	Disclosure of high hazard dams would increase the threat and risk for those structures and the surrounding communities
National Park Service	NPS real property assets include the White House, Statue of Liberty, the Arch in St Louis, and other iconic facilities

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#### *Appendix B: Agency Missions*

Agency	Mission
<a href="#"><u>Department of the Interior (DOI)</u></a>	DOI conserves and manages the Nation's natural resources and cultural heritage for the benefit and enjoyment of the American people, provides scientific and other information about natural resources and natural hazards to address societal challenges and create opportunities for the American people, and honors the Nation's trust responsibilities or special commitments to American Indians, Alaska Natives, and affiliated island communities to help them prosper.
<a href="#"><u>DOI Bureau of Land Management (BLM)</u></a>	The BLM's mission is to sustain the health, diversity, and productivity of public lands for the use and enjoyment of present and future generations. Congress tasked the BLM with a mandate of managing public lands for a variety of uses such as energy development, livestock grazing, recreation, and timber harvesting while ensuring natural, cultural, and historic resources are maintained for present and future use. BLM manages more than 1/10 of the nation's surface area and 30% of the nation's minerals and soils, and does so while maximizing opportunities for commercial, recreational, and conservation activities.
<a href="#"><u>DOI Bureau of Indian Affairs (BIA)</u></a>	BIA's mission is to enhance the quality of life, promote economic opportunity, and carry out the responsibility to protect and improve the trust assets of American Indians, Indian tribes, and Alaska Natives. BIA is responsible for the administration and management of 55 million surface acres and 57 million acres of subsurface minerals estates held in trust by the United States for American Indian, Indian tribes, and Alaska Natives, but does not itself own any land.
<a href="#"><u>DOI National Park Service (NPS)</u></a>	The NPS preserves unimpaired the natural and cultural resources and values of the National Park System for the enjoyment, education, and inspiration of this and future generations. The National Park System includes 419 areas covering more than 85 million acres in every state, the District of Columbia, American Samoa, Guam, Puerto Rico, and the Virgin Islands. These areas include national parks, monuments, battlefields, military parks, historical parks, historic sites, lakeshores, seashores, recreation areas, scenic rivers and trails, and the White House. The NPS cooperates with partners to extend the benefits of natural and

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Agency	Mission
	cultural resource conservation and outdoor recreation.
<a href="#"><u>DOI Fish &amp; Wildlife Service (FWS)</u></a>	The mission of the FWS is to work with others to conserve, protect, and enhance fish, wildlife, plants, and their habitats for the continuing benefit of the American people. FWS manages the National Wildlife Refuge System with more than 560 National Wildlife Refuges as well as small wetlands and other special management areas encompassing more than 150 million acres. Under the Fisheries program, FWS also operates over 70 National Fish Hatcheries and 65 fishery resource offices. The Ecological Services program has 86 field stations across all 50 states.
<a href="#"><u>DOI Bureau of Reclamation</u></a>	The mission of the Bureau of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public. Reclamation is the largest wholesaler of water in the country, and is also the second largest producer of hydroelectric power in the United States. It has constructed dams, powerplants, and canals in the 17 western United States to promote the economic development of the West. Currently, Reclamation owns 492 dams, 338 reservoirs, and 78 hydroelectric powerplants.
<a href="#"><u>Department of Agriculture (USDA) Forest Service</u></a>	The mission of the USDA Forest Service is to sustain the health, diversity, and productivity of the Nation's forests and grasslands to meet the needs of present and future generations. The Forest Service manages and protects 154 national forests and 20 grasslands in 43 states and Puerto Rico. The Forest Service augments its work through partnerships with public and private agencies that help plant trees, improve trails, educate the public, and improve conditions in wildland/urban interfaces and rural areas. The Forest Service also promotes sustainable forest management and biodiversity conservation internationally.
<a href="#"><u>Department of Defense (DoD)</u></a>	The mission of DoD is to provide the military forces needed to deter war and ensure the nation's security. Its priorities are to build a more lethal force, strengthen alliances and attract new partners, and reform and modernize the department. As of fiscal year 2018, the Department's real property infrastructure includes more than 585,000 facilities (buildings and structures) located on more than 4,700 sites worldwide. These sites represent nearly 26.9 million acres, including public lands withdrawn and reserved for use by the military. Due to national security implications, DoD does not

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Agency	Mission
	release detailed information on its real property assets without significant and rigorous review.
<a href="#"><u>National Aeronautics and Space Administration (NASA)</u></a>	NASA's mission is to drive advances in science, technology, aeronautics, and space exploration to enhance knowledge, education, innovation, economic vitality and stewardship of Earth. To meet its mission, NASA's facilities program focuses on: mitigation of the risks resulting from a highly complex and aging; making investments in NASA's core program and strategic capabilities; reducing operating costs through the use of technology to improve maintenance, energy management, sustainability, consolidation, and disposing of unneeded facilities; and leveraging NASA's core capabilities through partnerships to make NASA's unique technical facilities available to the US aerospace infrastructure.
<a href="#"><u>Department of Veteran Affairs (VA)</u></a>	The VA's mission is "to care for him who shall have borne the battle, and for his widow, and his orphan" by serving and honoring the men and women who are America's Veterans. VA's core values - Integrity, Commitment, Advocacy, Respect, and Excellence - define the agency, its culture, and how it cares for Veterans and eligible beneficiaries. The Veterans Health Administration is America's largest integrated health care system, providing care at 1,255 health care facilities, including 170 medical centers and 1,074 outpatient sites of care of varying complexity (VHA outpatient clinics), serving 9 million enrolled Veterans each year.
<a href="#"><u>Department of Homeland Security (DHS)</u></a>	DHS's mission is to, with honor and integrity, safeguard the American people, our homeland, and our values. DHS is committed to relentless resilience, striving to prevent future attacks against the United States and our allies, responding decisively to natural and man-made disasters, and advancing American prosperity and economic security long into the future. Similar to DoD, DHS limits the release of information regarding its real property assets due to national security concerns.

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#### ***Appendix C: Agency Specific Laws, Regulations, and Policies Governing the Use of Real Property Assets***

No.	Law/Policy/Regulation /Applicable Guidance	Description
<b>U.S. Department of Agriculture, Forest Service</b>		
1	Federal Land Policy and Management Act of 1976 (FLPMA)	Title V, Sec. 501 authorizes BLM (for public lands) and USDA (for National Forest System lands) to grant, issue, or renew rights-of-way over, upon, under or through lands, except land designated as wilderness. It allows for rights-of-way for systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communication.  Sec. 504(g) of FLPMA requires the agencies to charge fair market rent to the holder of a communications use authorization.
2	Section 7 of the Granger-Thye Act (16 U.S.C. 580d)	Authorizes the Secretary of Agriculture to approve the use by public and private agencies, corporations, firms, associations, or individuals, of structures or improvements under the administrative control of the Forest Service and land used in connection therewith: <i>Provided</i> , That as all or part of the consideration for permits issued, the Secretary may require the permittee at their expense to recondition and maintain the structure and land.
3	Wilderness Act of 1964	Establishes the National Wilderness Preservation System to preserve federally owned areas designated by Congress as wilderness areas and leave them unimpaired for future generations. It generally prohibits commercial enterprises, roads, vehicles, structures, installations, etc. on designated lands.
4	36 CFR Part 251, Subpart B	Regulations at 36 CFR Part 251, Subpart B, govern the processing of special use applications and issuance of special use authorizations for uses of National Forest System lands, including communications uses.

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5	Forest Service Manual and Forest Service Handbook	<p>The Forest Service directives system includes manuals and handbooks. The Forest Service Manual (FSM) is the principal administrative source of continuing direction for the conduct of Forest Service programs and activities. The Forest Service Handbook (FSH) contains detailed procedures, standards, practices and techniques to be used by Forest Service personnel in the field.</p> <p>FSM 2700, Chapter 2720 – Special Uses Administration, section 2728 defines the various types communications uses authorized by the Forest Service.</p> <p>FSH 2709.11, Chapter 20 – Cost Recovery, provides direction for establishing, collecting, and administering recovery of costs associated with processing applications for special use authorizations and monitoring compliance with special use authorizations.</p> <p>FSH 2709.11, Chapter 30 – Fee Determination, provides direction for establishing, collecting, and administering special-use fees.</p> <p>FSH 2709.11, Chapter 90 – Communications Site Management, provides direction for communications uses, including processing of communications uses applications and administration of communications use authorizations.</p>
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### U.S. Department of the Interior, Bureau of Land Management

6	Federal Land Policy and Management Act of 1976	Title V authorizes BLM (for public lands) and USDA (for National Forest System lands) to grant, issue, or renew rights-of-way over, upon, under or through lands, except land designated as wilderness. It specifically, allows for rights-of-way for systems for transmission or reception of radio, television, telephone, telegraph, other electronic signals, and other means of communication.
7	43 CFR 2800	Establish procedures for the orderly and timely processing of applications, grants, permits, amendments, assignments and terminations for rights-of-way and permits over, upon,

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		<p>under or through public lands pursuant to title V, Federal Land Policy and Management Act of 1976. It states that it is the objective of BLM “to grant rights-of-way and temporary use permits, covered by the regulations in this part, to any qualified individual, business entity, or governmental entity and to regulate, control and direct the use of said rights-of-way on public land so as to:</p> <p>(a) Protect the natural resources associated with the public lands and adjacent private or other lands administered by a government agency.</p> <p>(b) Prevent unnecessary or undue environmental damage to the lands and resources.</p> <p>(c) Promote the utilization of rights-of-way in common with respect to engineering and technological compatibility, national security and land use plans.</p> <p>(d) Coordinate, to the fullest extent possible, all actions taken pursuant to this part with State and local governments, interested individuals and appropriate quasi-public entities.”</p> <p>Section 2806.23 contains a subleasing clause, which allows current tenants or customers in a BLM facility to have their own grants or leases without obtaining additional approval from BLM. As a result, tenants who already own equipment on public lands for communications purposes can co-locate additional equipment or lease to other telecommunication providers without additional authorization.</p>
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### U.S. Department of the Interior, Bureau of Reclamation

8	43 CFR Part 429	Part 429, “Use of Bureau of Reclamation Land, Facilities, and Waterbodies,” guides the Reclamation permitting process and outlines process requirements for special use authorizations, applications fees, administrative costs, use fees, terms and conditions of use authorizations, and prohibited and unauthorized use of Reclamation property.
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		<p>Any use of Reclamation land, facilities, or waterbodies must be approved by written authorization from Reclamation. Subpart C encourages applicants to contact the local Reclamation office to discuss proposed use before applying. Applicants must then fill out an SF299 to request a use authorization; examples of uses include: communications towers, fiber-optics cable, telephone lines, pipelines, roads, etc. Fees include a \$100 nonrefundable application fee, a use fee based on a valuation or by competitive bidding, and administrative costs for processing the application. The regulation does not specify how long the application review process will take, and at any time Reclamation may request additional information needed to process the application. In reviewing an application, Reclamation will consider: compatibility with authorized project purposes, operations, safety and security; environmental compliance; compatibility with public interests; conflicts with Federal policies and initiatives; public health and safety; availability of other reasonable alternatives; and best interests of the United States.</p>
9	Reclamation Manual, Land Use Authorizations, LND 08-01	<p>Provides instructions, guidance, and standard procedures for issuing use authorization documents (such as easements, leases, licenses, and permits) to allow others to use Reclamation lands, facilities, and water surfaces. The right to use Reclamation lands or facilities by other parties may be granted only when the proposed use is compatible with project purposes and consistent with applicable resource management plans (RMPs). Any uses granted must be carried out in a way that protects Native American trust assets and avoids adverse impacts. Reclamation will also consider environmental and historic preservation issues including: public health and safety with respect to antenna installation and maintenance; aesthetics; effects on historic districts, sites, buildings, monuments, structures, or other objects pursuant to NEPA; protection of natural and cultural resources; compliance with review and documentation as necessary under NEPA and implementing regulations of each federal agency responsible for the antenna siting project; compliance with</p>

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		FCC's <i>Guidelines for Evaluating the Environmental Effects of Radio-frequency Radiation</i> . Section 7 indicates that all licenses, including permits, should be limited to 25 years or less and that easements are seldom granted and are generally not in the best public interest. Section 9 discusses the various fees Reclamation can collect for land use authorizations. Section 10.B indicates that Reclamation must respond to a use authorization request within 60 days.
10	Reclamation Manual, LND P06	Defines Reclamation's overall roles and responsibilities in managing federal land and interests in land under its jurisdiction. It is Reclamation policy that its land management program will be administered to, “[w]hen compatible with Reclamation project needs and purposes, give fair, due, and timely consideration to requests from outside entities for use authorizations related to ancillary uses of Reclamation land, and providing public service and support to local communities and economies where feasible. Preservation of current and future project needs are, however, foremost. Third party uses will not be granted to the detriment, added liability, or expense of Reclamation projects.”
11	Reclamation Project Act	Section 10 provides the Secretary of the Interior with the authority, in his discretion, to grant leases, licenses, easements, and rights-of-way. In conjunction with the Reclamation Act of 1902, provides Reclamation the general statutory authority to issue rules on authorizing or prohibiting uses of Reclamation land, facilities, and waterbodies. Section 14 provides the Secretary with general authorization to purchase suitable lands or interests in land for the relocation of highways, roadways, railroads, telegraph, telephone, or electric transmission lines and to enter into contracts with the owners of identified lands.
12	Reclamation Act of June 17, 1902	Provides that funds from the sale and disposal of public land can be used to fund irrigation projects in the West. Section 10 (43 U.S.C. 373) provides the Secretary of the Interior with the authority to issue rules as necessary for the purposes of carrying out the provisions of the Act.

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U.S. Department of the Interior, Fish and Wildlife Service		
13	National Wildlife Refuge System Administration Act Of 1966	<p>Provides for the conservation, protection, and propagation of native species of fish and wildlife threatened by extinction. Section 4(d)(1)(B) authorizes the Secretary to grant easements “whenever he determines that such uses are compatible with the purposes for which these areas are established.” No right-of-way or easement can be granted to any private or public organization unless the grantee pays a lump sum of the fair market value or annually in advance pays the fair market rental value (Sec. 4(d)(2)). However, this Act severely restricts the use of any land within the National Refuge system (i.e., any areas administered for the conservation of fish and wildlife). It states that no person shall “disturb, injure, cut, burn, remove, destroy, or possess any real or personal property of the United States, including natural growth, in any area of the System” unless permitted under subsection (d) or by express provision of the law (Section 4(c)). Subsection (d) indicates that all easements or rights-of-ways granted must be deemed “compatible,” stating that “the Secretary shall not initiate or permit a new use of a refuge or expand, renew, or extend an existing use of a refuge, unless the Secretary has determined that the use is a compatible use and that the use is not inconsistent with public safety.” Compatible use means a “wildlife-dependent recreational use or any other use of a refuge that, in the sound professional judgment of the Director, will not materially interfere with or detract from the fulfillment of the mission of the System or the purposes of the refuge” (Section 5). Further, “the Secretary may temporarily suspend, allow, or initiate any activity in a refuge in the System if the Secretary determines it is necessary to protect the health and safety of the public or any fish or wildlife population” (Section 4(k)).</p>
14	National Wildlife Refuge System Improvement Act of 1997	<p>Amends the <i>National Wildlife Refuge System Administration Act Of 1966</i> to improve the management of the National Wildlife Refuge System. Inserts more specific language to encourage compatible wildlife-dependent</p>

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		recreation and appropriate general public use of the System (e.g., hunting, fishing, observation, photography). No significant changes related to easements or rights-of-way.
15	Service Manual, 340 FW 2, Compatibility	<p>Provides policy for determining compatibility (i.e., "compatible use") of proposed and existing uses of national wildlife refuges. Applies to all proposed and existing uses of national wildlife refuges under FWS jurisdiction.</p> <p>Indicates that compatibility determinations are required for approval of any requested use application. Ultimately, compatibility is a threshold issue, and the proponent(s) of any use or combination of uses must demonstrate to the satisfaction of the refuge manager that the proposed use(s) pass this threshold test. The burden of proof is on the proponent to show that they pass; not on the refuge manager to show that they surpass. In determining what is a compatible use, FWS relies on the "sound professional judgment" of refuge managers who consider their field experiences and knowledge of a refuge's resources, particularly its biological resources, and make conclusions that are consistent with principles of sound fish and wildlife management and administration, available scientific information, and applicable laws. Each compatibility determination is based on refuge-specific analysis that will vary depending upon available data for the specific refuge. As a result, compatibility determinations are inherently complex and vary depending upon the refuge in question.</p>
16	Service Manual, 340 FW 3, Rights-of-Way and Road Closings	Sets out the procedures to be followed by the FWS in relation to rights-of-way and road closings in accordance with statutes, regulations, and policies. Indicates that permits, rather than easements should be used for most service outgrants; permits may be granted for up to 50 years. Also states that "[i]t is the policy of the Service to discourage the types of uses embodied in right-of-way requests. On areas in the National Wildlife Refuge System (System), if a right-of-way cannot be certified as compatible with the purposes for which a unit was established, it cannot be granted without authorization by Congress (50 CFR 29.21(g))." Further, a determination of

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		<p>compatibility must be supported by the facts, best presented in an environmental assessment (EA) or environmental impact statement (EIS) as required by NEPA, and must only consider wildlife or project values, not of any broader social or economic concerns (Section 3.6(A)(3)). This manual is currently being updated to streamline the right-of-way process.</p>
<b>U.S. Department of the Interior, National Park Service</b>		
17	36 CFR Part 14	<p>Authorizes NPS to provide right-of-way permits and applies to all federally owned or controlled lands administered by the National Park Service. Primarily relates to rights-of-way rather than antenna sitings on assets; but does include some provisions for rights to communications sites. Provides that rights-of-way can be granted in the form of easement, license, or permit so long as they comply with the indicated terms and conditions, including, for example:</p> <ul style="list-style-type: none"><li>■ To comply with all applicable state and federal laws and regulations</li><li>■ To clear and keep clear lands within the right-of-way and dispose of materials accumulated during construction or maintenance</li><li>■ To pay the US for the full value of any damages to the lands or property of the US</li><li>■ The allowance of the exercise of way may not interfere with management and administration by the US of the land affected</li><li>■ The right-of-way may be subject to modification, adapted, or discontinued if found by the Secretary to be necessary so as not to conflict with the use and occupancy of the land for any authorized works of the US (§ 14.9)</li></ul> <p>Further, rights-of-way on National Park System land must be approved by Congress (i.e., enabled by legislation) (§ 14.10) and applicants must reimburse the U.S. for administrative and other costs incurred to process the application, including preparing reports and statements</p>

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		<p>pursuant to NEPA. Application costs for rights-of-way are priced based on length (e.g., less than 5 miles costs \$50 per mile) and applying for access to a communication site/other non-linear facilities costs \$250 for each acre (§ 14.22). Very specific requirements are outlined for documentation that must accompany a line or facility right-of-way application. For example, applications for line right-of-ways must include a map prepared on tracing linen and three - five copies showing the survey of the right-of-way (§ 14.25). Applications for a right-of-way for a communications structure/site must include the location and extent of ground to be occupied and must be clearly designated on the map (§ 14.91) and must also include a detailed description of the environmental impact of the project (§ 14.78(b)(6)(i)). Applications must state the proposed use of the structure and must show that each structure is necessary for a proper use of the right-of-way for the purpose contemplated in the Act of March 4, 1911 (§ 14.91). Costs charged for the actual right-of-way, permit, or easement are based on fair market value and determined by appraisal by the authorized officer (§ 14.26). Applicants must make provisions and bear the reasonable cost of avoiding inductive or conductive interference between communication facilities (§ 14.76).</p>
18	54 U.S.C. 100902	General statute allowing NPS to grant rights-of-way to citizens, associations, or corporations of the United States for public utilities, power, and communication facilities. The statute limits rights-of-way to 50 years and states that communication transmitting, relay, and receiving structures cannot exceed 400x400 feet. Language from this statute is incorporated and expanded upon in 36 CFR Part 14.
19	2006 Management Policies	Outlines NPS land management policy within the National Park System. It is the basic Service-wide policy document of the National Park Service and adherence to policy is mandatory unless specifically waived or modified by the Secretary, the Assistant Secretary, or the Director. Per NPS's mission, the impairment of park resources and services is not allowed unless directly and specifically provided for by legislation or proclamation; therefore, it is

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	<p>important that the authorizing legislation is clearly documented in any special use proposal (generally authority for a utility right-of-way through park lands can be found in 16 U.S.C. 5 for telecommunications).</p> <p>Therefore, depending on the resources that any given unit of the NPS was designated to protect, broadband may be appropriate or inappropriate on a real property asset. As a result, proposed uses must fall below the threshold for unacceptable impact or impairment as determined on a case by case basis by an NPS decision-maker. An NPS decision-maker must use his or her professional judgment and consider any environmental assessments or environmental impact statements required by NEPA; consultations required under section 106 of the NHPA, relevant scientific and scholarly studies; advice or insights offered by subject matter experts and others who have relevant knowledge or experience; and the results of civic engagement and public involvement activities relating to the decision when determining when determining acceptable uses or unacceptable impacts/impairments (1.4.7). Unacceptable impacts are those that would:</p> <ul style="list-style-type: none"><li>■ “Be inconsistent with a park’s purposes or values, or</li><li>■ Impede the attainment of a park’s desired future conditions for natural and cultural resources as identified through the park’s planning process, or</li><li>■ Create an unsafe or unhealthful environment for visitors or employees, or</li><li>■ Diminish opportunities for current or future generations to enjoy, learn about, or be inspired by park resources or values, or</li><li>■ Unreasonably interfere with<ul style="list-style-type: none"><li>● park programs or activities, or</li><li>● an appropriate use, or</li><li>● the atmosphere of peace and tranquility, or the natural soundscape maintained in wilderness and natural, historic, or commemorative locations within the park.</li><li>● NPS concessioner or contractor operations</li></ul></li></ul>
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		<p>or services” (1.4.7).</p> <p>The Wilderness Act precludes any activity on “wilderness lands” (i.e., those of at least 5,000 acres, unaffected by humans, undeveloped, and preserved in its natural condition). Administrative facilities (for example, ranger stations and/or patrol cabins, fire lookouts, radio and/or cellular telephone antennas, radio repeater sites, associated storage or support structures, drift fences, and facilities supporting trail stock operations) may be allowed in wilderness areas only if they are determined to be the minimum requirement necessary to carry out wilderness management objectives and are specifically addressed within the park’s wilderness management plan or other appropriate planning documents (6.3.10.1).</p> <p>Section 8.6.4.3 outlines the policy for telecommunication sites. It indicates that requests to site non-NPS telecommunications antennas on NPS lands will be considered in accordance with the Telecommunications Act of 1996 and applicants must be licensed by the FCC or regulated by Commerce through NTIA. Proposals must meet the criteria discussed above from section 1.4.7.1 to prevent unacceptable impacts. When considering requests, superintendents will:</p> <ul style="list-style-type: none"><li>• Hold preliminary meetings with telecommunication facility applicants to discuss application and policy and procedural issues and NPS concerns. Similar meetings should be held throughout the application process;</li><li>• Conduct NEPA and NHPA analysis expeditiously and consistent with all applicable statutes;</li><li>• Consider the potential benefit of having telephone access to emergency law enforcement and public safety services;</li><li>• Consider whether the proposal would cause unavoidable conflict with the park’s mission, in which case the permit will be denied (8.6.4.3).</li></ul> <p>Further, Superintendents will “evaluate the entire footprint of the new facilities when evaluating requests” and “avoid</p>
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		<p>or minimize potential impacts of current and future telecommunications facilities by ensuring that the facilities and their supporting infrastructure:</p> <ul style="list-style-type: none"><li>● Are located where they would have the least impact on park resources and values;</li><li>● Are not located in scenic, historic, and/or sensitive areas integral to the park's mission;</li><li>● Include maximum potential for future co-location.</li></ul> <p>Superintendents will also “require the best technology available. For example, consideration should be given first to co-locating new facilities, constructing towers that are camouflaged to blend in with their surroundings, and installing micro-sites. New traditional towers (i.e., monopole or lattice) should be approved only after all other options have been explored. If a traditional tower is necessary, it should not be visible from any significant public vantage point” (8.6.4.3).</p>
20	Director's Order #53	<p>This NPS policy outlines in further detail the specific criteria and procedures required to request a permit for special park use, as discussed in Section 8.6 of the 2006 Management Policies. Section 4 states that the “NPS should encourage special park uses that accomplish any or all of the following:</p> <ul style="list-style-type: none"><li>■ Support the mission of the NPS</li><li>■ Add to the public understanding and enjoyment of the park</li><li>■ Promote a sense of ownership and stewardship for the park and its resources</li><li>■ Enhance the protection of park resources and values;</li><li>■ Provide for an increased level of visitor safety.</li></ul> <p>The NPS will not issue special park use permits that:</p> <ul style="list-style-type: none"><li>■ Create an unacceptable impact on park resources or values (see Management Policies 2006, section 1.4.7.1), or</li><li>■ Are contrary to the purposes for which the park was established, or</li><li>■ Unreasonably disrupt the atmosphere of peace and tranquility of wilderness, natural, historic, or commemorative locations within the park, or</li></ul>

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		<ul style="list-style-type: none"><li>■ Unreasonably interfere with interpretive programs, visitor activities, visitor services, or NPS administrative activities, or</li><li>■ Substantially interfere with the operation of public facilities or the services of NPS concessioners or contractors, or</li><li>■ Create an unsafe or unhealthy environment for other visitors or employees, or</li><li>■ Result in conflict with other existing uses.</li></ul> <p>The directive indicates that Standard Form SF-299 should be used for requests for rights-of-way and telecommunications permits. Further, NPS personnel reviewing the request must maintain a complete “administrative record” that contains all documents leading to the agency’s decision, including letters, compliance documentation, notes, and a copy of the executed permit itself, and should memorialize timeframe, discussions, and rationale behind the decision, including any monetary charges imposed. Compliance with NEPA and NHPA must also be documented in the administrative record (Section 7).</p> <p>Section 10.2 outlines in detail the process for rights-of-way permits. The general guidelines in this section indicate that rights-of-way permits are issued at NPS’ discretion, are revocable at any time, are generally limited to 10 years, shall include appropriate terms and conditions to protect park resources and values, and must contain a condition for removal of the facility and restoration of the right-of-way at the end of the permit. For applications, the superintendent should: hold a preliminary meeting with the applicant; hold additional meetings throughout the decision process as necessary; ensure that compliance actions and reviews, such as NEPA and Section 106, are conducted expeditiously consistent with applicable statutes; and approve or deny the request in writing (Section 10.2).</p>
21	Reference Manual 53	Summarizes and supplements the primary policy guidance on special park uses contained in section 8.6 of the 2006

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	<p>Management Policies. Provides more detail on special park use requests and the review process; its purpose is to assist park managers in their analysis and consideration of special park use requests by providing a rational process for considering special use proposals, a source of reference for applicable legislation, executive orders, policies, guidance, etc., and other helpful information for considering and properly documenting proposals.</p> <p>Section 10.3 indicates that in complying with the Telecommunications Act of 1996 the superintendent will:</p> <ul style="list-style-type: none"><li>■ “Encourage preliminary meetings with telecommunication industry companies who wish to discuss pending or proposed applications for sites in the park to explain park concerns and understand industry timeframes.</li><li>■ Encourage meetings with the applicants during the post application decision process as necessary, but especially if the manager is considering denying the application. Such meetings should take place prior to written notification of denial.</li><li>■ Consider the safety of the visiting public when reviewing telecommunication site applications, including the potential benefit of having telephone access to emergency law enforcement and public safety services.</li><li>■ Ensure that, when an application is submitted, the park replies in writing within 10 business days with an initial response on the application, and that response will be ‘yes’ (probably a known categorical exclusion requiring very minor additional information to be submitted), ‘no’ (with reasons in writing), or ‘maybe’ (with additional information to be submitted).</li><li>■ Ensure that, to the extent possible, the timeline and detailed steps enumerated in Reference Manual 53 are followed and the permit is issued or denied.</li><li>■ Ensure that compliance actions and reviews will be conducted expeditiously and consistent with all applicable statutes.”</li></ul>
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		<p>Appendix 5 indicates that “[a] ROW permit is a discretionary and revocable document and, unlike a deeded easement or fee simple ownership, does not convey or imply any interest in the land. In addition, a ROW permit may only be issued under certain, stringent circumstances. The NPS is under congressional mandate not to allow any use of NPS land that would impair or be a derogation of the values and purposes for which the park was authorized or be incompatible with the public interest, except when authorized by Congress.” Appendix 5 further outlines the specific forms and assessments required for approval. Fee outlined in Appendix 5 include an application charge of no less than \$100, an administrative charge reflecting the actual costs incurred by the NPS in processing the right-of-way permit, a monitoring charge as determined in 36 CFR Part 14, and a land and/or facility use and occupancy fee per 36 CFR Part 14 for recovery of the fair market value of lands and waters as determined by the authorized official using an appraisal.</p> <p>Appendix 6 sets forth requirements specifically for Wireless Telecommunications Facilities (in addition to those in Appendix 5) permitting. Indicates that a final decision should be made within 100 business days of the receipt of application, and, if approved, the final permit should be issued by day 120. Mostly detail related to permitting.</p>
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### Department of Defense

22	U.S. Navy Electromagnetic Spectrum Policy and Management, SECNAVINST 2400.1A	To implement within the Department of Navy (DON), its uniformed military services, field activities, headquarters, forces, bases, installations, activities and functions, and to assign roles and responsibilities for electromagnetic spectrum (EMS) policy, representation, management, and use within the DON. Specifically, to establish policy and/or procedures for: <ul style="list-style-type: none"><li>• The DON Spectrum Management Office (SMO),</li><li>• The DON Spectrum Supportability (SS) Integrated</li></ul>
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		<p>Product Team</p> <ul style="list-style-type: none"><li>● Spectrum supportability risk assessments (SSRA)</li><li>● Spectrum-dependent asset value determinations (SDAVD)</li></ul> <p>Section 1 states that DON shall obtain international allocation and authorization for use of the EMS through the proceedings of the International Telecommunication Union Radio-communication Sector and other international bodies responsible for frequency allocations, EMS management, and international telecommunications standards. In addition, Section 1 indicates DON shall consider EMS availability before approving the development or procurement of major SDS equipment and systems, including all systems employing space satellite techniques. In the Responsibilities section, it states that acquisition programs for SDS and equipment adhere to DON, DoD, Federal, national, and international EMS treaties, regulations, guidance, and policy.</p>
23	U.S. Navy Acquisition, Management, and Disposal of Real Property, SECNAVINST 11011.47C	<p>Provides DON policy for the acquisition, management, and disposal of real property and real property interests, and assigns responsibility and delegate authority to carry out that policy.</p> <p>The Secretary of the Navy (SECNAV) holds real property for DON. The Assistant Secretary of the Navy (Energy, Installations and Environment) (ASN(EI&amp;E)) is responsible for policies and procedures and for overseeing all DON functions and programs related to acquiring, utilizing, managing, and disposing of DON real property. Other non-DoD federal agencies shall be charged for their share of the operation and maintenance services and utility costs associated with their use of DON property.</p> <p>Exceptions to this policy are:</p> <ul style="list-style-type: none"><li>● Real property and related services provided to an organization that solely supports or substantially benefits the installation's mission (e.g., a permit to a Federal Aviation Administration air traffic controller on an air base, or a permit to the Federal Communications Commission for a communications tower).</li></ul> <p>To ensure maximum use of existing DON shore</p>

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		<p>infrastructure, all DON activities, regardless of funding source, shall obtain prior approval from the Chief of Naval Operations (CNO) or the Commandant of the Marine Corps (CMC) prior to seeking acquisition or use of non-DON real property. In addition to warrants issued by the Commander, Naval Facilities Engineering Command (COMNAVFACENGCOM), the Principal Deputy Assistant Secretary of the Navy for Energy, Installations and Environment (PDASN EI&amp;E)) and Deputy Assistant Secretary of the Navy for Installations and Facilities (DASN I&amp;F) shall have the authority and discretion to issue real estate contracting warrants on a case-by-case basis.</p>
24	DUSN(M) Memorandum of 30 Jun 2016, Streamlined Process for Commercial Broadband Deployment	<p>Establishes a streamlined DON process to facilitate the deployment and expansion of commercial broadband services on Navy and Marine Corps property. To address broadband coverage and capacity at underserved DON installations, this memorandum also sets a goal for DON installations to meet or exceed national averages for broadband coverage and capacity.</p> <ul style="list-style-type: none"><li>● Easements are the preferred real estate instrument for supporting commercial broadband providers on DON installations. However, a lease may be awarded when an easement is not appropriate.</li><li>● Wireless carrier or its agent contacts base Installation Spectrum Manager (ISM), via the Navy Marine Corps Spectrum Office (NMCSO) if necessary, requesting an easement or lease to add cell tower/equipment to the base. Request may or may not include preliminary concept/data on the proposed project.</li><li>● ISM and wireless carrier point of contact (POC) brief proposal to base leadership, e.g., Commanding Officer (CO), Executive Officer (XO), and Community Planning &amp; Liaison Officer (CPLO). ISM provides procedures for the planning, assignment, coordination, deconfliction, and use of electromagnetic spectrum for commercial, aviation, and training areas.</li><li>● ISM, carrier POC, CO/XO and CPLO meet with</li></ul>

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		<p>operations and public works (PW) POCs to discuss preliminary proposed conceptual design and tour potential tower locations. The ISM knows current antennae locations.</p> <ul style="list-style-type: none"><li>• CNIC, via OPNAV, and MCICOM will submit an annual report to the Assistant Secretary of the Navy for Energy, Installations, and Environment (ASN (EI&amp;E)) and the DON Chief Information Officer (CIO) by 1 December identifying the time required to complete each of the six major phases necessary for each deployment (initial contact through construction/equipment installation. The report must include amplifying information to explain instances when the process for a given real estate agreement exceeds 12 months.</li><li>• 50% of the proceeds shall be made available to the installation where they were derived, and 50% shall be used for enterprise tower management. Proceeds returned to installations may be used for facilities operation, maintenance, repair, and construction. Proceeds used for enterprise tower management may support facilities sustainment, repair, and maintenance of all naval superstructures used to mount antennae, such as water tanks, utility poles, and buildings. They may also be used for management of land and locations used to mount antennae, including cellular, broadband, land mobile radio, microwave communications, and radar antennae. DON may accept funds from an applicant seeking a real estate agreement for support of wireless broadband equipment to cover administrative expenses incurred by DON.</li><li>• Must develop cost estimate to submit for approval. Several steps and lots of planning documentation/fees required for the process.</li></ul>
25	Army Regulation 405-80	This regulation provides Army policy on management of title and granting use of Army controlled real property. It assigns responsibility and delegates authority to approve real property availability; and to issue, execute, manage, renew, supplement, and revoke outgrants authorizing the

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		use of Army real property. Authorized forms of outgrant are leases, easements, licenses, and permits.
26	U.S. Air Force AFCEC/CI Memorandum “Air Force Guidance for Granting Real Estate Instruments for Wireless Infrastructure at Air Force Installations,” of 10 May 2018	This memorandum provides guidance related to leveraging property out-grants towards achieving the goal of fence-to-fence comprehensive commercial wireless infrastructure on Air Force Installations. The Air Force has solicited input from industry regarding the use of longer, larger scale real property agreements needed to attract and accommodate more substantial private investment in on-base telecommunication infrastructure. The industry input also considers the concept of grouping installations under a single real property agreement to create economic incentives.
27	U.S. Air Force HAF/A7, SAF/A6-CIO Memorandum “Enhancing Wireless Coverage on Air Force Installations,” of 6 March 2014	This memorandum provides expectation for fair and timely access to installations for commercial vendors to install equipment to expand coverage with appropriate compensation for the use of Air Force real property. Further identifies Communication Squadrons and Civil Engineer Squadrons as the key focal points.
28	Commercial Mobile Device (CMD) Implementation Plan 2013	<p>This memorandum provides a phased CMD Implementation Plan that promotes the development and use of mobile non-tactical applications within the DoD enterprise.</p> <ul style="list-style-type: none"><li>• DoD is orchestrating an effort to provide wireless network services infrastructure, approved devices, applications management, and policies to protect and secure the mobile DoD information ecosystem.</li><li>• The Defense Information Systems Agency (DISA), with oversight from the DoD CIO, is creating an enterprise solution to support Controlled Unclassified Information (CUI) mobility requirements that will leverage commercial carrier infrastructure and provide entry points for the classified solution.</li><li>• The DoD CMD Implementation Plan executes the goals of the Mobile Device Strategy, Reference (a), by establishing a framework to advance and evolve</li></ul>

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		<p>the DoD Information Enterprise infrastructure to support mobile devices, institute mobile device policies, and promote the development and use of mobile applications for DoD.</p> <ul style="list-style-type: none"><li>• CMD carrier service accounts and usage shall be managed and monitored using a Telecommunications Expense Management (TEM) system that regulates underutilized and over-subscribed accounts.</li></ul>
29	DOD Instruction 5230.29	<p>DoD instruction to implement policy established in DoDD 5230.09, assigns responsibilities, and prescribes procedures to carry out security and policy review of DoD information for public release.</p>
30	10 U.S.C. 2667 - Leases: Non-Excess Property of Military Departments and Defense Agencies	<p>Whenever the Secretary concerned considers it advantageous to the United States, the Secretary may lease to such lessee and upon such terms as the Secretary considers will promote the national defense or to be in the public interest, real or personal property that— (1) is under the control of the Secretary concerned; (2) is not for the time needed for public use; and (3) is not excess property, as defined by section 102 of title 40.</p> <p>In-kind consideration accepted with respect to a lease under this section may include the following: maintenance, protection, alteration, repair, improvement, or restoration (including environmental restoration) of property or facilities under the control of the Secretary concerned.</p>
31	10 U.S.C. 2668 - Easements for Rights-of-Way	<p>Focuses on requirements and factors for issuing an easement.</p> <p>If the Secretary of a military department finds that it will not be against the public interest, the Secretary may grant, upon such terms as the Secretary considers advisable, easements for rights-of-way over, in, and upon public lands permanently withdrawn or reserved for the use of that department, and other lands under the Secretary's control for poles and lines for the transmission or distribution of communications signals (including telephone and telegraph signals) and structures and facilities for the transmission,</p>

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		<p>reception, and relay of such signal.</p> <ul style="list-style-type: none"><li>● Copies of instruments granting easements over public lands under this section shall be furnished to the Secretary of the Interior.</li><li>● An easement may be granted only to— (1) a State or local government; or (2) a qualified organization, as that term is defined in section 170(h) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)).</li><li>● An easement may not be granted unless the Secretary concerned determines that the easement is in the public interest and the conservation purpose to be promoted by the easement cannot be effectively achieved through the application of State law by the State or a local government without the grant of restrictive easements.</li></ul>
32	10 U.S.C. 2695 - Acceptance of Funds to Cover Administrative Expenses Relating to Certain Real Property Transactions	<p>Outlines how to convey federal real estate and the acceptable forms of funds surrounding the transaction.</p> <ul style="list-style-type: none"><li>● In connection with a real property transaction with a non-federal person or entity, the Secretary of a military department may accept amounts provided by the person or entity to cover administrative expenses incurred by the Secretary in entering into the transaction.</li><li>● If either of the Secretaries concerned requests it and the other approves, real property may be transferred, without compensation, from one armed force to another.</li><li>● The Secretary concerned may not convey real property that is authorized or required to be conveyed, whether for or without consideration, by any provision of law enacted after December 31, 1997, unless the Administrator of General Services has screened the property for further federal use.</li><li>● Before the end of the 30-day period beginning on the date of the enactment of a provision of law authorizing or requiring the conveyance of a parcel of real property by the Secretary concerned, the Administrator of General Services shall complete the screening referred to in subsection (b) with regard to the real property and notify the Secretary</li></ul>

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		concerned and Congress of the results of the screening. The notice shall include— (A) the name of the federal agency requesting transfer of the property; (B) the proposed use to be made of the property by the federal agency; and (C) the fair market value of the property, including any improvements thereon, as estimated by the Administrator.
<b>Department of Homeland Security</b>		
33	Real Property Manual	Establishes the Department of Homeland Security (DHS) policy regarding the real property management program and applies to all DHS organizational elements serviced by DHS Office of Administration. Requires DHS organizational elements to establish their own internal policies and systems of accountability to ensure effective use of real property assets in support of mission-related activities.
<b>Department of Energy</b>		
34	Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.)	Covers the development, regulation, and disposal of nuclear materials and facilities in the United States. In general, grants the DOE authority to dispose or transfer property under certain conditions to other federal agencies, tribal nations, local governments, and private companies. Chapter 14, Section 161g. authorizes DOE to acquire, purchase, lease, and hold real property and to sell, lease, grant, and dispose of such real property. Section 161e., for communities owned by DOE, authorizes DOE to grant privileges, leases and permits upon adjusted terms which are fair and reasonable to responsible persons to operate commercial businesses without advertising and without securing competitive bids, but taking into consideration, in addition to the price, and among other things (1) the quality and type of services required by the residents of the community, (2) the experience of each concession applicant in the community and its surrounding area, (3) the ability of the concession applicant to meet the needs of the community, and (4) the contribution the concession applicant has made or will

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		make to the other activities and general welfare of the community.
35	Department of Energy Organization Act (Public Law 95-91, title VI, §641 et seq.)	Section 646 authorizes DOE to enter into and perform contracts, leases, or cooperative agreements with public and private organizations. Section 649(b) authorizes the Secretary of Energy “under such terms, at such rates, and for such periods not exceeding five years, as he may deem to be in the public interest, is authorized to permit the use by public and private agencies, corporations, associations, or other organizations or by individuals of any real property, or any facility, structure, or other improvement thereon, under the custody of the Secretary for Department purposes. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements involved to a satisfactory standard. This section shall not apply to excess property as defined in 3(e) of the Federal Property and Administrative Services Act of 1949.”
<b>General Services Administration</b>		
36	Federal Property and Administrative Services Act of 1949 (codified in Title 40 of the United States Code)	Reorganizes certain government agencies to simplify the procurement, use, and disposal of federal real property. Provides GSA with the authority to lease federal property.
37	Public Buildings Cooperative Act of 1976	Amends the Public Buildings Act of 1959 in order to preserve buildings of historical or architectural significance through their use for federal public building purposes. It encourages GSA to acquire and utilize space in historic or culturally significant buildings when possible for federal office space and specifically “encourage[s] the location of commercial, cultural, educational, and recreational facilities and activities within public buildings” (Section 102). It also explicitly allows GSA to lease rooftop space on public buildings with persons, firms, or organizations engaged in commercial use. The Administrator shall establish a rental rate based on the prevailing commercial rate, and leases can be negotiated without competitive bids (Section 104).

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National Aeronautics Space Administration (NASA)		
38	NASA Procedural Requirements (NPR) 8800.15C	<p>Titled, “Real Estate Management Program w/Change 1, February 24, 2015” this directive provides NASA real property managers with a common set of requirements and uniform, orderly processes for meeting NASA’s real property requirements. Chapter 6 outlines out-grant requests (i.e., all nonpermanent granting of the use of NASA real property to others by means of lease, permit, easement, right-of-way, license, etc.), including commercial antenna siting agreements.</p> <p>Section 6.9 outlines NASA’s authority for providing sites for commercial antennas on federal property. It states that “NASA may make available any buildings and lands for the siting of commercial antennas, in accordance with federal, state, and local laws and regulations and consistent with national security concerns” (6.9.1.2). It also indicates that “[a]ntenna sites shall be made available on a fair, reasonable, competitive, and nondiscriminatory basis with a bias toward granting a request unless there are unavoidable conflicts with NASA’s mission, including future planned use of the property or access to the property. However, the siting of commercial antennas is not to be given priority over other authorized uses of NASA facilities. Care should be exercised to avoid electromagnetic intermodulations and interferences” (6.9.1.3). Further, the directive encourages co-location where there are multiple requests for the same site (6.9.1.4) and indicates that a business case is not required unless the agreement is for permanent use of NASA real property (6.3.3.2).</p> <p>While the aforementioned clauses facilitate the use NASA property for antenna sitings, the directive also states that any application must receive approval from a variety of offices and stakeholders depending on the length of the request, and that out-grant agreements with non-government entities should be accomplished through the use of competition and the opportunity should be made</p>

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		<p>available to the widest possible competitive market (6.1.11.1). Before approving any out-grants, the environmental office must complete an Environmental Baseline Survey and comply with NEPA and NHPA (6.2.2 and 6.2.3). Proposed out-grants must conform with the business case, align with the Master Plan, do not have a negative impact on NASA's mission, and comply with 14 CFR Part 1204.504 which requires:</p> <ul style="list-style-type: none"><li>a. That the interest to be granted is not required for a NASA program.</li><li>b. That the grantee's exercise of rights granted will not interfere with NASA operations.</li><li>c. That fair value in money is received by NASA on behalf of the Government as consideration" (6.3.2).</li></ul> <p>Lastly, the evaluation of siting requests must include consideration of environmental and historic preservation issues including, but not limited to: public health and safety, aesthetics, effects on historic districts, protection of natural and cultural resources, compliance with NEPA, and compliance with FCC's guidelines for radiofrequency exposure and NASA retains discretion to deny an unacceptable or inappropriate request (6.9.1.5 and 6.9.1.6).</p>
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### Veteran Affairs (VA)

39	38 U.S.C. 8122	Authorizes VA to lease its real property (land or buildings) to public or private interests outside of VA. VA can keep costs to cover maintenance, operation, and repair of buildings, but remaining revenue goes to the U.S. Treasury. Requires that appropriate public notice be given to the local community before leasing any real property (section (a)(1)). Does not contain provisions specific to telecommunications licenses or permits.
40	38 U.S.C. 8153	Authorizes the "Enhanced Sharing Use of Space Program" by allowing VA to "make arrangements, by contract or other form of agreement for the mutual use, or exchange of use, of health-care resources between Department health-care facilities and any health-care provider, or other entity or individual" in order to "[t]o secure health-care resources which otherwise might not be feasibly available, or to

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		<p>effectively utilize certain other health-care resources” (section (a)(1)). Generally, allows the VA, within its discretion to procure necessary medical resources that are commercial services without regard to laws or regulations that would otherwise require competitive procedures for acquiring the resource ((a)(3)(A) and (B)).</p> <p>VA uses this statute as authorization to engage in proposals and agreements to share the use of VHA space, including parking, outdoor recreational facilities, and vacant land not to exceed 20 years. Any underutilized or vacant VHA space or land can be used by a sharing partner but an agreement must be in place to protect the interests of the government. Further requirements are outlined in VA Directive 1820. Does not contain provisions specific to telecommunications licenses or permits.</p>
41	38 U.S.C. 8161-8169	<p>Permits VA to enter into “enhanced use leases” which allows a public or private entity to enhance underutilized and vacant buildings and/or land. Authorizes the VA to enter into “enhanced-use leases” if:</p> <p>“(A) the Secretary determines that—</p> <ul style="list-style-type: none"><li>(i) at least part of the use of the property under the lease will be to provide appropriate space for an activity contributing to the mission of the Department;</li><li>(ii) the lease will not be inconsistent with and will not adversely affect the mission of the Department; and</li><li>(iii) the lease will enhance the use of the property; or</li></ul> <p>(B) the Secretary determines that the implementation of a business plan proposed by the Under Secretary for Health for applying the consideration under such a lease to the provision of medical care and services would result in a demonstrable improvement of services to eligible veterans in the geographic service-delivery area within which the property is located.”</p> <p>Section § 8163 requires that a public hearing must be held before entering into any enhanced-use lease. Does not</p>

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		contain provisions specific to telecommunications licenses or permits.
42	VHA Directive 1820, “Enhanced Sharing Use of Space Program”	<p>Establishes new application and review requirements for the Sharing Use of Space Program authorized under Title 38 United States Code (U.S.C.) 8153. Pertains to the use of VHA space, including parking, outdoor recreational facilities, and vacant land, but indicates that enhanced sharing use of space agreements do not include revocable licenses or permits. If revocable licensing or permits are sought in lieu of a sharing agreement, then all revenues from such locally-initiated licenses and permits (i.e., authorized by the Department of Veteran Affairs (VA) medical facility Directors) will accrue exclusively to the United States (U.S.) Department of the Treasury (Section 2.a).</p> <p>Emphasizes that high-priority consideration should be given to sharing space with homeless Veteran service providers that are planning to develop supportive housing programs or service centers for homeless Veterans (5.b.2).</p>