

FSM 2700 – SPECIAL USES MANAGEMENT

CHAPTER 2750 – LEASING FOREST SERVICE ADMINISTRATIVE SITES

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This directive implements the independent authority for leasing Forest Service administrative sites in section 8623 of the Agriculture Improvement Act of 2018 (the 2018 Farm Bill) and the independent authority for leasing Forest Service administrative sites in the Forest Service Facility Realignment and Enhancement Act of 2005 (FSFREA).

The leasing authority in FSFREA and section 8623 of the 2018 Farm Bill is not identical. The authority in one statute cannot be mixed with the authority in the other statute. A lease for an administrative site must be issued under either Section 8623 of the 2018 Farm Bill or FSFREA, not both statutes.

This chapter applies to leases issued under either FSFREA or section 8623 of the 2018 Farm Bill, unless expressly stated otherwise.

FSFREA also provides authority to sell or exchange Forest Service administrative sites. This authority is implemented in directives found at FSM 5570 and FSM 5430 respectively.

2750.1 – Authority

1. FSFREA, Title V, the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Pub. L. No. 109-54, 119 Stat. 499, 561, 16 U.S.C. 580d note, as amended). FSFREA authorizes the Forest Service to lease administrative sites subject to certain conditions and based on their market value in cash, and to retain and spend the proceeds from those transactions without further appropriation for the improvement, maintenance, reconstruction, or construction of a Federally-owned facility or improvement under the jurisdiction of the Forest Service and for brokerage services for those transactions if deemed by the Forest Service to be in the public interest.
2. Section 8623 of the 2018 Farm Bill (Pub. L. No. 115-334, 132 Stat. 4853, 16 U.S.C. 580d note). Section 8623 of the 2018 Farm Bill authorizes the Forest Service until October 1, 2023, to enter into leases for administrative sites subject to certain conditions and based on their market value in cash or certain types of in-kind

services, including construction of new facilities and improvements; maintenance, repair, improvement, or restoration of existing facilities or improvements; and other services relating to activities that occur at the administrative site, but does not authorize retention and expenditure of rent received in cash.

2750.2 – Objectives

1. Enhance utilization of administrative sites consistent with FSFREA or section 8623 of the 2018 Farm Bill, the Forest Service’s mission, and other applicable law.
2. Provide an efficient, effective, and legally sufficient process for leasing administrative sites under FSFREA or under section 8623 of the 2018 Farm Bill.
3. Establish appropriate standards and procedures for leases under FSFREA or section 8623 of the 2018 Farm Bill to protect the interests of the United States and conform to applicable requirements in those statutes.
4. Establish guidance for working with proponents and applicants for leases for administrative sites, including non-profit, for-profit, tribal, and governmental entities.
5. Ensure rent based on market value is charged for administrative sites as determined by appraisal or a competitive process.
6. Provide for the construction and Government maintenance, repair, improvement, restoration, or reconstruction of facilities and improvements at administrative sites through in-kind consideration under section 8623 of the 2018 Farm Bill and the improvement, maintenance, reconstruction, or construction of facilities and improvements at administrative sites through proceeds from leases under FSFREA, as appropriate and consistent with applicable law.
7. Ensure that the market value of in-kind consideration under section 8623 of the 2018 Farm Bill is established by appraisal in accordance with applicable requirements.
8. Ensure that in-kind consideration under section 8623 of the 2018 Farm Bill is agreed to by the Forest Service; the costs of in-kind consideration are properly documented; and work performed as in-kind consideration is approved by the Forest Service.

2750.3 – Policy

It is the policy of the Forest Service to enhance utilization of administrative sites by leasing them, where appropriate, consistent with FSFREA or section 8623 of the 2018 Farm Bill, as applicable, and the Agency’s mission.

2750.4 – Responsibility

2750.41 – Washington Office

2750.41a – Chief

The Chief is responsible for approving eligibility of administrative sites for leasing under FSFREA or section 8623 of the 2018 Farm Bill based on recommendations submitted by Regional Foresters.

2750.41b – National Director of Lands and Realty Management

The National Director of Lands and Realty Management is responsible for:

1. Developing, implementing, and revising directives and associated standard forms needed to implement the authority in FSFREA and section 8623 of the 2018 Farm Bill to lease administrative sites.
2. Developing, implementing, and revising a standard agreement for in-kind consideration and a standard form for documenting qualifying expenditures for in-kind consideration and approving completed in-kind consideration for leases issued under section 8623 of the 2018 Farm Bill.
3. Tracking the number of non-contiguous, undeveloped parcels of up to 40 acres each that were acquired or used for purposes of administration of Forest Service activities, but are not so utilized, that are approved each year by the Chief for leasing as an administrative site.
4. Ensuring that the annual budget justification documents submitted to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate include the following:
 - a. A list of the anticipated leases to be executed under FSFREA or section 8623 of the 2018 Farm Bill, including a description of the leased administrative sites and the anticipated revenue that may be obtained from each lease;
 - b. A description of the intended use of any revenue or in-kind consideration obtained under a lease executed under FSFREA or section 8623 of the 2018 Farm Bill, including a list of any projects that cost more than \$500,000; and
 - c. A description of accomplishments during previous years using FSFREA or section 8623 of the 2018 Farm Bill.
5. Ensuring that the congressional committees identified in paragraph 4 receive a notice of the proposed lease, including the anticipated revenue that may be obtained from the lease, if the Chief approves eligibility for leasing of an administrative site that is not on the list submitted under paragraph 4a of this section.

6. Ensuring that at least once each year, a report is submitted to the Committee on Agriculture, the Committee on Appropriations, and the Committee on Natural Resources of the House of Representatives; and the Committee on Agriculture, Nutrition, and Forestry, the Committee on Appropriations, and the Committee on Energy and Natural Resources of the Senate, describing each lease executed by the Forest Service under this chapter during the period covered by the report.

2750.41c – National Land Ownership Adjustment Team

The National Land Ownership Adjustment Team is responsible for:

1. Reviewing and concurring with any estimate of market value of \$2 million or more made by a Regional Land Ownership Adjustment Team for an administrative site to be leased under FSFREA or section 8623 of the 2018 Farm Bill;
2. Reviewing and concurring with any estimate of market value of \$2 million or more made by a Regional Land Ownership Adjustment Team for in-kind consideration to be paid for leasing an administrative site under section 8623 of the 2018 Farm Bill; and
3. Reviewing and approving any reassessment of market value rent for an administrative site of \$2 million or more made by a Regional Land Ownership Adjustment Team for purposes of the rent to be charged for subsequent leases, upon expiration of a lease and before issuance of a new lease.

2750.42 – Field Units

2750.42a – Regional Foresters

Regional Foresters are responsible for:

1. Consulting with Forest Supervisors in the Region, submitting to the Chief recommendations for administrative sites in the Region that the Regional Forester considers eligible for leasing under this chapter.
2. Submitting a list of administrative sites to the National Director of Lands and Realty Management required for the report provided under FSM 2757.2.

2750.42b – Authorized Officers

Authorized officers may include Forest and Grassland Supervisors; or Station, and Institute Directors. Authorized officers are responsible for:

1. Submitting suggestions to their immediate supervisor of administrative sites which may be eligible for leasing under FSFREA or section 8623 of the 2018 Farm Bill.

2. Before executing a lease under FSFREA or section 8623 of the 2018 Farm Bill for an administrative site approved for leasing by the Chief:
 - a. Consider reasonable foreseeable uses of the administrative site (including any desired construction and any Government maintenance, repair, improvement, restoration, or reconstruction of facilities or improvements at an administrative site) that would achieve management objectives; meet facilities planning requirements in FSM 7312; and meet the initial and second-level screening criteria in 36 CFR 251.54(e)(1) and (e)(5); FSM 2703.2; and FSH 2709.11, chapter 10, sections 12.21 and 12.32;
 - b. Prepare a market analysis to determine the most reasonably foreseeable use of the administrative site for purposes of environmental analysis (FSM 2753.6);
 - c. Consult with government officials of the community and the state in which the administrative site is located;
 - d. Offer a lease to be issued under section 8623 of the 2018 Farm Bill initially to the municipality or county in which the site is located;
 - e. After expiration of the timeframe for exercise of the right of first refusal, providing public notice of the opportunity to lease an administrative site;
 - f. For purposes of calculating market value for the lease, obtaining from the Regional Land Ownership Adjustment Team:
 - (1) A determination of the market value of the administrative site;
 - (2) A determination of the market value of any in-kind consideration to be provided under section 8623 of the 2018 Farm Bill;
 - (3) Upon expiration of a lease and before issuance of a new lease, a reassessment of the market value rent for the new lease for the administrative site; and
 - (4) For any market value rent, in-kind consideration, or reassessment of market value of \$2 million or more, review and approval of the market value determination from the National Land Ownership Adjustment Team;
 - a. For leases under FSFREA, ensuring that rent is deposited in the fund established under the Sisk Act, 16 U.S.C. 484a; and
 - b. For leases under section 8623 of the 2018 Farm Bill, and using the appropriate standard forms, approving and executing agreements for in-kind consideration; ensuring that the value of in-kind consideration is documented; approving work performed as in-kind consideration before it is accepted; documenting the approval; and depositing any cash consideration into the U.S. Treasury account for miscellaneous receipts.

3. Executing leases for administrative sites approved by the Chief under this chapter.
4. Upon revocation or termination of a lease under section 8623 of the 2018 Farm Bill, ensuring that title to any facilities and improvements constructed as in-kind consideration be transferred to the United States in accordance with United States Department of Justice title standards.

2750.42c – Regional Land Ownership Adjustment Team

The Regional Land Ownership Adjustment Team is responsible for determining:

1. The market value for an administrative site deemed eligible for leasing by the Chief;
2. The market value of any in-kind consideration to be provided for leasing an administrative site; and
3. Upon expiration of a lease and before issuance of a new lease, a reassessment of the market value rent for the administrative site for purposes of the rent to be charged for subsequent leases.

2750.42d – Regional Director of Engineering

The Regional Director of Engineering is responsible for:

1. Ensuring project designs for leased administrative sites adhere to applicable law and Forest Service requirements.
2. Providing review and technical approval of drawings and specifications for construction of new facilities or improvements or reconstruction, improvement, or restoration of existing facilities or improvements at an administrative site as provided by this chapter.
3. Ensuring all leased property is tracked appropriately in the Facility Master Plan.

2750.5 – Definitions

Administrative Unit. A national forest, national grassland, a purchase unit, a land utilization project, Columbia River Gorge National Scenic Area, Land Between the Lakes, Lake Tahoe Basin Management Unit, Midewin National Tallgrass Prairie, or other comparable unit of the National Forest System (NFS).

Curtilage. The ground and buildings immediately surrounding a dwelling, including a yard or garden in the front or rear or at the side of the dwelling and any ground that is near, used with, and necessary for the convenient occupation of the dwelling.

Facility or Improvement. An administrative installation for conducting Forest Service activities, including but not limited to the following:

- a. Forest Supervisor's office;
- b. District Ranger's office;
- c. Research station or laboratory;
- d. Dwelling;
- e. Warehouse;
- f. Scaling station;
- g. Fire retardant mixing station;
- h. Fire lookout station;
- i. Guard station;
- j. Storage facility;
- k. Communications facility; or
- l. Any other installation, including excess lands used for conducting Forest Service activities.

Government Maintenance, Repair, Improvement, Restoration, or Reconstruction.

Maintenance, repair, improvement, restoration, or reconstruction that arrests deterioration, improves and upgrades facilities, and appreciably prolongs the life of the property, including but not limited to installing a new roof, new floor, or new siding; rebuilding boilers; replacing pipes, pumps, and motors; repairing or maintaining the paths, lands, walks, walls, or landscaping adjacent to Federally-owned structures; paving interior roads, sidewalks, curbs and gutters, storm drain systems, upgrading facilities, and installing utilities; and performing exterior painting and refinishing (other than repair of unsightly visual marks caused by everyday use) and that is performed at the sole discretion of the authorized officer.

Improvement. Advancing a fixed asset to a better quality or state or adding a new fixed asset to the property, including replacement, such as substitution of a fixed asset or any of its components with one having essentially the same capacity and purpose. Improvement is always the responsibility of the Government rather than the lessee.

Leasehold Interest. The right held by a lessee to use and occupy real estate for a stated term and under the conditions specified in the lease.

Lessee Maintenance, Repair, or Restoration. Maintenance, repair, or restoration that neither materially adds to the value of the property nor appreciably prolongs its life and that serves only to keep a facility in an ordinary, efficient operating condition, such as, from an accounting or tax perspective, work that may be expensed, but not capitalized, including but not limited to interior decorating, interior painting, vandalism repair, repair of broken windows, light bulb replacement, cleaning, unplugging drains, drive belt replacement, preventive maintenance, lubrication of motors, greasing, servicing, inspecting, oiling, adjusting, tightening, aligning, watering, weeding, sweeping, waxing, routine housekeeping, and general snow removal.

Maintenance or Repair. An action taken to keep a fixed asset in an acceptable condition, including preventive maintenance, normal repairs, replacement of parts and structural components, and other activities needed to preserve a fixed asset so that it continues to provide acceptable service and achieves its expected life, and work needed to comply with laws, regulations, codes, and other legal requirements as long as the original intent or purpose of the fixed asset is not changed, but not including activities aimed at expanding the capacity of an asset or otherwise upgrading it to serve needs different from or significantly greater than those originally intended, such as construction of new facilities.

Market Analysis. The identification and study of the market for a particular economic good or service.

Restoration or Reconstruction. A type of maintenance, other than construction of new facilities, that rehabilitates an existing fixed asset or any of its components to restore the functionality or life of the asset.

Service Relating to Activities that Occur at an Administrative Site. A service performed by a lessee for an administrative site that relates directly to the use and occupancy authorized by the lease for the site and that provides a direct benefit to the Forest Service, including where the lessee retains title to new facilities or improvements upon their completion and offers space in those new facilities or improvements for Forest Service employee housing at a discount or free of charge.

2751 – Administrative Sites

2751.1 – Eligibility for Leasing

The following qualify as an administrative site for purposes of leasing under FSFREA or section 8623 of the 2018 Farm Bill:

1. A facility or improvement, including curtilage, that was acquired or is used specifically for purposes of administration of the National Forest System;
2. Any NFS lands associated with a facility or improvement that were acquired or are used specifically for purposes of administration of Forest Service activities and that underlie or abut the facility or improvement; or

3. For each fiscal year, up to 10 isolated, non-contiguous, undeveloped parcels of up to 40 acres each that were acquired or used for purposes of administration of Forest Service activities, but are not so utilized, such as vacant lots outside of the proclaimed boundary of an administrative unit.

2751.2 – Ineligibility for Leasing

The following do not qualify as an administrative site for purposes of leasing under FSFREA or section 8623 of the 2018 Farm Bill:

1. Any land within an administrative unit that is exclusively designated for natural area or recreational purposes;
2. Any National Forest System lands included within the National Wilderness Preservation System including wilderness study areas; the Wild and Scenic River System; or a National Monument; or
3. Any National Forest System lands that the Forest Service determines:
 - a. Are needed for resource management purposes or to provide access to other land or water; or
 - b. Would be in the public interest not to lease.

2751.3 – Recommendation and Approval of Eligible Administrative Sites

Forest Supervisors may suggest eligible administrative sites to the Regional Forester for recommendation to the Chief for approval.

The Regional Forester, in consultation with the Forest Supervisors in the Region, may recommend eligible administrative sites to the Chief for approval.

Eligible administrative sites must have prior written approval from the Chief before the pre-leasing process (FSM 2752) may commence.

2752 – Pre-Leasing Process

After an eligible administrative site is approved for leasing by the Chief, the authorized officer must follow the pre-leasing procedures in this section before leasing the site.

2752.1 – Configuration and Potential Uses of Administrative Sites

1. To facilitate leasing of an administrative site deemed eligible by the Chief, the authorized officer may configure the site to maximize its marketability and to achieve management objectives while taking into consideration development issues such as zoning, density, liability, maximizing employee housing and affordability, and

- ownership issues associated with condominium developments. Factors to consider in maximizing marketability include but are not limited to:
- a. The adequacy of parking; office space, including the availability of high-speed internet and cellular service; ceiling height (for a warehouse or storage facility); and access (ability for trucks to unload at a warehouse or storage facility);
 - b. Whether utilities are included or excluded from the rent, whether they are separately metered, and if not, whether there is a way to determine tenants' *pro-rata* share;
 - c. Whether the cost of maintenance for improvements, parking areas, and landscaping; snow removal; and other types of maintenance is included or excluded from the rent, and if the cost is excluded, the Forest Service's and lessee's proposed *pro rata* shares;
 - d. If only a portion of an administrative site is leased, whether there are security issues between the Forest Service's space and the leased space that need to be addressed; and
 - e. For undeveloped land, at a minimum, the optimum size and shape of lots; the location and available capacity for water, sewer, electrical, natural gas, high-speed internet, and cellular services and storm drainage systems; existing access agreements, licenses, or easements; and local, county, and state requirements for improving proposed access routes, including interior street design requirements, storm systems, and roads built on site.
2. An administrative site or compound of administrative sites under a single lease executed under FSFREA or section 8623 of the 2018 Farm Bill may not exceed 40 acres.
 3. A facility or improvement at an administrative site may be leased separately from the underlying National Forest System lands. For example, a lease may be issued for all but one of the facilities and improvements at an administrative site and their underlying NFS lands, and a separate lease may be issued only for the remaining facility or improvement without the underlying National Forest System lands.
 4. Before consulting with government officials regarding a lease for an administrative site (FSM 2752.3), the authorized officer must:
 - a. Complete a preliminary project analysis for the lease in accordance with FSM 7310 and record the project in the Facilities Master Plan;
 - b. Consider reasonably foreseeable uses of the administrative site (including any desired construction and any Government maintenance, repair, improvement, restoration, or reconstruction of facilities or improvements at an administrative

site) that would achieve management objectives; meet facilities planning requirements in FSM 7312; and meet the initial and second-level screening criteria in 36 CFR 251.54(e)(1) and (e)(5); FSM 2703.2; and FSH 2709.11, chapter 10, sections 12.21 and 12.32; and

- c. Prepare a market analysis to determine the most reasonably foreseeable use of the administrative site for purposes of environmental analysis (FSM 2753.6).

2752.2 – Lead-Based Paint and Asbestos at Administrative Sites

Before consulting with government officials regarding a lease for an administrative site (FSM 2752.3), the authorized officer must determine whether there is any lead-based paint or building materials containing asbestos at the site by conducting a lead paint risk assessment and an asbestos survey. The lead paint risk assessment must document the location, concentration, quantity, and condition of any lead-based paint at the administrative site. The asbestos survey must document the type, location, quantity, and condition of any building materials containing asbestos at the site.

Notwithstanding any provision of law relating to the mitigation or abatement of lead-based paint or building materials containing asbestos, the Forest Service is not required to mitigate or abate lead-based paint or building materials containing asbestos at an administrative site before leasing it under FSFREA or section 8623 of the 2018 Farm Bill. However, the Forest Service is required to give potential lessees of administrative sites notice of lead-based paint and building materials containing asbestos at administrative sites to be leased, as provided in the standard lease for administrative sites.

2752.3 – Consultation with State and Local Government Officials

After addressing configuration and potential uses of an administrative site and lead-based paint, building materials containing asbestos, and hazardous materials at the site, the authorized officer must consult with government officials of the community and the state in which the site is located regarding leasing of the site. The authorized officer shall document the date and content of the consultation with government officials.

2753 – Leasing Process

After consulting with government officials regarding leasing of an administrative site, the authorized officer shall complete the following procedures before executing a lease for the site.

2753.1 – Right of First Refusal

For leases to be issued under section 8623 of the 2018 Farm Bill, the authorized officer shall request in writing if the municipality or county in which the administrative site is located is interested in submitting an application for leasing the administrative site. The authorized officer is encouraged, but not required, to provide this option to the municipality or county for leases to be issued under FSFREA.

The written request to the municipality or county must:

1. Be sent by certified mail, return receipt requested;
2. Describe the location of the site and any facilities or improvements at the site;
3. Describe reasonably foreseeable uses of the site (including any desired construction and any Government maintenance, repair, improvement, restoration, or reconstruction of facilities or improvements at an administrative site) that would achieve management objectives; meet facilities planning requirements in FSM 7312; and meet the initial and second-level screening criteria in 36 CFR 251.54(e)(1) and (e)(5); FSM 2703.2; and FSH 2709.11, chapter 10, sections 12.21 and 12.32;
4. Include a link to the standard administrative site lease that specifies the market value rent for leasing the administrative site and provides notice of any lead-based paint and building materials containing asbestos at the site; and
5. Specify that the municipality or county has 90 days from the date of receipt of the request to notify the authorized officer that the municipality or county is interested in submitting an application.

To be eligible for submitting an application for leasing the administrative site, the municipality or county must notify the authorized officer within 90 days from the date of receipt of the request that the municipality or county is interested in submitting an application.

If the municipality or county timely exercises its right of first refusal and subsequently submits an application for leasing the administrative site, the authorized officer shall determine if the proposed uses of the site in the application would achieve management objectives and meet the initial and second-level screening criteria referenced above. Issuance of a lease for the administrative site is subject to environmental analysis per FSM 2753.6.

If the municipality or county does not exercise its right of first refusal within 90 days from the date of receipt of the request, the authorized officer shall document the municipality's or county's failure to exercise its right of first refusal.

2753.2 – Public Notice

After expiration of the timeframe for exercise of the right of first refusal, the authorized officer shall provide public notice of the opportunity to lease an administrative site:

1. On the website of the affected administrative unit; and
2. In a local newspaper.

The public notice must at a minimum include items 2 through 4 in FSM 2753.1. The public notice must also specify whether the municipality or county has exercised its right of first refusal or whether the leasing opportunity is available to the public.

2753.3 – Leasing When Competitive Interest Exists

If there is competitive interest in the lease based on the response to the public notice, the authorized officer shall issue a standard prospectus for the administrative site. Include as an appendix to the standard prospectus the standard administrative site lease that specifies the market value rent for leasing the administrative site (FSM 2754) and provides notice of any lead-based paint and building materials containing asbestos at the site (FSM 2752.2). See FSM 2712.1 for procedures on issuance of a prospectus.

2753.4 – Leasing When No Competitive Interest Exists

If only one proponent expresses interest, an application may be accepted from that proponent and evaluated in accordance with 36 CFR 251.54(g)(2) and (g)(4) and FSH 2709.11, chapter 10, section 12.5. Prepare the lease for the administrative site, including the market value rent for the lease (FSM 2754) and notice of any lead-based paint and building materials containing asbestos at the site (FSM 2752.2), using the standard lease for administrative sites.

2753.5 – Evaluation of Proposed Construction or Improvement

At a minimum, any proposed construction or improvement of an administrative site under section 8623 of the 2018 Farm Bill or FSFREA, including but not limited to proposed in-kind consideration (FSM 2754.5) and proposed construction on or improvement of an isolated, non-contiguous, undeveloped parcel of up to 40 acres, must be consistent with site development planning requirements in FSM 7310 and the initial and second-level screening criteria in 36 CFR 251.54(e)(1) and (e)(5); FSM 2703.2; and FSH 2709.11, chapter 10, sections 12.21 and 12.32.

2753.6 – Compliance with the National Environmental Policy Act and Other Laws

1. Leasing of administrative sites under FSFREA or section 8623 of the 2018 Farm Bill is subject to the National Environmental Policy Act (NEPA) and other environmental laws such as the Endangered Species Act and the National Historic Preservation Act.
2. When issuance of a lease for an administrative site is not subject to a categorical exclusion (36 CFR 220.6, FSH 1909.15, ch. 30), for purposes of NEPA, the authorized officer is only required to analyze:
 - a. The alternative of not leasing the administrative site (the no-action alternative);
 - b. The most reasonably foreseeable use of the administrative site, as determined through a market analysis, as proposed by the applicant; and
 - c. Whether any conditions need to be added to the standard lease for administrative sites based on the application.

2753.7 – Initial Environmental Site Assessments

Before use and occupancy of an administrative site under FSFREA or section 8623 of the 2018 Farm Bill, the authorized officer shall ensure that the following requirements are met:

1. The lessee at its expense must conduct an initial Environmental Site Assessment (SA);
2. The initial SA must be conducted by an environmental professional with the requisite certification and experience;
3. The initial SA must document the types and quantities of any hazardous substances that have been stored, released, or disposed of at the site; and
4. If the initial SA shows that a hazardous substance release is present at the administrative site and the Forest Service determines that cleanup or other remedial action is required in order to achieve the regulatory standard commensurate with the lessee's intended use, per the standard lease and standard prospectus for leasing administrative sites:
 - a. The lessee shall be responsible for any cleanup or other remedial action that the Forest Service determines to be required at the administrative site based on the initial SA;
 - b. The level of cleanup or other remedial action must be commensurate with the lessee's intended use and occupancy of the administrative site; and
 - c. The cleanup or other remedial action must be completed before the lessee's use and occupancy commence.

For leases issued under section 8623 of the 2018 Farm Bill, cleanup or other remedial action performed by the lessee pursuant to an initial SA may be considered as in-kind consideration in the form of a service relating to activities that occur at an administrative site (FSM 2754.5).

2754 – Rent for Leasing Administrative Sites

The authorized officer shall ensure that lessees for any administrative site under FSFREA or section 8623 of the 2018 Farm Bill pay rent that is at least market value. The rental rate for Federal improvements must be based on the market rental rate used for improvements. If the appraiser is unable to determine a market rate using local market information, the rate of 6% of the value of the Federal improvements shall be used as a minimum rate.

2754.1 – Methods for Determining Market Value Rent

The market value rent for an administrative site will be determined by:

1. Conducting an appraisal in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions established in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 *et seq.*) and the Uniform Standards of Professional Appraisal Practice; and
2. If a determination is made per FSM 2753.3 that competitive interest exists, a competitive process initiated by issuance of a standard prospectus.

The market value rent must be included in the standard lease for an administrative site when it is offered to a municipality or county or linked to a public notice. The market value rent must also be included as the minimum rent in the standard prospectus for an administrative site.

The market value of any construction of new facilities and improvements or any Government maintenance, repair, improvement, restoration, or reconstruction of facilities or improvements at an administrative site must be determined based on the application granted by the Forest Service for that work.

2754.2 – Appraisals for Determining Market Value Rent

The Regional Land Ownership Adjustment Team shall conduct appraisals to determine:

1. The market value rent for leasing administrative sites, which is based on:
 - a. The market value of the existing facilities and improvements; and
 - b. The market value of any new facilities or improvements to be constructed and the market value of any existing facilities or improvements that have been subject to Government maintenance, repair, improvement, restoration, or reconstruction of facilities or improvements to be performed at an administrative site, either under FSFREA or section 8623 of the 2018 Farm Bill;
2. The market value of any in-kind consideration to be paid for leases executed under section 8623 of the 2018 Farm Bill (FSM 2754.5); and
3. Upon expiration of a lease and before issuance of a new lease, the market value rent for the new lease based on any additional construction or Government maintenance, repair, improvement, restoration, or reconstruction of facilities and improvements, either with rental proceeds under FSFREA or in-kind consideration under section 8623 of the 2018 Farm Bill.

Appraisals of \$2,000,000 or more must be submitted for review and approval to the National Land Ownership Adjustment Team.

2754.3 – Rent for Leases Issued Under FSFREA

Rent for leases issued under FSFREA must be paid entirely in cash. In-kind consideration may not be accepted for leases issued under FSFREA.

2754.4 – Proceeds from Rent for Leases Issued Under FSFREA

Proceeds from rent for leases issued under FSFREA must be deposited into the fund established under the Sisk Act, 16 U.S.C. 484a, and are available for expenditure by the Forest Service without further appropriation for the following purposes:

1. Acquisition, improvement, maintenance, reconstruction, or construction of a facility or improvement in the National Forest System; and
2. Costs associated with leasing an administrative site under FSFREA, including reasonable commissions or fees for brokerage services, if the authorized officer determines those services are in the public interest. The authorized officer shall provide public notice of any brokerage services contract for leasing an administrative site under FSFREA.

2754.5 – Rent for Leases Issued Under Section 8623 of the 2018 Farm Bill

Rent for leases issued under section 8623 of the 2018 Farm Bill may be paid:

1. Entirely in cash;
2. Entirely in kind, based on the market value of the following types of eligible work:
 - a. Construction of new facilities or improvements at the administrative site;
 - b. Government maintenance, repair, improvement, or restoration of facilities or improvements at the administrative site; and
 - c. A service relating to activities that occur at an administrative site; or
3. Any combination of cash or the types of eligible in-kind work identified above in paragraph 2.

Lessee maintenance, repair, or restoration is not eligible for in-kind consideration for leases issued under section 8623 of the 2018 Farm Bill.

2754.6 – In-Kind Consideration for Leases Issued Under Section 8623 of the 2018 Farm Bill

In-kind consideration for leases issued under section 8623 of the 2018 Farm Bill is subject to the following requirements.

1. In-kind consideration must be documented in advance by the authorized officer using the standard in-kind consideration agreement.

2. Before acceptance of any in-kind consideration:
 - a. The Forest Service shall determine that the work or service was satisfactorily performed by the lessee;
 - b. The cost of the in-kind consideration must be documented; and
 - c. The costs of the in-kind consideration must be certified by the lessee using the standard form for that purpose.
3. Annual in-kind consideration for an administrative site may not exceed the amount of annual market value rent for the site.
4. The authorized officer may consolidate payment of rent for multiple years to increase the value of in-kind consideration that may be provided for large-scale projects.
5. The Forest Service may perform work approved as in-kind consideration that is funded by the lessee under a collection agreement executed by the lessee and the authorized officer under section 5 of the Granger-Thye act, 16 U.S.C. 572, and the standard lease for administrative sites. The Forest Service must document the cost of work performed by the Agency as in-kind consideration under a collection agreement.
6. If the use and occupancy of the administrative site will be reauthorized, before or upon revocation or termination of the lease, the authorized officer shall ensure that the lessee transfer title to any new facilities or improvements constructed by the lessee as in-kind consideration to the United States in compliance with United States Department of Justice title standards.
7. If the use and occupancy of the administrative site will not be reauthorized, upon revocation or termination of the lease, the authorized officer may require the lessee to transfer title to any or all new facilities or improvements constructed by the lessee as in-kind consideration to the United States in compliance with United States Department of Justice title standards, or may require the lessee to remove any or all authorized facilities and improvements and restore the site to the satisfaction of the authorized officer.

2754.7 – Rent Proceeds from Leases Issued Under Section 8623 of the 2018 Farm Bill

Any rent paid in cash for a lease issued under section 8623 of the 2018 Farm Bill must be deposited into the U.S. Treasury as miscellaneous receipts. Rent paid in cash under section 8623 of the 2018 Farm Bill may not be retained and spent by the Forest Service.

2755 – Providing Forest Service Employee Housing under an Administrative Site Lease

2755.1 – Options for Providing Forest Service Employee Housing Under FSFREA

Space for Forest Service employee housing may be reserved in constructed, reconstructed, or improved facilities or improvements leased under FSFREA. The rent charged for these facilities or improvements must be decreased proportionate to the space reserved for Forest Service employee housing.

2755.2 – Options for Providing Forest Service Employee Housing Using In-Kind Consideration under Section 8623 of the 2018 Farm Bill

1. Existing Facilities or Improvements. Space for Forest Service employee housing may be reserved in existing facilities or improvements that are improved or restored as in-kind consideration. The rent charged for the facilities or improvements must be decreased proportionate to the space reserved for Forest Service employee housing.
2. New Facilities or Improvements.
 - a. Lessee Retains Title Upon Completion. If the lessee retains title to new facilities or improvements upon completion and offers space in the new facilities or improvements for Forest Service employee housing at a discount or free of charge, there are two types of in-kind consideration:
 - (1) The value of construction costs, including the costs of removing any existing facilities or improvements at the administrative site so that the new facilities or improvements can be constructed; and
 - (2) The value of the discounted or free use of space for Forest Service employee housing, which is a service relating to activities that occur at an administrative site.
 - b. If the use and occupancy of the administrative site will be reauthorized, before or upon revocation or termination of the lease, the authorized officer must ensure that title to the new facilities or improvements are transferred to the United States (FSM 2754.6, para. 6). Subsequent leases may provide for reservation of space for Forest Service employee housing. Under the subsequent leases, rent charged for the facilities or improvements must be decreased proportionate to the space reserved for Forest Service employee housing.
 - c. Lessee Transfers Title Upon Completion. If the lessee transfers to the United States title to new facilities or improvements upon completion and offers space in the new facilities or improvements for Forest Service employee housing, there is only one type of in-kind consideration: the value of construction costs, including the costs of removing any existing facilities or improvements at the administrative

site so that the new facilities or improvements can be constructed. Since the lessee does not have title to the new facilities or improvements, the lessee cannot charge rent for them and therefore cannot offer space in them for Forest Service employee housing at a discount or free of charge as a form of in-kind consideration. The rent charged for the facilities or improvements must be decreased proportionate to the space reserved for Forest Service employee housing.

2756 – Prohibitions

2756.1 – Leasebacks

Authorized officers may not pay rent to lease back administrative sites from lessees under FSFREA or section 8623 of the 2018 Farm Bill.

2757 – Reporting

2757.1 – Congressional Reporting

The National Director of Lands and Realty Management shall ensure that:

1. The annual budget justification documents submitted to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate include the following:
 - a. A list of the anticipated leases to be executed under FSFREA or section 8623 of the 2018 Farm Bill, including the anticipated revenue that may be obtained from each lease;
 - b. A description of the intended use of any revenue or in-kind consideration obtained under a lease executed under FSFREA or section 8623 of the 2018 Farm Bill, including a list of any projects that cost more than \$500,000; and
 - c. A description of accomplishments during previous years using FSFREA or section 8623 of the 2018 Farm Bill.
2. If the Chief approves eligibility for leasing of an administrative site that is not on the list submitted under paragraph 1a of this section, the congressional committees identified in paragraph 1 receive a notice of the proposed lease, including the anticipated revenue that may be obtained from the lease.
3. At least once each year, a report is submitted to the Committee on Agriculture, the Committee on Appropriations, and the Committee on Natural Resources of the House of Representatives; and the Committee on Agriculture, Nutrition, and Forestry, the Committee on Appropriations, and the Committee on Energy and Natural Resources of the Senate describing each lease executed by the Forest Service under this chapter during the period covered by the report.

2757.2 – Internal Reporting

To facilitate the congressional reporting required in FSM 2757.1, Regional Foresters shall annually report the following information for their administrative unit to the National Director of Lands and Realty Management:

1. A list of the anticipated leases to be executed under FSFREA or section 8623 of the 2018 Farm Bill, including a description of the leased administrative sites and the anticipated revenue that may be obtained from each lease;
2. A description of the intended use of any revenue or in-kind consideration obtained under a lease executed under FSFREA or section 8623 of the 2018 Farm Bill, including a list of any projects that cost more than \$500,000;
3. A description of accomplishments during previous years using FSFREA or section 8623 of the 2018 Farm Bill; and
4. Eligibility for leasing of an administrative site that is not on the list submitted under paragraph 1 of this section, notice of the proposed lease, including the anticipated revenue that may be obtained from the lease, once approved by the Chief.