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Policies and Procedures

Title: Facilities Construction Authorities

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This P&P provides information on ARS construction authorities, appropriation limitations, and policy for compliance.

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1. Purpose

This Policy and Procedure (P&P) provides information on Agricultural Research Service (ARS) construction authorizations, appropriation limitations, and the policy for compliance.

2. Background

7 U.S.C. 2250 authorizes the United States Department of Agriculture (USDA) to construct, alter, and repair such buildings and other public improvements as may be necessary to carry out its authorized work provided that no building or improvement is constructed or altered in excess of limitations prescribed in the applicable appropriation.

The appropriation statutes, specifically 41 U.S.C. 11, require that no contract or purchase shall be made unless it is under an appropriation adequate to its fulfillment. This mandates that the expenditure of an appropriation will result in an end product (facility) which can be used for the intended purpose. Congress has been specific in its intent that any construction project provide for the completion of a fully functional facility that can be turned over to researchers to begin work immediately. Roads and major equipment items that form an essential part of the laboratory should be included in the budget and considered an integral part of the usable facility. It is inappropriate to use program funds to complete the construction of an incomplete laboratory.

ARS Appropriations

Through the budget process, Congress passes an appropriation bill which is enacted by the President.

Appropriations may be either annual or no-year. An annual appropriation is valid and available for one (1) fiscal year (FY) and must be obligated in the same FY in which the appropriation is made available. A “No-year” appropriation remains available for obligation and expenditure from the FY of the appropriation until the spending purpose has been achieved. “No-year” appropriations cannot be commingled with annual appropriations or other funds without a specific Congressional authorization.

The ARS Salaries and Expenses (S&E) appropriation language contains a number of authorities either limiting the number of buildings, or the amount of program funds that can be spent on them. Funding for major planning, design, modernization, and construction of ARS facilities is provided under the Buildings and Facilities subsection of the Appropriation Act.

The provisions addressing buildings and expenditures in the S&E Act have been historically maintained to limit funding for brick and mortar activities within the annual research program account. In recent years, both the Agriculture Committees and the Subcommittees for Agriculture Appropriations have expressed interest and concern regarding the funding ARS commits under these various authorities. ARS is required to notify the Committee in writing on

the use of building authorities contained in ARS' S&E appropriation language on January 1 of each year.

The annual ARS Appropriation Act is typically similar to the following paragraph. The dollar limitations contained in this paragraph reflect FY 2013 levels and may change each year. A bulletin will be issued as appropriate to communicate the appropriations language.

“Appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for construction, alteration, and repair of buildings and improvements, but unless otherwise provided, the cost of constructing any one building shall not exceed \$375,000 except for headhouses or greenhouses which shall be limited to \$1,200,000, and except for ten small buildings to be constructed or improved at a cost not to exceed \$750,000, and the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building or \$375,000 whichever is greater..”

This language in the annual Appropriations Act constitutes Congressional authority to obtain construction within these specified categories but Congress does not provide additional funding with these construction authorizations.

Currently, the annual Appropriation Act specifies that the limitations on alterations contained in the Act do not apply to modernization and replacement of facilities at Beltsville, Maryland.

Currently, the annual Appropriations Act provides funding for the Agency Repair and Maintenance (R&M) program. Sometimes, the annual Appropriations Act also provides specific funding for R&M projects at specific locations.

The annual Appropriations Act may also provide specific additional amounts of dollars for acquisition of land, construction, repair, improvement, extension, alteration and purchase of fixed equipment or facilities under the Buildings and Facilities subsection of the Act.

All projects initiated under these authorities must be included on the Area's approved Capital Project and Repair Plan (CPRP).

ARS Construction Authorizations

This section defines the various ARS construction programs authorized in the annual ARS Appropriation.

Unlimited Small Buildings (USB): This is a construction authority to design and construct an unlimited number of small buildings at a cost not to exceed the authorized limitation identified in the applicable annual appropriation act language. Each building must serve to further enhance, pursue, and conduct immediate research program needs. The Area Office must obtain approval of the proposed USB project from the Office of National Program (ONP). The current limitation is \$375,000 for any one building.

Example: This includes chemical storage buildings, animal shelters and other storage buildings.

Funding: Congress does not provide the additional funding with this authorization. Obligations are made using annual base funds. The Area must provide the funds from the Area Director's reserve or location appropriation for these obligations. The funds are identified and approved during the Annual Resource Management Planning System (ARMPS)/High Priority Requirements List (HPRL) processes.

The appropriation limitation for USB may change (increase or decrease) with each annual appropriation act. The funding limitation includes all costs associated with acquiring the facility to include design, construction, construction administration and construction contingency.

Ten Small Buildings (TSB): This is a construction authorization to design and construct or improve not more than 10 small buildings throughout the Agency at an individual cost not to exceed the authorized limitation identified in the applicable annual appropriation act language. Each building or addition to an existing building must serve to further enhance, pursue and conduct the immediate research program needs. The Area Office must obtain approval of the proposed TSB project from the Office of National Program (ONP) and request one of the TSB slots from Facilities Division (FD), Administrative and Financial Management (AFM) prior to incurring any cost associated with the TSB project. The current limitation is \$750,000 for any one building.

Example: This includes larger scale chemical or feed storage buildings or animal spaces exceeding the USB authority.

Funding: Congress does not provide the additional funding with this authorization. Obligations are made using annual base funds. The Area must provide the funds from the Area Director's reserve or location appropriation for these obligations. The funds are identified and approved during the ARMPS/HPRL processes.

The appropriation limitation for each TSB slot may change (increase or decrease) with each annual appropriation act. The funding limitation includes all costs associated with acquiring the facility to include design, construction, construction administration, and construction contingency.

Headhouse/Greenhouse (HH/GH): This is a construction authority to design and construct an unlimited number of headhouses and/or greenhouses, at a cost not to exceed the authorized limitation identified in the applicable annual appropriation act language for each HH/GH. FY 2013 limitation is \$1,200,000 for any one building

Example: A headhouse is a building constructed at the end of a greenhouse to support the research conducted in the greenhouse.

Funding: Congress does not provide the additional funding with this authorization. Obligations are made using annual base funds. The Area must provide the funds from the Area Director's

reserve or location appropriation increases. The funds are identified and approved during the ARMPS/HPRL process.

The appropriation limitation for HH/GH may change (increase or decrease) with each annual appropriation act. The funding limitation includes all costs associated with acquiring the facility to include design, construction, construction administration and construction contingency.

10 Percent Alteration (TPA): This is a construction authority to design and construct an alteration to any one ARS building at a cost not to exceed 10 percent of the building replacement value or the dollar limitation specified in the applicable annual appropriation act language, which-ever is larger.

Example: An alteration is a change or substitution within the superficial limits of an existing structure including remodeling or renovation of existing space and converting vacant or abandoned interior building space to usable space. An alteration does not add usable square footage to an existing facility.

Funding: Congress does not provide the additional funding with this authorization. Obligations are made using annual base funds. The Area must provide the funds from the Area Director's reserve or location appropriation increases. The funds are identified and approved during the ARMPS/HPRL processes.

The appropriation limitation for TPA may change (increase or decrease) with each annual appropriation act. The funding limitation includes all costs associated with acquiring the facility to include design, construction, construction administration and construction contingency.

Repair and Maintenance (R&M): The R&M Authority is specifically intended to sustain ARS facilities within specific guidelines; protection of life, protection of property, implementation of mandated regulations, compliance with building codes, more effective space utilization and implementation of energy conservation measures. The definition of repair, as customarily applied to ARS facilities and buildings, is the restoration and renovation of components of an existing facility to a condition substantially equivalent to its original state and efficiency with the repair work complying with the requirements contained in the current applicable codes and standards.

Examples of appropriate R&M expenditures include repair and replacement of:

- HVAC/electrical/plumbing systems and components
- Roofing
- Building envelope and structural components
- Interior and exterior finishes
- Friable asbestos and lead based paint abatement
- Site utility systems and components
- Fume hoods/correction of air flow deficiencies
- Road paving (site pedestrian and vehicular circulation)
- Correction of site drainage

- Fire detection, alarm and protection systems and components to include installation of new systems as required by code
- Other Life Safety Systems and components
- Intrusion detection, access control and physical security barriers, systems and components*
- Installed building infrastructure and systems to support Information Technology (IT) and voice telephone systems, including Ethernet network cabling and data communications hardware (i.e. routers, switches, and firewalls) , PBX (Private Branch Exchange) equipment, and VoIP (voice over Internet Protocol) equipment. **
- Demolition of unutilized facilities that present a safety/liability risk to the Government

* Does not include costs associated with personnel badging/credentials or costs associated with security personnel, vehicles, or portable equipment.

** R&M funding **cannot** be used for other types of IT acquisitions including desktop, laptops, handheld computers, file servers and related peripherals; or computer software (including, but not limited to business application, operating system, and database management software; tools and utilities; and other similar products). Consult with the Office of the Chief Information Officer (OCIO) for specific technological standards. Any IT-related acquisition exceeding \$25,000 is also subject to the requirements of REE Bulletin 13-002, Information Technology Acquisition Approval Requests (AAR)”

Funding: Annual funding is usually used for this construction program. The R&M Program is funded through the 4% set aside of program funds and a budget line item which is normally part of the annual ARS budget request. The annual budget line item funding budget is a national program managed for ARS by AFM and implemented for each Area by the Business Service Centers (BSCs) and FD. The Area submits R&M projects to AFM, Financial Management Division (FMD), and FD, for funding consideration via ARMPS/HPRL. The Area may also fund these projects from program dollars. There are no limitations other than available funding.

Modernization: This program is an amalgamation of the TPA and R&M construction programs to enhance deteriorating facilities or utility systems on a large scale basis, (i.e., million dollar packages), on a priority basis. Facility modernization planning enables the Agency to prioritize major facility renovation locations. Priority research locations are identified by ONP and approved by the Administrator. The objective of the plan is not to expand or build new ARS facilities; but on a priority basis, correct, improve or upgrade existing facilities to current standards.

Because such projects may involve the use of R&M funds which are not subject to a statutory limitation, and TPA funds, which are subject to a statutory limitation, each element of the work must be classified appropriately and the costs must be charged to the property fund/accounting code to ensure that there is no violation of the statutory limitation under the TPA authorization.

Example: Large scale modernization of an entire wing of a laboratory facility or large scale replacement of a power plant.

Funding: A specific level of R&M (annual appropriations) funding is set aside for this construction program in the annual Appropriations Act and is used to fund the R&M portion of modernization programs. The TPA portions of modernization programs are funded with base funds rather than R&M funds.

Miscellaneous Construction: This is a construction category to design and construct new non-building type facilities. This category is not used for replacement or repair or maintenance of existing non-building type facilities.

Example: Miscellaneous construction includes projects which do not fall into any of the other construction authorization, such as roads, dams, bridges, wells, fences, feedlots, irrigation systems and windmills.

Funding: Annual base funding is used for this construction program. The Area or Location must provide the funds. The funds are identified and approved during the ARMPS/HPRL process. There is no cost limitations specified for this construction category other than the amount of funding available. Obligations are made using base funds.

Major Construction: (See Manual 157.0M for policies and procedures regarding major construction appropriations, authorizations and limitations.) This is a construction program for the design and construction of new major facilities or renovation (modernization) of existing major facilities. The value of these projects generally exceeds \$1 million.

Since the costs of such projects usually exceed the limitations of the other construction authorizations above, each major project must be funded from an appropriation that is made available specifically for such purposes.

Generally, these appropriations are specified under the Buildings and Facilities subsection of the annual Appropriation Act.

The specific annual Appropriation Act language will specify whether the appropriation (limitation) is for planning, design, or construction or a combination thereof. All costs incurred for major projects are chargeable to this appropriation. Such appropriations may not be supplemented (augmented) from other funding sources, unless specifically authorized by Congress.

3. Policy

Authorizations

Area offices must obtain approval from Headquarters to use any construction authorities for new small buildings or alterations to existing facilities expected to exceed \$25,000. Use of these authorities must be based on sound program need, and existing facilities should be the first option investigated when the need is validated. Only when existing facilities are inadequate to accommodate the program will construction authorities be requested.

It is the policy of ARS that the descriptions of the construction programs and authorizations reflected above will be used to determine which authorization is applicable to an individual project. The construction authorizations provide only the authority to perform design and construction work within the appropriation limitation which is applicable.

The Area will indicate the appropriate construction authorization or program when submitting the funding request via ARMPS/HPRL.

Regardless of the appropriate construction authorization, (i.e., USB, TSB, HH/GH, TPA, R&M, modernization, miscellaneous construction, major), ARS is responsible for the prudent administration of appropriated funds for facility design and construction in support of research programs in accordance with existing legislation and the annual appropriation process.

Since ARS appropriations are enacted on an annual basis, the appropriation limitations of a construction authorization begin to apply when planning or design activity occurs. For instance, in the TSB construction program, the start of planning or design will commit the slot allocation for that FY even though the construction contract award may not occur until a subsequent FY. The initiation of planning and designing of a building in a FY also establishes the appropriation limitation for the total project cost even though the construction contract award may not occur until a subsequent FY.

Funds appropriated to ARS can only be used to construct or renovate facilities intended to house ARS programs and employees and ARS cooperator programs and employees that are directly related to Federal activities.

ARS can design and construct or renovate facilities only on land or facilities in which ARS has acquired an appropriate realty interest, as determined by FD and the BSCs.

Limitations

The appropriation limitations generally apply to design and construction work related only to buildings. The limitations do not apply to standalone miscellaneous construction requirements such as fences, sidewalks, parking lots, substations, transformers, steam tunnels and other similar non-building type projects.

The appropriation limitations specified in the various construction authorizations include the cost of all services and materials that normally would be acquired by contract that are reasonable and necessary to construct, alter, or improve buildings including the design, fixed equipment, utility systems, site development and other costs necessary to provide a complete and usable facility.

Usable Facility

The appropriation statutes require that the expenditure of the appropriation result in a usable facility. To be “usable” the facility **must include** the necessary utilities, such as heat, light, power, ventilation and air conditioning, and safety systems, and be operable. It **must contain all**

the necessary built-in equipment, cabinets, benches and other items permanently attached to the building and capitalized as part of the building or structure. The end product **may exclude** the procurement and installation of personal property and the transfer of existing projects and personnel and **still constitute** a usable facility.

Construction authorizations (TSB, USB, HH/GH and the TPA) and appropriation limitations cannot be combined for use on the same project (except as noted for modernization). For instance, it is not permissible to use a small building authorization to add a vacant wing to a building and then use the TPA authorization to convert the vacant interior space to usable space.

Partial facility completion, with the intent to execute additional construction contracts to make it usable in future years, is prohibited. Unless sufficient funds are available to fulfill the need when the commitment is made, the purchase cannot take place. The “bona fide need” of ARS is the completed fully usable facility. Obligating funds for something that does not represent the “bona fide need” of the Agency (the completed fully usable facility) is a violation of the appropriation statutes.

Construction of a facility in fully usable phases may be allowable as long as each completed phase will result in a usable facility. It should be noted that phasing a project in this way generally creates the need to modify or completely reconstruct work completed in previous phases and incurs additional costs, delays, warranty problems, and difficulties in obtaining new work compatible with existing work.

4. Responsibilities

Administrator

- Approve priority research locations.

Office of National Programs (ONP)

- Review and approve TSB and USB projects.
- Identify priority research locations.
- Consider the financial capability of the program to operate and maintain the new facility

Location/Area Administrative Offices

- Submit any projects exceeding \$25,000 required to use these building authorities to FD.
- Assure that Area/location projects and those projects submitted to FD meet the definitions and limitations stated in this P&P.
- Assure that projects accomplished under the TPA authorization meet the definition and limitations of an alteration as stated in this P&P.
- Assure that all projects accomplished under any of the other construction authorizations meet the definition of a usable facility as stated in this P&P.
- Obtain approval of TSB project from ONP and obtain TSB slot through FD.

- Present documentation of project approval to Contracting Officials.

Program Officials

- Determine that the facility will house only ARS programs and employees and/or ARS cooperator programs and employees that are directly related to Federal activities.
- Participate in assuring that appropriation limitations and statutes are not violated.
- Present documentation of above to Contracting Officials.

Engineering Officials (BSCs) and FD)

- Support Area Directors and location personnel in development of project scopes and estimated costs.
- Determine whether a particular project can be accomplished under an applicable construction authorization and appropriation limitation.
- Participate in assuring that appropriation limitations and statutes are not violated.
- Present documentation of above to Contracting Officials.

Real Property Officials (BSCs and FD).

- Determine the current replacement value of those buildings to be altered using the TPA authorization.
- Determine the existence of sufficient realty interest.
- Provide the contracting official with a copy of the realty interest (lease or deed).

Officials with Architect-Engineering (A-E) and Construction Contracting Authority (BSCs)

- Review and confirm that a project can be properly designed and constructed under the applicable construction authorization, appropriation limitation, and statutes.
- Ensure that A-E and construction contract award files are properly documented to show the construction authorization, project approval, and appropriation limitation applicable for each project.

Facilities Division

- Review submitted projects for compliance with appropriation authorities and forward to ONP for approval.
- Administer TSB authorization by allocating slots to ONP approved Area projects.
- Review that a project can reasonably be properly designed and constructed under the applicable construction authorization and appropriation limitation.
- Review and confirm that a project meets the definition of the construction authorization.
- Notify Area/Location of ONP decision.

5. Procedures

The following procedures will apply:

1. Areas will submit a written request (memorandum or e-mail) to the FD Director.
2. The request should include:
 - a. a justification for need;
 - b. confirmation that the project has been approved by the Area Asset Management Review Board and included in the Area CPRP;
 - c. a detailed description and scope of proposed facility;
 - d. the schedule for design and construction of the project;
 - e. source of funds;
 - f. estimated design, construction, and replacement costs;
 - g. description of ARS realty interest;
 - h. the accounting code that will be established for the project;
 - i. and a signed National Environmental Policy Act (NEPA) decision document.

NOTE: Each facility project must be tracked in a separate accounting code.

A. The format for the accounting code is as follows:

X01LLLLRMM, where X = the budget FY; 01 = appropriation type; LLL = the 4th level location mode code, with the “R” denoting a capitalized improved cost; and MM = sequential number assigned by the Area Budget and Fiscal Officer.

B. When establishing the accounting code, use the unique Program Type that corresponds to appropriate construction authority as follows:

<u>Program Type</u>	<u>Construction Authority</u>
71	USB
72	TSB
73	HH/GH
74	TPA

3. FD will review the Area request and provide a recommendation to the Budget and Program Management Staff (BPMS) and the ONP, as appropriate.
4. The Office of the Administrator will provide FD with concurrence or nonoccurrence.
5. FD will communicate the final decision/action to the Area and the associated BSC(s).
6. BSCs will ensure projects remain within limitations listed in the P&P.

7. BSCs will ensure that a Unique Asset Identifier is established to track the capitalized costs of the project.
8. FD will submit authority summary to BPMS by December 1 and June 1 of each year to meet reporting requirements to Congress.
9. Any construction project undertaken below the \$25,000 threshold should be properly documented and maintained by the Area and location offices as to the source of funds, building limitation category, and other information (cost, size, and other project details) which may be required for possible reporting purposes.

A sample format is enclosed for your use in submitting a request.

The FMD has developed a standard report from the Foundation Financial Information System Financial Data Warehouse by Construction Authority (i.e., by Program Type and Program Class, if applicable). FD will use these reports to monitor the fund status of each project including the budgeted amount, obligations/expenditures to date and balance.

Should you have any questions, please contact the AFM FD on 301-504-1151.

Nino L. Fleri /s/
Director
Facilities Division
Agricultural Research Service

Date: May 31st 2013

Exhibit

**SAMPLE FORMAT TO REQUEST USE OF BUILDING AUTHORITIES
IN EXCESS OF \$25,000** *(SUBMIT VIA Memorandum or E-MAIL)*

SUBJECT: Request Approval for (Type) Building Authority

TO: Director, Facilities Division

FROM: _____ Area Office

Program Need and Justification:

Is Project included in the Approval Area 3-Year Capital Project & Repair Plan?

Project Description and Scope:

Funding Source and Proposed Implementation Schedule:

Accounting Code (and Program Class, if applicable):

Estimated Design and Construction Cost:

Estimated Annual operation and Maintenance Cost:

Replacement Cost (for Ten Percent Alteration Authority Requests):

Realty Interest (Owned or under long term lease?):

Project Point of Contact and Contact Information: