4.1 Utility Guidance
- 4.1.1 Applicability Revised 4/2008
- 4.1.2 Background Revised 4/2008
- 4.1.3 Guidelines Revised 4/2008
- 4.1.4 Pre-Award Contract Reviews Revised 7/2008
- 4.1.5 Award Revised 4/2008
  - 4.1.5.1 Funding Obligation Added 4/2008
- 4.1.6 Post-Award Actions Revised 4/2012
  - 4.1.6.1 Payment Problems Added 4/2008
  - 4.1.6.2 Problems Involving Meter/Account Numbers Added 4/2008
  - 4.1.6.3 Energy Cooperative Programs Revised 1/2012
- 4.1.7 Termination Revised 4/2008
- 4.1.8 Disposal of Real Property effect on Utility Revised 4/2008
- 4.1.9 Documentation Revised 4/2012

4.1 Utility Guidance

4.1.1 Applicability Revised 4/2008

This document provides general guidance in the acquisition of utility services. This procedure addresses the acquisition, management and termination of utility services, i.e., electric, gas, and water in support of facilities constructed, operated, and maintained in the Federal Aviation Administration.

4.1.2 Background Revised 4/2008

The utility acquisition process is to be conducted following the best commercial business practices, in a fair and equitable manner, while complying with all applicable regulations.

In most cases the Real Estate Contracting Officer will arrange for and sign any utility related documents. However, this does not preclude other FAA personnel, with authority to contractually commit the FAA to the payment of funds, from obtaining utility services using these guidelines. Any utility services obtained by personnel other than Real Estate Contracting Officers must be coordinated with the appropriate real estate office. In this document CO is used to indicate the individual with authority to commit the FAA to the payment of funds when obtaining utility services.

4.1.3 Guidelines Revised 4/2008

Utility services should be obtained from sources of supply, which are most advantageous to the Government in terms of economy, efficiency, reliability or service. Although single source is generally the method used to acquire utility services, the FAA will acquire utilities competitively whenever practical and reasonable. When competition is practical and reasonable, the selection of a source of supply requires careful and thorough study. A primary factor to consider when acquiring utility services competitively is the reliability of the service, since, in most cases, interruptions to utility service would result in serious losses to the FAA.

4.1.4 Pre-Award Contract Reviews Revised 7/2008

A single source is generally the method used to acquire utility services. When competition is practical and reasonable, the program office requesting the acquisition, must submit specifications in sufficient detail to request offers and evaluation criteria from the requesting office to make a selection that represents the best value to the FAA. Competition can only occur within designated areas that are deregulated and open to competition. There is a potential possibility for substantial savings when acquiring utilities competitively, since the Government has ability to select lowest cost provider. The problem with competitive procurements is split billing, which occurs when each point of service receives two invoices; one from the energy provider and one from the company whose lines were used to transport the energy. However, FAA Accounting will only pay invoices from the company with which the FAA has a contractual agreement. If the FAA wants to pay an additional provider, the RECO/CO will have

to negotiate new contract(s) for each point of service. Consequently, it is recommended that the RECO/CO procure utilities services noncompetitively. If the possibility of energy procurements without the need for split contracts is available, the competitive procurement may be worth considering.

The RECO/CO should review and analyze utility requirements received from the requesting official in detail, including the scope of the services requested, any drawings of the facilities provided, and cost estimates, if any. The project must be entered into Real Estate Tracking System (RETS). The RECO must confirm essential funding for estimated monthly service charges are provided through the PRISM requisition.

The RECO/CO should obtain a rate schedule from the utility company and ensure that the rate charged to the FAA is the lowest applicable rate available for which the FAA qualifies. The RECO/CO establishes a new account with utility service provider designated for a service area and arranges for service connection/transfer on specific date. The RECO/CO should also consider the use of General Services Administration Area Wide utility contracts whenever possible and available, since the Government and utility provider have already agreed to the terms of the contract. However, if, with respect to a new FAA facility, the RECO determines that the GSA Area Wide contract has expired, the RECO/CO must negotiate a new contract using FAA forms (4.3.1 Utility Application or Purchase Order).

When an agreement between the FAA and the utility provider has been reached concerning the terms and conditions of service, the RECO/CO must prepare either:

a. A Utility Contract with the form found at 4.3.1 Utility Application, which will include the FAA contract number, facility type, service address, account number, meter number, etc. or

b. A Purchase Order (PO), which must include the following clauses in the Terms and Conditions:

1. Advance Payment
2. Anti-Kickback
3. Contract Disputes
4. Covenant Against Contingent Fees
5. Central Contractor Registration – Real Property – (CCR)
6. Electronic Funds Transfer
7. Facilities Charges
8. Interest for Late Payment
9. Officials Not to Benefit

10. Protest

12. Tariffs and Rates

14. Note: Any other clauses needed to be added should be done with concurrence from your regional counsel or AGC-520.

c. If required by the utility, the RECO/CO may elect to use the state utility contract, provided it has been reviewed for legal sufficiency by the appropriate Regional Counsel, or AGC-520.

d. If the Utility Provider is military provide the Military Interdepartmental Purchase Request (MIPR) to the Military Finance Office, provided it has been reviewed for legal sufficiency by the appropriate Regional Counsel, or AGC-520. Note these an MIPR needs to be funded annually.

4.1.5 Award Revised 4/2008

The RECO/CO must complete the contract award process in PRISM, including all required financial data and full execution of the purchase order (PO) or utility contract or state utility contract. All contract awards must comply with Utility policy, AMS 4.2.3.6 and PRISM (FAA only) guidance.

The RECO/CO must send the original signed PO form or utility contract or state utility contract and one copy to the MMAC Accounting for payment processing. Also the RECO/CO should send copy of fully executed contract vehicle to the requesting office and property custodian, if the property custodian is other than the requesting office. The property custodian is the office responsible for managing and/or maintaining the facility, usually the office manager of the facility or the District Office if it is an unoccupied facility. Finally the RECO/CO must ensure that the project record is completed in RETS.

4.1.5.1 Funding Obligation Added 4/2008

The funding obligation for monthly consumption is provided through issuing a Purchase Request (PR) in PRISM. The RECO will continue to award the PO, which contains the contract number and all elements required for the obligation of appropriated funds.

4.1.6 Post-Award Actions Revised 4/2012

The RECO/CO must review any request for service modifications, i.e., reroute cable, relocate meter, etc. and any additional charges to be incurred to determine whether they have a rational basis, are reasonable, and are necessary for the fulfillment of FAA's mission. After receipt of the approved PRISM requisition with essential funding, the RECO/CO will prepare any necessary contract amendment relating to the utility contract vehicle used. It is recommended that the RECO provide the supporting OPS code from the requesting office (i.e. LMS/LPC) to the accounting office at MMAC at the initial setup. This will avoid the need in the future for the RECO to convert the funding from F&E to OPS by additional PR request and setting up a PRISM contract modification and then processing to accounting.

4.1.6.1 Payment Problems Added 4/2008

The RECO/CO must resolve any issues that arise relating to non-payment of invoices through coordination with the Accounting office to avoid any shutdown or interruption of utility services which are critical to operation of air navigational facilities. It is important for the RECO/CO to establish good communication with ATO to ensure that payments are made in accordance with the requirements of the contract/PO.

On occasion, situations have arisen whereby a utility provider would not perform specific in-scope work for FAA unless it received payment prior to commencement of work. The RECO should first consider whether the same utility provider previously accepted payments following completion of similar work. If the utility refuses to accept post-completion payment, RECO must use the Procurement guidance T3.3.1 for allowing prepayments in extenuating circumstances (see Procurement Guidance T3.3.1).

The RECO needs to monitor the invoices for payment to the utility companies especially for cases where overpayment request are being made. The accounting office at MMAC can provide the RECO with a spreadsheet to ensure that the payments are being paid accurately.

4.1.6.2 Problems Involving Meter/Account Numbers Added 4/2008

Sometimes the FAA authorizes work at a facility that requires the removal and relocation of a utility meter especially if the service is going to be out for a period of time, or changes the number of connections. This may cause the need for a new account number with the utility service. It is recommended that a spreadsheet be agreed by both accounting and RECO's to be used to track meters with accounts and what it services and if you need to change the account number.

If a meter previously assigned to another user is assumed by the FAA, the account number will usually change even though there is no relocation of the meter itself. The RECO/CO should be aware of these instances and ensure that they have access to the COTR or someone from ATO who can read numbers off the meter in those cases when there is a problem involving which account numbers are associated with which facilities.

A power company often assigns multiple meters/account numbers to a single FAA contract. The RECO must ensure that each meter is subject to a single FAA contract. This greatly simplifies the payment process. Two meters may be placed at a single facility in extenuating circumstances. In such case, the single contract number must distinguish between the meters by appending the letter “a” or “b” at the end. A reconstruct would have to be performed and then a delivery orders applied. This may add additional workload in PRISM but will greatly reduce the confusion with paying for utility services.

If a problem arises with the utility payments, the RECO can use the spreadsheets available by Accounting office to the RECO handling utilities to ensure that the meters and the corresponding account numbers are current and correct.

4.1.6.3 Energy Cooperative Programs Revised 1/2012

Some large FAA facilities, such as Air Route Traffic Control Centers, may qualify for energy cooperative programs. Under these programs, the energy supplier requests that during peak summer demand periods, the FAA utilize its own generators in lieu of power supplied by the utility company. The FAA then receives a rebate for assisting the power company. Two distinct types of energy cooperative programs exist: peak-shaving agreements, which are financially motivated, and demand response agreements, which serve to avert power interruptions due to extreme demand (e.g., rolling blackouts). Peak-shaving agreements are generally discouraged for FAA contracts. Environmental Protection Agency rules stringently regulate engine generators (E/Gs) that operate under peak-shaving agreements or other non-emergency uses. The Real Estate Contracting Officer/Contracting Officer managing utility contracts must ensure that new or renewed utility contracts do not include provisions for peak-shaving agreements unless specifically reviewed and approved by an FAA environmental professional. Demand response agreements are allowable and do not affect the emergency status of an E/G as long as the hours of operation are limited to no more than 15 hours/year.

4.1.7 Termination Revised 4/2008

Upon receipt of a written request from the program office occupying a facility, the RECO/CO must contact the utility supplier to terminate utility service. The RECO/CO needs to contact the utility supplier to cancel in compliance with the terms of the underlying contract. After issuing a termination/cancellation request to a utility, the RECO/CO must follow up with Accounting to make sure FAA is no longer being billed for utility services for the subject facility as of the effective date of the termination/cancellation.

Generally, contracts for utility services are not restricted to a specified term with a firm date set for termination of services. The RECO/CO must insure that reasonable termination rights are provided in the agreement. When utility services are expected to continue for an indefinite period, the RECO/CO should review the requirement periodically to ensure that the services being provided remain the most advantageous to the Government and that the services are being provided at the most economical applicable rate.

4.1.8 Disposal of Real Property effect on Utility Revised 4/2008

When a facility is decommissioned, the RECO/CO should do the following with respect to all then-existing utilities contracts:

- The RECO needs to maintain communication and to coordinate with ATO Engineers for the process of decommissioning facilities in order to ensure that FAA does not continue to pay utility charges.
- As part of the process of lease termination, the RECO/CO must ensure any corresponding utility contract is terminated/cancelled.
- Usually utility service may be terminated after a facility has been decommissioned regardless of whether funds are available to remove the facility and/or restore the real

property. In such cases, the RECO/CO must ensure there are no obstruction lights on the facility which may require power even after the facility is decommissioned. In those instances where there are multiple Navids/Visaids on a single meter, the RECO/CO should only cancel the subject utility contract if all the facilities covered under that contract are decommissioned at that same time. This will ensure continued utility service to the other facilities which are still in operation.

4.1.9 Documentation Revised 4/2012

The RECO/CO must use the utility checklist (see 4.3.3 Utility Checklist) when assembling the utility file. The checklist must be filled in completely, i.e. check if it is required or not required or in the file. Note that if an item in the checklist is listed as required under the narrative however it is not applicable for this particular acquisition, the RECO must place a N/A and a note in the file stating why it is not applicable for this acquisition. The RECO/CO establishes and maintains hard copy records of the utility contract or Purchase Order or state utility contract. The permanent file for each facility is to remain active for the life of the facility and contain documents to support the activity subject to the utility contract. RECOs must use a 6 part folder system for all their acquisition files.