

## § 770.8

## 10 CFR Ch. III (1–1–10 Edition)

(ii) The intended use and duration of use of the real property;

(iii) A description of the economic development that would be furthered by the transfer (*e.g.*, jobs to be created or retained, improvements to be made);

(iv) Information supporting the economic viability of the proposed development; and

(v) The consideration offered and any financial requirements.

(2) The person or entity should state in the proposal whether it is or is not requesting indemnification against claims based on the release or threatened release of a hazardous substance or pollutant or contaminant resulting from DOE activities.

(3) If a proposal for transfer does not contain a statement regarding indemnification, the Field Office Manager will notify the person or entity by letter of the potential availability of indemnification under this part, and will request that the person or entity either modify the proposal to include a request for indemnification or submit a statement that it is not seeking indemnification.

(b) *Decision to transfer real property.* Within 90 days after receipt of a proposal, DOE will notify, by letter, the person or entity that submitted the proposal of DOE's decision whether or not a transfer of the real property by sale or lease is in the best interest of the Government. If DOE determines the transfer is in the Government's best interest, then the Field Office Manager will begin development of a transfer agreement.

(c) *Congressional committee notification.* DOE may not transfer real property under this part until 30 days have elapsed after the date DOE notifies congressional defense committees of the proposed transfer. The Field Office Manager will notify congressional defense committees through the Secretary of Energy.

(d) *Transfer.* After the congressional committee notification period has elapsed, the Field Office Manager:

(1) Finalizes negotiations of a transfer agreement, which must include a provision stating whether indemnification is or is not provided;

(2) Ensures that any required environmental reviews have been completed; and

(3) Executes the documents required for the transfer of property to the buyer or lessee.

### **§ 770.8 May DOE transfer real property at defense nuclear facilities for economic development at less than fair market value?**

DOE generally attempts to obtain fair market value for real property transferred for economic development, but DOE may agree to sell or lease such property for less than fair market value if the statutory transfer authority used imposes no market value restriction, and:

(a) The real property requires considerable infrastructure improvements to make it economically viable, or

(b) A conveyance at less than market value would, in the DOE's judgment, further the public policy objectives of the laws governing the downsizing of defense nuclear facilities.

### **§ 770.9 What conditions apply to DOE indemnification of claims against a person or entity based on the release or threatened release of a hazardous substance or pollutant or contaminant attributable to DOE?**

(a) If an agreement for the transfer of real property for economic development contains an indemnification provision, the person or entity requesting indemnification for a particular claim must:

(1) Notify the Field Office Manager in writing within two years after such claim accrues under § 770.11 of this part;

(2) Furnish the Field Office Manager, or such other DOE official as the Field Office Manager designates, with evidence or proof of the claim;

(3) Furnish the Field Office Manager, or such other DOE official as the Field Office Manager designates, with copies of pertinent papers (*e.g.*, legal documents) received by the person or entity;

(4) If requested by DOE, provide access to records and personnel of the person or entity for purposes of defending or settling the claim; and

(5) Provide certification that the person or entity making the claim did not