

(1) Payment must be made by mailing or delivering to NOAA at the address specified in the NOVA a check or money order made payable in United States currency in the amount of the assessment to the "Treasurer of the United States," or as otherwise directed.

(2) Upon any failure to pay the civil penalty assessed, NOAA may request the Justice Department to recover the amount assessed in any appropriate district court of the United States, or may act under paragraph (f) of this section.

(f) NOAA, in its sole discretion, may compromise, modify, remit, or mitigate, with or without conditions, any civil penalty imposed.

(1) The compromise authority of NOAA under this section is in addition to any similar authority provided in any applicable statute or regulation, and may be exercised either upon the initiative of NOAA or in response to a request by the alleged violator or other interested person. Any such request should be sent to NOAA at the address specified in the NOVA.

(2) Neither the existence of the compromise authority of NOAA under this section nor NOAA's exercise thereof at any time changes the date upon which an assessment is final or payable.

(g) Factors to be taken into consideration when assessing a penalty may include the nature, circumstances, extent, and gravity of the alleged violation; the licensee's degree of culpability; any history of prior offenses; and such other matters as justice may require.

#### APPENDIX 1 TO PART 960—FILING INSTRUCTIONS AND INFORMATION TO BE INCLUDED IN THE LICENSING APPLICATION

Prospective applicants are encouraged to contact NOAA for a non-binding preconsultation prior to filing an application or other licensing actions.

(a) *Where to file.* Applications and all related documents shall be filed with the Assistant Administrator, National Environmental Satellite, Data and Information Service (NESDIS), NOAA, Department of Commerce, 1335 East West Highway, Silver Spring, Maryland 20910.

(b) *Form.* No particular form is required but each application must be in writing,

must include all of the information specified in this subpart, and must be signed by an authorized principal executive officer. In addition, applicants must submit a copy on electronic media using commonly-available commercial word processing software.

(c) *Number of copies.* One (1) copy of each application must be submitted in a readily reproducible form accompanied by a copy on electronic media.

(d) The following information shall be filed by the applicant in order to evaluate its suitability to hold a private remote sensing space system license. Data provided regarding the applicant's proposed remote sensing space system must be in sufficient detail to enable the Secretary to determine whether the proposal meets requirements of the Act.

#### Sec. I Corporate Information

(1) The name, street address and mailing address, telephone number and citizenship(s) of (as applicable):

(i) Applicant as well as any affiliates or subsidiaries;

(ii) Chief executive officer of the applicant and each director;

(iii) Each general corporation partner;

(iv) All executive personnel or senior management of a partnership;

(v) Any directors, partners, executive personnel or senior management who hold positions with or serve as consultants for any foreign nation or person;

(vi) Each domestic beneficial owner of an interest equal to or greater than 10 percent in the applicant;

(vii) Each foreign owner of an interest equal to or greater than 5 percent in the applicant;

(viii) Each foreign lender and amount of debt where foreign indebtedness exceeds 25 percent of an applicant's total indebtedness;

(ix) A person upon who service of all documents may be made.

(2) A description of any significant or substantial agreements between the applicant, its affiliates and subsidiaries, with foreign nation or person, including copies if available;

(3) A copy of the charter or other authorizing instrument certified by the jurisdiction in which the applicant is incorporated or organized and authorized to do business.

#### Sec. II Launch Segment Information

Provide the characteristics of the launch segment to include:

(1) Proposed launch schedule;

(2) Proposed launch vehicle source;

(3) Proposed launch site;

(4) Anticipated operational date;

(5) The range of orbits and altitudes (nominal apogee and perigee);

(6) Inclination angle;

(7) Orbital period.

*Sec. III Space Segment*

- (1) The name of the system and the number of satellites which will compose this system;
- (2) Technical space system information at the level of detail typical of a request for proposal specification (including sensor type; spatial and spectral resolution; pointing parameters, etc.);
- (3) Anticipated best theoretical resolution (show calculation);
- (4) Swath width of each sensor (typically at nadir);
- (5) The various fields of view for each sensor (IFOV, in-track, cross-track);
- (6) On-board storage capacity;
- (7) Navigation capabilities—GPS, star tracker accuracies;
- (8) Time-delayed integration with focal plane;
- (9) Oversampling capability;
- (10) Image motion parameters—linear motion, drift; aggregation modes;
- (11) Anticipated system lifetime.

*Sec. IV Ground Segment*

- (1) The system data collection and processing capabilities proposed including but not limited to: Tasking procedures; scheduling plans; data format (downlinked and distributed data); timeliness of delivery; ground segment information regarding the location of proposed operations centers and stations, and tasking, telemetry and control; data distribution and archiving plans;
- (2) The command (uplink and downlink) and mission data (downlink) transmission frequencies and system transmission (uplink and downlink) footprint, the downlink data rate, any plans for communications crosslinks;
- (3) The plans for protection of uplink, downlink and any data links;
- (4) The methods applicant will use to ensure the integrity of its operations, including plans for: Positive control of the remote sensing space system and relevant operations centers and stations; denial of unauthorized access to data transmissions to or from the remote sensing space system; and restriction of collection and/or distribution of unenhanced data from specific areas at the request of the U.S. Government.

*Sec. V Other Information*

- A. The applicant's plans for providing access to or distributing the unenhanced data generated by the system including:
  - (1) A description of the plan for the sale and distribution of such data;
  - (2) The method for making the data available to governments whose territories have been sensed;
  - (3) A description of the plans for making data requested and purchased by the Department of the Interior available to the National Satellite Land Remote Sensing Data

Archive for inclusion in the basic data set; and

- (4) The licensee's plans to make the data available for non-commercial scientific, educational, or other public benefit purposes, such as the study of the changing global environment.

B. If the applicant is proposing to follow a commercial data distribution and pricing policy as provided for by §960.12, the application shall include the following additional financial information:

- (1) The extent of the private investment in the system;
- (2) The extent of any direct funding or other direct assistance which the applicant or its affiliates or subsidiaries have received or anticipate receiving from any agency of the U.S. Government for the development, fabrication, launch, or operation of the system including direct financial support, loan guarantees, or the use of U.S. Government equipment or services;
- (3) Any existing or anticipated contract(s) between the applicant, affiliate, or subsidiary and U.S. Government agencies for the purchase of data, information, or services from the proposed system;
- (4) Any other relationship between the applicant, affiliate, or subsidiary and the U.S. Government which has supported the development, fabrication, launch, or operation of the system; and
- (5) Any plans to provide preferred or exclusive access to the unenhanced data to any particular user or class of users.

C. The applicant will submit a plan for post-mission disposition of any remote-sensing satellites owned or operated by the applicant. If the satellite disposition involves an atmospheric re-entry the applicant must provide an estimate of the total debris casualty area of the system's components and structure likely to survive re-entry.

APPENDIX 2 TO PART 960—FACT SHEET REGARDING THE MEMORANDUM OF UNDERSTANDING CONCERNING THE LICENSING OF PRIVATE REMOTE SENSING SATELLITE SYSTEMS DATED FEBRUARY 2, 2000

The White House, Office of Science and Technology Policy and National Security Council

February 2, 2000.  
 FACT SHEET REGARDING THE MEMORANDUM OF UNDERSTANDING CONCERNING THE LICENSING OF PRIVATE REMOTE SENSING SATELLITE SYSTEMS  
 A Memorandum of Understanding (MOU) has been concluded between the Departments of Commerce, State, Defense, Interior and the Intelligence Community regarding inter-agency procedures on commercial remote sensing systems.