

Federal Facilities Agreement Conference Call
Former Defense Depot Memphis, Tennessee
18 February 2022
13:30 EST

LOCATION: Conference Call

ATTENDEES:

Army, Base Realignment and Closure (BRAC) Division (DAIM-ODB) – Jay Foster

CALIBRE BEC – Joan Hutton, Bill Millar

TDEC Division of Remediation, DDMT Project Manager – Jamie Woods

U.S. EPA, Region 4, DDMT Project Manager – Diedre Lloyd

HDR EOC – Nancy Jepsen (scribe)

Ms. Hutton introduced each team member on the call. She said the purpose of this meeting is to gain consensus for timelines as the team moves forward.

Mr. Foster began the meeting by thanking everyone for attending. He apologized and said he is the worst offender, at times, for failing to attend meetings or to respond in a timely manner. He said he would do his best moving forward to do better. Mr. Foster said he genuinely likes and appreciates the people on this team because each team member is professional and pleasant. He stated when he looks at DDMT, he feels positive about the actions that have been accomplished and that is a credit to every single person on the team. Mr. Foster said there are a few items in the Federal Facilities Agreement (FFA) on which he would like to have an informal agreement among team members. He said that a secondary issue is the monthly Site Management Team (SMT) meetings. He said he wants to be sure that as a minimum the scheduling of those meetings is sufficient for everyone. Mr. Foster said he is looking forward to the onsite meeting on 8 March.

Ms. Lloyd stated she would like to establish ground rules for the call. She asked that each team member act professionally and speak respectfully with no derisive comments or sounds. She said that if anyone disregards these rules, she will exit the call and the call would need to be re-scheduled. Ms. Hutton, Mr. Foster, Mr. Woods, and Mr. Millar agreed.

Ms. Hutton said that she emailed a cleaned-up version of the FFA the previous day. She stated she had used software to remove stray marks and to correct crooked pages in the pdf so that the file was more easily readable.

Ms. Hutton said that re-reading the FFA was a refresher. She stated that she noticed the FFA uses the term “deadline” when discussing due dates for primary documents, but it uses the term “target date” for secondary documents. She said she would begin using those terms and would advise the contractors to do so.

Ms. Lloyd said that she, too, had read through the FFA in preparation for this meeting. She said that the first FFA was signed in 1988 by Department of Energy (DOE). She stated that the DDMT FFA categorizes a Finding of Suitability to Transfer (FOST) and a Finding of Suitability to Lease (FOSL) as a primary document, which is not how most other FFAs consider them. Ms. Lloyd stated that EPA considers the FFA for Fort Eustis to be a model FFA, and that the Fort Eustis FFA considers FOSTs and FOSLs to be secondary documents. She said that the Fort

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Eustis FFA considers Sampling and Analysis Plans (SAPs) and Quality Assurance Project Plans (QAPPs) to be primary documents whereas the DDMT FFA categorizes them as secondary documents.

Ms. Hutton said that she also was surprised that the DDMT FFA considers a FOST to be a primary document. Ms. Lloyd added that EPA and TDEC do not give approval for FOSTs. Ms. Lloyd said that EPA will review a FOST and provide comments on it, but the FOST is not a document that the EPA approves or disapproves. Ms. Hutton said that might be due to when response actions are completed, and the FOST ties into the remedy and response actions.

Ms. Hutton stated that, in re-reading the FFA, she realized that the FFA counts days as calendar days instead of business days. She stated the FFA instructs that if a deadline or target date falls on a Saturday, Sunday, or a holiday, that the deadline or target date is moved to the next business day. She said that she's not sure the team has done that in the past, but she will be certain to do that going forward.

Ms. Hutton said that the FFA specifies a 60-day review time period for primary and secondary documents. She said that the FFA allows for an extension of the review period for a complex or lengthy document. Ms. Hutton stated that the extension is requested in writing, adding that the team members have made those requests in the past through email.

Ms. Hutton said that the FFA does not address a time period for response to comments, and said she hopes the team can come to a consensus on a reasonable timeframe. She said that she would like to establish a time period for regulators to respond to the Army's responses on regulators' comments.

Ms. Lloyd said that section B1 of the DDMT FFA specifies 60 days to DLA, with a 60-day response-to-comments period and a possible 20 day extension. Ms. Hutton asked if there was a proviso about the extension period. Ms. Lloyd directed Ms. Hutton to section B1 of the FFA (document pages 20–24; pdf pages 24–28). Ms. Lloyd and Ms. Hutton each said they were surprised by the 120 days allotted by the FFA for production of a draft final report. Mr. Millar said that the FFA was created when reports were likely produced on a typewriter, and therefore the reports needed the extra time.

Ms. Lloyd said that the Fort Eustis FFA specifies 60 days as a review period for primary documents with a 30-day period to respond to comments and a potential extension period of 30 days. She said that the Fort Eustis FFA states that any additional time must be approved by all parties. Ms. Lloyd said that the Fort Eustis FFA specifies a 30-day review period for secondary documents, with a 30-day period for responding to comments. She said that the only secondary document that might be too lengthy for the specified time period is the Long Term Monitoring (LTM) report. Ms. Hutton agreed that the backup documentation, such as laboratory reports and quality control data, for the LTM can run for thousands of pages.

Ms. Hutton asked Ms. Lloyd to clarify if the Fort Eustis FFA specifies 30 days for secondary documents. Ms. Lloyd responded that she thought so and she offered to email a copy of the Fort Eustis FFA to Ms. Hutton.

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Ms. Hutton asked if the Fort Eustis FFA spelled out a time period for regulator response to comments. Ms. Lloyd was unsure about that, but she said the Fort Eustis FFA allows agreed-upon response times to be captured in the Site Management Plan (SMP). Ms. Hutton said she had considered if the DDMT FFA should be revised, but she was concerned about the cost and the process involved. Ms. Lloyd said she would not recommend revising the FFA and instead she would advise capturing agreements in the SMP. Ms. Hutton said she agreed with that recommendation but the SMP for 2022 has already been finalized. She said that the FFA requires the SMP Revision 0 to be submitted by 1 December of the prior year. Ms. Lloyd acknowledged that but said that the amended timeframes could be included in the SMP for 2023.

Mr. Foster said that Fort Eustis is one of the sites he manages. He stated he was good with any reasonable time periods the team agrees to.

Ms. Hutton said that Army proposed a 20- or 30-day turnaround for the regulators when Army submits a response to comments. She said a 30-day time period seemed reasonable because the responses to comments are straightforward and the document has already been reviewed. She asked if Ms. Lloyd and Mr. Woods agreed. Ms. Lloyd said that she thought a 60-day review period for a primary document plus the potential to request an additional 30-day extension was a reasonable timeframe. Ms. Hutton concurred, saying 60 days for initial review, 30 days for response to comments, and 30 days for regulators to review and approve those responses. Mr. Woods agreed to those time periods.

Ms. Hutton suggested that the team could discuss the Fort Eustis time periods during the 8 March onsite meeting. She said that would give team members time to review the Fort Eustis FFA. Ms. Lloyd said she would agree to that but, she added, she thinks the team could agree on time periods in this meeting and put that in writing, and then if there are other items outstanding, those could be discussed during the onsite meeting.

Ms. Hutton concurred. She said that she believes everyone on this call is in agreement on a 30-day time period for regulators to review the responses to comments. She said that the FFA gives 60 days for primary and secondary documents with the possibility of extensions upon request. Ms. Lloyd said she agreed with 60/60/30. Ms. Hutton clarified that it was 60 days for regulator review of a document, 60 days for Army to respond to regulator comments, and 30 days for concurrence by the regulator. Mr. Foster agreed to that schedule. Mr. Millar said that he agrees and added that in the interest of civility the team should allow flexibility. He said that 60/60/30 should be used as the schedule and that all parties should keep each other informed if the schedule is going to slip. Ms. Hutton said the FFA's provision for extensions would allow that flexibility. Mr. Woods agreed to the 60/60/30 schedule.

Ms. Hutton said the FFA states that the team must adhere to the timeframes in the SMP. She said the SMP specifies a document schedule for the current year and two subsequent years. Ms. Hutton said if the team adheres to the timeframes as closely as possible, then the SMP deliverable schedule can be met. Mr. Millar said that it becomes problematic when there are events or documents that are tied together such that if one event or document is pushed, subsequent events or documents are also pushed. Ms. Hutton agreed and said there is added

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difficulty because the events and documents are tied to specific contracts and task orders. She said the task orders prescribe that the document or event should be completed before the task order ends.

Mr. Foster agreed with the need for flexibility. He said he is aware that every organization has challenges, and mentioned that there is only one attorney ascribed to his BRAC branch, which means that any document requiring legal review will have a delay.

Ms. Hutton said that regulator review of secondary documents is optional because the secondary document feeds into a primary document. She gave as an example how the semiannual report is captured within the annual report. She said that for any comments given on the semiannual report, the responses are incorporated into the annual report.

Ms. Lloyd said that the Fort Eustis FFA identifies primary and secondary documents differently than the DDMT FFA. Ms. Lloyd said that usually SAPs and QAPPs are primary and FOSTs and FOSLs are secondary, but the DDMT FFA has SAPs and QAPPs as secondary documents and FOSTs/FOSLs as primary documents.

Ms. Hutton said that the DDMT FFA (page 25 of the document/page 29 of the pdf) states that project teams are to have monthly meetings to discuss the progress of work being performed. Ms. Hutton said that is what the monthly SMT calls have been. She noted that there has been no formal partnering for the DDMT. Ms. Hutton suggested that the monthly SMT calls could be used for a discussion of technical issues, perhaps for issues encountered during fieldwork or a more technical discussion. She said she believes the call could become a dialogue with a meatier technical content about remedial actions.

Ms. Hutton said that currently the monthly call is a recounting of what has been done or what documents have been delivered. She said that the meeting could instead focus on a topic that is critical for the team to discuss. Ms. Hutton said she believes this would be a better utilization of the time, but it would require full attendance. She stated that the calls could change to Zoom or WebEx videoconferencing so that data could be displayed.

Mr. Woods said he agreed with the idea. He said that the most important thing is to agree to full participation.

Ms. Lloyd said it was a good idea. She said her only reservation is that policy oversight or programmatic concerns should be discussed among only the three agencies specified by the FFA (TDEC, EPA, and BRAC). Ms. Hutton agreed that was valid. Ms. Hutton added that with the consensus reached today, she believes programmatic concerns are resolved. She said there is a lot of technical work coming up and it would be beneficial to use the monthly meeting to discuss that work. Ms. Hutton said she agreed with Ms. Lloyd that the technical discussion would not be allowed to stray into programmatic discussion because programmatic discussions need to be solely with the FFA team.

Mr. Woods said he agrees. He apologized but said he needed to get off this call in order to attend his next meeting.

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Mr. Foster said that the monthly meetings are beneficial for him. He said that if the goal of a monthly meeting is to reach a decision point, then advance notice of the topic should go to the team to ensure that key players are in attendance and prepared. He said that Ms. Hutton does send an agenda before each meeting and he suggested that those be marked as needing special consideration if the goal of the meeting is to reach a decision.

He said that if he knows a meeting will be for a specific technical discussion, he asks for a brief beforehand. He said that if the discussion during the meeting doesn't quite reach the decision point, a separate meeting could be held to focus on the topic. He suggested that if it is a normal meeting with just the typical status updates and a team member is unable to attend, that team member could appoint a proxy to attend in their place. Ms. Lloyd agreed and said the FFA calls for attendance by an alternate from the agency.

Ms. Hutton said that a "read-ahead" document could be prepared for the meetings. It would be a brief document with text, tables, and figures distributed the week before the meeting, earlier even than the Friday before the meeting. She said the document would provide all the technical content necessary to give an understanding of the topic. Mr. Foster said that is exactly what he was thinking of, though he would like an Executive Summary version that is 1 to 3 pages long.

Ms. Lloyd said that she would agree to technical calls. She said that if the discussion would be about programmatic issues, she requests that Mr. Foster would attend those meetings. Mr. Foster said he will commit to do that.

Ms. Hutton said that the purpose of this call has been met and asked if there were any other topics to discuss. Mr. Foster said he appreciated that everyone took the time to be on the call. Ms. Lloyd said she also appreciates working with everyone on the team. She said she would be more proactive to submit her reviews in a timely and consistent manner. Ms. Hutton thanked Ms. Lloyd, and said that she has three emails from Ms. Lloyd that she needs to respond to. Ms. Hutton said she would work on returning those.

Ms. Lloyd asked if it was possible to change the schedule of the SMT meeting. She said has a standing meeting scheduled right before the SMT meeting. Ms. Lloyd said her earlier meeting rarely runs late, but she didn't want it to interfere with the SMT meeting. Mr. Foster suggested adjusting the time of the SMT meeting to afford Ms. Lloyd more flexibility. He suggested pushing the time back by a half hour. Ms. Hutton agreed and said she would poll the other team members to see if that would work with their schedules. Ms. Lloyd said she appreciated that, adding that if adjusting the schedule is a problem for the other team members, then she would like to keep the time as previously scheduled.