

GAO

Report to the Chairman, Subcommittee on
Public Lands, Reserved Water and
Resource Conservation, Committee on
Energy and Natural Resources, United
States Senate

February 1987

FEDERAL LAND ACQUISITION

Land Exchange Process Working But Can Be Improved



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United States
General Accounting Office
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Resources, Community, and
Economic Development Division

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The Honorable Malcolm Wallop
Chairman, Subcommittee on Public
Lands, Reserved Water and
Resource Conservation
Committee on Energy and Natural
Resources
United States Senate

Dear Mr. Chairman:

This report responds to your April 2, 1985, letter asking us to review the programs used by the Department of Agriculture's Forest Service and the Department of the Interior to plan, negotiate, and implement land exchanges. Subsequent to your request, we agreed with your office to limit our review to the programs of Interior's Bureau of Land Management (BLM) as well as the Forest Service.

As arranged with your office, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will send copies to the Secretaries of Agriculture and the Interior; the Director, Bureau of Land Management; the Chief, Forest Service; the Director, Office of Management and Budget; representatives of BLM's and the Forest Service's field offices; and other interested parties. We will also make copies available to others upon request.

This work was performed under the direction of Michael Gryzkowicz, Associate Director. Other major contributors are listed in Appendix XIII.

Sincerely yours,

J. Dexter Peach
Assistant Comptroller General

Executive Summary

Purpose

As a result of federal budget cuts, the two largest federal land management agencies are increasingly acquiring new federal lands through land exchanges rather than outright purchases. The Department of the Interior's Bureau of Land Management (BLM) and the Department of Agriculture's Forest Service, from fiscal year 1982 through March 1985, completed 706 land exchanges involving over 1.1 million nonfederal and 900,000 federal acres—over 2-1/2 times the area of Rhode Island. The federal and nonfederal lands exchanged were each valued at over \$370 million.

The Chairman, Subcommittee on Public Lands, Reserved Water and Resource Conservation, Senate Committee on Energy and Natural Resources, asked GAO to review BLM's and the Forest Service's land exchange processes in order to provide information on the steps in the exchange process and to look at ways the process can be improved.

Background

The land exchange process involves trading federal lands for nonfederal lands. It is used to obtain needed land and to dispose of federal tracts that are hard to manage because they are isolated and scattered. The exchange process followed by BLM and the Forest Service is guided by several federal laws, regulations, and agency policies that are designed to protect the public interest by

- ensuring that exchange proposals conform with federal land-use plans to promote the effective and efficient use of public lands;
- addressing environmental concerns;
- addressing the concerns of state and local governments and other interested parties; and
- setting land values to ensure that the government obtains equal value in its exchanges.

If the lands are not equal in value, the values must be equalized through cash payments not exceeding 25 percent of the value of the federal lands. It is also permissible to adjust the number of acres being exchanged.

Results in Brief

In general, GAO found that the land exchange process is working well. For example, both BLM and the Forest Service have established and followed procedures governing land exchanges, thereby protecting the public interest. Both notify and negotiate with state and local governments about exchange proposals early in the exchange process and, in

doing so, consider their concerns. As a result, BLM and the Forest Service avoid disagreements with these parties later in the exchange process.

Some opportunities do exist to improve the processing of exchange proposals. BLM and the Forest Service did not always fully comply with the Federal Land Policy and Management Act of 1976 (FLPMA) in processing land exchanges. In some cases, BLM waived the collection of cash equalization payments and thus did not attain equal value. In other cases, both agencies adjusted unequal appraised values and thus did not collect the payments to completely equalize the values.

BLM and the Forest Service also do not consistently and reliably account for the land exchange processing costs. Therefore, they cannot budget or plan for exchanges based on the best available cost information.

Principal Findings

GAO found that an average of about 19 months for Forest Service exchanges and about 41 months for BLM was required to complete the steps of the exchange process. BLM exchanges generally take longer to process because they involve many more acres than Forest Service exchanges.

Equal Value

GAO found that both agencies generally negotiated equal value for most land exchanges; however, there were cases when equal value was not obtained. Cash equalization payments were made in 217 of the 706 exchanges completed by BLM and the Forest Service from October 1981 to March 1985. Equal value was not attained in 29 exchanges GAO examined because:

- In three exchanges, a BLM state office waived \$38,507 in required cash equalization payments from nonfederal parties. This practice is not allowed under FLPMA
- BLM and the Forest Service adjusted or "rounded" appraised values to achieve equal value in 26 exchanges and thus avoided required cash equalization payments. The rounding ranged from a low of \$2 to a high of about \$45,000 and overall averaged about 1 percent of the unadjusted appraised value. Rounding appraised values is generally accepted and practiced in the private sector, but it is not allowed under FLPMA.

Processing Costs

The Comptroller General's accounting standards state that budgeting and planning decisions should be based on reliable and consistent cost

information. GAO found that this is not possible for BLM and the Forest Service because their financial management systems do not properly assign and record land exchange processing costs. As a result, the two agencies have no assurance that all exchange processing costs have been identified so that payment of the costs can be accurately negotiated with nonfederal parties.

BLM does not have a system to specifically account for land exchange costs nor does BLM make full disclosure to the Congress of its exchange costs because its budget contains no line-item for land exchanges.

The Forest Service has a budget line-item for land exchanges (over \$24 million was appropriated for fiscal years 1982 through 1985). However, actual cost data in its accounting system are not reliable because land exchange processing costs are not consistently recorded. The agency has no agencywide guidance that specifically defines which costs should be recorded as exchange costs.

Recommendations

GAO recommends that the Secretaries of Agriculture and the Interior direct the Chief, Forest Service, and the Director, BLM, respectively, to comply with the laws governing land exchanges that do not allow the adjustment of appraised values.

GAO also recommends that the Secretary of the Interior direct the Director, BLM, to:

- Comply with the FLPMA requirement that does not allow the waiver of cash equalization payments.
- Include in its proposed budget a line-item for land exchanges.
- Institute a system to account for all costs associated with land exchanges.

GAO further recommends that the Secretary of Agriculture direct the Chief, Forest Service, to issue guidance on an agencywide basis defining which costs should be recorded as part of the exchange process. An additional recommendation is contained in chapter 3.

Agency Comments

Agriculture did not comment on GAO's recommendation concerning equal value determinations, but agreed that appraisal adjustments do occur. Agriculture also did not comment on the legality of such adjustments.

However, Interior agreed with GAO that adjustments to appraisal values are not consistent with FLPMA and should be stopped.

Agriculture and Interior did not agree with GAO's recommendations to refine their accounting methods for land exchanges. Interior, for example, expressed concern about the need for and the costs associated with making such refinements. GAO notes, however, that the Congress has identified a need for this information. In July 1986, the Chairman, Subcommittee on Interior and Related Agencies, House Committee on Appropriations, said that the full committee is concerned that the Congress does not have enough information about exchanges and directed the agencies to detail their exchange expenditures in budget justifications. GAO recognizes that Interior may incur additional costs to refine its accounting system. However, GAO believes that the costs of having accurate and reliable data may be more than offset by Interior's ability to use the data to (1) better negotiate land exchange processing costs with the exchange proponent and (2) assist the Congress in understanding the full costs associated with a given land exchange.

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Abbreviations

BLM	Bureau of Land Management
EIS	environmental impact statement
FLPMA	Federal Land Policy and Management Act
GAO	General Accounting Office
OMB	Office of Management and Budget
RCED	Resources, Community, and Economic Development Division

Introduction

The federal government owns over 730 million acres of land. Most of this land is managed by two federal agencies, the Department of the Interior's Bureau of Land Management (BLM) and the Department of Agriculture's Forest Service. The federal government exchanges land it owns for land owned by individuals, companies, or state or local governments to add acreage to recreation or other special, designated use areas; to divest itself of land that has limited use; or to consolidate holdings to make land management easier.

Exchanges have become an increasingly important method used by the federal government to acquire new land and improve land ownership and management patterns. Although federal agencies historically preferred to purchase lands outright instead of exchanging them, in recent years, money for acquiring land has been sharply reduced. For example, the Forest Service's estimated fiscal year 1986 budget for land purchases is \$26.9 million, a 47-percent reduction from the previous year. BLM's fiscal year 1986 budget contained an estimated \$2.2 million for land purchases, compared with \$4.7 million the year before.

During fiscal years 1970-81, BLM averaged 26 exchanges per year and the Forest Service averaged 129. From fiscal year 1982 through March 1985, BLM averaged 52 exchanges per year, or twice as many as before, and the Forest Service averaged 149 per year, an increase of 15.5 percent.¹ In total, the two agencies completed 706 exchanges in the conterminous 48 states from October 1981 through March 1985, acquiring about 1.2 million acres and disposing of more than 900,000 acres. The value of the lands exchanged was about \$370 million. (See apps. VI and VII for statistics on these exchanges.)

Because of the reduced budget for federal land purchases and an increased number of proposed land exchanges, the Chairman, Subcommittee on Public Lands, Reserved Water and Resource Conservation, Senate Committee on Energy and Natural Resources, asked us to review several aspects of the BLM and Forest Service exchange programs. (See app. I.)

¹Computation for fiscal year 1985 is an annualized figure based on exchanges completed in the first 6 months. Data for the final 6 months were unavailable at the time our field work was done

Role of BLM and the Forest Service in Land Management

Together, BLM and the Forest Service manage about 70 percent of all federal lands. BLM, through its 12 state offices, 55 district offices, and 155 resource area offices, manages more than 342 million acres. In fiscal year 1986, BLM had a total budget of about \$563 million; an estimated \$2.8 million was projected for land exchanges. The Forest Service, through its 9 regions and 155 national forests, manages about 191 million acres. In fiscal year 1986, the Forest Service's budget totaled about \$2 billion; about \$5.4 million was budgeted for land exchanges.

BLM and the Forest Service are both charged with managing public lands for multiple use. For BLM, this requirement is contained in the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1701 *et seq.*), and for the Forest Service, it is contained in the Multiple Use Sustained-Yield Act of 1960 (16 U.S.C. 528 *et seq.*). Multiple use management considers the population's future needs for recreation, rangeland, timber, minerals, watershed, fish, and wildlife. Natural, scenic, scientific, and historical values must also be considered.

To facilitate multiple-use management, FLPMA mandated that BLM undertake a systematic inventory of its public lands and prepare land-use plans specifying how these lands should be used. The Forest Service is required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*), to perform land use inventories and write plans to foster multiple-use management of national forests.

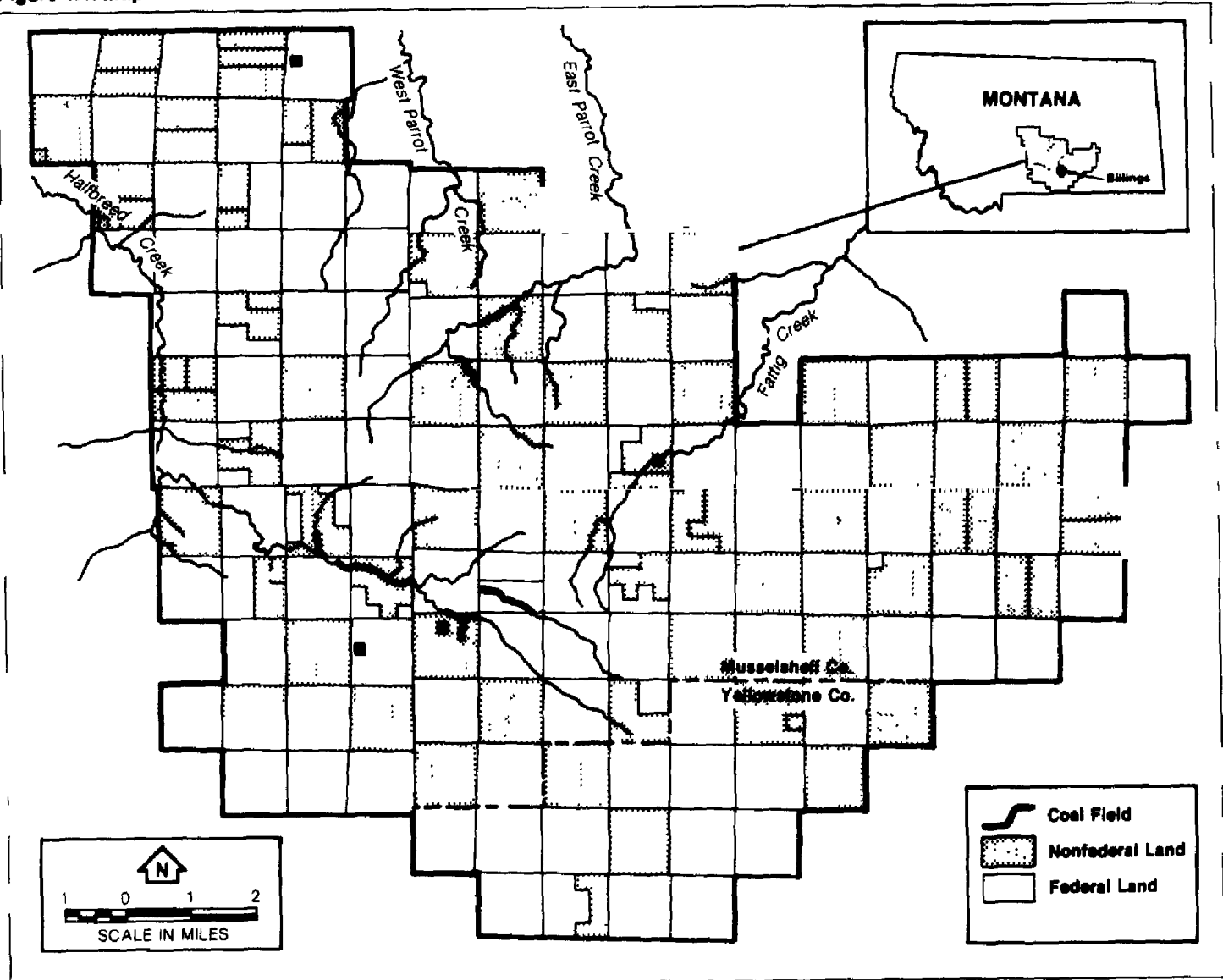
Role of Land Exchanges

The land exchange process begins when either the federal or the nonfederal party (the exchange proponent) presents an exchange proposal. Federal laws and regulations and agency policies guide the exchange process. (See app. IV for a listing of these requirements.) In order to protect the public interest, environmental, mineral resource, and other studies are conducted. The normal procedures associated with real estate transactions, such as appraisals and title searches, are also required. After legal and procedural requirements have been met, and if no obstacles have been encountered, the proposal is accepted and the process is completed. (The various steps in the exchange process are discussed in ch. 2.)

Since 1981 the Departments of Agriculture and the Interior have both endorsed land exchanges as an alternative to land purchases because of decreased funding. In July 1981 Agriculture's Assistant Secretary for Natural Resources and Environment advised the Senate Committee on

Energy and Natural Resources that the Forest Service could reduce its inefficient, fragmented, or scattered land ownership patterns, despite the reduction in funds to purchase lands, by using land exchanges. Fragmented land patterns resulted from land grants in the 19th century that conveyed alternate tracts of public land to railroads, homesteaders, and school districts. The purpose of these grants was to encourage the development of the West. Figure 1.1 shows an example of this "checkerboard" pattern in the state of Montana. As the figure shows, the federal government's holdings are dispersed among the holdings of other landowners. The Secretary of the Interior told the Senate Committee on Energy and Natural Resources that Interior would use land exchanges to acquire needed land and to consolidate federal lands in order to promote more efficient management of lands and resources.

Figure 1.1: Map of a BLM Checkerboard Area



Source: BLM Montana State Office, Billings, Montana

In February 1985, the Interior Task Force on Large Land Exchanges was established to expedite the processing of potential land exchanges in the Department of the Interior. This task force, initially chaired by BLM's Assistant Director for Land Resources, identified and ranked over 530 land exchange opportunities throughout Interior's landholdings. About

1.86 million acres were identified for potential acquisition. The task force did not formally identify lands for potential disposal.

Interior's effort to expedite exchanges was augmented in September 1985, when Interior's Assistant Secretary for Fish, Wildlife, and Parks was appointed task force chairman, thus increasing the task force's authority. In March 1986 the chairman said that the task force was ranking proposed exchanges and would be recommending how they should be accomplished. The chairman further said that the task force would recommend ranking potential exchanges because larger, more complex exchanges need more agency resources and effort to process than small, less complex exchanges. He said a congressional mandate would be sought for the high priority exchanges, which could not be easily processed using the normal exchange process. According to the chairman, the second highest priority class of exchanges would be closely monitored by Interior headquarters personnel to assure expeditious processing, while the lowest priority exchanges would continue to be administered by Interior agencies' field offices. The Office of the Under Secretary of the Interior was reviewing the task force's draft report as of October 3, 1986. An issue date has not been set.

Objectives, Scope, and Methodology

The Subcommittee Chairman's letter of April 2, 1985, specifically requested that we provide information on the process used by BLM and the Forest Service to administer exchange proposals and to look at ways in which this process can be improved. As part of this review, the Chairman asked us to look at: (1) the use of monetary credits in exchanges, (2) the use of General Services Administration surplus property in exchanges, (3) the terms of exchanges, (4) the effect of exchanges on local governments' concerns that exchanges have a negative impact on their revenues, (5) the administrative costs of processing exchanges and who should pay them, (6) the process used to plan and control exchanges, (7) the application of FLPMA's equal value and cash equalization provisions, and (8) ways of making the exchange process more expeditious within the framework of FLPMA's public interest provision. The Chairman also asked that we provide information on exchanges that convey known federal mineral interests and those that separate the ownership of the surface and subsurface estates (create split estates) or that unify surface and subsurface estates that, prior to the exchange, had been owned by different parties. (See apps. VIII and IX.)

After conducting our preliminary work, we discussed the issues with representatives of the Chairman's office and provided information that satisfied issues (1), (2), and (3). Those issues are therefore not presented in this report.

To obtain information for our review, we contacted officials in BLM headquarters and the Forest Service in Arlington, Virginia. Because most BLM and Forest Service exchanges have been conducted in the West, we conducted our field work in that area. As agreed with the Chairman's office, Alaska and Hawaii were not included in our review. BLM and Forest Service exchanges in Alaska are made under the Alaska National Interest Lands Conservation Act (Public Law 96-487) while the Forest Service has only a few acres of land in Hawaii.

Between April 1985 and May 1986, we visited BLM state offices in Montana (Billings), Oregon (Portland), California (Sacramento), and Wyoming (Cheyenne) because those offices rank first, second, third, and fourth, respectively, among BLM state offices in the conterminous 48 states in terms of the value of land exchanged by BLM. For the Forest Service, we visited the Pacific Southwest (San Francisco, California), Northern (Missoula, Montana), and Pacific Northwest (Portland, Oregon) regional offices because they rank first, second, and third, respectively, among Forest Service regions in the conterminous 48 states in terms of the value of the lands exchanged. We also visited BLM's Colorado State Office (Denver) and the Forest Service's Rocky Mountain Region (Lakewood, Colorado), which processed lesser amounts of exchanges.

At the four Forest Service regions and five BLM state offices we visited, we examined 16 exchange cases. We took this approach because of the size of the universe of exchanges (706 cases), the fact that each agency's recordkeeping is decentralized, and each exchange is different and unique. To ensure that we covered cases with significant dollar amounts, we selected six exchanges with values approximating or exceeding \$2 million. In order to cover the more "typical" exchange, we selected five cases with values ranging from about \$400,000 to \$1 million and five exchanges with values less than \$400,000. We selected land-for-land exchanges, exchanges involving the conveyance of federal timber, and an exchange not specifically mandated by law in which the government conveyed minerals to a nonfederal party. In addition, we reviewed the files on five other exchanges that BLM and Forest Service officials said illustrated problems in the exchange process. (App. X shows the locations of the 16 selected case study exchanges.)

We also compiled and used a random sample of 61 BLM and 90 Forest Service exchanges that were completed in the 48 conterminous states between October 1981 and March 1985, inclusive. The sample was selected at random from a universe of 183 and 532 BLM and Forest Service exchanges, respectively, and was based on a confidence level of 95 percent. The sample results were used to determine (1) the time it took to process the exchanges (from the agency's documented receipt of the exchange proposal letter until the federal lands were conveyed to the nonfederal proponent) and (2) if agencies were obtaining equal value in their exchanges as required by law. The information for the Forest Service-sampled cases was obtained directly from the Forest Service's Land Staff Office in Rosslyn, Virginia. Because BLM's records are kept at the state office level, we obtained information from those offices.

In order to determine how land exchanges are administered, we reviewed the laws, regulations, and policies that guide the exchange process; interviewed BLM and Forest Service staff at headquarters and in field locations; and relied on our 16 exchange cases for further observations.

To determine the administrative costs of processing exchanges, we reviewed the case files of the 16 selected cases and requested cost data from BLM and Forest Service headquarters and field officials. Neither agency had accounting systems in place to track all exchange costs.

To identify barriers to the timely and efficient completion of exchanges, we reviewed the laws, regulations, and policies that guide the exchange process. This segment evolved around the 16 selected exchange cases that were used to determine how exchanges are proposed, negotiated, and implemented at agency field locations and to identify factors that hamper their completion. We interviewed BLM and Forest Service officials both in headquarters and in field locations regarding the exchange process and barriers to the efficient and timely completion of these transactions.

To determine the extent to which the Forest Service and BLM include exchanges in their land-use planning and whether such plans have been completed, we reviewed land-use plans and related documents at field locations; obtained information in the field on the extent to which the 16 selected cases were included in land-use management plans; obtained statistics on the status of agency land-use plans; and interviewed BLM and Forest Service headquarters and field officials regarding the status of land-use planning and the impact of this planning on land exchanges.

To respond to questions about cash equalization payments and the application of the equal value provision in FLPMA and other land exchange laws, we reviewed the relevant provisions in the laws, regulations, agency policies, and the Uniform Appraisal Standards for Federal Land Acquisition. Financial information on cash equalization payments was obtained from Forest Service headquarters and BLM state offices in the 48 conterminous states for the period October 1981 through March 1985, inclusive. Information on appraisals to determine equal value was also obtained from each field location we visited. The land values in the appraisal reports were used in our analyses; however, we did not independently review each appraisal report. We also used our sample of 63 BLM and 105 Forest Service exchanges to determine whether cash equalization payments were being made in accordance with FLPMA.

Regarding agency practices of adjusting appraised values to achieve equal value in an exchange, we supplemented the exchanges discussed above with information we obtained from 54 exchanges we reviewed in the Forest Service's Pacific Southwest Region. We also interviewed the Vice President, Professional Standards, for the American Institute of Real Estate Appraisers in Chicago, Illinois.

In reviewing the issue of processing exchanges expeditiously, we obtained the time it takes the two agencies to process exchanges from our sample. We also studied the case files of the 16 selected exchanges and other exchanges identified by agency officials. We interviewed agency officials at headquarters and field locations regarding ways in which the exchange process can be expedited.

Finally, to determine the effect on exchanges of state and local government concerns about revenues lost due to exchanges, we identified relevant exchanges at the locations we visited and reviewed these case files. We also interviewed agency headquarters and field officials and representatives of state and local governments.

Our review was performed between the months of April 1985 and May 1986 and, except as noted above, was made in accordance with generally accepted government auditing standards.

Overview of the Land Exchange Process

The process used in BLM's and the Forest Service's land exchange programs is designed to protect the public interest. The federal laws, regulations, and agency policies that govern the exchange process protect the public interest by requiring agencies to evaluate the conformance of the exchange proposal with land-use plans; address environmental concerns; ensure that affected parties and the general public are notified of the exchange and that their concerns are considered; and set land values to ensure that equal value is attained. Because of these steps, the land exchange process is lengthy and complex, and because land exchanges vary in size and characteristics, the time it takes to process each exchange proposal varies as well.

BLM and the Forest Service, as well as the proponent (the nonfederal party in an exchange), incur costs as the exchange proposal passes through the various steps of the process. Through negotiation the proponent may agree to pay or share these costs. We found that proponents have paid some of these costs such as appraisals and title insurance.

Laws Governing Land Exchanges

Most BLM and Forest Service exchanges are governed by three laws: FLPMA for both agencies and the General Exchange Act of 1922 and the Weeks Law for the Forest Service. (See app. XI.) From October 1981 through March 1985, 96 of 107 (about 90 percent) BLM exchanges fell under FLPMA in the states where we conducted detailed fieldwork.¹ From October 1981 through March 1985, 132 of 174 (about 76 percent) Forest Service exchanges were governed by the General Exchange Act in the regions where we conducted detailed fieldwork.² Seventeen of these 174 exchanges (about 10 percent) fell under the Weeks Law.

FLPMA provides that Agriculture and Interior may dispose of public lands through an exchange if it is in the public interest. A public interest determination involves evaluating whether a land exchange promotes improved federal land management practices and whether the needs of state and local populations are met. The departments must also determine that the benefits to the federal government will equal or exceed the benefits from retaining the land.

¹Montana, Oregon, California, Wyoming, and Colorado

²The Pacific Southwest region (California); Pacific Northwest (Washington and Oregon), Northern (Montana, North Dakota, Northern Idaho, and the Northwestern corner of South Dakota), and Rocky Mountain (most of Wyoming, South Dakota, Nebraska, Kansas, and Colorado)

FLPMA stipulates that lands being exchanged must be of equal value. If the lands are not, the values must be equalized through a cash equalization payment. This cash payment may not exceed 25 percent of the value of the federal lands in the exchange proposal. FLPMA permits exchanges with state or local governments, as well as with any citizen of the United States and with private organizations, except for corporations not subject to state or federal laws. Finally, FLPMA requires that lands exchanged must be in the same state.

Under the General Exchange Act of 1922 (16 U.S.C. 485 and 486), the Secretary of Agriculture is authorized to accept title to nonfederal lands within the exterior boundaries of national forests, if these lands are chiefly valuable for national forest purposes. In exchange, the Secretary may convey federal lands and/or timber of equal value. According to the Forest Service manual, forest purposes include outdoor recreation, rangelands, timber, watershed protection, wilderness, and fish and wildlife habitat. The provisions previously discussed under FLPMA also apply to exchanges processed under the General Exchange Act.

Since exchanges under the Weeks Law of 1911 (16 U.S.C. 516 and 519) have involved primarily small tracts of federal lands that Forest Service previously acquired from nonfederal parties, mostly in the southern and eastern states, they were not representative of Forest Service exchanges in the western states. We therefore gathered basic information on Weeks Law exchanges but did not include them in the selection of the 16 case exchanges we examined. (See app. XI.)

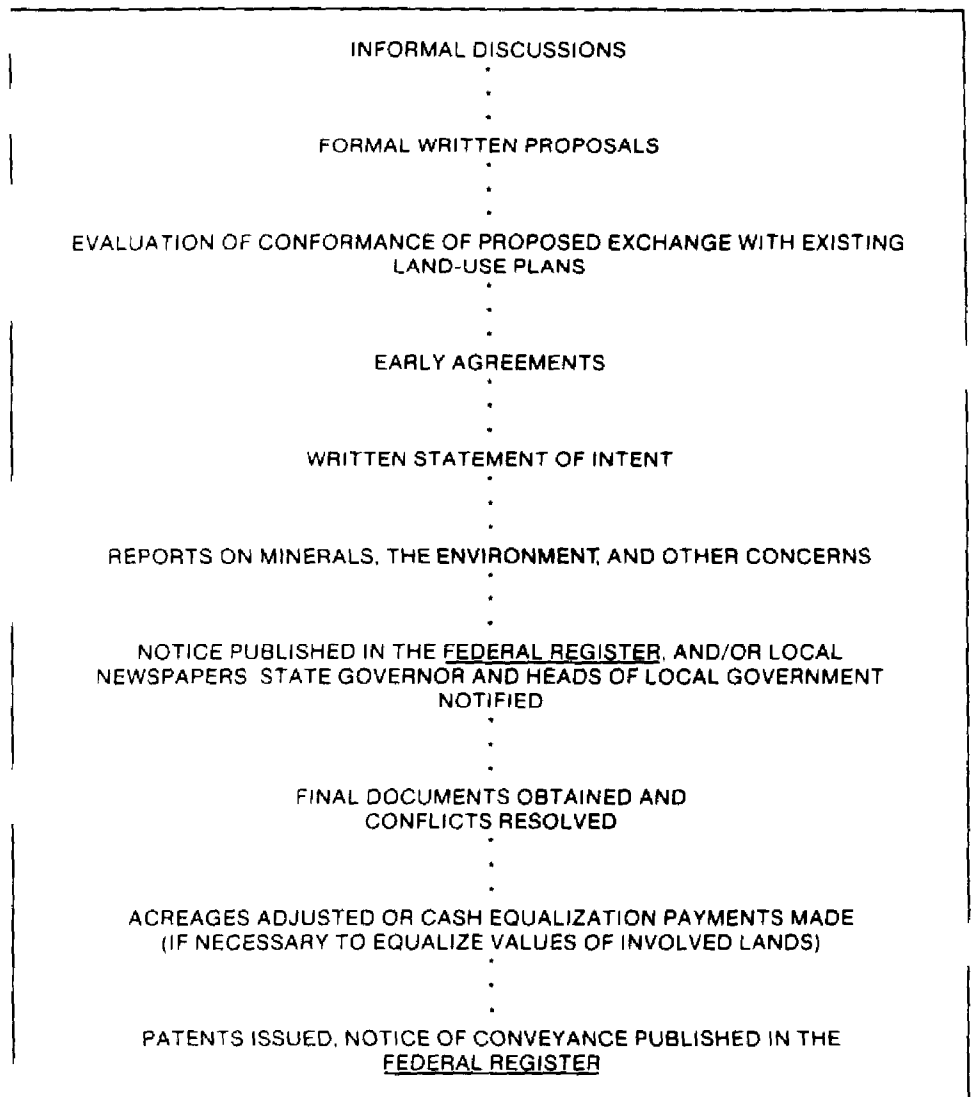
Steps in the Exchange Process

Land exchanges conducted by BLM and the Forest Service under FLPMA and by the Forest Service under the General Exchange Act follow the same basic process shown in figure 2.1. These steps provide the foundation that BLM and the Forest Service develop in each exchange transaction so that the public interest requirement in the legislation is met. The steps are based on BLM's "Exchange of Public Lands Handbook" and on the exchange section of the Forest Service Manual. The specific steps in an exchange may, however, vary between the agencies and from one exchange proposal to another.

We have supplemented our description of the steps in the process with information from an exchange case included in our review. Completed in October 1983, this Forest Service exchange involved the transfer of 4,416 acres of federal land for 4,798 acres of land held by a company in Montana. The federal and nonfederal land parcels were each appraised

at \$3.4 million. About 46 months, from about January 1980 through October 1983, were needed to complete this exchange.

Figure 2.1: Steps in BLM's and the Forest Service's Land Exchange Processes



Informal Discussions

When a nonfederal proponent wants to exchange lands, BLM and Forest Service procedures call for initial, informal discussions with this party before a formal written proposal is filed. Several purposes are served but, most important, these discussions enable BLM and the Forest Service to quickly identify proposals that do not meet necessary legal requirements and therefore should not be processed. For example, preliminary discussions may lead to a determination that the exchange proposal is not in the public interest because of land use conflicts.

Informal discussions also provide an early indication of whether a reasonable chance of reaching an agreement exists. In the case we examined, the Forest Service concluded that the proponent's initial proposal to exchange private lands for federal lands was not in the public interest because nonfederal acreage offered would only convey wildlife habitat to the Forest Service while the federal acres contained both wildlife habitat and timber lands. However, through informal discussions, the Forest Service allowed the proponent to revise the exchange proposal. The revised proposal significantly increased the company's offered acreage and enabled the agency to acquire a big-game winter range

Formal Written Proposal

BLM and Forest Service procedures call for the exchange proponent to file a formal written proposal. BLM requires that the proposal include legal descriptions of the lands, title evidence for the nonfederal land (including any third-party interests), and a statement about the intended use of the federal lands to be acquired. The Forest Service requires that the written proposal include a statement of ownership or other right to make the exchange and a statement granting permission to examine the nonfederal lands proposed for the exchange.

The proponent in our case example complied with the Forest Service requirement by filing a written proposal on July 17, 1980, that identified both the federal and company lands to be exchanged and proposed reciprocal permission to enter each other's lands for appraisal purposes.

**Evaluation of Conformance
With Existing Land-Use
Plans**

Provisions of FLPMA require BLM and Forest Service acquisition actions, including exchanges, to conform with land-use plans. Thus, as a step in the land exchange process, BLM and the Forest Service must determine if federal lands in an exchange proposal meet disposal criteria listed in existing land-use plans and if nonfederal lands to be acquired satisfy multiple-use requirements also stated in these plans. For example, a

land-use plan we examined stated that nonfederal lands to be acquired through exchanges or other transactions should be located in a wilderness area, or provide habitat for threatened and endangered wildlife species, or have outstanding scenic values. Federal lands to be disposed of should be suitable for private sector development, or acceptable for conveyance to units of state or local governments, or should be small tracts that are intermingled with private lands.

If federal and nonfederal lands to be exchanged do not conform with criteria stated in the land-use plan, then BLM and the Forest Service may amend the existing plan to allow the exchange to proceed if doing so is deemed to be in the public interest. BLM procedures specifically provide that if the proposed exchange is not in conformance with a plan, or if the exchange's conformance is unclear, then BLM must determine whether the exchange should be denied or whether the land-use plan should be amended. If the exchange proposal warrants further consideration, then the plans are amended. If BLM decides to deny the exchange proposal, it notifies the proponent in writing.

Unlike BLM, Forest Service procedures are not specific about what action should be taken if lands in a proposed exchange are not in conformance with the land-use plan. The procedures state only that the exchange proposal should be examined to determine whether it is in the public interest. However, Forest Service headquarters planners said that the Forest Service also amends land-use plans if lands to be exchanged do not meet the plan's criteria for acquisition and disposal and the proposed exchange is deemed to be in the public interest.

In our Forest Service case example, the national forest involved in the exchange had an existing, valid land-use plan and the lands to be exchanged were covered by the plan. The exchange met planned objectives stated in the national forest's land-use plan by transferring 1,200 acres of vital deer and elk winter range from nonfederal to federal ownership and by eliminating scattered national forest land tracts.

Status of Land-Use Planning

According to BLM's Chief, Division of Planning and Environmental Coordination, prior to the enactment of FLPMA, BLM had prepared management framework plans (land-use plans) that covered a portion of each of its resource areas. He added that, after FLPMA was enacted and regulations were adopted, BLM decided to prepare new land-use plans called Resource Management Plans for each of BLM's 155 resource areas. He

said that where the existing management framework plans were determined by BLM to be valid under the approved regulations, they continued to be the basis for management actions, including amendments, until replaced by new land-use plans.

As new land uses are identified and the older plans become outdated, BLM replaced them by preparing new land-use plans. As of May 12, 1986, BLM had prepared and adopted new land-use plans for 21 of its 155 resource areas. In addition, 20 plans were in various stages of processing and 7 were in draft stages. BLM headquarters land-use planners told us the agency will revise plans for 33 additional resource areas in the near future.

According to a regional planner in BLM's Division of Planning and Environmental Coordination about 10 percent of BLM lands are isolated or scattered and receive very little if any public use. As a result, BLM has not included these lands in its land-use plans, a plan is prepared only when BLM must act on a proposal affecting the land.

Per the Forest and Rangeland Renewable Resources Planning Act, as amended, the Forest Service is updating all of its land-use plans. It intends to complete this effort by 1988. As of May 12, 1986, the Forest Service had completed land-use plans for 9 of its 120 forests in the conterminous 48 states and an additional 36 plans were in final processing. These 36 plans cover about 28 percent of the Forest Service's lands in the 48 conterminous states. For the remaining 84 national forests, 55 plans are in advanced draft stages in headquarters, 11 are being reviewed by headquarters planners, and 18 are being drafted in field locations.

Two of the 16 case exchanges we reviewed were delayed by land-use planning considerations. Both cases were processed by BLM's Colorado State Office. In both cases the out-of-date land-use plans were being replaced by new plans, and the proponents agreed to wait for about 1 year until the new plans were completed.

Early Agreements

• Forest Service policies require and BLM policies suggest that preliminary discussions be held with exchange proponents to obtain early agreement on such topics as the tentative values of the lands to be exchanged; key dates that should be met; and federal and nonfederal responsibilities, including the cost of processing the exchange.

BLM and Forest Service procedures recognize that early agreement on tentative land values should be reached in the agencies' preliminary work so that they will be in a better position to judge whether further work on the exchange proposal is justified. Preliminary work includes discussions with state and local governments about their federal payments in lieu of taxes since the exchange proposal could change the federal acreage used to compute these payments.³

During this stage, the proponent obtains a preliminary title report for the nonfederal land. This is followed by a preliminary title opinion for the federal and nonfederal lands secured from regional representatives of Agriculture's Office of the General Counsel and Interior's Office of the Solicitor.

Forest Service procedures provide that in preliminary discussions the exchange proponent should be advised of the (1) necessary steps and requirements of the exchange process, (2) estimated time required to complete the process, and (3) estimated expenses that may be incurred. Our analysis of the case example showed that this was accomplished and documented in a statement of intent.

Written Statement of Intent

Forest Service policies require, and BLM policies suggest, that the agencies, together with the exchange proponent, sign a written statement of intent to indicate their willingness to complete the exchange. The statement is not legally binding on either party but serves to identify procedures that will be followed in the remaining steps in the process. The statement of intent points out that completion of the federal government's responsibilities depends on the availability of appropriated funds, if needed

In the case example, the Forest Service's statement of intent with the proponent was set forth in a March 11, 1981, preliminary land exchange report. This document summarized the terms of the exchange—the number and location of the acres to be exchanged. Also, the proponent agreed in the initial offer that land values would be equal or should be equalized through payment of cash not to exceed 25 percent of the value of the federal land in the exchange.

³Payments in lieu of taxes are payments made by federal agencies to state and local governments to compensate them for revenues lost due to federal acquisition of lands which then become nontaxable

Mineral, Environmental, and Other Reports

In this step, BLM and the Forest Service examine the effects of mineral deposits and related environmental considerations on the exchange proposal by preparing for the federal lands a mineral report for leasable minerals covered by the Minerals Leasing Act of 1920 and for minerals covered by the 1872 Mining Act. BLM assists the Forest Service by providing information on leasable mineral values for inclusion in its mineral report.

Under BLM policy, if the lands in the exchange proposal are found to contain leasable minerals such as oil, gas, and coal, and trading away the surface estate overlying these minerals would interfere with their potential mining or extraction, the exchange is denied. If the federal land in the exchange contains locatable minerals, such as gold and silver, BLM normally denies the exchange. BLM may, however, process the exchange if BLM determines it is definitely in the public interest because the nonfederal lands contain unique recreational, wildlife, or other resources that can be obtained only by processing the exchange proposal. The exchange proposal is further processed if there are no mining claims on the public lands, if mineral values are reflected in the appraisal, and if BLM justifies that the proposed exchange of the minerals is in the public interest.

The Forest Service policy manual does not specify the impact of the presence of minerals on the continuation or cancellation of the processing of an exchange proposal. However, it does state that minerals found on national forest lands should be reserved by the agency or their value should be reflected in the appraisal of the national forest lands.

In the case example, the Forest Service's mineral assessments, completed in August 1981, concluded that there were no locatable minerals, no mining claims, and no significant deposits of sand, gravel, or building stone on the Forest Service lands. In December 1981 the Geological Survey (now provided to the Forest Service by BLM) reported that both federal and private lands in the exchange proposal contained valuable leasable minerals, including oil and gas, and some of the lands were valuable for coal or geothermal resources. Because both federal and private lands had similar resource potential, the Forest Service recommended that the land's mineral resources, as well as the land's surface, be exchanged.

Environmental concerns, which may be informally addressed in preliminary discussions between the federal agency and the proponent, are formally addressed in exchanges through an environmental assessment or

through a more lengthy and detailed environmental impact statement (EIS). EIS's are primarily performed if the environmental assessment shows that a proposed exchange may have a significant impact on the environment, or if no land-use plan exists. In the absence of land-use plans, EIS's satisfy planning requirements by determining if the proposed exchange satisfies multiple land-use planning requirements in FLPMA.

While environmental concerns are being addressed, BLM and the Forest Service may also need to conduct studies on cultural resources, fish and wildlife habitat, endangered species, and water resources. If the studies disclose no negative effects, the agencies continue to process the exchange. If the studies show negative effects, BLM and Forest Service procedures call for taking those effects into consideration in determining whether the exchange is in the public interest and should be pursued.

In the case example, studies completed by the Forest Service in February 1982, considered such requirements as the exchange proposal's compliance with cultural resources, wetlands, floodplains, and threatened and endangered species legislation. These studies were incorporated into the agency's environmental assessment. As a result of the environmental assessment, the Forest Service made the exchange proposal contingent on retention of public right to travel on certain roads and on acquisition of public access to certain lands. This was necessary to allow access to public-use areas on the newly acquired forest lands.

Public Notice

Both BLM and Forest Service procedures require that the exchange proposal be announced publicly and that it be discussed with state and local governments. BLM publishes a Notice of Realty Action in the Federal Register and local newspapers and sends notice to the governor of the state and to heads of affected local governments. If adverse comments are received, BLM analyzes them and notifies the parties of its intent to proceed, modify, or cancel the exchange proposal. If a cancellation results, a notice is published in the Federal Register. The Forest Service publishes notice of the exchange proposal in local newspapers. These actions are repeated when the exchange proposal is later approved.

In the case example, the Forest Service notified the state of Montana and the commissioners of three affected counties. The state and two counties supported the exchange, and one county did not comment. The Forest Service also placed notices in two local newspapers on May 11, 1981, announcing the proposed exchange. Public response included 20 letters supporting the exchange, 16 opposed, and a petition against the

exchange. Supporting letters stated that the exchange was in the public interest because it provided more efficient resource management for the Forest Service through consolidation of public lands and protected big-game winter range. However, some property owners objected that the exchange would reduce recreational and woodcutting opportunities. The Forest Service reviewed these complaints and decided to proceed with the exchange because it believed that completing the exchange was in the overall public interest.

Obtaining Final Documents and Resolving Conflicts

BLM's and the Forest Service's procedures require that, prior to completing an exchange proposal, a final appraisal of federal and nonfederal lands and a final title opinion be rendered. All title encumbrances must be resolved and all protests resulting from state, public, or other reactions to published notices in newspapers should also be resolved.

Final Appraisals

At this step of the process, BLM and the Forest Service obtain final appraisals on the lands involved. Appraisals are usually conducted by BLM and Forest Service appraisers, but in some cases they are done by contract appraisers. The appraisals are subsequently reviewed by a chief appraiser or a review appraiser in BLM and Forest Service field offices and for the Forest Service by headquarters reviewers in order to determine whether uniform federal appraisal standards were used.

In the case example, federal and nonfederal lands were finally appraised by a Forest Service appraiser on March 8, 1983, at \$3.4 million each. The Forest Service regional review appraiser reviewed and approved the appraisals on May 11, 1983. On May 27, 1983, the Forest Service headquarters review appraiser recommended that the values reported in the appraisal be approved. In early June, the Forest Service Assistant Director of Lands Valuation, Appeals, and Regulatory Acts concurred with the recommendation and the Forest Service headquarters Director, Lands Staff, approved the appraisal.

Final Title Opinion

A final title opinion states that all title papers have been examined relating to the nonfederal lands and the policy of title insurance is satisfactory and lists any easements, stipulations, or other conditions affecting the title. If the title is not acceptable, BLM and the Forest Service send written notice denying the exchange proposal.

In our case example, the Forest Supervisor certified in July 1983 that all third-party rights to use the federal and nonfederal land, such as rights-of-way for roads, ditches, canals, pipelines, and telephone lines, had been disclosed by evidence of title and safeguarded. He also concluded that these third-party rights would not interfere with the use of the land for the purposes for which the Forest Service was acquiring them, or materially diminish the value of the land.

On August 16, 1983, Agriculture's Office of General Counsel issued a preliminary title opinion stating that all title papers relating to the nonfederal tracts had been examined but that final title would be approved subject to reservations regarding easements for public roads and utilities, minerals, and mineral rights and water rights. The Forest Service complied by reserving easements in the warranty deed.

Resolution of Protests

Protests and formal appeals filed in response to an exchange proposal announcement in local newspapers or to a notice of realty action in the Federal Register must be resolved before the proposal may be completed. BLM and the Forest Service have administrative procedures for resolving such grievances. As previously stated, in our case example, the Forest Service reviewed the complaints and decided to proceed with the exchange because it believed that completing the exchange was in the overall public interest.

Acreage Adjustment or
Cash Equalization
Payments

If appraisals show that land values are not equal, BLM and the Forest Service can either adjust the acreage on one side of the transaction or agree to receive or make a cash equalization payment. The federal and the nonfederal lands in our case example were each appraised at \$3.4 million and no cash payment to equalize values was necessary.

Completing the Exchange

As previously mentioned, BLM and the Forest Service obtain a final title opinion from their respective departmental Solicitor and General Counsel. If title to the nonfederal lands is not acceptable, a written notice is sent to the exchange proponent denying the proposal. If title is acceptable, BLM and the Forest Service determine that current taxes have been paid, obtain a warranty deed conveying the nonfederal land to the United States; and deposit any cash equalization payments. For both BLM and Forest Service exchanges involving public domain lands,

BLM issues a patent conveying the federal lands to the exchange proponent and publishes notice of conveyance in the Federal Register. Finally, the state governor and local government heads are notified.

In our case example, the Forest Service determined that there were no taxes, liens, or assessments against the nonfederal lands. Accordingly, on October 12, 1983, the exchange proponent executed warranty deeds transferring the nonfederal lands to the federal government. On October 13, 1983, BLM issued a patent conveying the Forest Service lands to the proponent.

Time Needed to Process Exchange Proposals

Because of its complexity, the land exchange process is lengthy. The results of our sample showed that Forest Service exchanges took an average of 18.67 plus or minus 0.91 months (17.76 to 19.58 months) to complete while BLM exchanges took 41.20 plus or minus 8.23 months (32.97 to 49.43 months) to complete. (See app. XII.) Some exchange proposals were processed within the average times computed in our sample, while others took more or less time to complete. The average Forest Service exchange is processed in a relatively short time because many exchanges involved small acres of land exchanged under the Weeks Law. Our data show that the average federal acreage for Weeks Law exchanges, from October 1981 through March 1985, was 225 acres. In contrast, average federal acreage for BLM's FLPMA exchanges in this same period of time was 3,800 acres.

Based on our analysis of the 16 case exchanges, we concluded that each exchange proposal is unique and differs from others, depending on such factors as acres involved, the willingness of the parties to work together to expedite the exchange; third-party rights such as rights-of-way, mining claims, and easements; environmental concerns; and state and local government concerns about the exchange.

Exchange Proposals Require Funds to Process

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BLM and the Forest Service, as well as the exchange proponent, incur costs to implement the various steps of the exchange process. Certain factors affect the amount of money the federal agency and the proponent must spend to complete the steps in the exchange process. These factors include the amount of acreage involved, the willingness of the parties to work together to expedite the exchange; the presence of minerals; environmental concerns; the presence of third-party rights, such as rights-of-way, easements, or mining claims; and the concerns of state and local governments and the general public about the exchange.

Each exchange proposal and the factors that determine its cost are unique. Based on our review of the 16 case exchanges, the following costs are associated with the agencies' land exchange processes. The costs incurred for exchanges may vary among agencies and from one exchange to another.

Table 2.2: Costs of Processing Exchange Proposals

Step	Costs incurred
Informal discussions between United States and the proponent	Personnel and travel
Proponent's formal exchange proposal	Cost of proposal to proponent
United States evaluation of conformance of the exchange proposal with land-use plans	Personnel
Preliminary discussions to reach early agreement on exchange proposal	Preliminary title reports, opinions, and insurance
	Preliminary appraisals
	Cadastral surveys to establish exact property boundaries
Negotiated written statement of intent	Personnel and travel
Mineral, environmental, and related studies	Leasable and locatable minerals reports
	Segregation of public lands from mineral entry
	EIS or assessment studies
	Cultural resources/ archeological studies
	Fish and wildlife habitat and endangered species studies
	Wetlands study
	Floodplains study
Notice of pending exchange	Timber studies to determine the type and amount of timber
	Publishing notice in local newspapers and the <u>Federal Register</u>
Obtaining final documents and resolving conflicts	Costs to resolve any protests (legal costs)
	Final title opinion, title insurance, and recording fees
	Final appraisal
	Cash equalization payments
	Published announcement of completion of the exchange and open new lands to the public

Throughout the process, agencies incur personnel costs (salaries and benefits), travel costs (transportation and per diem), and expenditures for equipment and supplies.

Through negotiations the proponent may agree to pay or share the costs of processing an exchange proposal. Chapter 3 discusses how BLM and the Forest Service assign and record the costs of processing exchange proposals.

Conclusions

The land exchange process involves steps that BLM and the Forest Service follow to comply with federal laws, regulations, and agency policies. These steps are intended to protect the public interest by ensuring that exchange proposals conform to land-use plans, that state and local concerns are protected, and that the agencies receive equal value for their lands.

Because of its complexity, the exchange process is lengthy. The Forest Service averages about 19 months to process exchange proposals and BLM averages about 41 months. However, the time required to complete the 10-step process is different for each exchange. Factors such as the number of acres and their value and environmental and third-party concerns are unique to each exchange proposal and influence the amount of time required to process it.

Costs are also incurred in each of the various steps of the land exchange process. The question of who pays exchange costs is one that is negotiated between BLM, the Forest Service, and the exchange proponent.

Increasing Efficiency in the Land Exchange Process and Accounting for Costs

Land exchanges have been used by BLM and the Forest Service to acquire needed land and to consolidate federal lands into more efficient management units. For the most part, BLM and the Forest Service followed the steps in the exchange process and have protected the public interest. The agencies have also undertaken initiatives to expedite the land exchange process. Both agencies notify state and local governments about exchange proposals early in the exchange process, thus avoiding disagreements with those entities and smoothing the exchanges. In addition, both agencies are using a technique called "pooling" through which they use a nonfederal intermediary to exchange many scattered federal tracts in one transaction, rather than one at a time through many transactions. However, contrary to good internal control practices, neither agency has promulgated an agencywide policy to control the selection and use of pooling and to promote its economic and efficient use.

Other exchange practices need management attention. For example, BLM and the Forest Service did not always obtain equal value in their exchanges. In some exchanges, BLM and the Forest Service improperly adjusted appraisals, and in other cases BLM did not collect cash equalization payments. In addition, neither agency can base its planning and budgeting for exchanges on the best available cost data nor can these agencies be sure that all exchange processing costs are identified so that payment of these costs can be accurately negotiated with nonfederal parties. Neither agency at present has a systematic method for assigning and recording the costs of processing exchange proposals, and BLM has no budget line-item specifically for exchanges. Addressing these issues should help ensure that BLM and the Forest Service obtain equal value, practice proper internal controls, and base budget and planning decisions about exchanges on the best available cost information.

Early Agreement With State and Local Governments Can Reduce Risk of Disagreements

Land exchanges can affect the economic well being of state and local governments because local governments, which are subdivisions of state governments, receive federal payments in accordance with the Payment in Lieu of Taxes Act of 1976 (31 U.S.C. 6901-6907). These payments, primarily based on federal land located within the state's boundaries, are intended to compensate local governments for revenues lost because federal land is nontaxable. BLM and Forest Service regulations require that state and local governments be notified of exchange proposals. Local governments may also object to an exchange because private property that is exchanged for federal land becomes nontaxable federal property, thereby reducing the local tax base.

Notification of state and local governments about the pending exchanges were documented in 13 of the 16 exchange proposals we reviewed, and their views were addressed in the exchange process. In 12 of these 13 cases, the state and local governments concurred in the proposed exchange, and disagreements between the federal agency and these governments were avoided. In the remaining case, a school district in Montana formally protested to BLM that the exchange proposal would cause it to lose an estimated \$600 per year in property tax revenues. For 5 weeks, the exchange proposal, involving 8,180 federal and 7,532 nonfederal acres, was under protest. However, Interior ruled that the protest was inconsequential to the overall public interest, and the exchange proceeded. In the three remaining exchanges, where notifications of state and local governments were not documented, the state and local governments did not object to the exchange proposals on revenue-related grounds.

State and local government officials in the states we visited said that a cooperative relationship exists between them and the federal agencies. Two county officials told us that early coordination efforts had been critically important for avoiding financial or environmental conflicts over exchange proposals. These officials also told us that they had been informally included in plans to exchange properties well in advance of the required notification, so that potential objections were dealt with early.

BLM told us of an exchange proposal in South Dakota that had strong local county objections. The exchange proposal with the state government, involving tracts of land totaling about 40,000 acres, was terminated when a potential loss of about \$64,700 in payments from the state to nine counties was disclosed. This loss was projected because the Payment In Lieu of Taxes Act of 1976 provides that a unit of general local government may not receive a payment for land that was owned by a state, if that land was exempt from real estate taxes when it was conveyed to the federal government. The state-owned land had generated state payments to local governments but, under the act, could not be included in the federal acreage base used to compute payments to the state and local governments. Interior held that the lands to be exchanged to the state would not be eligible for payments in lieu of taxes.

Equal Value Requirements Not Always Followed

Land must be appraised so that BLM and the Forest Service can determine whether equal value is achieved. As explained in chapter 2, unequal values can be legally equalized in only two ways: (1) the acreage to be exchanged can be adjusted so that the values are equalized and (2) cash equalization payments can also be used, providing that the cash amount is not more than 25 percent of the federal land value. In 10 of the 16 exchange proposals we examined, equal value was achieved by adjusting acreage totals and/or by payment or receipt of cash. However, we found instances where, contrary to FLPMA, the agencies did not collect the required cash equalization payments but instead adjusted appraisals or waived the cash equalization payments. We also found that, for the most part, cash equalization payments made or collected by BLM and the Forest Service were less than or equal to 25 percent of the federal land value, as required by FLPMA. However, we did find one case where the 25-percent limit was exceeded.

Acreage Adjustments Used

Acreage adjustments were documented in 3 of the 16 exchange cases we examined. In one of these cases, the exchange between a corporation and the Forest Service initially included 9,258 acres of nonfederal land and 2,943 acres of federal land. The nonfederal land was appraised at \$2,894,000 and the federal land at \$1,943,000. To comply with the legal requirement that land values be equal or be equalized with a cash payment not exceeding 25 percent of the value of the federal land, the exchange proponent withdrew 3,445 acres from the nonfederal land total. Once this acreage adjustment was made, a \$900 difference remained. The proponent paid this difference to the Forest Service.

In another of the 16 case examples, the proposal to exchange 1,280 acres of BLM land for 745 acres of nonfederal land was altered when the federal land was appraised at \$11,384,900 and the private land at \$6,179,000. As a result, the proponent revised the proposal by adding over 450 nonfederal acres, bringing the nonfederal value to \$9,812,000. The proponent paid BLM \$1,572,900 (about 14 percent of the federal land value) to equalize the values at \$11,384,900.

Required Cash Equalization Payments Are Sometimes Waived

If acreage adjustments are not used to attain equal value, or if differences in value remain even after the acreage adjustments, FLPMA offers BLM, the Forest Service, and the proponent the opportunity to make up the difference in land values through a cash equalization payment. The payment cannot be greater than 25 percent of the federal land value. The failure to collect cash equalization payments, or the practice of

waiving such payments, results in equal value not being attained and is contrary to FLPMA

We found three cases in our random sample where BLM officials in a state office did not obtain equal value because cash equalization payments were waived. The federal lands in these three exchanges were appraised for a total of \$38,507 more than the nonfederal lands. Instead of adjusting acreage totals to achieve equal value or requiring cash equalization payments from the proponent, BLM waived the balance due the federal government.

Table 3.1: Difference Waived in Three Cases

Exchange	Value of nonfederal land	Value of federal land	Difference waived	Difference % of federal land value)
A	\$450,600	\$451,700	\$1,100	0.2
B	507,912	513,455	5,543	1.0
C	544,000	575,864	31,864	5.5
Total	\$1,502,512	\$1,541,019	\$38,507	2.5

We discussed the waiver of cash equalization payments with representatives of the BLM state office and with their field solicitor. The field solicitor said that under FLPMA the BLM field officials had no authority to waive cash equalization payments. The Deputy Director, Operations, in the state office and a representative of the office's land staff said that the waivers were caused by a lack of state office policy regarding the adjustment of appraised values and waiver of cash payments. The Deputy Director said that, to resolve the matter, he issued a March 1986 memorandum to district officials that prohibits the waiver of cash equalization payments.

According to the Deputy Director's memorandum, appraisals are only indicators of value, not absolutes. Also, according to the memorandum, appraisals do not recognize such values as wildlife habitat, aesthetics, and riparian rights, which are some of the reasons exchanges are processed under FLPMA. The instructions in the memorandum allowed district managers the discretion to declare unequal appraised values to be "equal" on the basis of such nonquantifiable considerations. This determination, according to the memorandum, would be fully documented and justified and would be attached to the exchange case file to become a matter of public record.

According to a real estate specialist in BLM's Division of Lands, BLM instructed the Arizona State Office to rescind the above policy, and the state office complied. The specialist explained that FLPMA requires that unequal values be equalized through payment or receipt of cash. The specialist also said that FLPMA does not empower the agency to declare unequal appraised values to be equal on the basis of "public interest" factors such as wildlife habitat, riparian, or aesthetic considerations.

Adjustment of Appraised Values Not Legal

FLPMA does not allow federal agencies to adjust appraised values of federal and nonfederal lands in order to achieve equal value. As previously stated, if land values are unequal, then the law allows them to be equalized only through the payment or receipt of cash not exceeding 25 percent of the federal land value. It is also permissible to adjust acreage totals to obtain equal value or to the extent that values become close enough that they can be equalized through a cash equalization payment. However, we found that BLM and the Forest Service adjusted appraised values prior to approval by a review appraiser to achieve equal value on paper. This practice, referred to as "rounding" by agency personnel, also results in unequal and inconsistent treatment of proponents since in some cases the agencies collected cash equalization payments, while in other cases they rounded values, thus avoiding the collection of cash equalization payments.

The improper adjustment of appraisal values to attain equal value occurred in 26 exchanges.¹ Our analysis of these 26 exchanges showed that the adjusted amounts were minimal in some cases—for example, adjusting \$83,930 to \$83,000 or \$2,425,859 to \$2,425,900—but in other cases the federal and nonfederal land values were adjusted by thousands of dollars.

We found that most adjustments made in the 26 exchange cases averaged about 1 percent of the initial unadjusted appraised value. However, in one case the adjustment was about 2 percent. The federal land was appraised at \$2,132,907, but the Forest Service's Pacific Southwest Region adjusted the value down to \$2.1 million, a decrease of \$32,907. The Regional Group Leader, Lands Adjustment, said that his region rounds values on the basis of what they expect rounding in the private sector would be. He said that in the private sector \$2,132,907 would have been rounded to \$2.1 million. Regional Land Staff representatives

¹The 26 exchanges resulted from 3 of our 16 case exchanges, 8 of our 168 sampled exchanges, and 15 of 54 exchanges we examined in the Forest Service's Pacific Southwest Region.

we contacted were of the opinion that the percentage adjustment was not significant. The result of the rounding was to lower the value of the federal parcel and make it equivalent to the appraised value of the nonfederal land.

Our analysis of the 26 cases showed that the appraisals were adjusted as follows.

Table 3.2: Adjustments of Appraised Values

	Appraisal adjusted downward	Appraisal adjusted upward
Federal values	9 cases \$63,685 total value Low value \$62 High value \$32,907	11 cases \$74,667 total value Low value \$2 High value \$30,752
Nonfederal values	10 cases \$47,362 total value Low value \$37 High value \$19,000	12 cases \$56,976 total value Low value \$2 High value \$45,000

In 16 of the 26 cases, both appraisals were adjusted to achieve equal value.

Such adjustments, regardless of which party they benefit, are not consistent with the FLPMA requirement which states that the actual value of the lands exchanged be equal, or if unequal, be equalized with a cash payment. The cash equalization payment provides BLM and the Forest Service with adequate flexibility to deal with unequal land values and avoid rounding one of these values.

We discussed BLM's and the Forest Service's practice of adjusting, or rounding, appraised values with officials in the agencies and private industry. According to the Vice-President for Professional Standards of the American Institute of Real Estate Appraisers and the chief appraisers in BLM and the Forest Service, rounding values is a widespread and generally accepted practice. In their opinion, rounding is needed because appraisals are indicators of value, not absolutes. However, according to these officials, there is no generally accepted guidance on when rounding should be used and how much is acceptable. These officials said that, in most cases, rounding is based on common sense and the logic of a particular real estate transaction. The practice, however, when it is used solely to equalize values of land to be exchanged does not comply with FLPMA's equal value or cash equalization requirements for lands being exchanged.

The rounding practice also results in inconsistent and unfair treatment of exchange proponents. BLM and Forest Service officials adjusted the land values in 26 cases cited above, although they were achieving equal value in other exchange proposals by adjusting acres or requiring the payment of cash. For example, in one Forest Service region we visited, cash equalization payments were required in seven exchange cases, they totaled \$42,650 and averaged \$6,093. However, this Forest Service region did not require cash equalization payments in five other exchange cases. Instead, the federal land values were adjusted down so that the federal and nonfederal values were equal. These adjustments totaled \$58,693 and averaged \$11,739.

Cash Equalization Limit Exceeded in One Case

Cash equalization payments were used frequently to equalize values. Such payments were made in 9 of the 16 exchange cases we examined. The federal property values ranged from \$16,700 to over \$11 million. Seven of the nine payments, ranging from \$800 to over \$1.5 million, were paid by the proponent to the federal government. The federal payment was \$1,000.

Overall, statistics showed that cash equalization payments were made in 217 of the 706 exchanges completed by BLM and the Forest Service from October 1981 through March 1985. For the 183 BLM exchanges, cash payments were made in 72 cases (68 by the proponent and 4 by BLM). For the 523 Forest Service exchanges, cash payments were made in 145 cases (109 by the proponent and 36 by the Forest Service).

Table 3.3: Forest Service and BLM Cash Equalization Payments

Agency	Cases	Nonfederal value	Federal value	Cash paid	Payment as % of federal value
Nonfederal cash payment data					
BLM	68	\$32,952,078	\$36,018,388	\$3,066,310	8.51%
Forest Service	109	38,643,550	39,567,941	924,391	2.34
Total	177	\$71,595,628	\$75,586,329	\$3,990,701	5.28%
Federal cash payment data					
BLM	4	\$1,539,500	\$1,320,000	\$219,500	16.63
Forest Service	36	8,297,753	7,979,806	317,947	3.98
Total	40	\$9,837,253	\$9,299,806	\$537,447	5.78%

BLM's Chief, Division of Lands, and the Forest Service's Assistant Director, Lands, told us that their agencies make relatively few cash equalization payments because of program managers' uncertainty about the availability of federal funds. BLM and Forest Service field real estate specialists also said that they rarely make cash equalization payments because they prefer to adjust acreage totals.

In most cases we reviewed, the cash equalization payments collected or paid by BLM and the Forest Service were less than 25 percent of the value of the federal land, as required by FLPMA. In one case, however, a BLM state office received a cash equalization payment that exceeded the 25-percent limit. In this exchange, the federal land was appraised at \$36,200 and the nonfederal land at \$26,000. The proponent's cash payment of \$10,200 to BLM constituted 28 percent of the federal land value.

A BLM Arizona realty specialist told us that the exchange initially involved a cash equalization payment that was within the 25-percent limit. However, the federal land value was increased when a resurvey of the land revealed that the federal acreage was larger than originally described. The official said that the nonfederal party agreed to increase the cash payment to make up for the increased value. This inadvertently resulted in a cash payment exceeding the 25-percent limit.

The above case appears to be an isolated incident. However, it should be noted that, under the provisions of FLPMA, the only legal way to have equalized values would have been for the proponent to have increased the nonfederal acreage, or for the government to have decreased the federal acreage, until values were equal or were close enough to be equalized through payment of cash not exceeding 25 percent of the value of the federal land.

Pooling Parcels Can Increase Exchange Opportunities, but Agencywide Guidance Is Needed

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Pooling is a method used by BLM and Forest Service offices that combines numerous individual (generally scattered) federal tracts into a single package and trades them for private lands in a single exchange transaction. This technique uses a private "pooling agent"—for instance, a real estate broker—willing to purchase the private properties and trade them for the agency's scattered parcels.

A pooling exchange proposal starts when BLM and the Forest Service identify many scattered tracts of land and then, working with a pooling agent, obtain agreements from potential buyers to purchase the federal tracts. The pooling broker buys the land that BLM and the Forest Service

want to acquire and then exchanges that land for the land that the agencies want to dispose of. Finally, in accordance with the previously signed purchase agreements, the pooling agent sells the BLM and Forest Service land to the potential buyers from whom he previously obtained agreements

A BLM state office we visited has used pooling extensively. The officials in that office showed us an example where BLM disposed of over 80 scattered tracts. The exchange process involved an exchange proponent (pooling agent), 61 purchasers of the federal land, and BLM. The federal land totaled 8,179 acres and the nonfederal, 7,532 acres. The exchange proposal was processed in 25 months, well below BLM's 41-month average computed in our random sample. The rapid processing time occurred because BLM identified the specific federal tracts to be exchanged before receipt of the exchange proposal. Also, the size of the pool of federal tracts to be exchanged allowed BLM to resolve protests from environmental groups and landowners by substituting new tracts for those that generated the controversy.

Based on our review of two pooling exchanges, we believe that use of pooling may be advantageous to the government. For example, a pooling exchange shifts some planning and administrative duties to the pooling agent and also enables BLM and the Forest Service to dispose of many scattered federal tracts of land in one exchange, rather than one tract at a time through many exchanges. However, because our review of pooling exchanges was necessarily limited in scope, and because the concept is new, we cannot categorically recommend the use of pooling

We found that although both agencies use the pooling concept, neither BLM nor the Forest Service has evaluated the use of pooling on an agencywide basis and neither agency has agencywide controls on the selection and use of the pooling procedure. According to headquarters representatives of BLM's Division of Lands and the Forest Service's Land staff, neither agency has formulated a position on its use, nor prohibited its use. Good internal control practices call for policies to ensure that pooling is used under circumstances that benefit the agency and the general public and that procedures used to implement pooling are efficient and effective

BLM and the Forest Service need to evaluate their current use of the pooling concept to determine authoritatively if pooling is to their advantage and that of the general public. If they determine that pooling

should continue to be used, then they should formulate policies and procedures to ensure that pooling is used in the best interests of the agency and the general public and to promote pooling practices that are economic and efficient. These policies should define when pooling should and should not be used and define procedures to be followed which will promote the efficient and effective processing of pooling exchange proposals

Costs of Processing Exchange Proposals Neither Consistently Assigned Nor Recorded

The Comptroller General's accounting standards provide the foundation for the consistent application of accounting standards governmentwide. Compliance with these standards assures that costs of government programs will be recorded consistently and reliably and will thus be useful in making important budgeting and planning decisions. The standards also assure that costs are fully disclosed to the Congress, the Office of Management and Budget (OMB), and other decisionmakers.

BLM and the Forest Service to a large extent have used land exchanges rather than cash purchases to acquire land resources. However, because neither agency has consistently assigned nor recorded the costs incurred to process land exchanges, these costs are not fully disclosed to decisionmakers, and budgeting and planning decisions about exchanges cannot be based on the best available cost data. Also, neither of these agencies can be sure that all exchange processing costs are identified so that payment of these costs can be accurately negotiated with nonfederal parties

Very minimal data were found in BLM and Forest Service exchange case files disclosing actual costs that were incurred by each agency when the 16 land exchange cases we examined were processed. From available data in the files, we determined that proponents are paying some of these costs. For example, for the 16 case exchanges, we found that the agencies paid for 7 appraisals, the proponents 7, while the costs of 2 were shared with the proponents. The agency records, however, only showed the actual land appraisal costs for three of these exchanges—BLM paid a contract appraiser \$2,500 and the Forest Service paid contract appraisers \$2,500 and \$7,000 for the remaining two appraisals

BLM field and headquarters budget specialists could not produce records that disclosed the total costs of processing the nine BLM exchange cases we reviewed. Full disclosure of BLM's exchange costs to the Congress, OMB, and other decisionmakers is also not possible because BLM's budget contains no line-item for land exchanges. Instead, BLM's land exchange

activities are a part of its general lands program budget, which includes other types of land actions.

BLM provided us with estimates of land exchange processing costs. However, BLM budget specialists told us that these estimates are based on professional judgments, since BLM does not record all actual costs of processing land exchanges. In one instance, the budget staff in BLM's Montana State Office estimated that one of the nine BLM case exchanges we examined may have cost the federal government about \$117,500 to process. In another instance, BLM's Division of Lands provided data for land exchanges processed from fiscal years 1983 through 1985 that showed the average direct costs to be about \$27,930 per exchange. This calculation assumes an estimated direct exchange processing cost of \$5.55 for each nonfederal acre BLM acquired and an average of 5,032 acres of nonfederal land BLM acquired per exchange during this time period. However, since BLM did not record all processing costs, the BLM budget and real estate specialists we interviewed would not attest to the validity of these estimates.

Although the Forest Service has a budget line-item for land exchanges, its actual cost data are not reliable because the Forest Service does not consistently record all land exchange processing costs and has not defined the specific costs that are to be recorded as exchange costs. As a result, we could not determine from Forest Service records the actual costs incurred to process the seven exchange cases we examined. At one Forest Service region we visited, cultural resource study costs incurred as part of the processing of an exchange proposal could be recorded by agency staff under either the archeological cost category or under the land exchange category because the agency had not instructed its staff on how to record these costs. At another location, the costs of surveying the forest land to be exchanged to identify and quantify the types of trees found, could be recorded as an exchange cost or as a timber management cost. Forest Service representatives also said that sometimes they did not charge all land exchange processing costs to the account for land exchanges.

Estimates of Forest Service land exchange processing costs are also available. The records of the headquarters Lands Staff office show that based on a total of 507 land exchanges and appropriations of about \$16 million for fiscal years 1982 through 1984, the average direct costs of processing the 507 exchanges were about \$31,760. However, costs, such as the ones discussed above, that could be paid out of other Forest Service accounts would not be included.

Despite the lack of reliable overall cost data in each agency, limited actual cost data and available estimates of average costs show that exchange processing costs could be substantial and should be available for BLM and Forest Service planning and budgeting decisionmaking. Without actual costs, these agencies are not in a position to know when, in the exchange process, an exchange proposal is not economical to process and how much the proponent should pay when sharing of these costs has been agreed upon.

Conclusions

BLM and the Forest Service have used land exchanges to better manage their lands. For the most part, they appear to have protected the public interest by following the steps in the land exchange process. However, certain areas are in need of management attention to ensure that land exchange proposals are processed in a manner consistent with legislative requirements and promote the effective and efficient use of the pooling concept. In addition, the agencies need to reliably and consistently record the costs of processing exchange proposals to ensure that costs are fully disclosed to decisionmakers and that budgeting and planning decisions are made with the best available cost information.

BLM and the Forest Service have not always complied with legal requirements governing the determination of equal value and cash equalization payments. BLM's and the Forest Service's practice of adjusting appraised values to reach equal value is not permissible under FLPMA because the practice is used instead of the authorized payment of cash to equalize values and results in the federal government receiving lands that are not equal in value to those it conveys.

An exchange proposal can involve scattered land parcels. When these parcels are put together as a unit, the technique is called pooling. Pooling can increase the effectiveness of the agencies' land-use programs by enabling them to use a nonfederal pooling agent to dispose of scattered tracts of federal land in exchange for a desirable parcel in one transaction. However, because our review work in this area was limited and because pooling is a relatively new practice, we cannot categorically recommend its use.

Both BLM and the Forest Service use pooling. However, neither agency has studied the use of pooling nor formulated a position on its use. Both agencies need to evaluate their use of pooling in order to authoritatively determine whether its use is in their interest and that of the general public. If they determine that pooling should continue to be used, then

good internal control practices call for the formulation of agencywide policies to define when pooling should be used and ensure that procedures used to implement pooling promote the efficient and effective processing of exchange proposals.

The question of who pays exchange costs is one that has been, and should continue to be, negotiated between BLM, the Forest Service, and the exchange proponent. However, because neither BLM nor the Forest Service has consistently assigned and recorded land exchange processing costs, these negotiations with exchange proponents cannot be based on known costs.

Planning and budgeting decisions should also be based on the best available cost data. However, this cannot occur because BLM does not record land exchange processing costs and possesses no budget line-item specifically for exchanges. The Forest Service does not record exchange costs consistently and reliably because the agency has not defined the costs associated with exchanges agencywide.

Recommendations

We recommend that the Secretaries of Agriculture and the Interior direct the Chief, Forest Service, and the Director, BLM, respectively, to:

- Comply with the laws governing land exchanges that do not allow the adjustment of appraised values.
- Evaluate the use of pooling to determine whether it is in their interests to continue using it. If pooling is continued, then the agencies should develop policies to promote and control its use.

We recommend that the Secretary of the Interior direct the Director, BLM, to:

- Comply with the FLPMA requirement that does not allow the waiver of cash equalization payments.
- Include a line-item for land exchanges in its proposed budget.
- Institute a system to account for the costs associated with land exchanges.

We further recommend that the Secretary of Agriculture direct the Chief, Forest Service, to issue guidance defining which costs should be recorded as part of the exchange process.

Agency Comments and Our Response

Department of Agriculture

Agriculture's comments, sent by the Chief, Forest Service, did not express a position on the two recommendations concerning equal value and processing costs of land exchanges. Instead, Agriculture's comments merely restate much of what is discussed on equal value and processing costs in chapter 3. (See app. II)

The Chief said that Forest Service review appraisers are expected to make the final judgment on the values of the land in determining equal value, and at times, this results in rounding or adjustment in the appraisals. Regarding the need for guidance in defining costs related to land exchange proposals, the Chief said the report implies that the Forest Service's accounting system will not track necessary cost information on a reliable and consistent basis. According to the Chief, the Forest Service's Finance and Accounting Handbook has the necessary guidance for recording land exchange related costs.

The Chief disagreed with our recommendation on pooling. He did not believe that an evaluation of the concept nor the issuance of a policy for its use was necessary since pooling is a tool that, under the right circumstances, has been used by Forest Service field offices when exchange proposals can be accomplished at less overall costs.

GAO Response

Although the Chief disagreed with our recommendation on pooling, his comments touch upon the major reason why we believe that the continued use of the pooling concept should be evaluated. He said that pooling is a concept that exists for certain situations—which we found have not been defined. Therefore, we continue to believe that good internal control practices call for the formulation of agencywide policies to define the situations where the pooling concept may be advantageous and to develop procedures for efficiently and effectively using the pooling concept. Also, the Department of the Interior agreed to evaluate pooling during fiscal year 1987

The Chief said that the final judgment on the value of land is the responsibility of the review appraiser, and his review, at times, results in

rounding or adjustments in the appraisals. As we state on page 34, however, we are discussing instances where appraised values were adjusted to achieve equal value, prior to approval by a review appraiser. Regardless of the level at which the adjustments occur, this practice results in unequal and inconsistent treatment of proponents since in some cases the agency collects cash equalization payments, while in other cases it rounds values, thus avoiding the collection of cash equalization payments. Such adjustments, regardless of who they benefit, are not consistent with the legal requirements specified in FLPMA that the actual value of the lands exchanged be equal or, if unequal, be equalized with a cash payment. For these reasons, we conclude (and the Department of the Interior agreed) that the adjustment of initial appraisal values to achieve equal value should be discontinued and the cash equalization payment provisions of FLPMA enforced.

Regarding the Chief's comments concerning the Forest Service's exchange processing costs, we explicitly state on page 39 that the actual cost data for land exchanges are not reliable because the Forest Service does not consistently record all land exchange processing costs and has not defined the specific costs that are to be recorded as exchange costs. Also, the handbook guidance the Chief referred to is designed to provide a broad overview of the types of expenditures that are to be used in classifying expenditures. But the handbook guidance is not sufficiently detailed in scope of application to provide consistent quality cost data.

The Congress has also asked for information on land exchanges from the federal land-managing agencies. In July 1986 the Chairman, Subcommittee on Interior and Related Agencies, House Committee on Appropriations, acknowledged that, with the decrease in funds available to acquire land, more emphasis has been placed on the use of land exchanges to continue adding valuable lands to help create new or fill out existing refuges, recreation areas, and park areas. The Chairman referred to the problems land exchanges create, most notably the agencies' staff time devoted to process exchange proposals that frequently take years to complete. Since the Committee on Appropriations is concerned that the Congress does not have enough information to know what agency plans are in this regard, the Chairman directed that each land-managing agency provide, in annual budget justifications, a detailed statement of proposed expenditures related to exchanges and a list showing the exchanges it will be working on.

We are questioning the ability of the Forest Service accounting system to produce costs of land exchanges. As our review disclosed, specific

costs of land exchanges are not defined nor are they recorded by the Forest Service. In order to respond to the information needs of the Congress, the Forest Service must act on our recommendation.

Department of the Interior

Interior commented on all five of our recommendations. It agreed to take actions on three of the recommendations. (See app. III.)

In commenting on our recommendation concerning the practice of adjusting initial appraisals, Interior agreed that rounding estimates of value for purposes of equalizing exchange values is illegal. In the context of our report, Interior said that rounding values by appraisers or agency reviewers to facilitate an exchange is not authorized. Values of federal and nonfederal lands can only be equalized through a cash payment or through an adjustment of the acreage. To reinforce this point, Interior said that it will direct BLM to prepare instructions to the state offices clarifying appraisal procedures, especially as they apply to exchanges. The instructions will inform state offices that rounding approved appraisals to consummate exchanges is unacceptable. Compliance will be monitored routinely through Interior's reviews of state and district offices' appraisal activities.

Concerning our recommendation that the Director, BLM, be directed to comply with the requirement of FLPMA that does not allow the waiver of cash equalization payments, Interior said that in addition to the state offices being directed not to waive cash equalization payments, it will direct BLM to issue an information bulletin to all of its state offices concerning this matter.

Regarding our recommendation on the continued use of the pooling concept, Interior said that it will direct BLM to evaluate the use of pooling on an agencywide basis during fiscal year 1987.

With respect to our recommendation that the Secretary of the Interior direct the Director, BLM, to include a line-item for land exchanges in its proposed budget, Interior expressed concern that a specific funding line-item in BLM's budget would constrain the agency's ability to shift workload emphasis to meet varying administrative, external, and public demands after a fiscal year begins. For example, Interior wants the flexibility to increase or decrease exchange workload versus sales, or other realty casework due to changing national needs and priorities. For this reason, Interior disagreed with our recommendation and believes that the negative impacts of a line-item in BLM's budget and of its ability to

manage multiple-use resources, outweigh any advantage of having the financial information the change to a line-item for land exchanges would produce.

Interior said a coding procedure was implemented in fiscal year 1985 that will allow BLM to provide more accurate financial information for state and private exchanges. The procedure allows BLM to account for appropriated funds spent specifically on land exchanges along with the other major work elements within the lands and realty subactivity and to establish priorities for funding allocations through the annual work plan process. Interior said, however, that the procedure does not go as far as our recommendation since the procedure will not account for costs of each exchange. Interior said that implementing our recommendation would require that BLM add a project code for each exchange proposal. In Interior's opinion, the complexity and cost of operating BLM's financial information system would increase significantly with this change.

GAO Response

We are pleased that Interior and BLM will act to address our concerns by issuing directives to state offices to correct the problems we found with determining equal value in exchanges and pooling. However, we believe Interior should reconsider its position on our findings concerning exchange processing costs.

We recognize as Interior points out that systems producing financial information are expensive to operate and that as a general precept the money spent to get information should yield a benefit greater than its cost. In addition, there are certain accounting standards that federal agencies must follow in carrying out programs and activities and reporting on costs in financial information systems. The concept of budgeting and accounting on the same basis establishes that the principles used for accounting for program costs should be consistent with those used in developing the budgets for those programs. When land is acquired in an exchange, its full costs should be known and recorded.

Line-item budgeting is the method that we believe should be matched with a BLM accounting system that properly defines and records exchange processing costs. We would be amenable to any acceptable method BLM would propose that would (1) connect the budgeting and accounting functions so that actual land exchange costs are defined and recorded, (2) accurately report this information to the Congress, and (3)

Chapter 3
Increasing Efficiency in the Land Exchange
Process and Accounting for Costs

put BLM in a position of knowing exchange processing costs when these costs are being shared with exchange proponents.

As stated above, there are congressional concerns about land-managing agencies' accounting for and reporting on specific costs of land exchanges. We believe that the information needs of the Congress can only be accurately provided by BLM through the measures we are recommending.

Original Request Letter

JAMES A. MCCLURE, CHAIRMAN
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 O MICHAEL HARVEY, CHIEF COUNSEL FOR THE MINORITY

United States Senate

COMMITTEE ON ENERGY AND NATURAL RESOURCES

WASHINGTON, DC 20510

April 2, 1985

The Honorable Charles A. Bowsher
 Comptroller General of the
 United States
 441 G Street, N.W.
 Washington, D.C. 20548

Dear Mr. Bowsher

On February 14, 1985, your staff briefed Mr. Bevinetto and Ms. Kennedy of the Subcommittee staff on GAO assignments being performed in the land use area. I am especially interested in the assignment evaluating Federal land exchange programs in the Department of Agriculture's Forest Service and the Department of the Interior agencies. Interest in land exchange has amplified because of the budget realities of the 1980's. Land Protection workshops in the Public Lands and Reserved Water Subcommittee identified this interest in using exchange. Since more exchanges are being proposed each year, we need to look at associated problems, constraints, implications and procedures.

As part of your review I would like you to look at the following

- the overall planning process used to control exchanges,
- the terms of the exchanges made with private parties, States, or local jurisdictions,
- the administrative costs to prepare, negotiate and process exchanges, and who should pay these costs,
- GSA and surplus property involvement in exchanges,
- the means to make the process more expeditious and cost effective while meeting the public interest criteria,
- the application of the equal value criteria for any assets
- the use of cash equalization payments to make up the difference in value,
- the use of monetary credits in exchange (when title passes, assignments of credits, interest on credits, tax status, etc.),
- the effects of exchange on political subdivisions of government,

Appendix I
Original Request Letter

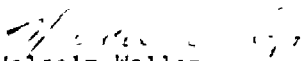
The Honorable Charles A. Bowsher
April 2, 1985
Page two

--exchanges involving subsurface interests in competitive areas i.e., leasable minerals, and

--exchanges involving surface for subsurface and other split estate issues.

Please have your staff contact Mr. Bevinetto to discuss the Subcommittee's request.

Sincerely,


Malcolm Wallop
Chairman, Subcommittee on
Public Lands, Reserved Water
and Resource Conservation

MW/PK:re

Comments From the Department of Agriculture



United States
Department of
Agriculture

Forest
Service

Washington
Office

12th & Independence SW
P.O. Box 2417
Washington, DC 20013

Reply to: 1420
(FAPS)

Date: - - -

Subject: GAO Draft Report on Federal Land Acquisition

To: J. Dexter Peach, Assistant Comptroller General
Resources, Community, and Economic
Development Division
U.S. General Accounting Office
Washington, D.C. 20548

We have reviewed the draft report entitled "FEDERAL LAND ACQUISITION: Land Exchange Process Working, But Can Be Improved" and have the following comments related to the findings of equal value, processing costs, and pooling.

EQUAL VALUE

The draft report stated "Equal value was not attained . . . because . . . FS adjusted or rounded appraised values to achieve equal value."

Forest Service policy (FSM 5410.3) requires that the value of land will be estimated in conformance with the Uniform Appraisal Standards for Federal Land Acquisitions. In spite of these standards, the appraisal of land is not an exact science because it involves assumptions and quantified judgments about uncertainties. Therefore, the Forest Service requires that all appraisals be reviewed by a qualified review appraiser before the value is approved for use by the Forest Service. This is in line with Section C, General Standards of a Miscellaneous Nature, of this standards guide which states "Under long established governmental procedures, each appraisal is carefully reviewed by a qualified reviewing appraiser . . ." The review appraiser is expected to make the final judgment on the values of the land and at times this results in rounding or adjustment in the appraisal.

PROCESSING COSTS

The draft report requests that the Chief be directed to issue guidance for defining costs related to the exchange process. In addition, the report implies that the Forest Service accounting system will not track necessary cost information on a reliable and consistent basis.



J. Dexter Peach, Assistant Comptroller General

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Service-wide guidance for recording exchange-related costs already exists and is in Forest Service Handbook 6509.11k, Service-wide Finance and Accounting Handbook, Amendment #8, June 1985. Chapter 12.2, Item #66 177 - Land Exchange, provides a description of this functional account. It includes expenditures for exchange proposals, appraisals, negotiation, title processing, and preparation of Environmental Assessments or Environmental Impact Statements and reports required for an exchange. Once the costs have been identified, the accounting system has the capability to track all specifically identified costs on a reliable and consistent basis.

As with other resource activities, the exchange function is interrelated with many other Forest Service activities. Exchanges frequently involve timber sales (land-for-timber-exchanges), claims (resolving trespass situations), special uses (eliminating permitted uses), access (eliminating the need for rights-of-way), etc. Since some exchanges may actually be done as a means to accomplish some other land management objective, the costs may be charged to a benefitting function.

POOLING

The Report indicates that although the Forest Service (FS) occasionally combines (pools) several Federal tracts into a single package and trades them for private lands in a single transaction, the concept has not been evaluated and the FS has not developed a national policy concerning "pooling." The report recommends the FS evaluate the use of "pooling" and develop policies of use.

The FS has used the concept the report refers to as pooling for many years. It works well under the right circumstances and with certain exchange proponents. We do not believe it is necessary to evaluate the concept nor issue policy for its use. It simply is a tool available to our field officers when it will better accomplish the objectives at less overall cost.

In addition to the comments on the findings, we are enclosing a revision of Table 2.2, Costs of Processing Exchange Proposals, which adds some steps and corrects some sequence problems in the draft version of this table.

Thank you for the opportunity to respond to the draft audit report. The report and recommendations will be helpful as we make adjustments in the Exchange Program.

R. MAX PETERSON
Chief

Enclosure



Comments From the Department of the Interior



United States Department of the Interior 2200 (321)

OFFICE OF THE SECRETARY
WASHINGTON, D C 20240

OCT 10 1986

Honorable J. Dexter Peach
Assistant Comptroller General
Resources, Community, and Economic
Development Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Peach:

This is in response to your letter of August 28, 1986, which transmitted a General Accounting Office draft of a proposed report, entitled "Land Exchange Process Working, But Can Be Improved," for our review and comment.

We have reviewed the draft and our comments are enclosed. This opportunity to comment on the draft proposed report is appreciated.

Sincerely,

A handwritten signature in cursive script that reads "James E. Cason".

Assistant Secretary - Land and
Minerals Management

Enclosures:

- Encl. 1 - Department's comments to draft's findings and recommendations
- Encl. 2 - Department's recommendations for technical changes to pages 17, 19, 20, 21, 23, 54, 64, and 65 of draft report

Appendix III
Comments From the Department of
the Interior

Department of the Interior Comments to GAO Findings
and Recommendations in Draft Proposed Report "Land
Exchange Process Working, But Can Be Improved"

FINDING:

The Bureau of Land Management (BLM) and the Forest Service (FS) adjusted or "rounded" appraised values to achieve equal value in 26 exchanges and thus avoided cash equalization payments. The rounding ranged from \$2 to \$32,907 and was generally about 1 percent of the unadjusted appraised value. Rounding appraised values is generally accepted and practiced in the private sector, but it is not allowed under the Federal Land Policy and Management Act of 1976 (FLPMA).

RECOMMENDATION:

The Secretaries of Agriculture and the Interior should direct the Chief, FS, and the Director, BLM, respectively, to comply with the laws governing land exchanges that do not allow the adjustment of appraised values.

RESPONSE:

We suggest the draft report clarify when rounding is unacceptable.

Rounding is an acceptable practice used by appraisers in estimating value. This is done so as to not give the impression that the values estimated are exact or precise. For instance, it would be unrealistic to assume that the calculated value of a 80.32 acre tract valued at \$1,000 per acre is exactly \$80,320. Instead, the appraiser would round the value to \$80,000 or \$80,300 since the "calculated" estimate is not precise. As illustrated in The Appraisal of Real Estate, published by the American Institute of Real Estate Appraisers, generally the more valuable the property being appraised, the less accurate the dollar amount. Therefore, properties having an estimated value of \$50,000-\$75,000 may be rounded to the nearest \$500, while the value of properties with an estimated value of \$75,000-\$250,000 may be rounded to the nearest \$1,000 or \$5,000. Properties having an estimated value above \$1 million may even be rounded to the nearest \$10,000 or \$50,000. The amount of rounding is dependent upon the reliability of the data analyzed.

The Department of Justice interagency booklet, Uniform Appraisal Standards for Federal Land Acquisitions, recognizes the difficulty in accurately calculating or measuring fair market value (p. 3, 4). As indicated in the booklet, it is often more reasonable to express value within a range, instead of estimating a specific value which may imply greater precision than is warranted. Even under these circumstances, the value ranges will vary depending upon the quality and quantity of information and the assumptions used by the appraisers. However, the specific dollar value estimated by the appraiser represents the most probable price the property would sell for under market conditions specified in the appraisal. The review appraiser has authority to approve the appraisal(s), establishing an amount believed to reasonably estimate fair market value. If the values estimated are not equal, the value of the lands to be exchanged must be within 25 percent of the value of the Federal lands.

Encl. 1

Appendix III
Comments From the Department of
the Interior

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It should also be understood that reviewing appraisers do not adjust approved appraisals. Appraisals are prepared by staff or contract appraisers and reviewed by qualified agency appraisers. The review appraiser, not the appraiser, approves an amount which represents the agency's estimate of fair market value. In addition, it would be unethical to adjust independently prepared appraisal reports or to direct appraisers to arrive at a predetermined amount to equalize values for exchange purposes.

The Department agrees that "rounding" estimates of value for purposes of equalizing exchange values is illegal. In the context of the draft report, "rounding" values by appraisers or agency reviewers to facilitate an exchange is not authorized. Values of Federal and non-Federal lands can only be equalized through payment or adjustment of land acreage.

To reinforce this point, we will direct the BLM to prepare instructions clarifying appraisal approval procedures, especially as they apply to exchanges. The State Offices will be advised that rounding approved appraisals to consummate exchanges is unacceptable. Compliance will be monitored through routine Washington Office review of State and District Office appraisal activities.

FINDING:

The pooling of scattered tracts into one land exchange, rather than exchanging each tract separately, may be advantageous to the United States. Although both the BLM and the FS use the pooling concept, they have not evaluated its use on an agency-wide basis, nor do they have agency-wide controls on the selection and use of the pooling procedure. Good internal control practice calls for policies to insure that pooling is used under circumstances that benefit the agency and the general public and that procedures used to implement pooling are efficient and effective.

RECOMMENDATION:

The Secretaries of Agriculture and the Interior should direct the Chief, FS, and the Director, BLM, to evaluate the use of pooling to determine whether it is in their interests to continue it. If the decision is made to continue to use pooling, then they should develop policies to promote and control the use of pooling.

RESPONSE:

The BLM will be directed to evaluate the use of pooling on an agency-wide basis during Fiscal Year 1987.

FINDING:

In three exchanges, a BLM State Office waived \$38,507 in required cash equalization payments from non-Federal parties. This practice is not allowed under FLPMA.

Appendix III
Comments From the Department of
the Interior

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RECOMMENDATION:

The Secretary of the Interior should direct the Director, BLM, to comply with the requirement of FLPMA that does not allow the waiver of cash equalization payments.

RESPONSE:

We concur that the waiver of cash equalization payments by the United States is not allowed under FLPMA. As indicated at page 36 of the draft report, BLM headquarters instructed the State Office that waiver of cash equalization payments is not permissible. The BLM will be directed to issue an information bulletin to all of its State Offices concerning this matter.

FINDING:

The BLM does not make full disclosure to Congress of its exchange costs because its budget contains no line-item for land exchanges.

RECOMMENDATION:

The Secretary of the Interior should direct the Director, BLM, to include a line-item for land exchanges in its (BLM's) proposed budget.

RESPONSE:

Within its budget requests, the BLM has traditionally identified to Congress the total dollar amount of funding it needs to accomplish a balanced mixture of lands and realty work in any given fiscal year. The BLM justifies its funding requests by identifying workload measures for different aspects of lands work (including exchanges) that it expects to accomplish, including the total acreages planned to be exchanged with State and private individuals during the fiscal year.

The imposition of an additional funding line-item specifically for exchanges in the budget would unnecessarily reduce the ability of the BLM to effectively balance its work efforts in concert with changing public demands and administration priorities during any year. Given the extended timeframe for budget development, review and appropriation, the BLM as a multiple-use land management agency must retain the ability to shift workload emphasis to meet varying administrative, external, and public demands after a fiscal year begins. For example, sometimes it is necessary to increase or decrease State vs. private exchanges, or increase or decrease exchange workload vs. sales, or other realty casework due to changing national needs and priorities.

A specific funding line-item would constrain the BLM's ability to respond to these needs by involving the Bureau in time-consuming reprogramming actions when conditions change plus cause inefficient fund utilization practices when progress on exchanges stalls and other realty workload, especially public demand work, increases. Even as the GAO report notes in the case of the FS, the mere existence of a budget line-item does not assure that accurate financial information becomes available. In the case of the BLM, the

negative impacts of more funding "pockets" in its budget on our abilities to effectively manage multiple-use resources outweigh any financial data advantages.

FINDING:

The BLM does not have a system to specifically account for land exchange costs.

RECOMMENDATION:

The Secretary of the Interior should direct the Director, BLM, to institute a system to account for the costs associated with land exchanges.

RESPONSE:

Prior to Fiscal Year 1985, the BLM's Financial Management System (FMS) - Program Management Subsystem did not include a mechanism for tracking "total costs" of different types of casework performed within the lands and realty subactivity.

A new FMS fund coding procedure was implemented in Fiscal Year 1985. Within this new structure, the FMS includes Program Elements (PE) under the Lands and Realty budget subactivity (4212) for each type of exchange. Program Element-12 is used for tracking costs associated with State exchanges, and PE-13 is to track costs associated with private exchanges. The newly implemented FMS fund coding structure will allow the BLM to provide more accurate financial information for State and private exchanges than in the past.

The FMS does not, however, provide financial information on a case-by-case basis. This could be accomplished by adding a project code for each land exchange case being processed, but that would significantly increase the complexity and cost of operating the FMS. Without additional complex formulas and cost allocation techniques currently not applied throughout the Bureau's FMS, it still would not produce accurate "actual" costs of processing each exchange case. Because of the significant variations in the size and complexity of each exchange - factors which are recognized throughout the draft report - an "average cost" has very little meaning for estimating the cost of specific exchange proposals and is no substitute for good judgment based on experience. The new coding system allows the BLM to account for appropriated funds spent specifically on land exchanges along with the other major work elements within the lands and realty subactivity, and to establish priorities for funding allocations through the annual work plan process.

Laws, Executive Orders, and Procedural Requirements Applicable to the Forest Service and BLM Which Guide the Exchange Process

Laws, Provisions, and Related Exchange Procedures

1. Antiquities Act of 1906 (16 U.S.C. 431, 432, and 433): Requires the preservation of American antiquities and forbids appropriating, excavating, injuring or destroying any historic or prehistoric ruin or monument or other object of antiquity on government-controlled or -owned property without the permission of the cognizant agency head.

Exchange procedure: Prior to disposing of public land, an investigation is made to determine the presence or absence of archeological or cultural artifacts.

2. Historic Sites, Buildings and Antiquities Act of 1935 (16 U.S.C. 461-467): Requires an investigation of any proposed land sale or use to determine the presence of sites, buildings, or objects of national significance. A positive finding results in their preservation or denial of land sale, disposal, or use.

Exchange procedure: Investigation to determine the presence of sites and structures of historical significance.

3. National Historic Preservation Act of 1966 (16 U.S.C. 470, *et seq.*): Prior to authorizing an undertaking, such as a surface-disturbing land use or land disposal, the responsible agency official shall take into account the effect on any historic property eligible for, or included in, the National Register of Historic Places and shall afford the Advisory Council on Historic Preservation an opportunity to comment.

Exchange procedure: As specified.

4. National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370): Each major federal action must be evaluated to determine its environmental impacts. Such a study must consider alternative actions and mitigating measures that the United States might take.

Exchange procedure: Environmental assessment, environmental impact statement, or categorical exclusion.

5. Endangered Species Act of 1973 (16 U.S.C. 1531-1543): Land disposals or uses are prohibited if they are likely to jeopardize the continued existence of endangered or threatened species of fish, wildlife, and plants unless an exemption is granted.

Exchange procedure: Investigation to determine the presence of endangered or threatened species on federal lands.

**Appendix IV
Laws, Executive Orders, and Procedural
Requirements Applicable to the Forest
Service and BLM Which Guide the
Exchange Process**

6. FLPMA (43 U.S.C. 1701(a)(1)), Section 102(a)(1): Public lands are to be retained in federal ownership unless, as a result of land-use planning, it is determined that the disposal of a particular parcel will serve the national interest.

Exchange procedure: Federal agencies should determine that disposal of specified tracts through exchanges conform to criteria for land disposal in land-use plans and that such a disposal serves the public interest.

7. FLPMA (43 U.S.C. 1712(c)(9)) Section 202(c)(9): Land-use plans should consider state and local plans and resolve, to the extent possible, any inconsistencies between federal plans, on one hand, and state and local plans on the other.

Exchange procedure: Notification and coordination with state and local governments.

8. Mineral Leasing Act of 1920 (30 U.S.C. 191) Section 35: 50 percent of all money received by the federal government under authority of this section and under provisions of the Geothermal Steam Act from sales, bonuses, royalties, and rentals of public mineral interests shall be paid each year to each state, other than Alaska, where the public interests are located.

Exchange procedure: None specified.

9. FLPMA (43 U.S.C. 1752(g)) Section 402(g): A 2-year advance notice and reasonable compensation to a grazing permittee are required when any land affected by the lease or permit (a) is transferred out of federal jurisdiction and (b) the lease or permit is to be cancelled.

Exchange procedure: Grazing permit holders are notified by BLM and the Forest Service of the pending exchange and asked to waive their permits. According to a representative of the Forest Service's Land Staff, agreements are arranged between the agency and the nonfederal proponent to protect the interests of grazing permittees.

10. FLMPA (43 U.S.C. 1782) Section 603: Roadless areas of 5,000 acres or more are to be reviewed for wilderness characteristics. During the review period, these lands shall be managed in a way that does not impair their suitability for preservation as a wilderness.

Exchange procedure: Decisions on most land uses or disposals are postponed until after the review period.

Executive Orders and
Related Exchange
Procedures

1. Executive Order 11988, as amended, Floodplain Management, May 24, 1977: Federal agencies should reduce the risk of flood loss and minimize the impact of floods upon human safety, health, and welfare. In land disposal actions, floodplains should be retained in public ownership or appropriate stipulation in the conveyance should be made limiting uses of floodplain areas.

Exchange procedure: Agencies should determine if a proposed action, such as a land exchange, will occur on a floodplain. Opportunities for public review are to be provided. If a federal property to be exchanged is in a floodplain, then (a) the conveyance for the property should include appropriate conditions restricting use of the property per federal, state, and local floodplain regulations, or (b) the property should be retained by the federal government.

2. Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971: Historically significant sites should be preserved.

Exchange procedure: The federal agency shall perform a survey of the public lands in order to determine the presence of historically or culturally significant sites. If historical sites are found, the federal agency should consult with the State Historical Preservation Officers, keepers of the National Register of Historical Places, and the Advisory Council on Historic Preservation.

3. Executive Order 11990, Protection of Wetlands, May 24, 1977: Federal agencies shall take action to minimize the destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of these areas.

Exchange procedure: In considering the disposal of federal wetlands, agencies shall study factors relevant to the action's effect on the quality and survival of the wetlands. Factors to be considered include public health, safety, and welfare; maintenance of natural systems including conservation and long-term productivity of plants, animals, fish, timber, food and fiber; and other uses of wetlands in the public interest, such as recreational, cultural, and scientific uses. Patents or deeds containing wetlands which are issued by federal agencies shall contain appropriate

restrictions on the uses of wetlands, or the agency may opt to retain the property in federal ownership.

Miscellaneous Procedural Requirements

1. **Cadastral survey**: Cadastral surveys are performed to determine the exact boundaries of a property.
2. **Appraisal**: Is required for land exchanges. Under the policies of both BLM and the Forest Service, appraisals should be performed in accordance with the Uniform Appraisal Standards for Federal Land Acquisition.
3. **Field examination and land report**: The land report makes a formal recommendation that the exchange proposal is consistent with all laws and applicable policy. (Note: According to a representative of the Forest Service's Land Staff, the Forest Service does not compile a "land report" but instead substitutes a "notice of decision to proceed" in its land exchange files.)
4. **Mineral evaluation**: Public lands are evaluated to ensure that the lands are nonmineral in character or that there are no outstanding mining claims thereon. If minerals are found, they must either be reserved or their values appraised and considered in the exchanged mineral values. Exchanges are not completed if it is found that the exchange would interfere with the development of such minerals. Also, existing valid mining claims that are found must be cancelled if the exchange is to be completed.
5. **Wildlife habitat determination**: Decisions on whether or not to proceed with an exchange must consider the value of the loss of public wildlife habitat.
6. **Title studies**: Third-party interests, title encumbrances, and other title defects are revealed by title studies or may otherwise surface during the processing of an exchange proposal. These interests and title defects must be eliminated by the proponent if the exchange is to be completed.
7. **Right to protest and appeal**: The policies of both the Forest Service and BLM provide for protests and appeals of decisions to process an exchange.

Miscellaneous Exchange Authority¹

Laws Used by the Forest Service

1. Exchange for Schools Act or "Sisk Act" of December 4, 1967, as amended: (16 U.S.C. 484a): Authorizes the Forest Service to exchange national forest land, not to exceed 80 acres, with a state, local government, or a public school authority for lands, money, or both. The money acquired by the Forest Service in the exchange is to be used to purchase additional forest lands, and there is no cash equalization payment limit on the amount of money paid to the Forest Service.
2. Bankhead-Jones Farm Tenant Act of 1937 (7 U.S.C. 1010, and 1011 (c)): Authorizes exchanges of public land that are part of a land conservation and utilization project. The exchange must advance land conservation purposes. Bankhead-Jones exchanges must comply with FLPMA requirements.²
3. Forest Service Omnibus Act of 1962 (16 U.S.C. 555a): The Forest Service may exchange lands that are "being administered under laws which contain no provision for their exchange."²

Laws That Are Used by BLM and the Forest Service

1. Wilderness Act of 1964 (16 U.S.C. 1131 - 1136): Authorizes the Forest Service to exchange federal lands for state or private lands that are located within an area of a national forest which has been designated a wilderness area.²
2. Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271-1287): The Secretaries of the Interior and Agriculture are "authorized to accept title to non-Federal property within the authorized boundaries of any federally administered component of the national wild and scenic rivers system . . . and, in exchange therefore, may convey to the grantor any federally owned property which is under his jurisdiction within the State in which the component lies and which he classifies as suitable for exchange or other disposal."²

¹Laws listed in this appendix exclude those (a) which only authorize exchanges for purposes of creating or expanding specific federal conservation units or projects, (b) which pertain to resettlement of Native American groups or the readjustment of reservation boundaries, (c) which pertain solely to Alaska land exchanges, and (d) which were used less than twice by the Forest Service and BLM from October 1981 through March 1985

²FLPMA provisions as listed below apply to exchanges under this law: (a) lands must be equal in value or values must be equalized through payment of cash not exceeding 25 percent of the federal land value; (b) lands to be exchanged must be in the same state; (c) the nonfederal party must be a U.S. citizen or corporation bound to the laws of the United States or of a state, (d) the exchange must be in the public interest

3. National Trails System Act(16 U.S.C. 1246):

“(d) Within the exterior boundaries of areas under their administration that are included in the right-of-way selected for a national recreation, national scenic, or national historic trail, the heads of Federal agencies may use lands for trail purposes and may acquire lands or interests in lands by written cooperative agreement, donation, purchase with donated or appropriated funds or exchange ”

“(e) Where the lands included in a national scenic or national historic trail right-of-way are outside of the exterior boundaries of federally administered areas, the Secretary charged with the administration of such trail shall encourage the States or local governments involved (1) to enter into written cooperative agreements , or (2) to acquire such lands or interests therein to be utilized as segments of the national scenic or national historic trail.” If the Secretary is unsuccessful in obtaining the desired action by the state or local government, he “may (i) enter into such agreements with landowners, States, local governments, private organizations, and individuals for the use of lands for trail purposes, or (ii) acquire private lands or interests therein by donation, purchase with donated or appropriated funds, or exchange . . .”

“(f) The Secretary of the Interior in the exercise of his exchange authority may accept title to any non-Federal property within the right-of-way and in exchange therefor he may convey to the grantor of such property any federally owned property under his jurisdiction which is located in the State wherein such property is located and which he classifies as suitable for exchange or other disposal . The Secretary of Agriculture, in the exercise of this exchange authority, may utilize authorities and procedures available to him in connection with exchanges of national forest lands.”³

³See footnote 2 p 61

Forest Service Exchanges Completed From October 1, 1981 Through March 31, 1985 in the Conterminous 48 States^a

Region	Exchanges completed	Nonfederal acres	Federal acres	Equal value
Northern ^b	70	83,749	45,056	\$50,531,780
Rocky Mountain	25	4,566	4,127	2,943,325
Southwest	24	7,984	4,678	9,654,800
Intermountain	41	36,913	35,796	9,891,937
Pacific Southwest	54	82,320	24,449	69,857,600
Pacific Northwest	25	26,170	21,432	36,248,850
Southern	173	50,419	31,900	27,536,761
Eastern	111	33,581	21,226	8,376,298
Total	523	325,702	188,874	\$215,041,351

^aThis appendix excludes all coal lease exchanges, which are indicated by asterisks (*) in appendix VIII

^bThe data for the Forest Service's Northern Region include an exchange processed for it by BLM's Montana State Office. It is classified by BLM as a Forest Service exchange. This exchange involved BLM's acquisition of 21,027 nonfederal acres and conveyance of \$14.3 million in bidding rights to the proponent. These bidding rights could be used to bid on BLM coal leases. The nonfederal acres, although initially acquired by BLM, were transferred to the Forest Service.

Bureau of Land Management Exchanges Completed From October 1, 1981 Through March 31, 1985, in the 48 Conterminous States

Office	Exchanges completed	Nonfederal acres	Federal acres	Equal value
Arizona	18	161,898	109,727	\$10,016,81
Colorado	8	5,183	4,363	1,818,41
California	26	81,875	23,487	18,009,11
Idaho	22	15,758	16,480	1,812,31
Montana ^b	44	62,952	76,180	59,275,10
New Mexico	5	116,089	86,725	13,532,01
Nevada	9	14,271	11,679	5,952,41
Oregon	20	321,913	333,092	27,899,61
Utah	22	55,811	56,104	5,903,61
Wyoming	9	6,115	7,125	14,264,31
Total	183	841,865	724,962	\$158,484,01

^aThis appendix excludes all coal lease exchanges, which are indicated by asterisks (*) in appendix VIII

^bThe data for BLM's Montana State Office exclude an exchange processed by that office which benefited the Forest Service. BLM classified this exchange as a Forest Service exchange. This exchange involved BLM's acquisition of 21,027 nonfederal acres and conveyance of \$14.3 million in bidding rights conveyed to the proponent. These bidding rights could be used by the proponent to bid on BLM coal leases. BLM transferred the nonfederal acres to the Forest Service's Northern Region. The data for this exchange are reflected in the totals for the Forest Service's Northern Region in appendix VI.

Exchanges Completed Between October 1981 and March 1985 Which Involved the Conveyance of Rights to Known Federal Minerals^a

	Office	Fiscal year	Nonfederal acres	Federal acres	Federal mineral rights	Equal value
1	BLM, Montana	1983	11,553	7,887	Coal	\$44,753,000
2	BLM, Utah	1983	6,437	5,500	Oil shale	N/A - Resource Equivalents ^b
3	BLM, Wyoming	1983	1,221	1,191	Coal and perhaps oil and gas	\$11,384,000
4 * **	BLM, Wyoming	1983	— (BLM obtains cancellation of proponent coal lease)	—	BLM conveys \$5.8 million in bidding rights on coal leases ^c	\$ 5,800,000
5 * **	BLM, Wyoming	1983	2,869 (Coal lease acres)	2,200 (Coal lease acres)	Coal lease	\$ 7,798,880 (federal), \$ 8,259,200 (nonfederal)
6 **	BLM, Montana	1984	21,027	—	BLM conveys \$14.3 million in bidding rights on its coal leases	\$14,300,000
7 * **	BLM, Wyoming	1984	240 (Coal lease acres)	240 (Coal lease acres)	Coal lease	\$92,572,160 (nonfederal), \$92,276,960 (federal)
8 * **	BLM, New Mexico	1984	2,046 (Coal lease acres)	928 (Coal lease acres)	Coal Lease	^d
9 * **	BLM, Wyoming	1985	1,200 (Coal lease acres)	720 (Coal lease acres)	Coal Lease	\$15,200,000 (nonfederal), \$13,490,000 (federal)
10 * **	BLM, Montana	1985	— (Proponent cancels coal lease)	9,445 (Coal lease acres)	Coal lease and bidding rights on BLM coal leases	\$ 4,090,095

^aSignifies exchange of coal leases. These exchanges were not included in appendixes VI and VII

^{**}Signifies exchanges authorized or required by special legislation

^{*}Data included pertains only to exchanges completed in the conterminous 48 states

^bResource equivalents refers to a method used to appraise the federal and nonfederal properties. Because of the uncertainty over the mining method that would have to be assumed in an appraisal of the properties in question, BLM and the proponent chose to express the value of the properties in terms of barrels of oil that they estimate could be recovered per acre from oil shale.

^cBidding rights in this case refer to credits granted by BLM to the proponent to be applied toward the proponent's payments of coal lease royalties and bonuses due the federal government. By law the bidding rights in this case can only apply to bonuses.

^dThe exchange featured 28.93 million short tons of federal coal and 26.1 million short tons of nonfederal coal. The exchange was on a ton-for-ton basis adjusted for higher costs the proponent would incur in developing the federal coal and the development costs actually incurred by the proponent on the lease it conveyed to the federal government.

Data on Exchanges Which Unified or Created Split Estates Between October 1981 and March 1985^a

Agency	Number of exchanges	Nonfederal acres	Federal acres	Equal value
Exchanges that created split estates				
BLM	114	589,396	531,125	\$77,730,496
Forest Service ^b	115 ^c	82,342	68,967	\$56,293,166
Exchanges that unified split estates				
BLM	57	389,627	384,521	\$56,353,809
Forest Service	^d	^d	^d	

^aA split estate is one in which the federal government owns the surface estate and a nonfederal party owns the subsurface estate or vice-versa. In cases where one party conveys the surface estate to the other party but reserves the subsurface mineral estate, split estates are created. Data in this table pertain only to exchanges completed in the conterminous 48 states.

^bTwo hundred-five (205) of the 523 exchanges that the Forest Service completed between October 1981 and March 1985 involved mineral estates that had been reserved before the exchange by parties not involved in the exchange (third parties).

^cSeventy-two (72) of the 115 cases in which the Forest Service created split estates involved minerals reserved by third parties prior to the exchange.

^dAccording to the Forest Service's Assistant Director, Lands, the Forest Service does not process exchanges that unify split estates.

List of 16 Exchanges GAO Selected for Case Study

Agency/office	Federal acres	Nonfederal acres	Equal value	Cash payment*
Exchanges with equal values approximating or exceeding \$2 million				
1. Forest Service, Northern Region	4,416	4,798	\$3,400,000	None
2. BLM, California	2,993	631	2,065,388	\$487,588
3. Forest Service, Pacific Northwest Region	3,647	3,105	2,218,000	21,000
4. Forest Service, Rocky Mountain Region	2,943	5,814	1,943,000	900
5. Forest Service, Rocky Mountain Region	293	480	1,817,200	7,200
6. BLM, Wyoming	1,190	1,221	11,384,900	1,572,900
Exchanges with equal values from approximately \$400,000 to \$1 million				
1. BLM, Montana	8,180	7,532	\$1,031,000	\$4,743
2. BLM, Montana	12,590	3,426	882,770	None
3. Forest Service, Northern Region	2,078	2,784	640,000	None
4. Forest Service, Pacific Northwest Region	237	241	465,000	None
5. BLM, Colorado	2,678	2,022	750,000	None
Exchanges with equal values less than \$400,000				
1. Forest Service, Pacific Northwest Region	4	81	\$128,800	\$3,100
2. BLM, Oregon	2,760	881	132,000	None
3. BLM, Oregon	160	160	16,700	800
4. BLM, Colorado	355	340	170,000	1,000 (federal)
5. BLM, Wyoming	646	640	175,000	None

*Cash equalization payment data presented in this column represent nonfederal payments, unless otherwise indicated

Completed Exchanges by Authorizing Legislation^a From October 1981 Through March 1985

Law cited	Number of exchanges	Nonfederal acres	Federal acres	Equal value
Forest Service				
General Exchange Act ^b	186	174,557	104,098	\$141,891,618
Weeks Law ^c	288	96,949	64,870	45,732,283
Other laws ^d	49	54,197	19,706	27,417,450
Totals	523	325,703	188,674	\$212,327,151
BLM				
FLPMA	168	677,261	638,678	\$135,880,187
Other laws ^e	15	164,604	86,284	22,603,906
Total	183	841,865	724,962	\$158,484,093

^aData contained in this appendix pertain only to exchanges completed in the 48 conterminous states from October 1981 through March 1985. It excludes all coal lease exchanges marked with an asterisk (*) in appendix VIII.

^bIn the 6 (Northern, Rocky Mountain, Southwestern, Intermountain, Pacific Southwest, and Pacific Northwest) Forest Service regions in the western states, 172 of 239 exchanges were processed under the General Exchange Act.

^cIn the 2 (Southern and Eastern) Forest Service regions located in the East, Midwest, and South, 262 of 284 exchanges were processed under the Weeks Law.

^dForest Service also cited other laws to process exchanges: (1) the Forest Service Omnibus Act (13 exchanges), (2) the Bankhead-Jones Farm Tenant Act (10 exchanges), (3) the Sisk Act (11 exchanges), (4) the National Trails System Act (3 exchanges), (5) FLPMA (3 cases), and (6) 7 other acts each authorizing 2 or less exchanges.

^eBLM cited other acts, including the King Range National Conservation Area in the State of California Act (11 exchanges), and Navajo and Hopi Indian Relocation legislation (2 cases).

Sample Data Regarding Length of Time It Takes BLM and the Forest Service to Process Land Exchanges^a Completed From October 1981 Through March 1985

Exchanges in the universe ^{b, c}	Exchanges in the sample ^d	Mean time to process exchanges (months) ^e	Range (months)
Forest Service			
456	90	18.67 ± 0.91	2 to 52
BLM			
177	61	41.20 ± 8.23	2 to 234

^aThe sample was selected randomly at a confidence level of 95 percent

^bThe figures in this column are the universe adjusted for incomplete data at the agencies for time to process exchanges. The unadjusted universes were 532 exchanges for the Forest Service and 183 for BLM.

^cData exclude all coal lease exchanges marked with an asterisk (*) in appendix VIII.

^dThe numbers shown in this column represent the sample adjusted for incomplete time data in agency records. The unadjusted sample sizes are 105 for the Forest Service and 63 for BLM.

^eData represent the months that elapsed between the initial recorded exchange proposal and the recorded conveyance of the federal land in the exchange to the proponent.

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Glossary

Acquired Land	Land that has been acquired by the government by purchase, donation, condemnation, or exchange that was not at the time of acquisition, part of the public domain of this Nation.
Cash Equalization Payment	A cash payment made by the nonfederal or federal party in an exchange to make up the difference in appraised property values. For example, if the federal property is valued at \$800 and the nonfederal property is \$700, the nonfederal party can pay the government \$100 in cash equalization to equalize values in an exchange. These payments may not exceed 25 percent of the value of the federal land in an exchange.
Easement	An interest in land owned by another that entitles its holder to a specific, limited use or enjoyment. (See "less than fee simple.")
Environmental Assessment	The analysis of detailed data to determine whether there is a need for a full-scale environmental impact statement.
Environmental Impact Statement	A statement prepared for actions that constitute a major federal effort with the potential for significant environmental impact.
Exchange	The trading of land and/or interests therein between parties.
Fee Simple	When all of the rights in property are acquired—also known as "fee title" and "fee simple absolute." When a government agency and nonfederal party exchange properties and all rights to those properties, the exchange is referred as a "fee exchange."
Interest	Right, partial title, or legal share in real estate.
Land-Use Plans	Plans that specify uses of public lands (e.g., plans recreation, wildlife habitat, or timber) and specify criteria for disposing of those public lands and for acquiring nearby nonfederal lands.

Less Than Fee Simple	Something less than fee simple, such as easements, which convey only some rights in property from one party or another. In an exchange, less than fee interests may be conveyed from one party to another. For example, the government may convey its property to a nonfederal party with restrictions attached, such as a wildlife protection easement prohibiting the hunting of endangered or protected species on that land.
Public Domain Lands	Lands that are, and have always been, part of the original public estate of the Nation.
Public Lands	All lands and interests thereon managed by the U.S. Government, including acquired and public domain lands.
Pooling	An exchange technique used by the Bureau of Land Management and the Forest Service whereby the agencies work through an intermediary party to exchange many scattered tracts in one transaction.
Proponent	The nonfederal party in an exchange.
Purchase	The buyer pays the seller an agreed price for property and/or interests thereon.
Transfer	The assignment of jurisdiction over federal lands from one agency to another. For example, in one exchange, BLM transferred newly acquired lands to the National Park Service.
Withdrawal	Public lands set aside for specific purposes such as for national parks, scenic rivers, or wilderness areas.

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