

## Bureau of Land Management, Interior

## § 2201.5

(1) Within 180 days from the date of receipt of the appraisal(s) for review and approval by the authorized officer, the parties to an exchange may agree on the appraised values of the lands involved in an exchange. If the parties cannot agree on the appraised values, they may agree to initiate a process of bargaining or some other process to resolve the dispute over values. Bargaining or any other process shall be based on an objective analysis of the valuation in the appraisal report(s) and shall be a means of reconciling differences in such reports. Bargaining or another process to determine values may involve one or more of the following actions:

- (i) Submission of the disputed appraisal(s) to another qualified appraiser for review;
- (ii) Request for additional appraisals;
- (iii) Involvement of an impartial third party to facilitate resolution of the value disputes; or
- (iv) Use of some other acceptable and commonly recognized practice for resolving value disputes.

Any agreement based upon bargaining shall be in writing and made part of the administrative record of the exchange. Such agreement shall contain a reference to all relevant appraisal information and state how the parties reconciled or compromised appraisal information to arrive at an agreement based on market value.

(2) If within 180 days from the date of receipt of the appraisal(s) for review and approval by the authorized officer, the parties to an exchange cannot agree on values but wish to continue with the land exchange, the appraisal(s) may, at the option of either party, be submitted to arbitration unless, in lieu of arbitration, the parties have employed a process of bargaining or some other process to determine values. If arbitration occurs, it shall be conducted in accordance with the real estate valuation arbitration rules of the American Arbitration Association. The Secretary or an official to whom such authority has been delegated shall appoint an arbitrator from a list provided by the American Arbitration Association.

(3) Within 30 days after completion of arbitration, the parties involved in the

exchange shall determine whether to proceed with the exchange, modify the exchange to reflect the findings of the arbitration or any other factors, or withdraw from the exchange. A decision to withdraw from the exchange may be made upon written notice by either party at this time or at any other time prior to entering into a binding exchange agreement.

(4) If the parties agree to proceed with an exchange after arbitration, the values established by arbitration are binding upon all parties for a period not to exceed 2 years from the date of the arbitration decision.

(b) Arbitration is limited to the disputed valuation of the lands involved in a proposed exchange, and an arbitrator's award decision shall be limited to the value estimate(s) of the contested appraisal(s). An award decision shall not include recommendations regarding the terms of a proposed exchange, nor shall an award decision infringe upon the authority of the Secretary to make all decisions regarding management of Federal lands and to make public interest determinations.

### **§ 2201.5 Exchanges at approximately equal value.**

(a) The authorized officer may exchange lands that are of approximately equal value when it is determined that:

(1) The exchange is in the public interest and the consummation of the proposed exchange will be expedited;

(2) The value of the lands to be conveyed out of Federal ownership is not more than \$150,000 as based upon a statement of value prepared by a qualified appraiser and approved by the authorized officer;

(3) The Federal and non-Federal lands are substantially similar in location, acreage, use, and physical attributes; and

(4) There are no significant elements of value requiring complex analysis.

(b) The authorized officer shall determine that the Federal and non-Federal lands are approximately equal in value and shall document how the determination was made.