

National Space Policy Directive 3
U.S. Commercial Space Policy Guidelines

February 11, 1991

THE WHITE HOUSE

WASHINGTON

February 11, 1991

NATIONAL SPACE POLICY DIRECTIVE 3

MEMORANDUM FOR THE VICE PRESIDENT
THE SECRETARY OF STATE
THE SECRETARY OF THE TREASURY
THE SECRETARY OF DEFENSE
THE ATTORNEY GENERAL
THE SECRETARY OF COMMERCE
THE SECRETARY OF TRANSPORTATION
THE SECRETARY OF ENERGY
DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET
CHIEF OF STAFF TO THE PRESIDENT
THE ASSISTANT TO THE PRESIDENT FOR NATIONAL
SECURITY AFFAIRS
THE ASSISTANT TO THE PRESIDENT FOR SCIENCE AND
TECHNOLOGY
THE DIRECTOR OF CENTRAL INTELLIGENCE
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
ADMINISTRATOR OF THE NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION

SUBJECT: U.S. COMMERCIAL SPACE POLICY GUIDELINES

A fundamental objective guiding United States space activities has been space leadership, which requires preeminence in key areas of space activity. In an increasingly competitive international environment, the U.S. Government encourages the commercial use and exploitation of space technologies and systems for national economic benefit. These efforts to encourage commercial activities must be consistent with national security and foreign policy interests, international and domestic legal obligations, including U.S. commitments to stem missile proliferation, and agency mission requirements.

United States space activities are conducted by three separate and distinct sectors: two U.S. Government sectors -- the civil and national security -- and a non-governmental commercial space sector. The commercial space sector includes a broad cross-section of potential providers and users, including both established and new market participants. There also has been a recent emergence of State government initiatives related to encouraging commercial space activities. The commercial space sector is comprised of at least five market areas, each encompassing both earth and space-based activities, with varying degrees of market maturity or potential:

Satellite communications - the private development, manufacture, and operation of communications satellites and marketing of satellite telecommunications services, including position location and navigation;

Launch and Vehicle Services - the private development, manufacture, and operation of launch and reentry vehicles, and the marketing of space transportation services;

Remote Sensing - the private development, manufacture, and operation of remote sensing satellites and the processing and marketing of remote sensing data;

Materials Processing - the experimentation with, and production of, organic and inorganic materials and products utilizing the space environment; and

Commercial Infrastructure - the private development and provision of space-related support facilities, capabilities and services.

In addition, other market-driven commercial space sector opportunities are emerging.

The U.S. Government encourages private investment in, and broader responsibility for, space-related activities that can result in products and services that meet the needs of government and other customers in a competitive market. As a matter of policy, the U.S. Government pursues its commercial space objectives without the use of direct federal subsidies. A robust commercial space sector has the potential to generate new technologies, products, markets, jobs, and other economic benefits for the nation, as well as indirect benefits for national security.

Commercial space sector activities are characterized by the provision of products and services such that:

- private capital is at risk;
- there are existing, or potential, non-governmental customers for the activity;
- the commercial market ultimately determines the viability of the activity; and
- primary responsibility and management initiative for the activity resides with the private sector.

Implementing Guidelines

The following implementing guidelines shall serve to provide the U.S. private sector with a level of stability and predictability in its dealings with agencies of the U.S. Government. The agencies will work separately but cooperatively, as appropriate, to develop specific measures to implement this strategy. U.S. Government agencies shall, consistent with national security and foreign policy interests, international and domestic legal obligations and agency mission requirements, encourage the growth of the U.S. commercial space sector in accordance with the following guidelines:

- o U.S. Government agencies shall utilize commercially available space products and services to the fullest extent feasible. This policy of encouraging U.S. Government agencies to purchase, and the private sector to sell, commercial space products and services has potentially large economic benefits.
 - A space product or service is "commercially available" if it is currently offered commercially, or if it could be supplied commercially in response to a government procurement request.
 - "Feasible" means that products and services meet mission requirements in a cost-effective manner.
 - "Cost-effective" generally means that the commercial product or service costs no more than governmental development or directed procurement where such government costs include applicable government labor and overhead costs, as well as contractor charges and operations costs.
 - However, the acquisition of commercial space products and services shall generally be considered cost-effective if they are procured competitively using performance-based contracting techniques. Such contracting techniques give contractors the freedom and financial incentive to achieve economies-of-scale by combining their government and commercial work as well as increased productivity through innovation.
 - U.S. Government agencies shall actively consider, at the earliest appropriate time, the feasibility of their using commercially available products and services in agency programs and activities.

- U.S. Government agencies shall continue to take appropriate measures to protect from disclosure any proprietary data which is shared with the U.S. Government in the acquisition of commercial space products and services.
- o U.S. Government agencies shall promote the transfer of U.S. Government-developed technology to the private sector.
 - U.S. Government-developed unclassified space technology will be transferred to the U.S. commercial space sector in as timely a manner as possible and in ways that protect its commercial value.
 - U.S. Government agencies may undertake cooperative research and development activities with the private sector, as well as State and local governments, consistent with policies and funding, in order to fulfill mission requirements in a manner which encourages the creation of commercial opportunities.
 - With respect to technologies generated in the performance of government contracts, U.S. Government agencies shall obtain only those rights necessary to meet government needs and mission requirements, as directed by Executive Order 12591.
- o U.S. Government agencies may make unused capacity of space assets, services and infrastructure available for commercial space sector use.
 - Private sector use of U.S. Government agency space assets, services, and infrastructure shall be made available on a reimbursable basis consistent with OMB Circular A-25 or appropriate legislation.
- o U.S. Government agencies may make available to the private sector those assets which have been determined to be excess to the requirements of the U.S. Government in accordance with U.S. law and applicable international treaty obligations. Due regard shall be given to the economic impact such transfer may have on the commercial space sector, promoting competition, and the long term public interest.

- o The U.S. Government shall avoid regulating domestic space activities in a manner that precludes or deters commercial space sector activities, except to the extent necessary to meet international and domestic legal obligations, including those of the Missile Technology Control Regime. Accordingly, agencies shall identify, and propose for revision or elimination, applicable portions of U.S. laws and regulations that unnecessarily impede commercial space sector activities.
- o U.S. Government agencies shall work with the commercial space sector to promote the establishment of technical standards for commercial space products and services.
- o U.S. Government agencies shall enter into appropriate cooperative agreements to encourage and advance private sector basic research, development, and operations. Agencies may reduce initial private sector risk by agreeing to future use of privately supplied space products and services where appropriate.
 - "Anchor tenancy" is an example of such an arrangement whereby U.S. Government agencies can provide initial support to a venture by contracting for enough of the future product or service to make the venture viable in the short term. Long-term viability and growth must come primarily from the sale of the product or service to customers outside the U.S. Government.
 - There must be demonstrable U.S. Government mission or program requirements for the proposed commercial space good or service. In assessing the U.S. Government's mission or program requirements for these purposes, the procuring agency may consider consolidating all anticipated U.S. Government needs for the particular product or service, to the maximum extent feasible.
 - U.S. Government agencies entering into such arrangements may take action, consistent with current policies and funding availability, to provide compensation to commercial space providers for future termination of missions for which the products or services were required.

- o The United States will work toward establishment of an international trading environment that encourages market-oriented competition by working with its trading partners to:
 - Establish clear principles for international space markets that provide an atmosphere favorable to stimulating greater private investment and market development;
 - Eliminate direct government subsidies and other unfair practices that undermine normal market competition among commercial firms;
 - Eliminate unfair competition by governments for business in space markets consistent with domestic policies that preclude or deter U.S. Government competition with commercial space sector activities.

The U.S. Commercial Space Policy Guidelines are consistent with the National Space Policy and the U.S. Commercial Space Launch Policy which remain fully applicable to activities of the governmental space sectors and the commercial space sector.

Reporting Requirements

U.S. Government agencies affected by these guidelines are directed to report by October 1, 1991, to the National Space Council on their activities related to the implementation of these policy guidelines.

+ [Signature]

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

February 12, 1991

STATEMENT BY THE PRESS SECRETARY

The President has approved U.S. Commercial Space Policy Guidelines aimed at expanding private sector investment in space by the market-driven Commercial Space Sector. These guidelines are the result of a nine month interagency review of the commercial space sector conducted by the Vice President and the National Space Council.

The U.S. Commercial Space Policy Guidelines recognize that a robust commercial space sector has the potential to generate new technologies, markets, jobs, and other important economic benefits to the nation. The guidelines contain new provisions and definitions of key concepts to provide for more effective implementation of the National Space Policy by U.S. agencies.

#