

§ 101-47.302-2 Holding agency.

(a) The holding agency is hereby designated as disposal agency for:

(1) Leases, permits, licenses, easements, and similar real estate interests held by the Government in non-Government-owned property (including Government-owned improvements located on the premises), except when it is determined by either the holding agency or GSA that the Government's interest will be best served by the disposal of such real estate interests together with other property owned or controlled by the Government, that has been or is being reported to GSA as excess; and

(2) Fixtures, structures, and improvements of any kind to be disposed of without the underlying land with the exception of Government-owned machinery and equipment, which are fixtures being used by a contractor-operator, where such machinery and equipment will be sold to the contractor-operator.

(3) Standing timber and embedded gravel, sand, stone and underground water to be disposed of without the underlying land.

(b) GSA may act as the disposal agency for the type of property described in paragraphs (a) (1) and (2) of this section, whenever requested by the holding agency to perform the disposal functions. Where GSA acts as the disposal agency for the disposal of leases and similar real estate interests as described in paragraph (a)(1) of this section, the holding agency nevertheless shall continue to be responsible for the payment of the rental until the lease is terminated and for the payment of any restoration or other direct costs incurred by the Government as an incident to the termination. Likewise, where GSA acts as disposal agency for the disposal of fixtures, structures, and improvements as described in paragraph (a)(2) of this section, the holding agency nevertheless shall continue to be responsible for payment of any demolition and removal costs not offset by the sale of the property.

[29 FR 16126, Dec. 3, 1964, as amended at 31 FR 2658, Feb. 11, 1966; 31 FR 16780, Dec. 31, 1966; 33 FR 8737, June 14, 1968; 48 FR 12526, Mar. 25, 1983; 50 FR 28403, July 12, 1985]

§ 101-47.302-3 General Services Administration.

GSA is the disposal agency for all real property and related personal property not covered by the above designations or by disposal authority delegated by the Administrator of General Services in specific instances.

§ 101-47.303 Responsibility of disposal agency.**§ 101-47.303-1 Classification.**

Each surplus property, or, if the property is subdivided, each unit of property shall be classified by the disposal agency to determine the methods and conditions applicable to the disposal of the property. Classification shall be according to the estimated highest and best use for the property. The property may be reclassified from time to time by the disposal agency or by GSA whenever such action is deemed appropriate.

§ 101-47.303-2 Disposals to public agencies.

The disposal agency shall comply with the provisions of Executive Order 12372 and 41 CFR subpart 101-6.21, which enables a State to establish the single point of contact process or other appropriate procedures to review and comment on the compatibility of a proposed disposal with State, regional and local development plans and programs. When a single point of contact transmits a State review process recommendation, the Federal agency receiving the recommendation must either accept the recommendation; reach a mutually agreeable solution with the party(s) preparing the recommendation; or provide the single point of contact with a written explanation for not accepting the recommendation or reaching a mutually agreeable solution. If there is nonaccommodation, the agency is generally required to wait 10 calendar days after receipt, by the single point of contact, of an explanation before taking final action. The single point of contact is presumed to have received written notification 5 calendar days after the date of mailing of such notification. The 10-day waiting period may be waived if the agency

determines that because of unusual circumstances this delay is not feasible.

(a) Whenever property is determined to be surplus, the disposal agency shall, on the basis of the information given in §101-47.4905, list the public agencies eligible under the provisions of the statutes referred to above to procure the property or portions thereof, except that such listing need not be made with respect to:

(1) Any such property when the determination of the property as surplus is conditioned upon disposal limitations which would be inconsistent with disposal under the statutes authorizing disposal to eligible public agencies; or

(2) Any such property having an estimated fair market value of less than \$1,000 except where the disposal agency has any reason to believe that an eligible public agency may be interested in the property.

(b) Before public advertising, negotiation, or other disposal action, the disposal agency shall give notice to eligible public agencies that the property has been determined surplus. Surplus real property may be procured by public agencies under the statutes cited in §101-47.4905. A notice to public agencies of surplus determination shall be prepared following the sample shown in §101-47.4906. This notice shall be transmitted by a letter prepared following the sample shown in §101-47.4906-1. A copy of this notice shall also be sent simultaneously to the State single point of contact, under a covering letter prepared following the sample shown in §101-47.4906-2. The point of contact shall be advised that no final disposal action will be taken for 60 calendar days from the date of notification to allow time for the point of contact to provide any desired comments. The disposal agency will wait the full 60 calendar days, even if the comments are received early, to allow time for the point of contact to send additional or revised comments.

(1) Notice for property located in a State shall be given to the Governor of the State, to the county clerk or other appropriate officials of the county in which the property is located, to the mayor or other appropriate officials of the city or town in which the property is located, to the head of any other

local governmental body known to be interested in and eligible to acquire the property, and to the point of contact established by the State or under other appropriate procedures established by the State.

(2) Notice for property located in the District of Columbia shall be given to the Mayor of the District of Columbia and to the point of contact established by the District of Columbia or under other appropriate procedures established by the District of Columbia.

(3) Notice for property located in the Virgin Islands shall be given to the Governor of the Virgin Islands and to the point of contact established by the Virgin Islands or under other appropriate procedures established by the Virgin Islands.

(4) Notice for property located in the Commonwealth of Puerto Rico shall be given to the Governor of the Commonwealth of Puerto Rico and to the point of contact established by the Commonwealth of Puerto Rico or under other appropriate procedures established by the Commonwealth of Puerto Rico.

(c) The notice prepared pursuant to §101-47.303-2(b) shall also be posted in the post office which serves the area in which the property is located and in other prominent places such as the State capitol building, county building, courthouse, town hall, or city hall. The notice to be posted in the post office shall be mailed to the postmaster with a request that it be posted. Arrangements for the posting of the notice in other prominent places shall be as provided for in the transmittal letters (see §101-47.4906-1) to eligible public agencies.

(d) A copy of the notice described in paragraph (b) of this section shall be furnished to the appropriate regional or field offices of (1) the National Park Service (NPS) and the Fish and Wildlife Service of the Department of the Interior and (2) the Federal Aviation Administration, the Federal Highway Administration, and the Maritime Administration of the Department of Transportation concerned with the disposal of property to public agencies under the statutes named in the notice.

(e) In the case of property which may be made available for assignment to the Secretary of Health and Human

Services (HHS), the Secretary of Education (ED), the Secretary of the Interior (DOI), or the Secretary of Housing and Urban Development (HUD) for disposal under sections 203(k)(1), (2), or (6) of the Act:

(1) The disposal agency shall inform the appropriate offices of HHS, ED, NPS, or HUD 3 workdays in advance of the date the notice will be given to public agencies, to permit similar notice to be given simultaneously by HHS, ED, NPS, or HUD to additional interested public bodies and/or non-profit institutions.

(2) The disposal agency shall furnish the Federal agencies with a copy of the postdated transmittal letter addressed to each public agency, copies (not to exceed 25) of the postdated notice, and a copy of the holding agency's Report of Excess Real Property (Standard Form 118, with accompanying schedules).

(3) As of the date of the transmittal letter and notice to public agencies, the affected Federal agencies may proceed with their screening functions for any potential applicants and thereafter may make their determinations of need and receive applications.

(f) If the disposal agency is not informed within the 20- or 30-calendar day period provided in the notice of the desire of a public agency to acquire the property under the provisions of the statutes listed in §101-47.4905, or is not notified by ED or HHS of a potential educational or public health use, or is not notified by the DOI of a potential park or recreation, historic monument, or wildlife conservation use, or is not notified by the HUD of a potential self-help housing or housing assistance requirement, or is not notified by the Department of Justice of a potential correctional facilities or law enforcement use, or is not notified by the Federal Emergency Management Agency of a potential emergency management response use; or is not notified by the Department of Transportation of a potential port facility or public airport use, it shall be assumed that no public agency or otherwise eligible organization desires to procure the property. (The requirements of this §101-47.303-2(f) shall not apply to the procedures for making Federal surplus real prop-

erty available to assist the homeless in accordance with section 501 of the Stewart B. McKinney Homeless Assistance Act, as amended (42 U.S.C. 11411).)

(g) The disposal agency shall promptly review each response of a public agency to the notice given pursuant to paragraph (b) of this section. The disposal agency shall determine what constitutes a reasonable period of time to allow the public agency to develop and submit a formal application for the property or its comments as to the compatibility of the disposal with its development plans and programs. When making such determination, the disposal agency shall give consideration to the potential suitability of the property for the use proposed, the length of time the public agency has stated it will require for its action, the protection and maintenance costs to the Government during such length of time, and any other relevant facts and circumstances. The disposal agency shall coordinate such review and determination with the proper office of any interested Federal agencies listed below:

(1) National Park Service, Department of the Interior;

(2) Department of Health and Human Services;

(3) Department of Education;

(4) Department of Housing and Urban Development;

(5) Federal Aviation Administration, Department of Transportation;

(6) Fish and Wildlife Service, Department of the Interior;

(7) Federal Highway Administration, Department of Transportation;

(8) Office of Justice Programs, Department of Justice;

(9) Federal Emergency Management Agency; and

(10) Maritime Administration, Department of Transportation.

(h) When the disposal agency has made a determination as to what constitutes a reasonable period of time to develop and submit a formal application, the public agency shall be so notified. The public agency shall be advised of the information required in connection with an application to procure the property.

(i) Upon receipt of the formal application for the property, the disposal agency shall consider and act upon it

in accordance with the provisions of the statute and applicable regulations. If comments are received indicating that the disposal is incompatible with State, regional, or local development plans and programs, the disposal agency shall attempt to resolve the differences consistent with its statutory responsibilities in the disposal of surplus property.

[29 FR 16126, Dec. 3, 1964, as amended at 34 FR 11209, July 3, 1969; 35 FR 8486, June 2, 1970; 36 FR 9776, May 28, 1971; 40 FR 22256, May 22, 1975; 52 FR 9829, Mar. 27, 1987; 60 FR 35707, July 11, 1995; 64 FR 5616, Feb. 4, 1999]

§ 101-47.303-2a Notice for zoning purposes.

(a) Where the surplus land is located in an urban area as defined in section 806 of the Act, that copy of the notice to public agencies required under § 101-47.303-2(b) which is sent to the head of the local governmental unit having jurisdiction over zoning and land use regulation in the area shall be accompanied by a copy of section 803 of the Act (see § 101-47.4906a) and the transmittal letter in such instances shall include an additional paragraph requesting information concerning zoning as set forth in § 101-47.4906b.

(b) Information which is furnished by the unit of general local government pursuant to the action taken in paragraph (a) of this section shall be included in Invitations for Bid in advertised sales. In negotiated sales, this information shall be presented to prospective purchasers during the course of the negotiations and shall be included in the sales agreements. In either instance, this information shall be followed by a written statement, substantially as follows:

The above information was obtained from _____ and is furnished pursuant to section 803 of the Federal Property and Administrative Services Act of 1949, as amended. The Government does not guarantee that the information is necessarily accurate or will remain unchanged. Any inaccuracies or changes in the above information shall not be cause for adjustment or rescission of any contract resulting from this Invitation for Bid or Sales Agreement.

(c) If no response to a request for such zoning information is received, the property may be offered for sale

without furnishing such information to prospective purchasers. If the unit of general local government notifies the disposal agency of its desire to zone the property, it shall be afforded a 30-calendar-day period (in addition to the 20-calendar days afforded in the notice of surplus determination) to issue such zoning regulations. If the zoning cannot be accomplished within this time frame, the sale may proceed but the prospective purchasers shall be advised of the pending zoning of the property.

[34 FR 11209, July 3, 1969]

§ 101-47.303-3 Studies.

The disposal agency shall compile from the title documents and related papers appropriate information, for use in disposal actions, regarding all real property and related personal property available for disposal.

§ 101-47.303-4 Appraisal.

(a) Except as otherwise provided in this subpart 101-47.3, the disposal agency shall in all cases obtain, as appropriate, an appraisal of either the fair market value or the fair annual rental value of property available for disposal.

(b) *No appraisal need be obtained.* (1) When the property is to be disposed of without monetary consideration, or at a fixed price, or

(2) When the estimated fair market value of property to be offered on a competitive sale basis does not exceed \$50,000;

Provided, however, That the exception in paragraph (b)(1) of this section shall not apply to disposals that take any public benefit purpose into consideration in fixing the sale value of the property.

(c) The disposal agency shall have the property appraised by experienced and qualified persons familiar with the types of property to be appraised by them. If the property is included in or eligible for inclusion on the National Register of Historic Places, the appraisal should consider the effect of historic covenants on fair market value.