

§ 101-47.304-5

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invitation shall provide that the purchaser or lessee shall procure and maintain at his expense during the term credit is extended, or the period of the lease, such insurance in such amounts as may be required by the Government; required insurance shall be in companies acceptable to the Government and shall include such terms and provisions as may be required to provide coverage satisfactory to the Government.

[29 FR 16126, Dec. 3, 1964, as amended at 33 FR 12003, Aug. 23, 1968; 42 FR 47205, Sept. 20, 1977]

§ 101-47.304-5 Inspection.

All persons interested in the acquisition of surplus property available for disposal under this subpart 101-47.3 shall, with the cooperation of the holding agency, where necessary, and with due regard to its program activities, be permitted to make a complete inspection of such property, including any available inventory records, plans, specifications, and engineering reports made in connection therewith, subject to any necessary restrictions in the interest of national security and subject to such rules as may be prescribed by the disposal agency.

(See §§ 101-47.304-13 and 101-47.403.)

[53 FR 29894, Aug. 9, 1988]

§ 101-47.304-6 Submission of offers.

All offers to purchase or lease shall be in writing, accompanied by any required earnest money deposit, using the form prescribed by the disposal agency and, in addition to the financial terms upon which the offer is predicated, shall set forth the willingness of the offeror to abide by the terms, conditions, reservations, and restrictions upon which the property is offered, and shall contain such other information as the disposal agency may request.

§ 101-47.304-7 Advertised disposals.

(a) All disposals or contracts for disposal of surplus property, except as provided in §§ 101-47.304-9 and 101-47.304-10, shall be made after publicly advertising for bids.

(1) The advertising for bids shall be made at such time previous to the disposal or contract, through such meth-

ods and on such terms and conditions as shall permit that full and free competition which is consistent with the value and nature of the property involved. The advertisement shall designate the place to which the bids are to be delivered or mailed, and shall state the place, date, and time of public opening.

(2) All bids shall be publicly disclosed at the time and place stated in the advertisement.

(3) Award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Government, price and other factors considered: *Provided*, That all bids may be rejected when it is in the public interest to do so.

(b) Disposal and contracts for disposal of surplus property may be made through contract auctioneers when authorized by GSA. The auctioneer retained under contract shall be required to publicly advertise for bids in accordance with the applicable provisions of this § 101-47.304-7.

§ 101-47.304-8 [Reserved]

§ 101-47.304-9 Negotiated disposals.

(a) Disposal agencies shall obtain such competition as is feasible under the circumstances in all negotiations of disposals and contracts for disposal of surplus property. They may dispose of surplus property by negotiation only in the following situations:

(1) When the estimated fair market value of the property involved does not exceed \$15,000;

(2) When bid prices after advertising therefor are not reasonable (either as to all or some part of the property) or have not been independently arrived at in open competition;

(3) When the character or conditions of the property or unusual circumstances make it impractical to advertise publicly for competitive bids and the fair market value of the property and other satisfactory terms of disposal can be obtained by negotiation;

(4) When the disposals will be to States, Commonwealth of Puerto Rico, possessions, political subdivisions thereof, or tax-supported agencies

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therein, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation; or

(5) When negotiation is otherwise authorized by the Act or other law, such as:

(i) Disposals of power transmission lines for public or cooperative power projects (see § 101-47.308-1).

(ii) Disposals for public airport utilization (see § 101-47.308-2).

(b) Appraisal data required pursuant to the provisions of § 101-47.303-4, when needed for the purpose of conducting negotiations under § 101-47.304-9(a) (3), (4), or (5)(i) shall be obtained under contractual arrangements with experienced and qualified real estate appraisers familiar with the types of property to be appraised by them: *Provided, however*, That in any case where the cost of obtaining such data from a contract appraiser would be out of proportion to the expected recoverable value of the property, or if for any other reason employing a contract appraiser would not be in the best interest of the Government, the head of the disposal agency or his designee should authorize any other method of obtaining an estimate of the fair market value of the property or the fair annual rental he may deem to be proper.

(c) Negotiated sales to public bodies under 40 U.S.C. 484(e)(3)(H) will be considered only when the disposal agency has made a determination that a public benefit will result from the negotiated sale which would not be realized from a competitive sale disposal. The offer to purchase and the conveyance document concerning such negotiated sales shall contain an excess profits covenant. A standard Excess Profits Covenant for Negotiated Sales to Public Bodies is illustrated in § 101-47.4908. The standard covenant is provided as a guide, and appropriate modifications may be made provided that its basic purpose is retained. The disposal agency shall monitor the property involved and inspect records related thereto as necessary to ensure compliance with the terms and conditions of the sale and may take any actions which it deems reasonable and prudent to recover any excess profits realized through the resale of the property.

(d) The annual report of the Administrator under section 212 of the Act shall contain or be accompanied by a listing and description of any negotiated disposals of surplus real property having an estimated fair market value of over \$15,000, other than disposals for which an explanatory statement has been transmitted under § 101-47.304-12.

[29 FR 16126, Dec. 3, 1964, as amended at 40 FR 22256, May 22, 1975; 51 FR 23760, July 1, 1986; 54 FR 12198, Mar. 24, 1989]

§ 101-47.304-10 Disposals by brokers.

Disposals and contracts for disposal of surplus property through contract realty brokers, where authorized by GSA, shall be made in the manner followed in similar commercial transactions. Realty brokers retained under contracts shall be required to give wide public notice of availability of the property for disposal.

§ 101-47.304-11 Documenting determinations to negotiate.

The disposal agency shall document the factors leading to and the determination justifying disposal by negotiation of any surplus property under §§ 101-47.304-9 and 101-47.304-10, and shall retain such documentation in the files of the agency.

§ 101-47.304-12 Explanatory statements.

(a) Subject to the exception stated in § 101-47.304-12(b), the disposal agency shall prepare an explanatory statement, as required by section 203(e)(6) of the Act, of the circumstances of each of the following proposed disposals by negotiation:

(1) Any real property that has an estimated fair market value in excess of \$100,000, except that any real property disposed of by lease or exchange shall only be subject to paragraphs (a) (2) through (4) of this section;

(2) Any real property disposed of by lease for a term of 5 years or less; if the estimated fair annual rent is in excess of \$100,000 for any of such years;

(3) Any real property disposed of by lease for a term of more than 5 years, if the total estimated rent over the term of the lease is in excess of \$100,000; or