

will extend for thirty (30) years for land with or without improvements; and for facilities being acquired separately from land whether they are for use on-site or off-site, the period of limitations on the use of the structures will be equal to their estimated economic life. The restrictions set forth in paragraphs (c) (1) through (7) of this section will extend for the entire initial lease period and for any renewal periods for property leased from the Department.

(d) Transferees, by obtaining the consent of the Department, may abrogate the restrictions set forth in paragraph (c) of this section for all or any portion of the property upon payment in cash to the Department of an amount equal to the then current fair market value of the property to be released, multiplied by the public benefit allowance granted at the time of conveyance, divided by the total number of months of the period of restriction set forth in the conveyance document and multiplied by the number of months that remain in the period of restriction as determined by the Department. For purposes of abrogation payment computation, the current fair market value shall not include the value of any improvements placed on the property by the transferee.

(e) Related personal property will be transferred or leased as a part of the realty and in accordance with real property procedures. It will be subject to the same public benefit allowance granted for the real property. Where related personal property is involved in an on-site transfer, the related personal property may be transferred by a bill of sale imposing restrictions for a period not to exceed five years from the date of transfer, other terms and conditions to be the same as, and made a part of, the real property transaction.

**§ 12.10 Compliance with the National Environmental Policy Act of 1969 and other related Acts (environmental impact).**

(a) The Department will, prior to making a final decision to convey or lease, or to amend, reform, or grant an approval or release with respect to a previous conveyance or lease of, sur-

plus real property for public health purposes, complete an environmental assessment of the proposed transaction in keeping with applicable provisions of the National Environmental Policy Act of 1969, the National Historic Preservation Act of 1966, the National Archeological Data Preservation Act, and other related acts. No permit to use surplus real property shall allow the permittee to make, or cause to be made, any irreversible change in the condition of said property, and no use permit shall be employed for the purpose of delaying or avoiding compliance with the requirements of these Acts.

(b) Applicants shall be required to provide such information as the Department deems necessary to make an assessment of the impact of the proposed Federal action on the human environment. Materials contained in the applicant's official request, responses to a standard questionnaire prescribed by the Public Health Service, as well as other relevant information, will be used by the Department in making said assessment.

(c) If the assessment reveals (1) That the proposed Federal action involves properties of historical significance which are listed, or eligible for listing, in the National Register of Historic Places, or (2) that a more than insignificant impact on the human environment is reasonably foreseeable as a result of the proposed action, or (3) that the proposed Federal action could result in irreparable loss or destruction of archeologically significant items or data, the Department will, except as provided for in paragraph (d) of this section, prepare and distribute, or cause to be prepared or distributed, such notices and statements and obtain such approvals as are required by the above cited Acts.

(d) If a proposed action involves other Federal agencies in a sequence of actions, or a group of actions, directly related to each other because of their functional interdependence, the Department may enter into and support a lead agency agreement to designate a single lead agency which will assume primary responsibility for coordinating

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the assessment of environmental effects of proposed Federal actions, preparing and distributing such notices and statements, or obtaining such approvals, as are required by the above cited Acts. The procedures of the designated lead agency will be utilized in conducting the environmental assessment. In the event of disagreement between the Department and another Federal agency, the Department will reserve the right to abrogate its lead agency agreement with the other Federal Agency.

[45 FR 72173, Oct. 31, 1980, as amended at 55 FR 32252, Aug. 8, 1990]

### § 12.11 Special terms and conditions.

(a) Applicants will be required to pay all external administrative costs which will include, but not be limited to, taxes, surveys, appraisals, inventory costs, legal fees, title search, certificate or abstract expenses, decontamination costs, moving costs, closing fees in connection with the transaction and service charges, if any, made by State Agencies for Federal Property Assistance under the terms of a cooperative agreement with the Department.

(b) In the case of off-site property, applicants will be required to post performance bonds, make performance guarantee deposits, or give such other assurances as may be required by the Department or the holding agency to insure adequate site clearance and to pay service charges, if any, made by State Agencies for Federal Property Assistance under the terms of a cooperative agreement with the Department.

(c) Whenever negotiations are undertaken for disposal to private nonprofit public health organizations of any surplus real property which cost the Government \$1 million or more, the Department will give notice to the Attorney General of the United States of the proposed disposal and the terms and conditions thereof. The applicant shall furnish to the Department such information and documents as the Attorney General may determine to be appropriate or necessary to enable him to give the advice as provided for by section 207 of the Act.

(d) Where an applicant proposes to acquire or lease and use in place improvements located on land which the

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Government does not own, he shall be required, before the transfer is consummated, to obtain a right to use the land commensurate with the duration of the restrictions applicable to the improvements, or the term of the lease. The applicant will be required to assume, or obtain release of, the Government's obligations respecting the land including but not limited to obligations relating to restoration, waste, and rent. At the option of the Department, the applicant may be required to post a bond to indemnify the Government against such obligations.

(e) The Department may require the inclusion in the transfer or lease document of any other provision deemed desirable or necessary.

(f) Where an eligible applicant for an on-site transfer proposes to construct new, or rehabilitate old, facilities, the financing of which must be accomplished through issuance of revenue bonds having terms inconsistent with the terms and conditions of transfer prescribed in §12.9 (c), (d), and (e) of this chapter, the Department may, in its discretion, impose such alternate terms and conditions of transfer in lieu thereof as may be appropriate to assure utilization of the property for public health purposes.

### § 12.12 Utilization.

(a) Where property or any portion thereof is not being used for the purposes for which transferred, the transferee will be required at the direction of the Department:

(1) To place the property into immediate use for an approved purpose;

(2) To retransfer such property to such other public health user as the Department may direct;

(3) To sell such property for the benefit and account of the United States;

(4) To return title to such property to the United States or to relinquish any leasehold interest therein;

(5) To abrogate the conditions and restrictions of the transfer, as set forth in §12.9(d) of this chapter, except that, where property has never been placed in use for the purposes for which transferred, abrogation will not be permitted except under extenuating circumstances; or