

not impair the ability to dispose of the property.

Subpart C—Surplus Real Property Disposal

§ 102-75.250 What general policy must the disposal agency follow concerning the disposal of surplus property?

The disposal agency must dispose of surplus real property—

(a) In the most economical manner consistent with the best interests of the Government; and

(b) Ordinarily for cash, consistent with the best interests of the Government.

§ 102-75.255 What are disposal agencies' specific responsibilities concerning the disposal of surplus property?

The disposal agency must determine that there is no further Federal need or requirement for the excess real property and the property is surplus to the needs of the Federal Government. After reaching this determination, the disposal agency must expeditiously make the surplus property available for acquisition by State and local governmental units and non-profit institutions (see § 102-75.350) or for sale by public advertising, negotiation, or other disposal action. The disposal agency must consider the availability of real property for public purposes on a case-by-case basis, based on highest and best use and estimated fair market value. Where hazardous substance activity is identified, see §§ 102-75.340 and 102-75.345 for required information that the disposal agency must incorporate into the offer to purchase and conveyance document.

§ 102-75.260 When may the disposal agency dispose of surplus real property by exchange for privately owned property?

The disposal agency may dispose of surplus real property by exchange for privately owned property for property management considerations such as boundary realignment or for providing access. The disposal agency may also dispose of surplus real property by exchange for privately owned property where authorized by law, when the re-

questing Federal agency receives approval from the Office of Management and Budget and the appropriate oversight committees, and where the transaction offers substantial economic or unique program advantages not otherwise obtainable by any other acquisition method.

§ 102-75.265 Are conveyance documents required to identify all agreements and representations concerning property restrictions and conditions?

Yes, conveyance documents must identify all agreements and representations concerning restrictions and conditions affecting the property's future use, maintenance, or transfer.

APPLICABILITY OF ANTITRUST LAWS

§ 102-75.270 Must antitrust laws be considered when disposing of property?

Yes, antitrust laws must be considered in any case in which there is contemplated a disposal to any private interest of—

(a) Real and related personal property that has an estimated fair market value of \$3 million or more; or

(b) Patents, processes, techniques, or inventions, irrespective of cost.

§ 102-75.275 Who determines whether the proposed disposal would create or maintain a situation inconsistent with antitrust laws?

The Attorney General determines whether the proposed disposal would create or maintain a situation inconsistent with antitrust laws.

§ 102-75.280 What information concerning a proposed disposal must a disposal agency provide to the Attorney General to determine the applicability of antitrust laws?

The disposal agency must promptly provide the Attorney General with notice of any such proposed disposal and the probable terms or conditions, as required by 40 U.S.C. 559. If notice is given by any disposal agency other than GSA, a copy of the notice must also be provided simultaneously to the GSA Regional Office in which the property is located. Upon request, a disposal agency must furnish information

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that the Attorney General believes to be necessary in determining whether the proposed disposition or any other disposition of surplus real property violates or would violate any of the anti-trust laws.

§ 102-75.285 Can a disposal agency dispose of real property to a private interest specified in § 102-75.270 before advice is received from the Attorney General?

No, advice from the Attorney General must be received before disposing of real property.

DISPOSALS UNDER OTHER LAWS

§ 102-75.290 Can disposals of real property be made under authority of laws other than Chapter 5 of Subtitle I of Title 40 of the United States Code?

Except for disposals specifically authorized by special legislation, disposals of real property must be made only under the authority of Chapter 5 of Subtitle I of Title 40 of the United States Code. However, the Administrator of General Services can evaluate, on a case-by-case basis, the disposal provisions of any other law to determine consistency with the authority conferred by Title 40. The provisions of this section do not apply to disposals of real property authorized to be made by 40 U.S.C. 113 or by any special statute that directs or requires an Executive agency named in the law to transfer or convey specifically described real property in accordance with the provisions of that statute.

CREDIT DISPOSALS

§ 102-75.295 What is the policy on extending credit in connection with the disposal of surplus property?

The disposal agency—

(a) May extend credit in connection with any disposal of surplus property when it determines that credit terms are necessary to avoid reducing the salability of the property and potential obtainable price and, when below market rates are extended, confer with the Office of Management and Budget to determine if the Federal Credit Reform Act of 1990 is applicable to the transaction;

(b) Must administer and manage the credit disposal and any related security;

(c) May enforce, adjust, or settle any right of the Government with respect to extending credit in a manner and with terms that are in the best interests of the Government; and

(d) Must include provisions in the conveyance documents that obligate the purchaser, where a sale is made upon credit, to obtain the disposal agency's prior written approval before reselling or leasing the property. The purchaser's credit obligations to the United States must be fulfilled before the disposal agency may approve the resale of the property.

DESIGNATION OF DISPOSAL AGENCIES

§ 102-75.296 When may a landholding agency other than GSA be the disposal agency for real and related personal property?

A landholding agency may be the disposal agency for real and related personal property when—

(a) The agency has statutory authority to dispose of real and related personal property;

(b) The agency has delegated authority from GSA to dispose of real and related personal property; or

(c) The agency is disposing of—

(1) Leases, licenses, permits, easements, and other similar real estate interests held by agencies in non-Government-owned real property;

(2) Government-owned improvements, including fixtures, structures, and other improvements of any kind as long as the underlying land is not being disposed; or

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

§ 102-75.297 Are there any exceptions to when landholding agencies can serve as the disposal agency?

Yes, landholding agencies may not serve as the disposal agency when—

(a) Either the landholding agency or GSA determines that the Government's best interests are served by disposing of leases, licenses, permits, easements and similar real estate interests together with other property owned or