

§ 102-75.385

PROPERTY FOR PUBLIC AIRPORTS

**§ 102-75.385 Do disposal agencies have the responsibility to notify eligible public agencies that airport property has been determined to be surplus?**

Yes, the disposal agency must notify eligible public agencies that property currently used as or suitable for use as a public airport under the Surplus Property Act of 1944, as amended, has been determined to be surplus. A copy of the landholding agency's Report of Excess Real Property (Standard Form 118, with accompanying schedules) must be transmitted with the copy of the surplus property notice sent to the appropriate regional office of the Federal Aviation Administration (FAA). The FAA must furnish an application form and instructions for the preparation of an application to eligible public agencies upon request.

**§ 102-75.390 What does the term "surplus airport property" mean?**

For the purposes of this part, surplus airport property is any surplus real property including improvements and personal property included as a part of the operating unit that the Administrator of FAA deems is—

(a) Essential, suitable, or desirable for the development, improvement, operation, or maintenance of a public airport, as defined in the Federal Airport Act, as amended (49 U.S.C. 1101); or

(b) Reasonably necessary to fulfill the immediate and foreseeable future requirements of the grantee for the development, improvement, operation, or maintenance of a public airport, including property needed to develop sources of revenue from non-aviation businesses at a public airport. Approval for non-aviation revenue-producing areas may only be given for such areas as are anticipated to generate net proceeds that do not exceed expected deficits for operation of the aviation area applied for at the airport.

**§ 102-75.395 May surplus airport property be conveyed or disposed of to a State, political subdivision, municipality, or tax-supported institution for a public airport?**

Yes, section 13(g) of the Surplus Property Act of 1944 (49 U.S.C. § 47151)

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authorizes the disposal agency to convey or dispose of surplus airport property to a State, political subdivision, municipality, or tax-supported institution for use as a public airport.

**§ 102-75.400 Is industrial property located on an airport also considered to be "airport property"?**

No, if the Administrator of General Services determines that a property's highest and best use is industrial, then the property must be classified as such for disposal without regard to the public benefit conveyance provisions of this subpart.

**§ 102-75.405 What responsibilities does the Federal Aviation Administration (FAA) have after receiving a copy of the notice (and a copy of the Report of Excess Real Property (Standard Form 118)) given to eligible public agencies that there is surplus airport property?**

As soon as possible after receiving the copy of the surplus notice, the FAA must inform the disposal agency of its determination. Then, the FAA must provide assistance to any eligible public agency known to have a need for the property for a public airport, so that the public agency may develop a comprehensive and coordinated plan of use and procurement for the property.

**§ 102-75.410 What action must the disposal agency take after an eligible public agency has submitted a plan of use and application to acquire property for a public airport?**

After an eligible public agency submits a plan of use and application, the disposal agency must transmit two copies of the plan and two copies of the application to the appropriate FAA regional office. The FAA must promptly submit a recommendation to the disposal agency for disposal of the property for a public airport or must inform the disposal agency that no such recommendation will be submitted.

**§ 102-75.415 What happens after the disposal agency receives the FAA's recommendation for disposal of the property for a public airport?**

The head of the disposal agency, or his or her designee, may convey property approved by the FAA for use as a public airport to the eligible public

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agency, subject to the provisions of the Surplus Property Act of 1944, as amended.

### **§ 102-75.420 What happens if the FAA informs the disposal agency that it does not recommend disposal of the property for a public airport?**

Any airport property that the FAA does not recommend for disposal as a public airport must be disposed of in accordance with other applicable provisions of this part. However, the disposal agency must first notify the landholding agency of its inability to dispose of the property for use as a public airport. In addition, the disposal agency must allow the landholding agency 30 days to withdraw the property from surplus or to waive any future interest in the property for public airport use.

### **§ 102-75.425 Who has sole responsibility for enforcing compliance with the terms and conditions of disposal for property disposed of for use as a public airport?**

The Administrator of the FAA has the sole responsibility for enforcing compliance with the terms and conditions of disposals to be used as a public airport. The FAA is also responsible for reforming, correcting, or amending any disposal instruments; granting releases; and any action necessary for recapturing the property, using the provisions of 49 U.S.C. 47101 et seq.

### **§ 102-75.430 What happens if property conveyed for use as a public airport is revested in the United States?**

If property that was conveyed for use as a public airport is revested in the United States for noncompliance with the terms of the disposal, or other cause, the Administrator of the FAA must be accountable for the property and must report the property to GSA as excess property following the provisions of this part.

### **§ 102-75.435 Does the Airport and Airway Development Act of 1970, as amended (Airport Act of 1970), apply to the transfer of airports to State and local agencies?**

No, the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 47101-47131) (Airport Act of 1970), does

not apply to the transfer of airports to State and local agencies. The transfer of airports to State and local agencies may be made only under section 13(g) of the Surplus Property Act of 1944 (49 U.S.C. 47151-47153). Only property that the landholding agency determines cannot be reported excess to GSA for disposal under Title 40, but nevertheless may be made available for use by a State or local public body as a public airport without being inconsistent with the Federal program of the landholding agency, may be conveyed under the Airport Act of 1970. In the latter instance, the Airport Act of 1970 may be used to transfer non-excess land for airport development purposes provided it does not constitute an entire airport. An entire, existing and established airport can only be disposed of to a State or eligible local government under section 13(g) of the Surplus Property Act of 1944.

#### PROPERTY FOR USE AS HISTORIC MONUMENTS

### **§ 102-75.440 Who must disposal agencies notify that surplus property is available for historic monument use?**

Disposal agencies must notify State and area wide clearinghouses and eligible public agencies that property that may be conveyed for use as a historic monument has been determined to be surplus. A copy of the landholding agency's Report of Excess Real Property (Standard Form 118) with accompanying schedules must be transmitted with the copy of each notice that is sent to the appropriate regional or field offices of the National Park Service (NPS) of the Department of the Interior (DOI).

### **§ 102-75.445 Who can convey surplus real and related personal property for historic monument use?**

A disposal agency may convey surplus real and related personal property for use as a historic monument, without monetary consideration, to any State, political subdivision, instrumentality thereof, or municipality, for the benefit of the public, provided the Secretary of the Interior has determined that the property is suitable and desirable for such use.