

§ 102-75.900

will contain such of the following items of information as are applicable at the time of submission:

- (1) A statement indicating whether or not a resale has been made.
- (2) A description of each portion of the property that has been resold.
- (3) The sale price of each such resold portion.
- (4) The identity of each purchaser.
- (5) The proposed land use.
- (6) An enumeration of any allowable costs incurred and paid that would offset any realized profit.
- (e) The Grantor may monitor the property and inspect records related thereto to ensure compliance with the terms and conditions of this covenant and may take any actions that it deems reasonable and prudent to recover any excess profits realized through the resale of the property.

§ 102-75.900 What is a negotiated sale for economic development purposes?

A negotiated sale for economic development purposes means that the public body purchasing the property will develop or make substantial improvements to the property with the intention of reselling or leasing the property in parcels to users to advance the community's economic benefit. This type of negotiated sale is acceptable where the expected public benefits to the community are greater than the anticipated proceeds derived from a competitive public sale.

EXPLANATORY STATEMENTS FOR
NEGOTIATED SALES

§ 102-75.905 When must the disposal agency prepare an explanatory statement?

The disposal agency must prepare an explanatory statement of the circumstances of each of the following proposed disposals by negotiation:

- (a) 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 is subject only to paragraphs (b) through (d) of this section.
- (b) 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.
- (c) Any real property disposed of by lease for a term of more than 5 years, if the total estimated rent over the

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term of the lease is in excess of \$100,000.

- (d) Any real property or real and related personal property disposed of by exchange, regardless of value, or any property disposed in which any part of the consideration is real property.

§ 102-75.910 Are there any exceptions to this policy of preparing explanatory statements?

Yes, the disposal agency is not required to prepare an explanatory statement for property authorized to be disposed of without advertising by any provision of law other than 40 U.S.C. 545.

§ 102-75.915 Do disposal agencies need to retain a copy of the explanatory statement?

Yes, disposal agencies must retain a copy of the explanatory statement in their files.

§ 102-75.920 Where is the explanatory statement sent?

Disposal agencies must submit each explanatory statement to the Administrator of General Services for review and transmittal by letter from the Administrator of General Services to the Senate Committee on Governmental Affairs and the House Committee on Government Reform and any other appropriate committees of the Senate and House of Representatives. Disposal agencies must include in the submission to the Administrator of General Services any supporting data that may be relevant and necessary for evaluating the proposed action.

§ 102-75.925 Is GSA required to furnish the disposal agency with the explanatory statement's transmittal letter sent to Congress?

Yes, GSA must furnish copies of its transmittal letters to the committees of the Congress (see § 102-75.920) to the disposal agency.

§ 102-75.930 What happens if there is no objection by an appropriate committee or subcommittee of Congress concerning the proposed negotiated sale?

If there is no objection, the disposal agency may consummate the sale on or

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after 35 days from the date the Administrator of General Services transmitted the explanatory statement to the committees. If there is an objection, the disposal agency must resolve objections with the appropriate Congressional committee or subcommittee before consummating the sale.

PUBLIC SALES

§ 102-75.935 What are disposal agencies' responsibilities concerning public sales?

Disposal agencies must make available by competitive public sale any surplus property that is not disposed of by public benefit discount conveyance or by negotiated sale. Awards must be made to the responsible bidder whose bid will be most advantageous to the Government, price and other factors considered.

DISPOSING OF EASEMENTS

§ 102-75.936 When can an agency dispose of an easement?

When the use, occupancy or control of an easement is no longer needed, agencies may release the easement to the owner of the land subject to the easement (servient estate).

§ 102-75.937 Can an easement be released or disposed of at no cost?

Yes. However, agencies must consider the Government's cost of acquiring the easement and other factors when determining if the easement will be disposed of with or without monetary or other consideration. If the easement was acquired at substantial consideration, agencies must—

(a) Determine the easement's fair market value (estimate the fair market value of the fee land without the easement and with the easement then compute the difference or compute the damage the easement caused to the fee land); and

(b) Negotiate the highest obtainable price with the owner of the servient estate to release the easement.

§ 102-75.938 May the easement and the land that benefited from the easement (dominant estate) be disposed of separately?

Yes. If the easement is no longer needed in connection with the dominant estate, it may be disposed of separately to the owner of the servient estate. However, if the dominant estate is also surplus, the easement should be disposed of with the dominant estate.

GRANTING EASEMENTS

§ 102-75.939 When can agencies grant easements?

Agencies may grant easements in, on, or over Government-owned real property upon determining that the easement will not adversely impact the Government's interests.

§ 102-75.940 Can agencies grant easements at no cost?

Yes. Easements may be granted with or without monetary or other consideration, including any interest in real property.

§ 102-75.941 Does an agency retain responsibility for the easement?

Agencies may relinquish legislative jurisdiction as deemed necessary and desirable to the State where the real property containing the easement is located.

§ 102-75.942 What must agencies consider when granting easements?

Agencies must—

(a) Determine the easement's fair market value; and

(b) Determine the remaining property's reduced or enhanced value because of the easement.

§ 102-75.943 What happens if granting an easement will reduce the value of the property?

If the easement will reduce the property's value, agencies must grant the easement for the amount by which the property's fair market value is decreased unless the agency determines that the Government's best interests are served by granting the easement at either reduced or without monetary or other consideration.