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§ 102-78.70 What are an agency's historic preservation responsibilities when disposing of another Federal agency's real property?

Federal agencies must not accept property declared excess by another Federal agency nor act as an agent for transfer or sale of such properties until the holding agency provides evidence that the Federal agency has met its National Historic Preservation Act responsibilities.

PART 102-79—ASSIGNMENT AND UTILIZATION OF SPACE

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SOURCE: 70 FR 67849, Nov. 8, 2005, unless otherwise noted.

Subpart A—General Provisions

CHILD CARE

§ 102-79.5 What is the scope of this part?

The real property policies contained in this part apply to Federal agencies, including GSA's Public Buildings Service (PBS), operating under, or subject to, the authorities of the Administrator of General Services.

§ 102-79.10 What basic assignment and utilization of space policy governs an Executive agency?

Executive agencies must provide a quality workplace environment that supports program operations, preserves the value of real property assets, meets the needs of the occupant agencies, and provides child care and physical fitness facilities in the workplace when adequately justified. An Executive agency must promote maximum utilization of Federal workspace, consistent with mission requirements, to maximize its value to the Government.

Subpart B—Assignment and Utilization of Space

§ 102-79.15 What objectives must an Executive agency strive to meet in providing assignment and utilization of space services?

Executive agencies must provide assignment and utilization services that will maximize the value of Federal real property resources and improve the productivity of the workers housed therein.

ASSIGNMENT OF SPACE

§ 102-79.20 What standard must Executive agencies promote when assigning space?

Executive agencies must promote the optimum use of space for each assignment at an economical cost to the Government, provide quality workspace that is delivered and occupied in a timely manner, and assign space based on mission requirements.

§ 102-79.25 May Federal agencies allot space in Federal buildings for the provision of child care services?

Yes, in accordance with 40 U.S.C. 590, Federal agencies can allot space in Federal buildings to individuals or entities who will provide child care services to Federal employees if such—

(a) Space is available;

(b) Agency determines that such space will be used to provide child care services to children of whom at least 50 percent have one parent or guardian who is a Federal Government employee; and

(c) Agency determines that such individual or entity will give priority for available child care services in such space to Federal employees.

FITNESS CENTERS

§ 102-79.30 May Federal agencies allot space in Federal buildings for establishing fitness centers?

Yes, in accordance with 5 U.S.C. 7901, Federal agencies can allot space in Federal buildings for establishing fitness programs.

§ 102-79.35 What elements must Federal agencies address in their planning effort for establishing fitness programs?

Federal agencies must address the following elements in their planning effort for establishing fitness programs:

(a) A survey indicating employee interest in the program.

(b) A three-to five-year implementation plan demonstrating long-term commitment to physical fitness/health for employees.

(c) A health related orientation, including screening procedures, individualized exercise programs, identification of high-risk individuals, and appropriate follow-up activities.

(d) Identification of a person skilled in prescribing exercise to direct the fitness program.

(e) An approach that will consider key health behavior related to degenerative disease, including smoking and nutrition.

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(f) A modest facility that includes only the essentials necessary to conduct a program involving cardiovascular and muscular endurance, strength activities, and flexibility.

(g) Provision for equal opportunities for men and women, and all employees, regardless of grade level.

FEDERAL CREDIT UNIONS

§ 102-79.40 Can Federal agencies allot space in Federal buildings to Federal credit unions?

Yes, in accordance with 12 U.S.C. 1770, Federal agencies may allot space in Federal buildings to Federal credit unions without charge for rent or services if—

(a) At least 95 percent of the membership of the credit union to be served by the allotment of space is composed of persons who either are presently Federal employees or were Federal employees at the time of admission into the credit union, and members of their families; and

(b) Space is available.

§ 102-79.45 What type of services may Federal agencies provide without charge to Federal credit unions?

Federal agencies may provide without charge to Federal credit union services such as—

(a) Lighting;

(b) Heating and cooling;

(c) Electricity;

(d) Office furniture;

(e) Office machines and equipment;

(f) Telephone service (including installation of lines and equipment and other expenses associated with telephone service); and

(g) Security systems (including installation and other expenses associated with security systems).

UTILIZATION OF SPACE

§ 102-79.50 What standard must Executive agencies promote in their utilization of space?

Executive agencies, when acquiring or utilizing Federally owned or leased space under Title 40 of the United States Code, must promote efficient utilization of space. Where there is no Federal agency space need, Executive agencies must make every effort to

maximize the productive use of vacant space through the issuance of permits, licenses or leases to non-Federal entities to the extent authorized by law. (For vacant property determined excess to agency needs, refer to part 102-75, Real Property Disposal.)

§ 102-79.55 Is there a general hierarchy of consideration that agencies must follow in their utilization of space?

Yes, Federal agencies must—

(a) First utilize space in Government-owned and Government-leased buildings; and

(b) If there is no suitable space in Government-owned and Government-leased buildings, utilize space in buildings under the custody and control of the U.S. Postal Service; and

(c) If there is no suitable space in buildings under the custody and control of the U.S. Postal Service, agencies may acquire real estate by lease, purchase, or construction, as specified in part 102-73 of this chapter.

§ 102-79.60 Are agencies required to use historic properties available to the agency?

Yes, Federal agencies must assume responsibility for the preservation of the historic properties they own or control. Prior to acquiring, constructing or leasing buildings, agencies must use, to the maximum extent feasible, historic properties already owned or leased by the agency (16 U.S.C. 470h-2).

OUTLEASING

§ 102-79.65 May Executive agencies outlease space on major public access levels, courtyards and rooftops of public buildings?

Yes. Authority to execute such outleases may be delegated by the Administrator based on authorities provided by the Public Buildings Cooperative Use Act (40 U.S.C. §581(h)), the proceeds of which are to be deposited into GSA's Federal Buildings Fund. Using such authority, Executive agencies, upon approval from GSA, may—

(a) Enter into leases of space on major public access levels, courtyards and rooftops of any public building with persons, firms, or organizations

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engaged in commercial, cultural, educational, or recreational activities (as defined in 40 U.S.C. 3306);

(b) Establish rental rates for such leased space equivalent to the prevailing commercial rate for comparable space devoted to a similar purpose in the vicinity of the building; and

(c) Use leases that contain terms and conditions that the Administrator deems necessary to promote competition and protect the public interest.

SITING ANTENNAS ON FEDERAL PROPERTY

§ 102-79.70 May Executive agencies assess fees against other Executive agencies for antenna placements and supporting services?

Yes. Executive agencies, upon approval from GSA, may assess fees for placement of antennas and supporting services against other agencies (that own these antennas) under 40 U.S.C. 586(c) and 40 U.S.C. 121(e). Unless a differing rate has been approved by the Administrator, such fees or charges must approximate commercial charges for comparable space and services (i.e., market rates). The proceeds from such charges or fees must be credited to the appropriation or fund initially charged for providing the space or services. Any amounts in excess of actual operating and maintenance costs must be credited to miscellaneous receipts unless otherwise provided by law. The charges or fees assessed by the Administrator for the placement of antennas and supporting services in GSA-controlled space are generally credited to GSA's Federal Buildings Fund.

§ 102-79.75 May Executive agencies assess fees for antenna placements against public service organizations for antenna site outleases on major pedestrian access levels, courtyards, and rooftops of public buildings?

Yes. Executive agencies in GSA-controlled space, upon approval from GSA, may assess fees for antenna placements against public service organizations under 40 U.S.C. 581(h) and 40 U.S.C. 121(e). Such fees or rental rates must be equivalent to the prevailing commercial rate for comparable space devoted to commercial antenna place-

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ments in the vicinity of the public building and the proceeds from such charges or fees must be credited to GSA's Federal Buildings Fund.

§ 102-79.80 May Executive agencies assess fees for antenna placements against telecommunication service providers for antenna site outleases on major pedestrian access levels, courtyards, and rooftops of public buildings?

Yes. GSA, or other Executive agencies, upon approval from GSA, may charge fees based on market value to telecommunication service providers for antenna placements in public buildings. Market value should be equivalent to the prevailing commercial rate for comparable space for commercial antenna placements in the vicinity of the public building. Such fees must be credited to GSA's Federal Buildings Fund.

§ 102-79.85 What policy must Executive agencies follow concerning the placement of commercial antennas on Federal property?

Executive agencies will make antenna sites available on a fair, reasonable, and nondiscriminatory basis. Collocation of antennas should be encouraged where there are multiple antenna siting requests for the same location. In cases where this is not feasible and space availability precludes accommodating all antenna siting applicants, competitive procedures may be used. This should be done in accordance with applicable Federal, State and local laws and regulations, and consistent with national security concerns. In making antenna sites available, agencies must avoid electromagnetic intermodulations and interferences. To the maximum extent practicable, when placing antennas for the provision of telecommunication services to the Federal Government, agencies should use redundant and physically separate entry points into the building and physically diverse local network facilities in accordance with guidance issued by the Office of Management and Budget.

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§ 102-79.90 What criteria must Executive agencies consider when evaluating antenna siting requests?

When evaluating antenna siting requests, Executive agencies must consider issues such as—

(a) Public health and safety with respect to the antenna installation and maintenance;

(b) Aesthetics;

(c) Effects on historic districts, sites, buildings, monuments, structures, or other objects pursuant to the National Historic Preservation Act of 1966, as amended, and implementing regulations;

(d) Protection of natural and cultural resources (e.g., National Parks and Wilderness areas, National Wildlife Refuge systems);

(e) Compliance with the appropriate level of review and documentation as necessary under the National Environmental Policy Act of 1969, as amended, and implementing regulations of each Federal department and agency responsible for the antenna siting project, and the Federal Aviation Administration, the National Telecommunications and Information Administration, and other relevant departments and agencies;

(f) Compliance with the Federal Communications Commission's (FCC) guidelines for radiofrequency exposure, ET Docket No. 93-62, entitled "Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation," issued August 1, 1996, and any other order on reconsideration relating to radiofrequency guidelines and their enforcement. These are updated guidelines for meeting health concerns that reflect the latest scientific knowledge in this area, and are supported by Federal health and safety agencies such as the Environmental Protection Agency and the Food and Drug Administration; and

(g) Any requirements of the Federal agency managing the facility, FCC, Federal Aviation Administration, National Telecommunications and Information Administration, and other relevant departments and agencies. To the maximum extent practicable, when placing antennas for the provision of telecommunication services to the Federal Government, agencies should

use redundant and physically separate entry points into the building and physically diverse local network facilities in accordance with guidance issued by the Office of Management and Budget. In addition, the National Capital Planning Commission should be consulted for siting requests within the Washington, D.C. metropolitan area.

§ 102-79.95 Who is responsible for the costs associated with providing access to antenna sites?

The telecommunications service provider is responsible for any reasonable costs to Federal agencies associated with providing access to antenna sites, including obtaining appropriate clearance of provider personnel for access to buildings or land deemed to be security sensitive as is done with service contractor personnel. OMB Circular A-25, entitled "User Charges," revised July 8, 1993, provides guidelines that agencies should use to assess fees for Government services and for the sale or use of Government property or resources. For antenna sites on non-GSA property, see also the Department of Commerce Report on "Improving Rights-of-Way Management Across Federal Lands: A Roadmap for Greater Broadband Deployment" (April 2004) beginning at page 26. Under 40 U.S.C. 1314, GSA is covered in granting easements and permits to support the installation of antennas and cabling across raw land in support of constructing new and improving existing telecommunication infrastructures provided that such installation does not negatively impact on the Government.

§ 102-79.100 What must Federal agencies do with antenna siting fees that they collect?

The account into which an antenna siting fee is to be deposited depends on the authority under which the antenna site is made available and the fee assessed. For GSA-controlled property outleased under 40 U.S.C. 581(h) or section 412 of Division H of public law 108-447, the fee is to be deposited into GSA's Federal Building Fund. For surplus property outleased under 40 U.S.C. 543, the fee is to be deposited in accordance with the provisions of Subchapter

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IV of Chapter 5 of Subtitle I of Title 40 of the United States Code. For siting fees collected under other statutory authorities, the fees might be deposited into miscellaneous receipts, an account of the landholding agency, or as otherwise provided by law. Federal agencies should consult with their agency's legal advisors before depositing antenna proceed from sites on agency-controlled Federal property.

INTEGRATED WORKPLACE

§ 102-79.105 What is the Integrated Workplace?

The Integrated Workplace, developed by the GSA Office of Governmentwide Policy, is a comprehensive, multidisciplinary approach to developing workspace and work strategies that best support an organization's strategic business goals and work processes, and have the flexibility to accommodate the changing needs of the occupants and the organization. Integrated Workplace concepts support the objectives of Executive Order 13327, "Federal Real Property Asset Management," which calls for the enhancement of Federal agency productivity through an improved working environment.

§ 102-79.110 What Integrated Workplace policy must Federal agencies strive to promote?

Federal agencies must strive to design work places that—

- (a) Are developed using sustainable development concepts (see § 102-76.55);
- (b) Align with the organization's mission and strategic plan;
- (c) Serve the needs and work practices of the occupants;
- (d) Can be quickly and inexpensively adjusted by the user to maximize his or her productivity and satisfaction;
- (e) Are comfortable, efficient, and technologically advanced and allow people to accomplish their work in the most efficient way;
- (f) Meet the office's needs and can justify its cost through the benefits gained;
- (g) Are developed with an integrated building systems approach;
- (h) Are based on a life cycle cost analysis that considers both facility and human capital costs over a substantial time period; and

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(i) Support alternative workplace arrangements, including telecommuting, hoteling, virtual offices, and other distributive work arrangements (see part 102-74, subpart F—Telework).

§ 102-79.111 Where may Executive agencies find additional information on Integrated Workplace concepts?

The GSA Office of Governmentwide Policy provides additional guidance in its publication entitled "Innovative Workplace Strategies."

PUBLIC ACCESS DEFIBRILLATION PROGRAMS

§ 102-79.115 What guidelines must an agency follow if it elects to establish a public access defibrillation program in a Federal facility?

Federal agencies electing to establish a public access defibrillation program in a Federal facility must follow the guidelines, entitled "Guidelines for Public Access Defibrillation Programs in Federal Facilities," which can be obtained from the Office of Governmentwide Policy, Office of Real Property (MP), General Services Administration, 1800 F Street, NW, Washington, DC 20405.

PART 102-80—SAFETY AND ENVIRONMENTAL MANAGEMENT

Subpart A—General Provisions

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102-80.5 What is the scope of this part?

102-80.10 What are the basic safety and environmental management policies for real property?

Subpart B—Safety and Environmental Management

ASBESTOS

102-80.15 What are Federal agencies' responsibilities concerning the assessment and management of asbestos?

RADON

102-80.20 What are Federal agencies' responsibilities concerning the abatement of radon?

INDOOR AIR QUALITY

102-80.25 What are Federal agencies' responsibilities concerning the management of indoor air quality?