

Federal Management Regulation

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§ 102-72.90 What are Executive agencies' responsibilities under a security delegation of authority from GSA?

Law enforcement and related security functions were transferred to the Department of Homeland Security upon its establishment in 2002. The Homeland Security Act authorizes the Secretary of Homeland Security, in consultation with the Administrator of General Services, to issue regulations necessary for the protection and administration of property owned or occupied by the Federal Government and persons on the property. Notwithstanding the foregoing, GSA retained all powers, functions and authorities necessary for the operation, maintenance, and protection of buildings and grounds owned and occupied by the Federal Government and under the jurisdiction, custody, or control of GSA.

§ 102-72.95 What are the requirements for obtaining a security delegation of authority from GSA?

An Executive agency may request a security delegation from GSA by submitting a written request with the detailed basis for the requested delegation to the Assistant Regional Administrator, PBS, in the region where the building is located. A request for multiple buildings in multiple regions should be directed to the Commissioner of PBS. The delegation may be granted where the requesting agency demonstrates a compelling need for the delegated authority and the delegation is not inconsistent with the authorities of any other law enforcement agency.

§ 102-72.100 What are Executive agencies' responsibilities under a utility service delegation of authority from GSA?

With this delegation, Executive agencies have the authority to negotiate and execute utility services contracts for periods over one year but not exceeding ten years for their use and benefit. Agencies also have the authority to intervene in utility rate proceedings to represent the consumer interests of the Federal Government, if so provided in the delegation of authority.

§ 102-72.105 What are the requirements for obtaining a utility services delegation of authority from GSA?

Executive agencies may be delegated utility services authority when they have the technical expertise and adequate staffing.

PART 102-73—REAL ESTATE ACQUISITION

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AUTHORITY: 40 U.S.C. 121(c); Sec. 3(c), Reorganization Plan No. 18 of 1950 (40 U.S.C. 301 note); Sec. 1-201(b), E.O. 12072, 43 FR 36869, 3 CFR, 1978 Comp., p. 213.

SOURCE: 70 FR 67791, Nov. 8, 2005, unless otherwise noted.

Subpart A—General Provisions

§ 102-73.5 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.

§ 102-73.10 What is the basic real estate acquisition policy?

When seeking to acquire space, Federal agencies should first seek space in Government-owned and Government-leased buildings. If suitable Government-controlled space is unavailable, Federal agencies must acquire real estate and related services in an efficient and cost effective manner.

§ 102-73.15 What real estate acquisition and related services may Federal agencies provide?

Federal agencies, upon approval from GSA, may provide real estate acquisition and related services, including leasing (with or without purchase options), building and/or site purchase, condemnation, and relocation assistance. For information on the design and construction of Federal facilities, see part 102-76 of this chapter.

UNITED STATES POSTAL SERVICE-CONTROLLED SPACE

§ 102-73.20 Are Federal agencies required to give priority consideration to space in buildings under the custody and control of the United States Postal Service in fulfilling Federal agency space needs?

Yes, after considering the availability of GSA-controlled space and determining that no such space is available to meet its needs, Federal agencies must extend priority consideration to available space in buildings under the custody and control of the United States Postal Service (USPS) in fulfilling Federal agency space needs, as specified in the “Agreement Between General Services Administration and the United States Postal Service Covering Real and Personal Property Relationships and Associated Services,” dated July 1985.

LOCATING FEDERAL FACILITIES

§ 102-73.25 What policies must Executive agencies comply with in locating Federal facilities?

Executive agencies must comply with the location policies in this part and part 102-83 of this chapter.

HISTORIC PRESERVATION

§ 102-73.30 What historic preservation provisions must Federal agencies comply with prior to acquiring, constructing, or leasing space?

Prior to acquiring, constructing, or leasing space, Federal agencies must comply with the provisions of section 110(a) of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470h-2(a)), regarding the use of historic properties. Federal agencies can find guidance on protecting, enhancing, and preserving historic and cultural property in part 102-78 of this chapter.

PROSPECTUS REQUIREMENTS

§ 102-73.35 Is a prospectus required for all acquisition, construction, or alteration projects?

No, a prospectus is not required if the dollar value of a project does not exceed the prospectus threshold. 40 U.S.C. 3307 establishes a prospectus threshold, applicable to Federal agencies operating under, or subject to, the authorities of the Administrator of General Services, for the construction, alteration, purchase, and acquisition of any building to be used as a public building, and establishes a prospectus threshold to lease any space for use for public purposes. The current prospectus threshold value for each fiscal year can be accessed by entering GSA's Web site at <http://www.gsa.gov> and then inserting "prospectus thresholds" in the search mechanism in the upper right-hand corner of the page.

§ 102-73.40 What happens if the dollar value of the project exceeds the prospectus threshold?

Projects require approval by the Senate and the House of Representatives if the dollar value of a project exceeds the prospectus threshold. To obtain this approval, the Administrator of

General Services will transmit the proposed prospectuses to Congress for consideration by the Senate and the House of Representatives. Furthermore, as indicated in § 102-72.30(b), the general purpose lease delegation authority is restricted to below the prospectus threshold, and therefore, GSA must conduct all lease acquisitions over the threshold.

Subpart B—Acquisition by Lease**§ 102-73.45 When may Federal agencies consider leases of privately owned land and buildings to satisfy their space needs?**

Federal agencies may consider leases of privately owned land and buildings only when needs cannot be met satisfactorily in Government-controlled space and one or more of the following conditions exist:

(a) Leasing is more advantageous to the Government than constructing a new building, or more advantageous than altering an existing Federal building.

(b) New construction or alteration is unwarranted because demand for space in the community is insufficient, or is indefinite in scope or duration.

(c) Federal agencies cannot provide for the completion of a new building within a reasonable time.

§ 102-73.50 Are Federal agencies that possess independent statutory authority to acquire leased space subject to requirements of this part?

No, Federal agencies possessing independent statutory authority to acquire leased space are not subject to GSA authority and, therefore, may not be subject to the requirements of this part. However, lease prospectus approval requirements of 40 U.S.C. Section 3307 may still apply appropriations to lease of space for public purposes under an agency's independent leasing authority.

§ 102-73.55 On what basis must Federal agencies acquire leases?

Federal agencies must acquire leases on the most favorable basis to the Federal Government, with due consideration to maintenance and operational efficiency, and at charges consistent

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with prevailing market rates for comparable facilities in the community.

§ 102-73.60 With whom may Federal agencies enter into lease agreements?

Federal agencies, upon approval from GSA, may enter into lease agreements with any person, partnership, corporation, or other public or private entity, provided that such lease agreements do not bind the Government for periods in excess of twenty years (40 U.S.C. 585(a)). Federal agencies may not enter into lease agreements with persons who are barred from contracting with the Federal Government (e.g., Members of Congress or debarred or suspended contractors).

§ 102-73.65 Are there any limitations on leasing certain types of space?

Yes, the limitations on leasing certain types of space are as follows:

(a) In general, Federal agencies may not lease any space to accommodate computer and telecommunications operations; secure or sensitive activities related to the national defense or security; or a permanent courtroom, judicial chamber, or administrative office for any United States court, if the average annual net rental cost of leasing such space would exceed the prospectus threshold (40 U.S.C. 3307(f)(1)).

(b) However, Federal agencies may lease such space if the Administrator of General Services first determines that leasing such space is necessary to meet requirements that cannot be met in public buildings, and then submits such determination to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives in accordance with 40 U.S.C. 3307(f)(2).

§ 102-73.70 Are Executive agencies required to acquire leased space by negotiation?

Yes, Executive agencies must acquire leased space by negotiation, except where the sealed bid procedure is required by the Competition in Contracting Act, as amended (CICA) (41 U.S.C. 253(a)).

§ 102-73.75 What functions must Federal agencies perform with regard to leasing building space?

Federal agencies, upon approval from GSA, must perform all functions of leasing building space, and land incidental thereto, for their use except as provided in this subpart.

§ 102-73.80 Who is authorized to contact lessor, offerors, or potential offerors concerning space leased or to be leased?

No one, except the Contracting Officer or his or her designee, may contact lessors, offerors, or potential offerors concerning space leased or to be leased for the purpose of making oral or written representation or commitments or agreements with respect to the terms of occupancy of particular space, tenant improvements, alterations and repairs, or payment for overtime services.

§ 102-73.85 Can agencies with independent statutory authority to lease space have GSA perform the leasing functions?

Yes, upon request, GSA may perform, on a reimbursable basis, all functions of leasing building space, and land incidental thereto, for Federal agencies possessing independent statutory authority to lease space. However, GSA reserves the right to accept or reject reimbursable leasing service requests on a case-by-case basis.

§ 102-73.90 What contingent fee policy must Federal agencies apply to the acquisition of real property by lease?

Federal agencies must apply the contingent fee policies in 48 CFR 3.4 to all negotiated and sealed bid contracts for the acquisition of real property by lease. Federal agencies must appropriately adapt the representations and covenants required by that subpart for use in leases of real property for Government use.

§ 102-73.95 How are Federal agencies required to assist GSA?

The heads of Federal agencies must—
(a) Cooperate with and assist the Administrator of General Services in carrying out his responsibilities respecting office buildings and space;

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(b) Take measures to give GSA early notice of new or changing space requirements;

(c) Seek to economize their requirements for space; and

(d) Continuously review their needs for space in and near the District of Columbia, taking into account the feasibility of decentralizing services or activities that can be carried on elsewhere without excessive costs or significant loss of efficiency.

COMPETITION IN CONTRACTING ACT OF 1984

§ 102-73.100 Is the Competition in Contracting Act of 1984, as amended (CICA), applicable to lease acquisition?

Yes, Executive agencies must obtain full and open competition among suitable locations meeting minimum Government requirements, except as otherwise provided by CICA, 41 U.S.C. 253.

NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (NEPA)

§ 102-73.105 What policies must Federal agencies follow to implement the requirements of NEPA when acquiring real property by lease?

Federal agencies must follow the NEPA policies identified in §§ 102-76.40 and 102-76.45 of this chapter.

LEASE CONSTRUCTION

§ 102-73.110 What rules must Executive agencies follow when acquiring leasehold interests in buildings constructed for Federal Government use?

When acquiring leasehold interests in buildings to be constructed for Federal Government use, Executive agencies must—

(a) Establish detailed building specifications before agreeing to a contract that will result in the construction of a building;

(b) Use competitive procedures;

(c) Inspect every building during construction to ensure that the building complies with the Government's specifications;

(d) Evaluate every building after completion of construction to determine that the building complies with the Government's specifications; and

(e) Ensure that any contract that will result in the construction of a building contains provisions permitting the Government to reduce the rent during any period when the building does not comply with the Government's specifications.

PRICE PREFERENCE FOR HISTORIC PROPERTIES

§ 102-73.115 Must Federal agencies offer a price preference to space in historic properties when acquiring leased space?

Yes, Federal agencies must give a price preference to space in historic properties when acquiring leased space using either the lowest price technically acceptable or the best value tradeoff source selection processes.

§ 102-73.120 How much of a price preference must Federal agencies give when acquiring leased space using the lowest price technically acceptable source selection process?

Federal agencies must give a price evaluation preference to space in historic properties as follows:

(a) First to suitable historic properties within historic districts, a 10 percent price preference.

(b) If no suitable historic property within an historic district is offered, or the 10 percent preference does not result in such property being the lowest price technically acceptable offer, the Government will give a 2.5 percent price preference to suitable non-historic developed or undeveloped sites within historic districts.

(c) If no suitable non-historic developed or undeveloped site within an historic district is offered, or the 2.5 percent preference does not result in such property being the lowest price technically acceptable offer, the Government will give a 10 percent price preference to suitable historic properties outside of historic districts.

(d) Finally, if no suitable historic property outside of historic districts is offered, no historic price preference will be given to any property offered.

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§ 102-73.125 How much of a price preference must Federal agencies give when acquiring leased space using the best value tradeoff source selection process?

When award will be based on the best value tradeoff source selection process, which permits tradeoffs among price and non-price factors, the Government will give a price evaluation preference to historic properties as follows:

(a) First to suitable historic properties within historic districts, a 10 percent price preference.

(b) If no suitable historic property within an historic district is offered or remains in the competition, the Government will give a 2.5 percent price preference to suitable non-historic developed or undeveloped sites within historic districts.

(c) If no suitable non-historic developed or undeveloped site within an historic district is offered or remains in the competition, the Government will give a 10 percent price preference to suitable historic properties outside of historic districts.

(d) Finally, if no suitable historic property outside of historic districts is offered, no historic price preference will be given to any property offered.

LEASES WITH PURCHASE OPTIONS

§ 102-73.130 When may Federal agencies consider acquiring leases with purchase options?

Agencies may consider leasing with a purchase option at or below fair market value, consistent with the lease-purchase scoring rules, when one or more of the following conditions exist:

(a) The purchase option offers economic and other advantages to the Government and is consistent with the Government's goals.

(b) The Government is the sole or major tenant of the building, and has a long-term need for the property.

(c) Leasing with a purchase option is otherwise in the best interest of the Government.

SCORING RULES

§ 102-73.135 What scoring rules must Federal agencies follow when considering leases and leases with purchase options?

All Federal agencies must follow the budget scorekeeping rules for leases, capital leases, and lease-purchases identified in appendices A and B of OMB Circular A-11. (For availability, see 5 CFR 1310.3.)

DELEGATIONS OF LEASING AUTHORITY

§ 102-73.140 When may agencies that do not possess independent leasing authority lease space?

Federal agencies may perform for themselves all functions necessary to acquire leased space in buildings and land incidental thereto when—

(a) The authority may be delegated (see § 102-72.30) on the different types of delegations related to real estate leasing);

(b) The space may be leased for no rental, or for a nominal consideration of \$1 per annum, and is limited to terms not to exceed 1 year;

(c) Authority has been requested by an Executive agency and a specific delegation has been granted by the Administrator of General Services;

(d) A categorical delegation has been granted by the Administrator of General Services for space to accommodate particular types of agency activities, such as military recruiting offices or space for certain county level agricultural activities (see § 102-73.155 for a listing of categorical delegations); or

(e) The required space is found by the Administrator of General Services to be wholly or predominantly utilized for the special purposes of the agency to occupy such space and is not generally suitable for use by other agencies. Federal agencies must obtain prior approval from the GSA regional office having jurisdiction for the proposed leasing action, before initiating a leasing action involving 2,500 or more square feet of such special purpose space. GSA's approval must be based upon a finding that there is no vacant Government-owned or leased space available that will meet the agency's requirements. Agency special purpose

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space delegations can be found in §§ 102-73.170 through 102-73.225.

CATEGORICAL SPACE DELEGATIONS

§ 102-73.145 What is a categorical space delegation?

A categorical space delegation is a standing delegation of authority from the Administrator of General Services to a Federal agency to acquire a type of space identified in § 102-73.155, subject to limitations in this part.

§ 102-73.150 What is the policy for categorical space delegations?

Subject to the limitations cited in §§ 102-73.230 through 102-73.240, all Federal agencies are authorized to acquire the types of space listed in § 102-73.155 and, except where otherwise noted, may lease space for terms, including all options, of up to 20 years.

§ 102-73.155 What types of space can Federal agencies acquire with a categorical space delegation?

Federal agencies can use categorical space delegations to acquire—

- (a) Space to house antennas, repeaters, or transmission equipment;
- (b) Depots, including, but not limited to, stockpiling depots and torpedo net depots;
- (c) Docks, piers, and mooring facilities (including closed storage space required in combination with such facilities);
- (d) Fumigation areas;
- (e) Garage space (may be leased only on a fiscal year basis);
- (f) Greenhouses;
- (g) Hangars and other airport operating facilities including, but not limited to, flight preparation space, aircraft storage areas, and repair shops;
- (h) Hospitals, including medical clinics;
- (i) Housing (temporary), including hotels (does not include quarters obtained pursuant to temporary duty travel or employee relocation);
- (j) Laundries;
- (k) Quarantine facilities for plants, birds, and other animals;
- (l) Ranger stations, i.e., facilities that typically include small offices staffed by one or more uniformed employees, and may include sleeping/family quarters, parking areas, garages,

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and storage space. Office space within ranger stations is minimal and does not comprise a majority of the space. (May also be referred to as guard stations, information centers, or kiosks);

(m) Recruiting space for the armed forces (lease terms, including all options, limited to 5 years);

(n) Schools directly related to the special purpose function(s) of an agency;

(o) Specialized storage/depot facilities, such as cold storage; self-storage units; and lumber, oil, gasoline, ship-building materials, and pesticide materials/equipment storage (general purpose warehouse type storage facilities not included); and

(p) Space for short-term use (such as conferences and meetings, judicial proceedings, and emergency situations).

SPECIAL PURPOSE SPACE DELEGATIONS

§ 102-73.160 What is an agency special purpose space delegation?

An agency special purpose space delegation is a standing delegation of authority from the Administrator of General Services to specific Federal agencies to lease their own special purpose space (identified in §§ 102-73.170 through 102-73.225), subject to limitations in this part.

§ 102-73.165 What is the policy for agency special purpose space delegations?

Subject to the limitations on annual rental amounts, lease terms, and leases on parking spaces cited in §§ 102-73.230 through 102-73.240, the agencies listed below are authorized to acquire special purpose space associated with that agency and, except where otherwise noted, may lease such space for terms, including all options, of up to 20 years. The agencies and types of space subject to special purpose space delegations are specified in §§ 102-73.170 through 102-73.225.

§ 102-73.170 What types of special purpose space may the Department of Agriculture lease?

The Department of Agriculture is delegated the authority to lease the following types of special purpose space:

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(a) Cotton classing laboratories (lease terms, including all options, limited to 5 years).

(b) Land (if unimproved, may be leased only on a fiscal year basis).

(c) Miscellaneous storage by cubic foot or weight basis.

(d) Office space when required to be located in or adjacent to stockyards, produce markets, produce terminals, airports, and other ports (lease terms, including all options, limited to 5 years).

(e) Space for agricultural commodities stored in licensed warehouses and utilized under warehouse contracts.

(f) Space utilized in cooperation with State and local governments or their instrumentalities (extension services) where the cooperating State or local government occupies a portion of the space and pays a portion of the rent.

§ 102-73.175 What types of special purpose space may the Department of Commerce lease?

The Department of Commerce is delegated authority to lease the following types of special purpose space:

(a) Space required by the Census Bureau in connection with conducting the decennial census (lease terms, including all options, limited to 5 years).

(b) Laboratories for testing materials, classified or ordnance devices, calibration of instruments, and atmospheric and oceanic research (lease terms, including all options, limited to 5 years).

(c) Maritime training stations.

(d) Radio stations.

(e) Land (if unimproved, may be leased only on a fiscal year basis).

(f) National Weather Service meteorological facilities.

§ 102-73.180 What types of special purpose space may the Department of Defense lease?

The Department of Defense is delegated authority to lease the following types of special purpose space:

(a) Air Force—Civil Air Patrol Liaison Offices and land incidental thereto when required for use incidental to, in conjunction with, and in close proximity to airports, including aircraft and warning stations (if unimproved, land may be leased only on a fiscal

year basis; for space, lease terms, including all options, limited to 5 years).

(b) Armories.

(c) Film library in the vicinity of Washington, DC.

(d) Mess halls.

(e) Ports of embarkation and debarkation.

(f) Post exchanges.

(g) Postal Concentration Center, Long Island City, NY.

(h) Recreation centers.

(i) Reserve training space.

(j) Service clubs.

(k) Testing laboratories (lease terms, including all options, limited to 5 years).

§ 102-73.185 What types of special purpose space may the Department of Energy lease?

The Department of Energy, as the successor to the Atomic Energy Commission, is delegated authority to lease facilities housing the special purpose or special location activities of the old Atomic Energy Commission.

§ 102-73.190 What types of special purpose space may the Federal Communications Commission lease?

The Federal Communications Commission is delegated authority to lease monitoring station sites.

§ 102-73.195 What types of special purpose space may the Department of Health and Human Services lease?

The Department of Health and Human Services is delegated authority to lease laboratories (lease terms, including all options, limited to 5 years).

§ 102-73.196 What types of special purpose space may the Department of Homeland Security lease?

The Department of Homeland Security is delegated authority to lease whatever space its organizational units or components had authority to lease prior to the creation of the Department of Homeland Security, including—

(a) Border patrol offices similar in character and utilization to police stations, involving the handling of prisoners, firearms, and motor vehicles, regardless of location (lease terms, including all options limited to 5 years);

(b) Space for the U.S. Coast Guard oceanic unit, Woods Hole, MA; and

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(c) Space for the U.S. Coast Guard port security activities.

§ 102-73.200 What types of special purpose space may the Department of the Interior lease?

The Department of the Interior is delegated authority to lease the following types of special purpose space:

(a) Space in buildings and land incidental thereto used by field crews of the Bureau of Reclamation, Bureau of Land Management, and the Geological Survey in areas where no other Government agencies are quartered (unimproved land may be leased only on a fiscal year basis).

(b) National Parks/Monuments Visitors Centers consisting primarily of special purpose space (e.g., visitor reception, information, and rest room facilities) and not general office or administrative space.

§ 102-73.205 What types of special purpose space may the Department of Justice lease?

The Department of the Justice is delegated authority to lease the following types of special purpose space:

(a) U.S. marshals office in any Alaska location (lease terms, including all options, limited to 5 years).

(b) Space used for storage and maintenance of surveillance vehicles and seized property (lease terms, including all options, limited to 5 years).

(c) Space used for review and custody of records and other evidentiary materials (lease terms, including all options, limited to 5 years).

(d) Space used for trial preparation where space is not available in Federal buildings, Federal courthouses, USPS facilities, or GSA-leased buildings (lease terms limited to not more than 1 year).

§ 102-73.210 What types of special purpose space may the Office of Thrift Supervision lease?

The Office of Thrift Supervision is delegated authority to lease space for field offices of Examining Divisions required to be located within Office of Thrift Supervision buildings or immediately adjoining or adjacent to such buildings (lease terms, including all options, limited to 5 years).

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§ 102-73.215 What types of special purpose space may the Department of Transportation lease?

The Department of Transportation is delegated authority to lease the following types of special purpose space (or real property):

(a) Land for the Federal Aviation Administration (FAA) at airports (unimproved land may be leased only on a fiscal year basis).

(b) General purpose office space not exceeding 10,000 square feet for the FAA at airports in buildings under the jurisdiction of public or private airport authorities (lease terms, including all options, limited to 5 years).

§ 102-73.220 What types of special purpose space may the Department of the Treasury lease?

The Department of the Treasury is delegated authority to lease the following types of special purpose space:

(a) Space and land incidental thereto for the use of the Comptroller of the Currency, as well as the operation, maintenance and custody thereof (if unimproved, land may be leased only on a fiscal year basis; lease term for space, including all options, limited to 5 years).

(b) Aerostat radar facilities necessary for U.S. Custom Service mission activities.

§ 102-73.225 What types of special purpose space may the Department of Veterans Affairs lease?

The Department of Veterans Affairs is delegated authority to lease the following types of special purpose space:

(a) Guidance and training centers located at schools and colleges.

(b) Space used for veterans hospitals, including outpatient and medical-related clinics, such as drug, mental health, and alcohol.

LIMITATIONS ON THE USE OF DELEGATED AUTHORITY

§ 102-73.230 When must Federal agencies submit a prospectus to lease real property?

In accordance with 40 U.S.C. 3307, Federal agencies must submit a prospectus to the Administrator of General Services for leases involving a net annual rental, excluding services and

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utilities, in excess of the prospectus threshold provided in 40 U.S.C. 3307. Agencies must be aware that prospectus thresholds are indexed and change each year.

§ 102-73.235 What is the maximum lease term that a Federal agency may agree to when it has been delegated lease acquisition authority from GSA?

Pursuant to GSA's authority to enter into lease agreements contained in 40 U.S.C. 585(a)(2), agencies delegated the authorities outlined herein may enter into leases for the term specified in the delegation. In those cases where agency special purposes space delegations include the authority to acquire unimproved land, the land may be leased only on a fiscal year basis.

§ 102-73.240 What policy must Federal agencies follow to acquire official parking spaces?

Federal agencies that need parking must utilize available Government-owned or leased facilities. Federal agencies must make inquiries regarding availability of such Government-controlled space to GSA regional offices and document such inquiries. If no suitable Government-controlled facilities are available, an agency may use its own procurement authority to acquire parking by service contract.

Subpart C—Acquisition by Purchase or Condemnation

BUILDINGS

§ 102-73.245 When may Federal agencies consider purchase of buildings?

A Federal agency may consider purchase of buildings on a case-by-case basis if it has landholding authority and when one or more of the following conditions exist:

- (a) It is economically more beneficial to own and manage the property.
- (b) There is a long-term need for the property.
- (c) The property is an existing building, or a building nearing completion, that can be purchased and occupied within a reasonable time.
- (d) When otherwise in the best interests of the Government.

§ 102-73.250 Are agencies required to adhere to the policies for locating Federal facilities when purchasing buildings?

Yes, when purchasing buildings, agencies must comply with the location policies in this part and part 102-83 of this chapter.

§ 102-73.255 What factors must Executive agencies consider when purchasing sites?

Agencies must locate proposed Federal buildings on sites that are most advantageous to the United States. Executive agencies must consider factors such as whether the site will contribute to economy and efficiency in the construction, maintenance, and operation of the individual building, and how the proposed site relates to the Government's total space needs in the community. Prior to acquiring, constructing, or leasing buildings (or sites for such buildings), Federal agencies must use, to the maximum extent feasible, historic properties available to the agency. In site selections, Executive agencies must consider Executive Order 12072 (August 16, 1978, 43 FR 36869) and Executive Order 13006 (40 U.S.C. 3306 note). In addition, Executive agencies must consider all of the following:

- (a) Maximum utilization of Government-owned land (including excess land) whenever it is adequate, economically adaptable to requirements and properly located, where such use is consistent with the provisions of part 102-75, subpart B, of this chapter.
- (b) A site adjacent to or in the proximity of an existing Federal building that is well located and is to be retained for long-term occupancy.
- (c) The environmental condition of proposed sites prior to purchase. The sites must be free from contamination, unless it is otherwise determined to be in the best interests of the Government to purchase a contaminated site (e.g., reuse of a site under an established "Brownfields" program).
- (d) Purchase options to secure the future availability of a site.
- (e) All applicable location policies in this part and part 102-83 of this chapter.

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LAND

§ 102-73.260 What land acquisition policy must Federal agencies follow?

Federal agencies must follow the land acquisition policy in the Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended, 42 U.S.C. 4651-4655, which—

- (a) Encourages and expedites the acquisition of real property by agreements with owners;
- (b) Avoids litigation, including condemnation actions, where possible and relieves congestion in the courts;
- (c) Provides for consistent treatment of owners; and
- (d) Promotes public confidence in Federal land acquisition practices.

§ 102-73.265 What actions must Federal agencies take to facilitate land acquisition?

To facilitate land acquisition, Federal agencies must, among other things—

- (a) Appraise the real property before starting negotiations and give the owner (or the owner's representative) the opportunity to accompany the appraiser during the inspection;
- (b) Establish an amount estimated to be the just compensation before starting negotiations and promptly offer to acquire the property for this full amount;
- (c) Try to negotiate with owners on the price;
- (d) Pay the agreed purchase price to the property owner, or in the case of a condemnation, deposit payment in the registry of the court, for the benefit of the owner, before requiring the owner to surrender the property; and
- (e) Provide property owners (and occupants) at least 90 days' notice of displacement before requiring anyone to move. If a Federal agency permits the owner to keep possession for a short time after acquiring the owner's property, Federal agencies must not charge rent in excess of the property's fair rental value to a short-term occupier.

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JUST COMPENSATION

§ 102-73.270 Are Federal agencies required to provide the owner with a written statement of the amount established as just compensation?

Yes, Federal agencies must provide the owner with a written statement of this amount and summarize the basis for it. When it is appropriate, Federal agencies must separately state the just compensation for the property to be acquired and damages to the remaining real property.

§ 102-73.275 What specific information must be included in the summary statement for the owner that explains the basis for just compensation?

The summary statement must—

- (a) Identify the real property and the estate or interest the Federal agency is acquiring;
- (b) Identify the buildings, structures, and other improvements the Federal agency considers part of the real property for which just compensation is being offered;
- (c) State that the Federal agency based the estimate of just compensation on the Government's estimate of the property's fair market value. If only part of a property or less than a full interest is being acquired, Federal agencies must explain how they determined the just compensation for it; and
- (d) State that the Government's estimate of just compensation is at least as much as the property's approved appraisal value.

§ 102-73.280 Where can Federal agencies find guidance on how to appraise the value of properties being acquired by the Federal Government?

The Interagency Land Acquisition Conference has developed, promulgated, and adopted the Uniform Appraisal Standards for Federal Land Acquisitions, sometimes referred to as the "Yellow Book." The Interagency Land Acquisition Conference, established on November 27, 1968, by invitation of the Attorney General, is a voluntary organization composed of the many Federal agencies engaged in the acquisition of real estate for public uses. The "Yellow Book" is published

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by the Appraisal Institute in cooperation with the U.S. Department of Justice and is available in hard copy or on the Department of Justice's internet Web site at <http://www.usdoj.gov/enrd/land-ack/>.

§ 102-73.285 [Reserved]

§ 102-73.290 Are there any prohibitions when a Federal agency pays "just compensation" to a tenant?

Yes, Federal agencies must not—

(a) Duplicate any payment to the tenant otherwise authorized by law; and

(b) Pay a tenant unless the landowner disclaims all interests in the tenant's improvements. In consideration for any such payment, the tenant must assign, transfer, and release to the Federal agency all of its right, title, and interest in the improvements. The tenant may reject such payment under this subpart and obtain payment for its property interests according to other sections of applicable law.

EXPENSES INCIDENTAL TO PROPERTY TRANSFER

§ 102-73.295 What property transfer expenses must Federal agencies cover when acquiring real property?

Federal agencies must—

(a) Reimburse property owners for all reasonable expenses actually incurred for recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses needed to convey the property to the Federal Government;

(b) Reimburse property owners for all reasonable expenses actually incurred for penalty costs and other charges to prepay any existing, recorded mortgage that a property owner entered into in good faith and that encumbers the real property;

(c) Reimburse property owners for all reasonable expenses actually incurred for the prorated part of any prepaid real property taxes that cover the period after the Federal Government gets title to the property or effective possession of it, whichever is earlier; and

(d) Whenever possible, directly pay the costs identified in this section, so property owners will not have to pay them and then seek reimbursement from the Government.

LITIGATION EXPENSES

§ 102-73.300 Are Federal agencies required to pay for litigation expenses incurred by a property owner because of a condemnation proceeding?

Federal agencies must pay reasonable expenses for attorneys, appraisals, and engineering fees that a property owner incurs because of a condemnation proceeding, if any of the following are true:

(a) The court's final judgment is that the Federal agency cannot acquire the real property by condemnation.

(b) The Federal agency abandons the condemnation proceeding other than under an agreed-on settlement.

(c) The court renders a judgment in the property owner's favor in an inverse condemnation proceeding or the Federal agency agrees to settle such proceeding.

RELOCATION ASSISTANCE POLICY

§ 102-73.305 What relocation assistance policy must Federal agencies follow?

Federal agencies, upon approval from GSA, must provide appropriate relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended, 42 U.S.C. 4651-4655, to eligible owners and tenants of property purchased for use by Federal agencies in accordance with the implementing regulations found in 49 CFR part 24. Appropriate relocation assistance means that the Federal agency must pay the displaced person for actual—

(a) Reasonable moving expenses (in moving himself, his family, and business);

(b) Direct losses of tangible personal property as a result of moving or discontinuing a business;

(c) Reasonable expenses in searching for a replacement business or farm; and

(d) Reasonable expenses necessary to reestablish a displaced farm, nonprofit

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organization, or small business at its new site, but not to exceed \$10,000.

**PART 102-74—FACILITY
MANAGEMENT**

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102-74.65 Are cafeterias authorized under the Randolph-Sheppard Act operated by permit or contract?

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CONSERVATION PROGRAM

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102-74.125 Are prospectuses required for reimbursable alteration projects?

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102-74.145 What information must a Federal agency submit to GSA after the agency has identified a need for construction or alteration of a public building?

102-74.150 Who submits prospectuses for the construction or alteration of public buildings to the Congressional committees?

ENERGY CONSERVATION

102-74.155 What energy conservation policy must Federal agencies follow in the management of facilities?

102-74.160 What actions must Federal agencies take to promote energy conservation?

102-74.165 What energy standards must Federal agencies follow for existing facilities?

102-74.170 May exceptions to the energy conservation policies in this subpart be granted?

102-74.175 Are Government-leased buildings required to conform with the policies in this subpart?

102-74.180 What illumination levels must Federal agencies maintain on Federal facilities?

102-74.185 What heating and cooling policy must Federal agencies follow in Federal facilities?

102-74.190 Are portable heaters, fans, and other such devices allowed in Government-controlled facilities?

102-74.195 What ventilation policy must Federal agencies follow?

102-74.200 What information are Federal agencies required to report to the Department of Energy (DOE)?

RIDESHARING

102-74.205 What Federal facility ridesharing policy must Executive agencies follow?

102-74.210 What steps must Executive agencies take to promote ridesharing at Federal facilities?

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OCCUPANT EMERGENCY PROGRAM

102-74.230 Who is responsible for establishing an occupant emergency program?