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and maintenance of marketable property will not be undertaken except to prevent serious loss to the Government. Excess equipment or facilities should not be updated or improved. At predisposal conferences, or earlier where practicable, the DE, in coordination with GSA representatives, will furnish specific guidance to the using command as to the minimum acceptable GSA requirement for care and custody. The requirement for minimum maintenance does not extend to historic places. Historic places in excess or suplus status will be maintained in accordance with the letter and spirit of approved Department of the Army criteria for protection, preservation and maintenance of historic places.

§ 644.370 Transfer of custody to General Services Administration (GSA).

(a) Custody of an excess installation reported to the GSA for disposal will continue to be held until GSA transfers to its purchaser or other designee. All expenses pertaining to care, custody and maintenance will be borne by the holding department or agency, except that such expense for property reported to GSA for disposal and not disposed of within 12 months from the date the formal report of excess was received by GSA, shall be assumed by GSA as of the first day of the succeeding quarter of the fiscal year. GSA will give notice of the receipt of the report of excess and will, within 15 days, furnish advice on the acceptability of the report. (See FPMR as amended, Subsection 101–47.202–10.) Any request made to the disposal agency to defer disposal action, or failure to submit an acceptable report, will extend the obligation of the department with respect to expenses for care and custody caused by such deferment. In the event the department is not relieved of custody within the period for which it is obligated to stand the expense thereof, the retention of care and custody thereafter will be reimbursed by the disposal agency. Because of the magnitude of custodial expense for larger installations and the longer periods of time often consumed in effecting their disposal, it is imperative that reports of excess be made as promptly as possible in order that the 12-month period may commence and terminate as soon as possible and the department's expense minimized.

(b) The DE will maintain close liaison with GSA with a view to obtaining prompt transfer of custody and accountability from the department to that agency, and will coordinate transfers between the using service and GSA. However, DEs will not take over custody of an installation or coordinate the transfer of custody until a statement of clearance or a statement that such clearance is not necessary because of the use of the installation has been furnished. Under GSA procedures, the department generally retains the responsibility for care, custody, and accountability of its excess facilities until final disposition is made by GSA. Until that time, the property is to be carried on the real property inventory of the department.

§ 644.371 Contracting for care and custody.

Care and custody of excess and surplus installations should be performed by contract whenever it is legally possible and more economical to do so. Due to the temporary nature of such services and the extreme variations in kind and fluctuations in quality of such services required from time to time, contracting for custodial service will often prove to be more economical and efficient. In contracting for such services which include watchman, patrol and protective services, attention is invited to the prohibition against hiring detective agencies pursuant to the following Act of Congress: ''* * * An individual employed by the Pinkerton Detective Agency, or similar organization, may not be employed by the Government of the United States or the Government of the District of Columbia.'' (5 U.S.C. 3108). This has been construed to apply to employees of organizations which provide services of a detective agency, but not to organizations which are organizations to render watchman, patrol or protective services and do not include detective services as one of their functions (26 Comp. Gen. 303). Custodial and protective services referred to herein are the type ordinarily procured by contract by GSA and other Government agencies charged with the responsibility for

care and handling of excess and surplus real property pending its disposal in accordance with the FPMR.

§ 644.372 Care and custody through interim use.

(a) *General.* Upon receipt of initial information that real property is excess, the DE should promptly initiate planning for interim productive use. Interim use should be planned to save care and custody expense but must not interfere with, delay, or retard transfer of the property to another Federal agency or its disposal otherwise. Any permit or lease must have the prior approval of GSA, and shall be for a period not exceeding one year and shall be revocable on 30 days' notice (FPMR Sections 101–47.203–9 and 101–47.312).

(b) *Permits to other Federal agencies.* Interested Federal agencies will be afforded a priority in the interim use of excess and surplus real property. The permit will require the Federal agency to perform care and custody and perform routine maintenance. 41 CFR 101–47.203–8, provides for temporary assignment, conditional transfers, and rental or user charges for use of excess property by Federal agencies.

(c) *Leases for non-Federal use.* Leases of excess and surplus property are made under authority of the Federal Property and Administrative Services Act of 1949, as amended and AR 405–80. Such leases are subject to the Economy Act (40 U.S.C. 303b), and must be for a money consideration only. The lessee can and should, however, be made responsible for ordinary maintenance and restoration as required by standard Corps of Engineers lease forms. Where a portion of an excess or surplus installation is leased, it may be advantageous to enter into an agreement with the lessee for care and custody of the remainder. The agreement cannot provide for a reduction of rental for the portion leased. The Economy Act may not apply in some cases where industrial plants are determined excess subject to the National Security Clause or similar recapture conditions. Such cases should be coordinated with DAEN-REM on an individual basis.

§§ 644.373–644.375 [Reserved]

Return of Public Domain Lands and Lands Obtained on a Temporary Basis From Another Federal Agency

§ 644.376 Procedure for disposal of public domain land.

(a) Lands withdrawn or reserved from the public domain, together with Government-owned improvements, which have been determined to be excess to the department, after screening with other DOD agencies and the U.S. Coast Guard in accordance with §§ 644.333 through 644.339, will be processed for disposal in accordance with 43 CFR 2370–2374 and § 644.381 of this part. The DE will file a Notice of Intention to Relinquish as provided by 43 CFR 2372.1. The notice will be filed in the Bureau of Land Management (BLM) Land Office having jurisdiction.

Excess buildings and improvements on the property should be left in place and no disposal action taken thereon pending further instructions from BLM, unless it is determined that they should be abandoned in accordance with the procedures set forth in §§ 644.472 through 644.500. A copy of the Notice of Intention to Relinquish submitted to the appropriate BLM Land Office will be transmitted to HQDA (DAEN-REM) Washington, DC 20314 and to the appropriate GSA regional office.

(b) If any restoration, or other work, is proposed to be performed on the land, the matter will be forwarded to DAEN-REM for prior approval. Where the DE recommends disposition of the land by GSA as excess property rather than return to the public domain, no restoration of the property will be proposed (see 43 CFR 2372.1). Generally, lands which are unimproved, or contain only minor improvements, will be recommended for return to the public domain. Exception to this procedure should be made where development surrounding, or in the vicinity of the land, has changed its character, although the land itself has not been improved. Another exception would be the situation described in § 644.350(d). Generally lands which are extensively improved will be recommended to BLM for disposal as excess property.