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studies may be made and disposal planning reports requested by the AF in other areas.

§§ 644.536–644.539 [Reserved]

SALE PROCEDURE

§ 644.540 Advertising.

(a) *Definition and purposes.* GSA regulations require that disposal agencies shall widely publicize all surplus real property which becomes available for sale. Sales will be made to the highest responsible bidder after advertising. Advertising consists of the preparation of Invitation for Bids, the posting of copies thereof in public places, their distribution to interested persons or prospective bidders, and publication of notice of sale in newspapers where such publication is deemed advisable or is required by this subpart F. The purpose of advertising and obtaining competition in selling Government property is:

(1) To give all qualified persons equal opportunity to bid for the property.

(2) To secure for the Government the benefits which flow from competition.

(3) To prevent criticism that favortism has been shown by officers or employees of the Government in making sales of public property.

(b) *Notice to Department of Commerce.* A condensed statement of proposed sales of surplus real property by advertising for competitive bids, except where the estimated fair market value of all the property included in the advertisement is less than $5,000, shall be prepared for publication in the U.S. Department of Commerce publications, ''Commerce Business Daily.'' Guideline is contained in the Defense Acquisition Regulation (DAR) 1–1005.1, (formerly the Armed Services Procurement Regulation). Forward statement to: U.S. Department of Commerce, Commerce Business Daily, P.O. Box 5999, Chicago, Illinois 60680.

(c) *Procedure.* Whether newspaper advertising in addition to distribution and posting of Invitation for Bids is desirable will depend upon the value of the property and in some instances the anticipated interest in the property. The ever-changing market requires different methods or efforts to obtain the best price for the Government. The time allowed for submission of bids will depend upon the time available, usually 30 days. If available, a longer period may be desirable based on value and other factors. A shorter period may be necessary and, in an emergency, a period of less than 10 days may be allowed. However, the contracting officer should make a record of written findings to support such a decision. If the emergency is based on requirements of the using command that appear questionable, a report with recommendations should be forwarded to DAEN-REM by the most expeditious means.

(d) *Bidders mailing lists.* Instructions contained in procurement regulations are applicable generally for establishing, maintaining, and controlling bidders mailing lists (DAR 2–205). Generally, all proposed sales should be preceded by an advance notice, to eliminate disinterested bidders and as a measure of economy in printing and distributing voluminous Invitation for Bids. Notice to bidders will provide that their failure to respond to two successive sales offerings will result in the removal of their names from the bidders list. When time does not permit an advance notice, one copy of the Invitation may be sent to the potential bidder, which contains the following notice: ''*Attention Bidders.* If interested in bidding on any or all items, three (3) additional copies will be furnished on request.'' The advance notice will describe the property offered and ordinarily provide that Invitation for Bids will be mailed on request or may be picked up at the installation or project at the time the property is inspected.

(e) *Inspection of the property.* Upon request, interested persons should be permitted to make appropriate inspection of the property, including inventory records, plans, specifications, and engineering reports, subject to any restrictions necessary in the interest of national security and to such reasonable rules as may be prescribed by the using command or the DE.

§ 644.541 Award of contract.

(a) *Opening of bids.* All bids shall be opened and publicly disclosed by a duly authorized representative of the responsible DE at the time and place

stated in the Invitation and advertisements.

(b) *Award and notice to bidders.* Award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the Invitation for Bids, will be most advantageous to the Government, price and other factors considered, provided that any or all bids may be rejected when it is in the public interest to do so. When an award is made, unsuccessful bidders should be notified promptly and their earnest money deposits returned.

(c) *Equal offers.* Equal offers mean two or more offers that are equal in all respects taking into consideration the best interests of the Government. When equal acceptable offers are received, award shall be made by a drawing by lot limited to the equal acceptable offers received (See also § 644.542.)

(d) *Public auction.* When authorized by GSA, sales of surplus property may be made through contract auctioneers. Consideration should be given to auction sales when there is likely to be considerable interest in the property. GSA Regional Offices have had experience with actions, maintain lists of qualified auctioneers, are in a position to give other advice and assistance, and may authorize auction sales on behalf of GSA, pursuant to FPMR 101–47.304–7. Auctioneers retained under contract shall be required to publicly advertise for bids in accordance with applicable provisions of that regulation. The prior approval of DAEN-REM will be obtained before auction sales are undertaken.

§ 644.542 Application of anti-trust laws.

The Federal Property Act provides that real property and related personal property with an aggregate total cost of $1,000,000 or more (or personal property with an acquisition cost of $3,000,000 or more) or patents, processes, techniques, or inventions, regardless of cost, shall not be disposed of to any private interest until the advice of the Attorney General has been received as to whether the proposed disposal would tend to create or maintain a situation inconsistent with the anti-trust laws. Prior to obligating the Government on any such disposal, Division Engineers will furnish DAEN-REM information on the probable terms and conditions of the sale. DAEN-REM will use the information as the basis for a request to the Attorney General for advice. Under the provision cited, the Attorney General is allowed up to 60 days to furnish the advice requested. The Federal Property Management Regulation, § 101–47.301.2 provides guidance on the information to be furnished. Where indentical bids in excess of the $2,500 are received, FPMR 101–47.304–8 provides for a report to the Department of Justice. Section 101–47.304–8 provides guidance for such reports to be addressed to the Attorney General, WASH, DC, 20530.

§ 644.543 Determination of acceptable offers after advertising.

(a) Generally an acceptable offer is one which:

(1) Is submitted by a responsible bidder.

(2) Conforms to the Invitation for Bids.

(3) Equals or exceeds the appraised fair market value of the property.

(4) Was independently arrived at in open competition.

(b) A formal appraisal is not required where real property components:

(1) Are to be offered on a competitive sale basis that will adequately test the market.

(2) Are at the same location and are to be sold under a single advertisement.

(3) Have a total estimated fair market value of $10,000 or less for all property to be sold.

The determination as to necessity for a formal appraisal because of the $10,000 limitation may be made by an experienced real estate employee who need not be a real estate appraiser. This determination may be in the form of a simple written statement that in the judgment of the signer the property is not considered to exceed $10,000 in value. In these cases, awards will be supported by a determination by the DE that the market was adequately tested, and the price bid reasonable. For the purpose of records and reports, the sale price will be recorded as the fair market value. If it appears the market was not adequately tested, bids