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will be rejected and the property readvertised, or, if time does not permit readvertising, a sale may be consummated using the procedure provided in paragraphs (d) and (e) of this section.

(c) All land, irrespective of estimated value, and all other real property and components with an estimated value in excess of $10,000 will be appraised. Where an acceptable offer, as defined in paragraphs (a) and (b) of this section, is not received for such property as a result of public advertising, it will be readvertised unless the responsible DE determines, based upon written findings which shall be preserved as part of the permanent file, that further public advertising will serve no useful purpose.

(d) Where no acceptable bid is received as a result of the second advertising, or a determination was made that further advertising would serve no useful purpose or is not feasible, the DE may negotiate a sale at the highest price obtainable, provided:

(1) All bids are first rejected.

(2) The total of the appraised value for all property included in any single sales contract does not exceed $1,000.

(3) All past bidders, on any of the items, and any other known interested parties are afforded a fair opportunity to participate in the negotiations.

(4) The sale price is in excess of the highest bid received as a result of advertising.

(5) In his opinion the price is reasonable.

(e) Where the appraised or estimated value of all items to be included in a single sales contract exceeds $1,000, and no acceptable bid is received, the high bidder may at the discretion of the DE be given a reasonable period, not to exceed five working days, to increase his bid. At the same time all other bids shall be rejected and bid deposits returned. If the high bidder increases his offer to an amount equal to the total appraised or estimated value of the items involved, the DE may consummate the sale. All other cases will be forwarded to DAEN-REM together with an opinion as to whether the market was adequately tested and the highest price offered is reasonable, and with recommendations as to the course of action to be followed. If a negotiated sale to other than the highest bidder is recommended, information for preparation of a report to the Government Operations Committees of Congress will be included, as required in paragraph (c)(2) of § 644.544.

§ 644.544 Negotiated sales.

(a) *To private parties.* Negotiated sales to private parties are not viewed with favor. Generally, such negotiated sales will be approved only where an emergency exists that will not permit advertising, where advertising would serve no useful purpose, or where a negotiated sale is in the best interest of the Government. Emergencies which justify sales without advertising do not ordinarily justify sales without competition. Instances are rare where the emergency is such that time does not permit the oral solicitation of quotations from more than one source. In any sales which are made without benefit of advertising, competition by informal solicitation and quotation will be obtained to the maximum extent feasible under the circumstances. Such sales should be negotiated at the best terms obtainable and at not less than the appraised fair market value.

(b) *To eligible agencies.* (1) Acts of Congress listed in the Federal Property Management Regulation, § 101–47.4905 (Illustrations), authorize negotiated sales of surplus real property to states and other eligible public agencies listed therein. The Acts listed, except section 203(c)(3)(H) of the Federal Property Act (40 U.S.C. 484(c)(3)(H)), cover special classifications of property for specialized use, the most important of which is disposal of airport property. The section of the Act cited authorizes negotiated sales of surplus property to states, territories, possessions, political subdivisions thereof, or tax-supported agencies thereof, provided the appraised fair market value of the property and other satisfactory terms of disposal are obtained. (The other Acts listed in § 101–47.4905 provide for disposal subject to conditions of use but without consideration, or at reduced consideration, except power transmission lines which are sold without conditions but at the appraised fair

market value.) Notification that surplus property is available for disposal will be given to eligible public agencies for all airport property and for any other property where there is reason to believe that an eligible public agency may be interested in the property or that the property may be adaptable to the agency's use (§§ 644.400 through 644.443).

(2) Title 10, United States Code, Section 4682, authorizes the Secretary of the Army to sell obsolete or excess material at fair value to the National Council of the Boy Scouts of America. The Judge Advocate General has held that buildings and other improvements no longer required by the Department be sold to that organization at the appraised fair market value.

(c) *Authority to negotiate.* (1) The DE is authorized to dispose of land, improvements, related personal property and real property components (including standing timber and embedded sand, gravel, and stone-quarried products in their unmined or natural state) with an estimated fair market value of $1,000 or less by negotiated sale without advertising, provided that such action is within the purview of paragraphs (a) and (b) of this section, and satisfactory terms of disposal can be obtained. Except as provided in § 644.543 and paragraph (b) of § 644.544 all sales are not less than the appraised fair market value. See paragraph (d) of this section for requirement for appraisal by contract.

(2) All other proposals to negotiate sales without advertising will be submitted to DAEN-REM for advance approval. In submitting such proposals, the nature of the emergency or other situation justifying the waiver of advertising will be clearly stated. The property involved will be adequately defined, and the appraised fair market value and proposed price will be set forth. Negotiated sales of surplus property with an appraised value in excess of $1,000 under provisions of the Federal Property Act cited in paragraph (b)(1) of this section, require submission of an explanatory statement to the Government Operations Committees of Congress. Under the FPMR, a statement must be submitted at least 35 days in advance of each such negotiated disposal. When required, the DE will forward a draft of statement to HQDA (DAEN-REM) for transmittal to GSA for submission to the Committees.

(d) *Appraisal by contract.* Pursuant to Federal Property Management Regulation, § 101–47.304–9(b), where sales are to be negotiated under the authority provided by paragraphs (a) and (b) of this section, a contract appraisal should be obtained provided that the cost of such a contract would not be out of proportion to the recoverable value of the property and is in the best interest of the Government. If such is not the case, the head of the disposal agency, or his designee, may authorize any other appropriate method to obtain an estimate of fair market value. Requests for waiver will be forwarded to DAEN-REM.

(e) *Record to justify waiver of advertising.* (1) A written justification for negotiated sales made under the authority of these instructions will be prepared and filed by the DE with the record of disposal in each case. A copy of Standard Form 1036 may be used for this purpose.

(2) Except for those cases covered by paragraph (b) of this section, the nature of the emergency compelling waiver of advertising, the reason why it was considered that advertising would serve no useful purpose, or why the negotiated sale was considered to be in the best interest of the Government, will be clearly stated. In cases where an explanatory statement is transmitted to the Committees on Government Operations, a copy of that statement will be furnished the appropriate GSA Regional Office and filed with the record of the case as the required documentation of justification for waiver of advertising. DAEN-REM will make available to the DE necessary copies of such statements for filing or distribution.

§ 644.545 Form of invitation for bids and contract of sale.

Sale contract forms will be prepared by the DE conducting the sale. ENG Form 571–R, Invitation for Bids, Bid and Acceptance, Sale of Surplus Real Property will be used as a guide in sales of bare land or improved land and related personal property. ENG Form