

Dept. of Health and Human Services

§ 12a.4

Title V of the McKinney Act, as amended (42 U.S.C. 11411).

(b) The following categories of properties are not subject to this part (regardless of whether they may be unutilized or underutilized):

(1) Buildings and property at military installations that were approved for closure under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Pub. L. 101-510; 10 U.S.C. 2687 note) after October 25, 1994.

(2) Machinery and equipment not determined to be related personal property by the landholding agency or GSA or determined to be related personal property that the landholding agency or GSA chooses to dispose of separate from real property.

(3) Government-owned, contractor-operated machinery, equipment, land, and other facilities reported excess for sale only to the using contractor and subject to a continuing military requirement.

(4) Properties subject to special legislation directing a particular action.

(5) Properties subject to a court order that is binding on the Federal Government and, for any reason, precludes transfer for use to assist the homeless under the authority of 42 U.S.C. 11411.

(6) Property not subject to Federal Real Property Council reporting requirements in accordance with 40 U.S.C. 623(i).

(7) Mineral rights interests independent of surface rights.

(8) Air space interests independent of surface rights.

(9) Indian Reservation land subject to 40 U.S.C. 523.

(10) Property interests subject to reversion.

(11) Easements.

(12) Any building or fixture that is excess, or surplus, that is on land under the control of a landholding agency, where the underlying land is not excess or surplus.

(13) Property purchased in whole or in part with Federal funds if title to the property is not held by a Federal landholding agency as defined in this part.

§ 12a.3 General policies.

(a) It is the policy of HHS to foster and assure maximum utilization of sur-

plus property for homeless assistance purposes.

(b) Transfers may be made only to eligible organizations.

(c) Property will be requested for assignment only when HUD has made a final determination that the property is suitable for use to assist the homeless, GSA has determined it is available, and HHS has determined it is needed for homeless assistance purposes. The amount of real and related personal property to be transferred shall not exceed normal operating requirements of the applicant. Such property will not be requested for assignment unless it is needed at the time of application for homeless assistance purposes or will be so needed within the immediate or foreseeable future.

(d) Transfers by deed will be made only after the applicant's financial plan is approved and the applicant provides certification that the proposed program is permissible under all applicable State and local zoning restrictions, building codes, and similar limitations.

(e) In instances of noncompliance, transferees are provided an opportunity to cure the noncompliance pursuant to § 12a.10.

§ 12a.4 Expression of interest process.

(a) Properties published by HUD as suitable and available, pursuant to 24 CFR 581.8, for application for use to assist the homeless shall not be available for any other purpose for a period of 30 days beginning on the date the list of properties is published on the HUD website. Any eligible organization interested in any underutilized, unutilized, excess, or surplus property for use to assist the homeless must send HHS a written expression of interest in that property within 30 days after the property has been published on the HUD website.

(b) Although a property may be determined suitable by HUD, HUD's determination does not mean a property is necessarily fit for use for the purpose(s) stated in the application, nor does it guarantee subsequent conveyance or transfer of a property.

(c) If a written expression of interest to apply for suitable property for use

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to assist the homeless is received by HHS within the 30-day holding period, such property may not be made available for any other purpose until the date HHS or the appropriate landholding agency has completed action on the application submitted pursuant to that expression of interest.

(d)(1) The expression of interest should identify the specific property, briefly describe the proposed use, include the name of the organization, and indicate whether it is a public body or a private, non-profit organization. The expression of interest must be sent to HHS by email, rpb@psc.hhs.gov, or by mail at the following address: Department of Health and Human Services, Program Manager, Federal Real Property Assistance Program, Real Estate Logistics and Operations, 5600 Fishers Lane, Rockville, Maryland 20852.

(2) HHS will notify the landholding agency (for unutilized and underutilized properties) or GSA (for excess and surplus properties) when an expression of interest has been received for a certain property.

(e) An expression of interest may be sent to and accepted by HHS any time after the 30-day holding period has expired only if the property remains available as determined by GSA or the landholding agency for application to assist the homeless. In such a case, an application submitted pursuant to this expression of interest may be approved for use by the homeless if:

(1) There are no pending applications or written expressions of interest made under any law for use of the property for any purpose; and

(2) In the case of excess or surplus property, GSA has not received a bona fide offer to purchase that property or advertised for the sale of the property by public auction.

§ 12a.5 Application process and requirements.

(a) Upon receipt of an expression of interest, HHS will send an application packet to the interested entity. The application packet requires the applicant to provide certain information, including the following—

(1) *Acquisition type.* The applicant must state whether it is requesting ac-

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quisition of the property by lease, deed, or permit. A lease of one year, extendable at HHS's discretion, with the concurrence of GSA or the landholding agency, may be granted when the applicant's initial application is approved and the applicant's final application outlining the applicant's financial plan is found to be otherwise reasonable based on the criteria in paragraph (a)(7) of this section, but either a change in zoning is required or the financial plan proposes to utilize Low-Income Housing Tax Credits or other funding sources that typically take longer to process than other forms of financing. Applicants that initially apply for transfer by lease or permit and subsequently request transfer by deed will follow the same bifurcated application process, including deadlines, contained in 42 U.S.C. 11411. Should an applicant wish to transition from acquisition by lease to acquisition by deed, HHS will issue a letter of commitment to a lessee indicating that, provided its application meets all application criteria, including securing of all necessary financing that complies with Federal Government requirements, HHS will issue a deed.

(2) *Description of the applicant organization.* The applicant must document that it satisfies the definition of an *eligible organization* as specified in § 12a.1.

(3) *Description of the property desired.* The applicant must describe the listed property desired, including existing zoning. Applicants must certify that any modification(s) made to and use of the property will conform to all applicable building codes, and local use restrictions, or similar limitations. In accordance with GSA policy, determinations regarding parcelization are made prior to screening. Therefore, expressions of interest and applications for portions of listed properties will not be accepted.

(4) *Description of the proposed program.* The applicant must fully describe the proposed program and plan of use, including implementation plans.

(5) *Demonstration of need.* The applicant must demonstrate that the property is needed for homeless assistance purposes at the time of application and how the program will address the needs