

Federal Management Regulation

§ 102-75.60

§ 102-75.35 What are Executive agencies' responsibilities concerning the disposal of surplus property?

Executive agencies must obtain from GSA a determination that their excess real property is not needed for Federal use and is surplus to the needs of the Federal Government. After receiving this determination, Executive agencies, upon approval from GSA, must expeditiously make the surplus property available for acquisition by State and local governmental units and nonprofit institutions (see § 102-75.55) or for sale by public advertising, negotiation, or other disposal action. Executive agencies must consider the availability of real property for public purposes on a case-by-case basis, based on highest and best use and estimated fair market value. See § 101-47.202-2(b) of this title for the requirements for reporting excess real property. Where hazardous substance activity is identified, see § 101-47.304-14 of this title for required information that the disposal agency must incorporate into Invitation for Bids/Offers to Purchase.

§ 102-75.40 When may Executive agencies dispose of surplus real property by exchange for privately owned property?

Executive agencies may dispose of surplus real property by exchange for privately owned property only:

(a) For property management considerations such as boundary realignment or provision of access; or

(b) Where authorized by law, when the requesting Federal agency receives approval from the Office of Management and Budget and the appropriate oversight committees, and where the transaction offers substantial economic or unique program advantages not otherwise obtainable by any other acquisition method.

§ 102-75.45 When may Executive agencies outlease surplus real property for non-Federal interim use?

Executive agencies may outlease surplus real property for non-Federal interim use, pending its disposition, when both of the following conditions exist:

(a) The lease or permit does not exceed one year and is revocable with not

more than a 30-day notice by the disposal agency; and

(b) The use and occupancy will not interfere with, delay, or impede the disposal of the property.

§ 102-75.50 What are Federal agencies' reporting responsibilities under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411)?

By December 31 of each year, each landholding agency responsible for reporting must notify the Department of Housing and Urban Development (HUD) regarding the current availability status and classification of each property controlled by the agency that:

(a) Was included in a list of suitable properties published that year by HUD; and

(b) Remains available for application for use to assist the homeless, or has become available for application during that year.

§ 102-75.55 What are Executive agencies' responsibilities concerning public benefit conveyances?

Based on a highest and best use analysis, Executive agencies, upon approval from GSA, may make surplus real property available to State and local governments and certain nonprofit institutions at up to 100 percent public benefit discount for public benefit purposes. Some examples of such purposes are education, health, park and recreation, the homeless, historic monuments, public airports, highways, correctional facilities, ports, and wildlife conservation. The implementing regulations are found at § 101-47.308 of this title.

§ 102-75.60 When may Executive agencies conduct negotiated sales?

Executive agencies may conduct negotiated sales only when:

(a) The estimated fair market value of the property does not exceed \$15,000; or

(b) Bid prices after advertising are unreasonable (for all or part of the property) or were not independently arrived at in open competition; or

(c) The character or condition of the property or unusual circumstances make it impractical to advertise for competitive bids and the fair market

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value of the property and other satisfactory terms of disposal are obtainable by negotiation; or

(d) The disposals will be to States, Commonwealth of Puerto Rico, possessions, political subdivisions thereof, or tax-supported agencies therein, and the estimated fair market value of the property and other satisfactory terms of disposal are obtainable by negotiations. Such negotiated sales to public bodies must be limited to where a public benefit will result from a negotiated sale which would not be realized from a competitive sale disposal (some examples of such purposes are administrative offices and economic development); or

(e) Negotiation is otherwise authorized by the Federal Property and Administrative Services Act of 1949 or other law, such as disposals of power transmission lines for public or cooperative power projects.

§ 102-75.65 What are Executive agencies' responsibilities concerning negotiated sales?

Executive agencies must:

(a) Obtain such competition as is feasible in all negotiations of disposals and contracts for disposal of surplus property; and

(b) Prepare and transmit an explanatory statement, identifying the circumstances of each disposal by negotiation for any real property specified in 40 U.S.C. 484(e)(6)(A), to the appropriate committees of the Congress in advance of such disposal.

§ 102-75.70 What can Executive agencies do to eliminate the potential for windfall profits to public agencies in negotiated sales?

To eliminate the potential for windfall profits to public agencies, Executive agencies must include in negotiated sales to public agencies an excess profits clause, which usually runs for 3 years. This clause states that, if the purchaser should sell or enter into agreements to sell the property within 3 years from the date of title transfer by the Federal Government, all proceeds in excess of the purchaser's costs will be remitted to the Federal Government. (Put the clause found in § 101-47.4908 of this title in the offer to pur-

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chase and in the conveyance document.)

§ 102-75.75 What is a negotiated sale for economic development purposes?

A negotiated sale for economic development purposes means that the public body purchasing the property will develop or make substantial improvements to the property with the intention of reselling or leasing the property in parcels to users to advance the community's economic benefit. This type of negotiated sale is acceptable where the expected public benefits to the community are greater than the anticipated proceeds derived from a competitive public sale.

§ 102-75.80 What are Executive agencies' responsibilities concerning public sales?

Executive agencies must make available by competitive public sale any surplus property that is not disposed of by public benefit discount conveyance or by negotiated sale. Awards must be made to the responsible bidder whose bid will be most advantageous to the Government, price and other factors considered.

§ 102-75.85 How can Federal agencies obtain related disposal services?

Federal agencies with independent disposal authority are encouraged to obtain disposal related services from those agencies with expertise in real property disposal, such as GSA, as allowed by 31 U.S.C. 1535 (the Economy Act), so that agencies may remain focused on their core mission.

§ 102-75.90 What type of appraisal value must be obtained for real property disposal transactions?

For all real property transactions requiring appraisals, Executive agencies must in all cases obtain, as appropriate, an appraisal of either the fair market value or the fair annual rental value of property available for disposal.

§ 102-75.95 Are appraisals required for all real property disposal transactions?

Generally, yes, appraisals are required for all real property disposal