

GENERAL SERVICES ADMINISTRATION
Washington, DC 20405

REPRINT EDITION

PBS P 4000.1 **Revalidated**
June 29, 1994; Revalidated June 5, 2013

GSA ORDER

SUBJECT: Excess and Surplus Real Property

The Public Buildings Service (PBS) and the Federal Property Resources Service (FPRS) recently merged. Because of the merge, this handbook identification is changed from PRM P 4000.1B to PBS P 4000.1. All references to FPRS will mean PBS. The contents of this order will remain the same. Subsequent changes will be made as needed.

This handbook is reprinted for stock replenishment only.

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June 29, 1994

GSA ORDER

SUBJECT: Excess and Surplus Real Property

1. Purpose. This order issues and transmits a revised HB, Excess and Surplus Real Property.
2. Cancellations. PRM P 4000.1A and the following instructional letters are canceled:

Date

Issued Number Subject

06/17/91 PRM IL 91-07 Use of Credit Terms in Sales of Surplus Government-owned Real
Property

03/19/93	PRM IL 93-01	Extensions for Homeless Applicant
04/14/93	PRM IL 93-02	Screening Based on Highest and Best Use Classification
09/03/93	PRM IL 93-03	Authority to Approve Awards of Less than the Appraised Fair Market Value
10/26/93	PRM IL 94-01	Waiver of Federal Screening and Approval of Disposal Plans
04/06/94	PRM IL 94-02	Review of Disposal Plan for Negotiated Sales

3. Nature of revision. This revised HB is consistent with the President's Executive Order 12861 that requires reduction of internal regulations by 50 percent to improve productivity, streamline operations, and improve customer service. The HB has been reduced, simplified and reconfigured to make it easy-to-use. In addition, the HB incorporates recent guidance from instructional letters and updated references.

4. Reports. The reports required by this order are exempt from the reports control program.

5. Forms. This order provides for the use of forms listed in figure 1.

a. Supplies of GSA forms may be obtained by submitting a Form 49, Requisition/Procurement Request for Equipment, Supplies or Services, to:

General Services Administration
National Forms and Publications Center
Warehouse 4, Dock No. 1
4900 South Hemphill Street
Fort Worth, TX 76115

b. Supplies of Standard Forms may be obtained by submitting requisition in FEDSTRIP format to:

Furniture Commodity Center
GSA/FSS, Attn: FCNI
Washington, DC 20406

GORDON S. CREED
Acting Deputy Commissioner
Federal Property Resources Service

Figure 1. Forms

GSA Form 687, Register of Remittances Received (Rev. 8/71)

GSA Form 1011, Real Property Acquisition Advice (Rev. 7/75)

GSA Form 1334, Request for Transfer of Excess Real and Related Personal Property (Rev 6/77)

GSA Form 1432, Determination of Surplus (Rev. 4/74)

GSA Form 1741, Instructions to Bidders - Sealed Bid (Rev. 5/90)

GSA Form 1741-A, Instructions to Bidders - Auction (Rev. 5/90)

GSA Form 1742, General Terms of Sale (Government Real and Related Personal Property (Rev. 5/90)

GSA Form 1743, General Terms of Lease (Government) (Rev. 5/74)

GSA Form 1893, Protection and Maintenance Inspection Report (Rev. 4/74)

GSA Form 2041, General Terms Applicable to Negotiated Sales (Rev. 5/90)

GSA Form 2450, Recommended Negotiated Sale of Property (Rev. 3/78)

GSA Form 2957, Reimbursable Work Request (Rev. 3/88)

Standard Form 118, Report of Excess Real Property (12/53)

Standard Form 120, Report of Excess Personal Property (4/57)

Standard Form 1080, Voucher for Transfers Between Appropriations and/or Funds (Rev. 4/82)

Standard Form 1081, Voucher and Schedule of Withdrawals and Credits (Rev. 9/82)

EXCESS AND SURPLUS REAL PROPERTY

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CHAPTER 1. PROGRAM ADMINISTRATION

PART 1. GENERAL

1. Purpose. This Order provides instructions and procedures for the utilization and disposal of excess and surplus real and related personal property under the provisions of the Federal Property and Administrative Services (40 U.S.C. 471, et seq.) (Act), the Surplus Property Act of 1944, as amended (1944 Act), and the provisions of other applicable statutes. Regulations implementing the Act are in the Federal Property Management Regulations (41 CFR 101-47).

2. Definitions. Definition of terms are found in the Act and FPMR.

3. Program objectives. Covered in FPMR 101-47.

4. Nondiscrimination in Federally assisted programs. Covered in FPMR 101-6.2.

5. Public domain. Covered in FPMR 101-47.201-3 and ch. 3-3.

6. Release of appraisal reports and other disposal documents.

a. Appraisal reports are for the use of authorized personnel of GSA, auctioneers and brokers under contract with GSA, and personnel of Federal agencies administering public purpose programs. Related disposal documents are for the use of authorized GSA personnel under guidance of GSA Order, Safeguarding Privileged and Sensitive Unclassified Information (ADM 1800.3B).

b. Regional Counsel must be consulted regarding requests from the general public, local public bodies, or unauthorized personnel from other Federal agencies for appraisal reports and related disposal documents.

c. The appraised market value, use value, or market rental value of excess or surplus property may be furnished to authorized personnel of Federal agencies interested in obtaining excess property for an approved program, the Office of Management and Budget (OMB), or Federal agencies or organizations when there is a valid need.

d. When divulging appraisal information, the region must advise the recipients that the information may not be passed on to others without obtaining the prior written consent of the region.

7. Protection and maintenance. Protection must be limited to conform to the objectives stated below. Maintenance must be limited to that which is necessary to prevent serious deterioration. General regulations concerning protection and maintenance (P&M) are under FPMR 101-47.202-9 and 101-47.402. Standards are listed in FPMR 101-47.4913.

a. Objectives.

(1) To follow sound real estate management practices in providing the minimum services required to protect the property, the public, and to preserve the Government's equity therein.

(2) To place the property in productive use, if at all possible, through interim use provided that such temporary use and/or occupancy will not interfere with or delay disposal.

(3) To avoid an "attractive public nuisance" or make safe any property that is dangerous to the public health or the environment.

(4) To limit the costs of improvements or alterations except where disposal cannot otherwise be made.

b. Procedures. The provisions for P&M of excess and surplus properties shall be reviewed continuously, and periodic inspections must be conducted to determine the feasibility of reducing or eliminating services. GSA Form 1893, Protection and Maintenance Inspection Report must be completed after each inspection when P&M costs are involved.

(1) When the holding agency is responsible for providing P&M services for the property and for providing funds, the region must recommend to the holding agency any changes that appear necessary or desirable in the P&M of the property.

(a) In cases where P&M costs will be involved, a Memorandum of Understanding (MOU) between GSA and the holding agency will be required. The MOU provides a basis for budget request and establishes a reasonable level of P&M. The MOU must specify the date GSA assumes the financial responsibility for P&M, and also states that the amount of reimbursement will be contingent on the budgetary resources provided to GSA. These MOU are not and should not be considered obligatory documents or contracts with holding agencies and do not provide authority to spend money.

(b) Base MOU's on reasonable costs agreed to with the holding agency whenever possible. Execute as soon as possible after acceptance of the report of excess occurs and after a physical inspection of the property. A copy of each MOU must be transmitted to Central Office (CO) for use in providing budgetary documentation.

(c) CO will make allowances to the regional offices quarterly based on the resources available. After receiving the allowance, the region prepares a letter to the holding agency stating the reimbursement that will be provided for P&M of the specific property. Send a copy of the letter to the Finance Division to obligate the funds available.

(d) Holding agencies must submit bills on Standard Form 1080, Voucher for Transfers between Appropriations and/or Funds, or 1081, Voucher and Schedule of Withdrawals and Credits, to the Finance Division on a quarterly basis within 15 days after the close of a quarter. Before liquidating the obligation, the Finance Division processes the SF 1080 or 1081 through the region. The Regional Director is responsible for checking monthly to ensure that funds are obligated and bills paid.

(2) When GSA reports property as excess, GSA is considered the holding agency under (1) above; use for reimbursement GSA Form 2957, Reimbursable Work Authorization. In other cases, where property has been conveyed at public benefit discount and reverted to the Government, the region is considered the holding agency.

(3) The Finance Division must be provided a copy of the letter or other correspondence to the holding agency that states the amount of reimbursement. This is necessary to ensure that the funds are properly obligated and that no violation of the Anti-Deficiency Act (31 U.S.C. 1341 et seq.) occurs. A copy of the letter or other correspondence must also be sent to CO.

8. Use of the Treasury Financial Communications System (TFCS) for wire transfer of sales proceeds. Proceeds of \$600 or more from the sale of surplus real property should be received by wire transfer. All invitations for bids will contain language informing prospective purchasers of their responsibilities to make a wire transfer of funds to consummate a sale of surplus real property. Finance Division will confirm to the region electronically the receipt of all funds remitted by wire transfer prior to the signature and release of a deed by the Contracting Officer. Wire transfers will not be used to make a bid deposit for property offered for public sale.

9. Insurance requirements. The region is responsible for determining insurance and bonding requirements in connection with the disposal of surplus real property. The Federal Acquisition Regulation (FAR) Part 28, 48 CFR, outlines these requirements. Treasury Department Circular 570 lists acceptable sureties.

10. Reserved.

PART 2. CUSTODY AND ACCOUNTABILITY

11. General. The region must assume custody and accountability for real and related personal property that:

a. Has reverted to the United States through a compliance action of the Secretaries of the Departments of Health and Human Services, Education, Interior, Transportation, and Housing and Urban Development, the Attorney General of the Department of Justice, or the Administrator of General Services;

b. Was acquired in exchange for surplus property;

c. Was acquired under foreclosure proceedings;

d. Was donated to the United States; or

e. Was devised to the United States (40 U.S.C. 304); in any of these actions (a through e) the following applies:

(1) Environmental clearances. Appropriate environmental clearances must be obtained, (see ch. 5) Properties never owned by the Government may require as a minimum, a Phase I, Environmental Study.

(2) Distribution Standard Form 118. A SF 118, Report of Excess Real Property, including SF 118a, b, and c, when required, and other attachments thereto, shall be forwarded to the regional Finance Division when GSA is the reporting agency or when GSA becomes the holding agency for property described in paragraph 11. If required, the region must also arrange for the protection and maintenance of the property. Note: If not provided, the region should prepare a SF 118 for properties reported in a through e, above.

(3) Preparation of GSA Form 1011. The region shall prepare a GSA Form 1011, Real Property Acquisition Advice, for each property and distribute as follows:

- (a) Signed original to regional Finance Division; and
- (b) Conformed copy retained in region.

12. Transfers to GSA.

a. In certain instances, the region shall assume custody and accountability for surplus real and related personal property of other Federal agencies when:

(1) GSA is to perform protection and maintenance pending disposal of the property. The region also may assume custody only, rather than custody and accountability. In instances where custody only is assumed, it will not be necessary to effect a transfer of the property as set forth in subpar. b(1), below; an agreement executed locally between representatives of the two agencies is sufficient;

(2) GSA is to administer leases and other use agreements and deferred payment sales;

(3) The Secretary of Defense has directed that Defense Industrial Reserve property be transferred to GSA; or

(4) Remaining easements are not disposed of with fee land.

b. Procedure. Protection and maintenance requirements must be established in accordance with the applicable provisions of par. 7. All transfer actions must be coordinated with the regional office and other appropriate regional services staff offices.

(1) Arrangements for transfers. The regional office shall confer with local representatives of the holding agency to plan the details of the transfer. Arrangements for accepting the transfer must include the following, as may be applicable:

(a) Accepting existing contracts (i.e., protection and maintenance, utility) as required or if such are not assignable, arranging for continuing service with the appropriate companies;

(b) Transferring of quitclaim deed and/or bill of sale to include appropriate legal descriptions, acquisition costs and other title documents as required. If possible, copies of the title papers shall be reviewed by the Office of Regional Counsel for legal sufficiency;

(c) Assigning by transferor agency to GSA of leasehold interests, leases, permits, easements, and other use agreements in existence at the facility at the time of transfer, and arrangements for the transfer of all pertinent correspondence, records, and other data pertaining to such agreements affecting the property;

(d) Notification by transferor agency to all tenants, contractors and service supply firms of the transfer, with appropriate instructions with respect to billing or any payment of rental and other charges. (Note: Payments of rental and other charges shall accrue to GSA effective the first day of the new rental period following the date of transfer. Rentals shall not be prorated for the current rental period;

(e) Establishing staffing requirements and processing all necessary personnel actions before the effective date of transfer and coordinate the conversion of transferor Agency personnel who are to be GSA employees, if applicable;

(f) Establishing the requisite accounts. Transferor agencies are responsible for collecting their own delinquent accounts with respect to properties transferred to GSA, and no collections will be processed by GSA for periods before the date of transfer;

(g) Submitting a request for the necessary funds to protect and maintain the property, if required;

(h) The acquiring office is responsible for advising the regional Finance Division of the date and hour GSA assumed custody and accountability when submitting the GSA Form 1011, Acquisitions of Real Property Advice, to that office; and

(2) Acceptance of transfer. The Regional Administrator shall acknowledge acceptance of custody and accountability by signing an agreement with the appropriate transferor official covering the applicable items described in (1)(a) through (h), above.

13. Transfers by GSA. When GSA transfers custody and accountability for surplus real and related personal property to other Federal agencies and private purchaser, the following applies:

a. Transfers to other Federal agencies.

(1) Transfers of property for which another Federal agency need develops subsequent to a determination of surplus shall be recalled from surplus and shall be processed in accordance with the appropriate subparagraph described in 2 through 6, below.

(2) Transfer property between other Federal agencies other than GSA, by letter to the acquiring agency with a copy of the letter forwarded to the holding agency. The acquiring agency should date and acknowledge in writing on the letter its acceptance of custody and accountability for the property and provide GSA an executed copy.

(3) If GSA is the holding agency, the transfer shall be effected by letter from the regional office to the acquiring agency with a copy to the GSA office by a forwarding memorandum.

(4) When the regional office acts as "holding agency" (for example, when the property was acquired by exchange), the transfer shall be effected by a letter from the regional office.

(5) When the acquiring agency accepts custody and accountability for the property, when GSA is the holding agency, the region shall forward copies of the transfer letter and memorandum,

showing the date and hour of such acceptance to the appropriate GSA office and Regional Finance Division.

(6) When property for which GSA is the holding agency, a right of entry for use of excess property pending consummation of an approved transfer may, in the discretion of the region, be granted to the transferee agency. When property is under the control and accountability of another agency, such right may be granted by the holding agency with the approval of the region.

b. Sale to private purchaser. When a contract for the sale of surplus property has been executed, the region must plan the details and initiate all actions necessary for relinquishment of custody and accountability by the Government. The plan must include the following, as may be applicable.

(1) Arranging with the protection and maintenance contractor for terminating its employees if the property is contractor-operated, or arranging the separation or the reassignment by reduction-in-force procedure of the protection and maintenance personnel who are GSA employees.

(2) Canceling or assigning any GSA obligations, such as utility contracts, existing leases, and similar obligations.

(3) Advising interested regional services and staff offices of the date the title will be passed or the date the purchaser will take possession in order that all protection and maintenance personnel, whether Government or contractor, may be withdrawn from the sold premises.

(4) Arranging as soon as possible, for removal from the site, of materials, tools, and equipment not included in the sale, unless otherwise provided for in the bill of sale contract.

PART 3. ADMINISTRATION OF LEASES AND CREDIT SALES

14. General. This part prescribes the procedures for administering leases and other use agreements and deferred payment sales, except legal matters, which are handled by the Office of Regional Counsel, and administering security and financial servicing, such as billing, collecting, following-up to ensure maintenance of the required insurance and payment of taxes, etc., which are handled jointly by the Finance Division and the region.

15. Scope. Administration of leases and other use agreements and deferred payment sales must include, but not be limited to, the following:

a. Physical inspections, as deemed necessary by the region, shall be made of leased property, including industrial property, sold subject to a mortgage, conditional sale, or similar agreement, to ensure compliance with lease, mortgage, or contract terms and requirements for protection and maintenance.

b. Reviewing and taking appropriate action in connection with all complaints received. However, in no case will a complaint be considered justification for withholding payment of rental, installment payments, or other charges. Any such complaints affecting payment to GSA must be referred promptly to the Director, Finance Division.

c. Supervising the use of roads, railroads, and other common use facilities to ensure fair and reasonable availability to all requiring use thereof, and requiring the users to repair all damages to such facilities resulting from their operations, or to pay their pro-rata share of the cost of such repairs, as the case may be.

d. Ensuring that the utilization of the property is in accordance with the provisions of the agreement.

e. Supervising alterations or repairs made at Government expense.

f. Collaborating, as may be required, with the Finance Division that has primary responsibility, to ensure:

(1) That payments are made of the full cost of all utilities and other services furnished under the terms of the agreement.

(2) Compliance with the provisions of the agreement relating to the payment of taxes, assessments, and similar charges that may be assessed or imposed on the property or upon the user thereof, or upon the use and operation of the property.

(3) Adequate and continuous insurance coverage in types and amounts or limits prescribed in the agreement.

(4) That the required information and recommendations are furnished in connection with the foreclosure actions, partial releases, and extensions, moratoriums, or other modifications affecting the administration of credit agreements.

g. Collaborating with the Finance Division and Regional Counsel in preparing a case for referral to CO when legal action is recommended.

16. Periodic inspections. When deemed necessary by the region, inspections of lease property, including industrial property, sold subject to a mortgage, conditional sale, or similar agreement, shall be made, after reasonable prior notice to the lessee or purchaser, at intervals of 12 months to ensure compliance with the provisions of the agreement.

a. A copy of the initial and any interim inspection or condition survey reports must be reviewed at the time of inspection for purposes of comparison.

b. The Finance Division must be contacted to determine the status of the financial aspect of the agreement and to offer any assistance that may be desired by that office in obtaining compliance with the agreement, such as payment of delinquent installments or rentals, adequate insurance, and payment of any delinquent taxes, assessments, or insurance premiums.

c. The violations of the use and occupancy provisions of an agreement must be called to the attention of the lessee's or purchaser's local representatives and confirmed to the lessee or purchaser in writing, after clearing with the Finance Division and office of Regional Counsel, notifying the lessee or purchaser that corrective action must be taken within 30 days. The region must reinspect to check compliance when necessary.

d. The Finance Division and Office of Regional Counsel must clear the written notification of inspection for the points covered in the notification which concern the functions and records of those offices. A copy of the notification must be forwarded to the Finance Division. This notification must cover, but not be limited to, the following points:

(1) Whether the payments or rental due under the terms of the agreement are current.

(2) Whether the lessee or purchaser is carrying the insurance required under the terms of the agreement and the premiums are current.

(3) If a credit sale, whether all legally assessed taxes are current.

(4) If under lease, whether the lessee has been billed for any regularly assessed taxes other than real property taxes. If so, obtain all of the details and determine whether the lessee has made any payments.

(5) Whether the lessee or purchaser has complied with the provisions of the lease, if any, relating to payment of real property taxes or payment in lieu of taxes.

(6) Whether the lessee or purchaser is maintaining the property in accordance with the terms and conditions of the agreement.

(7) Whether any alterations have been made to the real or related personal property that violate the terms and conditions of the agreement.

(8) Whether the lessee or purchaser is using the property for purposes contrary to the agreement.

(9) Whether the lessee or purchaser is using Government-owned property not granted in the agreement.

(10) Whether security measures, fire prevention, and fire protection are sufficient to protect the Government's interest.

(11) The general condition of the property and, if it is a credit sale, whether the property appears to be adequate security for the indebtedness.

17. Termination of leases. An inspection of the property must be made jointly with a representative of the lessee or user upon notice of the termination of any lease or other use agreement to determine the extent, if any, of restoration required under the provisions of the lease or agreement.

a. In all appropriate cases a condition survey of the premises and equipment must be made jointly with representative of the grantee, at the inception and termination of any lease, permit, or license. A report of such survey must be prepared and signed by the participating parties.

b. Notices of any restoration must be forwarded promptly to the lessee or user. If restoration is required, the property shall again be inspected before it is vacated or relinquished, to ensure compliance with such requirements. If in the best interest of the Government, a cash restoration settlement may be negotiated with the lessees or user in lieu of physical performance.

c. The region must establish requirements for the protection and maintenance of the property and promptly provide for it when the property is vacated.

18. Delinquent accounts. Such assistance shall be provided as the Finance Division may solicit in the servicing of delinquent accounts. Information obtained which may be pertinent to collection of obligations held by GSA shall be promptly furnished to the Finance Division.

19. Renewals, amendments and supplemental agreements. Proposed renewals, amendments, and supplemental agreements relating to leases are subject to ch. 2-13 and ch. 4 - part 3 (Negotiated Disposals).

20. Mortgaged property. The Office of Finance and the region share responsibility. The Office of Finance is responsible for the financial service of mortgages. The region is primarily responsible for any modifications of the mortgage that affect the amortization schedule or other terms of the agreement. These include payment moratoriums such as extensions or deferrals, renegotiations, final determinations on foreclosures, or any action taken to avoid a foreclosure or offer of relief to an economically distressed mortgagor. Any actions involving properties known to be sensitive or controversial should be discussed with CO.

a. Mortgage modification. Decisions by the region concerning modifications will be coordinated with the Office of Finance. Listed below are elements that should be covered when considering a proposed mortgage modification. Omissions, additions, or other changes to this list may be made when the elements do not apply or when other information is pertinent.

(1) Property information.

- (a) Description and condition of property at time of sale and at present.
- (b) Improvements made to the property by mortgagor.
- (c) Information concerning any parcels that are under lease.
- (d) Unpaid taxes.
- (e) Other liens or encumbrances.

(2) Area information.

- (a) Description of area
- (b) Use of other portions of property previously conveyed.
- (c) Growth potential of area.

(3) Mortgage information.

- (a) Terms of sale (in detail).
- (b) Copies of agreements, letters, or other documents affecting the mortgage and amortization schedule.
- (c) Unpaid balance (principal and interest).
- (d) Overdue payments (principal and interest).
- (e) Pre-mortgage evaluation of prospective mortgagor's credit worthiness.

(4) Mortgagor information.

(a) Current financial statements of the mortgagor (if the mortgagor is a partnership, the financial statements should include statements for each general partner as well as the partnership).

(b) Current credit reports.

(c) Credit worthiness report from the Credit and Finance section.

(5) Proposed modification.

(a) Previous modifications.

(b) Fully describe proposed modification.

(c) Reasons for this proposal.

(d) The likelihood of success if the proposal is implemented (include a discussion of the mortgagor's ability to meet his/her obligation under the proposed modification if not covered in par. 4).

(e) Follow-up plan of action such as inspection of financial records or formal audits.

(f) Expected result if the proposed modification is not approved.

(6) Foreclosure.

(a) Projected protection and maintenance costs in the event of foreclosure.

(b) Prospects of resale in the event of foreclosure.

(c) Estimated costs to resell the property.

b. Partial releases.

(1) Whenever a partial release of property is requested, the region must review the invitation for bids, the security instruments, and any agreement entered into with the mortgagor subsequent to the date of the sale, to determine whether any provisions were made for the release. The region must consult with the Office of Regional Counsel on questions relating to any such provisions. If such a contractual provision was made, the region must advise the Director, Finance Division, of the consideration required for the release and must furnish such appraisal data, advice, and assistance as may be required to effect the release.

(2) When no contractual commitments exist, the region must obtain appraisal data, advice, and assistance as may be needed to ascertain the value of the property, or interest therein to be released and the security to remain. A determination should be made as to whether the proposed release would adversely affect the Government's interest, e.g., deny access to remaining property securing the mortgage.

(3) The region must advise the Director, Finance Division, of any out-of-pocket expense incurred in obtaining information requested such as appraisals, inspections, and surveys.

(4) The amount required for a release is determined by the terms of the contract. In the absence of any such terms, this amount will be determined by the region, in accordance with FPMR 101-47.304-4(d)(3).

c. Authorizations to lease.

(1) The region, upon request by the Director, Finance Division, must furnish advice and assistance in connection with requests of mortgagors for authorization to lease the property, portion thereof, or interest therein. In the event the request is for authorization to lease mineral rights according to a contractual commitment, the region shall inform the Finance Division of the consideration required for such leasing.

(2) Any financial consideration that the mortgagor may be required to pay to the Government in connection with an authorization to lease is determined by the Director, Finance Division, after obtaining advice and assistance from the region and Regional Counsel.

d. Foreclosure actions.

(1) When the Director, Finance Division, determines a mortgage is uncollectible by administrative means and legal action is considered necessary, the region shall either concur in the proposed action or advise the Director, Finance Division, of the action which the region recommends be taken.

(2) The region, upon request by the Finance Division, must provide appraisal data and other information pertinent to the current market value of the property and furnish a definite recommendation as to the maximum amount to bid at the foreclosure sale if bidding by the Government is necessary to protect its interest. The recommended maximum bid must not exceed the estimated market value (fair market value) of the property less (a) the estimated amount of depreciation which may accrue during the period the mortgagor has a right to redeem the property; and (b) the estimated costs and expenses of reselling the property. The recommended bid shall in no event exceed the amount of the mortgagor's legal indebtedness to the Government.

(3) The region must cooperate with the Finance Division in providing Regional Counsel with the data required for preparation of the case to be submitted to the Office of the General Counsel for clearance and transmittal to the Department of Justice.

(4) The region must establish requirements for protection and maintenance of the property and provide for such protection and maintenance promptly after possession of the property is granted by the court.

(5) The region must inform CO, by memorandum, of the facts and circumstances relating to any such foreclosure proceedings.

21. Interest rates applicable to credit sales.

a. The interest rate of mortgages on the sale of surplus real property will be set on the date that a written announcement for bidders is published, and will be in effect for 180 days. If settlement does not occur within the original 180 days, the interest rate will be reviewed by the Regional Director to determine a possible increase; however, in no event will the rate be decreased. The rate will change to the current rate in effect on day 181 if it's higher and remain in effect through day 360. The rate would then change again on day 361 if it's higher and every 180 days thereafter.

b. The interest rate will be equal to the 10-year rate from the Department of the Treasury's schedule of certified interest rates plus 1 percent rounded to the nearest 1/8 percent.

c. The interest rate and its 180-day duration should be included as part of the financing information in advertisements and all other marketing materials such as postcards, brochures, and Invitations for Bids. The interest rate should also be explained before any public auction of property where credit terms are available.

d. The region should request the current 180-day interest rate from the Finance Division, and provide that office with the property number and regional FAX number. Finance will provide written confirmation of the rate.

22. GSA interest rate conflicts with state usury laws. The prevailing GSA interest rates apply in all deferred payment transactions irrespective of State laws establishing a lower maximum interest rate. An exception to this policy can only be made when a State or local public body cannot legally incur a debt at an interest rate in excess of a rate which is lower than the prevailing GSA rate.

PART 4. TAXES

23. General. This part prescribes the procedures for administering tax matters, except legal and financial matters, relating to excess and surplus property and property outleased or sold on credit terms by GSA.

24. Taxes and liens. When disposing of properties donated to the Government, recaptured properties, foreclosed properties, or other properties that have liens or assessments against them, the following actions must be taken:

a. Check property documents to determine whether the deed to the Government has been recorded by the appropriate local authorities to provide notice of Government ownership. If not, arrange for the deed to be recorded in local government records.

b. Investigate local records to determine whether there are outstanding taxes and/or liens on the property. At the same time, notify local taxing authorities that the property is Government property and not subject to taxation. If there are existing taxes and/or liens against the property, coordinate with the Regional Counsel what actions should be taken to extinguish such taxes and avoid a tax sale. Possible actions are:

(1) Refer questionable or invalid liens to the Regional Counsel for resolution.

(2) Extinguish assessments of liens and pay valid back taxes if funds are available. Document the files when tax assessments or liens cannot be extinguished or back taxes paid.

(3) Consult the Regional Counsel concerning the need for litigation to extinguish tax assessments or liens against the property for any period while in Government ownership and therefore not subject to taxation. Whether litigation will be requested will depend on the amounts involved and the effect of disposal. If the amounts involved are not significant enough to warrant litigation or if the tax liens are valid and funds are not available for payment, consideration shall be given to selling the property subject to the assessments or liens.

25. Payments by lessee or purchaser under a contract for deed (land contract) or mortgage. If the property is outleased by the Government or sold and the lessee or purchaser is liable for tax payments on its property interest but no provisions are made in the lease, land contract, or mortgage for submitting

evidence of such payments, the region must request in writing that the lessee or purchaser submit such evidence to the regional office, Attention: Regional Director of Administration. Copies of such requests to lessees or purchasers must be furnished to the Regional Director of Administration.

26. Evidence of payment by lessee or purchaser. Evidence of tax payments made to proper taxing authorities received from lessees and purchasers must be maintained in the files of the Regional Director of Administration. Periodic checks are made by the regional Office of Administration to ensure that lessees and purchasers are submitting the required evidence or tax payments. A further check for tax payments is provided for in par. 16, relating to periodic inspections of property under lease or sold on credit terms.

PART 5. RECORDS, DOCUMENTS, AND FORMS

27. Control and notification system. This paragraph prescribes the need to maintain complete records of all real property disposal activities. Maintaining complete records is important for monitoring and overseeing the disposal program.

a. Computerized database.

(1) CO developed and manages a nationwide computerized database on all disposal actions. This database is the primary source of information on all disposal actions and is used to manage and monitor the disposal program.

(2) The database includes information on properties reported to GSA for disposal as well as planned and actual disposal actions. The database also includes reporting capability.

(3) CO revises the database as required by advances in computer hardware and software, as well as changes in the needs for management information. CO also issues specific instructions on how to use the database.

(4) Regional officials must keep the database up to date with the latest information.

b. Summary reports. Regional officials must place a summary of the pertinent data for the case on top of the case file after completing the disposal of each property. This data should include information on the size (acres/hectares), values, and buildings reported for disposal as well as disposal methods, value received, recipient/purchaser name and address, and pertinent dates for all disposal actions.

c. Computer generated. CO provides to the regions a computer generated report summarizing all disposal activity related to each property and its associated parcels. This report includes the information subpar. b, above.

28. Distribution of documents. This paragraph prescribes the procedures for furnishing copies of instruments and related documents and data involving the disposition of excess and surplus real property, and related personal property, to the regional Finance Division, the holding agency, and CO. The region, will as soon as practicable after the disposition of excess or surplus property by GSA, by sale, lease (including short-term interim leases), transfer, assignment, or otherwise, shall distribute copies of the disposal documents in the following manner:

a. To CO.

b. To the regional Finance Division in those cases which involve collection by GSA of payments of a monetary consideration, and also in any case, regardless of the consideration involved, where GSA is the holding agency for the property.

c. To the holding agency for the property. For GSA property, the holding agency copy must be forwarded to the appropriate GSA office.

d. One copy of all executed deeds to the local tax assessors' offices in order to assist and support local government in clearing tax exempt Federal properties from their books and returning them to the tax rolls.

29. Forms. Regional officials will access forms associated with the utilization and disposal of excess and surplus real and related personal property through the forms library. CO and regional officials may access and print the forms and formats from the forms library through their office automation systems as needed.

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Appendix 2-A. Application to Purchase Chapel

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CHAPTER 2. UNIQUE DISPOSALS AND CONSIDERATIONS

1. Abandonment, destruction, donation. Covered by FPMR 101-47.5 and the GSA Delegations of Authority Manual (ADM P 5450.39A).
2. Airports. The definition of Airport is found in FPMR 101-47.103.3. The authority and general procedures for disposal of airport property, including property needed to develop sources of revenue from non-aviation businesses at a public airport, are found in FPMR 101-47.308-2. Conveyances are also subject to the conditions set forth in FPMR 101-47.4905. Airport conveyances are made without consideration and an appraisal is not required.

3. Appraisals.

a. The following types of disposals do not require a formal appraisal. However, an appraisal may be obtained, or as a minimum, the realty specialist should prepare a market analysis that will be reviewed and concurred in by the staff appraiser. The case files and other appropriate disposal document should include this data.

- (1) Proposed for public benefit conveyance;
- (2) Proposed for Federal-aid highway purposes under 23 U.S.C. sections 107 and 317;
- (3) To be conveyed to DOI for fish and wildlife conservation purposes under 16 U.S.C. 667b-d (Act of May 19, 1948, ch. 310, Public Law (P.L.) 80-537, 62 Stat. 240, as amended);
- (4) To be transferred to DOI for Indian tribal use as authorized by section 202(a)(2) of the Act or 25 CFR Part 151;
- (5) Having an estimated value of \$50,000 or less, as determined by the regional director, which property will be competitively sold or leased;
- (6) Where no useful purpose would be served, i.e., legislation authorizes conveyance without monetary consideration or at a stated amount; and
- (7) Where the holding agency submits/will submit a recent acceptable appraisal report.

b. An appraisal is required for:

- (1) Government-owned, contractor-operated plants for negotiated sale to operating contractors.
 - (a) Both the market value (value to a third party) and the special use value to the operating contractor.

(b) The value of the property subject to a "capability clause" or similar use restriction should not be requested, even though the property, if sold, will be conveyed with a restriction.

(2) Properties to be sold by competitive or negotiated sale except if under \$50,000.

(a) Market value (fair market value).

(b) Presume all cash terms and make no reference to possible credit terms which the Government might extend.

(3) Historic properties for negotiated or competitive sale except if under \$50,000.

(a) Market value (fair market value) without any reduction because of historic preservation covenants that GSA may impose in a deed.

(b) The appraiser must thoroughly address historic or similar restrictions imposed by zoning or other State or local land use ordinances as they apply to historic properties generally.

c. The memo soliciting the valuation service, must request that the appraiser furnish the property's estimated market value based upon its highest and best use for the current market, and/or in appropriate cases, an estimate of the monthly or annual market rent.

d. If a Federal transfer may result, the Director may request a contract appraisal to prevent problems of documentation with the transferee agency, e.g., committing budgeting funds for reimbursement, or be used for sale purposes if the transfer does not materialize. If a staff estimate is acceptable, the appraisal request should specify that a formal appraisal be prepared documenting value to the same extent required of a contract appraisal.

(1) Market value is required and not special use value.

(2) Federal transfer of a building to an agency holding the underlying land should request the structure's off-site removal or salvage value.

e. Subject to the exceptions stated in f, below, whenever it is evident that an appraisal will be needed for conducting negotiations to dispose of property, the GSA Form 66 must specify that a contract appraisal is required, except for property having an estimated market value (fair market value) of \$15,000 or less, as determined by the regional Director.

f. Whenever the cost of obtaining a contract appraisal report would be out of proportion with the expected recoverable value of the property, or if for any other reason it would not be in the Government's best interest, the region should authorize a method of obtaining an estimate of the market value (fair market value) of the property, or fair annual rental, as deemed proper.

g. Solicitations for proposals from contract appraisers shall require the "as of" date of the value estimate to be no more than 45 days before the report is delivery.

h. If the appraisal is needed to conduct negotiations to dispose of property to any public agency known to have a requirement for in-place use of any buildings/structures located on the land, the GSA Form 66, shall:

(1) State the purpose for the appraisal;

(2) Identify the buildings/structures for in-place use by the public agency; and

(3) Request that if the appraisal shows that the buildings/structures depreciate the land value based upon its highest and best use, a supplemental memorandum be provided with information on the special use value of the property to the proposed purchaser.

4. Cemeteries.

a. If an area to be transferred to an applicant for public purposes, contains a cemetery (other than military), or family burial ground, in which the former owner, next of kin, or other interested party expresses a desire to re-acquire and the properties location prevents segregation without destroying the area's continuity, or is isolated and not conveniently accessible from a public thoroughfare, the region is authorized to require the transferee, as a condition before executing the transfer instrument, to:

(1) Agree in writing to set aside a suitable section of the property to be transferred for use as a cemetery;

(2) Provide fencing (where necessary);

(3) Re-inter the bodies at its expense; and

(4) Convey property set aside for the new cemetery to such former owner, next of kin, or other interested party at the price paid by the Government.

b. The property substituted for that containing the cemetery or family burying ground must be situated so as to afford easy and convenient access without interfering with the transferee's use of the public purpose area. The foregoing is not applicable in the case of military cemeteries which are under the jurisdiction of the Department of Veterans Affairs.

5. Chapels. Covered in FPMR 101-47.308-5; defined in FPMR 101-47.103-4.

a. Fixtures or furnishings. Fixtures or furnishings (except organs and ecclesiastical equipment) that the region determined to be related or essential to the proposed use of the buildings and determined surplus in conjunction with the buildings may be disposed of with the buildings at a price equivalent to their appraised market value (fair market value). Organs and ecclesiastical equipment will be controlled by the appropriate Chief of Chaplains.

b. Leased land. A chapel located on leased land will be segregated from other structures and sold for removal and use off-site and shall not be included in any restoration agreement. However, the purchaser of a chapel shall be required to fulfill the Government's obligation for site restoration, or make a satisfactory financial arrangement to cover such restoration.

c. Terms and conditions of disposal. The terms and conditions are stated in the Application to Purchase Chapel (app. 2-A). All persons expressing an interest in purchasing the property shall be provided copies of the application for their use in submission of an offer. An applicant must offer the price established by the appraisal and shall be required to submit an original and one signed copy of the application.

d. Advertising. Advertising procedures must be in accordance with the applicable provisions of ch. 4, par. 43.

(1) To eliminate untimely requests after submission of applications to the Chief of Chaplains, advertising should include the following statement, "To receive an Application to Purchase Chapel, please submit requests to (region). Requests for applications will be accepted until (expiration of advertising period). Requests received after this date will be returned."

(2) Regions must forward applications by cover letter to the requestors advising of the purchase price and that the completed application must be returned within 2 weeks for submission to the appropriate Chief of Chaplains.

6. Easements.

a. Disposal to owner of servient estate. Circumstances under which GSA may dispose of an easement to the owner of the land which is subject to the easement are set forth in FPMR 101-47.313-1. Surplus easements originally acquired to serve a dominant estate, that is also surplus, should ordinarily be disposed of together with the dominant estate. However, if the easement is no longer needed in connection with the dominant estate, it should be terminated separately by releasing it to the owner of the servient estate.

(1) If the Government acquired the easement at no cost or at a nominal consideration, it may be released without charge, except that the estimated special use value to the owner of the underlying land of any Government-owned improvements to be left on the property will be obtained.

(2) Where the Government acquired the easement for a substantial consideration, the highest price obtainable will be negotiated with the owner of the servient estate for its termination. The region may grant the release if a price can be obtained that is not less than the fair value of the easement. The fair value shall be determined by estimating the market value (fair market value) of the fee, free and clear of the easement; estimating the market value (fair market value) of the fee, subject to the easement; and computing the difference, or damage, caused to the fee by the easement.

(3) If after intensive negotiations the owner of the servient estate refuses to pay the aforementioned charge for the release of the easement, but agrees to a lesser though substantial amount which the region considers acceptable, the release may be affected at this lesser sum.

(4) If, after all of the other property involved in the case has been disposed of, an acceptable price cannot be secured for the easement, the region shall assume custody and accountability of the easement interest and carry it in a special inactive surplus inventory for ready disposal in the event the owner of the servient estate expresses new interest in securing its extinguishment.

b. Grants in or over Government property. Covered in FPMR 101-47.313-2.

(1) The region may grant easements over surplus land according to 40 U.S.C. 319. The region must obtain the advice of the Appraisal Staff and to the extent necessary, must determine the market value (fair market value) of the easement and any reduction or enhancement of value to the remaining property. This can be accomplished by general estimates and an appraisal opinion without more detail or analysis than is practical under the circumstances. If it is in the Government's interest to grant the easement, the grantee of the easement shall agree to such covenants and conditions as will benefit the entire Government property.

(a) When the easement, subject to such covenants and conditions, decreases the value of the entire property, the Government should receive the full market value (fair market value) of the easement grant plus an amount representing diminution in value to the remaining property. Determine

severance damages by estimating the decrease in value to the remaining property caused by the grant of the easement.

(b) When the easement grant enhances the value of the entire Government property, it must be equal to or greater than the market value (fair market value) of the easement grant. Otherwise, consideration equal to or greater than the difference between the enhancement in value and the value of the easement grant is required.

(c) When an easement is to be granted to a public body willing to assume the covenants and conditions imposed for the benefit of the entire Government property (for example, if a county desires an easement for the construction of a road for the use and benefit of the public and is willing to assume the obligation of constructing and maintaining the road for such purpose, and the enhancement of the remaining property is considered to be adequate consideration for the grant), the easement may be granted to the public body without charge.

(2) The instrument granting any such easement shall provide that the Government may terminate the easement, in whole or in part, if there has been:

(a) A failure to comply with any term or condition of the grant;

(b) A non-use of the easement for a consecutive 2-year period for the purpose for which granted; or

(c) An abandonment of the easement.

(3) The instrument shall provide that written notice of such termination shall be given to the grantee, or its successors or assigns, and that the termination shall be effective as of the date of such notice.

7. Exchanges. Covered in FPMR 101-47.301-1(c), 101-47.307-2(b), and 101-47.4911.

a. General.

(1) Reports of Excess are specifically submitted for the purposes of including the property in an exchange by the holding agency cannot be. The Report of Excess may note that there is interest in an exchange, but only for properties determined surplus. When a Federal Agency requests an exchange for any surplus property, other disposal methods must also be fully considered.

(2) An exchange is a transaction in which the Government-owned real property or interest in it is traded for other real property or interest owned by another party. When the properties or interests to be exchanged are of unequal value and the other party declines to waive payment of the difference, a supplemental monetary payment may be made if funds are available for such purposes. The Government may never waive the difference in values when the value of the Government property exceeds the value of the property to be acquired in exchange. A supplemental payment is always required. All exchange negotiations shall be conducted vigorously to obtain, in return for the Government's property, other property of equal or higher value or other property plus cash totaling equal or higher value.

(3) Surplus property is disposed of by exchanging it for other property only in selected cases when GSA decides that the greatest benefit will accrue to the Government from the exchange. Generally, the need of a Federal agency for excess or surplus real property to meet a direct program requirement

takes priority over use of the property for exchange purposes. All exchanges must be carefully evaluated against other possible methods of disposal to make sure that the transactions are in the Government's best interest.

(4) Exchanges made under the Public Building Act of 1959, as amended, are limited to Government-owned properties already in the GSA inventory. This prevents exchanges in which property is transferred from the disposal inventory to the GSA inventory for exchange purposes. Exchanges for public building projects are not made under the 1949 Act unless funds will be made available in the Federal Buildings Fund to pay the market value (fair market value) of the property to be acquired and transferred to GSA.

(5) Contract appraisals will be obtained for both the Government property being conveyed and the nonfederally owned property being conveyed to the Government, except in situations where staff appraisals are justified. If at the time the explanatory statement is submitted to the congressional committees the appraisal of the property would be more than 9 months old, the region shall have the appraisal updated. Prior Central Office (CO) approval is required in cases where there is unusual justification for using staff appraisals on properties to be exchanged. If possible, the same appraiser should be used for both properties to ensure a consistent method of valuation is applied that will result in more accurate and uniform basis for negotiation.

(6) When a building or a public building site is proposed for acquisition by exchange that would otherwise require developing and submitting a prospectus for the project, a report on the transaction must be made to the House and Senate Public Works Committees, as well as the House Committee on Government Operations and the Senate Committee on Governmental Affairs.

(7) Exchanges are only negotiated with owners of real property when they are for mutual convenience. GSA will not negotiate with a party who has to get an option on the property that the Government wants to acquire before making an exchange offer to the Government--so-called forced exchanges are not made. Other executive agencies should also be discouraged from making express or implied commitments that would prompt a non-Federal body to acquire property for the purpose of exchanging it for property to be excessed by the executive agency.

(8) Exchanges will be undertaken only when:

(a) The excess property has been screened against the direct use requirements of other Federal agencies with negative results, or a determination has been made that the property is not suitable for transfer to another Federal agency; and

(b) The proposed transaction is a direct exchange that in all respects is feasible and clearly in the Government's best interest.

b. Authority. Authority to exchange property for other property is in subsection 203(c) of the Act. However, negotiated exchanges are subject to certain limitations; including the following:

(1) Negotiated exchanges may be made only as provided for in subsection 203(e)(3) of the Act and require submission of an explanatory statement, regardless of value, as provided for in subsection 203(e)(6) of the Act.

(2) On the basis of policy developed in consultation with the House Committee on Government Operations, GSA makes surplus real property available for exchange only when the exchange is for a specific requirement and is clearly in the Government's best interest. The requesting agency must justify an exchange by providing a detailed explanation of (a) the substantial economic or program advantages accruing to the Federal Government from the exchange transaction not obtainable by any other method of acquisition; (b) the circumstances that make the exchange critical to the agency's

objectives; and (c) evidence of agreement to the transaction from the substantive Congressional Committees or statutory authority to acquire the real property in cases involving privately-owned property.

(3) FPMR 101-47.301-1(c) sets GSA policy on exchanges involving private parties. Additionally, preliminary concurrence of the Senate Committee on Government Affairs and the House Committee on Government Operations is obtained by the GSA CO after the requesting agency furnishes the required documentation. The clearances required by this subpar. apply only to exchanges involving private property, not to those with public bodies.

c. Responsibilities.

(1) GSA is responsible for all exchange transactions involving the disposition of surplus property under the authority of section 203 of the Act. It is GSA's policy that excess property shall not be transferred to other agencies for exchange under their statutory authorities. (Legislation on disposal by exchanging excess or surplus property is handled case by case.) Instead, the exchange must be made by GSA under the Act and the acquired property then transferred to the requesting agency.

(2) On the basis of the information provided by the requesting agency, it shall be the region's responsibility to determine that an exchange of property is consistent with:

(a) GSA's policy to dispose of property in the most economical manner, and

(b) FPMR 101-47.301-1(c) and FPMR 101-47.8 regarding property to be acquired and FPMR 101-47.203-7(f) concerning reimbursement by the acquiring agency. It is the region's responsibility to inform the requesting agency that reimbursement is required unless a waiver is approved by OMB. This approval may be obtained by the requesting agency. Otherwise, if the requesting agency advises that it cannot reimburse, the GSA CO submits the question of reimbursement to OMB before obtaining the concurrence of the Commissioner, provided for in subpar. d, below.

d. Approval. The GSA Delegations of Authority Manual (ADM P 5450.39C) requires that a (disposal/exchange) reuse plan detailing the transaction be submitted to the Commissioner for concurrence before obtaining appraisals or beginning negotiations. It is advisable to discuss requests for exchanges with CO as they are received to make sure that the requesting agency has obtained all required approvals and provided adequate justification.

e. Procedures. The reuse plan shall be submitted to CO for concurrence by the Commissioner to proceed with a proposed exchange. The purpose and background of the exchange must be included, as well as a statement showing that the policy requirements have been met. A section similar to the following must also be included:

We recommend that _____ consisting of _____ be exchanged for _____

owned by _____. This reuse plan is sent for prior concurrence by the Commissioner.

Upon concurrence with the reuse plan, the _____ regional office is authorized to begin further

exchange planning and action.

Approved:

Commissioner

Date

f. Consummation of exchange.

(1) Any negotiated exchange shall be subject to applicable provisions of negotiated sales.

(2) Before completing any exchange, the title evidence relating to the property to be acquired shall be submitted to the Regional Counsel in a memorandum that requests an opinion as to the validity of the title to the land involved.

(3) The region should attempt to negotiate an agreement for the other party to the exchange to pay all escrow, title, and other closing costs. If the other party to the exchange is unwilling to pay all costs, the party should pay at least one-half of the escrow costs and any costs for title policy, survey, recording, or other expenses attributable to the Government property being conveyed. The Federal agency for which the exchange property is being acquired should bear any costs payable by the Federal Government under the exchange agreement. Clear agreement on these matters should be made a part of the offer to exchange and, by letter from the acquiring Federal agency, made a part of the region's file early in the course of negotiations. The following should also be considered in an exchange transaction:

(a) Property (especially machinery and equipment) to be either included or excluded from an exchange must be specifically identified and agreed to in writing by all parties before it is appraised. The information should also be clearly set out in the appraisal contract.

(b) As in all other disposals, appraisals should be performed only after GSA accepts the report of excess.

(c) An environmental assessment of property to be acquired must be thorough and must be clearly documented.

(d) Inventories must be adequately reviewed and verified by GSA.

(e) There must be open communication among all parties, with GSA taking the lead as the Government's agent.

(f) Exchanges that entail lengthy delays should be systematically reevaluated as to merit to consider whether changing circumstances might make the exchange inadvisable.

(g) Closing documents must clearly identify and describe the real property to be included and any specific property excluded from an exchange.

g. Proceeds. The proceeds from an exchange available for deposit as required by section 204(a) of the Act, are any monetary consideration received as part of the exchange transaction. The selling price to be reported and/or entered into the computer data shall show the sum of money received and the value of the property acquired by the exchange.

h. Disposition of acquired property.

(1) Property acquired by exchange shall be taken into the custody and accountability of GSA and reported by the region as excess. Its disposition shall be subject to FPMR 101-47.203-7(f) concerning reimbursement by the acquiring agency.

(2) Notification of Office of Finance. When exchanges of real property are completed, Finance Division must be notified on GSA Form 1011, Real Property Acquisition Advice (or by letter), as to the GSA properties relinquished and/or received in order to adjust real property records.

8. Explosives. Covered in FPMR 101-47.103-5, 101-47.202-7, 101-47.401-4 and, and 101-47.501-3. See ch. 5 for additional information.

a. Restrictions. Special restrictions apply to disposals of land which have been subjected to the use of explosives. Ordinarily, the holding agency advises that:

(1) The property is considered cleared to an extent that it may be used for any purpose for which it might normally be suited; or

(2) The land should be restricted to surface utilization, i.e., grazing or timbering.

b. Notice to prospective purchasers. Official advertising material should warn prospective purchasers of the potential hazard and the holding agency's opinion regarding suitable use.

c. Conveyance of title. The Attorney General has approved the use of recitals and covenants in deeds when included in the forms of deeds previously approved by him/her. The Office of General Counsel will provide copies upon request.

d. Notification of removal service. At the time of property conveyance, the purchaser shall be provided a letter giving information regarding services offered by the holding agency, free of charge, to remove duds and other unexploded material that may be found on land previously declared satisfactory for use. A sample letter is included in app. 2-B.

9. Floodplains and wetlands.

a. The unrestricted occupancy and development of lands in flood plains and coastal regions may necessitate future Federal expenditures for relief and rehabilitation of private property destroyed by floodwaters and for the construction of flood control works such as dams and dikes.

b. In disposing of surplus Federal real property, an evaluation should be made of the flood hazards in the area and, when practicable, future Federal costs should be minimized by imposing restrictions on the property's future use or on the type of construction to be allowed. Such property may also be withheld from disposal when that action is considered appropriate.

c. Use restrictions should be included in the sales offerings. When practicable, a plat or map should be included indicating those portions of the property located below the 100-year flood contour.

d. Use restrictions will not be placed on properties known to be above the 100-year flood contour. When the property is located in an area subject to satisfactory local floodplain regulations, it will only be necessary to provide in the assignments or conveyances that the property will be conveyed subject to those local regulations.

e. Ch. 5-3 and 4, provide sources of information and environmental considerations regarding floodplains and wetlands.

10. Highways, streets, and roadways.

a. Federal-aid or other highways. See FPMR 101-47.4905. 23 U.S.C. 107 provides expressly for acquisition by the State of property required for a right-of-way in connection with the National Systems of Interstate and Defense Highways as referred to in 23 U.S.C. 103(d). 23 U.S.C. 317 applies, without exception, to all rights of way on the Federal-aid system or other highways referred to in Title 23. 23 U.S.C. 317 is cited as the authority for the transfer of real property owned by the United States for highway purposes. When transfers of property on the Interstate System are contemplated, both sections 317 and 107 are used as the authority. The property will be conveyed without reimbursement and no appraisal is required.

(1) Under the provisions of 23 U.S.C. 107 and 317, the Secretary of Transportation, acting through the Federal Highway Administration (FHWA), with the cooperation of the Federal agency having jurisdiction over, or supervising the administration of Government-owned lands, is authorized to convey to the State where the property is situated (or to such political subdivision of the State as its laws may provide) any part of the lands or interests in lands that FHWA determines is reasonably necessary for the right-of-way of any highway referred to in Title 23 of the United States Code.

(2) Where a holding agency reports real property as excess specifically for conveyance to a State for highway purposes under the provisions of 23 U.S.C. 107 and 317, the region should return the report with the advice that such conveyance may be effected by FHWA, on authorization from the holding agency, independently of the provisions contained in the Act or GSA regulations.

(3) The conveyance procedures for excess or surplus property under this section is similar to the procedures for other public benefit discounts. Upon approval by the region of a FHWA request, the property will be assigned to FHWA by letter for their conveyance to the State. The assignment letter will cite the conditions in FPMR 101-47.4905, any other necessary terms and conditions and will require conformed copies of the deed be furnished.

b. Widening highways, streets, or alleys. Property, which in the region's opinion is reasonably necessary for the widening of highways, streets, or alleys by the public agency, may be conveyed to said agency pursuant to provisions of 40 U.S.C. 345c, subject to the following conditions.

(1) All of the conditions in FPMR 101-47.4905 relating to 40 U.S.C. 345c.

(2) Conveyance may be with or without consideration. Normally consideration in the amount of the market value (fair market value) will be required unless the Regional Appraiser reports in writing that the widening will enhance the value of retained Government land so as to offset, in whole or in part, the market value (fair market value) of the property conveyed and any severance damage. In the event of such finding, the consideration required will be not less than any severance damage, less any enhancement in value of the remaining Federal land attributable to the widening.

c. Arterial roads and streets. The region, in coordination with officials of the local political subdivisions, must determine which roads and streets should remain open for public use when disposing of a Federal facility and arrange for the transfer to the appropriate political subdivision. All such transfers require payment by the transferee of not less than the market value (fair market value). Arterial roads or streets serving an installation may be donated to the local governments, upon a finding that they have no commercial value, in the manner and form prescribed by FPMR 101-47.5. Roads and streets not transferred according to this subpar. will be included with areas otherwise disposed of.

11. Historical. Covered in FPMR 101-47.202-2(b)(7) and (8), and 101-47.308-3. See Ch. 5 for environmental provisions.

a. Historic monument conveyances.

(1) Related personal property. Related personal property applied for under this paragraph must be held with the real property until National Park Service (NPS) representatives have determined the suitability and desirability of transferring such property with the real property, except in cases where the personal property would definitely have no connection with the proposed use of the real property. For example, modern machine tools would not properly be subject to transfer for historic monument purposes. On the other hand, relics and/or furnishings contained in a building of historic significance must be retained until a survey can be made to determine the desirability of their transfer.

(2) Improvements. When disposing of surplus improvements having historic value separately from the land, every reasonable effort shall be made to ensure their preservation as historic property.

(3) Property affected. Section 203(k)(3) of the 1949 Act permits the conveyance for historic monument purposes of all classes of surplus real property. However, property used for airport purposes and improved industrial property will not be transferred under the provisions of this paragraph except where it is clearly shown that such transfer will be in the public interest. Further, airport property first must have been offered for use for airport purposes before it may be disposed of for other purposes.

(4) Applications. The region must submit three copies of the completed application and a fact sheet describing the particulars of the proposed transaction to Central Office. The GSA Historic Preservation Officer requires the application and fact sheet in his contacts with the Advisory Council on Historic Preservation, public bodies, and others. A format for the fact sheet is shown below.

FACT SHEET FOR
PROPERTY IDENTIFICATION, ADDRESS,
AND GSA CONTROL NUMBER

1. Description and proposed disposal of property.
2. Is the property listed in the National Register of Historic Places or National Registry of Historic Landmarks (Registers) or has action been initiated to have property listed in the Registers. If the property does not have historic significance, is it in the immediate vicinity of a historic property.
3. Plan of use, including proposed restoration, structural changes, repairs, or general maintenance work.
4. Environmental effect of conveyance to grantee by GSA. Does conveyance have (a) no effect, (b) favorable effect, or (c) adverse effect on the historical character of the property to be conveyed or on historic properties in the immediate vicinity.
5. Steps taken or to be taken to remove any adverse effect or to mitigate adversity.
6. Comments of State Historic Preservation Officer regarding the proposed conveyance.
7. Local groups and individuals that are interested in the proposed project and their position or comments.

8. Maps, if available.

(5) Memorandum of Agreement. See app. 2-C for sample Memorandum of Agreement for historic monument properties.

(6) Disposal procedure. Subject to the availability of the property for disposal, obvious errors in description of the property applied for, and considering whether historic monument disposal would adversely affect other disposals, GSA will be guided by NPS's determination when disposing of the property.

(a) Since historic monument conveyances are made without monetary consideration, no appraisal is required.

(b) Historic monument conveyance documents shall contain no provision for abrogation of conditions and abrogation of conveyance restrictions shall not be permitted.

(c) Where the same, or substantially the same, property is sought for historic monument purposes by different eligible public agencies, NPS determines which local public agency is the appropriate agency to acquire the property and advises GSA.

b. Sale of properties with historic significance.

(1) Restrictions.

(a) Restrictive covenants will be developed in coordination with the agency Historic Preservation Officer, the State Historic Preservation Officer, and the Advisory Council on Historic Preservation

(b) Covenants will be incorporated into conveyance documents to protect the historic integrity of the property.

(2) Valuation. Market value (fair market value) for historic property cannot be reduced or diminished because of imposed covenants to safeguard its historic significance. Likewise, a price cannot be established and a bid or offer cannot be accepted that reflects a reduction in the monetary return to the Government due to imposed historic covenants.

(3) Should an offering of a historic property fail to obtain a return commensurate with the value of the property appraised as if the covenants were not imposed, then, after an exhaustive test of the market, consideration must be given to disposal of the property without restrictive covenants as well as other feasible alternatives. In such cases, procedures governing the adverse disposal of historic properties must be followed in accordance with the regulations of the Advisory Council on Historic Preservation.

12. Indian tribes conveyances. In addition to the agencies enumerated in FPMR 101-47.203-5 to receive notices of availability covering excess real property, notices must be sent to the Bureau of Indian Affairs Central Office and area offices where the excess properties are situated.

a. Lands to be held in trust.

(1) Property which the region believes may be requested for transfer to DOI for use by Indians as authorized by section 202(a)(2) of the Act shall not be screened with Federal agencies. Transfer of

such property shall be effected by letter from the Regional Administrator in response to a letter request and appropriate certification from DOI.

(2) Transfers to DOI of excess real property located within an Indian reservation are mandatory regardless of whether DOI requests transfer and must be made without compensation. These transfers may not be made to any other agencies, including those operating programs for the benefit of the Indians, such as HHS. No reimbursement or compensation may be sought from the Indians upon whose reservation the excess real property is located. DOI, the agency designated to hold the property in trust for the Indian tribe, should provide reimbursement at the market value (fair market value) to an agency entitled to reimbursement under section 204(c) of the Act. If DOI does not have sufficient funds, then either that agency or the agency authorized to be reimbursed could seek an additional supplemental appropriation to be credited to the reimbursable revolving fund.

(3) The region shall make certain that there is no entitlement applicable pursuant to section 202(a)(2) of the Act involved where screening by notice of availability is not undertaken in accordance with the provisions of ch. 3-15 & 16.

b. Temporary Federal transfers for Indian use.

(1) Where the BIA or any other Federal agency requests transfers of excess real property for use by Indian tribes, organizations, or individuals with grants or contracts, such transfer requests can only be complied with if there is a direct BIA or other agency programmatic use to be carried out on the Federal property requested for transfer. Such transfers, if approved, shall be considered temporary in nature and shall subsist only for the duration of the programmatic use. Such transfers under this paragraph shall be distinguished from permanent transfers of excess real property for the direct programmatic use of the agency.

(2) If more than one agency is involved in funding the activities discussed above, any one of the agencies may act as the lead or "host" agency in requesting the transfer. GSA expects the lead agency to be responsible for determining that the direct Federal programmatic use continues and to return any portion of the property to GSA when the direct Federal programmatic use applicable to that portion is terminated.

(3) Transfers of this type shall be governed by applicable provisions concerning Federal transfers. If there is an agency having a need for a permanent programmatic use and one or more agencies having a funding involvement, then there should be separate transfers for the permanent and the temporary uses. GSA Form 1334, Request for Transfer of Excess Real and Related Personal Property, should show specifically the land and improvements needed for operations under the grant or contract of each agency and the expiration dates of each grant or contract.

c. Native American Graves Protection and Repatriation Act of 1990 (NAGPRA). P.L. 101-601 provides for the protection of Native American graves and affects the disposal of surplus property. A holding agency must identify the religious or archaeological sites before it notifies BIA. However, the holding agency need not categorize the contents of undisturbed burial sites, nor does it bear a responsibility for excavating or exhuming the contents. When conveying land with burial grounds, a restrictive covenant should be incorporated into the deed of conveyance to protect the burial grounds.

d. Indian Self-Determination Act of 1990. P.L. 101-644 (25 U.S.C. 450j(f)(2) and (3)) grants the Secretary of the Interior the authority to donate property excess to the needs of the Bureau of Indian Affairs, the Indian Health Service, or GSA (property in PBS's inventory) in connection with any self-determination contract or grant made pursuant to the Act. In addition, the Act provides the following:

(1) No priority of consideration is established for these transfers over competing request for excess and surplus property;

(2) There is no automatic approval of a request for transfer to DOI/BIA of excess real property even if there are no other competing request. The disposal agency retain the authority to determine the property excess.

(3) Reimbursement is not waived for an approved request for transfer of excess real property to DOI/BIA.

(4) Property eligible for transfer must be related to an Indian Self-Determination contract.

e. Base Closure Properties. Recent Department of Defense Appropriations Acts, have contained a provision stating that governments of Indian tribes shall be treated as State and local governments for the purposes of disposition of property available as a result of a base closure. If requested to screen base closure properties, make sure that the provision is still in effect and if so take the necessary steps to include them in the screening process.

13. Leases, permits, licenses.

a. Disposal. Covered in FPMR 101-47.302-2 and 101-47.309.

b. Interim use and occupancy. Covered in FPMR 101-47.312 and 101-47.401-6.

(1) Except in the case of a negotiated lease or permit that requires an explanatory statement to the appropriate committees of the Congress, an immediate right of entry may be granted pending execution of the formal lease or permit.

(2) Licenses may be issued to grant use privileges for organization meetings of a community or public nature, i.e., Boy Scout camps, 4-H Clubs, under the following conditions:

(a) For a very short period of use or occupancy, revocable at the will of the Government;

(b) Use and occupancy will not interfere with or delay the disposal of the property; and

(c) For a fair and reasonable consideration under the circumstances, and must contain terms and conditions deemed appropriate to protect the Government's interest.

c. Lease for more than 1 year. Leases providing for occupancy on a more permanent basis, i.e., for more than 1 year, generally shall be offered competitively. In the case of a negotiated lease under section 203(e) of the Act, a report on the proposed negotiated lease may need to be made to the appropriate committees of the Congress (see FPMR 101-47.304-12(a)). Such leases shall provide for an annual rental for the real property and any related personal property, to be determined by appraisal.

(1) Exceptions. Because of their size, location, type of process, or otherwise, some income-producing properties are not adaptable to leases on commercial terms. Such leases may be developed on the basis of a percentage of annual sales or on a production basis of a stated sum per unit in order that the rental actually paid may be more nearly representative of the current rental value at any time.

(2) Taxes, insurance, and maintenance. Leases for more than 1 year shall provide that the lessees pay to the proper taxing authorities or to GSA, as may be directed, all taxes, payments in lieu of

taxes (in the event of the existence of legislation authorizing such payments), assessments, similar charges which may be assessed or imposed on the property or upon the occupiers thereof, or upon the use or operation of the property. The leases shall also provide that the lessees assume all costs of insurance, maintenance, and operating obligations. The Director shall determine insurable values, insurable risks, and shall recommend insurance requirements necessary to protect the Government's interest in the leased property. Requirements for maintenance and operating obligations shall be consistent with similar commercial practices.

(3) Utilities and other services.

(a) Utilities and other services shall be furnished to lessees only when direct supply is not available and cannot be provided at reasonable cost by the lessees. Whenever practicable, lessees should be required to install individual meters at their own expense. Where utilities and other services are furnished, lease agreements shall provide for the payment by the lessees of the full cost of such services.

(b) Utilities and other services shall not be furnished to parties residing, or in business, outside of the boundaries of the leased premises, unless specifically authorized by the Regional Administrator, after obtaining the recommendations of the Regional Counsel, and the Director.

(4) Restoration. Lease agreements must contain appropriate provisions for restoration to the leased premises upon termination of the agreements.

(5) Common use facilities. Lease agreements must provide for the Government's or other lessees' use of roads, railroads, and other common use facilities when the sole use of these facilities is not to be granted in lease agreements. Lessees must be required to repair all damage to facilities resulting from their operations, or to pay the pro-rata share of the cost of repairs.

(6) Options to purchase in leases. The use of options to purchase in leases of surplus property is not authorized.

(7) Transfer of custody and accountability. When property is leased by GSA and another Federal agency is the holding agency, the Regional Administrator should authorize the holding agency to transfer custody and accountability over the property to GSA upon the execution of a legally binding lease agreement, and must execute an appropriate agreement for assumption of custody and accountability for the leased premises (see ch. 1-13).

(8) Condition survey. In all appropriate cases, a condition survey of the premises and equipment must be made jointly with a representative of the grantee, at the inception and termination of any lease, permit, or license. A survey report must be prepared and signed by the participating parties.

14. Military family housing.

a. 10 U.S.C. 2831(b)(3) provides that proceeds from the disposal of family housing of a military department, including related land and improvements, less direct expenses of sale, are to be deposited into a military family housing account. Reports of excess submitted by a military service involving family housing should identify the property as military family housing, state the account into which reimbursement should be directed and provide any special condition and/or instructions.

b. Prior notice will be provided to the holding agency and authority obtained before proceeding with any transfer or public benefit discount conveyance which does not result in payment for the property.

c. All funds received from the disposal of family housing will be deposited in the GSA Special Fund Receipt Account 47-5452.2 (Fund 0952).

d. The GSA Regional Office will advise Finance Division of the total GSA costs and this amount will be retained by GSA. The balance of funds after subtracting all GSA costs will be deposited into the Family Housing Management Account as directed by the report of excess.

15. Minerals. The term "minerals" includes oil, gas, and other minerals and the rights thereto.

a. GSA has entered into a Memorandum of Understanding (MOU) with the Department of the Interior, Bureau of Land Management (BLM), providing for a mineral rights disposal procedure.

b. Upon receipt of a report of excess covering improved or unimproved land owned in fee by the Government, the region will request from BLM a statement covering the property and immediate surrounding area, showing what mineral deposits are known to exist that have a potential commercial value. Attached a legal description of the land or other suitable identification of the property to the request.

c. After considering BLM's advice, GSA shall either convey the mineral rights with the surface or reserve them to the Government. BLM will not usually recommend reserving mineral rights in urban areas or in parcels of less than 16.9 hectares (40 acres).

d. GSA shall reserve mineral rights automatically only in wildlife conservation conveyances. The need to reserve mineral rights in other conveyances will be determined case by case after considering advice from BLM.

e. The region shall transfer, without consideration, each newly reserved mineral right by letter directly to the affected BLM State office. A blanket delegation of authority from the Administrator of General Services to the Secretary of the Interior allows BLM to maintain custody, control, and accountability of all excess mineral rights and to lease these rights. If BLM later decides that selling, rather than leasing, is appropriate, BLM shall return the mineral rights to GSA for sale.

f. The MOU advises that all rentals, royalties and bonuses from sales or leases must be covered into the U.S. Treasury as miscellaneous receipts. This refers to proceeds received by DOI only. Monies received from sale by GSA are handled under existing procedures for sale of surplus property.

g. Executive Order Survey and Compliance Inspection Reports should include a brief discussion of the significance of any minerals associated with the property.

h. At one time, reservations of uranium, thorium, and other fissionable materials were routinely retained in conveyance of surplus real property. Should the regional office receive inquiries concerning the release of these estates, the Government's interest in these estates has been released by operation of law (Title 42, United States Code, Section 2098).

i. When an eligible public agency wants to acquire minerals of commercial value that underlie land being considered for transfer for public airport purposes, and the Administrator of the Federal Aviation Administration has determined that such minerals are needed to develop revenue from non-aviation activities at the airport, the minerals may be conveyed together with the surface and without monetary consideration.

16. Missile Sites. The authority and general procedures for conveyance of real property at missile sites to adjacent landowners are set forth in 10 U.S.C. 9781 as amended by the Defense Authorization Act of November 30, 1993, P.L. 103-160.

a. When the land surrounding a missile site is owned by one owner, a notice of availability of the real property shall be sent to that owner. The owner may then purchase such real property at market value (fair market value).

b. In cases where the lands surrounding a missile site are owned by two or more owners, a notice of availability shall be sent to all adjacent owners. The disposal will be through a sealed bid competitive sale restricted to the adjacent owners. The land will be conveyed to the highest bidder provided the bid is not less than the market value (fair market value) of the property. If the bid is for less than market value (fair market value) of the property it will be rejected and the disposal will be accomplished in accordance with the provisions of title II of the Property Act.

17. Navigable airspace of public airports. This paragraph provides special procedures needed to protect navigable airspace of public airports that may be affected by the disposal of Federal surplus real property. In furtherance of recommendations in House Report 95-1053 entitled "FAA Determination of No Hazard for Structures Near Airports," the following language must be included in contracts or conveyances with respect to disposal of surplus real property located within 6 nautical miles of a public airport. The standard language shall be adhered to unless extraordinary circumstances exist warranting departure, in which case, justification and full clarification shall be included in the explanatory statement.

a. Any explanatory statement submitted to the committees of Congress regarding negotiated sales (where applicable) must contain the following language:

The Offer to Purchase provides that the Federal Aviation Administration (FAA) has been informed of the proposed disposal of the property and that the Government's conveyance document shall contain a provision that any construction or alteration on the property is prohibited unless a determination of no hazard to air navigation is issued by FAA in accordance with 14 CFR part 77, "Objects Affecting Navigable Airspace," or under the authority of the Federal Aviation Act of 1958, as amended.

b. Any Offer to Purchase, Invitation for Bids, or application for discount conveyance must contain the following language:

Based on coordination between the General Services Administration and the Federal Aviation Administration (FAA), as recommended in House Report 95-1053, entitled "FAA Determination of 'No Hazard' for Structures Near Airports," it has been determined that the only public airport within 6 nautical air miles of this property is the _____ Airport. FAA has been apprised of the proposed disposal of the property, and the Government's conveyance document will contain a provision that the grantee, its successors and assigns, and every successor in interest to the property herein described, or any part thereof, must prohibit any construction or alteration on the property unless a determination of no hazard to air navigation is issued by FAA under 14 CFR part 77, "Objects Affecting Navigable Airspace," or under the authority of the Federal Aviation Act of 1958, as amended.

c. Any conveyance documents must contain the following language:

The Grantee covenants for itself, its successors and assigns and every successor in interest to the property herein described, or any part thereof, that any construction or alteration is prohibited unless a determination of no hazard to air navigation is issued by the Federal Aviation Administration in accordance with Title 14 Code of Federal Regulations, Part 77, entitled "Objects Affecting Navigable Airspace," or under the authority of the Federal Aviation Act of 1958, as amended.

18. Power transmission lines. The authority and general procedures for disposal of any surplus power transmission line and the right-of-way acquired for its construction, certified to be needed for or adaptable to the requirements of any public or cooperative power project are found in FPMR 101-47.308-1. Authority to negotiate is found in FPMR 101-47.304-9(a)(5)(i).

19. Property for off-site use. Covered by FPMR 101-47.310.

a. When the American Red Cross owns buildings located on the premises, the local chapter shall be requested to make disposition thereof.

b. Buildings designed for and used or intended to be used for religious activities and services are subject to disposal under ch. 2-5.

c. Property shall not be offered for sale independently of the land it is situated on if removal would render less disposable a more valuable portion of the remaining installation.

d. Any personal property not to be disposed of with the structures should be removed before to advertising. However, if this is impossible or impracticable, the structures should be offered for sale subject to the Government's right to remove such property, or to hold sales at the location after acceptance of a bid for the structures. A sufficient time period should be specified for the Government to exercise such right.

e. Only those utility systems, both above and below the surface of the ground, determined to be no longer needed for any continuing service, and railroad trackage determined to be no longer needed for service to the land on which it is located or outlying areas, are subject to disposal under the provisions of this chapter when it is in the Government's best interest.

f. Advertising shall be in accordance with the applicable provisions of ch. 4-43.

g. The offering shall prescribe the period of time for removal of the property from the land by the purchaser. It shall provide that if the purchaser fails to remove the property within the specified period and does not have sufficient interest in the underlying land to permit him/her to retain it on the land, the Regional Administrator may, at his/her option, declare the purchaser's remaining interest in the property forfeited.

h. A suitable performance bond or deposit sufficient to cover restoration of the site in the event of nonperformance shall be required for either positive or negative bids for the off-site removal of buildings, equipment, trackage, etc. Care should be exercised in modifying any of the terms of performance to ensure that the performance bond is not nullified.

20. Reimbursables.

a. Property Act. Instances where holding agencies report property to GSA for utilization or disposal under the Property Act, but by law are authorized to receive proceeds under section 204 of the Property Act. GSA is statutorily responsible for the disposal of these properties and receives appropriated funds for such purposes (i.e., DOD family housing).

b. Economy Act. Disposals carried out by GSA on a reimbursable basis under 31 U.S.C. 1535 (the Economy Act) for agencies having their own disposal authority. For example, the Department of Justice (DOJ) has its own authority to dispose of seized and forfeited properties; however, DOJ has requested and GSA has agreed to handle such disposals on a reimbursable basis.

21. Relocations. This asset management initiative is intended to provide an incentive to agencies to report valuable, underutilized properties excess for sale by GSA and to provide the highest monetary return to the Government. Funding is provided in annual appropriations for the relocation of Federal agencies from property which has been determined by the Administrator to be other than optimally utilized under the provisions of section 210(e) of the Act; provided, that such relocation be undertaken when the estimated proceeds from disposal of the original facilities, approximate the appraised market value (fair market value) of such new facilities and exceed the estimated costs of relocation.

22. Rights of private parties. Agencies will report, for disposal by GSA, properties that are subject to rights in the Government's grantors or their heirs or assigns to reversion of title, either as the result of express reverter provisions or termination of the Government's title or interest under the terms and conditions of the grant to the Government. In such cases, Regional Counsel shall be requested to review the title evidence, particularly the acquisition deed, and advise the region concerning title. If in fact the grantor or others are found to be entitled to a reversion of title, the Government's interest in the property may be released, when requested by the grantor, through the execution and delivery of a quitclaim deed or other appropriate document for a consideration representing GSA's conveyance costs, subject, however, to the disposal for adequate consideration of any Government-owned improvements located thereon.

23. Water rights. Water rights in connection with real property subject to irrigation shall ordinarily be disposed of with the real property to which they relate.

24. Wildlife conservation.

a. Authority.

(1) Migratory bird management. Requests from the Secretary of the Interior for transfer of land required for use in the Department of the Interior's (DOI) migratory bird management program are covered by P.L. 80-537, as amended by P.L. 92-432, approved September 26, 1972, (86 Stat. 723). If the prescribed determinations as to suitability and availability are accepted, the property need not be determined surplus, but may be transferred without reimbursement under the provisions of the 1948 Act from the excess inventory.

(2) Wildlife conservation. P.L. 80-537, approved May 19, 1948, as amended (16 U.S.C. 667b-d; 62 Stat. 240); provides authority to transfer surplus real property to the Secretary of the Interior (DOI) or to a State for wildlife conservation purposes without reimbursement. Therefore, no appraisal is required.

b. Availability. The region shall consider regional DOI, Fish and Wildlife Service (FWS) recommendations in determining whether property is available and suitable for conveyance to a State for wildlife purposes.

c. Suitability.

(1) DOI. Lands suitable to carry out the national migratory bird management programs are those that have a percentage of good or restorable marsh, sheltered waters, wooded or swamp lands, or crop land, or combinations thereof which produce, or can be made to produce, quantities of waterfowl food or on which grains can be raised to provide waterfowl food and forage to enable DOI, Fish and Wildlife Service (FWS), at strategic concentration points, to protect, feed, or rest significant numbers of migratory waterfowl. Included should be lands unprofitably drained or irrigated which can be reclaimed for waterfowl habitat and lands suitable for administrative and research sites, including lands within or

adjacent to existing refuges which are needed to round out, protect, or to facilitate administration of such areas.

(2) States. Referenced in FPMR 101-47.4905. Lands defined under P.L. 80-537 as valuable for State agency management for the conservation of wildlife, other than migratory birds, are those lands which technical studies show, from the standpoint of their strategic location; possible development or restoration; and physical characteristics, are suitable for carrying appreciable populations of wildlife, and game species such as big game; upland game; fur bearers; and fish; or for State conservation programs such as refuge or management areas, research, and administrative site.

d. Programs. Programs that do not contemplate positive action on the requesting State's part to protect and propagate game are not acceptable; nor are plans contemplating the unrestricted harvesting of game or unrestricted shooting or trapping thereof. Areas sought solely for field trails, dog runs, etc., are not subject to transfer under P.L. 80-537. DOI, FWS, has indicated, and GSA concurs, that the following are acceptable State programs.

(1) Refuge lands. Inviolate sanctuaries for the unmolested feeding and breeding of wildlife; generally available to the public;

(2) Game management units. Areas of value for feeding, resting, and breeding purposes, all or part of which may be open to controlled public shooting during specific periods as a means of harvesting the surplus wildlife crop;

(3) Nurseries and game farms. Limited areas within the State for the production of food plants and certain game species for planting and release on other areas within the State; and

(4) Research areas. Units primarily used for research purposes to study the life history and habits of wildlife species in their native habitat, and related management.

e. Improvements. Transfer only improvements which GSA determines are necessary, and FWS recommends as suitable, for proper execution of the State's wildlife conservation program. These may include living quarters and offices for resident managers and personnel working at the facility, utilities, equipment sheds for machinery and tools to develop and maintain a project, towers for administration and fire control use, and fences.

f. Personal property. The transfer of personal property is not authorized under P.L. 537.

g. Applications to be solicited. The region is authorized to determine that property is valuable for wildlife conservation when such property is:

(1) Contaminated and cannot be disposed of for unrestricted use;

(2) Subject to use restriction that limit its highest and best use to wildlife conservation and other subordinate public uses; and

(3) Property that has been unsuccessfully offered and found to be unsalable.

h. Requests.

(1) DOI. Requests will be in letter form, signed by the Secretary or a duly authorized designee, and describe the property requested, state the proposed use, and cite the applicable provisions of P.L. 80-537.

(2) States. Since P.L. 80-537 charges GSA with determining availability of property for wildlife purposes, completed applications should be filed with the region. The State agency exercising administration over wildlife resources shall be allowed a reasonable period of time to submit an Application for Real Property for the Conservation of Wildlife in original and four signed copies. Applications will describe the property requested in detail and fully describe the applicant's proposed program of use.

i. Contaminated property. Provisions related to contaminated property may be waived in connection with disposal for wildlife conservation. Where the requested property has been contaminated with a hazardous material such as unexploded shells, chemicals, and the like, the requester will be so advised. In all cases where the property is contaminated, the following will be required:

(1) DOI's transfer request shall include a statement that it will relieve GSA and the holding agency of any and all responsibility in connection with the property's condition as of the date of transfer of control or occupancy, whichever is earlier.

(2) A State's application shall include a statement that it will relieve GSA and the holding agency of any and all responsibility in connection with the property's condition as of the date of conveyance or occupancy, whichever is earlier. Failure to assume responsibility will result in rejection of the application.

(3) All transfer letters to DOI shall put DOI on notice as to the condition of the property, and all conveyance documents to States shall contain provisions to protect the Government against claims for damages.

j. Recommendations of FWS. A copy of the application, with maps, shall be referred to FWS with a request for recommendations and comment, and for necessary field inspections.

k. Disposal approval. If FWS recommends acceptance of the State's application, the region shall consummate the conveyance.

l. Conveyance.

(1) Transfer to DOI shall be by transfer letter from the GSA region. Actual delivery of custody, control, and accountability will be arranged between DOI and holding agency representatives. In such cases, submissions are not made to OMB.

(2) Conveyance to a State. The region shall convey the property by quitclaim deed and provide two copies of the conformed deed to FWS.

(3) Any and all oil, gas, mineral rights shall be reserved from disposals under P.L. 80-537. Water rights are not considered to be minerals for the purpose of this paragraph.

m. Publication in the Federal Register. The region shall immediately advise Central Office of the date of the deed or transfer letter and the date of delivery to enable publication in the **Federal Register**.

n. Compliance. The region shall ensure compliance with the terms of the conveyance document. While restrictions cannot be released on wildlife conveyances, the region may concur in such things as the granting of easements that do not substantially interfere with the use of the property for wildlife conservation.

o. Revenues. Any revenues generated from revenue generating projects must be applied to the subject property and/or other wildlife properties in the local district.

Appendix 2-A. Application to Purchase Chapel

APPLICATION TO PURCHASE CHAPEL

Date:

Address:

TO:

TO: General Services Administration

(street address)

(City and State)

The undersigned _____
(name of organization)

by _____,

(name and title of authorized official) (address)

_____, hereby offers to purchase from

(city and State)

the United States of America the chapel and fixtures therein,
located at _____, and

(name and location of installation)

designated below as item _____, for the sum of \$ _____,
(item No.)

which represents the established fair market value.

Note.--Language in parentheses indicated by * to be substituted where chapel is located on Government-owned land to be sold with the chapel.

It is further understood that the disposal of this surplus chapel is subject to the conditions in the Agreement of Sale, a copy of which is available for examination at the office of the General Services Administration to which this application is made, and to the following:

1. That the chapel will be used specifically as a shrine, a memorial, or a denominational house of worship.
2. That all applications will be submitted by the General Services Administration to the appropriate Chief of Chaplains, who will recommend the person or organization to whom disposal shall be made.

3. That the chapel will be sold intact for removal from the land on which it is located (* the chapel will be sold with the land on which it is located).

4. That only applications to purchase the chapel at the appraised fair market value as shown below will be considered.

5. That the applicant attach the following information as part of this application:

- a. Purpose and intent of the use of the chapel, chapel buildings, and grounds.
- b. Facilities presently being used by the church/organization.
- c. Membership size of the church/organization.
- d. History of the church group/organization and when established locally.
- e. Denomination and/or organization.
- f. Statement of financial resources available to accomplish the acquisition.

Witnesses:

(name of organization)

_____ By _____

(name and title of authorized official)

Item No.	Bldg. No.	Appraised		fair market value-personal Size	value-realty property
		Personal Description	fair market property		

Because of the limited need for a form this format shall not be printed, reproduced, or stocked by the Central Office or regional offices and shall be used only as a guide for individual preparation."

Appendix 2-B. Sample Letter to Purchaser of Contaminated Land

Name
and
Address

Dear _____:

As a purchaser of land formerly used as a training ground, gunnery range, or military maneuver area, it is called to your attention that there may remain unexploded shells, mines, bombs, or other instruments utilized for such activities, which were overlooked when the property was decontaminated. Should you discover any such material on the premises, do not attempt to remove or destroy them, as it might be dangerous, but notify the Division Engineer of the Corps of Engineers located at _____, and competent personnel will be dispatched to dispose of the material properly.

Sincerely,

GENERAL SERVICES ADMINISTRATION

BY _____

(Name)

(Title)

Address of Regional Office

**Appendix 2-C. Sample Memorandum of Agreement
for Historic Monument Properties**

SAMPLE MEMORANDUM OF AGREEMENT

WHEREAS, the General Services Administration (GSA) proposes to (method of disposal for property name and address), a property eligible for or listed on the National Register of Historic Places; and

WHEREAS, GSA has determined that the sale and transfer of ownership may result in physical alterations to said property; and

WHEREAS, GSA shall ensure that any such physical alterations will be considered and conducted in accordance with relevant regulatory provisions of sections 106 and 110 of the National Historic Preservation Act of 1966, as amended;

NOW THEREFORE, GSA, the (Name of State) State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation (ACHP) agree that in order to take into account the effect of the proposed undertaking the following Historic Preservation Covenant will be inserted in the instruments of conveyance and hereinafter run with the land:

HISTORIC PRESERVATION COVENANT

The GRANTEE covenants for itself, its successors, and assigns and every successor in interest to the property hereby conveyed, or any part thereof that the real property above described is hereby conveyed subject to the conditions, restrictions, and limitations hereinafter set forth which are covenants running with the land; that the grantee, its successors, and assigns, covenants and agrees, that in the event that the property is sold or otherwise disposed of, these covenants and restrictions shall be inserted in the instruments of conveyance.

1. The structure(s) situated on said real property will be preserved and maintained in accordance with plans approved in writing by the (Name of State) State Historic Preservation Officer (SHPO), (Address).
2. No physical or structural changes or changes of color or surfacing will be made to the exterior of the structure(s) and architecturally or historically significant interior features as determined by the SHPO without the written approval of the SHPO.
3. In the event of violation of the above restrictions, the General Services Administration (GSA) or the SHPO may institute a suit to enjoin such violation or for damages by reason of any breach thereof.
4. These restrictions shall be binding on the Parties hereto, their successors, and assigns in perpetuity; however, the SHPO may, for good cause, and with the concurrence of the Advisory Council on Historic Preservation, modify or cancel any or all of the foregoing restrictions upon written application of the Grantee, its successors or assigns.
5. The acceptance of the delivery of this (Deed/Title) shall constitute conclusive evidence of the agreement of the Grantee to be bound by the conditions, restrictions, and limitations, and to perform the obligations herein set forth.
6. Development of the property shall be in compliance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings and development plans shall be approved by the SHPO for guidance in planning the development of the property. If the Owner and the SHPO are unable to agree on the proposed development, the Owner shall forward all documentation relevant to the dispute to the ACHP. The Owner, SHPO, and ACHP shall reach agreement regarding the proposed development. If such an agreement cannot be reached, the ACHP shall forward all relevant project materials with comments to GSA. GSA will consider such comments and, if necessary, take action in accordance with the terms and conditions of these covenants.

Execution of this Memorandum of Agreement and implementation of its terms evidence that GSA has afforded the ACHP an opportunity to comment on the proposed transfer of ownership for a portion of the (Name and Address of Property) and its effects on this historic property, and that GSA has taken into account such effects on the historic property.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____ Date: _____
 Executive Director

GENERAL SERVICES ADMINISTRATION

By: _____ Date: _____
 Agency Historic Preservation Officer

By: _____ Date: _____
 Director, Asset Disposition, FPRS

(STATE TITLE FOR SHPO)

By: _____ Date: _____
State Historic Preservation Officer

Appendix 2-D. DOD Memorandum Concerning Procedural

Instructions for Reporting Excess Reimbursable Family Housing to GSA

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY(IL&FM)
ASSISTANT SECRETARY OF THE NAVY (MRA&L)
ASSISTANT SECRETARY OF THE AIR FORCE

SUBJECT: Disposal of Excess Family Housing

By memorandum of February 9, 1968, this office issued procedural instructions which would implement, in part, Section 606 of the 1968 Military Construction Authorization Act (42 U.S.C. 1594a-1(b)(3)) regarding proceeds from the sale of military family housing. The purpose of this memorandum is to reiterate the requirement to report excess military family housing and related land and improvements to the General Services Administration on Standard Forms 118 separate and apart from Reports of Excess for other portions of an excess installation. These separate Schedules (SF 118A, SF 118B, SF 118C) for family housing and related property should be arranged categorically to show: (1) number of structures by type (i.e. Wherry, Capehart, MCA, etc.), (2) the number of family units, (3) garages (attached or detached), (4) square footage of the buildings and other data required by Subchapter "H" of the Federal Property Management Regulations.

Irrespective of type of units (encumbered or unencumbered), the SF118 should also contain the statement: "Net proceeds from the sale of family housing, including related land and improvements, shall be remitted to the Department of Defense for deposit to 'Family Housing Management Account, Defense' (97 x 0700)."

A copy of each such schedule as described above, less documentation such as legal descriptions, surveys, etc., should be furnished to this office at the same time the Report of Excess is forwarded to the General Services Administration.

Perry J. Fliakas
 Deputy Assistant Secretary of Defense
 (Installations and Housing)

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CHAPTER 3. EXCESS REAL PROPERTY UTILIZATION

PART 1. INTRODUCTION

1. Application. This chapter establishes procedures and provides instructions applicable to the program activities of GSA for carrying out the policies and methods governing the utilization of excess real property, including related personal property, prescribed by FPMR 101-47.2. Properties not covered in this chapter are defined in FPMR 101-47.201-4; 101-47.202-4; 104-47.5 and 101-47.6.

2. General.

a. Program activities. The policy of the Administrator of General Services set forth in FPMR 101-47.201-1 provides the basis for the program activities of GSA relating to excess real property.

b. Guidelines. GSA shall comply with the guidelines in FPMR 101-47.201-2 when applicable to the program activities referenced above and shall serve as the area of expertise to Federal landholding agencies in complying with the intent of these guidelines in relationship to their real property holdings.

c. Holding agency disposals. FPMR 101-47.103-12 defines real property. This definition includes easements, permits, and buildings for offsite removal. If excess, these properties shall be reported to GSA except in those instances set forth in FPMR 101-47.202-4 and 101-47.600. Reporting requirements are outlined in FPMR 101-47.202-1. If the reported property does not include land, title information will not be required, but the applicable environmental information relating to the reported improvements shall be obtained. GSA shall screen the property against the known needs of Federal agencies. When the property is determined surplus, and the property is not attached to any other disposal assigned to GSA, the holding agency will be the designated disposal agency pursuant to FPMR 101-47-302-2(a). This action shall be accomplished by providing the holding agency with a GSA Form 1432 prepared to delegate the authority. If requested, GSA will act as disposal agency, as authorized by FPMR 101-47.302-2(b). Disposal of easements is covered in ch. 2-6 and disposal of property for offsite removal is covered in 2-19.

3. Public domain. Procedures required of holding agencies concerning reserved or withdrawn public domain land are outlined in FPMR 101-47.201-3. At its discretion, GSA may inspect the property with the Bureau of Land Management at the time the holding agency files its notice of relinquishment to confirm whether the property should be returned to the public domain or reported excess. A dispute in the determination by GSA and BLM may require assistance from GSA Central Office. If determined appropriate by BLM, the minerals may be withheld from an excessing action for outleasing by BLM. A copy of BLM's approval to report the property excess should be included in the report of excess.

4. Proposed reversions. Prior to reversion of a former surplus property for noncompliance with deed restrictions, the Federal sponsoring agency will advise GSA of the proposed action for the purpose of GSA conducting a site inspection to determine environmental conditions and required protection and maintenance.

PART 2. REPORTING OF EXCESS REAL PROPERTY

5. Introduction. FPMR 101-47.202-1 through 101-47.202-7 establishes the requirements of reporting excess real property to GSA. Instructions and samples of SF 118 and supporting schedules are found in FPMR 101-47.4902 through 101-47.4902-4. Holding agencies may submit printouts and other listings instead of the forms if all of the information required by the forms is provided and the report of excess is properly executed by the authorized individual. GSA should make itself available to all landholding agencies for assistance in the preparation of a report of excess including a visit to the holding agency and the excess property.

6. Matters for special consideration.

a. Reports of excess by GSA. GSA is the holding agency for properties that were acquired by noncompliance with deed restrictions, foreclosure, exchange, donation or devise and is responsible for preparing a report of excess as outlined in ch. 3. In addition, GSA as holder of property for Federal space requirements will prepare reports of excess for the following:

(1) Partially occupied Federal buildings when there are no future requirements and the buildings will be vacated within 1 year.

(2) The building is to remain occupied beyond 1 year, as long as the documentation clearly indicates the economic benefits to the Government, and it appears likely that a potential purchaser will be able to lease back the required space to the Government at market value (fair market value).

b. Property predetermined for transfer to a Federal agency. In instances where a program function and its associated real property are transferred between Federal agencies, without reimbursement, the preparation of a SF 118 and its supporting schedules may be waived at the discretion of the Regional Administrator. In the event of this waiver, the required property descriptions and listings should be sent to GSA at the time of the transfer of custody and accountability. However, the proper environmental documentation shall be required.

c. Machine listings for industrial equipment. Machine listings submitted by the holding agency in a contractor's plant (without land), along with a letter stating that the equipment listed is excess may be accepted as a report of excess. However, the report should include PCB certification (FPMR 101-47.202-2(c)(3)) and a copy of the facilities contract.

d. Control numbers. GSA control numbers shall be assigned to each report of excess and reimbursable case reported for disposal. See app. 3-A for code letters and app. 3-B for details on applying control numbers.

PART 3. EXAMINATION FOR ACCEPTABILITY

7. Introduction. FPMR 101-47.202-8 through 101-47.202-10 establish procedures for the acceptance by GSA of reports of excess, including notice of receipt, responsibility for the expense of protection and maintenance, and examination for acceptability.

8. Matters for special consideration.

a. Personal Property. The definition of related personal property is found in FPMR 101-47.103-13. Personal property inappropriately listed as related personal property on the SF 118C should be reported as personal property. This may be done by listing the property on a SF 120. Easily removed structures such as trailers, Butler buildings, or Quonset huts may also be reported as personal property.

Redesigning real or related personal property as personal property shall be coordinated with the holding agency.

b. Disposition of Proceeds. Block 13 of the SF 118 provides for the appropriation for which proceeds from disposal are to be credited. If unknown to the regional official, this appropriation should be supplemented with the law or regulation providing for the disbursement and the address to which the funds are to be sent. The reporting agency should also be asked if the reported properties may be made available for public benefit discounts. If the agency has its own disposal authority, a memorandum of understanding may be appropriate, with GSA requiring full reimbursement for its services. Central Office should be consulted if the matter is questionable.

c. Non-base closure property. Any proceeds received from the disposal of a DOD non-base closure property, excluding Corps of Engineers civil works project properties, are subject to reimbursement to DOD, less expenses. This applies to those properties reported excess after November 5, 1990, pursuant to section 2805 of PL 101-510.

d. Underground storage tanks. If the property includes an underground storage tank, the report of excess shall include an EPA Form 7530-1. Reports of excess involving UST systems that are not in compliance with Federal, State and local regulations should not be accepted until corrected.

e. Superfund sites. GSA should review the latest National Priority Listings published by the Environmental Protection Agency (EPA) prior to acceptance of the report of excess. If the property is on the listing, it should not be accepted for disposal. Acceptance would require certification that the area is not contaminated and may require the approval of EPA.

f. Lead based paint. Improvements constructed and/or renovated prior to 1978 should be assumed to contain lead based paint, and the reports of excess should so indicate.

g. Homeless. Holding agencies will provide as part of the report of excess a copy of any HUD suitability determination required under the Stewart B. McKinney Homeless Assistance Act (see FPMR 101-47.905(a)).

h. Regulations update. The reporting requirements of FPMR 101-47.202 and particularly environmental issues are subject to additions and changes which may become effective after the report of excess was accepted. Any additions or changes shall also be complied with prior to disposal.

i. Conditions. Reports of excess specifically submitted for the purpose of including the property in an exchange or other predetermined method of disposal imposed by the holding agency without special legislation cannot be accepted. The exchange or other condition can be considered but only after the property has been determined surplus and other GSA procedural requirements have been met. Property reported excess for negotiations with the using contractor (GOO) are an exception and may be accepted with that condition.

j. Maps. Should the excess property be a fully improved installation, the holding agency should provide improvement maps including utility layouts.

k. Reverted property. Regional officials should have the appropriate documentation involving contamination issues and updated title information prior to accepting property into inventory. Retrieve the old case file for the property. If the minerals were transferred to BLM at the time of assignment, the region should check with BLM concerning status of the assigned minerals. If BLM has not or will not outline the minerals, the letter of transfer to BLM should be canceled. If the minerals are in the GSA inventory, the GSA Form 1011 that placed the minerals in the inactive inventory, should be canceled.

l. Legal descriptions. The legal description provided with a report of excess or any other document should be carefully reviewed for accuracy. This is to ensure the excess area is held by the holding/reporting agency, that the description "closes" and the location and acreage are correct.

m. Property restrictions. The acquisition documents, report on title, and column (i) of the SF 118-B should be carefully reviewed relative to encumbrances and restrictions affecting disposal.

n. Donated or devised property. Donated or devised property should be accepted in the form of a grant deed or deed with warranty and title information. Additional information of these types of properties is found in ch. 1, part 2.

PART 4. ACCEPTANCE AND DISTRIBUTION

9. Introduction. FPMR 101-47.202-10(a) and (b) provide guidelines for acceptance of reports of excess.

10. Acceptance.

a. Reports of excess should not be rejected due to minor deficiencies that would not impact the disposal. At the time of acceptance, the holding agency should be advised that should the site inspection or other sources reveal a situation not conducive to disposal, and if the situation is not corrected, the acceptance of the report of excess may be rescinded.

b. Should the property be reported without access, every effort should be made to obtain access from the holding agency or other adjacent property owner. GSA is not authorized to expend funds to acquire access to a landlocked property. Should access be obtained from a public body or private party, it should be considered a donated property held by GSA. See ch. 1, part 2, for accounting/reporting procedures for donated property.

c. The holding agency should be advised that acceptance of the report of excess does not transfer custody and accountability to GSA. However, interim outleasing should not be considered without prior concurrence of GSA.

d. The provisions governing GSA's assumption of protection and maintenance of property reported excess are outlined in FPMR 101-47.402-2. When the holding agency expects to receive proceeds from sale of the property, less GSA expenses, it shall be advised at the time of acceptance of the report of excess that GSA will not assume the expense of protection and maintenance.

e. On those occasions when GSA needs to supplement the floodplain/wetland statements from the holding agency as required in FPMR 101-47.202-2(b)(6) with suggestions for use restrictions, the region should first utilize the Federal Emergency Management Agency (FEMA) because of the Corps of Engineers (COE) policy of charging federal agencies to provide flood hazard evaluations on real property. When the COE is utilized, a letter and an Order of Supplies and Services (GSA Form 300) will be used to request floodplain information. COE will then bill for services rendered.

f. GSA should supplement the historical statement required in FPMR 101-47.202-2(b)(8) by reviewing the Federal Register and computer systems available for this purpose. If the property has been nominated for the historical register, GSA should request a copy of the registration form.

g. If review of title documents indicates that minerals are included with the disposal, a request for mineral evaluation should be sent to BLM at this time. See ch. 2-15 for procedures.

h. If the reported property is a portion of a property which was previously reported excess, it may be beneficial to retrieve the old file(s) which may contain documentation affecting the newly reported area. If property is a reversion, the old case file should be retrieved.

i. Immediately following acceptance of the report of excess, a checklist shall be sent to HUD as required by the McKinney Act. If the property has already been published in the **Federal Register** due to the holding agency's submission of a checklist, HUD should be advised that the property has been reported as excess to GSA and any other changes. Homeless issues are discussed further in ch. 4-22.

j. The regional official shall determine with maps or consultation from FAA whether the property is located six nautical miles from an airport and that appropriate use restrictions will be required.

k. If the property is located near a river, the regional official shall check the Inventory of Wild and Scenic Rivers to determine if the river is listed.

11. Distribution.

- a. Original - Regional case file.
- b. If GSA is holding agency, a complete copy will be forwarded to the Regional Finance Division.
- c. Additional copies may be needed for use by the Regional Appraisal Staff and interested Federal holding and sponsoring agencies.

PART 5. FEDERAL SCREENING

12. Needs of Federal holding agencies. Every effort shall be made to meet the justified requirements of Federal agencies for real property from the GSA excess or surplus inventory. FPMR 101-47.203-3 sets forth the procedures by which Federal agencies notify GSA of their real property requirements.

13. Method of screening. Excess real property, including preliminary excess property shall be screened for 30 days by notice of availability against the needs of Federal landholding agencies reasonably expected to have a need for the property, as required by FPMR 101-47.203-5(a). Notices shall also be sent to agencies requiring copies of the notices for information purposes such as the Council on Environmental Quality and the Advisory Council on Historic Preservation. Concurrently with that screening, notices will be made available to Federal sponsoring agencies for comment pursuant to FPMR 101-47.203-5(d). Federal screening may be conducted prior to receipt or acceptance of the report of excess and inspection of the property.

14. Circulation list. Each regional office shall maintain a current list of Federal holding and sponsoring agencies to receive copies of the notice of availability. Since excess property has already been screened by the holding agency within its own Department, repeat screening with these agencies should be avoided. It is appropriate to screen the properties with Washington D.C. or main offices of the agencies and regional offices having jurisdiction over the area where the property is located. A partial list of Federal landholding agencies is provided in FPMR 101-47.4907. A notice shall also be sent to the Smithsonian Institution, Washington, D.C.

15. Deviations. Formal notices of availability need not be circulated for the following types of properties. The holding agency will usually be designated disposal agency for these properties (see par. 2c, above). The screening is accomplished by screening against the known needs as provided by Federal agencies pursuant to FPMR 101-47.203-3 and the action is documented on the GSA Form 1432, Determination of Surplus.

- a. Unimproved leasehold interests.
- b. Improvements reported for offsite removal. Trailers, Butler buildings, quonset huts or other easily removable structures should be redesignated as personal property.
- c. Easements not appurtenant to excess fee area.

16. Waiver of screening by notice of availability. Certain circumstances involving excess property not described in par. 15, above, do not justify the time and expense involved in conducting a formal Federal screening. In these instances, the Regional Director shall document the file outlining the circumstances why circularization of a notice of availability would serve no useful purpose. Examples of situations which justify a waiver are:

- a. There is a known Federal requirement. This includes situations when the property is:

- (1) Located within the boundaries of an Indian reservation;
- (2) Located within the boundaries of a national park in which the law establishing the park included acquisition of the excess property;
- (3) Required by the Department of Interior for management of migratory birds according to P. L. 80-537; or
- (4) Required for Federal aid and other highway purposes under 23 U.S.C. 107 and 317;

b. A notice of availability shall not be circulated among Federal agencies when the report of excess contains disposal limitations which would preclude further utilization of the property. Examples are:

- (1) Reported excess under the Relocation Program;
- (2) Reported excess for negotiations with the using contractor in which the disposal document will contain a capability clause;
- (3) Disposal directed by law or special legislation;
- (4) Title or utilization restrictions that would preclude Federal use.

17. Response to notice. FPMR 101-47.203-5 establishes the time frames allowed for responding to notice and submission of GSA Form 1334, Request for Transfer. Regional officials should take care that the responses are in writing and signed by authorized officials. Requests for extensions should be carefully considered and should not exceed 90 days. Longer extensions must be strongly justified and approved by the Regional Administrator.

PART 6. APPRAISAL AND INSPECTION

18. Appraisals. The timing of when to request an appraisal of the property is a matter of judgement. Generally, an appraisal should not be requested until the completion of Federal, homeless and public body screening. However, if the proposed disposal does not require a formal appraisal, the regional realty specialist should prepared a market analysis that will be reviewed and concurred in by the staff appraiser. More information on appraisals is found in ch. 2-3.

19. Inspections.

a. General. Excess properties should be inspected within 30 days after acceptance of the report of excess. In instances where it is determined that no useful purpose would be served, the inspection may be waived by documenting the file; however, a desk inspection report is still required. Situations justifying waiver of physical inspection are:

- (1) The costs of an inspection would not be proportional to the value of the property;
- (2) The information expected from an inspection is or will be obtained by other sources; i. e. appraisal, E. O. survey, holding agency. Should the inspection be waived, contamination issues should be a part of the information received from other sources.

b. Purpose. The objective of an inspection is to verify information in the Report of Excess, determine the highest and best use, obtain an estimated value and the required protection and maintenance, based on FPMR 101-47.4913, the holding agency's submission, and GSA Form 1893. Other requirements for the inspection are outlined in the report format set forth in FPMR 101-47.4909. During the inspection, the regional officer should:

- (1) Ensure that the information provided in the SF 118 and supporting schedules is correct.
- (2) Determine that the related personal property was appropriately reported.
- (3) Determine if there is mineral activity in the area and if it environmentally affects the property.
- (4) Ascertain that the holding agency has provided the correct information in connection with contamination issues. The property should be inspected for evidence of UST's, friable asbestos, lead-based paint, and that suspect PCB items are properly labeled. If the property is held by GSA, a member of the regional environmental and safety office should participate in the inspection.
- (5) Check local market conditions to reflect potential commercial value of the property.
- (6) Ensure that property is properly secured and that no unauthorized use is being made.

20. Reuse plan (excess/disposal plan). A reuse plan should be prepared for the disposal of real and related personal property at a given location, to prescribe an economic and efficient method of disposal determined to be most advantageous to the Government. The reuse plan must be based on SF 118, inspection and initial environmental assessment report (including data obtained after the preparation of the report); the appraisal report; and GSA Form 1432. (Central Office concurrence required of negotiated sale reuse plans for property with an estimated market value (fair market value) of \$100,000 or more. See ch. 4-34(e).)

PART 7. UTILIZATION

SECTION 1. TRANSFERS

21. Introduction. Procedures for Federal transfers are set forth in FPMR 101-47.203-7. Guidelines for evaluation of requests are found in FPMR 101-47.201-2(d). Instructions for preparing the GSA Form 1334, Request for Transfer, are in FPMR 101-47.4904-1. Should the request or mandatory transfer cover less than what was reported excess, the acquiring agency must provide a legal description of the required area.

22. Matters for special consideration.

a. Conflicting interests. If conflicting transfer requests cannot be reconciled by the involved agencies, the matter will be resolved by GSA.

b. National Guard Use. If an excess property is required by the State for National Guard use, the Federal military department involved will request transfer of the property. This agency will permit the property to the State.

c. Right of entry. A right of entry pending consummation of an approved transfer may be granted by GSA if GSA is the holding agency. If another Federal agency is the holding agency, that agency may

grant the right of entry with the approval of GSA. If the transfer involves coordination with OMB, the right of entry should be in the form of a revocable permit.

d. Airport Property. Requests for transfer of a portion of an airport property will be considered upon advice from Federal Aviation Administration that such transfer will not adversely affect the remainder for use as a public airport. If FAA advises that severance of the area would have a detrimental effect on the public airport, GSA may still approve the transfer if the need is so compelling. This approval is subject to concurrence by the holding agency and FAA must be advised of the reasons for the approval.

e. Joint use. If the requested area will require joint use of access roads or utilities with the holding agency, regional officials should ensure that there are appropriate agreements between the involved agencies.

23. Review of requests. The transfer request shall be carefully examined for completeness. If the request is not adequate for a determination by GSA that transfer is justified and in the best interest of the Government, GSA shall work closely with the requesting agency to complete the GSA Form 1334.

24. Evaluation of transfer requests. From information provided by the requesting agency, the inspection and other pertinent documentation, GSA will establish whether the highest and best use of the property would result from further Federal utilization or from disposal as surplus. Approval of transfers should be guided by the objectives of FPMR 101-47.201-1 and 101-47.8. Special consideration should be given to monetary savings that will result from continued utilization and the suitability the property has for the proposed use. After careful analysis, regional directors will document conclusions in a record of decision which shall be placed in the official file. This documentation should be prepared for approvals as well as denials of transfer requests.

25. Reimbursement. Reimbursement by the transferee agency, in the amount of the market value (fair market value) is required. Guidelines concerning this reimbursement, waivers of reimbursement and reimbursement in less than market value (fair market value) are in FPMR 101-47-203-7(f).

26. OMB participation. When OMB concurrence is required to complete a transfer, the region shall send to Central Office the original GSA Form 1334, together with a memorandum from the regional director outlining circumstances and recommendations. Central Office will be responsible for obtaining the approval of the Director of OMB with respect to the proposed transfer.

27. Special transfers.

a. Under an agreement between OMB and GSA, certain transfers do not require reimbursement but are subject to all of the other requirements of the Property Act including submission of a GSA Form 1334 and a regional record of decision. The following two situations are examples.

(1) Correctional facility use. Excess property may be transferred without reimbursement to Bureau of Prisons, Department of Justice, for correctional purposes. However, there should be adequate documentation to ensure that funds are available to support the program and that the proposed use requires all of the excess area.

(2) Joint Surveillance System (JSS). The JSS program involves combining selected Air Force and FAA resources under the control of FAA which would perform joint civilian and military aircraft surveillance and related monitoring activities. This transfer to FAA represents a transfer of function and is not subject to reimbursement. Future similar situations should also be referred to OMB for a blanket waiver of reimbursement.

b. The following transfers were provided for by special provisions of law, and as such do not require the submission of a GSA Form 1334 or reimbursement. With the exception of highway assignments covered in (2) below, these situations require the transfer by the transferor and acceptance of custody and accountability by the transferee agencies. The laws authorizing and maps covering the transfers shall be carefully reviewed by the regional official prior to processing the transfer which should be supplemented with a regional record of decision for the file. The transfer letters in all cases should cite the law that authorized the transfer. Questionable issues should be cleared with regional counsel. Should the holding agency state that reimbursement is required and the law states that GSA is mandated to transfer without reimbursement, the transferee agency may reimburse the holding agency directly.

(1) Indian reservation property. See ch. 2-12 for the background on these transfers. Regional officials should take care to ensure that the property is located within the boundaries of the reservation of a tribe recognized by the Bureau of Indian Affairs to receive benefits and services. The Secretary of the Interior has delegated authority to Area Directors of BIA to receive these properties with or without a specific request.

(2) Highway use. All landholding agencies have the authority to assign property for highway use. Property in the inventory of GSA may be either excess or surplus for a highway assignment. The procedures are outlined in ch. 2-10. Regional officials should ensure that Federal Highways Administration conveys the property in "fee" to the state authority if that was the intent of the assignment or accepts custody and accountability of the property. If the highway will be adjacent to land that is still in Federal ownership, it may be advisable to negotiate for abutter's rights to the highway for the benefit of this retained area.

(3) Migratory bird management. See ch. 2-24 for procedures on transferring excess property for migratory bird management.

(4) National parks. Requests shall be made by the Secretary of Interior or his designee, shall cite and provide a copy of the law establishing the park and authority to acquire the excess property without reimbursement. A boundary map of the park shall also be provided.

28. Processing transfers. The transfer letter should be addressed to the person signing the GSA Form 1334 or the letter of request, and must include any information relating to hazardous substance activity and cite any requirements of law which will be assumed by the transferee agency. The acquiring agency will receive a copy of the holding agency's report of excess, a copy of the letter to the holding agency advising of the transfer and the name, address and telephone number of the holding agency individual to contact concerning the transfer of custody and accountability. This transfer transaction will not be considered complete until GSA has been furnished with evidence of the transfer of custody and accountability and any required funds have been received. The holding agency will be notified of the transfer and receive a copy of the transfer letter. If GSA is the holding or acquiring agency, copies of the letters will be provided to the regional finance office.

29. Conditional transfers and temporary assignment. FPMR 101-47.201-2(d)(7) and 101-47.203-8 prescribe the criteria under which a decision may be made to provide a conditional transfer or temporary assignment. The basic difference is:

a. A conditional transfer is usually for a term of use from 1 to 5 years with the understanding that the property will be reported excess when the program has terminated. This transfer requires the submission of GSA Form 1334, reimbursement, and the transfer of custody and accountability.

b. A temporary assignment is for a shorter term of use, e.g., as an emergency. This situation is more like a permit, and would require reimbursement in the form of fair annual rental, and the assumption of protection and maintenance. The use does not involve the transfer of custody and accountability.

SECTION 2. TEMPORARY NON-FEDERAL USES AND WITHDRAWALS

30. Non-excess real property. The situations and procedures allowing Federal agencies to grant non-Federal interim use of non-excess real property are outlined in FPMR 101-47.802(a)(3)(i)(B). Such uses must be for consideration.

31. Excess real property. FPMR 101-47.203-9 states that holding agencies may grant non-Federal interim use of excess real property, subject to GSA concurrence. The use shall be for consideration. GSA may also issue the outgrant with the concurrence of the holding agency. The interim use should in no way delay or impact the disposal. See ch. 2-13 for procedures on outgrants by GSA.

32. Withdrawals.

a. FPMR 101-47.203-10 provides for withdrawals of all or a portion of a report of excess by the holding agency. FPMR 101-47.4902-4(a) provides instructions for the corrected report of excess needed in a withdrawal action. Requests for withdrawal should be completed by the individual or his designee who signed the original report of excess, or in the case of military properties, signed by the Secretary or his designee. The justification for withdrawal should be compatible with the justification required of a Federal transfer including a legal description if the withdrawal is for a portion of property reported excess. Before approving a withdrawal, the regional official must ensure the request is compatible with the objectives of FPMR 101-47.8. If the withdrawal request is for a portion of the reported area, consideration should be given to the severance damage to the remainder.

b. If the withdrawal is approved, and the property is surplus, a GSA Form 1432 must be prepared to recall the property from surplus for return to the holding agency. The requesting agency will be advised of the approval or disapproval by letter, with a copy of the Form 1432 and any outgrants on the property imposed by GSA, if applicable.

Appendix 3-A. Code Letters for Assigning GSA Control Numbers

DEPARTMENTS AND AGENCIES WITH MAJOR SUBORDINATE AGENCIES

- A Agriculture, Department of (USDA)
 - Agriculture Research Service (ARS)
 - Farmers Home Administration (FMHA)
 - Animal and Plant Health Inspection Service (APHIS)
 - Forest Service (FS)
 - Soil Conservation Service (SCS)

- B Energy, Department of (DOE)
 - Alaska Power Administration (APA)
 - Bonneville Power Administration (BPA)
 - Southeastern Power Administration (SEPA)
 - Southwestern Power Administration (SWPA)
 - Western Area Power Administration (WAPA)

- C Commerce Department of (DOC)
 - National Oceanic and Atmospheric Administration (NOAA)
 - National Weather Service (NWS)

- D Defense, Department of (except Navy) (DOD)

Army (Army)
Army Corps of Engineers (COE)
Air Force (AF)

E Executive Offices of the President (including emergency agencies)

F Health and Human Services, Department of (HHS)
Public Health Service (PHS)
Social Security Administration (SSA)
Indian Health Service (IHS)

G General Services Administration (GSA)
Federal Space Requirement Sites
Property Acquired in Exchange
Property Acquired by Device
Property Acquired by Donation
Property Acquired by Transfer (to assume custody and accountability for caretaker purposes)

GR Property Reverted to General Services Administration (GSA)

H Housing and Urban Development (HUD)

I Interior, Department of (DOI)
National Park Service (NPS)
U. S. Fish and Wildlife Service (USFWS)
Bureau of Indian Affairs (BIA)
Bureau of Land Management (BLM)
U. S. Geological Survey (USGS)
Bureau of Mines (BOM)
Bureau of Reclamation (BOR)

J Justice, Department of (DOJ)
Bureau of Prisons (BOP)
Drug Enforcement Administration (DEA)
Federal Bureau of Investigation (FBI)
Immigration and Naturalization Service (INS)
U. S. Marshals Service (USMS)

L Labor, Department of (DOL)

N Navy, Department of (USN)
Marine Corps (MC)

P U. S. Postal Service (USPS)

Q Education, Department of (ED)

S State, Department (STATE)

T Treasury, Department (TREAS)
U. S. Customs Service (USCS)

Internal Revenue Service (IRS)

U Transportation, Department of (DOT)
U. S. Coast Guard (USCG)

V Veterans Affairs, Department of (DVA)

W Federal Aviation Administration (FAA)
If reported excess before 7-1-67

Z All agencies not assigned a code

WHOLLY-OWNED CORPORATIONS

R Reconstruction Finance Corporation (Before 1957 when remaining functions were abolished)

Y Wholly-owned corporations

Appendix 3-B. Details for Applying the Control Number System

The case number assigned to each report of excess consists of a region number, holding agency abbreviation, state abbreviation, number, and optional letters. For example, 09-D-CA-0123ABCD

The following are guidelines for assigning the case number:

Region number: Use a two-digit number representing the region responsible for conducting the disposal. For example, for a property located in Massachusetts, use 02. If a region is conducting a disposal for another region, use the region number for the region actually conducting the disposal and providing data to the Central Office, unless otherwise agreed to in consultation with the Office of Real Estate Policy and Sales.

Holding agency: Use the abbreviations listed in app. 3-A for the agency reporting the property excess.

State: Use the two-digit postal abbreviation for the state in which the property is located. If the property is in two states, use the abbreviation for the predominant state as deemed appropriate.

Number: Use four digits with leading zeros. For example, 0412.

Each state receives its own series of number. For example, you may have both CA-1234 and WA-1234.

If a report of excess previously has been accepted from this same property, use the number previously assigned to the property.

Otherwise, use the next unassigned number for each state. For example, if the last report of excess for a property in California was 0401, the next report of excess receive for a California property would be 0402.

If a property is withdrawn/disposed of completely, do not reassign that number, it is permanently associated with the property.

For reverted property, use the original four digit number assigned to the property. However, a new unused alpha prefix will have to be added to accommodate the existing Trackreg system. The old control number should be referenced in the file and Trackreg.

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CHAPTER 4. SURPLUS PROPERTY

PART 1. SURPLUS DETERMINATION-PUBLIC BODY SCREENING

1. General.

a. Procedures for disposal of surplus real property are discussed in FPMR 101-47.3. The following procedures do not apply to property for which an executive agency has disposal responsibility.

- (1) FPMR 101-47.301-3 - Disposals under special legislation.
- (2) FPMR 101-47.302-2(a) - Specific disposal agency designation.
- (3) Specific or standing delegation of authority.

b. Work closely with federal customer agencies to ensure successful results with the surplus property disposal program, assist them in resolving problems and offer GSA's help with information about general procedures and better ways to carry on their responsibilities under FPMR 101-47.302-2(a) or other delegation of authority.

2. Program activities. GSA is responsible for:

a. Deciding whether excess property is not needed by Federal agencies and thereby surplus property can be made available for reuse under the Act and related legislation.

b. Classifying the highest and best use of surplus property and deciding how best to dispose of the property for further non-Federal public or private use. (See FPMR 101-47.303-1.)

c. Initiating any necessary actions in accordance with environmental and historic preservation laws. (Refer to ch. 5 for additional guidance.)

d. Disposing of surplus property by sale, exchange, lease, assignment, transfer or permit.

e. Disposing of surplus defense industrial properties and other military bases having critical economic significance in cooperation with other Federal, State, and local interests to relieve the local adverse economic impact of installation closure.

3. Policy. Basic policy guidance on the disposal of surplus property is found in FPMR 101-47.301-1 and the following principles should be considered:

a. Disposing of surplus and related personal property in a prompt and economical manner.

b. Notifying eligible non-Federal public bodies surplus property is available; giving them adequate time to develop an application for use of the property; zoning the property to meet local comprehensive planning as encouraged by the Intergovernmental Cooperation Act of 1958, and allowing them the chance to comment on compatibility of the disposal with their development plans.

c. Marketing and selling by competitive bid, generally on an all-cash basis, any surplus property not disposed of to local public bodies.

d. Disposing of Defense Industrial Reserve plants according to applicable directives and policies of the Secretary of Defense.

4. Surplus real property disposal.

a. Notices of surplus determinations to public bodies. Refer to FPMR 101-47.303-2 for instructions and procedures to notify state and local government bodies, regional or metropolitan planning bodies, and public officials that Federal property has been determined surplus; GSA seeks feedback on the compatibility of GSA's proposed disposal with state, regional, and local development plans and programs.

b. Special consideration when notifying public bodies. Property is made available for Homeless, Correctional and Drug Rehabilitation and each notice must specifically refer to these uses, regardless of the highest and best use determination, except for Government owned-Contractor operated (GOCO) plants, machinery and equipment and other restricted disposals. On property determined by HUD to be suitable for homeless assistance, the notice must state, HUD has determined that the property is suitable for possible use for facilities to assist the homeless under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended. The notice should refer to the date of publication in the Federal Register and it should state applicants have 60 days to express interest.

c. Exceptions to notification. Notifications for zoning purposes and to the state Single Point of Contact cannot be waived. Refer to FPMR 101-47.303-2(a), subparagraphs (1) and (2) for situations that do not require notification to public bodies. In addition, notification is not required on properties reported excess as a result of the GSA Relocation Program.

d. Requirement for reimbursement. Under certain circumstances, there could be a reimbursement requirement, such as DOD family housing. In these instances, screening notices should indicate reimbursement requirements.

5. Working with federal agencies and notifying public bodies.

a. Advice on surplus determination. Refer to FPMR 101-47.204-1(a) and (b); FPMR 101-47.303-2(d) and (e); and FPMR 101-47.308-9 for information on federal agencies that may be concerned with disposal of surplus property from a public benefit perspective or may want copies of surplus determination notices and transmittal letters. The circumstances of the case may dictate what federal sponsoring agencies should receive such information.

b. Notice requirements. Prepare and send GSA Form 1432, Determination of Surplus, and date the form to show when the property became surplus. As required by FPMR 101-47.303-2(e)(2), make sure appropriate offices of ED, HHS, DOJ and DOT are each mailed copies of GSA Form 1432 on the day it is dated and provide them other information as required by FPMR 101-47.303-2(b). Certain other Federal agencies are also to be notified as required by FPMR 101-47.303-2(g). The notice and transmittal letter are to be sent to public bodies as required by FPMR 101-47.303-2(b).

c. Responses to Notice and expressions of interest. Refer to FPMR 101-47.303-2(f) for information on the amount of time public bodies have to respond to surplus notices. Refer to FPMR 101-47.303-2(g) and (h) for additional information allowing reasonable time for public bodies to submit a formal application to a sponsoring agency. Also, refer to FPMR 101-47.308 for information for various timetables on submission and review of applications by public bodies to federal sponsoring agencies. Refer to ch. 1-7 for additional information on P&M requirements.

d. Actions on resolving disputes, time considerations and P&M issues. Refer to FPMR 101-47.303-2(h) and (i) on what is a reasonable time for a public body to submit an application and GSA's responsibilities in resolving disputes over possible reuse of the property. To better evaluate what constitutes a reasonable time period for submission of an application, consider the suitability of the property for the proposed reuse; the length of time the public body says it needs to develop and submit a plan of use and obtain funds if a payment is required; and the potential P&M costs to the Government. Generally, the time should not exceed 60 days, but each case should be considered on its own merit. There may be circumstances where a public body needs more than 60 days to submit a plan and/or obtain funds. If the P&M costs on the property are more than nominal, GSA has the option of getting the public body to pay P&M costs; requiring the public body to assume use and occupancy under a lease; or, issue a license and require the public body to be responsible for P&M costs as licensee. GSA also has the option to grant such interim use and waive P&M.

e. Notification to interested public body. If you have agreed to give a public body additional time to submit an application, obtain funds, and be responsible for P&M, formally notify them and ask them for a return written commitment within 15 calendar days that they will abide with these conditions. Send a copy of your notification to the sponsoring agency.

f. Conflicting applications. If two or more public bodies apply for the property and have plans for different uses, advise each public body only one plan of use can be considered and they need to resolve their differences through the State Single Point of Contact. If they cannot do this, the GSA region can either make a final decision on reuse or reject the applications and go to public sale.

g. Disapproval of local applications. Care should be taken in disapproving requests from public bodies for surplus property for education, health, park and recreation, or correctional uses. The region must approve any rejections of such uses.

h. Notice for zoning purposes. See FPMR 101-47.303-2a.

i. Antitrust laws. Refer to section 207 of the Property Act and FPMR 101-47.301-2, for information on applicability of antitrust laws for public and negotiated sales of surplus property valued at \$3,000,000 or more. See part 4 of this chapter for additional details on the application of antitrust procedures.

6 thru 10. Reserved.

PART 2. PUBLIC BENEFIT CONVEYANCES

11. General. FPMR 101-47.303-1 requires GSA to classify surplus property according to its highest and best use determination. However, the highest and best use classification should not be the sole basis for determining disposal alternatives, especially where public needs are well supported. FPMR 101-47.4909 defines highest and best use and provides a list of major considerations to include in the analysis.

a. The relative benefits of selling property to private enterprise at full monetary value rather than transferring it for public benefit purposes must be evaluated in each instance and the decision whether to sell or transfer should depend upon which of the alternative courses of action is of greater benefit to the Government. Decisions cannot be based upon precise dollar comparisons because both tangible and intangible values are involved.

b. Surplus property generally will be sold at its full monetary value if such value is substantially higher than the cost of acquiring other property that would adequately serve the public benefit requirement under consideration.

c. The public bodies eligible to procure surplus property for public benefit purposes and the statutes by which they can procure are provided in FPMR 101-47.4905. To ensure that full consideration is given to the feasibility of public benefit conveyances, Federal agencies sponsoring eligible discount programs shall be afforded an advance opportunity to review the potential of excess property for state and local public use concurrently with the 30 day Federal agency screening period. The sponsoring agencies are primarily responsible for determining the nature and extent of specific public needs and the public benefits that accrue if a specific property is used to fill such needs.

d. Nondiscrimination. FPMR 101-6.2 is intended to ensure nondiscrimination in programs for which GSA provides financial assistance. Disposals of surplus property to public bodies for public purpose programs at less than market value (fair market value) are considered to be a form of financial assistance (FPMR 101-6.203(a)). Documents assigning, transferring, or conveying real property for programs listed in FPMR 101-6.217 shall contain a provision requiring that the grantee comply with the sponsoring agency's nondiscrimination regulations.

e. Procedures for notifying sponsoring agencies of the availability of surplus real property for public benefit purposes is set forth in FPMR 101-47.203-5 and 101-47.303-2.

12. Land surveys. If a property survey is required to establish a correct metes-and-bounds description of the land to be transferred, the survey should be provided by the prospective transferee without cost to the Government.

13. Personal property. Personal property will not be included with any public benefit program unless it is determined to be essential for implementation of the program objectives

14. Airport property. The authority and general procedures for disposal of airport property, including property needed to develop sources of revenue from non-aviation businesses at a public airport, are found in FPMR 101-47.308-2. For additional information please refer to ch. 2-2.

15. Historic monument. FPMR 101-47.308-3 is the authority and has general procedures for conveyance of real and related personal property for historic monument purposes. For additional information refer to ch. 2-11.

16. Park and recreation.

a. General. The authority and procedures for conveyance of surplus real property for park and recreation purposes are in FPMR 101-47.308-7. The deed of conveyance shall provide that property will be used in perpetuity for park purposes.

b. Re-transfer by the National Park Service (NPS). When NPS proposes to recapture title to property and re-transfer the property to another public body for park and recreational purposes, it shall, in addition to furnishing notice of the proposed compliance action, request authority from the appropriate GSA regional office to re-transfer the property. The regional office shall review such notices and requests to determine if the proposed action is appropriate. If the proposed action is found to be appropriate, the regional office shall advise NPS of its approval. If the proposed action is found inappropriate, NPS must be advised of the denial by the regional office. Before denying the action, however, the regional office should consult with the Regional Counsel.

17. Education or health.

a. General. The authority and procedures for conveying surplus real and related personal property for educational and public health purposes are in FPMR 101-47.308-4.

b. The Secretaries are primarily responsible for determining the nature and extent of specific public educational or health needs and the public benefits that will accrue if a specific property is used to fill such needs. The Secretaries are responsible for developing reasonable standards concerning the quantities and types of property that may properly be required for specific types of educational or health (including homeless) needs and applying such standards in recommending that surplus property be transferred for such purposes. The Administrator is primarily responsible for determining the economic benefits from outright sale to private enterprises. The Administrator also bears the responsibility for final approval or disapproval of transfers that have been proposed by the Secretaries for public educational or health purposes. Cooperation to the fullest extent by the Department of Education (ED), Department of Health and Human Services (HHS), and GSA is necessary in providing the facts and assistance needed for proper decisions.

(1) ED and HHS are responsible for all contacts with State agencies and with public health and education applicants.

(2) When ED and HHS have not completed the transfer of assigned property within 60 days after the date of assignment, the property will be subject to withdrawal from assignment by the GSA Regional Administrator in the absence of justification from ED or HHS for an extension of time.

c. Assignments by GSA.

(1) GSA may predetermine that surplus property is not available for assignment and transfer by ED or HHS for educational or public health purposes. However, prior to making such predetermination, the regional office may wish to notify ED or HHS and afford it an opportunity to request that such property be made available for screening.

(2) Surplus land held for disposal under lease or other similar rights of occupancy, with or without improvements, and is eligible for assignment, may be assigned to ED or HHS provided that the applicant has agreed to assume all contractual commitments and to save harmless the United States against any and all claims arising out of the contract or the performance of any part or all of it.

(3) Where mineral rights in the property have a known value, separate from the surface rights, such mineral rights shall not be included in the assignment but disposed of separately as the interests of the Government may require. See ch. 2-15 for detailed information on minerals.

(4) Each letter of assignment from GSA must carry the provision that the HHS or ED deed contain the following language "In the event of a reversion, the grantee agrees to provide an acceptable level of protection and maintenance of the property until title has actually reverted."

d. Sanitary landfills.

(1) Closed sanitary landfills are an exception to the reverter provision. Where requested by HHS, existing lease arrangements associated with prior landfill disposals should be converted to quitclaim deeds.

(2) Assignments to HHS for sanitary landfills should indicate that conveyance should be by quitclaim deed. If the property to be conveyed is not presently an operating landfill, but a potential site for a landfill, the conveyance by the Government should provide for reversion to the Government if the landfill does not become operational.

e. Compliance inspections.

(1) Re-transfer by ED or HHS. When ED or HHS propose to recapture title to property and re-transfer the property to another public body or eligible institution for educational or health purposes, they shall, in addition to furnishing notice of the proposed compliance action, request authority from the appropriate GSA regional office to re-transfer the property.

(2) The responsibility for any action against the grantee, including compliance with any deed restriction or the granting of releases, where appropriate, is vested with the Secretary of ED or HHS. Such actions are subject to the disapproval of the disposal agency (FPMR 101-47.308-4(l)). Subsection 204(a) of the Property Act controls the disposition of proceeds of surplus real property and directs that such monies will be deposited into the Miscellaneous Receipts Fund of the Treasury of the United States of America. This includes proceeds collected from abrogation of a condition contained in a deed of surplus real property that was transferred under subsection 203(k)(1) of the Property Act. However, until September 30, 2015, all proceeds from the disposition of real property are to be redirected for deposit by ED or HHS into the Land and Water Conservation Fund of the Treasury, and GSA will be notified of the deposit of proceeds by either of those agencies.

18. Correctional facility use.

a. General. The authority and procedures for conveyance of surplus real property for correctional facility use are in FPMR 101-47.308-9.

b. Disposal procedures. With the exception of Government-owned, contractor-operated property; machinery and equipment; or other properties, the disposals of which are restricted, all properties should be made available to State and local governmental units for correctional purposes.

19. Property for displaced persons. FPMR 101-47.308-8 covers the disposal of surplus real property under the provisions of section 218 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

20. Wildlife conservation. The authority to transfer surplus real property, with or without improvements, for wildlife conservation purposes, to a State or to the Secretary of the Interior, is contained in Pub. L. 80-537, approved May 19, 1948, as amended (16 U.S.C. 667b-d). For additional information refer to ch. 2-24.

21. Federal-aid and other highways. The procedure for conveyance of surplus real property for Federal-aid and other highways is identical to the procedure for conveyance of excess real property for such purposes and is accomplished under the provisions of 23 U.S.C. 107 and 317. For additional information refer to ch. 2-10.

22. Homeless.

a. Title V of the Stewart B. McKinney Homeless Assistance Act (McKinney Act), as amended, Public Law 101-645 (November 29, 1990), authorizes the identification and use of excess and surplus property for use as facilities to assist the homeless and expands the meaning of section 203(k) of the Property Act (40 U.S.C. 484(k)) to include the deeding of properties to assist the homeless as a permissible use in the protection of public health. Public Bodies and eligible nonprofit organizations concerned with providing assistance to the homeless may apply directly to the landholding agencies to obtain use of suitable property by lease or permit. Such leases/permits must be for at least 1 year and must be exercised in accordance with the Property Act, McKinney Act, or other applicable laws. States and their political subdivisions and instrumentalities, tax-supported institutions, and nonprofit institutions that are held exempt from taxation under section 501(c)(3) of the 1954 Internal Revenue Code may apply to HHS to acquire Government property determined suitable/available for homeless use by deed under subsection 203(k) of the Property Act.

b. Disposal procedures. FPMR 101-47.9 covers the disposal of surplus real property under provisions of the McKinney Act.

(1) GSA will defer the disposal of the property until HHS has completed action on the homeless assistance application or until HHS advises GSA that no expressions of interest were received, or that no applications have been approved.

(2) The region will, in the assignment letters to HHS, specifically state that HHS will execute and administer leases/deeds in accordance with its regulations set out at 45 CFR Part 12, entitled "Disposal and Utilization of Surplus Real Property for Public Health Purposes."

c. Upon termination or expiration of leases/deeds, or reversion of title by reason of noncompliance with the terms or conditions of conveyance documents, HHS will report properties to GSA in accordance with GSA's regulations at 41 CFR 101-47.308-4(m).

23. Port facilities. The authorities and general procedures for cost-free conveyance of surplus real property suitable for use as a port facility are set forth in section 2927 of P.L. 103-160 (November 30, 1993). The procedure is similar to other public benefit conveyances. The Maritime Administration in the Department of Transportation is designated to receive appropriate excess/surplus notices of availability.

24 thru 30. Reserved.

PART 3. NEGOTIATED SALES

31. General. Refer to section 203(c) of the Property Act for information on statutory authority to conduct negotiated sales and negotiated exchanges. Any class of surplus real property, including related personal property, may be sold by negotiation or by negotiated exchange under this authority.

Subsection 203(c)(3) of the Act states the required conditions for negotiated exchange and subsection 203(c)(6) calls for an explanatory statement, regardless of value. Refer to FPMR 101-47.301-1(c) that sets GSA's policy on exchanges involving private parties. Refer to ch. 2-7 for specific internal guidance on negotiated exchanges.

a. Refer to the following FPMR 101-47 subparts for information on key facets of the negotiated sale process:

(1) FPMR 101-47.304-9 discusses required conditions for conducting negotiated sales and appraisal requirements.

(2) FPMR 101-47.304-11 discusses how to document determinations to negotiate.

(3) FPMR 101-47.304-12 provides instructions for preparation of explanatory statements. (See sample explanatory statement in FPMR 101-47.4911.)

(4) FPMR 101-47.306.1 provides procedures for negotiating after advertising.

b. Key terminology is used in the negotiated sale process, as shown below:

(1) A negotiated sale for "public purposes generally" means the public agency intends to make use of the property for a public purpose not covered by any of the public benefit discount programs.

(2) A negotiated sale for "economic development" purposes means a public agency will develop or make substantial improvements to the property with the intention of re-selling or leasing the property in parcels to users to advance the community's economic benefit. Be sure to examine and document each situation to reflect the results of a negotiated sale under this circumstance will in fact be better than the potential results from a public sale.

(3) Avoid what is called a "pass-through sale." This means a negotiated sale to a public body that plans a resale or long-term lease of the property on an "as-is basis" to a specific known developer. This situation usually means the public body has no dollar resources to develop the property and is relying on an outside developer to do the job for them.

32. Disposals by negotiation. Before conducting a negotiated sale, carefully consider the following important details:

a. Competition. All negotiated sales are subject to obtaining such competition as is feasible under the circumstances. When two or more public bodies are interested in a negotiated purchase of the same property, competitive negotiations should be undertaken to ensure that the highest possible price is obtained. As a general rule, the public body submitting the highest offer will be awarded the property if other terms of the offer are acceptable.

b. Time frame. Every effort should be made to expeditiously dispose of property. If an expression of interest is received for a negotiated sale, provide the public body with some basic ground rules. Let them know they will have 60 days to complete their own appraisal, arrange for financing and submit a formal indication of interest. Advise them you expect to complete negotiations within 30 days and, if they are unable to agree, GSA will plan for a public sale. There can be exceptions, but do your best to move along the process. If negotiations have to be extended, advise the purchaser a reevaluation of the property and adjustment on price quotations may be necessary. Do not begin negotiations until you have an approved appraisal.

c. Participation. To preclude even a perception of undue external influence, vigorous, arm's length negotiations should be conducted only with public body principals or their duly authorized representatives. No representatives of developers, contractors, or congressional staffs should be allowed to sit in, even as observers.

d. Legal concurrence. Work closely with your regional legal staff throughout the process. Clear all agreement documents with legal before committing to the public agency. Explanatory statements need to be signed by the Regional Counsel for the GSA General Counsel. In some cases Regional Counsel might ask the General Counsel to further review a complex case.

e. Excess profits. Negotiated sales to public bodies will include a clause in the offer to purchase and conveyance document that if at any time within a 3-year period from the date of transfer of title by the Government, the purchaser should sell or enter into agreements to sell the property, that all proceeds in excess of the purchaser's costs will be remitted to the Government. (See FPMR 101-47.304-12 and Standard Excess Profits Clause for Negotiated Sales to Public Bodies as illustrated in FPMR 101-47.4908.)

f. Compensation. Caution should be exercised in accepting mixed forms of compensation; i.e., parking spaces and monetary consideration, as this can make precise evaluation of the estimated market value (fair market value) difficult. Where mixed forms of compensation are used, include a complete rationale in the explanatory statement showing the benefit to the Government.

g. Landlocked properties. When a negotiated sale of a landlocked property to a private party is proposed, a complete justification, reuse plan, and explanatory statement must be prepared. Include a comprehensive discussion of the landlocked aspects; a description of any privately owned right-of-way by which access is provided; and a statement as to how, if necessary, a right-of-way through surrounding land might be accomplished.

33. Documenting determination to negotiate.

a. Justification for negotiation should be documented as provided in FPMR 101-47.304.11.

b. A Negotiator's Report Form will be used to record step-by-step actions during negotiations. Remember to tell a chronological history of negotiations and include all the factors and elements considered in evaluating the public body's final offer to purchase along with your justification for acceptance or rejection. The complete negotiator's report must be submitted with the explanatory statement to CO.

c. Negotiated sales to private parties are not encouraged in favor of a competitive sale. An exception can only be made if it can be shown a competitive sale will either fail to bring full economic benefit to the Government or conditions as discussed in FPMR 101-47.304-9 are prevalent.

d. Scrambled facilities may be appropriate candidates for negotiated sale, but must be adequately documented to support such a sale. If DOD has not fully justified the need for a negotiated sale to the using contractor, and it is otherwise economically feasible to offer the property for competitive sale, inform DOD. If DOD insists on withdrawing the property to preclude a competitive sale and provides adequate justification for a sale to the operating GOCO, submit the proposal to CO for approval to proceed. All items of machinery and equipment located in the contractors facility that were reported excess should be sold and the GOCO should not be allowed to pick and choose only certain items.

34. Offer to purchase.

a. Contents of offer. Once you have determined you have the conditions for a negotiated sale and appraisal according to FPMR 101-47.304-9, obtain the highest possible price, (no less than the appraised market value (fair market value)) and meet other conditions. An offer to purchase must be in writing, signed in duplicate, and GSA Form 2041, General Terms Applicable to Negotiated Sales must be part of the offer. The offer must:

(1) Include applicable provisions of Guidelines Relating to the Outlines for Invitation to Bid, Bid and Acceptance - Sale.

(2) Recite all understandings mutually agreed to during negotiations.

(3) State the mutually agreed date for assumption of possession. If possession is to occur prior to date of conveyance, state amount of consideration to be paid to Government between the date of possession and date of conveyance.

(4) Show that the Purchaser and Government have crossed through and initialed each clause in the Offer to Purchase which they intend should not apply and any other pen and ink changes.

(5) The Regional Administrator may omit any term or condition not required by law or regulation and include any additional term or condition whenever it is determined changes may be necessary for a proper offering of the property. Language in subpar. 11b, GSA Form 2041 may be altered by inserting a paragraph in the Special Terms of Sale for a 60-90 day closing.

(6) If negotiations are extended, be prepared to advise prospective purchasers it may be necessary to reevaluate and adjust the price quotations accordingly.

(7) Do not start negotiations before receiving an approved appraisal report.

b. Negotiations with public bodies. Accomplish the following whenever you complete a negotiated sale with a public body:

(1) Conduct vigorous negotiations to obtain the highest possible price, but no less than the market value (fair market value). If the property is \$15,000 or less, the price must be not less than the AFMV plus the cost of the contract appraisal.

(2) Have public bodies include specific written statements on the proposed use of the property (public use plan), the public body's legal authority to buy the property, the availability of funds to pay for the property, and the authority of the person acting on behalf of the public body.

(3) Include the equal opportunity provisions prescribed by FAR 52.222-36, if the offer will exceed \$15,000 and there is a tangible amount of work to be done by the purchaser under the terms of the contract.

(4) If there are to be nonstandard credit terms, a full explanation is required showing the terms are based on the Government's needs. Remember, the explanatory statement should contain clear and specific details outlining the exploration of other alternatives considered to obtain the best possible credit terms on behalf of the Government.

c. Sale of improved properties and special use value. When conducting a negotiated sale with a public agency or GOCO known to have a need for in-place use of any buildings on the land and the appraised market value (fair market value) of the land assumed removal of the buildings, efforts must be made to negotiate a price based on special use value. If an offer equal to or greater than special use value cannot be obtained, document whether it would be in the Government's best interest to accept the offered price or advertise the property for public sale and have the Regional Administrator recommend approval of the sale. For further reference to special use value see the Handbook on Appraisal of Excess and Surplus Real Property, (PRM P 1005.1A).

d. Review of reuse plan by Central Office. The reuse plan for a negotiated sale where an explanatory statement is required will be faxed to CO for review and concurrence before commencing negotiations. A concurrence line should be included on the reuse plan for the Assistant Commissioner for Real Estate Policy and Sales. CO will have 10 workdays for review and comment in order to provide any recommendations for improvements or revisions to facilitate optimum disposal of the property. If no concurrence is received by the 10th workday, the region should follow-up with CO to obtain status and facilitate review.

35. Content, submission, and review of explanatory statements. Refer to FPMR 101-47.304-12, FPMR 101-47.4911 and section 203(e)(6) of the 1949 Act for guidance on the preparation of explanatory statements to the Administrator and transmittal to the appropriate committees of Congress. Key documentation must include the following:

a. GSA Form 2450, Submission to the Administrator for Proposed Negotiated Sale is used as the forwarding document for all negotiated sale explanatory statements.

b. Copies of the offer to purchase, negotiator's report and the approved contract appraisal are always included for additional background and justification to support the explanatory statement. See app. 4-C for a sample Negotiator's Report.

c. The explanatory statement must contain justification that a public benefit will result from the negotiated sale which would not be realized from a competitive sale. This is commonly referred to as the "Public Use Plan," which the public agency is required to complete as part of the offer to purchase.

d. When dealing with negotiated sales of GOCO property to a defense contractor, the use of standard and nonstandard credit terms, or modified earnest money deposits, include a detailed narrative in the background and justification section of the explanatory statement. Items identified in FPMR 101-47.4911 for sale of GOCO's and machinery and equipment must also be specifically addressed.

e. If there are unusual variations between the proposed purchase price and the original acquisition cost, be sure to fully explain the reasons for the variation in the background and justification section of the explanatory statement. An example of such a variation could be a price well below the acquisition cost due to deterioration or obsolescence or a price substantially in excess of cost in relation to the time of acquisition.

f. Ensure the "as-of" date of the appraisal is not more than 9 months old. Anticipate the need for an appraisal update in the event there are delays in submitting the explanatory statement.

36 thru 40. Reserved.

PART 4. PUBLIC SALES

41. General. FPMR 101-47.304 outlines the policy and procedures for advertised disposals. Advertised disposals would include sales conducted by sealed bid, auction, broker or any combination thereof.

These provisions should not limit initiative and creative efforts on the part of GSA personnel or commercial advertising agencies in developing advertising material that will have positive sales appeal and which will make a substantial contribution to sales promotion efforts.

42. Inspection of the property. The regional office shall arrange for the site inspection by interested parties. In addition, provide local field office GSA representatives and local building managers with all pertinent data regarding any property being offered for sale near their duty stations in order that they may be able to discuss it with prospective purchasers to the best possible advantage.

43. Sales campaign. The region should be responsible for preparing all regional and national advertising and selecting the appropriate sales method. In the case of high value properties (\$500,000 and above) services of the national marketing and advertising contractor should be utilized. The term "advertising" is construed to include direct mail pieces, posting notices in public places, and newspapers and publications. The sales promotion campaign should be long enough so that prospective buyers may make detailed investigations, engineering studies, arrangements for financing, market studies, etc. Sales should be scheduled to avoid conflicts with any known religious holidays. In addition, a minimum of 30 days of exposure should be provided between the appearance of the first public advertising and the bid opening or auction date.

44. Announcement of bid opening date. In the case of a sealed bid or auction sale, FPMR 101-47.304-7(a)(1) requires the advertisement to state the date, time, and place of bid opening or auction. The hour shall be stated in terms of "Local time at the place of bid opening" on the date set for bid opening.

45. Department of Commerce publication. Where the estimated market value (fair market value) of the property is more than \$25,000, a condensed statement of a proposed sale of surplus real property shall be submitted for publication in the Commerce Business Daily as provided in FPMR 101-47.304-1(b).

46. Preparation of Invitation for Bids, Bid, and Acceptance. The regional office shall prepare and furnish upon request an Invitation for Bids (IFB) to each prospective purchaser or lessee, as the case may be. The IFB should include a bid form for use of prospective purchasers or lessees to make their bids, having a space for acceptance by the Government of an acceptable bid. It should contain, or incorporate by reference, all the terms and conditions under which the property is offered for disposal, including all provisions required by statute, regulation, or order to be inserted in contracts for the disposal of Government property. All terms and conditions of the IFB must be made a part of the bid and acceptance. (See FPMR 101-47.304-6.)

a. Terms. Prior to the offering of any property for sale or lease, GSA Forms 1741, Instructions to Bidders - Sealed Bid, and 1742, General Terms of Sale (Government Real and Related Personal Property, for property offered for sale; or GSA Form 1741 and GSA Forms 1743, General Terms for Lease (Government), for property offered for lease, should be reviewed for the purpose of determining whether each instruction, term and condition stated therein is applicable specifically to the property to be offered. Special terms of lease applicable to the property offered should be included in a lease form to be attached to the IFB.

b. Minimum bid. In the event the property is offered for sale with a specified minimum bid, pars. 8 and 9 shall be deleted from GSA Form 1741 and in lieu thereof, the following paragraphs shall be added through incorporation in the special terms of sale:

(1) Waiver of informalities or irregularities. The Government may, at its election waive any minor informality or irregularity in the bids received.

(2) Acceptable bid. No bid for less than \$ (minimum bid) will be considered. Award will be made to the highest responsible bidder whose bid for \$(insert minimum bid) or more conforms to the IFB. In the event two or more acceptable bids are received that are equal in all respects, the selection will be made by a drawing by lot limited to such equal bids.

(3) Condition 7 of GSA Form 1742 shall be retained only in those cases where it is intended to request the purchaser to assume possession. Unless intervening circumstances make such action contrary to the best interests of the Government, the request for assumption of possession will be made simultaneously with the acceptance of the bid.

(4) The Regional Administrator may omit any such instruction, term, or condition, and include any additional instruction, term or condition in the special terms of sale in the schedule portion of the IFB, whenever any such omission or inclusion is determined to be necessary for the proper offering of the property.

c. Addendum. If changes in an IFB become necessary after distribution of the IFB, an addendum should be prepared and furnished to all those who received the original IFB.

47. Insurance. The established policy and requirements for insurance in credit sales of real property are provided in par. 10 of GSA Form 1742 and in the HB, Credit, Finance and Insurance (PFM P 4253.1).

a. Additional coverage. When it can be reasonably estimated that the value of the land itself, plus the purchaser's required down payment, will afford the Government sufficient protection in that a resale of the property without the improvements would cover the unpaid balance of the purchase price, consideration should be given to deleting the insurance provision from GSA Form 1742.

b. Insurable improvements. In cases where it is determined that only a limited number of improvements have an economic value sufficient to warrant insurance as security for the mortgage indebtedness, those improvements should be identified in the special sales conditions of the IFB.

c. Extent of coverage required. Before any sale is finalized, the region will determine the extent of coverage to be required by the Government. Care must be taken to ensure that efforts to protect the Governments interests do not impose unrealistic requirements that will impair GSA's ability to realize the best possible disposal results.

48. Clearances required. Before releasing to the public, the prepared Invitation for Bids, Bid, and Acceptance should be cleared with the Regional Counsel as to legal sufficiency and with the Credit and Finance Section of the Finance Division if there are any deviations from the standard credit terms or insurance requirements. In the case of properties marketed for client agencies on a reimbursable basis under the terms of the Economy Act clearances should be obtained from the client agency.

49. Register of bids received sealed bid sale. FAR 14.4 requires the regional Business Service Center to maintain GSA Form 1378, Record of, and Receipt for, Bids and Responses.

50. Registration of bidders auction sale. Each prospective bidder should be required to register for the auction. At the time of registration, he should be furnished the Instructions to Bidders and the General

Terms and Conditions of Sale and requested to sign a brief statement to the effect that they were received before the actual commencement of the auction.

51. Opening, modification and withdrawal of bids. Policies and procedures relating to the opening and reading of bids, late bids, modification of bids, withdrawal of bids, and action after opening of bids are discussed in FPMR 101-47.304-7, 101-47.305, GSA Form 1741 and FAR 14.4.

a. If it is necessary to orally afford the high bidder an opportunity to increase his/her offer, the file should be documented to indicate the justification for using other than a written communication. A dialogue with the high bidder based on commonly available information bearing on the property is permitted. However, extreme caution must be exercised since this may be interpreted as a form of negotiation that is unauthorized, as discussed under FPMR 101-47.305-1(b).

b. In any case where the regional office has afforded the highest responsive bidder an opportunity to increase his/her offered price, the bid may be accepted if the amount of the high bid received at the bid opening or the subsequent increased bid equals or exceeds 90 percent of the appraised market value (fair market value) of property offered for sale, or appraised fair rental of property offered for lease.

c. In the event the high bidder does not increase the bid to an amount that is equal to or in excess of 90 percent of the appraised market value (fair market value) in the case of a sale, or which is equal to or in excess of 90 percent of the appraised fair rental in the case of a lease, the regional office may:

(1) Accept the offer if supported by the facts and circumstances of the particular case. A copy of the Findings and Determinations will be provided to Central Office.

(2) Reject the bid.

52. Antitrust laws. Prospective sales of \$3 million or more must be sent to the Attorney General for advice as to whether the proposed sale is inconsistent with antitrust laws for all properties. Under par. 10, GSA Form 1742, General Terms of Sale, an award may be rescinded if unfavorable advice is received from the Attorney General. Refer all pertinent documentation through your Regional Counsel for review and coordination with the Office of General Counsel. Be prepared to provide any additional information requested by the Attorney General following public sales or negotiated sales after review and comments from the appropriate congressional committees. In the event there are delays in processing awards and P&M costs cannot be shifted to the buyer, advise your Regional Counsel to expedite getting a finding from the Attorney General.

53. Sale effect on future offerings. Where property is offered for sale in more than one parcel and acceptable bids are obtained on some parcels but not on others, all bids shall be rejected on parcels where sale would adversely affect a later sale.

54. Use of auctioneers or brokers. Disposal of surplus real property through contract realty brokers is the subject of FPMR 101-47.304-10. GSA Form 1741-A, Instructions To Bidders, provides guidance for auction sales.

a. General. Soliciting the services of an auctioneer or broker and executing a contract must be done case by case for each property to be offered for sale. The contract shall state whether the property is to be offered as a whole or as separately marketable units.

b. Procurement of auctioneers and brokers. Competitive procedures shall be used in the acquisition of auctioneer and broker services in accordance with FAR 6.1.

c. Exclusive listing of property. Each property selected for sale by auction or broker shall be listed exclusively with the auctioneer or broker. Sample contract formats for the services of an auctioneer or broker are available in computerized form.

d. Promotion.

(1) As required by FPMR 101-47.304-7(b), auctioneers and brokers must aggressively promote the advertising and sales promotion of the property according to the most modern and advanced methods of accepted business practice and make diligent efforts to sell the property through their own organization.

(2) The region may provide the auctioneer or broker with engineering, inspection and other related reports prepared for the property, sale price, a list of prospective purchasers and any brochures, pamphlets, photographs, or other promotional material previously published by GSA, if available from stocks on hand. Advertising or other promotional activities should not be undertaken by GSA.

e. GSA negotiations. It shall be made clear to the auctioneer or broker that GSA reserves the right to negotiate directly with prospective buyers. The sale of the property by the Government, prior to the termination date of the contract, however, shall in no way affect the payment of the commission.

f. Term of contract. The regional office must determine the time within which the auctioneer must be required to prepare for and to conduct the auction, as well as the time when the first public advertising of the property must be made. The auctioneer should not be given more than 90 days from the date the agreement is signed to conduct the auction. In the case of broker sales, the term will be based on the circumstances of the individual case, but the original term should not exceed 12 months.

g. Marketing plan. The auctioneer or broker must be required to submit to the region a recommended schedule of sales promotion and advertising, with an estimate of the cost, for approval.

h. Acceptance of deposit. The auctioneer or broker should be authorized to accept the earnest money deposit from the highest bidder. The prohibition against acceptance of an earnest money deposit at the sale in cash or in any form other than as specified in par. 5 of GSA Form 1741, should not apply in any case in which an authorized and bonded GSA collection officer is present at the sale and the deposit is delivered directly to him.

i. Acceptance or rejection of bid. The auctioneer or broker shall have no authority to commit GSA on any bid. A representative of the regional office should be present at all auction sales to ensure compliance with all requirements.

j. Payment of commissions. The auctioneer or broker should be entitled to the payment of a commission in the event of consummation of a sale of the property according to the terms and conditions of the contract

k. Amount of commissions. Regional Administrators are authorized to pay commissions in accordance with the scale of fees customarily paid for such services in similar commercial transactions. The commission to be paid, expressed in percentage of the sale price (or a scale for determining such commission) shall be inserted or referenced in Article V., A., of the contract. GSA will pay only the fee enumerated in the contract and only to the contractor.

l. Reimbursement. If it is necessary that the property covered by the auction or broker contract be withdrawn from sale, or it is determined by the Government that it would be in the public interest to reject

an offer otherwise acceptable as to the purchase price and responsibility of the bidder, the contractor should be reimbursed for direct expenses incurred for advertising.

55 thru 60. Reserved.

Appendix 4-A. Formats for Homeless Decision Paper

INSTRUCTIONS FOR DECISION PAPER

PROPERTY:

Name, location, and GSA Inventory Control Number.

DESCRIPTION:

Brief and concise summary of land area; buildings; utilities; access; zoning; and, where applicable, environmental and historic considerations

APPLICANTS:

Name, address, and contact.

PROPOSED USES:

Public services to be provided and estimated number to be served.

RECOMMENDATION:

To accept or reject with brief and concise rationale for decision.

INSTRUCTIONS FOR DECISION CRITERIA (Separate Form to be Completed for Each Applicant)

PROPERTY:

Name, location, and GSA Inventory Control Number

DESCRIPTION:

Land area; brief and concise summary of the buildings, structures, miscellaneous facilities, utilities, installed machinery and equipment (show floor area of structures in gross square feet/square meter); recorded and unrecorded reservations and exceptions such as mineral rights, easements, roads, rights-of-way, and railroads; information concerning zoning; whether historic; any environmental considerations; population; and unemployment.

APPLICANT:

Name, address, and contact.

PROGRAM OF USE:

Public service to be provided and estimated number to be served (quantity/quality); and availability of funding for start up and continued operation.

COST BENEFITS/FINANCIAL FEASIBILITY:

Consideration of alternative uses vs. proposed use; value of Federal property vs. other available property.

AVAILABILITY OF OTHER FACILITIES/SERVICES:

Discuss whether other similar facilities are available; how many; are such programs/facilities presently adequate, excessive, or is there a shortage (number served, etc.).

OTHER CONSIDERATIONS:

Congressional district; Representative(s) and Senators with party designation; address any support or opposition received from Congress, State and local governments, media, and the general public; other factors considered.

Outline for explanatory statements recommending a public benefit conveyance for other than homeless purposes

**EXPLANATORY STATEMENT COVERING PUBLIC BENEFIT CONVEYANCE OF SURPLUS REAL
SUBMITTED PURSUANT TO TITLE V OF THE STEWART B.
MCKINNEY HOMELESS ASSISTANCE ACT,
AS AMENDED (42 U.S.C. 11411).**

PROPERTY:

Name, location, and GSA Inventory Control Number.

Include Congressional District.

DESCRIPTION:

Brief and concise summary of land area; buildings; utilities; access; zoning; and, where applicable, environmental and historical considerations.

APPLICANT:

Name and address.

PROGRAM OF USE:

Specifically describes the public benefit program to be provided and estimated number to be served.

JUSTIFICATION:

Specifically note what the public benefit was and which subsection of 203(k) of the Federal Property and Administrative Services Act of 1949, as amended, the property was conveyed under.

State the need satisfied by conveyance of the surplus property, and the reasons for determining that such need was so meritorious and compelling as to outweigh the needs of the homeless.

(Information should be based on the decision paper discussed in chapter 4-22 and appendix 4-A, of the Handbook, Excess and Surplus Real Property.)

Appendix 4-C. Negotiators Report

NEGOTIATOR'S REPORT

1. CONTROL NUMBER		NAME AND LOCATION OF PROPERTY		
2. PARCEL NUMBERS(S)		SIZE (acre / hectare)	NUMBER OF BUILDINGS	
3. NAME AND ADDRESS OF PURCHASER				
4. APPRAISALS				
Conducted By		Date	Name	Value
() STAFF	() Contract			\$
() STAFF	() Contract			\$
() STAFF	() Contract			\$
APPROVED APPRAISED VALUE				\$
5. GOVERNMENT'S INITIAL				
				OFFER
				\$
6. RESUME OF NEGOTIATIONS (Date, Time, Place and with Whom)				

(Continue on separate sheet)

7. RECOMMENDATIONS		
7.A. NEGOTIATOR	Signature	Date
<hr/>		
7.B. DIRECTOR, OFFICE OF REAL ESTATE SALES	Signature	Date
<hr/>		

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ZONE MANAGEMENT CONSIDERATIONS**

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Miscellaneous.....	5

**CHAPTER 5. ENVIRONMENTAL, HISTORIC AND COASTAL
ZONE MANAGEMENT CONSIDERATIONS**

1. General. This chapter covers Federal environmental requirements related to the real property disposal program. In some instances, specific State and/or local environmental requirements, which are not covered in this chapter, may be applicable. Due to the evolving nature of the environmental field, laws, regulations and guidance are changing rapidly. To ensure site specific environmental compliance issues are being addressed appropriately, realty specialists should contact State and/or local regulators, as well as review the procedures in this handbook. If requirements are unclear, you should contact a Central Office Environmental Specialist.

2. Environmental laws and regulations. There are two major environmental laws that affect the GSA real property disposal program and apply to all GSA disposal actions. These are as follows:

a. National Environmental Policy Act of 1969, as amended (NEPA); 16 U.S.C. 470 et seq. GSA Order Environmental Considerations in Decisionmaking (ADM 1095.1D) is the implementing guidance that categorizes GSA activities into "classes of actions." This document instructs GSA officials on actions requiring preparation of an Environmental Impact Statement (EIS) or an Environmental Assessment (EA). It also provides for "categorical exclusions" that do not require an EIS or an EA. Case files must document consideration of environmental factors and compliance with ADM 1095.1D in all disposal actions. Federal agencies reporting property excess must also comply with NEPA. Each agency has its own internal guidance for NEPA implementation. If available, this information may be helpful to regional personnel in fulfilling GSA's NEPA compliance requirements for disposal.

b. Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 2601, et seq. Section 120(h)(3) of CERCLA, created by the Superfund Amendments and Reauthorization Act (SARA), requires full disclosure of all known hazardous substance activity and specifies covenants be provided in deeds for disposal of Federal property. Sections 101-47.202-2(b)(10) and 101-47.304-14 of the FPMR, and EPA regulations at 40 CFR part 373, provide details regarding ROE and disposal requirements. The Community Environmental Response Facilitation

Act (CERFA), enacted on October 18, 1992, amended CERCLA by adding paragraph (4) to section 120(h) of CERCLA. This new paragraph requires Federal agencies to identify uncontaminated parcels of land prior to terminating Federal Government operations and to include specific covenants in deeds used to transfer property. The law also details a process for agencies to follow in order to accomplish this identification. It may be necessary for realty specialists to request additional information along with the SF 118 to comply with CERFA. Specific questions regarding this law should be directed to an environmental specialist in the central office.

c. In addition to the above mentioned environmental statutes, the following table includes a listing of pertinent environmental laws which may affect disposal activities. Statutes are listed by acronyms in the table. A full listing by name and citation follows the table. The table includes reference to implementing guidance and/or regulations and has a brief description of effect on the real property disposal program:

**Environmental Laws and Regulations Affecting
Real Property Disposal Actions**

<u>Environmental Law/Statute</u>	<u>Purpose/Effect</u>	<u>Implementing Regulation &/or Guidance Document</u>
Coastal Zone Management Act of 1972 (16 U.S.C. 1451, <u>et seq.</u>)	Addresses disposal actions affecting the coastal zone & requires consideration of State coastal zone management plans	15 CFR part 930
Community Environmental Response Facilitation Act(42 U.S.C. 9601, <u>et seq.</u>)	Requires identification of uncontaminated property	No implementing regulation
Comprehensive Environmental Response, Compensation, and Liability	Addresses reporting and disclosure requirements for hazardous substances	FPMR: 101-47.202-2(b)(10) 40 CFR part 373
Endangered Species Act of 1973 (16 U.S.C. 15301, <u>et seq.</u>)	Requires agency consultation with DOI to ensure actions do not jeopardize endangered or threatened species	50 CFR part 402
Farmlands Protection Act of 1981 (7 U.S.C. 4201, <u>et seq.</u>)	Requires agencies to review their actions for potential affects on wild & scenic rivers	CEQ Memorandum, Federal Register 9/8/90
Federal Facility Compliance Act (42 U.S.C. 6901, <u>et seq.</u>)	Requires compliance with State and Local Environmental laws at Federal facilities	No implementing regulation
<u>Environmental Law/Statute</u>	<u>Purpose/Effect</u>	<u>Implementing Regulation &/or Guidance Document</u>

Flood Disaster Protection Act of 1973 (43 U.S.C. 4001, <u>et seq.</u>)	Prohibits Federal actions in areas subject to flood hazards	E.O. 11988 & 11990 FPMR: 101-47.202-2(b)(6)
National Environmental Policy Act of 1969, as amended (NEPA); (16 U.S.C. 470, <u>et seq.</u>)	Requires agencies to consider environmental impacts in decision making	GSA Order ADM 1095.1D, 40 CFR part 1500
National Historic Preservation Act of 196 (16 U.S.C. 470, <u>et seq.</u>)	Requires identification of historically significant properties	36 CFR Chap. VIII GSA Order ADM 1020.1
Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901, <u>et seq.</u>)	Regulates hazardous and solid waste activities and USTs	40 CFR part 260-281
Safe Drinking Water Act (42 U.S.C. 300, <u>et seq.</u>)	Sets standards for drinking water quality and regulates activities affecting drinking water supplies	40 CFR part 141-143, 146, 149
Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 9601, <u>et seq.</u>)	Addresses reporting and disclosure requirements for hazardous substances	FPMR: 101-47.202-2(b)(10) 40 CFR part 373
Toxic Substances Control Act, as amended (15 U.S.C. 2601, <u>et seq.</u>)	Regulates specific chemical substances, including PCBs and Asbestos	40 CFR part 761
Wild and Scenic Rivers Act (16 U.S.C. 1271, <u>et seq.</u>)	Requires agencies to review their actions for potential effects on wild and scenic rivers	

3. Reports of excess (ROE). Section 101-47.202 of the FPMR details the requirements for reports of excess. Several environmental requirements are addressed in this section; however, each ROE must also include information pertaining to the following:

a. Asbestos-containing materials (ACM). Refer to FPMR at 101-47.202-2(b)(9) and be sure to include the following:

(1) A description of the type, location and condition of ACM and a description of any asbestos control measures taken.

(2) Any available indication of costs and/or time necessary to remove all or any portion of the ACM.

b. Coastal zone. Be sure to include the following:

(1) A statement as to whether and what portion of the property would constitute an undeveloped coastal barrier as defined by the Department of Interior (DOI), Fish and Wildlife Service (FWS), for the Coastal Barrier Resources System (CBRS). This includes properties located along the Atlantic Ocean, Puerto Rico, United States Virgin Islands, Gulf of Mexico, and Great Lakes coasts.

(2) Any available information regarding State coastal zone management plans that may affect the property.

c. Endangered species. Be sure to include the following:

(1) A statement regarding the presence, or likely presence of any threatened or endangered species on the property.

(2) Obtain any available information regarding consideration of, or adverse effect(s) to, these species for documentation as part of the real property case file. Any available information on candidate species should also be documented.

d. Hazardous substance activity. Refer to FPMR at 101-47.202-2(b)(10) and be sure to include the following:

(1) A statement indicating whether any hazardous substance activity (as defined by EPA regulations at 40 CFR Part 373) took place on the property. If no such activity took place, disregard items (2) and (3).

(2) If such activity took place, include information on the type and quantity of such hazardous substance and the time at which storage, release or disposal took place.

(3) A statement warranting that all remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken before the date the property was reported excess.

(4) A covenant warranting that any additional remedial action found to be necessary (which was caused by and/or during ownership by the United States) after the date of transfer shall be conducted by the United States (reporting agency).

e. Historical significance. Refer to FPMR at 101-47.202-2(b)(8) and be sure to include the following:

(1) A statement regarding any historic significance of the property.

(2) A statement indicating whether the property is listed, is eligible for, or has been nominated for listing in the National Register of Historic places or is in proximity to any such property.

f. Lead-based paint. Be sure to include the following:

(1) A statement by the reporting agency that the property contains no improvements thought, or known to have been, constructed and/or renovated prior to 1978, or

(2) A listing of the portions of the property constructed and/or renovated prior to 1978 and an indication of the probable presence of lead-based paint in such structures, along with any available information regarding the use of lead-based paint or test data indicating the presence or absence of lead-based paint.

g. National Priority List of Superfund Sites (NPL). Be sure to include a statement indicating whether this property, or any portion thereof, is on the proposed or final National Priority List (NPL) of Superfund Sites.

h. Polychlorinated biphenyls (PCB). Refer to FPMR 101-47.202-2(c)(3) and be sure to include the following:

(1) A certification by a responsible party stating whether the property does or does not contain PCB transformers or other equipment regulated by EPA under 40 CFR part 761.

(2) If any such PCB articles are present, an assurance statement that they are currently, and will continue to be, maintained (by the reporting agency) in a state of compliance until disposal of the property.

i. Underground storage tanks (UST). Be sure to include the following:

(1) A statement regarding the presence of UST on the property and, if any UST are present, a completed EPA Form 7530-1 (Notification of UST) or form containing this information.

(2) A statement indicating that the reporting/sponsoring agency is in compliance with the EPA UST provisions codified at 40 CFR Part 280.

j. Unexploded ordnance. Refer to FPMR 101-47.202-7 and be sure to include the following:

(1) A statement by the reporting agency regarding the presence, or likely presence, of unexploded ordnance on or associated with the property, and, if thought or known to be present,

(2) A listing of activities that are restricted on such property and plans to remediate the hazardous condition prior to disposal.

k. Wetlands and floodplains. Refer to FPMR 101-47.202-2(b)(6) and be sure to include the following:

(1) Detailed information regarding any known flood hazards or flooding of the property;

(2) If located in a floodplain or wetlands, a listing of, and citations to, those uses that are restricted under identified Federal, State, or local regulations as required by Executive Orders 11988 and 11990.

4. Disposal requirements. As stated previously, compliance with NEPA and CERCLA is a requirement of all disposal actions. NEPA compliance shall be in accordance with GSA ADM 1095.1D and shall be documented in each real property case file. Compliance with CERCLA requires providing deed covenants as specified in the FPMR. Full disclosure of all known environmental concerns is mandatory. This includes, but is not limited to, consideration and discussion of the following environmental issues/concerns:

a. Asbestos-containing materials (ACM). Provide full disclosure of all known information regarding asbestos-containing materials and the required "Notice" in any disposal instruments. Refer to FPMR 101-47.304-13.

b. Coastal zone.

(1) Properties included in the Coastal Barrier Resources System (CBRS) are those located along the Atlantic Ocean, Puerto Rico, United States Virgin Islands, Gulf of Mexico, and Great Lakes coasts. For these properties, realty specialists must provide Federal agency screening notice and property maps to the Fish and Wildlife Service (FWS) for determination as to whether and what portion of the property would constitute an undeveloped coastal barrier.

(2) If FWS makes a negative determination (i.e., determines property is not part of an undeveloped coastal barrier), GSA may proceed with normal disposal process. If a positive determination is rendered, GSA must provide notice in any conveyance document that property has been included in the CBRS and initiate further consultation with FWS.

(3) Uses that are restricted, and how they are restricted under State and coastal zone management plans must also be included in conveyance documents for properties on which a positive determination was rendered.

c. Endangered species.

(1) Review disposal action(s) for effects on threatened or endangered species, and where disposal actions might affect such species, contact the regional office of the Fish and Wildlife Service (FWS) to obtain additional information.

(2) Where contact with FWS indicates a potential impact on an endangered or threatened species or a designated critical habitat, initiate informal or formal consultation process in accordance with FWS guidance.

d. Hazardous substance activity.

(1) Provide all known information on the type and quantity of any hazardous substance stored, released, or disposed of on the property.

(2) Provide a statement warranting that "all remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken" before the date the property was transferred.

(3) If no such activity took place, provide a statement, in accordance with 40 CFR part 373, that there is no evidence to indicate that hazardous substance activity took place on the property during the time the property was owned by the United States.

(4) Provide a covenant warranting that any additional remedial action found to be necessary (which was caused by and/or during ownership by the United States) after the date of transfer shall be conducted by the United States.

(5) Include a statement providing for a right of entry for the United States in the event that remedial action is found to be necessary after the date of transfer.

e. Historical significance. Provide a statement detailing any, and all, restrictions or requirements imposed on potential purchasers as a result of the historical significance of the property.

f. Lead-based paint. Provide a statement regarding the likely presence or absence of lead-based paint on the property, and, if present, provide a notice, in accordance with the Department of Housing and Urban Development (HUD) regulations, in any disposal instruments.

g. Polychlorinated biphenyls (PCB).

(1) Provide a statement that the property does or does not contain any PCB equipment.

(2) If present, provide a listing of the PCB equipment which was identified by the reporting agency in the ROE, and,

(3) Provide a statement that any such equipment has been maintained, and is currently, in a state of compliance as of the date of transfer.

h. Underground storage tanks (UST). Provide all known information regarding the presence of UST on the property and a statement that the UST have been maintained, and is currently, in a state of compliance as of the date of transfer.

i. Unexploded ordnance. Provide a statement regarding the presence, or likely presence, of unexploded ordnance and include restrictions as identified by the reporting agency in any disposal instruments.

j. Wetlands and floodplains.

(1) Identify uses that are restricted, and how they are restricted under State and local floodplain and wetland regulations; and

(2) Provide a statement which restricts these uses by the grantees or purchasers and any successors.

5. Miscellaneous. This section covers environmental requirements associated with the real property disposal program which were not addressed in the ROE or disposal sections of the chapter. Realty specialists should consider these issues where applicable.

a. Reverted properties. Generally, reverted properties are to be treated similar to reports of excess with regard to disclosure of any environmental considerations. Each property must be reviewed case-by-case with the sponsoring agency and a site inspection must be performed prior to revesting with the

Government. Sponsoring agencies should be advised that GSA will not accept property which is environmentally impacted until all remedial action necessary has been taken.

b. On-site inspections. During property inspections, regional personnel should spot check any, and all, known environmental hazards or issues which were previously identified in the ROE and be alert to other environmental hazards/issues. In addition, safety precautions should be taken to prohibit contact with environmental hazards which might result in a threat to human health or the environment.

c. Interim use. All parties accessing the property for interim uses must be advised of any, and all, environmental hazards known to be present on the property prior to their occupancy. In addition, appropriate restrictions and prohibitions must be made a part of their interim use agreement to prevent any threat to human health or the environment.

d. Unique situations. Due to the sensitive and controversial nature of many environmental issues, regional personnel must advise and consult with a central office environmental specialist prior to taking actions that would be considered precedent setting.

e. Defense Environmental Restoration Program (DERP). The U.S. Army Corps of Engineers (COE) executes the portion of the DERP responsible for environmental restoration at active and formerly used Department of Defense (DOD) sites. Properties currently or formerly utilized by DOD, on which issues related to environmental contamination, unexploded ordnance, building demolition and/or debris removal arise, should be reported to the COE for their evaluation. Questions pertaining to the DERP should be discussed with a Central Office environmental specialist.