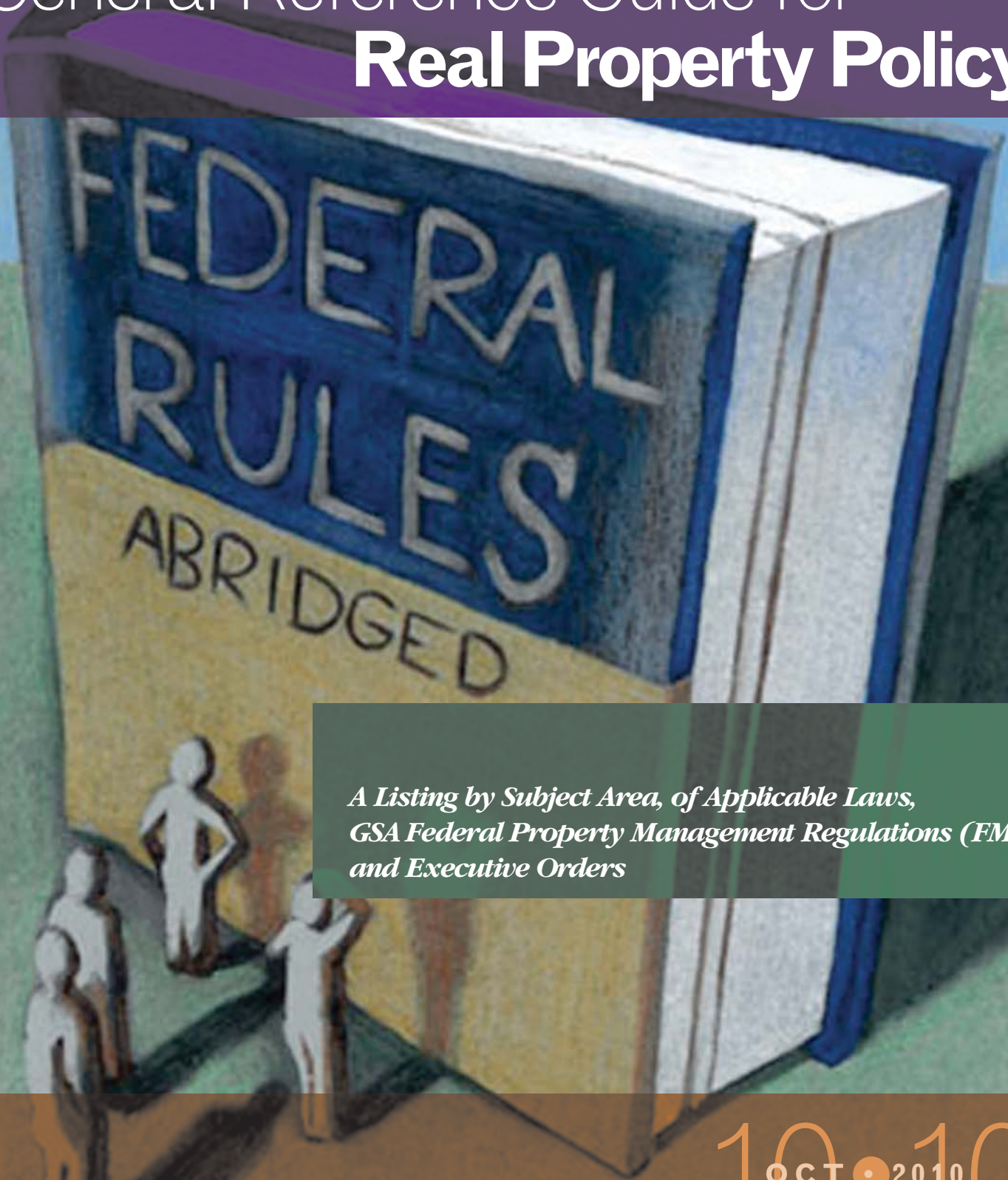


# General Reference Guide for **Real Property Policy**



FEDERAL  
RULES  
ABRIDGED

*A Listing by Subject Area, of Applicable Laws,  
GSA Federal Property Management Regulations (FMRs)  
and Executive Orders*

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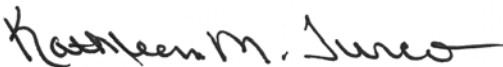
# Foreword

**T**he General Services Administration (GSA), Office of Governmentwide Policy, is pleased to issue this update to the General Reference Guide for Real Property Policy. I think you will find that it contains valuable information that can be used by all real property asset managers.

This Guide was written to provide an easy-to-understand “map” to legal authorities relating to real property policies. It is an additional tool that the Federal real property community can use to stay educated and informed on current issues regarding real property policy.

I want to recognize Carolyn Austin-Diggs, whose Office of Real Property Management researched and compiled the listings in the Guide. Under the leadership of Stanley C. Langfeld, Director, Regulations Management Division, Kenneth Holstrom and Virginia McDonald assumed responsibility for the update of this document.

For their assistance in the review of this updated Guide, I would also like to recognize and thank GSA’s Office of General Counsel, the Public Buildings Service, and particularly, Nancy Potter, who recently passed away after retiring from a long and distinguished career in GSA’s Office of the Chief Financial Officer. Their assistance in dealing with the legal citations and summaries in the document has been an integral step in providing an easy-to-understand reference of legal authorities applicable to GSA and other federal agencies to which GSA real property management and operations have been delegated.



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# Executive Summary

**T**he General Reference Guide for Real Property Policy is a listing, by subject area, of applicable laws, Executive Orders and regulations, including GSA's Federal Management Regulation. The subject areas include: Delegation of Authority; Real Estate Acquisition; Facility Management; Real Property Disposal; Design and Construction; Art-in-Architecture; Historic Preservation; Assignment and Utilization of Space; Safety and Environmental Management; Security; Public Utilities; Location of Space; and Federal Property Asset Management. An index and matrix of applicable authorities for each category is included at the end of the Guide for cross-reference purposes. This Guide is a listing only and does not contain any recommendations or policy implications for these authorities. ■



# I. Introduction

The following Guide was originally created by the Office of Real Property in 1998, when the need was recognized for an easy-to-understand reference guide to the various legal authorities that serve as the basis for current real property policies applicable to GSA and other agencies to whom federal real property management and operations responsibilities have been delegated. GSA and other users of the document need to be able to relate laws, Executive Orders and regulations, including GSA's Federal Management Regulation (FMR), to a specific real property policy area. This General Reference Guide for Real Property Policy will serve these purposes, while not providing any policy implications for these authorities.

This Guide consists of a listing, by subject area, of applicable laws, Executive Orders and regulations, including GSA's FMR. The subject

areas include: Delegation of Authority; Real Estate Acquisition; Facility Management; Real Property Disposal; Design and Construction; Art-in-Architecture; Historic Preservation; Assignment and Utilization of Space; Safety and Environmental Management; Security; Public Utilities; Location of Space; and Federal Property Asset Management. An index and matrix of applicable authorities is included at the end of the Guide for cross-reference purposes.

The legal citations in the Guide have been updated to conform to Public Law 107-217, which was enacted on August 21, 2002, to revise, restate and recodify, without substantive change, certain laws related to public buildings, property and works in Title 40 of the United States Code. For the convenience of the reader and for ease of reference, in some instances, we have provided the name of the prior law that has now been recodified.

This Guide is also available on the GSA website at: <http://www.gsa.gov> by inserting "General Reference Guide" in the search mechanism located in the upper right corner of the GSA's home page and <https://pcmm.gov>.

Please contact the Office of Real Property Management at (202) 501-0856, if you have any questions or require additional assistance.

The Guide, and the summaries it contains, is issued only for the convenience of its users and is not intended to: (i) be a complete listing of all laws, regulations or Executive Orders applicable to GSA or federal real property policy; (ii) be cited or relied upon as legal authority for any purpose whatsoever; (iii) serve as the basis for any suit, claim, right, or cause-of-action against GSA, or any person; or (iv) cover any changes in law or policy after the date of its issuance. ■

## II. Delegation of Authority

### A. Laws

#### 1. 40 U.S.C. § 121(d) and (e).

Authorizes the Administrator of General Services to delegate and to



authorize successive redelegation of any authority or function transferred to or vested in the Administrator by Subtitle I – Federal Property and Administrative Services of Title 40 of the United States Code (formerly the Federal Property and Administrative Services Act of 1949, as amended) to any GSA official or to the head of any other federal agency. The Administrator of General Services may not delegate the authority to prescribe regulations on matters of policy applying to executive agencies (40 U.S.C. § 121(d)(2)(A)).

2. **40 U.S.C. § 3314.** Directs the Administrator of General Services to delegate on request to an executive agency any duties and powers under Chapter 33 of Subtitle II – Public Buildings and Works of Title 40 of the United States Code (formerly the Public Buildings Act of 1959, as

amended), except for the authority contained in 40 U.S.C. § 3305(b) to alter any public building and to acquire land necessary to carry out the alteration, when the estimated cost of the project does not exceed \$100,000, and authorizes the Administrator to delegate these duties and powers to an executive agency in all other instances when the Administrator determines that the delegation will promote efficiency and economy.

### B. Regulations

1. **Federal Management Regulation, Subchapter C - Real Property, part 102-72, Delegation of Authority (41 C.F.R. part 102-72).** Prescribes policy guidance concerning the authority of the Administrator of General Services to delegate and authorize successive redelegations of the Administrator's real property authority to any federal agency. ■



# III. Real Estate Acquisition

## A. Laws

### 1. Architectural Barriers Act of 1968, as amended (42 U.S.C. §§ 4151-4157).

Establishes standards for accessibility by persons with disabilities and requires compliance with the standards in the design, construction and alteration of buildings and facilities owned or leased, in whole or in part, by the Federal Government.

### 2. Clean Air Act (CAA), 42 U.S.C. § 7401 et seq.

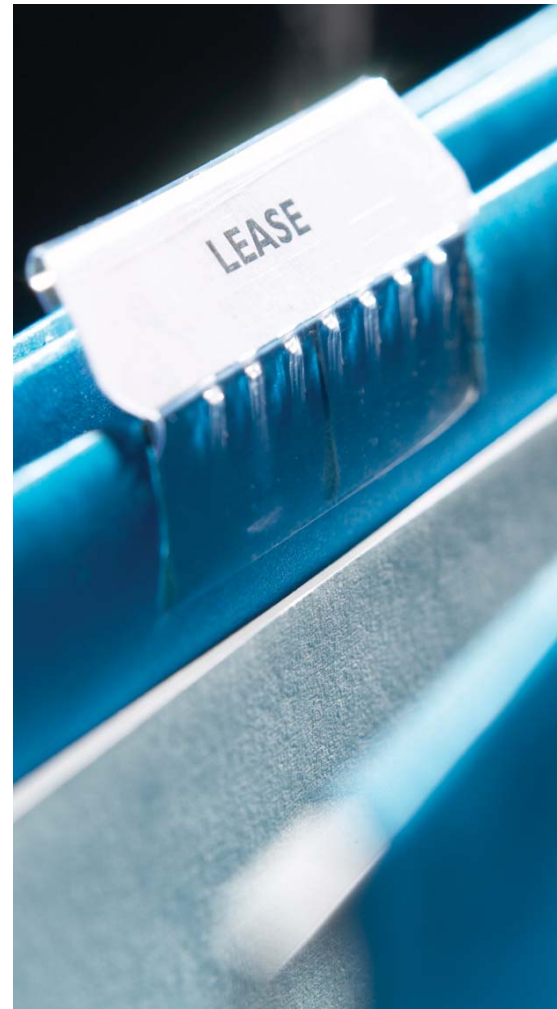
Requires each federal department, agency and instrumentality of the United States to comply with all federal, state, interstate, and local requirements regarding the control and abatement of air pollution in the same manner and to the same extent as any nongovernmental entity. The Clean Air Act 1990 amendments expanded the enforcement powers of the U.S. Environmental Protection Agency and states delegated enforcement authority under the CAA, and added restrictions on air toxins, ozone-depleting chemicals, stationary and mobile emissions sources, and those emissions that cause acid rain. The CAA's implementing regulations can be found at 40 C.F.R. § 53 et seq.

### 3. Coastal Zone Management Act (CZMA), 16 U.S.C. § 1451 et seq.

Addresses property actions affecting coastal zones and requires that federal actions be consistent with state coastal zone management plans. The CZMA's implementing regulations can be found at 15 C.F.R. § 921 et seq.

### 4. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601 et seq.

Requires each federal department, agency and instrumentality of the United States to respond to releases or threats of release of hazardous substances, pollutants or contaminants into the environment, and to otherwise comply with all of the other provisions of CERCLA, such as those establishing liability for the cleanup costs of regulators and third parties. Two major amendments to CERCLA were the Superfund Amendments and Reauthorization Act of 1986 (SARA) which, among many other changes, waived federal sovereign immunity to the requirements of CERCLA, and the Community Environmental Response Facilitation Act (CERFA), which modified the process by which excess federal real



property is disposed. CERCLA's implementing regulations are at 40 C.F.R. § 300 et seq., and are referred to as the National Contingency Plan (NCP). The major Executive Order

implementing CERCLA is E.O.12580 - Superfund Implementation (January 23, 1987), where the President has delegated most aspects of his/her authority under CERCLA to the Environmental Protection Agency and certain other federal agencies.

**5. Competition in Contracting Act of 1984, as amended (CICA) (31 U.S.C. §§ 3551-3556 and 41 U.S.C. §§ 251-260).** Requires GSA to acquire supplies and services, including leased space, through the use of full and open competitive procedures, except in the case of procurement procedures otherwise expressly authorized by statute.

**6. Davis-Bacon Act, as amended (40 U.S.C. §§ 3141-3148).** Requires the payment of minimum wages for laborers or mechanics employed under Federal Government contracts for the construction, alteration or repair, including painting and decorating, of public buildings or public works. Wages are established by the Department of Labor and are based on the prevailing wage rate in the locality in which the contract is to be performed.

**7. Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. §§ 7701-7709).** Requires buildings constructed for or leased to the Federal Government to meet seismic safety standards.

**8. Emergency Planning and**

**Community Right-To-Know Act (EPCRA), 42 U.S.C. § 11001 et seq.**

Establishes requirements for emergency planning and community-right-to-know reporting on the storage and release of hazardous and toxic chemicals. Although there is no waiver of federal sovereign immunity to the requirements of EPCRA in the statute, Executive Order 12856 requires federal agency compliance.

**9. Endangered Species Act (ESA), 16 U.S.C. § 1531 et seq.** Requires federal agencies to insure that their actions do not adversely impact threatened or endangered species or their critical habitat. If any proposed action may have such an impact, consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service is required. The ESA's implementing regulations for consultation with either Service are found at 50 C.F.R. § 402 et seq

**10. Energy Independence and Security Act (EISA), Pub. L. 110-140 (December 19, 2007).** Established energy management goals and requirements for federal buildings.

**11. Energy Policy Act of 2005, Pub. L. 109-58 (August 8, 2005).** Provides tax incentives and loan guarantees for energy production of various types, and mandates a number of energy efficiency goals for federal agencies.

**12. Energy Policy and Conservation Act, as amended (42 U.S.C. §§ 6201-**

**6422).** Requires federal agencies to implement programs that reduce energy consumption in federal facilities, including federally leased space.

**13. Farmlands Protection Policy Act, as amended (7 U.S.C. §§ 4201-4209).** Establishes criteria for identifying and considering the effects of federal actions on the conversion of farmland to nonagricultural uses.

**14. Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. § 136 et seq.** Requires the Environmental Protection Agency and the states to establish programs to protect workers and provide training and certification for the management, application and disposal of insecticides, fungicides and rodenticides. FIFRA's implementing regulations can be found at 40 C.F.R. § 165 et seq.

**15. Federal Urban Land Use Act, as amended (40 U.S.C. §§ 901-905).** Requires GSA to consult with planning agencies and local elected officials and, to the greatest extent practicable, to coordinate federal projects with development plans and objectives of the state, region and locality where the project is to be located.

**16. Federal Water Pollution Control Act (Clean Water Act - CWA), 33 U.S.C. § 1251 et seq.** Requires each federal department, agency and instrumentality of the United States to comply with all federal, state,

interstate, and local requirements regarding the control and abatement of water pollution in the same manner and to the same extent as any nongovernmental entity. For example, requires National Pollution Discharge Elimination System (NPDES) permits (from the Environmental Protection Agency or the states) for discharges into the “waters of the United States” and permits (from the Army Corps of Engineers) for development in such waters and associated wetlands. The CWA’s implementing regulations can be found at 40 CFR § 401 et seq.

**17. Fire Administration Authorization Act of 1992 (15 U.S.C. § 2227).** Provides that no federal funds may be used for the construction or purchase of an office building of 6 or more stories to be occupied by at least 25 federal employees, unless during the period of federal occupancy the building is protected by an automatic sprinkler system or equivalent level of safety. Provides further that no federal funds may be used for the lease of an office building of 6 or more stories to be occupied by at least 25 federal employees, where at least some portion of the federally leased space is on the sixth floor or above and at least 35,000 square feet of space is federally occupied, unless during the period of federal occupancy the entire building is protected by an automatic sprinkler system or equivalent level of safety. Also requires that all hazardous areas in all federally owned or leased

buildings occupied by at least 25 federal employees be protected by automatic sprinkler systems or an equivalent level of safety.

**18. Fish and Wildlife Coordination Act (16 U.S.C. §§ 661-667d).** Requires consultation with the U.S. Fish and Wildlife Service on actions impacting stream modifications.

**19. Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq.** Regulates the transportation of hazardous materials, including hazardous wastes, and the training of personnel involved in hazardous materials transportation activities. Implementing regulations can be found at 49 C.F.R. § 171 et seq.

**20. Marine Mammal Protection Act, 16 U.S.C § 1361 et seq.** Establishes protection standards for marine mammals and establishes the National Oceanic and Atmospheric Administration’s National Marine Fisheries Service as its regulator. Implementing regulations can be found at 50 C.F.R. § 216.1 et seq.

**21. National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq.** Requires federal agencies to consider the effects of all actions (such as design and construction) on the human environment, to consider alternatives that reduce impacts and to prepare detailed statements for public and federal agency review where significant impacts may occur. In particular, NEPA

requires federal agencies to conduct an assessment of the environmental impact of each major federal action significantly affecting the quality of the human environment. This typically requires the preparation of documentation to establish that this analysis has been performed, whether in the form of a Categorical Exclusion (CATEX), an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The Council on Environmental Quality (CEQ), along with the Environmental Protection Agency, are the primary regulators of this law. CEQ’s implementing regulations can be found at 40 C.F.R. § 1500 et seq.

**22. National Historic Preservation Act of 1966, as amended (NHPA) (16 U.S.C. § 470 et seq.)** Requires federal agencies to manage historic properties under their jurisdiction or control. Historic properties include buildings, structures, districts, sites, and objects included or eligible for inclusion in the National Register of Historic Places. Requires federal agencies to consider the effects of their actions, including real estate actions, on such properties, regardless of ownership. Requires that federal agencies use, to the maximum extent feasible, historic properties already under agency control, in accordance with Executive Order 13006, Locating Federal Facilities on Historic Properties in Our Nation’s Central Cities (May 21, 1996), prior to acquiring, constructing or leasing buildings for

purposes of carrying out agency responsibilities. Implementing regulations can be found at 36 C.F.R. § 800 et seq.

## **23. Occupational Safety and Health Act (OSHA), 29 U.S.C. § 651 et seq.**

Requires all federal agencies to provide safe and healthful places and conditions of employment for all space owned by, leased to or assigned to federal agencies, including exposure limits to certain contaminants and building features such as lighting, guard rails, indoor air quality, fire safety features, and emergency elevator requirements. Implementing regulations can be found at 29 C.F.R. § 1910 et seq.

## **24. 40 U.S.C. §§ 581(h), 3301 and 3306 (formerly the Public Buildings Cooperative Use Act, as amended).**

Authorizes GSA to lease certain space (i.e., a major pedestrian access level, rooftop and courtyard) of a public building to a person, firm or organization engaged in commercial, cultural, educational, or recreational activity, or to make an auditorium, meeting room, courtyard, rooftop, or lobby available, on an occasional (temporary) basis, or by lease, to a person, firm or organization engaged in cultural, educational or recreational activity. These provisions also encourage GSA to acquire and use buildings of historic, architectural and cultural significance.

## **25. Chapter 33 of Subtitle II – Public**

## **Buildings and Works of Title 40 of the United States Code (formerly the Public Buildings Act of 1959, as amended) (40 U.S.C. §§ 3301-3316).**

Authorizes GSA to acquire, by purchase, condemnation, donation, exchange, or otherwise, any building and its site; alter any public building and to acquire such land as may be necessary to carry out such alteration; acquire by purchase, condemnation, donation, exchange, or otherwise such lands or interests in lands as necessary for use as sites for public buildings; and to make such building project surveys (11b reports) as may be requested by resolution of appropriate congressional committees. Places limits on GSA's ability to lease space for computers or courtrooms. Imposes certain rules for buildings constructed for lease to the United States, including the use of detailed construction specifications and the use of competitive procedures for lease construction projects. Requires submittal of a prospectus to congressional committees for proposed construction, alteration, purchase, or acquisition of a building to be used as a public building and for lease alteration projects that involve a total expenditure in excess of the prospectus threshold so indicated (see 40 U.S.C. § 3307(a), which involves an expenditure in excess of \$1,500,000 for construction or leasing and \$750,000 for alteration, as such amounts may be adjusted from time to time as provided in 40 U.S.C. § 3307(g).

## **26. Randolph-Sheppard Act, as amended (20 U.S.C. §§ 107-107f).**

Authorizes blind persons licensed under the Act to operate vending facilities on any Federal property. Requires that, wherever feasible, vending facilities are established on Federal property. Provides for assignment of priority to licensed blind vendors, including assignment of vending machine income.

## **27. Reorganization Plan No. 18 of 1950 (40 U.S.C. § 301 note).**

Transferred to GSA all functions with respect to acquiring space in buildings by lease, and all functions with respect to assigning and reassigning space in buildings.

## **28. Rural Development Act of 1972, as amended (7 U.S.C. § 2204b-1).**

Requires federal agencies to give first priority to rural areas in locating offices and other facilities.

## **29. Safe Drinking Water Act (SDWA), 42 U.S.C § 300 et seq.**

Sets standards for drinking water quality and regulates activities affecting drinking water supplies, including requiring compliance by federal agencies with all of the SDWA's requirements. Implementing regulations can be found at 40 C.F.R. §141 et seq.

## **30. Small Business Act, as amended (SBA) (15 U.S.C. §§ 631-657g).**

Requires federal agencies to use small and small disadvantaged

(economically or socially disadvantaged) business concerns and to promote the competitive viability of such firms by providing them the maximum practical opportunity to participate as subcontractors in the performance of federal contracts. Requires effort by federal contractors to place subcontracts with small and small disadvantaged business concerns. The SBA also requires publication of federal procurement requirements and further requires large businesses to submit small business subcontracting plans.

### **31. Solid Waste Disposal Act (SWDA), 42 U.S.C. § 6901 et seq.**

Regulates those (including federal agencies) who generate, transport, treat, store, or dispose of solid or hazardous waste. Also regulates underground storage tank (UST) activities. Two major amendments to SWDA include the Resource Conservation and Recovery Act (RCRA), which expanded the role of SWDA in the management of hazardous waste; and the Federal Facility Compliance Act, which expanded the scope of SWDA to allow for the imposition of federal, state and local penalties against federal agencies for noncompliance. Implementing regulations for all three elements of SWDA – solid waste, hazardous waste and USTs -- can be found, respectively, at 40 C.F.R. § 256 et seq., 40 C.F.R. § 260 et seq., and 40 C.F.R. § 280 et seq.



**32. Southeast Federal Center Public-Private Development Act of 2000, Pub. L. 106-407 (November 1, 2000).** Authorizes the Administrator of General Services to provide for the redevelopment of the Southeast Federal Center in the District of Columbia.

**33. Telecommunications Act of 1996, § 704(c), Pub. L. 104-104 (1996).** Requires development of procedures by which federal agencies could make available on a fair, reasonable and nondiscriminatory basis, property, rights-of-way and easements under their control for the placement of new telecommunications services, and authorizes agencies to charge

reasonable fees for the use of such property, rights-of-way or easements.

### **34. Toxic Substances Control Act (TSCA) 15 U.S.C. § 2601 et seq.**

Regulates the creation of new chemical substances, and the safe management of certain special hazardous substances, including polychlorinated biphenyls (PCBs), lead-based paint, radon, and asbestos. Implementing regulations can be found at 40 C.F.R. § 761 et seq.

### **35. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. §§ 4651-4655, and elsewhere).**

Requires federal agencies to make

every effort to acquire real property by negotiation by initially offering the appraised fair market value for property to be acquired. Requires that eminent domain acquisitions of land or space be initiated by formal condemnation proceedings and that the landowner be fairly compensated for any buildings or structures condemned, including the fair rental value of federal holdover tenants.

**36. Wild and Scenic Rivers Act (16 U.S.C. §§ 1271-1287).** Requires federal agencies to review actions for possible impacts on wild and scenic rivers.

**37. Section 412 of the GSA General Provisions, Consolidated Appropriations Act, 2005, Pub. L. 108-447, 118 Stat. 2809, 3259 (December 8, 2004).** Authorizes the Administrator of General Services to convey, by sale, lease, exchange, or otherwise, including through leaseback arrangements, real and related personal property, or interests therein, and to retain the net proceeds of such dispositions in the Federal Buildings Fund to be used for GSA's real property capital needs, notwithstanding any other provision of law.

**38. 40 U.S.C. §§ 581, 584 and 585.** Authorizes GSA to acquire, by purchase, condemnation or otherwise, real estate and interests therein; to enter into leases of real property not exceeding 20 years in duration; to repair, alter or improve rented premises; and to assign and reassign

space in leased buildings to other federal tenants.

**39. 40 U.S.C. § 585(c).** Provides that amounts made available to GSA for the payment of rent may be used to lease space, for a period of not more than 30 years, in buildings erected on land owned by the Federal Government.

**40. 40 U.S.C. §§ 3111-3118.** Requires approval of the Attorney General or any other department or agency to which this authority has been delegated as to sufficiency of title before public money may be expended to purchase land or any interest in land; authorizes the Federal Government (1) to acquire and accept jurisdiction over land or interests in land; (2) to acquire real estate for the erection of a public building or for other public uses by condemnation; and (3) to acquire land, or an easement or right of way in land, for the public use by filing a declaration of taking.

**41. 40 U.S.C. 3313.** Requires use of energy efficient lighting fixtures and bulbs in federal buildings at the direction of the Administrator of General Services.

**42. 40 U.S.C. §§ 6701-6734.** Transfers functions of the former Pennsylvania Avenue Development Corporation to GSA, the Department of the Interior, National Park Service, and the National Capital Planning Commission.

## B. Executive Orders

**1. Executive Order 11988 -**

**Floodplain Management (May 24, 1977), as amended by Executive Order 12148 - Federal Emergency Management (July 20, 1979).**

Requires federal agencies to avoid contributing to development of floodplains, unless there is no practicable alternative. Real estate actions are among the kinds of actions that can contribute to such development.

**2. Executive Order 11990 - Protection of Wetlands (May 24, 1977), as amended by Executive Order 12608 - Technical Amendments (September 19, 1987).**

Requires federal agencies to avoid causing wetlands to be filled (e.g., through lease construction), unless there is no practicable alternative.

**3. Executive Order 12072 - Federal Space Management (August 16, 1978).** When meeting Federal space needs in an urban area, requires that first consideration be given to a centralized community business area and adjacent areas of similar character.

**4. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction (January 5, 1990), as amended by Executive Order 13286 - Amendment of Executive Orders, and Other Actions, in Connection With the Transfer of Certain Functions to the Secretary of Homeland Security (February 28, 2003).** Requires new

buildings owned by the Federal Government or leased for federal use to meet seismic safety standards.

**5. Executive Order 12941 - Seismic Safety of Existing Federally Owned or Leased Buildings (December 1, 1994).** Requires buildings owned by or leased to the Federal Government to meet certain seismic safety standards.

**6. Executive Order 13006 - Locating Federal Facilities on Historic Properties in Our Nation's Central Cities (May 21, 1996).** Encourages federal agencies to locate federal facilities on historic properties in our nation's central cities.

**7. Executive Order 13089 - Coral Reef Protection (June 11, 1998).** Requires federal agencies to identify agency impacts on coral reef systems and reduce and mitigate, where possible, those impacts.

**8. Executive Order 13186 - Responsibilities of Federal Agencies to Protect Migratory Birds (January 10, 2001).** Requires federal agencies to analyze and mitigate any negative agency impacts on surrounding migratory bird populations.

**9. Executive Order 13327 - Federal Real Property Asset Management (February 4, 2004), as amended by Executive Order 13423 – Strengthening Federal Environmental, Energy, and Transportation Management**

**(January 24, 2007).** Promotes the efficient and economical use of real property assets by requiring agencies to develop and implement real property management reforms, establishing clear goals and objectives for agencies' real property and increasing management accountability by focusing attention on the asset management of real property owned, leased or otherwise managed by the Federal Government.

**10. Executive Order 13423 - Strengthening Federal Environmental, Energy, and Transportation Management (January 24, 2007).** Issues policy for federal agencies to conduct their environmental, transportation and energy-related activities under the law in support of their respective missions in an environmentally, economically and fiscally sound, integrated, continuously efficient, and sustainable manner.

**11. Executive Order 13514 - Federal Leadership in Environmental, Energy, and Economic Performance (October 5, 2009).** Requires federal agencies to increase energy efficiency; measure, report and reduce their greenhouse gas emissions from direct and indirect activities; conserve and protect water resources through efficiency, reuse and stormwater management; eliminate waste, recycle and prevent pollution; leverage agency acquisitions to foster markets for sustainable technologies and

environmentally preferable materials, products and services; design, construct, maintain, and operate high performance sustainable buildings in sustainable locations; strengthen the vitality and livability of the communities in which federal facilities are located; and inform federal employees about and involve them in the achievement of these goals.

## C. Regulations

**1. Federal Management Regulation, Subchapter C - Real Property, part 102-72, Delegation of Authority (41 C.F.R. part 102-72).** Prescribes policy for agencies acquiring real property under a delegation of authority from the Administrator of General Services.

**2. Federal Management Regulation, Subchapter C - Real Property, part 102-73, Real Estate Acquisition (41 C.F.R. part 102-73).** Prescribes policy guidance governing the acquisition of interests in real property.

**3. Federal Management Regulation, Subchapter C - Real Property, part 102-79, Assignment and Utilization of Space (41 C.F.R. part 102-79).** Prescribes policy guidance for the assignment and utilization of Federal Government-owned or leased space under the authority of the Administrator of General Services.

**4. Uniform Relocation Assistance and Real Property Acquisition Policies Act implementing regulations, (49 C.F.R. part 24).** ■

# IV. Facility Management

## A. Laws

**1. American Indian Religious Freedom Act, as amended (42 U.S.C. § 1996).** Requires federal agencies to review their policies and procedures with the aim of protecting Indian religious freedom, to refrain from prohibiting access to native religious and cultural objects or ceremonies and to consult with Indian

organizations concerning proposed federal agency actions.

**2. Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. § 12101 et seq.)** Prohibits privately owned businesses that serve the public from discriminating against individuals with disabilities and mandates equal opportunity for persons with disabilities in employment, state and

local government services, public accommodations, commercial facilities, telecommunications, and transportation. The ADA also is geared toward eliminating physical barriers in new facilities as well as improving accessibility in those already existing.

**3. Antiquities Act of 1906, as amended (16 U.S.C. §§ 431-433).**

Authorizes the President to designate as National Monuments historic and prehistoric structures and other objects of historic or scientific interest of national significance located on federally owned or controlled lands. Provides for the protection of all historic and prehistoric ruins and objects of antiquity located on federal lands. Uniform regulations for implementing the Antiquities Act can be found at 43 C.F.R. part 3.

**4. Archeological Resources Protection Act of 1979, as amended (16 U.S.C. §§ 470aa-470mm).**

Prohibits any person from excavating or removing archeological resources (defined as sites or items of archeological interest) from federal or Indian land without a permit from the





appropriate federal land manager.

**5. Architectural Barriers Act of 1968, as amended (ABA) (42 U.S.C. §§ 4151-4157).** Establishes standards for accessibility by physically disabled persons and requires compliance with the standards in the design, construction and alteration of buildings and facilities owned or leased, in whole or in part, by the Federal Government. The ABA includes certain record-keeping and reporting requirements.

**6. Cardiac Arrest Survival Act, Pub. L. 106-505 (November 13, 2000).** Requires the placement of automated external defibrillators in federal buildings and provides civil immunity for authorized users.

**7. Clean Air Act (CAA), 42 U.S.C. § 7401 et seq.** Requires each federal department, agency and instrumentality of the United States to comply with all federal, state, interstate, and local requirements regarding the control and abatement of air pollution in the same manner and to the same extent as any nongovernmental entity. The Clean Air Act 1990 amendments expanded the enforcement powers of the U.S. Environmental Protection Agency and states delegated enforcement authority under the CAA, and added restrictions on air toxins, ozone-depleting chemicals, stationary and mobile emissions sources, and those emissions that cause acid rain. The

CAA's implementing regulations can be found at 40 C.F.R. § 53 et seq.

**8. Federal Food Donation Act of 2008, Pub. L. 110-247 (June 20, 2008).** Encourages executive agencies and their contractors, in contracts for the provision, service or sale of food, to the maximum extent practicable and safe, to donate apparently wholesome excess food to nonprofit organizations that provide assistance to food-insecure people in the United States. The Act extends to the government and their contractor, when donating food, the same civil or criminal liability protection provided to donors of food under the Bill Emerson Good Samaritan Food Donation Act of 1996.

**9. Federal Water Pollution Control Act (Clean Water Act - CWA), 33 U.S.C. § 1251 et seq.** Requires each federal department, agency and instrumentality of the United States to comply with all federal, state, interstate, and local requirements regarding the control and abatement of water pollution in the same manner and to the same extent as any nongovernmental entity. For example, requires National Pollution Discharge Elimination System (NPDES) permits (from the Environmental Protection Agency or the states) for discharges into the "waters of the United States" and permits (from the Army Corps of Engineers) for development in such waters and associated wetlands. The CWA's implementing regulations can

be found at 40 C.F.R. § 401 et seq.

**10. Coastal Barrier Resources Act, as amended (16 U.S.C. §§ 3501-3510).** Except as otherwise specifically provided, restricts federal expenditures and financial assistance to projects that have the effect of encouraging development of coastal barriers.

**11. Coastal Zone Management Act (CZMA), 16 U.S.C. § 1451 et seq.** Addresses property actions affecting coastal zones and requires that federal actions be consistent with state coastal zone management plans. The CZMA's implementing regulations can be found at 15 C.F.R. § 921 et seq.

**12. Code Adam Act of 2003 (Pub. Law 108-21, § 361 et seq., April 30, 2003, 117 Stat.665, 42 U.S.C. § 5792 et seq.)** Provides that with respect to any building owned or leased for use by an executive agency, the Administrator of General Services shall establish procedures for locating a child (17 years of age or younger) that is missing in the building. The Act established minimum procedures to be followed. GSA follows the DHS's Federal Protective Service nationwide policy and procedures for locating a missing child in federal facilities.

**13. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §**

**9601 et seq.** Requires each federal department, agency and instrumentality of the United States to respond to releases or threats of release of hazardous substances, pollutants or contaminants into the environment, and to otherwise comply with all of the other provisions of CERCLA, such as those establishing liability for the cleanup costs of regulators and third parties. Two major amendments to CERCLA were the Superfund Amendments and Reauthorization Act of 1986 (SARA), which, among many other changes, waived federal sovereign immunity to the requirements of CERCLA, and the Community Environmental Response Facilitation Act (CERFA), which modified the process by which excess federal real property is disposed. CERCLA's implementing regulations are at 40 C.F.R. § 300 et seq., and are referred to as the National Contingency Plan (NCP). The major Executive Order implementing CERCLA is E.O.12580 - Superfund Implementation (January 23, 1987), where the President has delegated most aspects of his/her authority under CERCLA to the Environmental Protection Agency and certain other federal agencies.

**14. Davis-Bacon Act, as amended (40 U.S.C. §§ 3141-3148).** Requires the payment of minimum wages for laborers or mechanics employed under Federal Government contracts for the construction, alteration or

repair, including painting and decorating, of public buildings or public works. Wages are established by the Department of Labor and are based on the prevailing wage rate in the locality in which the contract is to be performed.

**15. Edgar Amendment (40 U.S.C. § 593).** Prohibits GSA, with certain exceptions, from contracting for any guard, elevator operator, messenger, or custodial services, if any permanent veterans preference employee of GSA would be terminated as a result of the procurement of such services.

**16. Emergency Planning and Community Right-To-Know Act (EPCRA), 42 U.S.C. § 11001 et seq.** Establishes requirements for emergency planning and community-right-to-know reporting on the storage and release of hazardous and toxic chemicals. Although there is no waiver of federal sovereign immunity to the requirements of EPCRA in the statute, Executive Order 12856 requires federal agency compliance.

**17. Endangered Species Act (ESA), 16 U.S.C. § 1531 et seq.** Requires federal agencies to insure that their actions do not adversely impact threatened or endangered species or their critical habitat. If a proposed action may have such an impact, consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service is required. The ESA's implementing regulations

for consultation with either Service are found at 50 C.F.R. § 402 et seq.

**18. Energy Independence and Security Act (EISA), Pub. L. 110-140 (December 19, 2007).** Established energy management goals and requirements for federal buildings.

**19. Energy Policy Act of 2005, Pub. L. 109-58 (August 8, 2005).** Provides tax incentives and loan guarantees for energy production of various types, and mandates a number of energy efficiency goals for federal agencies.

**20. Energy Policy and Conservation Act, as amended (42 U.S.C. §§ 6201-6422).** Requires federal agencies to implement programs that reduce energy consumption in Federal facilities, including federally leased space.

**21. Farmlands Protection Policy Act, as amended (7 U.S.C. §§ 4201-4209).** Establishes criteria for identifying and considering the effects of federal actions on the conversion of farmland to nonagricultural uses.

**22. Federal Facility Compliance Act of 1992 (Pub. L. 102-386).** Amended the Solid Waste Disposal Act (see below) to require federal facilities to comply with federal, state, interstate, and local solid and hazardous waste laws and regulations, including the imposition of penalties.

**23. Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. § 136 et seq.** Requires the



located.

### **26. Fire Administration**

#### **Authorization Act of 1992 (15**

**U.S.C. § 2227).** Provides that no federal funds may be used for the construction or purchase of an office building of 6 or more stories to be occupied by at least 25 federal employees, unless during the period of federal occupancy the building is protected by an automatic sprinkler system or equivalent level of safety. Provides further that no federal funds may be used for the lease of an office building of 6 or more stories to be occupied by at least 25 federal employees, where at least some portion of the federally leased space is on the sixth floor or above and at least 35,000 square feet of space is federally occupied, unless during the period of federal occupancy the entire building is protected by an automatic sprinkler system or equivalent level of safety. Also requires that all hazardous areas in all federally owned or leased buildings occupied by at least 25 federal employees be protected by automatic sprinkler systems or an equivalent level of safety.

### **27. Fish and Wildlife Coordination**

**Act (16 U.S.C. §§ 661-667d).** Requires consultation with the U.S. Fish and Wildlife Service on actions impacting stream modifications.

**28. Flood Disaster Protection Act of 1973, as amended (42 U.S.C. § 4001 et seq.)** Prohibits federal actions in

Environmental Protection Agency and the states to establish programs to protect workers and provide training and certification for the management, application and disposal of insecticides, fungicides and rodenticides. FIFRA's implementing regulations can be found at 40 C.F.R. § 165 et seq.

### **24. Chapter 5 of Subtitle I of Title 40 of the United States Code**

**(formerly the Federal Property and Administrative Services Act of 1949, as amended), 40 U.S.C. §§ 501-611.** Authorizes GSA to procure and supply real and personal property and nonpersonal services for executive agencies. Specifically authorizes the

Administrator of General Services to maintain, operate and protect buildings, property or grounds, including the construction, repair, preservation, demolition, furnishing, and equipping of such buildings, and authorizes GSA to enter into leases of real property not exceeding 20 years in duration.

### **25. Federal Urban Land Use Act, as amended (40 U.S.C. §§ 901-905).**

Requires GSA to consult with planning agencies and local elected officials and, to the greatest extent practicable, coordinate federal projects with development plans and objectives of the state, region and locality where the project is to be

areas subject to flood hazards.

### **29. Health Service and Other Programs (5 U.S.C. §§ 7901-7905).**

Authorizes federal agencies to establish health service programs, safety programs and other employee assistance programs.

**30. Javits-Wagner-O'Day Act (41 U.S.C. §§ 46-48c).** Establishes the Committee for Purchase from People Who Are Blind or Severely Disabled to regulate the procurement of specified commodities and services from authorized non-profit agencies for the blind and severely disabled. The former Javits-Wagner-O'Day Program, which works with federal agencies to help them buy goods and services produced by the authorized non-profit vendors where severely disabled individuals perform the majority of the work, is now called AbilityOne.

### **31. National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq.**

Requires federal agencies to consider the effects of all actions (such as design and construction) on the human environment, to consider alternatives that reduce impacts and to prepare detailed statements for public and federal agency review where significant impacts may occur. In particular, NEPA requires federal agencies to conduct an assessment of the environmental impact of each major federal action significantly affecting the quality of the human

environment. This typically requires the preparation of documentation to establish that this analysis has been performed whether in the form of a Categorical Exclusion (CATEX), an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The Council on Environmental Quality (CEQ), along with the Environmental Protection Agency, are the primary regulators of this law. CEQ's implementing regulations can be found at 40 C.F.R. § 1500 et seq.

### **32. National Historic Preservation Act of 1966, as amended (NHPA) (16 U.S.C. § 470 et seq.)**

Requires federal agencies to manage historic properties under their jurisdiction or control. Historic properties include buildings, structures, districts, sites, and objects included or eligible for inclusion in the National Register of Historic Places. Requires federal agencies to consider the effects of their actions, including ongoing facility management, on such properties, regardless of ownership. Requires that federal agencies use, to the maximum extent feasible, historic properties already under agency control, in accordance with Executive Order 13006, Locating Federal Facilities on Historic Properties in Our Nation's Central Cities (May 21, 1996), prior to acquiring, constructing or leasing buildings for purposes of carrying out agency responsibilities. Implementing regulations can be found at 36 C.F.R. § 800 et seq.

### **33. Native American Graves Protection and Repatriation Act (25 U.S.C. §§ 3001-3013).**

Clarifies the ownership rights to Native American remains and artifacts found on federal or tribal land. Establishes rules for the disposition and control of cultural items and establishes penalties for illegally trafficking in Native American remains and cultural items. Requires federal agencies that have custody and control over such remains or items to inventory them and notify the affected Native American or cultural groups for possible repatriation.

### **34. Occupational Safety and Health Act (OSHA), 29 U.S.C. § 651 et seq.**

Requires all federal agencies to provide safe and healthful places and conditions of employment for all space owned by, leased to or assigned to federal agencies, including exposure limits to certain contaminants and building features, such as lighting, guard rails, indoor air quality, fire safety features, and emergency elevator requirements. Implementing regulations can be found at 29 C.F.R. § 1910 et seq.

### **35. Pollution Prevention Act, 42 U.S.C. § 13101 et seq.**

Requires federal agencies to reduce or prevent pollution at the source through cost-effective changes in production, operation and raw materials use.

**36. Presidential \$1 Coin Act of 2005 (31 U.S.C. § 5101 note).** Provides for the minting of new \$1 coins

commemorating each President of the United States and removing barriers to the general use of \$1 coins so that the coins gain widespread use.

**37. Chapter 33 of Subtitle II of Title 40 of the United States Code (formerly the Public Buildings Act of 1959, as amended) (40 U.S.C. §§ 3301-3315).** Provides that only the Administrator of General Services may construct public buildings, including the repair and alteration of such buildings. Establishes requirements for the acquisition, alteration and construction of public buildings. The term "public building" means any building, whether for single or multi-tenant occupancy, and its grounds, approaches and appurtenances, which is generally suitable for office or storage space, or both, by one or more federal agencies or mixed-ownership government corporations (40 U.S.C. § 3301(a)(5)). Requires submittal of a prospectus to congressional committees for proposed construction, alteration, purchase, or acquisition of a building to be used as a public building and for lease alteration projects that involve a total expenditure in excess of the prospectus threshold.

**38. 40 U.S.C. §§ 581(h), 3301 and 3306 (formerly the Public Buildings Cooperative Use Act, as amended).** Authorizes GSA to lease certain space (i.e., a major pedestrian access level, rooftop and courtyard) of a

public building to a person, firm or organization engaged in commercial, cultural, educational, or recreational activity, or to make an auditorium, meeting room, courtyard, rooftop, or lobby available, on an occasional (temporary) basis, or by lease, to a person, firm or organization engaged in cultural, educational or recreational activity. These provisions also encourage GSA to acquire and use buildings of historic, architectural and cultural significance.

**39. Randolph-Sheppard Act, as amended (20 U.S.C. §§ 107-107f).** Authorizes blind persons licensed under the Act to operate vending facilities on any Federal property. Requires that, wherever feasible, vending facilities are established on Federal property. Provides for assignment of priority to licensed blind vendors, including assignment of vending machine income.

**40. Service Contract Act of 1965, as amended (41 U.S.C. §§ 351-358).** Requires the payment of minimum wages for service employees employed under service contracts to which the Federal Government is a party. Wages are established by the Department of Labor and are based on the prevailing wage rate in the locality in which the contract is to be performed.

**41. Small Business Act, as amended (SBA) (15 U.S.C. §§ 631-657p).** Requires that a fair proportion

of all federal contracts be awarded to small and small disadvantaged (economically or socially disadvantaged) business concerns.

**42. Solid Waste Disposal Act (SWDA), 42 U.S.C. § 6901 et seq.** Regulates those (including federal agencies) who generate, transport, treat, store, or dispose of solid or hazardous waste. Also regulates underground storage tank (UST) activities. Two major amendments to SWDA include the Resource Conservation and Recovery Act (RCRA), which expanded the role of SWDA in the management of hazardous waste; and the Federal Facility Compliance Act, which expanded the scope of SWDA to allow for the imposition of federal, state and local penalties against federal agencies for noncompliance. Implementing regulations for all three elements of SWDA – solid waste, hazardous waste and USTs -- can be found, respectively, at 40 C.F.R. § 256 et seq., 40 C.F.R. § 260 et seq., and 40 C.F.R. § 280 et seq.

**43. Telecommunications Act of 1996, § 704(c), Pub. L. 104-104 (1996).** Requires development of procedures by which federal agencies could make available on a fair, reasonable and nondiscriminatory basis, property, rights-of-way and easements under their control for the placement of new telecommunications services, and authorizes agencies to charge

# Facility Management

reasonable fees for the use of such property, rights-of-way or easements.

**44. Treasury, Postal Service, and General Government Annual Appropriation Act , 1996 (Pub..L. 104-52, Title VI, § 636, November 19, 1995).** Requires that the head of each federal agency promulgate regulations that prohibit the sale of tobacco products in vending machines in or around federal buildings and the distribution of free samples of tobacco products in or around federal buildings.

**45. Tribble Amendment (40 U.S.C. § 590).** Authorizes the provision of space, services and equipment for child care services in federal facilities without charge for rent or services.

**46. Wild and Scenic Rivers Act (16 U.S.C. §§ 1271-1287).** Requires federal agencies to review actions for possible impacts on wild and scenic rivers.

**47. 4 U.S.C. Chapter 1.** Provides for, among other things, the procedures for flying the Flag of the United States.

**48. 40 U.S.C. § 587.** Authorizes the Administrator of General Services to establish, acquire space for, and equip flexiplace work telecommuting centers for use by employees of federal agencies, state and local governments and the private sector, and charge fees for the use of these centers. Non-federal employees may

use the center to the extent that it is not being fully used by federal employees.

**49. 40 U.S.C. § 592.** Establishes a fund (the Federal Buildings Fund) in the United States Treasury into which federal agency rent and certain other revenues and collections are deposited. Deposits in the fund are available, subject to congressional appropriation, for real property management and related activities.

**50. 40 U.S.C. § 3103. Admission of Guide Dogs or other Service Animal Accompanying Individuals with Disabilities.** Authorizes guide dogs or other service animals accompanying individuals with

disabilities to enter any building or other property owned or controlled by the Federal Government on the same terms and conditions, and subject to the same regulations, as generally govern the admission of the public to the property.

**51. 40 U.S.C. § 3313.** Requires use of energy efficient lighting fixtures and bulbs in federal buildings at the direction of the Administrator of General Services.

## B. Executive Orders

**1. Executive Order 11988 - Floodplain Management (May 24, 1977), as amended by Executive Order 12148, Federal Emergency**



## **Management (July 20, 1979).**

Requires federal agencies to avoid contributing to development of floodplains, unless there is no practicable alternative. Facility management activities that could contribute to such development must be reviewed under this authority.

## **2. Executive Order 11990 - Protection of Wetlands (May 24, 1977), as amended by Executive Order 12608 - Technical Amendments (September 19, 1987).**

Requires federal agencies to avoid causing wetlands to be filled (e.g., through landscaping as part of facility management), unless there is no practicable alternative.

## **3. Executive Order 12411 - Government Work Space Management Reforms (March 29, 1983).** Prescribes policy guidance for making federal use of work space and related furnishings more effective in support of agency missions, minimizing the acquisition of Federal Government resources and reducing the administrative costs of the Federal Government.

## **4. Executive Order 12898 - Environmental Justice (February 11, 1994), as amended by Executive Order 12948 - Amendment to Executive Order No. 12898 (January 30, 1995).** Requires federal agencies to take all practicable measures to avoid disproportionately high and adverse environmental impacts on low-income

and minority populations.

## **5. Executive Order 13007 - Indian Sacred Sites (May 24, 1996).**

Requires federal agencies that manage land, to the extent practicable, to avoid impeding the access of American Indians to traditional sacred sites and to avoid physical impact to such sites.

## **6. Executive Order 13058 - Protecting Federal Employees and the Public From Exposure to Tobacco Smoke in the Federal Workplace (August 9, 1997).**

Prohibits, with limited exceptions, the smoking of tobacco products in all interior space owned, rented or leased by the executive branch of the Federal Government, and in any outdoor areas under executive branch control in front of air intake ducts.

## **7. Executive Order 13112 - Invasive Species (February 3, 1999).** Requires federal agencies to identify actions that affect the status of invasive species. Federal agencies must prevent the introduction of invasive species and control any existing populations.

## **8. Executive Order 13186 - Responsibilities of Federal Agencies to Protect Migratory Birds (January 10, 2001).** Requires federal agencies to analyze and mitigate any negative agency impacts on surrounding migratory bird populations.

## **9. Executive Order 13221 - Energy Efficient Standby Power Devices (July 31, 2001).** Requires each executive agency, when it purchases commercially available, off-the-shelf products that use external standby power devices, or that contain an internal standby power function, to purchase products that use no more than one watt in their standby power consuming mode. If such products are not available, agencies are required to purchase products with the lowest standby power wattage while in their standby power consuming mode.

## **10. Executive Order 13327 - Federal Real Property Asset Management (February 4, 2004), as amended by Executive Order 13423 - Strengthening Federal Environmental, Energy, and Transportation Management (January 24, 2007).** Promotes the efficient and economical use of real property assets by requiring agencies to develop and implement real property management reforms, establishing clear goals and objectives for agencies' real property and increasing management accountability by focusing attention on the asset management of real property owned, leased or otherwise managed by the Federal Government.

## **11. Executive Order 13423 - Strengthening Federal Environmental, Energy, and Transportation Management**

**(January 24, 2007).** Establishes policy for federal agencies to conduct their environmental, transportation and energy-related activities under the law in support of their respective missions in an environmentally, economically and fiscally sound, integrated, continuously efficient, and sustainable manner. Sets numerous federal energy and environmental management requirements in several areas, including reducing energy intensity, increasing use of renewable energy, reducing water intensity, designing and operating sustainable buildings, and managing federal fleets.

## **12. Executive Order 13502 - Use of Project Labor Agreements for Federal Construction Projects**

**(February 6, 2009).** Encourages executive agencies to consider requiring the use of project labor agreements for construction projects costing \$25 million or more. This Executive Order is implemented in the Federal Acquisition Regulation in subpart 22.5.

## **13. Executive Order 13514 - Federal Leadership in Environmental, Energy, and Economic Performance**

**(October 5, 2009).** Requires federal agencies to increase energy efficiency; measure, report and reduce their greenhouse gas emissions from direct and indirect activities; conserve and protect water resources through efficiency, reuse and stormwater

management; eliminate waste, recycle and prevent pollution; leverage agency acquisitions to foster markets for sustainable technologies and environmentally preferable materials, products and services; design, construct, maintain, and operate high performance sustainable buildings in sustainable locations; strengthen the vitality and livability of the communities in which federal facilities are located; and inform federal employees about and involve them in the achievement of these goals.

## **C. Regulations**

### **1. Federal Property Management Regulation, Subchapter H - Utilization and Disposal, part 101-42, Utilization and Disposal of Hazardous Materials and Certain Categories of Property (41 C.F.R. part 101-42).**

Prescribes policy guidance that governs the utilization, donation, sale, exchange, or other disposition of hazardous materials, dangerous property and other categories of property with special utilization and disposal requirements.

### **2. Federal Management Regulation, Subchapter C - Real Property, part 102-74, Facility Management (41 C.F.R. part 102-74).**

Prescribes policy guidance for the management, operation and maintenance of Federal Government-owned and leased properties being operated under, or subject to, the authority of GSA. This

part also provides guidance concerning asset services, such as repairs, alterations and modernizations for real property assets.

### **3. Federal Management Regulation, Subchapter C - Real Property, part 102-76, Design and Construction (41 C.F.R. part 102-76).**

Prescribes policy guidance for the design and construction of federal facilities and repair and alteration of existing federal facilities.

### **4. Federal Management Regulation, Subchapter C - Real Property, part 102-80, Safety and Environmental Management (41 C.F.R. part 102-80).**

Prescribes safety and environmental management policy guidance applicable to Federal Government-owned or leased space being operated under, or subject to, the authority of the Administrator of General Services.

### **5. Uniform regulations for implementing the Antiquities Act can be found at 43 C.F.R. part 3. ■**



# V. Real Property Disposal

## A. Laws

**1. Acquisition of Buildings and Sites. (40 U.S.C. § 3304).** Authorizes the Administrator of General Services to acquire any building and its site, or land or an interest in land, for public buildings authorized to be constructed or altered by exchange.

**2. American Indian Religious Freedom Act, as amended (42 U.S.C. § 1996).** Requires federal agencies to review their policies and procedures with the aim of protecting Indian religious freedom, to refrain from prohibiting access to native religious and cultural objects or ceremonies and to consult with Indian organizations concerning proposed federal agency actions.

**3. Brownfields Revitalization and Environmental Restoration Act of 2001 (Pub. L. 107-118, Title II, § 201 (January 11, 2002)).** Amends CERCLA sections 101 and 104; promotes the cleanup and reuse of brownfields by providing federal financial assistance for brownfields revitalization and enhances state response programs.

**4. California Desert Protection Act**

**of 1994 (16 U.S.C. §§ 410aaa-410aaa-83).** Mandates that the Administrator notify the Secretary of the Interior of the availability of surplus federal lands in the State of California. No surplus federal property in California may be conveyed out of federal ownership until the California State Lands Commission has an opportunity to notify the Secretary of the Interior as to whether or not it wishes to consider

entering into an exchange.

**5. Coastal Zone Management Act (CZMA), 16 U.S.C. § 1451 et seq.**

Addresses property actions affecting coastal zones and requires that federal actions be consistent with enforceable state coastal zone management plans. The CZMA's implementing regulations can be found at 15 C.F.R. part 930, subpart C.



## **6. Comprehensive Drug Abuse and Prevention and Control Act of 1970, as amended (21 U.S.C. § 881).**

Provides for the forfeiture to the United States of any real property that is used or intended to be used in illegal drug activities and provides for the disposal of such real property.

## **7. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601 et seq.**

Requires each federal department, agency and instrumentality of the United States to respond to releases or threats of release of hazardous substances, pollutants or contaminants into the environment, and to otherwise comply with all of the other provisions of CERCLA, such as those establishing liability for the cleanup costs of regulators and third parties. Two major amendments to CERCLA were the Superfund Amendments and Reauthorization Act of 1986 (SARA), which, among many other changes, waived federal sovereign immunity to the requirements of CERCLA, and the Community Environmental Response Facilitation Act (CERFA), which modified the process by which excess federal real property is disposed. CERCLA's implementing regulations are at 40 C.F.R. § 300 et seq., and are referred to as the National Contingency Plan (NCP). The major Executive Order implementing CERCLA is E.O.12580 - Superfund Implementation (January 23, 1987),

where the President has delegated most aspects of his/her authority under CERCLA to the Environmental Protection Agency and certain other federal agencies.

## **8. Defense Authorization Amendments and Base Closure and Realignment Act, as amended (Pub. L. 100-526 and Pub. L. 101-510, 10 U.S.C. § 2687 note); Base Closure Community Development and Homeless Assistance Act of 1994 (Pub. L. 103-421, 10 U.S.C. § 2687 note).**

Mandates that the Administrator of General Services delegate his or her authority under the Act to the Department of Defense; however, GSA has oversight responsibility and provides technical assistance. These laws set forth the process for recommending the closure of military bases and the requirements for the disposal of real property located at these installations. In addition, these laws modify the process for McKinney-Vento Homeless Assistance Act screening and outreach by requiring specific actions by the disposal agency, local redevelopment authorities and other entities involved in the disposal of military bases to ensure potential reuses, including homeless needs, are considered in community reuse plans.

## **9. Defense Industrial Reserve Act (10 U.S.C. § 2535).**

Provides that in certain disposals of industrial plants and manufacturing equipment that

may be required for the production of military weapons systems, components or supplies in the event of a national emergency, the Federal Government's conveyance documents must include covenants ensuring production capability.

## **10. Disposal of Lands Acquired by Devise (40 U.S.C. § 1305).**

Authorizes GSA to take custody and dispose of, as excess property, any real property acquired by the United States by devise.

## **11. Disposition of Obsolete Buildings and Sites (40 U.S.C. § 1304).**

Authorizes the Administrator of General Services to dispose of property under the jurisdiction, custody and control of GSA, determined obsolete by the acquisition or construction of a replacement facility, to public bodies at a discount.

## **12. Disposal Early Transfer Authority Amends CERCLA section 120(h).**

Authorizes the disposal of environmentally contaminated surplus federal real property for cleanup and redevelopment purposes to non-federal entities prior to completion of environmental remediation. The Governor of the state where the property is located and the Administrator of the Environmental Protection Agency (EPA) (if the property is on EPA's National Priorities List) must approve the early

transfer.

### **13. Economy Act (31 U.S.C. § 1535).**

Authorizes interagency agreements for the provision of goods and services to another federal agency and for payment of those goods and services.

### **14. Endangered Species Act (ESA), 16 U.S.C. § 1531 et seq.**

Requires federal agencies to insure that their actions do not adversely impact threatened or endangered species or their critical habitat. If a proposed action may have such an impact, consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service is required. The ESA's implementing regulations for consultation with either Service are found at 50 C.F.R. § 402 et seq.

### **15. Farmlands Protection Policy Act, as amended (7 U.S.C. §§ 4201-4209).**

Requires federal agencies to take into account the adverse impact of their programs on the preservation of farmland and, as appropriate, consider alternatives that could lessen such adverse effects.

### **16. Title 40 of the United States Code (formerly the Federal Property and Administrative Services Act of 1949, as amended) (40 U.S.C. §§ 101, 102 and 501 et seq.)**

Authorizes GSA to dispose of surplus property by sale, exchange, lease, permit, or transfer, for cash, credit or other property, upon such terms and

conditions as deemed appropriate. Federal real property may be transferred to other federal agencies to promote maximum use of real property; conveyed for public uses such as education, health, park and recreation, correction, or historic monuments; or sold by negotiated or public sale. Requires that explanatory statements of negotiated sales be transmitted to the appropriate congressional committee.

### **17. Federal Urban Land Use Act, as amended (40 U.S.C. §§ 901-905).**

Requires GSA to give reasonable notice of prospective sales of real property located within an urban area to the unit of local government having jurisdiction over zoning and land use regulations in the geographic area within which the property is located. This will afford the local government the opportunity to zone the property in accordance with local comprehensive planning.

### **18. Federal Water Pollution Control Act (Clean Water Act - CWA), 33 U.S.C. § 1251 et seq.**

Requires each federal department, agency and instrumentality of the United States to comply with all federal, state, interstate, and local requirements regarding the control and abatement of water pollution in the same manner and to the same extent as any nongovernmental entity. For example, requires National Pollution Discharge Elimination System (NPDES) permits

(from the Environmental Protection Agency or the states) for discharges into the "waters of the United States" and permits (from the Army Corps of Engineers) for development in such waters and associated wetlands. The CWA's implementing regulations can be found at 40 C.F.R. § 401 et seq.

### **19. Fish and Wildlife Coordination Act, 16 U.S.C. § 661 et seq.**

Establishes programs for wildlife conservation. Section 667 has provisions directing GSA's involvement in the conveyance of real property that has wildlife conservation potential.

### **20. Gifts for Reduction of the Public Debt (31 U.S.C. § 3113).**

Authorizes GSA to accept for the Federal Government a gift of real property made on the condition that it be sold and the proceeds from the sale be used to reduce the public debt. Proceeds from such sale are to be deposited into a specific Treasury account.

### **21. Hawaiian Homelands Recovery Act of 1995 (48 U.S.C. note prec.491; Pub. L. 104-42, Title II, §§ 201-209, (Nov. 2, 1995)).**

States that the Administrator of General Services must notify the chairman of the Hawaiian Homes Commission of the State of Hawaii at the same time other federal agencies are notified that excess real property in the state of Hawaii is being screened for possible transfer.

## **22. Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450j(f)).**

Authorizes the Secretary of the Interior to acquire excess or surplus property for donation to a federally recognized Indian tribe or tribal organization to promote the transition from federal provision of programs and services to self-governance for the benefit of tribe members.

## **23. Leases of Federal Building Sites (40 U.S.C. § 581(d)).**

Authorizes the Administrator of General Services to lease a federal building site or addition, including improvements, until the site is needed for construction purposes.

## **24. McKinney - Vento Homeless Assistance Act (42 U.S.C. § 11411).**

Provides for the use of excess and surplus federal real property to assist the homeless. Specifies procedures and timeframes and requires coordination with the Department of Housing and Urban Development regarding suitable properties and with the Department of Health and Human Services regarding review and approval of applications to lease or acquire property pursuant to these provisions.

## **25. National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq.**

Requires federal agencies to consider the effects of all actions (such as design and construction) on the human environment, to consider

alternatives that reduce impacts and to prepare detailed statements for public and federal agency review where significant impacts may occur. Real property disposal actions are among those that must be reviewed. In particular, NEPA requires federal agencies to conduct an assessment of the environmental impact of each major federal action significantly affecting the quality of the human environment. This typically requires the preparation of documentation to establish that this analysis has been performed whether in the form of a Categorical Exclusion (CATEX), an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The Council on Environmental Quality (CEQ), along with the Environmental Protection Agency, are the primary regulators of this law. CEQ's implementing regulations can be found at 40 C.F.R. § 1500 et seq.

## **26. National Historic Lighthouse Preservation Act of 2000 (16 U.S.C. § 470w-7).**

Allows surplus historic lighthouses and lightstations to be conveyed to public bodies and nonprofit entities to promote the preservation of the structure. The Act also authorizes public sales of the properties if they cannot be donated to a public body or nonprofit entity.

## **27. National Historic Preservation Act of 1966, as amended (NHPA) (16 U.S.C. § 470 et seq.)**

Requires federal agencies to manage historic

properties under their jurisdiction or control. Historic properties include buildings, structures, districts, sites, and objects included or eligible for inclusion in the National Register of Historic Places. Requires federal agencies to consider the effects of their actions, including real property disposal actions, on such properties, regardless of ownership. Requires that federal agencies use, to the maximum extent feasible, historic properties already under agency control, in accordance with Executive Order 13006, Locating Federal Facilities on Historic Properties in Our Nation's Central Cities (May 21, 1996), prior to acquiring, constructing or leasing buildings for purposes of carrying out agency responsibilities. Implementing regulations can be found at 36 C.F.R. § 800 et seq.

## **28. Section 111 of the National Historic Preservation Act of 1966 (16 U.S.C. § 470h-3).**

Provides all landholding agencies with historic property (i.e., property eligible for listing or listed in the National Register of Historic Places) in their inventory the authority to outlease such historic properties and to use the proceeds from such outleases for the protection and maintenance of the leased property, or other historic properties within that agency's portfolio that have been listed in the National Register.

## **29. Native American Graves**



**Protection and Repatriation Act (25 U.S.C. §§ 3001-3013).** Provides for the protection of Native American cultural objects and remains discovered on federal lands, and requires that notice be given to the Department of the Interior or the head of the agency with management authority over such lands and to the appropriate Indian tribe, if known.

**30. Property for Wildlife Conservation Act (16 U.S.C. §§ 667b-d).** Allows surplus federal real property to be conveyed to state agencies for wildlife conservation purposes (other than migratory birds) without reimbursement.

**31. Property Transferred in Connection with Debts (40 U.S.C. § 1301).** Governs the acceptance and sale of real property conveyed to the United States in payment of debts, excepting the internal revenue laws.

**32. 40 U.S.C. §§ 581(h), 3301 and 3306**

**(formerly the Public Buildings Cooperative Use Act, as amended).**

Authorizes GSA to lease certain space (i.e., a major pedestrian access level, rooftop and courtyard) of a public building to a person, firm or organization engaged in commercial, cultural, educational, or recreational activity, or to make an auditorium, meeting room, courtyard, rooftop, or lobby available, on an occasional (temporary) basis, or by lease, to a person, firm or organization engaged in cultural, educational or recreational activity. These provisions also encourage GSA to acquire and use buildings of historic, architectural and cultural significance.

**33. Reconveyance of Real Estate on Payment of Debt (40 U.S.C. § 1312).** Authorizes GSA to release or otherwise convey real estate to a debtor from whom it was taken upon receipt of full payment of the debt to the United States, excepting the

internal revenue laws.

**34. Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. § 4822 et seq. and § 4851 et seq.)** Requires the inspection and abatement or notice, or both, of possible presence of lead-based paint hazards in the disposition of federally owned housing.

**35. Safe Drinking Water Act (SDWA), 42 U.S.C. § 300 et seq.** Sets standards for drinking water quality and regulates activities affecting drinking water supplies, including requiring compliance by federal agencies with all of SDWA's requirements. Implementing regulations can be found at 40 C.F.R. § 141 et seq.

**36. Solid Waste Disposal Act (SWDA), 42 U.S.C § 6901 et seq.** Regulates those (including federal agencies) who generate, transport, treat, store, or dispose of solid or hazardous waste. Also regulates underground storage tank (UST) activities. Two major amendments to the SWDA include the Resource Conservation and Recovery Act (RCRA), which expanded the role of the SWDA in the management of hazardous waste; and the Federal Facility Compliance Act, which expanded the scope of the SWDA to allow for the imposition of federal, state and local penalties against federal agencies for noncompliance. Implementing regulations for all three

elements of SWDA – solid waste, hazardous waste and USTs -- can be found, respectively, at 40 C.F.R. § 256 et seq., 40 C.F.R. § 260 et seq., and 40 C.F.R. § 280 et seq.

**37. Southeast Federal Center Public-Private Development Act of 2000, Pub. L. 106-407 (November 1, 2000).** Authorizes the Administrator of General Services to provide for the redevelopment of the Southeast Federal Center in the District of Columbia.

**38. Sublease Authority for Leased Space (40 U.S.C. § 585(b)).**

Authorizes the Administrator of General Services to dispose by sublease any unexpired portion of a lease of space to the Federal Government as surplus property, and to retain the proceeds of such subleases to defray any costs necessary to provide services to the Federal Government's lessee and to pay the rent on the lease of the space to the Federal Government.

**39. Surplus Property Act of 1944, Airport and Airways Improvement Act of 1946, Federal Aviation Act of 1958, Federal Airport Act, and the Airport and Airway Development Act of 1982 (revised and recodified at Subtitle VII, Aviation Programs, 49 U.S.C. § 47151).** Authorizes GSA to convey surplus federal real property to states, political subdivisions or tax-supported institutions for public airport purposes.

**40. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d) and other non-discrimination statutes.**

Requires that no person be excluded from participation in, be denied the benefits of, or be subjected to discrimination on the basis of race, color, national origin, sex, age, or disability, under any program or activity receiving federal financial assistance, including conveyances of property for public program purposes at no cost. Other nondiscrimination statutes include Title IX of the Education Amendments Act of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; and 40 U.S.C. § 122.

**41. Toxic Substances Control Act (TSCA), 15 U.S.C. § 2601 et seq.**

Regulates the creation of new chemical substances, and the safe management of certain special hazardous substances, including polychlorinated biphenyls (PCBs), lead-based paint, radon, and asbestos. Implementing regulations can be found at 40 C.F.R. § 761 et seq.

**42. Wild and Scenic Rivers Act (16 U.S.C. §§ 1271-1287).** Requires federal agencies to include consideration of potential impacts on wild and scenic rivers in all planning.

**43. Section 412 of the GSA General Provisions, Consolidated Appropriations Act, 2005, Pub. L. 108-447, 118 Stat. 2809, 3259 (December 8, 2004).** Authorizes the

Administrator of General Services to convey, by sale, lease, exchange, or otherwise, including through leaseback arrangements, real and related personal property, or interests therein, and to retain the net proceeds of such dispositions in the Federal Buildings Fund to be used for GSA's real property capital needs, notwithstanding any other provision of law.

## B. Executive Orders

**1. Executive Order 11988 - Floodplain Management (May 24, 1977), as amended by Executive Order 12148 - Federal Energy Management (July 29, 1979).**

Provides for the management of the nation's floodplains by requiring agencies to take action to reduce the risk of flood loss; minimize the impact of floods on human safety, health and welfare; and restore and preserve the natural and beneficial values served by floodplains in acquiring, managing and disposing of federal lands and facilities.

**2. Executive Order 11990 - Protection of Wetlands (May 24, 1977), as amended by Executive Order 12608 - Technical Amendments (September 19, 1987).**

Requires federal agencies to avoid causing wetlands to be filled (e.g., through landscaping as part of facility management), unless there is no practicable alternative to doing so. Provides that wetlands proposed for

lease, easement or disposal to non-federal public or private entities be conveyed with appropriate use restrictions as identified by federal, state or local regulations.

**3. Executive Order 12898 - Environmental Justice (February 11, 1994), as amended by Executive Order 12948 - Amendment to Executive Order No. 12898 (January 30, 1995).** Requires federal agencies to take all practicable measures to avoid disproportionately high and adverse environmental impacts on low-income and minority populations.

**4. Executive Order 13327 - Federal Real Property Asset Management (February 4, 2004), as amended by Executive Order 13423 - Strengthening Federal Environmental, Energy, and Transportation Management (January 24, 2007).** Promotes the efficient and economical use of real

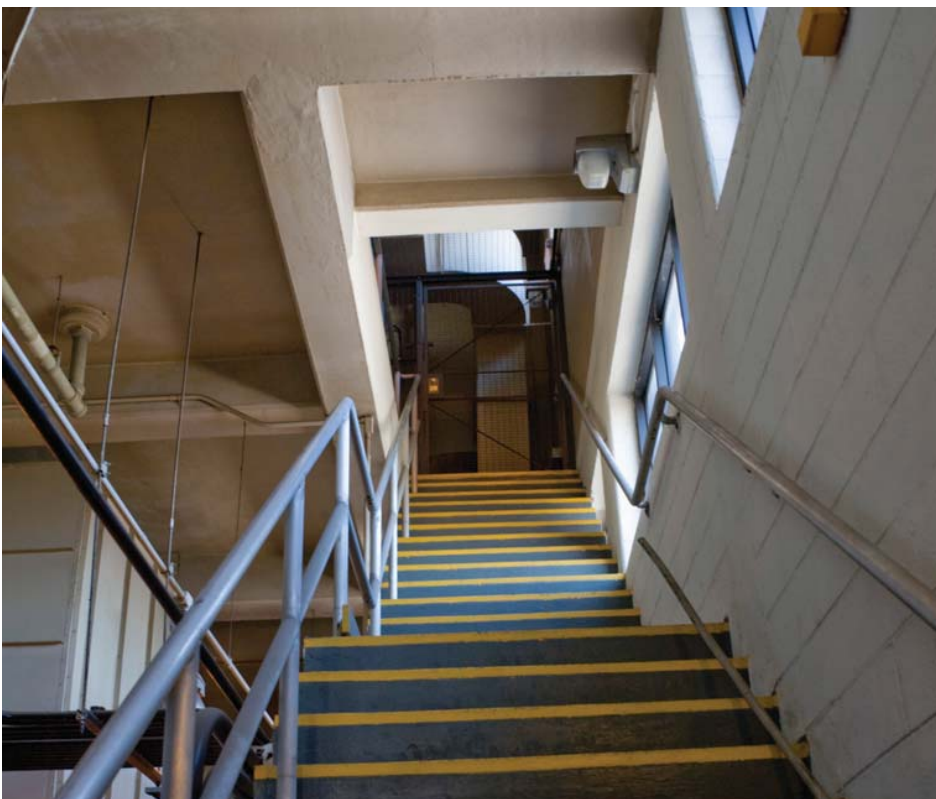
property assets by requiring agencies to develop and implement real property management reforms, establishing clear goals and objectives for agencies' real property and increasing management accountability by focusing attention on real property asset management. Establishes a Federal Real Property Council (FRPC), mandates that each agency designate a Senior Real Property Officer who is responsible for the development of asset management plans to be submitted to the FRPC and requires the Administrator of General Services to establish and publish performance measures and information technology standards to be used governmentwide in the development or upgrading of agency real property data systems. Rescinds Executive Order 12512, Federal Real Property Management (April 29, 1985), the previous federal real property management guidance.

## C. Regulations

**1. Federal Management Regulation, Subchapter C - Real Property, part 102-75, Real Property Disposal (41 C.F.R. part 102-75).** Prescribes policy guidance for the utilization and disposal of excess and surplus federal real property and related personal property.

**2. Reporting Hazardous Substance Activity When Selling or Transferring Federal Real Property (40 C.F.R. part 373).** Requires the Federal Government, in CERCLA section 120(h), to provide notice of all hazardous substance activity on federal real property being transferred out of federal ownership. Also requires the Federal Government to warrant that all remedial action necessary to protect human health and the environment has been taken.

**3. Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (40 C.F.R. part 280).** Mandates that landholding agencies comply with the regulations on Underground Storage Tank (UST) operation, maintenance, releases, corrective actions, and closure. When reporting property to GSA for disposal, the landholding agency must report the status of all known present and removed USTs and provide compliance certification. ■



# VI. Design and Construction

## A. Laws

**1. American Indian Religious Freedom Act, as amended (42 U.S.C. § 1996).** Requires federal agencies to review their policies and procedures with the aim of protecting Indian religious freedom, to refrain from prohibiting access to native religious and cultural objects or ceremonies, and to consult with Indian

organizations concerning proposed federal agency actions.

**2. Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. § 12101 et seq.)** Provides, among other things, accessibility requirements for employment, state and local government services, buildings, and facilities. The ADA also is geared toward eliminating physical barriers in new facilities, as well as improving

accessibility in those already existing.

**3. American Recovery and Reinvestment Act of 2009 (ARRA), Pub. L. 111-5 (February 17, 2009), no U.S. Code citation available.**

Provided GSA with \$5.857 billion to help stimulate the economy, of which \$5.546 of the total provided to GSA was appropriated to the Federal Buildings Fund to be spent by the Public Buildings Service on the renovation, alteration and construction of federal buildings, courthouses and land ports of entry. Regulations for implementing the American Recovery and Reinvestment Act can be found at 48 C.F.R. § 3.907 (Whistleblower Protections), subpart 4.15 (Reporting Requirements), subpart 5.7 (Publicizing Requirements), subpart 12.3 (Audit Access – Commercial Item Contracts), subpart 14.2 (Audit Access – Sealed Bidding Contracts), subpart 15.2 (Audit Access – Contracts by Negotiation), and subpart 25.6 (Buy American Requirements).

**4. Antiquities Act of 1906, as amended (16 U.S.C. §§ 431-433).**

Authorizes the President to designate





as National Monuments historic and prehistoric structures and other objects of historic or scientific interest of national significance located on federally owned or controlled lands. Provides for the protection of all historic and prehistoric ruins and objects of antiquity located on federal lands. Uniform regulations for implementing the Antiquities Act can be found at 43 C.F.R. part 3.

**5. Archeological and Historic Preservation Act of 1974, as amended (16 U.S.C. §§ 469a-1 - 469c-2).** Requires any federal agency, whenever it finds that its actions in connection with any federal construction project may cause irreparable loss or destruction of significant scientific, prehistoric, historic, or archaeological data, to notify the Secretary of the Department of the Interior, and authorizes the agency to use project funds to undertake the recovery, protection and preservation of such data, or to request the Secretary of the Department of the Interior to undertake such recovery, protection or preservation.

**6. Architectural Barriers Act of 1968, as amended (ABA) (42 U.S.C. §§ 4151-4157).** Establishes standards for accessibility by physically disabled persons and requires compliance with the standards in the design, construction and alteration of

buildings and facilities owned or leased, in whole or in part, by the Federal Government. The ABA includes certain record-keeping and reporting requirements.

**7. Brooks Architect-Engineers Act, as amended (40 U.S.C. §§ 1101-1104).** Requires federal agencies awarding architectural and engineering services contracts to select contractors based on qualifications and not to consider price. A price is negotiated with the most qualified contractor after that contractor has been selected. Regulations for implementing the Brooks Act can be found at 48 C.F.R. part 36.

**8. Buy American Act, as amended (41 U.S.C. §§ 10a-10d).** Requires federal agencies to include a preference for the use of domestically produced manufactured and unmanufactured items in contracts. The Buy American Act is supplemented by the Trade Agreements Act of 1979 (19 U.S.C. § 2501 et seq. Regulations for implementing the Buy American Act can be found at 48 C.F.R. part 25.

**9. Clinger-Cohen Act of 1996 (41 U.S.C. § 253m).** Authorizes agencies to use two-phase selection procedures when awarding contracts for the design and construction of public buildings, facilities and works. Regulations for implementing the Clinger-Cohen Act can be found at 48 C.F.R. part 36.

**10. Competition in Contracting Act of 1984, as amended (CICA) (31 U.S.C. §§ 3551-3556 and 41 U.S.C. §§ 251-260).** Requires GSA to acquire supplies and services, including leased space, through the use of full and open competitive procedures, except in the case of procurement procedures otherwise expressly authorized by statute.

**11. Davis-Bacon Act, as amended (40 U.S.C. §§ 3141-3148).** Requires the payment of minimum wages for laborers or mechanics employed under Federal Government contracts for the construction, alteration or repair, including painting and decorating, of public buildings or public works. Wages are established by the Department of Labor and are based on the prevailing wage rate in the locality in which the contract is to be performed. Regulations for implementing the Davis-Bacon Act can be found at 48 C.F.R. subpart 22.4.

**12. Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. §§ 7701-7709).** Requires compliance with federally established standards for the reduction of seismic hazards in federally owned or leased buildings (e.g., during repair and alteration). These standards were adopted by Executive Order 12941 - Seismic Safety of Existing Federally Owned or Leased Buildings (December 1, 1994).

**13. Endangered Species Act (ESA)**

**(16 U.S.C. § 1531 et seq.)** Requires federal agencies to insure that their actions do not adversely impact threatened or endangered species or their critical habitat. If a proposed action may have such an impact, consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service is required. The ESA's implementing regulations for consultation with either Service are found at 50 C.F.R. § 402 et seq.

**14. Energy Policy and Conservation Act, as amended (42 U.S.C. §§ 6201-6422).** Requires federal agencies to implement programs that reduce energy consumption in federal facilities, including federally leased space.

**15. Fish and Wildlife Coordination Act (16 U.S.C. §§ 661-667d).** Requires consultation with the U.S. Fish and Wildlife Service on actions affecting stream modifications.

**16. Flood Disaster Protection Act of 1973, as amended (42 U.S.C. § 4001 et seq.)** Prohibits federal actions in areas subject to flood hazards.

**17. National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.)** Requires federal agencies to conduct an assessment of the environmental impact of each major federal action significantly affecting the quality of the human environment. This typically requires the preparation of documentation to establish that this

analysis has been performed whether in the form of a Categorical Exclusion (CATEX), an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The Council on Environmental Quality (CEQ), along with the Environmental Protection Agency, are the primary regulators of this law. CEQ's implementing regulations can be found at 40 C.F.R. § 1500 et seq.

**18. Miller Act (40 U.S.C. §§ 3131-3134).** Requires contractors to provide performance and payment bonds for contracts costing more than \$100,000 for the construction, alteration or repair of public buildings or public works. Requires contractors to provide payment bonds or alternative payment protections for contracts costing \$25,000 to \$100,000 for the construction, alteration or repair of public buildings or public works. Regulations for implementing the Miller Act can be found at 48 C.F.R. part 28.

**19. National Historic Preservation Act of 1966, as amended (NHPA) (16 U.S.C. § 470 et seq.)** Requires federal agencies to manage historic properties under their jurisdiction or control. Historic properties include buildings, structures, districts, sites, and objects included in or eligible for the National Register of Historic Places. Requires federal agencies to consider the effects of their actions, including design and construction, on

such properties, regardless of ownership. Requires that federal agencies use, to the maximum extent feasible, historic properties already under agency control, in accordance with Executive Order 13006, Locating Federal Facilities on Historic Properties in Our Nation's Central Cities (May 21, 1996), prior to acquiring, constructing or leasing buildings for purposes of carrying out agency responsibilities. Implementing regulations can be found at 36 C.F.R. § 800 et seq.

**20. Native American Graves Protection and Repatriation Act (25 U.S.C. §§ 3001-3013).** Provides, among other things, that if Native American human remains or other cultural items are found on federal or Indian land during a construction project, work shall be halted in the vicinity of the discovery for at least 30 days while efforts are made to consult with the relevant tribe(s) and preserve the items. Implementing regulations can be found at 43 C.F.R. part 10. Requires federal agencies to consult with tribes during project planning and to implement plans of action for treating Native American cultural items.

**21. Occupational Safety and Health Act (OSHA) (29 U.S.C. § 651 et seq.)** Requires all federal agencies to provide safe and healthful places and conditions of employment for all space owned by, leased to or assigned to federal agencies, including

exposure limits to certain contaminants, and building features such as lighting, guard rails, indoor air quality, fire safety features, and emergency elevator requirements. Implementing regulations can be found at 29 C.F.R. § 1910 et seq.

### **22. Subtitle II of Title 40 of the United States Code (formerly the Public Buildings Act of 1959, as amended) (40 U.S.C. §§ 3301-3315).**

Provides that only the Administrator of General Services may construct public buildings, including the repair and alteration of such public buildings. Establishes requirements for the acquisition, alteration and construction of public buildings, including design review responsibilities. Provides the authority for the Administrator of General Services to delegate his authority to other executive agencies. Establishes requirements applicable to buildings constructed or altered by GSA and other federal agencies relating to compliance with nationally recognized building codes and state and local zoning laws. Requires submittal of a prospectus to congressional committees for proposed construction, alteration or acquisition of a building to be used as a public building and for lease and lease alteration projects that involve a total expenditure in excess of the prospectus threshold.

### **23. Small Business Act, as**



**amended (SBA) (15 U.S.C. §§ 631-657o).** Requires a positive effort by federal contractors to place subcontracts with small and small disadvantaged (economically or socially disadvantaged) concerns. The SBA also requires publication of federal procurement requirements and further requires large businesses to submit small business subcontracting plans.

**24. Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101-122).** Protects the reputations of certain visual artists and the works of visual art they create.

**25. Wild and Scenic Rivers Act (16 U.S.C. §§ 1271-1287).** Requires federal

agencies to review actions for possible impacts on wild and scenic rivers.

**26. 40 U.S.C. § 3101.** Places public buildings outside of the District of Columbia and outside of military reservations and purchased or erected with GSA funds under the exclusive jurisdiction, control and custody of the Administrator of General Services.

**27. 40 U.S.C. § 3312.** Provides the Administrator of General Services with authority to determine the extent to which a building constructed by GSA complies with one of the nationally recognized model building codes and requires consideration of

local zoning and land use plans.

## B. Executive Orders

### 1. Executive Order 11988 -

**Floodplain Management (May 24, 1977), as amended by Executive Order 12148 - Federal Emergency Management (July 20, 1979).**

Requires federal agencies to avoid contributing to development of floodplains, unless there is no practicable alternative. Design and construction actions are among the kinds of actions that can contribute to such development.

### 2. Executive Order 11990 -

**Protection of Wetlands (May 24, 1977), as amended by Executive Order 12608 - Technical Amendments (September 19, 1987).**

Requires federal agencies to avoid causing wetlands to be filled, unless there is no practicable alternative. Design and construction actions are among the kinds of actions that can contribute to such development.

### 3. Executive Order 12072 - Federal Space Management (August 16, 1978).

When meeting Federal space needs in an urban area, requires that first consideration be given to a centralized community business area and adjacent areas of similar character.

### 4. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction (January 5,

1990), as amended by Executive Order 13286 - Amendment of Executive Orders, and Other Actions, in Connection With the Transfer of Certain Functions to the Secretary of Homeland Security (February 28, 2003).

Requires new buildings owned by the Federal Government or leased for federal use to meet seismic safety standards.

### 5. Executive Order 12770 - Metric Usage in Federal Programs (July 25, 1991).

Mandates, with certain exceptions, the metric system of measurement to be implemented in design and construction on all new projects starting January 1, 1994, or later.

### 6. Executive Order 12898 - Environmental Justice (January 30, 1995), as amended by Executive Order 12948 - Amendment to Executive Order No. 12898 (January 30, 1995).

Requires federal agencies to take all practicable measures to avoid disproportionately high and adverse environmental impacts on low-income and minority populations. Such impacts could result from a GSA design and construction project.

### 7. Executive Order 12941 - Seismic Safety of Existing Federally Owned or Leased Buildings (December 1, 1994).

Requires buildings owned by or leased to the Federal Government to meet certain seismic safety standards.

### 8. Executive Order 13006 - Locating Federal Facilities on Historic Properties in Our Nation's Central Cities (May 21, 1996).

Encourages federal agencies to locate federal facilities on historic properties in our nation's central cities.

### 9. Executive Order 13007 - Indian Sacred Sites (May 24, 1996).

Requires federal agencies that manage land, to the extent practicable, to avoid impeding the access of American Indians to traditional sacred sites and to avoid physical impact to such sites.

### 10. Executive Order 13327 - Federal Real Property Asset Management (February 4, 2004), as amended by Executive Order 13423 -

**Strengthening Federal Environmental, Energy and Transportation Management (January 24, 2007).** Promotes the efficient and economical use of real property assets by requiring agencies to develop and implement real property management reforms, establishing clear goals and objectives for agencies' real property and increasing management accountability by focusing attention on the asset management of real property, including the use of life-cycle cost analysis in all design and construction projects.

### 11. Executive Order 13423 - Strengthening Federal Environmental, Energy, and

**Transportation Management (January 24, 2007).** Issues policy for federal agencies to conduct their environmental, transportation and energy-related activities under the law in support of their respective missions in an environmentally, economically and fiscally sound, integrated, continuously efficient, and sustainable manner.

**12. Executive Order 13502 - Use of Project Labor Agreements for Federal Construction Projects (February 6, 2009).** Encourages executive agencies to consider requiring the use of project labor agreements for construction projects costing \$25 million or more. This

Executive Order is implemented in the Federal Acquisition Regulation at 48 C.F.R. subpart 22.5.

**13. Executive Order 13514 - Federal Leadership in Environmental, Energy, and Economic Performance (October 5, 2009).** Requires federal agencies to increase energy efficiency; measure, report, and reduce their greenhouse gas emissions from direct and indirect activities; conserve and protect water resources through efficiency, reuse, and stormwater management; eliminate waste, recycle, and prevent pollution; leverage agency acquisitions to foster markets for sustainable technologies and environmentally preferable

materials, products, and services; design, construct, maintain, and operate high performance sustainable buildings in sustainable locations; strengthen the vitality and livability of the communities in which federal facilities are located; and inform federal employees about and involve them in the achievement of these goals.

## C. Regulations

**1. Federal Management Regulation, Subchapter C - Real Property, part 102-75, Real Property Disposal (41 C.F.R. part 102-75).** Prescribes policy guidance for the utilization and disposal of excess and surplus federal real property and related personal property.

**2. Federal Management Regulation, Subchapter C - Real Property, part 102-76, Design and Construction (41 C.F.R. part 102-76).** Prescribes policy guidance for the design and construction of federal facilities and repair and alteration of existing federal facilities.

**3. Uniform regulations for implementing the Antiquities Act can be found at 43 C.F.R. part 3.**

**4. Federal Acquisition Regulation, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (48 C.F.R. § 3.907).** Prescribes policies and procedures for implementing whistleblower protections under the



American Recovery and Reinvestment Act.

**5. Federal Acquisition Regulation, American Recovery and Reinvestment Act - Reporting Requirements (48 C.F.R. subpart 4.15).** Prescribes policies and procedures for implementing the reporting requirements of the American Recovery and Reinvestment Act.

**6. Federal Acquisition Regulation, Publicizing Requirements Under the American Recovery and Reinvestment Act of 2009 (48 C.F.R. subpart 5.7).** Prescribes policies and procedures for implementing the posting requirements for presolicitation and award notices for actions funded in whole or in part by the American Recovery and Reinvestment Act.

**7. Federal Acquisition Regulation, Audit Access Under the American**

**Recovery and Reinvestment Act of 2009 (48 C.F.R. subparts 12.3 (Commercial Item Contracts), 14.2 (Sealed Bidding Contracts) and 15.2 (Contracts by Negotiation)).**

Prescribes policies and procedures for providing access to the Government Accountability Office and agency Inspectors General for contracts funded in whole or in part by the American Recovery and Reinvestment Act.

**8. Federal Acquisition Regulation, Labor Standards for Contracts Involving Construction (48 C.F.R. subpart 22.4).** Prescribes policies and procedures for implementing the Davis-Bacon Act.

**9. Federal Acquisition Regulation, Use of Project Labor Agreements for Federal Construction Projects (48 C.F.R. subpart 22.5).** Prescribes policies and procedures for using project labor agreements on federal construction projects.

**10. Federal Acquisition Regulation, Foreign Acquisition (48 C.F.R. part 25).** Prescribes policies and procedures for implementing the Buy American Act and the Trade Agreements Act. FAR subpart 25.2 deals specifically with construction materials. FAR subpart 25.6 deals specifically with contracts funded by the American Recovery and Reinvestment Act.

**11. Federal Acquisition Regulation, Bonds and Insurance (48 C.F.R. part 28).** Prescribes policies and procedures for implementing the Miller Act.

**12. Federal Acquisition Regulation, Construction and Architect-Engineer Contracts, part 36 (48 C.F.R. part 36).** Prescribes policies and procedures for contracting for construction and architect-engineer services, including complying with the Brooks Act and the Clinger–Cohen Act. ■

# VII. Art-in-Architecture

## A. Laws

1. **40 U.S.C. § 3303(d)**. Requires that the Administrator of General Services give due consideration to excellence of architecture and design.

2. **40 U.S.C. § 3306**. Requires that the Administrator of General Services encourage the location of cultural facilities and activities within public buildings, and provide and maintain space to promote public access to, around, into, and through public buildings, so that such activities complement and supplement cultural resources in the neighborhood of public buildings.

3. **Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101-122)**. Protects the reputations of certain visual artists and the works of visual art they create.

## B. Regulations

1. **Federal Management Regulation, Subchapter C - Real Property, part 102-77, Art-in-Architecture (41 C.F.R. part 102-77)**. Prescribes policy guidance for incorporating fine arts as an integral part of the total building concept, when designing new federal buildings and when making substantial repairs and alterations to existing federal buildings, as appropriate. ■



# VIII. Historic Preservation

## A. Laws

### 1. American Indian Religious Freedom Act, as amended (42 U.S.C. § 1996).

Requires federal agencies to review their policies and procedures with the aim of protecting Indian religious freedom, to refrain from prohibiting access to native religious and cultural objects or ceremonies, and to consult with Indian organizations concerning proposed federal agency actions.

### 2. Archeological Resources Protection Act of 1979, as amended, (16 U.S.C. §§ 470aa-470mm).

Requires any person to apply to a federal land manager for a permit to excavate and remove archaeological resources (i.e., pottery, weapons, tools, structures or portions of structures, or skeletal human remains) located on public or Indian lands.

### 3. Historic Sites Act (16 U.S.C. § 461 et seq.)

Establishes the National Historic Landmark (NHL) program and declares a national policy to preserve sites, buildings and objects significant in American history.

### 4. National Historic Preservation Act of 1966, as amended (NHPA) (16

**U.S.C. §§ 470 et seq.)** Requires that federal agencies consider the effects of their actions on all historic properties and districts. In certain circumstances, NHPA requires consultation with State Historic Preservation Officers, the Advisory Council on Historic Preservation and other interested parties, prior to the commencement of federal agency undertakings (e.g., building construction or repair and alteration projects). Requires that federal agencies use, to the maximum extent feasible, historic properties already under agency control, in accordance with Executive Order 13006, Locating Federal Facilities on Historic Properties in Our Nation's Central Cities (May 21, 1996), prior to acquiring, constructing or leasing buildings for purposes of carrying out agency responsibilities. Implementing regulations can be found at 36 C.F.R. § 800 et seq.

**5. Native American Graves Protection and Repatriation Act (25 U.S.C. §§ 3001-3013).** Clarifies the ownership rights to Native American remains and artifacts found on federal or Indian land. Requires federal agencies that have custody and control

over such remains or items to inventory them and notify the affected Native American or cultural groups for possible repatriation.

### 6. 40 U.S.C. §§ 581(h) and 3306 (formerly the Public Buildings Cooperative Use Act).

Authorizes the Administrator of General Services to enter into leases of certain space for certain purposes in public buildings. These provisions also encourage GSA to acquire and use buildings of historical, architectural and cultural significance.

## B. Executive Orders

### 1. Executive Order 11593 - Protection and Enhancement of the Cultural Environment (May 6, 1971).

Requires executive agencies to identify, evaluate and protect historic properties under their ownership or control.

**2. Executive Order 12898 - Environmental Justice (February 11, 1994), as amended by Executive Order 12948 - Amendment to Executive Order 12898 (January 30, 1995).** Requires federal agencies to take all practicable measures to avoid disproportionately high and adverse



environmental impacts on low-income and minority populations.

**3. Executive Order 13006 - Locating Federal Facilities on Historic Properties in our Nation's Central Cities (May 21, 1996).** Encourages federal agencies to locate federal facilities on historic properties in our nation's central cities.

**4. Executive Order 13007 - Indian Sacred Sites (May 24, 1996).** Requires federal agencies that manage land, to the extent practicable to avoid impeding the access of American Indians to traditional sacred sites and to avoid physical impact to such sites.

**5. Executive Order 13287 - Preserve America (March 3, 2003).** Encourages federal agencies to build partnerships with state and local governments, Indian tribes and the private sector to use and promote historic buildings while contributing to community economic revitalization efforts, including heritage tourism. Requires periodic reporting on the condition of federally owned historic properties to increase agency accountability for their maintenance, protection and use.

## C. Regulations

**Federal Management Regulation, Subchapter C - Real Property, part 102-78, Historic Preservation (41 C.F.R. part 102-78).** Prescribes policy guidance for GSA's preservation programs under section 110 of the National Historic Preservation Act of

1966 (16 U.S.C. § 470h-2). Applies to properties under the jurisdiction, custody or control of the Administrator of General Services and to any federal agency operating or maintaining such properties under a delegation of authority from the Administrator of General Services. ■

# IX. Assignment and Utilization of Space



## A. Laws

### 1. Credit Unions (12 U.S.C. § 1770).

Authorizes allocation of space without charge to Federal credit unions under specified conditions.

**2. Subchapter V of Chapter 5 of Subtitle I of Title 40 of the United States Code (formerly the Federal Property and Administrative Services Act of 1949, as amended); 40 U.S.C. §§ 581 et seq.** Authorizes the Administrator

of General Services to assign and reassign space in Federal Government-owned and leased buildings to federal agencies, and authorizes the Administrator of General Services to charge, or exempt agencies from, rent rates that approximate commercial charges for comparable space and services, and to deposit moneys collected in a Federal Buildings Fund established in the Treasury of the United States.

### 3. Health Service and Other

### Programs (5 U.S.C. §§ 7901-7905).

Authorizes federal agencies to establish health service programs, safety programs and other employee assistance programs.

### 4. National Historic Preservation Act of 1966, as amended (NHPA) (16 U.S.C. § 470(h)(2)).

Requires that federal agencies use, to the maximum extent feasible, historic properties already under agency control, in accordance with Executive Order 13006, Locating Federal Facilities on Historic Properties in Our Nation's Central Cities (May 21, 1996), prior to acquiring, constructing or leasing buildings for purposes of carrying out agency responsibilities. Implementing regulations can be found at 36 C.F.R. § 800, et seq.

### 5. 40 U.S.C. § 581(h). (formerly the Public Buildings Cooperative Use Act of 1959).

Authorizes the Administrator of General Services to (a) lease space on a major pedestrian access level, courtyard or rooftop of a public building for commercial, cultural, educational, or recreational activity, and (b) make available, on occasion (or lease), an auditorium, meeting room, courtyard, rooftop, or lobby of a public building for cultural, educational or recreational activity.

## **6. Randolph-Sheppard Act, as amended (20 U.S.C. §§ 107-107f).**

Authorizes blind persons licensed under the Act to operate vending facilities on any Federal property. Requires that, wherever feasible, vending facilities are established on Federal property. Provides for assignment of priority to licensed blind vendors, including assignment of vending machine income.

## **7. Rural Development Act of 1972, as amended (7 U.S.C. § 2204b-1).**

Requires federal agencies to give first priority to rural areas in locating offices and other facilities.

## **8. Telecommunications Act of 1996, § 704(c), Pub. L. 104-104 (1996).**

Requires development of procedures by which federal agencies could make available on a fair, reasonable and nondiscriminatory basis, property, rights-of-way and easements under their control for the placement of new telecommunications services, and authorizes agencies to charge reasonable fees for the use of such property, rights-of-way or easements.

## **9. Tribes Amendment (40 U.S.C. § 590).**

Authorizes the provision of space, services and equipment for child care services in federal facilities without charge for rent or services.

## **B. Executive Orders**

### **1. Executive Order 12072 - Federal Space Management (August 16, 1978).**

When meeting Federal space needs in an urban area, requires that first

consideration be given to a centralized community business area and adjacent areas of similar character.

### **2. Executive Order 12411 - Government Work Space Management Reforms (March 29, 1983).**

Requires the heads of executive agencies to establish programs to produce and maintain an inventory of work space and related furnishings, reduce the amount of work space used or held to essential minimums and report to the Administrator of General Services any holdings not necessary for the mission of the agency. Executive agencies also are responsible for judicious management of funds used for furniture and other office-related accoutrements. Delegates to the Administrator of General Services authority to conduct surveys and establish agencywide objectives for each executive agency in developing its work space management planning programs.

### **3. Executive Order 13006 - Locating Federal Facilities on Historic Properties in our Nation's Central Cities (May 21, 1996).**

Encourages federal agencies to locate federal facilities on historic properties in our nation's central cities.

### **4. Executive Order 13327 - Federal Real Property Asset Management (February 4, 2004), as amended by**

**Executive Order 13423 - Strengthening Federal Environmental, Energy, and Transportations Management (January 24, 2007).** Promotes the efficient and economical use of real property assets by requiring agencies to

develop and implement real property management reforms, establishing clear goals and objectives for agencies' real property and increasing management accountability by focusing attention on real property asset management.

### **5. Executive Order 13423 - Strengthening Federal Environmental, Energy, and Transportations Management (January 24, 2007).**

Issues policy for federal agencies to conduct their environmental, transportation and energy-related activities in support of their respective missions in an environmentally, economically and fiscally sound, integrated, continuous-ly efficient, and sustainable manner.

### **6. Presidential Memoranda - Facilitating Access to Federal Property for the Siting of Mobile Services Antennas (August 10, 1995), 60 F.R. 42023, 40 U.S.C. § 581 note.**

Provides guidance to agencies on procedures to facilitate access to Federal property for the siting of telecommunication service provider equipment.

## **C. Regulations**

### **Federal Management Regulation, Subchapter C - Real Property, part 102-79, Assignment and Utilization of Space (41 C.F.R. part 102-79).**

Prescribes policy guidance for the assignment and utilization of Federal Government-owned or leased space under the authority of the Administrator of General Services. ■

# X. Safety and Environmental Management

## A. Laws

### 1. Antiquities Act of 1906, as amended (16 U.S.C. §§ 431-433).

Authorizes the President to designate



as National Monuments historic and prehistoric structures and other objects of historic or scientific interest of national significance located on federally owned or controlled lands. Provides for the protection of all historic and prehistoric ruins and objects of antiquity located on federal lands. Uniform regulations for implementing the Antiquities Act can be found at 43 C.F.R. part 3.

### 2. Archeological and Historic Preservation Act of 1974, as amended, (16 U.S.C. §§ 469a-1 - 469c-2).

Requires any federal agency, even when it finds that its actions in connection with any federal construction project, federally licensed project or other project may cause irreparable loss or destruction of significant scientific, prehistoric, historic, or archaeological data, to notify the Secretary of the Department of the Interior.

### 3. Archeological Resources Protection Act of 1979, as amended (16 U.S.C. §§ 470aa-470mm).

Requires any person to apply to a Federal land manager for a permit to excavate and remove archaeological resources (i.e., pottery, weapons, tools,

structures or portions of structures, or skeletal human remains) located on public or Indian lands.

### 4. Architectural Barriers Act of 1968, as amended (ABA) (42 U.S.C. §§ 4151-4157).

Establishes standards for accessibility by physically disabled persons and requires compliance with the standards in the design, construction and alteration of buildings and facilities owned or leased, in whole or in part, by the Federal Government. The ABA includes certain recording-keeping and reporting requirements.

### 5. Clean Air Act, (CAA), 42 U.S.C. § 7401 et seq.

Requires each federal department, agency and instrumentality of the United States to comply with all federal, state, interstate, and local requirements regarding the control and abatement of air pollution in the same manner and to the same extent as any nongovernmental entity. The Clean Air Act 1990 amendments expanded the enforcement powers of the Environmental Protection Agency and states delegated enforcement authority under the CAA, and added restrictions on air toxins, ozone-depleting chemicals, stationary and mobile

emissions sources, and those emissions that cause acid rain. The CAA's implementing regulations can be found at 40 CFR § 53 et seq.

**6. Federal Water Pollution Control Act (Clean Water Act - CWA) (33 U.S.C. § 1251 et seq.)** Requires each federal department, agency and instrumentality of the United States to comply with all federal, state, interstate, and local requirements regarding the control and abatement of water pollution in the same manner and to the same extent as any nongovernmental entity. For example, requires National Pollution Discharge Elimination System (NPDES) permits (from the Environmental Protection Agency or the states) for discharges into the "waters of the United States" and permits (from the Army Corps of Engineers) for development in such waters and associated wetlands. The CWA's implementing regulations can be found at 40 CFR § 401 et seq.

**7. Cardiac Arrest Survival Act, Pub. L. 106-505 (November 13, 2000).** Requires the placement of automated external defibrillators (AEDs) in federal buildings and provides civil immunity for authorized users.

**8. Coastal Barrier Resources Act, as amended (16 U.S.C. §§ 3501-3510).** Except as otherwise specifically provided, restricts federal expenditures and financial assistance to projects that have the effect of encouraging development of coastal barriers.

**9. Coastal Zone Management Act (CZMA), 16 U.S.C. § 1451 et seq.**

Addresses property actions affecting coastal zones and requires that federal actions be consistent with state coastal zone management plans. The CZMA's implementing regulations can be found at 15 C.F.R. § 921 et seq.

**10. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601 et seq.**

Requires each federal department, agency and instrumentality of the United States to respond to releases or threats of release of hazardous substances, pollutants or contaminants into the environment, and to otherwise comply with all of the other provisions of CERCLA, such as those establishing liability for the cleanup costs of regulators and third parties. Two major amendments to CERCLA were the Superfund Amendments and Reauthorization Act of 1986 (SARA), which, among many other changes, waived federal sovereign immunity to the requirements of CERCLA, and the Community Environmental Response Facilitation Act (CERFA), which modified the process by which excess federal real property is disposed. CERCLA's implementing regulations are at 40 C.F.R. § 300 et seq., and are referred to as the National Contingency Plan (NCP). The major Executive Order implementing CERCLA is E.O.12580 - Superfund Implementation (January 23, 1987),

where the President has delegated most aspects of his/her authority under CERCLA to the Environmental Protection Agency and certain other federal agencies.

**11. Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. §§ 7701-7709.**

Requires compliance with federally established standards for the reduction of seismic hazards in federally owned or leased buildings (e.g., during repair and alteration). These standards were adopted by Executive Order 12941 - Seismic Safety of Existing Federally Owned or Leased Buildings (December 1, 1994).

**12. Emergency Planning and Community Right-To-Know Act (EPCRA), 42 U.S.C. § 11001 et seq.**

Establishes requirements for emergency planning and community-right-to-know reporting on the storage and release of hazardous and toxic chemicals. Although there is no waiver of federal sovereign immunity to the requirements of the EPCRA in the statute, Executive Order 12856 requires federal agency compliance.

**13. Endangered Species Act (ESA), 16 U.S.C. § 1531 et seq.**

Requires federal agencies to insure that their actions do not adversely impact threatened or endangered species or their critical habitat. If a proposed action may have such an impact, consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service is required. The

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ESA's implementing regulations for consultation with either Service are found at 50 C.F.R. § 402 et seq.

**14. Energy Independence and Security Act (EISA), Pub. L. 110-140 (December 19, 2007).** Established energy management goals and requirements for federal buildings.

**15. Energy Policy Act of 2005, Pub. L. 109-58 (August 8, 2005).** Provides tax incentives and loan guarantees for energy production of various types, and mandates a number of energy efficiency goals for federal agencies. .

**16. Energy Policy and Conservation Act, 42 U.S.C. §§ 6201-6422).** Requires measures for energy conservation and improved energy efficiency in federal facilities, including federally leased space.

**17. Farmlands Protection Policy Act, 7 U.S.C. §§ 4201-4209).** Establishes criteria for identifying and considering the effects of federal actions on the conversion of farmland to nonagricultural uses.

**18. Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. § 136 et seq.** Requires the Environmental Protection Agency and the states to establish programs to protect workers and provide training and certification for the management, application and disposal of insecticides, fungicides and rodenticides. FIFRA's implementing regulations can be found at 40 C.F.R. §

165 et seq.

**19. Fire Administration Authorization Act of 1992 (15 U.S.C. § 2227).** Provides that no federal funds may be used for the construction or purchase of an office building of 6 or more stories to be occupied by at least 25 federal employees, unless during the period of federal occupancy the building is protected by an automatic sprinkler system or equivalent level of safety. Provides further that no federal funds may be used for the lease of an office building of 6 or more stories to be occupied by at least 25 federal employees, where at least some portion of the federally leased space is on the sixth floor or above and at least 35,000 square feet of space is federally occupied, unless during the period of federal occupancy the entire building is protected by an automatic sprinkler system or equivalent level of safety. Also requires that all hazardous areas in all federally owned or leased buildings occupied by at least 25 federal employees be protected by automatic sprinkler systems or an equivalent level of safety.

**20. Fish and Wildlife Coordination Act, 16 U.S.C. § 661 et seq.** Establishes programs for wildlife conservation. Section 667 has provisions directing GSA's involvement in the conveyance of real property that has wildlife conservation potential.

**21. Flood Disaster Protection Act,**

**42 U.S.C. § 4001 et seq.** Prohibits federal actions in areas subject to flood hazards.

**22. Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq.** Regulates the transportation of hazardous materials, including hazardous wastes, and the training of personnel involved in hazardous materials transportation activities. Implementing regulations can be found at 49 C.F.R. § 171 et seq.

**23. Historic Sites Act, 16 U.S.C. § 461 et seq.** Establishes the National Historic Landmark (NHL) program and declares a national policy to preserve sites, buildings and objects significant in American history.

**24. Marine Mammal Protection Act, 16 U.S.C. § 1361 et seq.** Establishes protection standards for marine mammals and establishes the National Oceanic and Atmospheric Administration's National Marine Fisheries Service as its regulator. Implementing regulations can be found at 50 C.F.R. § 216.1 et seq.

**25. National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq.** Requires federal agencies to conduct an assessment of the environmental impact of each major federal action significantly affecting the quality of the human environment. This typically requires the preparation of documentation to establish that this analysis has been performed whether

in the form of a Categorical Exclusion (CATEX), an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The Council on Environmental Quality (CEQ), along with the Environmental Protection Agency, are the primary regulators of this law. CEQ's implementing regulations can be found at 40 CFR §1500, et seq.

### **26. National Historic Preservation Act (NHPA), 16 U.S.C. § 470 et seq.**

Requires all federal agencies to preserve historic properties that are owned or controlled by such agency. Requires that federal agencies use, to the maximum extent feasible, historic properties already under agency control, in accordance with Executive Order 13006, Locating Federal Facilities on Historic Properties in Our Nation's Central Cities (May 21, 1996), prior to acquiring, constructing or leasing buildings for purposes of carrying out

agency responsibilities. Implementing regulations can be found at 36 C.F.R. § 800 et seq.

### **27. Native American Graves Protection and Repatriation Act, 25 U.S.C. § 3001 et seq.**

Clarifies the ownership rights to Native American remains and artifacts found on federal or tribal land. Requires federal agencies that have custody and control over such remains or items to inventory them and notify the affected Native American or cultural groups for possible repatriation. Implementing regulations can be found at 43 C.F.R. § 10 et seq.

### **28. Occupational Safety and Health Act (OSHA), 29 U.S.C. § 651 et seq.**

Requires all federal agencies to provide safe and healthful places and conditions of employment for all space owned by, leased to or assigned to federal agencies, including exposure limits to certain contaminants, and building features such as lighting, guard rails, indoor air quality, fire safety features, and emergency elevator requirements. Implementing regulations can be found at 29 C.F.R. § 1910 et seq.

### **29. Pollution Prevention Act, 42 U.S.C. § 13101 et seq.**

Requires federal agencies to reduce or prevent pollution at the source through cost-effective changes in production, operation and raw materials use.

### **30. Safe Drinking Water Act**



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**(SDWA), 42 U.S.C. § 300 et seq.** Sets standards for drinking water quality and regulates activities affecting drinking water supplies, including requiring compliance by federal agencies with all of SDWA's requirements. Implementing regulations can be found at 40 C.F.R. §141 et seq.

**31. Solid Waste Disposal Act (SWDA), 42 U.S.C. § 6901 et seq.** Regulates those (including federal agencies) who generate, transport, treat, store, or dispose of solid or hazardous waste. Also regulates underground storage tank (UST) activities. Two major amendments to the SWDA include the Resource Conservation and Recovery Act (RCRA), which expanded the role of SWDA in the management of hazardous waste; and the Federal Facility Compliance Act, which expanded the scope of SWDA to allow for the imposition of federal, state and local penalties against federal agencies for noncompliance. Implementing regulations for all three elements of SWDA – solid waste, hazardous waste and USTs -- can be found respectively at 40 C.F.R. § 256 et seq., 40 C.F.R. § 260 et seq., and 40 C.F.R. § 280 et seq.

**32. Toxic Substances Control Act (TSCA), 15 U.S.C. § 2601 et seq.** Regulates the creation of new chemical substances, and the safe management of certain special hazardous

substances including polychlorinated biphenyls (PCBs), lead-based paint, radon, and asbestos. Implementing regulations can be found at 40 C.F.R. § 761 et seq.

**33. Wild and Scenic Rivers Act, 16 U.S.C. § 1271 et seq.** Requires federal agencies to review actions for possible impacts on wild and scenic rivers. The Bureau of Land Management's implementing regulations can be found at 43 C.F.R. § 8351 et seq., and the U.S. Department of Agriculture's regulations can be found at 36 C.F.R. § 297 et seq.

**34. 40 U.S.C. § 3313.** Requires use of energy efficient lighting fixtures and bulbs in federal buildings at the direction of the Administrator of General Services.

## B. Executive Orders

**1. Executive Order 11514 - Protection and Enhancement of Environmental Quality (March 5, 1970), as amended by Executive Order 11991 - Protection and Enhancement of Environmental Quality (May 24, 1977).** Places additional responsibilities on executive agencies to ensure their activities comply with the National Environmental Policy Act requirements. See Executive Order 12114, below.

**2. Executive Order 11593 - Protection and Enhancement of the Cultural Environment (May 6, 1971).** Requires executive agencies to identify,

evaluate and protect historic properties under their ownership or control.

**3. Executive Order 11988 - Floodplain Management (May 24, 1977), as amended by Executive Order 12148 Federal Emergency Management (July 20, 1979).**

Requires federal agencies to evaluate the impact of their activity on floodplains to protect against flood loss.

**4. Executive Order 11990 - Protection of Wetlands (May 24, 1977), as amended by Executive Order 12608 Technical Amendments (September 19, 1987).** Requires federal agencies to avoid causing wetlands to be filled (e.g., through lease construction), unless there is no practicable alternative

**5. Executive Order 12072 - Federal Space Management (August 16, 1978).** When meeting Federal space needs in an urban area, requires that first consideration be given to a centralized community business area and adjacent areas of similar character.

**6. Executive Order 12088 - Federal Compliance With Pollution Control Standards (October 13, 1978).** One of the earliest (and primarily still in effect) Executive Orders that mandated federal agency compliance with the major environmental laws in effect, including the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, and the Solid Waste Disposal Act, to name a few.



**7. Executive Order 12114 - Environmental Effects Abroad of Major Federal Actions (January 4, 1979).** Requires federal agencies to comply with NEPA with respect to the environment outside of the United States, its territories and possessions. See Executive Order 11514 above.

**8. Executive Order 12196 - Occupational Safety and Health Programs for Federal Employees (February 26, 1980).** Requires the head of each federal agency to establish and maintain an effective and comprehensive occupational safety and health program. Requires federal agencies to furnish safe and healthy places and conditions of employment.

**9. Executive Order 12580 - Superfund Implementation (January 23, 1987).** Delegates the President's various authorities under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9601 et seq., to a number of federal agencies to respond to the release of hazardous substances, pollutants and contaminants into the environment. The chief recipient of this delegation is the Environmental Protection Agency, which, in turn, created implementing regulations for CERCLA.

**10. Executive Order 12898 - Environmental Justice (February 11, 1994), as amended by Executive Order 12948 - Amendment to Executive Order No. 12898 (January**

**30, 1995).** Requires federal agencies to take all practicable measures to avoid disproportionately high and adverse environmental impacts on low-income and minority populations.

**11. Executive Order 12941 - Seismic Safety of Existing Federally Owned or Leased Buildings (December 1, 1994).** Requires buildings owned by or leased to the Federal Government to meet certain seismic safety standards.

**12. Executive Order 13006 - Locating Federal Facilities on Historic Properties in our Nation's Central Cities (May 21, 1996).** Encourages federal agencies to locate federal facilities on historic properties in our nation's central cities.

**13. Executive Order 13007 - Indian Sacred Sites (May 24, 1996).** Requires federal agencies that manage land, to the extent practicable, to avoid impeding the access of American Indians to traditional sacred sites and to avoid physical impact to such sites.

**14. Executive Order 13045 - Protection of Children from Environmental Health Risks and Safety Risks (April 21, 1997).** Federal agencies must make it a high priority to identify and assess environmental health and safety risks that may affect children disproportionately and ensure that their policies, programs, activities, and standards address risks to children that result from environmental health or safety risks.

**15. Executive Order 13089 - Coral Reef Protection (June 11, 1998).** Requires federal agencies to identify agency impacts on coral reef systems and reduce and mitigate, where possible, those impacts.

**16. Executive Order 13112 - Invasive Species (February 3, 1999).** Requires federal agencies to identify actions that affect the status of invasive species. Federal agencies must prevent the introduction of invasive species and control any existing populations.

**17. Executive Order 13186 - Responsibilities of Federal Agencies to Protect Migratory Birds (January 10, 2001).** Requires federal agencies to analyze and mitigate any negative agency impacts on surrounding migratory bird populations.

**18. Executive Order 13221 - Energy Efficient Standby Power Devices (July 31, 2001).** Requires each executive agency, when it purchases commercially available, off-the-shelf products that use external standby power devices, or that contain an internal standby power function, to purchase products that use no more than one watt in their standby power consuming mode. If such products are not available, agencies are required to purchase products with the lowest standby power wattage while in their standby power consuming mode.



**19. Executive Order 13327 - Federal Real Property Asset Management (February 4, 2004), as amended by Executive Order 13423 Strengthening Federal Environmental, Energy, and Transportation Management (January 24, 2007).** Requires federal agencies to incorporate environmental management systems into asset plans.

**20. Executive Order 13423 - Strengthening Federal Environmental, Energy, and Transportation Management (January 24, 2007).** Issues policy for federal agencies to conduct their environmental, transportation and

energy-related activities under the law in support of their respective missions in an environmentally, economically and fiscally sound, integrated, continuously efficient, and sustainable manner.

**21. Executive Order 13514 - Federal Leadership in Environmental, Energy, and Economic Performance (October 5, 2009).** Requires federal agencies to increase energy efficiency; measure, report, and reduce their greenhouse gas emissions from direct and indirect activities; conserve and protect water resources through efficiency, reuse, and stormwater management; eliminate waste, recycle, and prevent pollution; leverage agency acquisitions to foster markets for sustainable technologies and environmentally preferable materials, products, and services; design, construct, maintain, and operate high performance sustainable buildings in sustainable locations; strengthen the vitality and livability of the communities in which federal facilities are located; and inform federal employees about and involve them in the achievement of these goals.

## C. Regulations

**1. Federal Management Regulation, Subchapter C - Real Property, part 102-76, Design and Construction (41 C.F.R. part 102-76).** Prescribes policy guidance for the design and construction of federal facilities and

repair and alteration of existing federal facilities.

**2. Federal Management Regulation, Subchapter C - Real Property, part 102-74, Facility Management (41 C.F.R. part 102-74).** Prescribes policy guidance for the management, operation, and maintenance of Federal Government-owned and leased properties being operated under or subject to, the authority of the Administrator of General Services.

**3. Federal Management Regulation, Subchapter C - Real Property, part 102-80, Safety and Environmental Management (41 C.F.R. part 102-80).** Prescribes safety and environmental management policy guidance applicable to Federal Government-owned or leased space being operated under, or subject to, the authority of the Administrator of General Services.

**4. Federal Property Management Regulation, Subchapter H - Utilization and Disposal, part 101-42, Utilization and Disposal of Hazardous Materials and Certain Categories of Property (41 C.F.R. part 101-42).** Prescribes policy guidance that governs the utilization, donation, sale, exchange, or other disposition of hazardous materials, dangerous property and other categories of property with special utilization and disposal requirements. ■

## **XI. Security**

### **A. Laws**

**1. Assimilative Crimes Act (18 U.S.C. § 13).** Provides that if an individual commits an act within or upon a place of exclusive or concurrent federal jurisdiction that is not a violation of federal law, but is a violation of the laws of a state, district, territory, or possession in which the federal jurisdiction is located, the individual is considered to have committed a federal offense and shall be guilty of a like offense and subject to a like punishment.

**2. Code Adam Act of 2003 ( Public Law 108-21, §§ 361, et seq., April 30, 2003, 117 Stat.665, 42 U.S.C. § 5792 et seq.)** Provides that with respect to any building owned or leased for use by an executive agency, the Administrator of General Services shall establish procedures for locating a child (17 years of age or younger) that is missing in the building. The Act established minimum procedures to be followed. GSA follows the DHS's Federal Protective Service nationwide policy and procedures for locating a missing child in federal facilities.

**3. Edgar Amendment (40 U.S.C. § 593).** Prohibits GSA, with certain exceptions, from contracting for any guard, elevator operator, messenger, or custodial services, if any permanent veterans preference employee of GSA would be terminated as a result of the procurement of such services.

**4. Homeland Security Act of 2002 (Pub. L. 107-296, Title XVII, §§ 403, 1706(b)(1), November 25, 2002, 116 Stat. 2135).** Transferred the law enforcement and related security responsibilities of GSA along with the Federal Protective Service to the Department of Homeland Security (DHS).

**5. Homeland Security Act of 2002 (Pub. L. 107-296, Title XVII, § 422, November 25, 2002, 116 Stat. 2135, 6 U.S.C. § 232).** Provides that except for the law enforcement and security functions transferred to DHS, GSA retains all powers, functions, and authorities vested in the Administrator by law for the operation, maintenance, and protection of buildings and grounds owned or occupied by the Federal Government and under the jurisdiction, custody or control of GSA.

**6. Protection of Public Property (40 U.S.C. § 1315).** Authorizes the Secretary of Homeland Security to protect the buildings, grounds and property that are owned, occupied or secured by the Federal Government, and the persons on the property. The Secretary may a) designate employees of DHS as officers and agents for duty in connection with the protection functions, b) make rules and



regulations, in consultation with the Administrator of General Services, necessary for the protection and administration of property owned or occupied by the Federal Government and persons on the property and impose penalties for the violation of such rules, c) detail officers and agents to other agencies for protection of property and persons on the property under that agency's control and extend the rules and regulations to that property, d) utilize the facilities and services of federal, state and local law enforcement agencies, with the consent of those agencies, and e) enter into agreements with federal agencies and with state and local governments to obtain authority for officers and agents of DHS to enforce federal laws and state and local laws concurrently with the other federal law enforcement offices and with state and local law enforcement officers.

**7. 40 U.S.C. § 582(a).** At the request of a federal agency, a mixed-ownership corporation or the District of Columbia, the Administrator of General Services may, operate, maintain, and protect a building that is owned by the Federal Government (or in the case of a wholly owned or mixed-ownership Government

corporation, by the corporation) and occupied by the agency or instrumentality making the request.

**8. 40 U.S.C. § 3311.** Provides that when the Administrator of General Services deems it desirable, the Administrator may assign to a state or a territory or possession of the United States any part of the authority of the Federal Government to administer criminal laws and health and safety laws with respect to land or an interest in land under the control of the Administrator and located in the state, territory or possession. The assignment must be by notice of assignment to the chief executive of the jurisdiction and is only effective on acceptance by the State, territory or possession. This section provides the Administrator with authority to retrocede exclusive legislative jurisdiction over a property to the State, territory or possession where the property is located.

## B. Executive Orders

**1. Executive Order 12977 - Interagency Security Committee (October 19, 1995), as amended by Executive Order 13286 - Amendment of Executive Orders, and Other Actions, in Connection With the**

## Transfer of Certain Functions to the Secretary of Homeland Security (February 28, 2003).

Provides that the Interagency Security Committee (ISC) is responsible for developing and evaluating security standards for federal facilities. The ISC has established design criteria for new federal construction and major modernization projects and security standards for leased space. The order directs each executive agency to cooperate and comply with the policies and recommendations of the ISC. GSA is a member of the ISC.

## C. Regulations

**Federal Management Regulation, Subchapter C - Real Property, part 102-81, Security (41 C.F.R. part 102-81).** Prescribes security policy guidance for federal property under the charge and control of the Administrator of General Services. Those federal agencies having a security delegation of authority from the Secretary of Homeland Security or prior delegation from the Administrator of General Services must provide for the security and protection of the real estate they occupy, including the protection of persons within the property. ■

## XII. Public Utilities

### A. Laws

**1. Clean Air Act (CAA), 42 U.S.C. § 7401 et seq.** Requires each federal department, agency and instrumentality of the United States to comply with all federal, state, interstate, and local requirements regarding the control and abatement of air pollution in the same manner and to the same extent as any nongovernmental entity. The Clean Air Act 1990 amendments expanded the enforcement powers of the U.S. Environmental Protection Agency and states delegated enforcement authority under CAA, and added restrictions on air toxins, ozone-depleting chemicals, stationary and mobile emissions sources, and those emissions that cause acid rain. The CAA's implementing regulations can be found at 40 C.F.R. § 53 et seq.

**2. Energy Independence and Security Act, Pub. L. 110-140 (December 19, 2007).** Establishes new targets for energy reductions, use of renewable power and other energy related goals. Requires establishment of High Performance Green Building division within GSA.

**3. Energy Policy Act of 2005, Pub. L. 109-58 (August 8, 2005).** Mandates a reduction in energy consumption and reestablishes a number of federal agency goals. Contains relevant, amended portions of the national Energy Policy and Conservation Act.

**4. Energy Policy Act, Pub. L. 102-486 (October 24, 1992).** Provides amendments to the national Energy Policy and Conservation Act for the

statutory basis of federal energy management activities. Subtitle F of the Energy Policy Act focuses on federal agency energy management.

**5. Energy Policy and Conservation Act, as amended (42 U.S.C. §§ 6201-6422).** Requires federal agencies to implement programs that reduce energy consumption in federal facilities.



## **6. Federal Power Act of 1920, as amended (16 U.S.C. § 791 et seq.)**

Regulates power industry and appoints the Federal Power Commission.

## **7. Government-wide General Provisions, Treasury and General Government Appropriations Act, 1998, Pub. L. 105-61, Section 608.**

Authorizes all federal agencies to receive and use funds resulting from the sale of materials, including federal records disposed of pursuant to a records schedule recovered through recycling or waste prevention programs. Such funds are available until expended for acquisition, waste reduction and prevention, and recycling programs described in Executive Order 12873, Federal Acquisition, Recycling, and Waste Prevention, (October 20, 1993), including any such programs adopted prior to the effective date of the Executive Order; other federal agency environmental management programs, including, but not limited to, the development and implementation of hazardous waste management and pollution programs, and other employee programs as authorized by law or as deemed appropriate by the head of the federal agency.

## **8. National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq.**

Requires federal agencies to conduct an assessment of the environmental impact of each major federal action significantly affecting the quality of

the human environment. This typically requires the preparation of documentation to establish that this analysis has been performed whether in the form of a Categorical Exclusion (CATEX), an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The Council on Environmental Quality (CEQ), along with the Environmental Protection Agency, are the primary regulators of this law. CEQ's implementing regulations can be found at 40 C.F.R. § 1500 et seq.

**9. Natural Gas Policy Act of 1978 (Pub. L. 95-621, 15 U.S.C. §§ 3301 et seq., November 9, 1978).** Regulates natural gas supplies, pricing and related issues.

**10. Powerplant and Industrial Fuel Use Act of 1978, as amended (Pub. L. 95-620, 92 Stat. 3289, November 9, 1978).** Provides, among other things, for decreasing petroleum importation and increasing the capability to use indigenous energy resources.

**11. Public Utility Holding Company Act of 1935, as amended (15 U.S.C. § 79a et seq.)** Sets rules and standards for the ownership of publicly regulated utilities by unregulated corporations.

**12. Public Utility Regulatory Policy Act of 1978, as amended (Pub. L. 95-617, 92 Stat. 3117, November 9, 1978).** Provides for the conservation, distribution and development of electric, hydroelectric, natural gas, and crude oil energy resources.

## **13. Small Business Act, as amended (15 U.S.C. §§ 631-657g).**

Requires an effort by federal contractors to place subcontracts with small and small disadvantaged business (economically and socially disadvantaged) concerns.

## **14. 40 U.S.C. §§ 101 and 501.**

Authorizes GSA to manage public utility services and directs the Administrator of General Services to represent federal agencies in negotiations with public utilities and in proceedings involving public utilities before federal and state regulatory bodies.

**15. 40 U.S.C. § 592(d).** Authorizes the Administrator of General Services to receive amounts from rebates or other cash incentives related to energy savings and accept, from a utility, goods or services that enhance the energy efficiency of federal facilities. .

## **B. Executive Orders**

### **1. Executive Order 13211 - Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (May 8, 2001).**

Requires agencies to prepare and submit a Statement of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, when undertaking certain agency actions that affect the supply, distribution, and use of energy. The Statement of Energy Effects must describe the effects of certain

regulatory actions on energy supply, distribution, or use.

**2. Executive Order 13221 - Energy Efficient Standby Power Devices (July 31, 2001).** Requires each executive agency, when it purchases commercially available, off-the-shelf products that use external standby power devices or that contain an internal standby power function, to purchase products that use no more than one watt in their standby power consuming mode. If such products are not available, agencies are required to purchase products with the lowest standby power wattage while in their standby power consuming mode.

**3. Executive Order 13423 - Strengthening Federal Environmental, Energy, and Transportation Management (January 24, 2007).** Issues policy for federal agencies to conduct their

environmental, transportation and energy-related activities under the law in support of their respective missions in an environmentally, economically and fiscally sound, integrated, continuously efficient, and sustainable manner.

**4. Executive Order 13514 - Federal Leadership in Environmental, Energy, and Economic Performance (October 5, 2009).** Requires federal agencies to set a 2020 greenhouse gas emissions reduction target within 90 days, increase energy efficiency, reduce fleet petroleum consumption, conserve water, reduce waste, support sustainable communities, and leverage federal purchasing power to promote environmentally-responsible products and technology.

## C. Regulations

### 1. Federal Management Regulation,

**Subchapter C - Real Property, part 102-82, Utility Services (41 C.F.R. part 102-82).** Prescribes utilities services policy guidance for executive agencies procuring, managing or supplying utility services under Title 40 of the United States Code - Public Buildings, Property, and Works.

**2. Acquisition of Utility Services (48 C.F.R. part 41).** Prescribes policies, procedures, and contract format for the acquisition of utility services.

**3. Federal Energy Management and Planning Programs (10 C.F.R. part 436).** Establishes a methodology and procedures for estimating and comparing the life cycle costs of federal buildings and for determining the life cycle effectiveness of energy conservation measures and water conservation measures. ■

# XIII. Location of Space

## A. Laws

### 1. National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq.

Requires federal agencies to conduct an assessment of the environmental impact of each major federal action significantly affecting the quality of the human environment. This typically requires the preparation of documentation to establish that this

analysis has been performed whether in the form of a Categorical Exclusion (CATEX), an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The Council on Environmental Quality (CEQ), along with the Environmental Protection Agency, are the primary regulators of this law. CEQ's implementing regulations can be found at 40 CFR § 1500 et seq.

### 2. National Historic Preservation Act (NHPA), 16 U.S.C. § 470 et seq.

Requires all federal agencies to preserve historic properties that are owned or controlled by such agency. Requires that federal agencies use, to the maximum extent feasible, historic properties already under agency control, in accordance with Executive Order 13006, Locating Federal Facilities on Historic Properties in Our Nation's Central Cities (May 21, 1996), prior to acquiring, constructing or leasing buildings for purposes of carrying out agency responsibilities. Implementing regulations can be found at 36 C.F.R. § 800, et seq.

### 3. Rural Development Act of 1972, as amended (7 U.S.C. § 2204b-1).

Requires federal agencies to give first

consideration to rural areas in locating offices and facilities.

## B. Executive Orders

1. **Executive Order 12072 - Federal Space Management (August 16, 1978).** When meeting Federal space needs in an urban area, requires that first consideration be given to a centralized community business area and adjacent areas of similar character.

2. **Executive Order 13006 - Locating Federal Facilities on Historic Properties in our Nation's Central Cities. (May 26, 1996).** Encourages federal agencies to locate federal facilities in historic buildings and districts in our nation's central cities by providing a procurement preference for such buildings and districts.

## C. Regulations

**Federal Management Regulation, Subchapter C - Real Property, part 102-83, Location of Space (41 C.F.R. part 102-83).** Prescribes location of space policy guidance for the location of Federal Government-owned and leased space under the authority of the Administrator of General Services. ■





# XIII. Federal Property Asset Management

## A. Laws

None

## B. Executive Orders

**1. Executive Order 13327 - Federal Real Property Asset Management (February 4, 2004), as amended by Executive Order 13423 – Strengthening Federal Environmental, Energy, and Transportation Management (January 24, 2007).** Promotes the efficient and economical use of real property assets by requiring federal agencies to develop and implement real property management reforms, establishing clear goals and objectives for agencies' real property and increasing management accountability by focusing attention on real property asset management. This Executive Order establishes a Federal Real Property Council (FRPC), mandates that each agency designate a Senior Real Property Officer who is responsible for the development of asset management plans to be submitted to the FRPC and requires the Administrator of General Services to establish and



publish performance measures and information technology standards to be used governmentwide in the development or upgrading of agency real property data systems. It also rescinds Executive Order 12512, Federal Real Property Management (April 29, 1985), the previous Federal real property management guidance.

### **2. Executive Order 13423 - Strengthening Federal**

**Environmental, Energy, and Transportation Management (January 24, 2007).** Issues policy for federal agencies to conduct their environmental, transportation and energy-related activities under the law in support of their respective missions in an environmentally, economically and fiscally sound, integrated, continuously efficient, and sustainable manner.

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**3. Executive Order 13514 - Federal Leadership in Environmental, Energy, and Economic Performance (October 5, 2009).** Requires federal agencies to increase energy efficiency; measure, report, and reduce their greenhouse gas emissions from direct and indirect activities; conserve and protect water resources through efficiency, reuse, and stormwater management; eliminate waste, recycle, and prevent pollution; leverage agency

acquisitions to foster markets for sustainable technologies and environmentally preferable materials, products, and services; design, construct, maintain, and operate high performance sustainable buildings in sustainable locations; strengthen the vitality and livability of the communities in which federal facilities are located; and inform federal employees about and involve them in the achievement of these goals.

## C. Regulations

**Federal Management Regulation, Subchapter C - Real Property, part 102-84, Annual Real Property Inventories (41 C.F.R. part 102-84).**

This part prescribes guidance that all Federal agencies must follow in preparing and submitting annual real property inventory information for real property owned, leased or otherwise managed by the United States. ■

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**GSA Office of Governmentwide Policy  
Office of Real Property Management**

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