

**§ 101-47.301-2**

**41 CFR Ch. 101 (7-1-02 Edition)**

**§ 101-47.301-2 Applicability of anti-trust laws.**

(a) In any case in which there is contemplated a disposal to any private interest of real and related personal property which has an estimated fair market value of \$3,000,000 or more, or of patents, processes, techniques, or inventions, irrespective of cost, the disposal agency shall transmit promptly to the Attorney General notice of any such proposed disposal and the probable terms or conditions thereof, as required by section 207 of the Act, for his advice as to whether the proposed disposal would tend to create or maintain a situation inconsistent with antitrust laws, and no such real property shall be disposed of until such advice has been received. If such notice is given by any executive agency other than GSA, a copy of the notice shall be transmitted simultaneously to the office of GSA for the region in which the property is located.

(b) Upon request of the Attorney General, GSA or any other executive agency shall furnish or cause to be furnished such information as it may possess which the Attorney General determines to be appropriate or necessary to enable him to give the requested advice or to determine whether any other disposition or proposed disposition of surplus real property violates or would violate any of the antitrust laws.

[29 FR 16126, Dec. 3, 1964, as amended at 54 FR 12198, Mar. 24, 1989]

**§ 101-47.301-3 Disposals under other laws.**

Pursuant to section 602(c) of the act, disposals of real property shall not be made under other laws but shall be made only in strict accordance with the provisions of this subpart 101-47.3 unless the Administrator of General Services, upon written application by the disposal agency, shall determine in each case that the provisions of any such other law, pursuant to which disposal is proposed to be made, are not inconsistent with the authority conferred by this Act. The provisions of this section shall not apply to disposals of real property authorized to be made by section 602(d) of the act or by any special statute which directs or re-

quires an executive agency named therein to transfer or convey specifically described real property in accordance with the provisions of such statute.

**§ 101-47.301-4 Credit disposals and leases.**

Where credit is extended in connection with any disposal of surplus property, the disposal agency shall offer credit pursuant to the provisions of § 101-47.304-4. The disposal agency shall administer and manage the credit lease, or permit and any security therefor and may enforce, adjust, or settle any right of the Government with respect thereto in such manner and upon such terms as that agency considers to be in the best interests of the Government.

[42 FR 47205, Sept. 20, 1977]

**§ 101-47.302 Designation of disposal agencies.**

**§ 101-47.302-1 General.**

In accordance with applicable provisions of this subpart 101-47.3, surplus real property shall be disposed of or assigned to the appropriate Federal department for disposal for public use purposes by the disposal agency.

[36 FR 8042, Apr. 29, 1971]

**§ 101-47.302-2 Holding agency.**

(a) The holding agency is hereby designated as disposal agency for:

(1) Leases, permits, licenses, easements, and similar real estate interests held by the Government in non-Government-owned property (including Government-owned improvements located on the premises), except when it is determined by either the holding agency or GSA that the Government's interest will be best served by the disposal of such real estate interests together with other property owned or controlled by the Government, that has been or is being reported to GSA as excess; and

(2) Fixtures, structures, and improvements of any kind to be disposed of without the underlying land with the

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exception of Government-owned machinery and equipment, which are fixtures being used by a contractor-operator, where such machinery and equipment will be sold to the contractor-operator.

(3) Standing timber and embedded gravel, sand, stone and underground water to be disposed of without the underlying land.

(b) GSA may act as the disposal agency for the type of property described in paragraphs (a) (1) and (2) of this section, whenever requested by the holding agency to perform the disposal functions. Where GSA acts as the disposal agency for the disposal of leases and similar real estate interests as described in paragraph (a)(1) of this section, the holding agency nevertheless shall continue to be responsible for the payment of the rental until the lease is terminated and for the payment of any restoration or other direct costs incurred by the Government as an incident to the termination. Likewise, where GSA acts as disposal agency for the disposal of fixtures, structures, and improvements as described in paragraph (a)(2) of this section, the holding agency nevertheless shall continue to be responsible for payment of any demolition and removal costs not offset by the sale of the property.

[29 FR 16126, Dec. 3, 1964, as amended at 31 FR 2658, Feb. 11, 1966; 31 FR 16780, Dec. 31, 1966; 33 FR 8737, June 14, 1968; 48 FR 12526, Mar. 25, 1983; 50 FR 28403, July 12, 1985]

### § 101-47.302-3 General Services Administration.

GSA is the disposal agency for all real property and related personal property not covered by the above designations or by disposal authority delegated by the Administrator of General Services in specific instances.

### § 101-47.303 Responsibility of disposal agency.

#### § 101-47.303-1 Classification.

Each surplus property, or, if the property is subdivided, each unit of property shall be classified by the disposal agency to determine the methods and conditions applicable to the disposal of the property. Classification shall be according to the estimated

highest and best use for the property. The property may be reclassified from time to time by the disposal agency or by GSA whenever such action is deemed appropriate.

### § 101-47.303-2 Disposals to public agencies.

The disposal agency shall comply with the provisions of Executive Order 12372 and 41 CFR subpart 101-6.21, which enables a State to establish the single point of contact process or other appropriate procedures to review and comment on the compatibility of a proposed disposal with State, regional and local development plans and programs. When a single point of contact transmits a State review process recommendation, the Federal agency receiving the recommendation must either accept the recommendation; reach a mutually agreeable solution with the party(s) preparing the recommendation; or provide the single point of contact with a written explanation for not accepting the recommendation or reaching a mutually agreeable solution. If there is nonaccommodation, the agency is generally required to wait 10 calendar days after receipt, by the single point of contact, of an explanation before taking final action. The single point of contact is presumed to have received written notification 5 calendar days after the date of mailing of such notification. The 10-day waiting period may be waived if the agency determines that because of unusual circumstances this delay is not feasible.

(a) Whenever property is determined to be surplus, the disposal agency shall, on the basis of the information given in §101-47.4905, list the public agencies eligible under the provisions of the statutes referred to above to procure the property or portions thereof, except that such listing need not be made with respect to:

(1) Any such property when the determination of the property as surplus is conditioned upon disposal limitations which would be inconsistent with disposal under the statutes authorizing disposal to eligible public agencies; or

(2) Any such property having an estimated fair market value of less than \$1,000 except where the disposal agency