

§ 101-47.305

Notice regarding hazardous substance activity:

The information contained in this notice is required under the authority of regulations promulgated under section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or "Superfund"), 42 U.S.C. section 9620(h).

The (holding agency) advises that (provide information on the type and quantity of hazardous substances; the time at which storage, release, or disposal took place; and a description of the remedial action taken).

All remedial action necessary to protect human health and the environment with respect to the hazardous substance activity during the time the property was owned by the United States has been taken. Any additional remedial action found to be necessary shall be conducted by the United States.

(b) In the case where the purchaser is a potentially responsible party (PRP) with respect to the hazardous substance activity, the above statements must be modified as appropriate to properly represent the liability of the PRP for any remedial action.

[56 FR 15048, Apr. 15, 1991]

§ 101-47.305 Acceptance of offers.

§ 101-47.305-1 General.

(a) When the head of the disposal agency or his designee determines that bid prices (either as to all or some part of the property) received after advertising therefor or received in response to the action authorized in paragraph (b) of this § 101-47.305-1, are reasonable, i.e., commensurate with the fair market value of the property, and were independently arrived at in open competition, award shall be made with reasonable promptness by notice to the bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Government, price and other factors considered. Any or all offers may be rejected when the head of the disposal agency or his designee determines it is in the public interest to do so.

(b) Where the advertising does not result in the receipt of a bid at a price commensurate with the fair market value of the property, the highest bidder may, at the discretion of the head of the disposal agency or his designee and upon determination of responsiveness and bidder responsibility, be afforded an opportunity to increase his

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offered price. The bidder shall be given a reasonable period of time, not to exceed fifteen working days, to respond. At the time the bidder is afforded an opportunity to increase his bid, all other bids shall be rejected and bid deposits returned. Any sale at a price so increased may be concluded without regard to the provisions of § 101-47.304-9 and § 101-47.304-12.

(c) The disposal agency shall allow a reasonable period of time within which the successful bidder shall consummate the transaction and shall notify the successful bidder of the period allowed.

(d) It is within the discretion of the head of the disposal agency or his designee to determine whether the procedure authorized by paragraph (b) of this § 101-47.305-1 is followed or whether the bids shall be rejected and the property reoffered for sale on a publicly advertised competitive bid basis in accordance with the provisions of § 101-47.304-7, or disposed of by negotiation pursuant to § 101-47.306-1, or offered for disposal under other applicable provisions of this subpart 101-47.3.

[29 FR 16126, Dec. 3, 1964, as amended at 50 FR 25223, June 18, 1985]

§ 101-47.305-2 Equal offers.

Equal offers means two or more offers that are equal in all respects, taking into consideration the best interests of the Government. If equal acceptable offers are received for the same property, award shall be made by a drawing by lot limited to the equal acceptable offers received.

§ 101-47.305-3 Notice to unsuccessful bidders.

When an offer for surplus real property has been accepted, the disposal agency shall notify all other bidders of such acceptance and return their earnest money deposits, if any.

§ 101-47.306 Absence of acceptable offers.

§ 101-47.306-1 Negotiations.

(a) When the head of the disposal agency or his designee determines that bid prices after advertising therefor (including the action authorized by the provisions of § 101-47.305-1(b)) are not reasonable either as to all or some part

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of the property or were not independently arrived at in open competition and that a negotiated sale rather than a disposal by readvertising or under other applicable provisions of this subpart would better protect the public interest, the property or such part thereof may be disposed of by negotiated sale after rejection of all bids received: *Provided*, That no negotiated disposal may be made under this §101-47.306-1 unless:

(1) Notification of the intention to negotiate and reasonable opportunity to negotiate shall have been given by the agency head or his designee to each responsible bidder who submitted a bid pursuant to the advertising;

(2) The negotiated price is higher than the highest rejected bid price offered by any responsible bidder, as determined by the head of the agency or his designee; and

(3) The negotiated price is the highest negotiated price offered by any responsible prospective purchaser.

(b) Any such negotiated disposal shall be subject to the applicable provisions of §§101-47.304-9 and 101-47.304-12.

§101-47.306-2 Defense Industrial Reserve properties.

In the event that any disposal agency is unable to dispose of any surplus industrial plant because of the application of the conditions and restrictions of the National Security Clause imposed under the Defense Industrial Reserve Act (50 U.S.C. 453), after making every practicable effort to do so, it shall notify the Secretary of Defense, indicating such modifications in the National Security Clause, if any, which in its judgment will make possible the disposal of the plant. Upon agreement by the Secretary of Defense to any or all of such modifications, the plant shall be reoffered for disposal subject to such modifications as may have been so agreed upon; or if such modifications are not agreed to, and upon request of the Secretary of Defense, the plant shall be transferred to the custody of GSA.

[40 FR 12078, Mar. 17, 1975]

§ 101-47.307 Conveyances.

§ 101-47.307-1 Form of deed or instrument of conveyance.

Disposals of real property shall be by quitclaim deed or deed without warranty in conformity with local law and practice, unless the disposal agency finds that another form of conveyance is necessary to obtain a reasonable price for the property or to render the title marketable, and unless the use of such other form of conveyance is approved by GSA.

§ 101-47.307-2 Conditions in disposal instruments.

(a) Where a sale is made upon credit, the purchaser shall agree by appropriate provisions to be incorporated in the disposal instruments, that he will not resell or lease (unless due to its character or type the property was offered without leasing restrictions by the disposal agency) the property, or any part thereof or interest therein, without the prior written authorization of the disposal agency and such disposal instruments in appropriate cases may specifically provide for such authorization and/or future partial releases to be granted on terms which will adequately protect the Government's security for the credit extended to the purchaser.

(b) Except for exchange transactions initiated by the Federal Government for its own benefit, any disposition of land, or land and improvements located thereon, to public bodies by negotiation pursuant to §101-47.304-9(4) shall include in the deed or other disposal instrument a covenant substantially as follows:

The Grantee covenants for itself, its heirs, successors, and assigns and every successor in interest to the property hereby conveyed, or any part thereof, that the said Grantee and such heirs, successors, and assigns shall not discriminate upon the basis of race, color, religion, or national origin in the use, occupancy, sale, or lease of the property, or in their employment practices conducted thereon. This covenant shall not apply, however, to the lease or rental of a room or rooms within a family dwelling unit; nor shall it apply with respect to religion to premises used primarily for religious purposes. The United States of America shall be