

Federal Property Management Regulations

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emergency management response purposes and shall furnish to OJP or FEMA a copy of the conveyance documents.

(h) The deed of conveyance of any surplus real property transferred under the provisions of section 203(p)(1) of the Act shall provide that all such property be used and maintained for the purpose for which it was conveyed in perpetuity and that in the event such property ceases to be used or maintained for such purpose during such period, all or any portion of such property shall in its then existing condition, at the option of the United States, revert to the United States and may contain such additional terms, reservations, restrictions, and conditions as may be determined by the Administrator of General Services to be necessary to safeguard the interest of the United States.

(i) The Administrator of General Services has the responsibility for enforcing compliance with the terms and conditions of disposals; the reformation, correction, or amendment of any disposal instrument; the granting of releases; and any action necessary for recapturing such property in accordance with the provisions of section 203(p)(3) of the Act.

(j) The OJP or FEMA will notify GSA upon discovery of any information indicating a change in use and, upon request, make a redetermination of continued appropriateness of the use of a transferred property.

(k) In each case of repossession under a reversion of title by reason of non-compliance with the terms of the conveyance documents or other cause, OJP or FEMA shall, at or prior to such repossession, provide the appropriate GSA regional office with an accurate description of the real and related personal property involved. Standard Form 118, Report of Excess Real Property, and the appropriate schedules shall be used for this purpose. Upon receipt of advice from OJP or FEMA that such property has been repossessed and/or title has reverted, GSA will act upon the Standard Form 118. The grantee shall be required to provide protection and maintenance for the property until such time as the title reverts to the Federal Government, in-

cluding the period of any notice of intent to revert. Such protection and maintenance shall, at a minimum, conform to the standards prescribed in § 101-47.4913.

[52 FR 9832, Mar. 27, 1987, as amended at 64 FR 5618, Feb. 4, 1999]

§ 101-47.308-10 Property for port facility use.

(a) Under section 203(q)(1) of the Act, in his/her discretion, the Administrator, the Secretary of the Department of Defense (DOD) in the case of property located at a military installation closed or realigned pursuant to a base closure law, or the designee of either of them, may, as the disposal agency, assign to the Secretary of the Department of Transportation (DOT) for conveyance, without monetary consideration, to any State, or to those governmental bodies named therein, or to any political subdivision, municipality, or instrumentality thereof, such surplus real and related personal property, including buildings, fixtures, and equipment situated thereon, as is recommended by DOT as being needed for the development or operation of a port facility.

(b) The disposal agency shall notify established State and regional or metropolitan clearinghouses and eligible public agencies, in accordance with the provisions of § 101-47.303-2, that property which may be disposed of for use in the development or operation of a port facility has been determined to be surplus. A copy of such notice shall be transmitted to DOT accompanied by a copy of the holding agency's Report of Excess Real Property (Standard Form 118 and supporting schedules).

(c) The notice to eligible public agencies shall state:

(1) That any planning for the development or operation of a port facility, involved in the development of the comprehensive and coordinated plan of use and procurement for the property, must be coordinated with DOT;

(2) That any party interested in acquiring the property for use as a port facility must contact the Department of Transportation, Maritime Administration, for instructions concerning submission of an application; and

(3) That the requirement for use of the property in the development or operation of a port facility will be contingent upon approval by the disposal agency, under paragraph (i) of this section, of a recommendation from DOT for assignment of the property to DOT and that any subsequent conveyance shall be subject to the disapproval of the head of the disposal agency as stipulated under section 203(q)(2) of the Act and referenced in paragraph (j) of this subsection.

(d) DOT shall notify the disposal agency within 20 calendar-days after the date of the notice of determination of surplus if there is an eligible applicant interested in acquiring the property. Whenever the disposal agency, has been so notified of a potential port facility requirement for the property, DOT shall submit to the disposal agency, within 25 calendar-days after the expiration of the 20-calendar-day notification period, either a recommendation for assignment of the property or a statement that a recommendation will not be submitted.

(e) Whenever an eligible public agency has submitted a plan of use for property for a port facility requirement, in accordance with the provisions of § 101-47.303-2, the disposal agency shall transmit two copies of the plan to DOT. DOT shall either submit to the disposal agency, within 25 calendar-days after the date the plan is transmitted, a recommendation for assignment of the property to DOT, or inform the disposal agency, within the 25-calendar-day period, that a recommendation will not be made for assignment of the property to DOT.

(f) Any assignment recommendation submitted to the disposal agency by DOT shall be accompanied by a copy of the explanatory statement required under section 203(q)(3)(C) of the Act and shall set forth complete information concerning the contemplated port facility use, including:

- (1) An identification of the property;
- (2) An identification of the applicant;
- (3) A copy of the approved application, which defines the proposed plan of use of the property;
- (4) A statement that DOT's determination that the property is located in an area of serious economic disruption

was made in consultation with the Secretary of Labor; and

(5) A statement that DOT's approval of the economic development plan associated with the plan of use of the property was made in consultation with the Secretary of Commerce.

(g) Holding agencies shall cooperate to the fullest extent possible with representatives of DOT and the Secretary of Commerce in their inspection of such property, and of the Secretary of Labor in affirming that the property is in an area of serious economic disruption, and in furnishing any information relating thereto.

(h) In the absence of an assignment recommendation from DOT submitted pursuant to paragraph (d) or (e) of this section, and received within the 25-calendar-day time limit specified therein, the disposal agency shall proceed with other disposal action.

(i) If, after considering other uses for the property, the disposal agency approves the assignment recommendation from DOT, it shall assign the property by letter or other document to DOT. If the recommendation is disapproved, the disposal agency shall likewise notify DOT. The disposal agency shall furnish to the holding agency a copy of the assignment, unless the holding agency is also the disposal agency.

(j) Subsequent to the receipt of the letter of assignment from the disposal agency, DOT shall furnish to the disposal agency, a Notice of Proposed Conveyance in accordance with section 203(q)(2) of the Act. If the disposal agency has not disapproved the proposed transfer within 35 calendar-days of the receipt of the Notice of Proposed Conveyance, DOT may proceed with the conveyance.

(k) DOT shall furnish the Notice of Proposed Conveyance within 35 calendar-days after the date of the letter of assignment from the disposal agency, prepare the conveyance documents, and take all necessary actions to accomplish the conveyance within 15 calendar-days after the expiration of the 30-calendar-day period provided for the disposal agency to consider the notice. DOT shall furnish the disposal agency

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two conformed copies of the instruments conveying property under subsection 203(q) of the Act and all related documents containing restrictions or conditions regulating the future use, maintenance, or transfer of the property.

(l) DOT has the responsibility for enforcing compliance with the terms and conditions of conveyance; for reformation, correction, or amendment of any instrument of conveyance; for the granting of release; and for the taking of any necessary actions for recapturing such property in accordance with the provisions of subsection 203(q)(4) of the Act. Any such action shall be subject to the disapproval of the head of the disposal agency. Notice to the head of the disposal agency, by DOT, of any action proposed to be taken shall identify the property affected, set forth in detail the proposed action, and state the reasons therefor.

(m) In each case of repossession under a reversion of title by reason of noncompliance with the terms or conditions of conveyance or other cause, DOT shall, at or prior to such reversion of title, provide the appropriate GSA regional office, with an accurate description of the real and related personal property involved. Standard Form 118, Report of Excess Real Property, and appropriate accompanying schedules shall be used for this purpose. Upon receipt of advice from DOT that such property has been repossessed, GSA will review and act upon the Standard Form 118. However, the grantee shall be required to provide protection and maintenance for the property until such time as the title reverts to the Federal Government, including the period of any notice of intent to revert. Such protection and maintenance shall, at a minimum, conform to the standards prescribed in §101-47.4913.

[60 FR 35707, July 11, 1995]

§ 101-47.309 Disposal of leases, permits, licenses, and similar instruments.

The disposal agency may, subject to such reservations, restrictions, and conditions, if any, as the disposal agency deems necessary properly to protect the interests of the United States

against liability under a lease, permit, license, or similar instrument:

(a) Dispose of the lease or other instrument subject to assumption by the transferee of the obligations in the lease or other instrument unless a transfer is prohibited by the terms of the lease or other instrument; or

(b) Terminate the lease or other instrument by notice or negotiated agreement; and

(c) Dispose of any surplus Government-owned improvements located on the premises in the following order by any one or more of the following methods:

(1) By disposition of all or a portion thereof to the transferee of the lease or other instrument (not applicable when the lease or other instrument is terminated);

(2) By disposition to the owner of the premises or grantor of a sublease, as the case may be, (i) in full satisfaction of a contractual obligation of the Government to restore the premises, or (ii) in satisfaction of a contractual obligation of the Government to restore the premises plus the payment of a money consideration to the Government by the owner or grantor, as the case may be, that is fair and reasonable under the circumstances, or (iii) in satisfaction of a contractual obligation of the Government to restore the premises plus the payment by the Government to the owner or grantor, as the case may be, of a money consideration that is fair and reasonable under the circumstances; or

(3) By disposition for removal from the premises.

Provided, That any negotiated disposals shall be subject to the applicable provisions of §§101-47.304-9 and 101-47.30-12. The cancellation of the Government's restoration obligations in return for the conveyance of the Government-owned improvements to the lessor is considered a settlement of a contractual obligation rather than a disposal of surplus real property and, therefore, is not subject to the provisions of §§101-47.304-9 and 101-47.304-12.

[29 FR 16126, Dec. 3, 1964, as amended at 31 FR 16780, Dec. 31, 1966]