

the property for a public airport or shall inform the disposal agency that no such recommendation will be submitted.

(e) Upon receipt of such recommendation, the disposal agency may, with the approval of the head of the disposal agency or his designee, convey property recommended by the Federal Aviation Administration for disposal for a public airport to the eligible public agency, subject to the provisions of the Surplus Property Act of 1944, as amended. Approval for aviation areas shall be based on established FAA guidelines, criteria, and requirements for such areas. Approval for nonaviation revenue-producing areas shall be given only for such areas as are anticipated to generate net proceeds which do not exceed expected deficits for operation of the aviation area applied for at the airport.

(f) Any airport property not recommended by the Federal Aviation Administration for disposal pursuant to the provisions of this subsection for use as a public airport shall be disposed of in accordance with other applicable provisions of this subpart. However, the holding agency shall first be notified of the inability of the disposal agency to dispose of the property for use as a public airport and shall be allowed 30 days to withdraw the property from surplus or to waive any future interest in the property for public airport use.

(g) The Administrator of the Federal Aviation Administration has the sole responsibility for enforcing compliance with the terms and conditions of disposal, and for the reformation, correction, or amendment of any disposal instrument and the granting of releases and for taking any necessary action for recapturing such property in accordance with the provisions of the Act of October 1, 1949, 63 Stat. 700, and section 1402(c) of the Federal Aviation Act of 1958, 72 Stat. 807 (50 U.S.C. App. 1622a-1622c).

(h) In the event title to any such property is vested in the United States by reason of noncompliance with the terms and conditions of disposal, or other cause, the Administrator of the Federal Aviation Administration shall have accountability for

the property and shall report the property to GSA as excess property in accordance with the provisions of §101-47.202.

(i) Section 23 of the Airport and Airway Development Act of 1970 (Airport Act of 1970) is not applicable to the transfer of airports to State and local agencies. The transfer of airports to State and local agencies may be made only under section 13(g) of the Surplus Property Act of 1944 which is continued in effect by the Act. Only property which the holding agency determines cannot be reported excess to GSA for disposition under the Act, but which, nevertheless, may be made available for use by a State or local public body for public airport purposes without being inconsistent with the Federal program of the holding agency, may be conveyed under section 23 of the Airport Act of 1970. In the latter instance, section 23 may be used for the transfer of nonexcess land for airport development purposes providing that such real property does not constitute an entire airport. An entire, existing and established airport can only be disposed of to a State or eligible local government under section 13(g) of the Surplus Property Act of 1944.

[29 FR 16126, Dec. 3, 1964, as amended at 42 FR 46305, Sept. 15, 1977; 48 FR 1301, Jan. 12, 1983; 60 FR 35707, July 11, 1995]

§ 101-47.308-3 Property for use as historic monuments.

(a) Under section 203(k)(3) of the act, the disposal agency may, in its discretion, convey, without monetary consideration, to any State, political subdivision, instrumentalities thereof, or municipality, surplus real and related personal property for use as a historic monument for the benefit of the public provided the Secretary of the Interior has determined that the property is suitable and desirable for such use. No property shall be determined to be suitable or desirable for use as a historic monument except in conformity with the recommendation of the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments. In addition, the disposal agency may authorize the use of property conveyed under subsection 203(k)(3) of the act or the Surplus Property Act of 1944, as

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amended, for revenue-producing activities if the Secretary of the Interior:

(1) Determines that such activities, as described in the applicant's proposed program of utilization, are compatible with the use of the property for historic monument purposes;

(2) Approves the grantee's plan for repair, rehabilitation, restoration, and maintenance of the property;

(3) Approves the grantee's plan for financing the repair, rehabilitation, restoration, and maintenance of the property. The plan shall not be approved unless it provides that all incomes in excess of costs of repair, rehabilitation, restoration, maintenance and a specified reasonable profit or payment that may accrue to a lessor, sublessor, or developer in connection with the management, operation, or development of the property for revenue producing activities shall be used by the grantee, lessor, sublessor, or developer, only for public historic preservation, park, or recreational purposes; and

(4) Examines and approves the grantee's accounting and financial procedures for recording and reporting on revenue-producing activities.

(b) The disposal agency shall notify State and areawide clearinghouses and eligible public agencies, in accordance with the provisions of §101-47.303-2, that property which may be disposed of for use as a historic monument has been determined to be surplus. A copy of the holding agency's Standard Form 118, Report of Excess Real Property, with accompanying schedules shall be transmitted with the copy of each such notice when it is sent to the proper regional office of the Bureau of Outdoor Recreation as provided in §101-47.303-2(d).

(c) Upon request, the disposal agency shall furnish eligible public agencies with an application form to acquire real property for permanent use as a historic monument and advise the potential applicant that it should consult with the appropriate Bureau of Outdoor Recreation Regional Office early in the process of developing the application.

(d) Eligible public agencies shall submit the original and two copies of the completed application to acquire real property for use as a historic monu-

ment in accordance with the provisions of §101-47.303-2 to the appropriate Bureau of Outdoor Recreation Regional Office which will forward one copy of the application to the appropriate regional office of the disposal agency. After consultation with the National Park Service, the Bureau of Outdoor Recreation shall promptly submit to the disposal agency the determination required of the Secretary of the Interior under section 203(k)(3) of the act for disposal of the property for a historic monument and compatible revenue-producing activities or shall inform the disposal agency that no such recommendation will be submitted.

(e) Upon receipt of the determination, the disposal agency may with the approval of the head of the disposal agency or his designee convey to an eligible public agency property determined by the Secretary of the Interior to be suitable and desirable for use as a historic monument for the benefit of the public and for compatible revenue-producing activities subject to the provisions of section 203(k)(3) of the Act.

(f) The Secretary of the Interior 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(k)(4) of the act. Any such action shall be subject to the disapproval of the head of the disposal agency.

(g) The Department of the Interior shall notify the appropriate GSA regional Real Property Division, Public Buildings Service, immediately by letter when title to such historic property is to be revested in the United States for noncompliance with the terms and conditions of disposal or for other cause. The notification shall cite the legal and administrative actions that the Department must take to obtain full title and possession of the property. In addition, it shall include an adequate description of the property, including any improvements constructed thereon since the original conveyance to the grantee. Upon receipt of a statement from the Department that title to the property has revested, GSA

will assume custody and accountability of the property. However, the grantee shall be required to provide protection and maintenance of 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.

[40 FR 22257, May 22, 1975, as amended at 49 FR 44472, Nov. 7, 1984]

§ 101-47.308-4 Property for educational and public health purposes.

(a) The head of the disposal agency or his designee is authorized, at his discretion:

(1) To assign to the Secretary of the Department of Education (ED) for disposal under section 203(k)(1) of the Act such surplus real property, including buildings, fixtures, and equipment situated thereon, as is recommended by the Secretary as being needed for school, classroom, or other educational use, or

(2) To assign to the Secretary of Health and Human Services (HHS) for disposal under section 203(k)(1) of the Act such surplus real property, including buildings, fixtures, and equipment situated thereon, as is recommended by the Secretary as being needed for use in the protection of public health, including research.

(b) With respect to real property and related personal property which may be made available for assignment to ED or HHS for disposal under section 203(k)(1) of the Act for educational or public health purposes, the disposal agency shall notify eligible public agencies, in accordance with the provisions of § 101-47.303-2, that such property has been determined to be surplus. Such notice to eligible public agencies shall state that any planning for an educational or public health use, involved in the development of the comprehensive and coordinated plan of use and procurement for the property, must be coordinated with ED or HHS, as appropriate, and that an application form for such use of the property and instructions for the preparation and submission of an application may be obtained from ED or HHS. The requirement for educational or public health

use of the property by an eligible public agency will be contingent upon the disposal agency's approval under paragraph (i) of this section, of a recommendation for assignment of Federal surplus real property received from ED or HHS and any subsequent transfer shall be subject to the disapproval of the head of the disposal agency as stipulated under section 203(k)(1) (A) or (B) of the Act and referenced in paragraph (j) of this section.

(c) With respect to surplus real property and related personal property which may be made available for assignment to either Secretary for disposal under section 203(k)(1) of the Act for educational or public health purposes to nonprofit institutions which have been held exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)), ED or HHS may notify eligible nonprofit institutions, in accordance with the provisions of § 101-47.303-2(e), that such property has been determined to be surplus. Any such notice to eligible nonprofit institutions shall state that any requirement for educational or public health use of the property should be coordinated with the public agency declaring to the disposal agency an intent to develop and submit a comprehensive and coordinated plan of use and procurement for the property. The requirement for educational or public health use of the property by an eligible nonprofit institution will be contingent upon the disposal agency's approval, under paragraph (i) of this section, of an assignment recommendation received from ED or HHS and any subsequent transfer shall be subject to the disapproval of the head of the disposal agency as stipulated under section 203(k)(1) (A) or (B) of the Act and referenced in (j) below.

(d) ED and HHS shall notify the disposal agency within 20-calendar days after the date of the notice of determination of surplus if it has an eligible applicant interested in acquiring the property. Whenever ED or HHS has notified the disposal agency within the said 20-calendar day period of a potential educational or public health requirement for the property, ED or HHS shall submit to the disposal agency