

Federal Property Management Regulations

§ 101-47.4908

CERTIFIED MAIL—RETURN RECEIPT
REQUESTED

(Addressee)

Dear _____:
The former _____ (Name of property), _____ (Location) has been determined to be surplus Government property and available for disposal.

Included in the attached notice are a description of the property and procedural instructions to be followed if any public agency desires to submit an application for the property. Please note particularly the name and address given for filing written notice if any public agency desires to submit such an application, the time limitation within which written notice must be filed, and the required content of such notice. Additional instructions are provided for the submission of comments regarding any incompatibility of the disposal with any public agency's development plans and programs.

In order to ensure that all interested parties are informed of the availability of this property, please post the additional copies of the attached notice in appropriate conspicuous places.¹

A notice of surplus determination also is being mailed to _____ (Other addressees).

Sincerely,

Attachment

[34 FR 11211, July 3, 1969, as amended at 35 FR 8487, June 2, 1970]

§ 101-47.4906-2 Sample letter to a State single point of contact.

(Date) _____

(Addressee) _____

Dear: _____

On July 14, 1982, the President issued Executive Order 12372, "Intergovernmental Review of Federal Programs." This Executive order provides for State and local government coordination and review of certain proposed Federal programs and activities, including real property disposal actions of the General Services Administration.

Enclosed is a notice of surplus determination that has been sent to appropriate public bodies advising them of the availability of the described real property for public pur-

¹Attach as many copies of the notice as may be anticipated will be required for adequate posting.

poses. Surplus Federal real property which is not acquired for State or local governmental public purposes is generally offered for sale to the general public by competitive bidding procedures.

No final disposal action will be taken for 60 calendar days from the date of this letter to allow for the receipt of any comments from your office.

[52 FR 9831, Mar. 27, 1987]

§ 101-47.4907 List of Federal real property holding agencies.

NOTE: The illustrations in §101-47.4907 are filed as part of the original document and do not appear in the FEDERAL REGISTER or the Code of Federal Regulations.

[40 FR 12080, Mar. 17, 1975]

§ 101-47.4908 Excess profits covenant.

EXCESS PROFITS COVENANT FOR NEGOTIATED SALES TO PUBLIC BODIES

(a) This covenant shall run with the land for a period of 3 years from the date of conveyance. With respect to the property described in this deed, if at any time within a 3-year period from the date of transfer of title by the Grantor, the Grantee, or its successors or assigns, shall sell or enter into agreements to sell the property, either in a single transaction or in a series of transactions, it is covenanted and agreed that all proceeds received or to be received in excess of the Grantee's or a subsequent seller's actual allowable costs will be remitted to the Grantor. In the event of a sale of less than the entire property, actual allowable costs will be apportioned to the property based on a fair and reasonable determination by the Grantor.

(b) For purposes of this covenant, the Grantee's or a subsequent seller's allowable costs shall include the following:

- (1) The purchase price of the real property;
- (2) The direct costs actually incurred and paid for improvements which serve only the property, including road construction, storm and sanitary sewer construction, other public facilities or utility construction, building rehabilitation and demolition, landscaping, grading, and other site or public improvements;
- (3) The direct costs actually incurred and paid for design and engineering services with respect to the improvements described in (b)(2) of this section; and
- (4) The finance charges actually incurred and paid in conjunction with loans obtained to meet any of the allowable costs enumerated above.

(c) None of the allowable costs described in paragraph (b) of this section will be deductible if defrayed by Federal grants or if used as matching funds to secure Federal grants.

§ 101-47.4909

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

(d) In order to verify compliance with the terms and conditions of this covenant, the Grantee, or its successors or assigns, shall submit an annual report for each of the subsequent 3 years to the Grantor on the anniversary date of this deed. Each report will identify the property involved in this transaction and will contain such of the following items of information as are applicable at the time of submission:

- (1) A description of each portion of the property that has been resold;
(2) The sale price of each such resold portion;
(3) The identity of each purchaser;
(4) The proposed land use; and
(5) An enumeration of any allowable costs incurred and paid that would offset any realized profit.

If no resale has been made, the report shall so state.

(e) The Grantor may monitor the property and inspect records related thereto to ensure compliance with the terms and conditions of this covenant and may take any actions which it deems reasonable and prudent to recover any excess profits realized through the resale of the property.

[51 FR 23760, July 1, 1986]

§ 101-47.4909 Highest and best use.

(a) Highest and best use is the most likely use to which a property can be put, so as to produce the highest monetary return from the property, promote its maximum value, or serve a public or institutional purpose. The highest and best use determination must be based on the property's economic potential, qualitative values (social and environmental) inherent in the property itself, and other utilization factors controlling or directly affecting land use (e.g. zoning, physical characteristics, private and public uses in the vicinity, neighboring improvements, utility services, access, roads, location, and environmental and historical considerations). Projected highest and best use should not be remote, speculative, or conjectural.

(b) An analysis and determination of highest and best use is based on information compiled from the property inspection and environmental assessment. Major considerations include:

- (1) Present zoning category (check one or more as appropriate).
Industrial
Single family residential
Multiple family residential
Commercial/retail

- Warehouse
Agriculture
Institutional or public use
Other (specify)

- Not zoned
Zoning proceeding pending Federal disposal
Category proposed

(2) Physical characteristics. (Describe land and improvements and comment on property's physical characteristics including utility services, access, environmental and historical aspects, and other significant factors)

(3) Area/neighborhood uses (check one or more as appropriate).

- Single family residential
Multiple family residential
Industrial
Office
Retail or commercial
Farmland
Recreational/park area
Other (specify)

(4) Existing neighboring improvements (check one or more as appropriate).

- Deteriorating
Stable
Some recent development
Significant recent development

Vicinity improvements:
Dense Moderate Sparse None

(5) Environmental factors/constraints adversely affecting the marketability of the property (check one or more as appropriate).

- Severe slope or soil instability
Road access
Access to sanitary sewers or storm sewers
Access to water supply
Location within or near floodplain
Wetlands
Tidelands
Irregular shape
Present lease agreement or other possessory non-Federal interest
Historic, archeological or cultural
Contamination or other hazards
Other (specify)